


Exhibit 11

 <h1 style="margin: 0;">Operating Procedure</h1>	Effective Date June 1, 2017	Number 830.1
	Amended 9/13/17, 10/25/17, 1/16/18, 8/1/18	Operating Level Department
	Supersedes Operating Procedure 830.1 (6/1/14)	
	Authority COV §53.1-32.1	
Subject <h2 style="text-align: center;">INSTITUTION CLASSIFICATION MANAGEMENT</h2>		ACA/PREA Standards 4-4254, 4-4300, 4-4301, 4-4302, 4-4303; 2-CO-1E-09, 2-CO-4B-03; 4-RH-0009
Incarcerated Offender Access Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Public Access Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Attachments Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Office of Primary Responsibility Director of Offender Management Services

I. PURPOSE

This operating procedure provides for the organization, function, and management of offender classification in Department of Corrections institutions.

II. COMPLIANCE

This operating procedure applies to all units operated by the Department of Corrections (DOC). Practices and procedures shall comply with applicable State and Federal laws and regulations, Board of Corrections policies and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

III. DEFINITIONS

Annual Review - A uniform yearly review of an offender's classification, needs, and objectives; the Initial Classification Date (ICD) is used to establish the review date for an offender received on or after February 1, 2006. The Custody Responsibility Date (CRD) is used to establish the review date for an offender received prior to February 1, 2006.

Central Classification Services (CCS) - Staff members from the Offender Management Services Unit who review certain recommendations made by the Institutional Classification Authority and render a final decision regarding offender status and assignments

Classification - A process for determining the needs and requirements of offenders; this is an ongoing process that attempts to utilize all relevant information concerning the offender to identify and analyze individual strengths and weaknesses, address individual needs, and encourage proper adjustment to the prison setting and ultimately free society.

COMPAS (Correctional Offender Management Profiling for Alternative Sanctions) - The DOC approved risk/needs assessment which consists of different versions for community corrections and institutions; COMPAS is a support system for supervision and case-management decisions, a database used in combination with VACORIS, a tool that assesses two critical risks - violence and recidivism and a tool for determining the criminogenic needs that are used to develop case plans and set programing.

Formal Due Process Hearing - A classification hearing that requires a prior formal notification to the offender indicating the reason for, purpose of, and possible results of the classification hearing, the offender's right to be present at the hearing, and notice of the results of the hearing and the reason for the decision. A formal due process hearing is required when an offender is considered for removal from general population, or faces the possibility of increase in security level or reduction in good time earning level outside the Annual Review Cycle.

Formal Notification - The institution is required to provide, at a minimum, 48 hour written notification to the offender of a scheduled formal due process hearing using the *Institutional Classification Authority Hearing Notification* generated in VACORIS.

ICA Hearing - An offender case review conducted by the Institutional Classification Authority; these hearings may be either formal due process, or informal hearings depending on the purpose of the review.

Informal Hearing - A classification hearing which does not require advance notification to the offender of the hearing except for involuntary removals from a job or program assignment

Initial Classification Date (ICD) - The date on which the offender was initially assigned to a Security Level

Institutional Classification Authority (ICA) - The institution staff person designated to conduct offender case review hearings

Program Assignment Reviewer (PAR) - The institution staff person designated to conduct informal offender case review hearings such as outside work classification, job assignments/removals, academic/vocational assignments/removals, and assignments/removals from treatment programs.

VACORIS - The computer-based Virginia Department of Corrections offender information management system

IV. PROCEDURE

A. Institutional Classification

1. Offender Classification

- a. This operating procedure provides for a classification review and appeal process for offenders in DOC institutions. (2-CO-4B-03)
- b. Institutional Classification Authority (ICA) and Program Assignment Reviewer (PAR) hearing actions and administrative reviews shall be documented in VACORIS with paper documents generated only as needed for offender signatures and to provide notice or copies to offenders of classification actions.

2. Institutional Classification Authority (ICA) Hearings

- a. An ICA hearing is required for the below listed actions and may be either a formal due process hearing or an informal hearing depending on the purpose of the hearing. A formal due process hearing is required for administrative and interim reviews whenever there is the opportunity for the offender to be removed from general population status, a reduction in good time earning level, increase in security level, or a loss of liberty is involved. The offender's needs (i.e., security, programs, etc.) should be addressed during the hearing.
- b. Types of hearings:
 - i. Annual Reviews will be conducted utilizing the Initial Classification Date (ICD) or the Custody Responsibility Date (CRD), as applicable. (4-4300)
 - (a) The Annual Review should be conducted within 30 days after the *Annual Review Date* provided on the offender's *Home Page* in VACORIS.
 - (b) The review requires an updated Home Plan, Employment Plan, Re-entry Timeline, Re-entry Case Plan, Emergency Notification, Family Environmental Information, COMPAS Re-entry assessment and a complete assessment of each component of the offender's institutional status.
 - (c) Due to the routine nature of Annual Reviews, due process is not required, but the offender should be allowed to be present and have input in the process.
 - (d) Factors to be addressed: (counselors must ensure all offender record information is current and accurate) (2-CO-1E-09)
 - Security Level (see Operating Procedure 830.2, *Security Level Classification*)
 - Institution Assignment (including assignment to the appropriate re-entry site for offenders within the established time period)
 - GCA/ESC Class Level (see Operating Procedure 830.3, *Good Time Awards*)
 - COMPAS Re-entry Assessment
 - Re-entry Case Plan
 - Offender Re-entry Timeline
 - Any other decisions affecting the offender

- ii. Annual Reviews for contract offenders (i.e. Virgin Islands, Hawaii) will be conducted utilizing the date the offender is received into the Virginia DOC. (4-4300)
- (a) The annual review should be conducted within 30 days after the *Annual Review Date* provided in VACORIS.
- (b) The review requires an updated Home Plan, Re-entry Timeline, Re-entry Case Plan, Emergency Notification, Family Environmental Information, COMPAS re-entry assessment and a complete assessment of each component of the offender's institution status to include:
- Infraction History
 - Program Participation
 - Academic and Career and Technical Education Programs Participation
 - Institutional Employment History
- (c) Due to the routine nature of annual reviews, due process is not required, but the offender should be allowed to be present and have input in the process.
- (d) Factors to be addressed: (counselors must ensure all offender record information is current and accurate) (2-CO-1E-09)
- Security Level (Security Level Scoresheet for informational purposes only, do not complete the process and change the offenders Security Level in VACORIS)
 - Institution Assignment (Red Onion State Prison, Wallens Ridge State Prison, or Keen Mountain Correctional Center, only)
 - Class Level (Class Level Scoresheet, for informational purposes only, do not complete the process and change the offenders Class Level in VACORIS); CCS must be notified of all Loss of Good Time penalties imposed for a disciplinary conviction.
 - COMPAS reentry assessment
 - Re-entry Case Plan
 - Offender Re-entry Timeline
 - Any other decisions affecting the offender
- (e) The [Reclassification Score Sheet \(DOC 11B\) Worksheet](#) (Attachment 1 to Operating Procedure 830.2, *Security Level Classification*) and the [Class Level Evaluation](#) (Attachment 1 to Operating Procedure 830.3, *Good Time Awards*) may be completed and uploaded as an External Document in lieu of completing these documents in VACORIS.
- (f) Contract offenders in general population may request a transfer during their annual review to Red Onion State Prison, Wallens Ridge State Prison, or Keen Mountain Correctional Center if they are eligible and meet the *Institutional Assignment Criteria* (see Operating Procedure 830.5, *Transfers, Institution Reassignments*)
- (g) Contract offenders assigned to the Step Down Program are required to complete the requirements of the program prior to transfer to lower security institutions.
- (h) Offenders will not be transferred for Re-entry services, necessary services will be provided at the assigned institution.
- iii. Formal Due Process Hearings require the use of the *Institutional Classification Authority Hearing Notification* with actions documented on an *Institutional Classification Authority Hearing* report. Examples of formal due process hearings:
- (a) Transfer for security reasons; transfers to a permanent protective custody unit
- (b) Decrease in GCA/ESC earning level (Interim Review)
- (c) Security Level increase (Interim Review)
- (d) Pre-Hearing Detention assignment for institutions not operating under Restrictive Housing
- (e) Segregation assignment, review and release for institutions not operating under Restrictive Housing (4-4254)
- (f) Segregation reviews resulting in no status change for institutions not operating under Restrictive Housing
- (g) Work Release removals
- (h) Assignments and removals from Cognitive Therapeutic Community Programs (see

- Operating Procedure 830.5, *Transfers, Institution Reassignments*)
- (i) Administrative Hearings i.e., offender's refusal of an off-site specialist appointment, diagnostic procedure, or treatment procedure (see Operating Procedure 720.4, *Co-Payment for Health Care Services*)
 - (j) Removals from Re-entry Programs
 - (k) Restrictive Housing Unit Assignments and Removals (4-RH-0009)
 - (l) Assignments to *Steps to Achieve Reintegration (STAR) Program*
 - (m) Assignments and removals from the *Grooming Standards Violator Housing Unit (VHU)*
 - (n) Assignments and removals from the *Shared Allied Management (SAM) Unit* that require an institutional transfer
 - (o) Assignments and removals from the *Secure Diversionary Treatment Program (SDTP)*
- iv. Informal Hearing actions are documented on an *Institutional Classification Authority Hearing* report. Examples of informal hearings:
- (a) Offender requested transfer during the Annual Review Cycle
 - (b) EGT awards
 - (c) Assignments to Work Release Program
 - (d) Offender requested assignment and removal from Common Fare - (Note: Offender must be present at ICA review) (see Operating Procedure 841.3, *Offender Religious Programs*).
 - (e) "Keep Separate" designation (see Operating Procedure 830.6, *Offender Keep Separate Management*)
 - (f) Removals from the *Steps to Achieve Reintegration (STAR) Program*
 - (g) Assignments and removals from the *Shared Allied Management (SAM) Unit* that do not require a transfer
- c. Referrals for ICA hearings may be made by any of the following persons:
- i. Facility Unit Head, Assistant Facility Unit Head or designee
 - ii. Chiefs of Security, Chiefs of Housing and Programs, Unit Managers, Officer-In-Charge
 - iii. Hearings Officer (when based on disciplinary reports)
 - iv. Institutional Program Managers, Counselors, Medical or Mental Health Staff
 - v. Director
 - vi. Chief of Corrections Operations
 - vii. Regional Operations Chief
 - viii. Regional Administrator
 - ix. Director of Offender Management Services or designee
 - x. Central Classification Services
3. Appointment of the Institutional Classification Authority (ICA):
- a. The ICA is an institution employee who has contact with the offender, but who is impartial to the offender being presented for review.
 - b. The ICA is an experienced senior staff member who will be appointed by the Facility Unit Head. This person must be in Pay Band 4 or above, preferably functioning in a supervisory status.
 - i. An institution may choose to utilize a committee for ICA hearings.
 - ii. If a committee is used, the chairperson must meet the criteria above.
4. Responsibilities of the Institutional Classification Authority and the other participants during the ICA Hearing:
- a. Institutional Classification Authority
 - i. Ensures that there is a docketing procedure that provides for all cases being heard within applicable time limits
 - ii. Ensures that all cases heard are documented in VACORIS
 - iii. Ensures that the ICA hearing is conducted properly and in compliance with all established procedures
 - iv. Moderates questions and comments at the hearing to ensure that all persons, including

- offenders, have an opportunity to be heard and guides the process to reach a decision
- v. Determines whether witnesses have relevant testimony
- vi. Ensures the hearing is orderly, and may have anyone who attempts to disrupt the hearing removed
- vii. Makes a recommendation based only on the facts presented at the hearing and review of the offender's record, and ensures that the decision is fair and impartial
- b. Reporting Officer (Formal due process hearing, if required) - Becomes familiar with all facts relevant to the case prior to the hearing, presents all the facts and responds to questions relevant to the case during the hearing and in the presence of the offender.
- c. Counselor
 - i. Ensures the offender understands the reasons for, purpose of, and possible results of the hearing
 - ii. Ensures the offender is eligible for the type of review scheduled
 - iii. Ensures that the offender understands the procedure of the ICA hearing (i.e. organization, procedural requirements, etc.)
 - iv. Be present for ICA hearings to present to the ICA additional, relevant facts, alternative solutions, or courses of action
- d. Witnesses - (Formal due process hearing, if required)
 - i. Responsible for presenting relevant facts pertinent to the case
 - ii. Answers questions from the ICA and offender relative to the given testimony
 - iii. Any witness for the offender who does not wish to testify should submit a written statement to that effect.
 - iv. Confidential offender witnesses shall not be required to appear before the ICA.
 - (a) Testimony may be presented to the ICA by a reporting officer in the presence of the offender.
 - (b) The confidentiality of the names of those offenders providing testimony may be maintained for security reasons.
 - (c) Information received from confidential sources should be written either by the informant or the officer who presents the information.
 - (d) Information received from a specific informant should be verified and the reliability of the informant established.
 - v. Offender witnesses appearing before the ICA are doing so on a strictly voluntary basis, and cannot be forced to present any information. The ICA will determine whether the information presented by the offender is relevant to the hearing.
 - vi. The ICA may choose not to call witnesses to appear at the hearing if their testimony is irrelevant or repetitious.
 - vii. Employees requested as offender witnesses must state, in writing, what testimony they could give at the ICA hearing and submit their statements to the ICA. If the ICA determines their testimony is relevant, the statement may be used for hearing or the employee's presence may be required at the hearing as deemed appropriate by the ICA.

B. Institutional Classification Authority Hearing Procedural Requirements

1. Formal Due Process Hearings

- a. The *Institutional Classification Authority Hearing Notification* generated in VACORIS will be used for all formal ICA hearings to ensure that the offender receives due process.
- b. Referral and Prior Notification - The *Notification* will be served on the offender at least 48 hours in advance of the scheduled hearing and uploaded in VACORIS; the offender may waive the 48-hour notice in writing. (4-4302)
- c. The offender will be advised that they will be permitted to:
 - i. Be present at the hearing

- ii. Remain silent
 - iii. Have a counselor or other employee present to advise
 - iv. Hear the testimony or statement of the reporting officer (a signed, notarized statement from the reporting officer will suffice if the person is legitimately unable to attend the hearing)
 - v. Call and question witnesses
 - vi. Be advised verbally at the hearing and in writing within five working days of the ICA's recommendation and reason for the decision
 - vii. Receive a copy of action of the final approving authority
 - viii. Access the Offender Grievance Procedure (Operating Procedure 866.1, *Offender Grievance Procedure*) to appeal all classification decisions
- d. The rights to hear the reporting officer's statement and to call and question witnesses do not apply in the following cases:
- i. Pre-hearing detention when a disciplinary offense has been served
 - ii. Hearings based on a documented disciplinary conviction
 - iii. Hearings based on criminal convictions
 - iv. Initial review of an offender's detention status based on their claim of a keep separate situation, pending outcome of the investigation
- e. Interim reviews of on-going segregation assignments do not require the presence of a reporting officer or the right to call witnesses.
- f. The person serving the *Notification* will record the names of any requested witnesses, indicate if the offender has waived the 48 hour notice, have the offender sign, witness the offender's signature, and provide a copy to the offender. If the offender refuses to sign the notice, the person serving the notice will so note and sign as witness.
- g. At the start of the hearing, the ICA will determine that the offender received advance formal notification or waived such notification in writing and understands the reason for the hearing and all procedural requirements. The ICA will conduct the hearing in accordance with this operating procedure. Upon conclusion of the hearing, the ICA will inform the offender of the ICA's recommendation and reasons for the recommendation.
- h. Designated staff will complete hearing documentation in VACORIS, specifying the statements of the reporting officer, the offender, and any witnesses, the ICA's recommendation, and the reasons for the recommendation. The ICA will escalate the hearing for review as necessary. The offender should receive a copy of the *Institutional Classification Authority Hearing* report within five working days of the hearing.
- i. Upon final action by the appropriate approving authority, a copy of the *Institutional Classification Authority Hearing* report reflecting the ICA's recommendation, and the final decision by the appropriate approving authority will be provided to the offender along with any relevant evaluation reports. If the approving authority disapproves or modifies the ICA decision, documentation of the action should be noted in VACORIS.
2. Informal Hearing Requirements
- a. Although prior notification of the offender is not required, it is generally preferable to advise the offender in advance of the nature of the hearing. If the offender desires to be present, the ICA may permit the offender to be present if deemed appropriate and necessary.
 - b. If the offender is present at the hearing, the ICA should inform the offender of the decision or recommendation at that time. If the offender is not present, the offender should be advised of the decision in writing within five working days using the *Institutional Classification Authority Hearing* report.
 - c. Upon final action by the appropriate approving authority, a copy of the *Institutional Classification Authority Hearing* report reflecting the ICA's recommendation and the final decision by the approving authority will be provided to the offender.

3. Annual Review Hearing Requirements

- a. Formal Due Process is not required for an increase in an offender's Security Level or GCA/ESC Class Level during a general population offender's Annual Review. Such reviews are considered routine and afforded every offender; however, the offender should be allowed to be present and permitted input during the review process and receive a copy of the outcome of the review. Each component of the Annual Review may be appealed through the Offender Grievance Procedure. (4-4301)
- b. The Annual Review shall be documented in VACORIS.
- c. Offenders requesting transfer during their Annual Review Cycle should meet the criteria in Operating Procedure 830.5, *Transfers, Institution Reassignments*, before being recommended by the institution. Such recommendation does not require due process.
- d. CCS may administratively review the offender population for security level reductions to maximize the efficient use of available bed space.
- e. Facility Unit Heads may be requested to review the offender population and make recommendations for security level reductions. An interim review will not change the next Annual Review date. The reason for the review should be selected in the *Classification Action Type* section of VACORIS.

4. Following the ICA hearing, the ICA will escalate the hearing for appropriate review and approvals.

C. Review of Institutional Classification Authority Recommendation

1. The Facility Unit Head, Assistant Facility Unit Head, or their designee will ensure all information is properly entered in VACORIS.
2. The Facility Unit Head or designee will review each ICA action as required and will indicate approval/disapproval of the ICA's recommendation.
 - a. The Facility Unit Head, Assistant Facility Unit Head, or their designee cannot review cases for which they served as the ICA chairperson.
 - b. Cases may be disapproved and returned to the ICA for additional information.
3. For segregation reviews for which no status change has been recommended, the Facility Unit Head or designee will indicate approval/disapproval of the ICA's recommendation, note that no change has been recommended, and provide any comments.
4. The Facility Unit Head or designee will indicate specific reasons for the decision in the respective narrative fields.
5. The levels of final approval/disapproval authority for classification decisions are listed below:
 - a. The Facility Unit Head or designee is the final authority for approving/disapproving the following ICA actions:
 - i. All GCA and ESC Class Level change and EGT recommendations
 - ii. Security Level changes as follows:
 - (a) No change in Security Level when score is in the assigned level i.e., offender is Security Level 4 and scores 28 points which is in the SL 4 range. The institution determines the offender will remain SL 4.
 - (b) No change in Security Level with one level override i.e., offender is Security Level 3 and scores 15 points which is in the SL 2 range. The institution determines the offender will remain in SL 3 utilizing a one level override.
 - (c) Security Level decrease with one level override i.e., offender is Security Level 3 and scores 9 points which is in the SL 1 range. The institution determines the offender will be decreased to SL 2 with a one level override.
 - (d) Security Level increase with one level override i.e., offender is Security Level 4 and scores 30 points which is in the SL 4 range. The institution determines the offender will be increased to SL 5 with a one level override.

- iii. Pre-hearing Detention assignments, removals
- iv. Segregation assignments, reviews and removals
- v. Common Fare assignments and offender requested removals
- vi. Assignment to the *Shared Allied Management (SAM) Unit*
- b. The Regional Administrator, upon referral from the Facility Unit Head or designee has final authority for approving/disapproving community activities and intra-regional transfers as defined in Operating Procedure 830.5, *Transfers, Institution Reassignments*.
- c. Chief of Corrections Operations or designee approval is needed for Interstate Compact transfer (see Operating Procedure 020.2, *Compact for Interstate Transfer of Incarcerated Offenders*)
- d. Upon referral by the Regional Administrator and the Chief of Corrections Operations, the Director is the final and sole authority for approval of Restoration of Lost Good Time requests.
- e. Actions Requiring CCS Approval: Central Classification Services, upon referral by the Facility Unit Head or designee has final authority for approval/disapproval of the following:
 - i. No change in Security Level with a two level override i.e., offender is SL 4 and scores 14 points which is in the SL 2 range. The institution recommends remain SL 4 with a two level override
 - ii. Security Level Assignments with an H-7 override
 - iii. Any override of mandatory restrictors or offender assignment criteria
 - iv. Reclassification assignments to Security Level W
 - v. Reclassification assignments to work centers
 - vi. Assignments to the *Steps to Achieve Reintegration (STAR) Program* which are escalated by CCS to the designated Facility Unit Head or designee, and Regional Operations Chief in accordance with Operating Procedure 830.5, *Transfers, Institution Reassignments*
 - vii. Assignments into Security Level S which are escalated by CCS to the designated Facility Unit Head or designee, and Regional Operations Chief in accordance with Operating Procedure 830.5, *Transfer, Institution Reassignments*
 - viii. Assignments to the Grooming Standards Violator Housing Unit (VHU) which are escalated by CCS to the designated Facility Unit Head or designee, and Regional Operations Chief in accordance with Operating Procedure 830.5, *Transfer, Institution Reassignments*
 - ix. All transfers, except intra-regional, as defined in Operating Procedure 830.5, *Transfers, Institution Reassignments*, including administrative/security, offender request, and assignment to Protective Custody units
 - x. Keep Separate approvals and removals
 - xi. All work release recommendation (assignments/removals)
 - xii. Assignments to the *Shared Allied Management (SAM) Unit* which are escalated by Psychology Associate Senior at CCS to the designated Facility Unit Head or designee in accordance with Operating Procedure 830.5, *Transfer, Institution Reassignments*
 - xiii. Assignments to the *Secure Diversionary Treatment Program (SDTP)* which are reviewed by the Regional Operations Chief of the Western Region and the *Multi-Institution Treatment Team (MITT)* and are escalated to the Psychology Associate Senior at CCS in accordance with Operating Procedure 830.5, *Transfers, Institution Reassignments*
- 6. When the final level of approval has acted on the classification action, the Facility Unit Head, or designee, will ensure that all classification actions are properly documented in VACORIS, and that the offender receives a copy of appropriate classification documents on which the final approval authority's decision has been recorded in accordance with this operating procedure and the appropriate procedure governing the classification action involved.

D. Program Assignment Reviews

- 1. Classification actions, which require Program Assignment Reviews only:
 - a. Outside work classification and reclassification

- b. Job assignments and removals, including outside perimeter assignments (see Operating Procedure 841.2, *Offender Work Programs*)
 - c. Treatment Program assignments and removals (except SORT and Cognitive Therapeutic Community Programs), Academic/Vocational assignments and removals, Re-Entry Case Plan reviews
2. Appointment of the Program Assignment Reviewer - The Facility Unit Head will designate at least one staff member who is impartial regarding the classification matter and the case being reviewed to serve as the Program Assignment Reviewer (PAR). This employee must be Pay Band 4 or above.
3. Responsibilities of the Program Assignment Review Participants:
- a. Program Assignment Reviewer (PAR)
 - i. Ensures there is a docketing procedure that provides that all cases are eligible for review and are heard within applicable time limits
 - ii. Ensures that a hearing docket is maintained
 - iii. Ensures the review is conducted in compliance with established procedures, reviews, and rules on offender requests to attend the review
 - iv. Reviews the offender's record and all documentation submitted for the review, and may ask questions of all persons present during the hearing in order to assist in making a recommendation in the case
 - v. Considers COMPAS needs scores for counseling service program assignments
 - vi. Ensure all recommendations are fair and impartial, and based upon the facts presented
 - b. Counselor - Ensures the offender is eligible for the type of review requested and action recommended. The counselor should advise the offender prior to the hearing of the reasons for, purpose of, and possible results of the hearing, and of the offender's opportunity to request to attend the hearing. The counselor presents relevant facts, and may recommend alternative courses of action at the review.
 - c. Offender - The offender is not required to attend a Program Assignment Review Hearing. If an offender wishes to attend, they should verbally or in writing notify the counselor prior to the scheduled hearing. The decision of whether to allow the offender to attend rests with the PAR.
4. Program Assignment Review Hearing Requirements:
- a. Each institution may maintain a Classification Hearing Docket to document cases reviewed as specified in this operating procedure.
 - i. [*Classification Hearing Docket DOC-11F*](#) 830_F1 is provided as a model, but each institution is encouraged to modify and develop a *Classification Hearing Docket* to meet institutional needs. Individual offender notification of PAR actions may be accomplished using forms developed by the institution.
 - ii. For job assignment actions, the [*Facility Job Assignment Docket*](#) 841_F6 and the [*Offender Work Program Job Application*](#) 841_F5 should be used.
 - b. Program Assignment Review Hearings are informal hearings.
 - i. The offender should be made aware of the purpose of the hearing, but advance notification is not required.
 - ii. If the offender desires to be present, the PAR may permit the offender to be present.
 - c. When the review concerns the involuntary removal of the offender from a job, educational, or program assignment, there should be a written or verbal statement from the person requesting the removal that provides the reason for the removal, and the offender should be provided the opportunity to be present and make a statement.
 - d. If the offender is present at the hearing, the PAR should inform the offender of the decision or recommendation at that time. Offenders that are not present should be advised of the decision either verbally or in writing.
 - e. Upon final action by the appropriate approving authority, the action should be entered into

VACORIS; a copy of the appropriate review form reflecting the PAR's recommendation and the final decision by the appropriate approving authority will be provided to the offender.

5. Approval of Program Assignment Reviews:

- a. All PAR hearings are reviewed and acted on by a staff person as designated below, who will approve, disapprove or "no action" the case. No Action cases should be remanded to the Assistant Superintendent/Institutional Program Manager for further review. Comments and reasons for all disapprovals will be documented on the respective forms. The Facility Unit Head or designee will ensure copies of all classification paperwork are distributed.
- b. The Facility Unit Head is the sole and final authority for approving/disapproving PAR recommendation for outside work assignments and must personally approve all work assignments outside the perimeter (may only be delegated to Assistant Facility Unit Head for Work Centers). (see Operating Procedure 841.2, *Offender Work Programs*)
- c. PAR recommendation for work assignments inside the designated security perimeter but outside the housing unit must be approved by the Chief of Security.
- d. The Facility Unit Head may designate one or more supervisory staff to be the final authority for approving/disapproving all other PAR work assignment recommendations. This designated staff person will not be the same individual who served as the PAR for the case being acted upon.

E. Offender Initiated Review of Progress (4-4303)

1. It is the responsibility of the offender to initiate the request for an Interim Review by completing an offender request identifying exactly why an interim review is warranted.
2. The counselor should make a recommendation and give justification to support their recommendation and forward the request to the ICA for consideration.
3. The recommendations for an Interim Review should generally be based on the following criteria:
 - a. Confirmed procedural errors in the previous Annual Review
 - b. An erroneous calculation of the offender's security level and/or good time award scores
 - c. Status change resulting from an expunged institutional infraction, detainer, or other administrative action
 - d. Completion of programmatic activities of long standing duration (i.e. offender receives GED after repeated attempts)

F. CCS Authority

In circumstances in which it is deemed necessary for the well-being of the DOC, offenders may be administratively approved for security level changes and/or institution reassignment by Central Classification Services based on appropriate consideration in the absence of a PAR or ICA hearing.

G. Appeal Process

1. The Facility Unit Head or designee may appeal CCS decisions to the Director of Offender Management Services by submitting an appeal electronically or in writing, including specific, detailed justification as to why CCS's decision should be amended.
2. All classification decisions may be appealed through the *Offender Grievance Procedure*. The Director of Offender Management Services is the appellate authority for all classification decisions.

V. REFERENCES

Operating Procedure 020.2, *Compact for Interstate Transfer of Incarcerated Offenders*

Operating Procedure 720.4, *Co-Payment for Health Care Services*

Operating Procedure 830.2, *Security Level Classification*

Operating Procedure 830.3, *Good Time Awards*

Operating Procedure 830.5, *Transfers, Institution Reassignments*
Operating Procedure 830.6, *Offender Keep Separate Management*
Operating Procedure 841.2, *Offender Work Programs*
Operating Procedure 841.3, *Offender Religious Programs*
Operating Procedure 866.1, *Offender Grievance Procedure*

VI. FORM CITATIONS

[Classification Hearing Docket DOC-11F](#) 830_F1

[Offender Work Program Job Application](#) 841_F5

[Facility Job Assignment Docket](#) 841_F6

VII. REVIEW DATE

The office of primary responsibility shall review this operating procedure annually and re-write it no later than three years after the effective date.

Signature Copy on File

4/28/17

A. David Robinson, Chief of Corrections Operations

Date

Exhibit 12



Virginia Department of Corrections

Offender Management and Programs

Operating Procedure 830.2

Security Level Classification

Authority:

Directive 830, *Classification Management*

Effective Date: October 1, 2021

Amended: 2/1/22

Supersedes:

Operating Procedure 830.2, April 1, 2018

Access: ☐ Restricted ☒ Public ☒ Inmate

ACA/PREA Standards: 5-ACI-5B-01, 5-ACI-5B-02, 5-ACI-5B-06; 2-CO-4B-01

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Reviewer:

Jermiah Fitz
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Signatory:

A. David Robinson
Chief of Corrections Operations

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8/31/21

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Date

REVIEW

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections. Practices and procedures must comply with applicable State and Federal laws and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

Table of Contents

DEFINITIONS 3

PURPOSE 4

PROCEDURE..... 4

 I. Security Level Classification 4

 II. Eligibility Criteria 5

 III. Determining Suitability and Acceptability..... 5

 IV. Initial Classification Assignments..... 7

 V. Reclassification Reviews and Assignments 8

 VI. Protective Custody Unit 10

 VII. Security Qualifiers - Security Level S..... 10

 VIII. Processing Of Escapees..... 12

 IX. Documentation 12

 X. Classification Appeals..... 12

REFERENCES..... 12

ATTACHMENTS 13

FORM CITATIONS 13



DEFINITIONS

Acceptability - The level of acceptance of the inmate by the community; specifically, the length of sentence and nature of the crime may preclude the inmate from being approved. Acceptability can be assessed using such documents as the Pre-Sentence Investigation and other documentation related to expressed community sentiment.

Annual Review - A uniform yearly review of an inmate's classification, needs, and objectives. The Initial Classification Date (ICD) is used to establish the review date for an inmate received on or after February 1, 2006. The Custody Responsibility Date (CRD) is used to establish the review date for an inmate received prior to February 1, 2006.

Central Classification Services (CCS) - Staff members from the Offender Management Services Unit who review certain recommendations made by the Institutional Classification Authority and Multi-Disciplinary Team to render a final decision regarding inmate status and assignments

Eligibility - The utilization of objective, measurable standards, or criteria to determine an inmate's program status (transfer, security level, program placement, etc.)

Increase in Security Level - A security level status change which increases the amount of physical restraint and supervision required, i.e., higher security level number.

Initial Classification Date (ICD) - The date on which the inmate was initially assigned to a security level

Institutional Classification Authority (ICA) - The institutional employee designated to conduct inmate case review hearings

Multi-Disciplinary Team (MDT) - MDT members are responsible to review individual inmates related to restorative housing and step-down statuses and act as the Institutional Classification Authority to make recommendations for housing status, transfer, security level, good time class, etc.; decisions are the responsibilities of the Facility Unit Head and Regional Administrator.

Reduction in Security Level - A security level status change which decreases the amount of physical restraint and supervision required, i.e. lower security level number

Security Level - A measure of the degree of physical restraint and supervision that is required to maintain adequate control over an inmate to prevent escapes, to minimize risk of staff and inmate injury, and to maintain orderly institution operations while providing for the safety of the general public.

Serious Mental Illness (SMI) - An individual diagnosed with a Psychotic Disorder, Bipolar Disorder, Major Depressive Disorder, Posttraumatic Stress Disorder (PTSD) or Anxiety Disorder, or any diagnosed mental disorder (excluding substance use disorders) currently associated with serious impairment in psychological, cognitive, or behavioral functioning that substantially interferes with the person's ability to meet the ordinary demands of living.

Suitability - A reasoned, professional judgment regarding an inmate's ability to perform in a certain security level or institution environment; it calls for a discerning judgment relative to length of sentence, crime, prior record, as well as sociological, medical, and psychological considerations. Suitability differs with each individual inmate depending upon the inmate's institution, parole eligibility, Mandatory Parole Release Date or Good Time Release Date.

VACORIS - The computer-based Virginia Department of Corrections inmate and probationer/parolee information management system



PURPOSE

This operating procedure establishes protocols governing the security level assignment of inmates housed in Department of Corrections (DOC) institutions.

PROCEDURE**I. Security Level Classification**

- A. The classification of inmates into appropriate security levels and the assignment of inmates to institutions equipped to provide the appropriate level of security enhances public, staff, and inmate safety and reduces the operating cost of the DOC by ensuring inmates are not subjected to excessive control and management but are assigned to the least restrictive security level necessary. (5-ACI-5B-01; 2-CO-4B-01)
- B. Inmates who are pending a transfer may be housed in an institution that has a higher or lower security level designation than the inmates assigned security level; see Attachment 1, *Security Level Overview - Male Institutions*.
 1. Inmates who are pending transfer to a higher or lower security level institution will be transferred once bed space becomes available.
 2. Inmate transfers from a lower to higher security level institution have priority over inmate transfers from a higher to a lower security level.

C. Security Levels in current usage are:

<u>Security Levels</u>	<u>Specialty Designations</u>
1 - Minimum	U - Unassigned
2 - Moderate	D - Hearing Impaired
3 - Medium	P - Protective Custody
4 - Close	T - Transition
5 - Maximum	S - Security Qualifier
6 - Security Level S Step-down	W - Work Center

- D. The security level classification system provides for annual reviews of each inmate's security level to provide the inmate with the opportunity for systematic decrease in supervision, while fostering a corresponding increase in inmate responsibility to allow the inmate to benefit from additional programmatic, educational, and work opportunities in preparation for re-entry. (5-ACI-5B-02, 5-ACI-5B-06; 2-CO-4B-01)
- E. Security Level classification decisions involve the assessment of each case based on a determination of eligibility, suitability, and acceptability. (5-ACI-5B-01; 2-CO-4B-01)
 1. An inmate's eligibility for a specific security level is determined by use of an approved scoring instrument.
 2. Mandatory Restrictors and Discretionary Overrides may be used in determining suitability and/or acceptability in individual cases.
 3. The security level classification system provides for an accurate assessment of the security needs at each institution and provides for efficiency in matching inmates to existing programs.
 4. CCS will continuously monitor and evaluate the security level classification system to determine whether the system meets the need of the DOC to match inmates properly with available institution bed space based on security level assignments. (5-ACI-5B-01, 5-ACI-5B-02)
- F. The authority to assign inmate security levels is vested with Central Classification Services (CCS) but may be delegated in accordance with this operating procedure.



- G. The Director, through CCS, has authority to assign any inmate to any institution deemed appropriate to facilitate effective bed space management and maintain orderly operations without an Institutional Classification Authority (ICA) hearing.
- H. All initial and reclassification security level assignments and changes will be documented in VACORIS and reported using the *Institutional Classification Authority Hearing Report* generated in VACORIS.
- I. Staff must complete the *Classification Assessment* in VACORIS, prior to the inmate's initial security level classification. Staff will review and update the *Classification Assessment*, as necessary, for any subsequent security level reclassifications and annual reviews.

II. Eligibility Criteria

- A. An inmate's initial eligibility for specific security levels will be determined using the *Initial Security Level Score Sheet* in VACORIS for the inmates first classification; see Attachment 2, *Initial Classification Score Sheet (DOC 11A) Worksheet*.
- B. An inmate's eligibility for reclassification into specific security levels will be determined using the *Reclassification Security Level Score Sheet* in VACORIS; see Attachment 3, *Reclassification Score Sheet (DOC 11B) Worksheet*.
- C. Guidance in completing the *Initial Security Level Score Sheet* and the *Reclassification Security Level Score Sheet* is provided on Attachment 6, *Security Level Scoring Guide*.
- D. Staff will use Attachment 4, *Severity of Offense Scale* and Attachment 5, *Disciplinary Report Severity Scale* in determining the specific number of points to enter on the *Initial Security Level Score Sheet* and the *Reclassification Security Level Score Sheet* in VACORIS.
- E. Point score ranges for each Security Level are as follows:

1. Male Inmates

Scored	Security Level	Scored	Security Level
To + 9 points.....	Level 1	26-31 points.....	Level 4
10-16 points.....	Level 2	32+ points.....	Level 5
17-25 points.....	Level 3		

2. Female Inmates

Scored	Security Level	Scored	Security Level
To + 12 points.....	Level 1	18+ points.....	Level 3
13-17 points.....	Level 2		

- 3. Security Level W is not subject to the point score ranges but is based on the eligibility criteria in Operating Procedure 830.5, *Transfers, Institution Reassignments*.

III. Determining Suitability and Acceptability

- A. In addition to the objective point score, decision makers must weigh information in the Pre-Sentence Investigation (PSI), institutional adjustment, nature of the offense(s), time to serve, and other factors affecting the level of risk an inmate may pose to institutional order or to the community.
- B. Mandatory Restrictors
 - 1. Staff will invoke Mandatory Restrictors when the inmate's overall point score does not adequately reflect the level of risk the inmate will present in a reduced security level.
 - 2. Any inmate who scores within any security level may have their security level assignment changed based on the Mandatory Restrictors, which relates to an inmate's suitability for a particular security



level.

3. Staff must determine if a Mandatory Restrictor is appropriate prior to any consideration given to invoking a Discretionary Override.
4. If the total score places an inmate at or above the level required by a Mandatory Restrictor, a Mandatory Restrictor should not be invoked.
5. Multiple Mandatory Restrictors should not be invoked. If more than one Mandatory Restrictor applies, the staff should invoke the restrictor that requires assignment to the highest security level.
6. If a Mandatory Restrictor is applicable, but the institutional administration determines that the inmate's security level assignment should be a higher level than indicated by the Mandatory Restrictor, staff should not invoke a restrictor. Staff should use the appropriate Discretionary Override to provide a more specific reason for the assignment to a higher security level.
7. A Mandatory Restrictor and a Discretionary Override may not both be used on the same review.
8. Mandatory Restrictors assign an inmate to a higher security level than indicated by their point score; recommendations for Mandatory Restrictors should be selected in VACORIS as R-(number of restrictor):
 - a. R-1- Time
 - More than 20 years remaining to serve - includes life, multiple life, and life+ sentences - restrict from assignment to Security Levels W, 1, and 2.
 - Life, multiple life, and life+ sentences must have served 20 consecutive years using the Custody Responsibility Date (CRD) or Parole Revocation Date (PRD) as the sentence start date, as applicable, to be eligible for assignment to Security Level 3.
 - If parole eligible, must also have reached Parole Eligibility Date (PED).
 - Numerical sentences must have served 20 consecutive years **or** be within 40 years of their projected release date.
 - Inmates assigned to Security Level 3 prior to October 1, 2019 and under previous criteria that do not meet the current criteria can remain at a Security Level 3, as long as the inmate remains at their current institution. Inmates that are transferred will need to meet the current criteria.
 - b. R-2 - Offenses (current or prior) - 1st, 2nd Degree Murder, Violent Sexual Offenses, Kidnapping, Abduction, Felony Escape in the past 10 years - restricted from assignment to Security Levels W and 1
 - c. R-3 - Institutional Adjustment - Offense code 100-108 infractions within past 24 months - restricted from Security Levels W, 1, 2, and 3
 - d. R-4 - Detainers - (ICE, Felony- Detainers, Non-Detainer Holds, Judgment & Commitments) - Restricted from Security Levels W and 1
 - e. R-5 - Assignment Criteria - Scored level not supported by *Institutional Assignment Criteria*
9. The Facility Unit Head or designee may submit a written request to CCS that the Mandatory Restrictor be overridden for assigning an inmate to a lower security level than indicated by the Mandatory Restrictor. CCS will review such requests; however, the authority to override a Mandatory Restrictor rests with the Chief of Corrections Operations or designee.

C. Discretionary Overrides

1. Staff may invoke Discretionary Overrides when they determine the inmate's point score does not adequately reflect the level of risk the inmate may present in a reduced or higher security level.
2. Any inmate who scores within any security level may have their security level assignment changed based on one of the Discretionary Overrides, which relate to an inmate's suitability for a particular security level.



3. Discretionary Overrides should not be used if a Mandatory Restrictor has been invoked.
4. Multiple Discretionary Overrides should not be invoked. In those cases where more than one Discretionary Override applies, the institution should invoke the applicable override which best reflects the need for the change in a security level.
5. Recommendations for Discretionary Overrides should be selected in VACORIS as H- (number of override), or L- (number of override).
6. Discretionary Overrides may assign an inmate to a HIGHER security level than indicated by the score due to:
 - a. H-1 - Assaultive prior institution conduct
 - b. H-2 - Serious prior criminal record indicates caution
 - c. H-3 - Severity of current offense
 - d. H-4 - Serious escape history/risk
 - e. H-5 - Recent pattern of poor institutional adjustment
 - f. H-6 - Needs to establish stable adjustment in a general population and/or at recommended security level prior to consideration for a lower level
 - g. H-7 - Other _____
7. A LOWER security level than indicated by the score may be assigned due to:
 - a. L-1 - Exceptional institutional conduct
 - b. L-2 - Singular nature of incident
 - c. L-3 - Prior success at lower level
 - d. L-4 - Other _____
8. Staff must include an explanation in the Comments section when an H-7 or L-4 override is invoked.
9. The Manager of CCS or designee must approve any security level of two or more levels with or without the use of an override.

IV. Initial Classification Assignments

- A. Staff will enter Security Level "U" in VACORIS upon receipt of any new inmate or parole violator utilizing the date the inmate was received.
- B. Unless otherwise noted, an inmate's initial security level assignment will be determined by the score indicated on the *Initial Security Level Score Sheet* and restrictors or overrides, if appropriate.
 1. The ICA, upon recommendation from Reception Center treatment/security staff, and with approval of the Facility Unit Head or designee makes the initial security level and institution assignment decision for inmates newly received into the DOC and parole violators.
 2. Assignment to Security Level S requires a formal ICA hearing and approval by the Facility Unit Head of the maximum security institution and the appropriate Regional Operations Chief or designee, Regional Administrator; see the *Security Qualifiers - Security Level S* section of this operating procedure.
 3. In some cases, CCS will make the final decision on security level and institution assignment; the Reception Center Facility Unit Head or authorized designee will have the final authority on all new inmates received and all parole violator cases except the following:
 - a. CCS will be responsible for the final classification action on the below listed types of cases upon recommendation from the ICA.
 - i. Ex-Law Enforcement Officials
 - ii. Ex-Public Officials
 - iii. Notorious Inmates



iv. Mental Health Unit Referrals

v. Cases with Unusual Circumstances

b. These inmates will be identified by both CCS and the Reception Centers.

C. Reception Center Institutional Classification Authority

1. The ICA hearing process will be in accordance with Operating Procedure 830.1, *Institution Classification Management*.
2. CCS will monitor these decisions as to propriety and productivity.

D. Parole Violator Institutional Classification Authority

1. The inmate will be classified upon completion of a revocation hearing.
2. Out-of-state parole violators should be returned to a Reception Center for their preliminary hearing, after which they may be transferred to another institution for their revocation hearing and classification.
3. In all cases, following a revocation hearing the inmate will be housed as if they were assigned Security Level 5 until scored on the *Initial Security Level Score Sheet*.
4. Prior to their initial classification assignment, the inmates' security level will be entered as "U" on the database to reflect their "unclassified" status.

V. Reclassification Reviews and Assignments

A. Unless otherwise noted, changes in an inmate's security level is determined by the point score indicated on the *Reclassification Security Level Score Sheet* and the use of restrictors or overrides, if appropriate. Regardless of the score, all security level assignments must be made using the good judgment, experience, and expertise of the decision maker.

B. Staff will review the security level score and status of each inmate during the inmate's annual review; see Operating Procedure 830.1, *Institution Classification Management*.

C. Interim Reclassification Security Level Reviews

1. At any time an inmate's behavior or other factors, indicate the current security level assignment may not be appropriate, the institution administration may refer the inmate for a security level review by a formal or informal ICA hearing held in accordance with Operating Procedure 830.1, *Institution Classification Management*.
2. CCS may administratively review the inmate population for security level reductions in order to maximize the efficient use of available bed space. Facility Unit Heads may be requested to review the inmate population and make recommendations for security level reductions.
3. An interim review does not change the next annual review date.
4. The reason for the review should be provided in the comments section of the classification module in VACORIS and reported using the *Institutional Classification Authority Hearing Report* generated in VACORIS; see Operating Procedure 830.1, *Institution Classification Management*.

D. Facility Unit Heads or designees have the final authority to approve ICA recommendations which recommend the inmates remain in their current security level, unless the security level score is of two or more levels with or without the use of an override.

1. The Facility Unit Head or designee cannot review cases for which they served as the ICA chairperson.
2. The Facility Unit Head or designee may disapprove the recommendation and return to the ICA for additional information.

E. Security Level Reductions



1. The Facility Unit Head or designee has the authority to approve an annual review with a reduction in security level. The Manager of CCS or designee must approve assignments to Security Level W, overrides of two or more levels, and security levels which score two levels higher or lower without the use of Discretionary Overrides.
2. CCS has the final authority to approve inmate assignment to Security Level W and any reduction in security level with or without the use of restrictors and discretionary overrides.
3. Inmate approval for an assignment to a lower security level should generally prompt a recommendation for the inmate's transfer; see Operating Procedure 830.5, *Transfers, Institution Reassignments*.
 - a. Acceptable reasons for not recommending an inmate's transfer would be:
 - i. Inmate's need for medical or psychological treatment cannot be provided at another location that is compatible to the inmate's reduced security level
 - ii. Inmate's close proximity to completion of an educational/vocational or Therapeutic Community program assignment
 - iii. Inmate's assignment to a cadre/work assignment as established by an approved quota due to institutional need. The authority to establish a quota of Security Level W, 1 and 2 inmates to be housed at higher security level institutions rests with the Chief of Corrections Operations.
 - b. Staff recommendations for the inmate's institutional assignment should be included on the *Action Details* tab of the classification section of VACORIS for consideration by CCS. The ICA may include the inmate's institutional assignment preference in the "Comments" section.

F. Security Level Increases

1. The Facility Unit Head or designee has authority to approve an annual review security level increase except to Security Level S. The Manager of CCS or designee must approve Discretionary Overrides of two or more levels and security levels which score two levels higher or lower without the use of a Discretionary Override.
2. CCS will have the final oversight over institution recommendations for security level increases with or without the use of Discretionary Overrides or Mandatory Restrictors.
3. Except at annual review, the inmate will be given proper written notification, at least 48 hours in advance of the security level classification hearing for reviewing their security level status. The written notification will state the reasons for the review as a possible increase in security level.
4. Formal due process for an increase in the security level is not required during an inmate's annual review, except for assignment to Security Level S, since such reviews are considered routine and afforded to every inmate; however, the inmate should be present during the review process and allowed input; see Operating Procedure 830.1, *Institution Classification Management*.
5. Reassignment to a higher security level should generally necessitate a physical transfer. Institution assignment recommendations should be included on the *Action Details* tab of the classification section of VACORIS for consideration by CCS when completing any resulting transfer order.
6. In an emergency, the Regional Administrator is authorized to affect an Intra-Regional transfer to temporarily increase an inmate's security level in the absence of ICA recommendations; see Operating Procedure 830.5, *Transfers, Institution Reassignments*.
 - a. A formal ICA hearing should be conducted within three working days after the inmate's transfer to determine the appropriate security level.
 - b. The Facility Unit Head or their designee at the receiving institution is responsible to ensure that the required ICA hearing is conducted in accordance with this and other pertinent operating procedures; see Operating Procedure 830.1, *Institution Classification Management*, and Operating Procedure 830.5, *Transfers, Institution Reassignments*.
 - c. The sending institution will provide all necessary reports to the receiving institution to assist in the administration of this hearing.



VI. Protective Custody Unit

- A. Inmate assignment to a Protective Custody Unit will be in accordance with Operating Procedure 830.5, *Transfers, Institution Reassignments*.
1. Institution recommendations for the inmate's assignment to a Protective Custody Unit should be based on a formal ICA review and will be submitted to CCS via VACORIS.
 - a. CCS has final authority on inmate assignment to a Protective Custody Unit.
 - b. Staff must not place an inmate in the Protective Custody Unit until final approval is received from CCS.
 2. For the duration of an inmate's assignment to the Protective Custody Unit, the security level assignment will be designated as "P" for data entry purposes.
 3. During an inmate's assignment to the Protective Custody Unit, no review of the inmate's security level will be necessary.
- B. Removal of inmates from a Protective Custody Unit will be in accordance with Operating Procedure 830.5, *Transfers, Institution Reassignments*.
1. Institution recommendations for the transfer of an inmate from a Protective Custody Unit should be based on a formal ICA review including completion of the *Reclassification Security Level Score Sheet* and must be submitted to CCS via VACORIS.
 2. CCS will have the final authority to transfer inmates from a Protective Custody Unit.

VII. Security Qualifiers - Security Level S

- A. While Security Level S is not a scored security level, it is a housing level reserved for special purpose bed assignments utilized for the protective care and management of inmates.
1. Inmates assigned to Security Level S with a security qualifier are afforded security level reviews only as a part of a formal review process in accordance with Operating Procedure 425.4, *Management of Bed and Cell Assignments* (Restricted) and Operating Procedure 841.4, *Restorative Housing Units*.
 2. Inmates assigned to Security Level S with a security qualifier are ineligible to request a transfer outside a formal review process.
- B. The following security qualifiers indicate that the inmate should be considered for assignment to Security Level S:
- S-1 - Aggravated Assault on Staff
 - S-2 - Aggravated Assault on Inmate w/Weapon or Resulting in Serious Injury w/o Weapon
 - S-3 - Not Used
 - S-4 - Serious Escape Risk - requiring maximum security supervision
 - S-5 - Commission of Crime of Exceptional Violence and/or Notoriety
 - S-6 - Excessive Violent Disciplinary Convictions - reflecting inability to adjust to a lower level of supervision
 - S-7 - Setting Fire Resulting in Injury to Persons or Extensive Damage to State Property
 - S-8 - Rioting Resulting in Injury to Persons or Extensive Damage to State Property
 - S-9 - Seizing or Holding Hostages
 - S-10 - Possession of Firearms, Ammunition, Explosives, Weapons
 - S-11 - Knowingly Transferring HIV or other Disease to another Person or Refusal to Submit to Testing



- S-12 - Gang Activity Related to any Category I Offense or a Documented Gang Leadership Role
- S-13 - Staff Manipulator/Predator
- S-14 - Behavior that Represents a Threat Level too Great for the Safety and Security of a Lower Level Institution
- C. Institution recommendations for inmate assignment to Security Level S will be based on a formal ICA review (including initial classification and reclassification) and must be submitted via VACORIS.
1. Initial assignment to Security Level S requires a formal ICA hearing and approval of the Facility Unit Head of the maximum security institution and the appropriate Regional Operations Chief or designee.
 2. CCS will review each reclassification assignment of inmates to Security Level S.
 3. Each inmate approved by CCS for reclassification to Security Level S will be reviewed by the Facility Unit Head of the maximum security institution and the appropriate Regional Operations Chief or designee.
- D. An inmate approved by the Regional Operations Chief or designee for assignment to Security Level S will be transferred to the maximum security institution.
- E. On arrival at the maximum security institution, the Security Level S inmate will be assessed and evaluated for appropriate security and program assignment.
- F. The ICA will perform periodic reviews on each Security Level S inmate; see Operating Procedure 425.4, *Management of Bed and Cell Assignments* (Restricted).
- G. After adequate progress in Security Level S, the ICA should recommend the inmate for reduction to Security Level 6.
- H. After approval for Security Level 6, inmates will be assigned to appropriate housing within the maximum security institution for further programming and adaptation to general population housing.
- I. The ICA will recommend inmates that have made adequate progress in Security Level 6 for a reduction to Security Level 5. Recommendations for a reduction to Security Level 5 must be reviewed by the dual treatment team and the Facility Unit Head of the maximum security institution and must be reviewed and approved by the Regional Operations Chief or designee.
- J. After approval for Security Level 5, inmate will remain in general population at the maximum security institution or will be recommended for transfer to another appropriate Security Level 5 institution.
- K. Security Level S inmates who are classified as SMI will be referred to the *Secure Diversionary Treatment Program*; see Operating Procedure 830.5, *Transfers, Institution Reassignments*.
- L. Security Level S and Security Level 6 inmates admitted to a specialized unit, such as a Mental Health Unit or Infirmary, may have their security level reviewed when clinical staff determine the inmate needs long term mental health or medical care and/or is unlikely to have skills or a level of functioning sufficient to participate and succeed in programming to reduce their security level. The following process may be used to assign an appropriate security level.
1. Clinical staff will determine the inmate's needs through a progressive case review and document their recommendations in an ICA hearing.
 - a. Safety and security must always be the primary consideration.
 - b. For each case, there should be clear documentation of a serious mental or physical illness.
 - c. The inmate should have demonstrated an extended period of stability that is free of serious disciplinary offense convictions.
 - d. Each case will be considered on its individual merits.
 - e. Clinical staff are encouraged to discuss individual cases with the Psychology Associate Senior at

CCS before initiating the process to reduce security levels.

2. After the Facility Unit Head or their designee where the inmate is currently being housed approves the ICA actions, the recommendation will be escalated to the Psychology Associate Senior at CCS for review and approval.
3. The Psychology Associate Senior at CCS will consult with the Health Services Director for cases related to medical care.
4. The Psychology Associate Senior at CCS will consult with the Facility Unit Head of the institution where the inmate is currently housed and escalate approved cases to the Western Regional Operations Chief.
5. With approval of the Regional Operations Chief over the maximum security institution, the inmate will be reduced in security level.

VIII. Processing Of Escapees

- A. An inmate arrested out-of-state and returned to DOC custody will be returned to an appropriate Reception Center.
- B. If feasible, an inmate who escaped and is arrested in Virginia, should be returned to an institution within the Region after a complete review of the circumstances of the escape, review of the criminal history, and social history of the inmate.
 1. Those inmates who present a continued serious escape risk or a high risk of violence, regardless of the circumstances of the escape, will be classified to a higher security level institution.
 2. The purpose of returning the escapee to an institution in the Region is to facilitate a court hearing relative to the escape in the appropriate jurisdiction.
- C. After disposition of the escape charge, the inmate will be reviewed by the ICA and security level recommendations will be forwarded to the Facility Unit Head or designee for action.
- D. Any escapee who has been on escape status for an extended period may be processed back into the DOC through a Reception Center. Such inmates will be scored on the *Initial Security Level Score Sheet*.
- E. If the inmate is returned to a non-reception institution, reclassification will be scored on the *Reclassification Security Level Score Sheet*.

IX. Documentation

- A. Staff, when required, will complete the appropriate security level and due process actions in VACORIS and will escalate to the Facility Unit Head or designee for final action. Security level actions that require CCS approval will be escalated to CCS for action.
- B. Staff will be responsible for the printing and distributing copies of classification actions to the inmate and as needed for the inmate's record.

X. Classification Appeals

- A. Inmates may appeal any classification decision through the *Offender Grievance Procedure*; see Operating Procedure 866.1, *Offender Grievance Procedure*.
- B. Copies of the classification documents serve to satisfy the informal procedure requirements of the *Offender Grievance Procedure*; see Operating Procedure 866.1, *Offender Grievance Procedure*.

REFERENCES

Operating Procedure 425.4, *Management of Bed and Cell Assignments* (Restricted)

Operating Procedure 830.1, *Institution Classification Management*



Operating Procedure 830.5, *Transfers, Institution Reassignments*

Operating Procedure 841.4, *Restorative Housing Units*

Operating Procedure 866.1, *Offender Grievance Procedure*

ATTACHMENTS

Attachment 1, *Security Level Overview - Male Institutions*

Attachment 2, *Initial Classification Score Sheet (DOC 11A) Worksheet*

Attachment 3, *Reclassification Score Sheet (DOC 11B) Worksheet*

Attachment 4, *Severity of Offense Scale*

Attachment 5, *Disciplinary Report Severity Scale*

Attachment 6, *Security Level Scoring Guide*

FORM CITATIONS

None



Exhibit 13



Operating Procedure

Effective Date March 1, 2019	Number 830.3
Amended 9/1/21	Operating Level Department
Supersedes Operating Procedure 830.3 (12/1/15)	
Authority COV §53.1-10, §53.1-25, §53.1-32.1, §53.1-116, §53.1-189 through 202.4	
ACA/PREA Standards 5-ACI-1E-03, 5-ACI-5B-03, 5-ACI-7A-13; 4-4097, 4-4297, 4-4461; 2-CI-4A-8; 2-CO-1E-05; §115.78	
Office of Primary Responsibility Court and Legal Services Manager	

Subject

GOOD TIME AWARDS

Incarcerated Offender Access
Yes ☒ No ☐

Public Access Yes ☒ No ☐
Attachments Yes ☒ #1 No ☐

I. PURPOSE

This operating procedure establishes a process for administering good time awards for state responsible offenders incarcerated in Department of Corrections institutions or local jails and provides guidance for submitting and reviewing recommendations for sentence reduction for offenders incarcerated in Department of Corrections institutions.

II. COMPLIANCE

This operating procedure applies to all units operated by the Department of Corrections (DOC). Practices and procedures must comply with applicable State and Federal laws and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

III. DEFINITIONS

Annual Review - A uniform yearly review of an offender's classification, needs, and objectives; the Initial Classification Date (ICD) is used to establish the review date for an offender received on or after February 1, 2006. The Custody Responsibility Date (CRD) is used to establish the review date for an offender received prior to February 1, 2006.

Custody Responsibility Date (CRD) - The date on which an offender becomes state responsible whether located in a jail or a DOC facility

Earned Sentence Credit (ESC) - Time earned in accordance with COV §§53.1-202.2 to 202.4 in one of four levels with rates ranging from 0 to 4.5 days earned per 30 days served, which shall be applied to reduce the offender's maximum term of incarceration. ESC applies to those offenders whose felony offenses were committed on or after January 1, 1995.

Extraordinary Good Time (EGT) - Time earned in accordance with COV §53.1-197 at a rate ranging from 1 to 5 days earned per month served for those offenders whose offenses were committed prior to July 1, 1981, who do not elect to participate in the Good Conduct Allowance System. All such time earned shall reduce the term of imprisonment from which parole eligibility is computed.

Good Conduct Allowance (GCA) - Time earned in accordance with COV §§53.1-198 to 202.1 in one of four classes with rates ranging from 0 to 30 days earned per 30 days served which shall be applied to reduce the offender's maximum term of imprisonment. GCA applies to those offenders whose felony offenses were committed on or after July 1, 1981 and before January 1, 1995 or who have opted into GCA from GCT. Misdemeanor convictions committed on or after July 1, 1981, will continue to be calculated under the GCA System. One-half of the credit should be applied to reduce the parole eligibility date. Misdemeanor convictions committed after July 1, 2008 are not eligible for parole in accordance with COV §53.1-153.

Good Conduct Time (GCT) - Time earned in accordance with COV §53.1-196 at a constant rate of 10 days earned per 20 days served only by those offenders whose offenses were committed prior to July 1, 1981, who do not opt to participate in the Good Conduct Allowance system. All such time earned will reduce the term of imprisonment from which parole eligibility is computed.

Initial Classification Date (ICD) - The date on which the offender was initially assigned to a Security Level

Institutional Classification Authority (ICA) - The facility staff person designated to conduct offender case review hearings

Override - Assignment to an earning level that is either higher or lower than indicated by the Class Level score

Sentence Reduction - A specific amount of time credited to an offender's sentence in cases of injuries to or extraordinary services performed by the offender

Sentence Reduction Review Committee - A committee appointed by the Chief of Corrections Operations to meet as needed to review sentence reduction recommendations

IV. GOOD TIME AWARDS

A. Each offender incarcerated in a DOC institution is eligible for recognition under one or more good time award systems:

1. Good Conduct Time (GCT) applies to those offenders whose offenses were committed prior to July 1, 1981, who do not opt to participate in the Good Conduct Allowance system. Offenders under the GCT system are awarded good time at a constant rate of 10 days earned per 20 days served and, based on evaluations of offender behavior and performance, can earn additional Extraordinary Good Time (EGT) at a rate ranging from 1 to 5 days earned per month served.
2. Good Conduct Allowance (GCA) applies to those offenders whose offenses were committed on or after July 1, 1981 and felony offenses before January 1, 1995. Offenders under GCT also have the opportunity to opt into the GCA system. Offenders under the GCA system are awarded from 0 to 30 days of good time for each 30 days served based on evaluations of offender behavior and performance.
3. Earned Sentence Credit (ESC) applies those offenders whose felony offenses were committed on or after January 1, 1995. Offenders under the ESC system are awarded from 0 to 4.5 days of good time for each 30 days served based on evaluations of offender behavior and performance.

B. Initial assignment of Class Level

1. Unclassified offenders (before their Custody Responsibility Date (CRD) for new intakes and before the revocation date for parole violators) are awarded good time at the rate of 15 days for each 30 days served on sentences under GCT or GCA and at the rate of 2.25 days for each 30 days served on sentences under ESC. For work or program participation, the jail can award unclassified offenders an additional 5 days good time (2.25 days for ESC) per 30 days served prior to the CRD.
2. On the CRD, offenders are administratively assigned to Class Level I and begin to receive good time awards at that rate. Offenders received prior to January 1, 2003 were administratively assigned to Class Level II at the time of the offender's initial sentence computation.
3. On their parole revocation date, parole violators are administratively assigned to Class Level II, begin to receive good time awards at that rate, and are not eligible for assignment to Class Level I for 12 months.
4. Exceptions to initial assignment of Class Level I or II:
 - a. Under GCA, all offenders convicted of certain violent offenses or sentenced to life imprisonment will not earn at a rate higher than GCA Class Level III on related sentences.
 - b. Under ESC, offenders sentenced to life imprisonment may not earn ESC.
5. If the offender is convicted of a disciplinary offense during the reception and classification process and/or if the offender's jail records document disciplinary problems at a local jail facility while the offender was awaiting transfer to a DOC facility, the severity of the infraction(s) may be considered and the offender's initial administrative Class Level reduced accordingly.
 - a. The offender should be given a due process hearing in accordance with Operating Procedure 830.1, *Institution Classification Management*.
 - b. The effective date of the Class Level reduction should be the date the offender physically arrived at the DOC facility for offenses that occurred in the jail and the date of the offense for offenses that

occur in the DOC facility.

6. An offender who refuses to comply with intake and initial classification procedures must receive a formal hearing by the ICA to be reduced to Class Level IV until intake and initial classification procedures have been completed. Upon confirmation of compliance, the ICA should administratively review the offender for the appropriate Class Level assignment effective on the date all procedures were completed.
7. See the *Criteria and Restrictions for Special Status Offenders* section of this operating procedure for refusal to provide DNA sample and refusal of sex offender registration.
- C. Each offender should be evaluated for Class Level during the annual review conducted in accordance with Operating Procedure 830.1, *Institution Classification Management*.
- D. Administrative reviews of Class Level may be made at any time that it appears the offender is no longer eligible or suitable for the current Class Level.
- E. Each review of Class Level must be properly conducted and documented so that offender time is accurately computed and recorded in conformance with applicable statutes and regulations. (5-ACI-1E-03; 4-4097; 2-CO-1E-05)
- F. Offenders may appeal any decision relating to good time awards in accordance with Operating Procedure 866.1, *Offender Grievance Procedure*.

V. EVALUATION PROCEDURES

- A. Advancement of an offender's Class Level should occur only by action of the ICA with approval of the Facility Unit Head in accordance with Operating Procedure 830.1, *Institution Classification Management*. The ICA may review the offender's Class Level for advancement:
 1. During the offender's annual review cycle
 2. Upon an administrative request for review after significant progress has been noted in one or more area of evaluation, if appropriate staff has screened the request for advancement and recommended ICA review.
 3. Regardless of the type of Class Level review, clear justification should be required to advance the offender's Class Level based on:
 - a. Significant improvement in the offender's evaluations in any area of performance and responsibility related to individual adjustment, either as indicated by appropriate Class Level point range or a recommended override
 - b. Due consideration to criteria and restrictions that affect the offender in an administrative placement, special status, or with special needs as set forth in this operating procedure
 - c. Due consideration to the input of the offender's counselor, work supervisor, building officer, and other staff knowledgeable of the offender's progress towards attainment of treatment objectives in the offender's *Reentry Plan*. See Operating Procedure 820.2, *Re-entry Planning*.
- B. Reduction of an offender's Class Level will occur only due to an offender's special status (See the *Criteria and Restrictions for Special Status Offenders* section of this operating procedure.) or by action of the ICA with approval of the Facility Unit Head in accordance with Operating Procedure 830.1, *Institution Classification Management*. The ICA may review the offender's Class Level for reduction:
 1. During the offender's annual review cycle
 2. Upon receipt of a referral for Class Level reduction from the Hearings Officer based on one or more disciplinary infractions
 3. Upon an administrative request for review after significant decline has been noted in one or more areas of evaluation.
 4. Regardless of the type of Class Level review, reduction of an offender's Class Level should be based

on:

- a. Determination of a significant decline in any area of performance and responsibility to the extent that the offender clearly has failed to maintain behaviors that led to advancement to the present class
 - b. Due consideration will be given to criteria and restrictions that affect the offender in an administrative placement, special status, or with special needs as set forth in this operating procedure.
 - c. Due consideration will be given to the input of the offender's counselor, work supervisor, building officer, and other staff knowledgeable of the offender's progress towards attainment of treatment objectives in the offender's *Reentry Plan*. (5-ACI-5B-03; 4-4297) See Operating Procedure 820.2, *Re-entry Planning*.
- C. Each good time award evaluation must be based on the offender's performance during the entire preceding year in the areas of offender performance and responsibility as follows:
1. Infractions - 0-40 points available
 - a. A maximum score of 40 points must be awarded to offenders with no convictions under the *Offender Disciplinary Procedure*.
 - b. Deduct 40 points (award 0 points) for any conviction of offenses numbered 100 through 108. See Operating Procedure 861.1, *Offender Discipline, Institutions*.
 - c. Deduct 20 points for each conviction of other Category I (100 series) offenses.
 - d. Deduct 10 points for each conviction of Category II (200 series) offenses.
 2. Reentry Plan, Annual Goals - 0-40 points available
 - a. Award points based on the offender's achievement of goals established at the beginning of the review year in one or more of the following areas:
 - i. Educational
 - ii. Program
 - iii. Vocational
 - iv. Other
 - b. Points should be allocated based on the number of goals set for the year i.e., for 2 goals - up to 20 points could be awarded for achievement of each goal.
 3. Work - 0-20 points available (5-ACI-7A-13; 4-4461; 2-CI-4A-8)

The score for work should be prorated based on the percentage of the year that the offender was employed.
- D. Goal Setting and Points Awards
1. Goals should be achievable in the offender's current situation, related to identified criminogenic factors, and represent progress toward the offender's Reentry Preparation Goals. See *Reentry Plan*, Operating Procedure 820.2, *Re-entry Planning*.
 2. VACORIS will provide a tentative point score based on the offender's current infraction convictions, progress toward reentry plan goals, and work assignment.
 3. Offenders should be recognized for making reasonable efforts to achieve their goals.
 - a. Offenders should not be penalized for unavailability of educational, program, vocational, or work opportunities if the offender can document consistent, reasonable efforts to achieve the goal.
 - b. Offenders should not be rewarded for lack of consistent, reasonable efforts even though they may be meeting the goal at the time of the review.
 - c. Consideration, either through point scores or override, should be given to offenders who moved from one institution to another during the year which resulted in changed goals or affected achievement of their goals.

- d. The counselor and the ICA may adjust the tentative point scores or recommend overrides as needed to accurately reflect the offender's overall performance and progress for the entire review period. The Counselor or ICA should justify and document each adjustment or override in the "Comments" section.

E. Annual Review

1. Annual reviews should be conducted each year within 30 days after the anniversary of the offender's Initial Classification Date (ICD); i.e. was first assigned a Security Level.
2. Offenders who have had one or more annual reviews based on the CRD will continue to have annual reviews based on the CRD.

F. Class Level Evaluation

1. Class Level changes and EGT awards should not be made within 60 days of an offender's expected discharge date.
2. The counselor should determine the appropriate Class Level based on the total Class Level Evaluation Points scored by the offender.
3. Class Level Point Ranges
 - Class Level I 85 to 100 points
 - Class Level II 65 to 84 points
 - Class Level III 45 to 64 point
 - Class Level IV 44 points or below
4. Prior to an Annual Review or other possible ICA review of Good Time Class Level, the counselor should review the point score in VACORIS and determine if the offender is currently in the appropriate Class Level.
5. At the annual review, if it is determined that an offender is currently in the appropriate Class Level, the counselor should document in VACORIS that that no change is recommended subject to ICA action and Facility Unit Head review.
6. For a change in Class Level, a classification hearing must be held in accordance with Operating Procedure 830.1, *Institution Classification Management*, for the ICA to consider the appropriate Class Level assignment.
7. The ICA should review the point score and any supporting documentation for proper scoring and to determine if an override is needed to place the offender in the appropriate Class Level.
8. The ICA should record the recommended Class Level and any override required in VACORIS.
9. For annual review changes in Class Level, the effective date for the change should be the anniversary of the ICD or CRD as applicable.
10. Any offender's Class Level point score and subsequent Class Level can be rejected on the basis of one or more of the approved overrides listed below. All overrides must be justified with override numbers and supporting comments noted on VACORIS.

Override	Override Reason
#1	A point score in one area of evaluation is inordinately high or low affecting the Class Level
#2	Seriousness or number of institutional infractions warrants a lower Class Level.
#3	A significant recent decrease in an area of evaluation warrants a lower Class Level.
#4	Extraordinary improvement in one or more areas of evaluation warrants a higher Class Level.
#5	Lack of program availability inordinately affects Class Level.
#6	More information needed (i.e. under investigation, longer period of adjustment needed).
#7	Refusal of or removal from any required educational, program, vocational, or work assignment must result in an automatic override to Level IV. See instructions below.
#P	Offender has reentered all required educational, program, vocational, or work assignments that resulted in use of override #7

11. Use of Overrides #7 and #P - See Operating Procedure 820.2, *Re-entry Planning*.

- a. For any educational, program, vocational, or work assignment required on the *Reentry Plan*, if the offender refuses to either enroll in or attend, or the offender attends but is removed due to disruptive, non-participatory, or non-compliant behaviors, the offender should be charged with offense code 200 in accordance with Operating Procedure 861.1, *Offender Discipline, Institutions*.
- b. An offender identified as a High Risk Sexual Aggressor (HRSA) (See Operating Procedure 810.1, *Offender Reception and Classification*.) that does not comply with therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse should be charged with offense code 200 in accordance with Operating Procedure 861.1, *Offender Discipline, Institutions*. (§115.78[d])
- c. An offender that does not comply with requirements to participate in a residential cognitive community program should be charged with offense code 119e in accordance with Operating Procedure 861.1, *Offender Discipline, Institutions*.
- d. An offender who refuses to comply with COV §19.2-310.2 by refusing to provide a DNA sample should be charged with offense code 116 in accordance with Operating Procedure 861.1, *Offender Discipline, Institutions*.
- e. An offender who refuses to comply with registration requirements in accordance with Operating Procedure 735.1, *Sex Offender and Crimes against Minors Registration*, should be charged with offense code 119d in accordance with Operating Procedure 861.1, *Offender Discipline, Institutions*.
- f. If the offender is found guilty of the charge, the offender must be referred to the ICA to be placed in Class Level IV effective the date the charge was written. A #7 override should be used regardless of the offenders' Class Level score.
- g. A #7 override may be used for reviews related to enhanced penalties for repeated violations of Category I offenses not allowing an offender to earn good time for a period in excess of one year or until they comply with some requirement (such as Offense Code 116 or 119).
- h. The #7 override will flag the offenders' file so that he or she is not allowed to earn good time until meeting the specified requirements.
- i. Once it is clear that the offender is sincere and actively participating in the specified requirement, the offender's case should be brought before the ICA for review of Good Time Award Class Level. Time spent on a waiting list does not count as participation.
- j. As an incentive, offenders participating in an Intensive Reentry Cognitive Community program while in Class Level IV due to removal from a Therapeutic Community program may be reviewed for award of good time.
 - i. Such offenders assigned to an Intensive Reentry Cognitive Community can receive a Good Time Class Level review at 90 days in the program.
 - ii. At the discretion of facility staff, an offender who has adequately participated for a minimum consecutive 90 day period can advance to the appropriate Class Level effective from the date of their entry into the Cognitive Community.
 - (a) The offender's Good Time Class Level can advance one level, only.
 - (b) The effective date of the Class Level change must be six months or less prior to the offender's GTRD.
 - (c) The class level change must be submitted no more than 90 days and no less than 60 days prior to the offender's release.
 - (d) An offender's adjusted days may be utilized to allow adequate time to process the offender's release.
 - (e) An Override #P is required to move an offender out of Class Level IV under Override #7.
 - iii. Once a higher Class Level has been achieved, offenders will be monitored to determine if their behavior continues to warrant the current Class Level and may be adjusted at any time for non-compliant behavior or disciplinary convictions.
 - iv. Any offender removed from the Intensive Reentry Cognitive Community will forfeit any good time awarded under this provision.

- k. An Override #P is required to move an offender out of Class Level IV when an Override #7 has been used. Any change in Good Time Award Class Level should be retroactive to the date the offender met the specified requirement.
 12. VACORIS will generate a notification to the Facility Unit Head to review the ICA's action and approve or disapprove it. An offender's Class Level will only be changed on Facility Unit Head approval of the ICA action.
 13. A *Class Level Evaluation Report* (See Attachment 1 for sample.) or *Institution Classification Authority Hearing* report (See Operating Procedure 830.1, *Institution Classification Management*.) should be printed and provided to the offender showing Facility Unit Head approval or disapproval of the ICA action. There is no need for filing a hard copy of either *Report*.
 14. Facility Unit Head approval of ICA action to change Class Level will generate a notification to the Court and Legal Section to update the offender's time calculation.
- G. An offender who is confined to a Restorative Housing Unit is not eligible for advancement to Class Level I.
1. If in Class Level I at the time of assignment to restorative housing, the ICA should conduct a formal review within 90 days to determine if that Class Level is still appropriate.
 2. It is intended that an offender in restorative housing should be ready to return to general population on advancement to Class Level II.
- H. Criteria and Restrictions for Special Status Offenders:
1. Upon transfer back to a local jail facility, the offender's good time award eligibility status should not be affected.
 2. Any offender who commits a felony or misdemeanor (except escape convictions) while in confinement will automatically be reduced to Class Level IV effective the conviction date.
 - a. The offender will not become eligible for advancement in Class Level for 12 months from the conviction date.
 - b. If the offender is presently serving a sentence under the Good Conduct Time (GCT) system, the new consecutive sentence, or any new concurrent sentence extending the release date established under COV §53.1-159 will be served under the GCA or ESC system once the GCT sentence has been satisfied.
 3. Any offender returned to confinement as a result of escape and conviction of a felony, misdemeanor, or a Disciplinary Hearing offense for escape should automatically be reduced to Class Level IV effective the date of the conviction. The offender will not be eligible for advancement in Class Level for 12 months from the date of assignment to Class Level IV.
 4. In accordance with COV §53.1-199, an offender with offense dates of July 1, 1993 or later and prior to January 1, 1995 for first degree murder, rape, forcible sodomy, animate or inanimate object sexual penetration, or aggravated sexual battery will not exceed the good conduct earning rate of GCA Class Level III on those related sentences. Any subsequent reduction in an offender's recognition level requires ICA action and Facility Unit Head approval.
 - a. GCA Class Level III will be administratively assigned in such cases at the time of the offender's initial sentence computation.
 - b. These offenders may be recognized for individual adjustments and performance representative of a higher GCA class as follows.
 - i. The ICA will review such offenders in accordance with procedures for Class Level advancement, and upon determination that the offender's individual adjustment and performance are representative of Class I or Class II, the offender may be awarded that level for recognition purposes only by designating V-I or V-II.
 - ii. Any subsequent reduction in an offender's recognition or earning level requires ICA action and Facility Unit Head approval.

- iii. The GCA Class designations V-I and V-II will be the same earning level as Class III for sentence computation purposes. V-I will be the same as Class Level I and V-II will be the same as Class Level II for recognition purposes.
5. Any offender serving life imprisonment or two or more life sentences will not exceed the GCA earning rate of Class Level III in accordance with COV §53.1-199, such an offender may be recognized for individual adjustment and performance representative of a higher GCA class as follows:
 - a. The ICA may review the offender in accordance with procedures for GCA class advancement. Upon determination that an offender's individual adjustment and performance are representative of Class Level I or Class Level II, the offender may be awarded that level for recognition purposes only by designating the Class Level as L-I or L-II, respectively.
 - b. Any subsequent reduction in an offender's recognition or earning level requires ICA action and Facility Unit Head approval
 - c. The GCA class designations L-I and L-II should be the same earning level as Class III for sentence computation purposes. L-I will be the same as Class Level I and L-II the same as Class Level II for recognition purposes.
6. An offender serving life imprisonment cannot earn ESC but may be recognized for individual adjustment and performance representative of an ESC level in accordance with procedures for ESC level assignment. The offender may be awarded that level for recognition purposes only by designating the level as L-I, L-II, L-III, or L-IV. Any subsequent reduction in an offender's recognition level requires ICA action and Facility Unit Head approval.

I. Mitigating Factors

1. Additional criteria should be considered for those offenders who, because of medical needs/limitations, mental health needs/limitations, or other special treatment needs/limitations, cannot be appropriately evaluated solely in the areas of performance and responsibility as set forth in this operating procedure. Generally, an offender in one of these categories should be placed in a Class Level on the basis of those areas of performance and responsibility which would not penalize the offender due to a special need or limitation.
2. When an offender cannot be placed in a work, vocational or educational program due to medical considerations, the Class Level should be determined as follows:
 - a. Any treatment or therapy programs prescribed by attending medical staff should be reasonably incorporated into the offender's Reentry Plan, Annual Goals and thereby subject to review for Class Level purposes.
 - b. A score of 17 points may be assigned to the Class Level Evaluation in the area of work.
3. When an offender cannot be placed in a work, vocational or educational program assignment due to mental health or other special treatment considerations, the Class Level should be determined as follows: (These requirements may apply to offenders assigned to a mental health acute care unit per Operating Procedure 730.3, *Mental Health Services: Levels of Service*.)
 - a. Any treatment or therapy programs prescribed by attending psychologists, psychiatrists or other special treatment staff should be reasonably incorporated into the offender's Reentry Plan, Annual Goals and thereby subject to review for Class Level purposes.
 - b. A score of 17 points may be assigned to the Class Level Evaluation in the area of work.
4. Upon transfer to a non-DOC mental health facility, the offender should be considered for Class Level on the annual review cycle date following the offender's return to a correctional facility. The ICA should review the offender's suitability for Class Level during the transfer period based on psychological progress reports and the offender's institutional adjustment.

VI. GOOD CONDUCT TIME (GCT) SYSTEM

- A. To be eligible for the Good Conduct Time (GCT) System and Extraordinary Good Time (EGT) Credits, an offender must:

1. Have committed the offense prior to July 1, 1981
 2. Have not elected to enter the Good Conduct Allowance (GCA) system
- B. Offenders under the GCT system are awarded Good Conduct Time or Statutory Good Time at the rate of 10 days per 20 days served.
- C. In addition, the ICA can make an EGT award of from 0 to 5 days per month served determined by the Class Level on the offender's Class Level Evaluation. The Class Level will also be used for recognition purposes.
1. Upon assignment to the Restorative Housing Unit for behavioral management, an offender will not be eligible for EGT beginning the month this assignment begins. Eligibility for EGT consideration will resume the next annual review cycle date following the offender's release from restorative housing status.
 2. Upon assignment to the Restorative Housing Unit for protective custody, an offender should be eligible for EGT if:
 - a. The offender is complying with the *Reentry Plan, Annual Goals* and has a facility work assignment
 - b. The offender receives an 85 point rating on the Class Level Evaluation
 3. Confinement in General Detention: Upon assignment to general detention for investigative purposes or for behavior management where the offender has also received a disciplinary offense the offender should have their eligibility for EGT suspended until disposition of the case has been rendered by the Hearings Officer and approved by the Facility Unit Head.
 - a. If convicted for a 100 series disciplinary offense, the offender's eligibility for EGT consideration resumes the next annual review cycle date following conviction of the offense.
 - b. If not convicted of a 100 series disciplinary offense, the offender's EGT eligibility is unaffected by the assignment to general detention.
- D. Criteria and Restrictions for Special Status Offenders:
1. Upon return to confinement for alleged parole violation(s), an offender's eligibility for EGT should not resume until parole is revoked by the Parole Board. At that time, EGT consideration for the offender will be retroactive to the date of return to a local jail facility or State correctional institution in the absence of any new conviction related to the revocation.
 2. Upon transfer to a local jail facility, the offender's EGT eligibility status should not be affected.
 3. Any offender who commits a felony or misdemeanor while in confinement or in parole revocation status automatically becomes ineligible for EGT. The eligibility for EGT consideration for an offender in confinement should resume the next annual review cycle date following the offender's conviction of the offense.
 4. Any escapee returned to confinement automatically becomes ineligible for EGT. The eligibility should resume the next annual review cycle date following the offender's conviction of the offense.
- E. An offender will be awarded EGT after receiving a Class Level Evaluation of Class Level I and only by action of the ICA with approval of the Facility Unit Head.
1. The ICA should review each eligible offender for EGT based on the annual review date.
 2. Clear justification will be required to award EGT to an offender based on:
 - a. The total point score on the Class Level Evaluation
 - b. Due consideration to criteria and restrictions that affect the offender in an administrative placement, special status or with special needs as set forth in this procedure
 - c. Due consideration to the input of the offender's counselor, work supervisor, building officer, and other staff knowledgeable of the offender's progress towards attainment of treatment objectives in the offender's *Reentry Plan*.

3. The ICA will certify that an offender is eligible for EGT awards after the review of the offender's performance during the previous 12 months and determine at what rate the offender's EGT request will be made. The ICA should record the recommended EGT award in VACORIS.
4. VACORIS will generate a notification to the Facility Unit Head to review the ICA action and approve or disapprove it. The Facility Unit Head may approve the EGT request in total, approve it with reduction in the rate and/or total days EGT, or disapprove the request in total.
5. A *Class Level Evaluation Report* should be printed and provided to the offender showing Facility Unit Head approval or disapproval of the ICA action.
6. Facility Unit Head approval of ICA action to award EGT will generate a notification to the Court and Legal Section to update the offender's time calculation.
7. Once an EGT request has been approved and credited to an offender, the loss of EGT award should not be available as a disciplinary penalty.

VII. GOOD CONDUCT ALLOWANCE (GCA)

- A. All offenders who committed felony offenses on or after July 1, 1981 and prior to January 1, 1995 will automatically enter the GCA system for the duration of those sentences. All offenders who committed misdemeanor offenses on or after July 1, 1981 will automatically enter the GCA system for the duration of those sentences.
- B. Those offenders who committed their offense prior to July 1, 1981 may request to enter the GCA system by action of the ICA with approval of the Facility Unit Head in accordance with Operating Procedure 830.1, *Institution Classification Management*. For these offenders:
 1. Entrance into the GCA system may take place only after:
 - a. Appropriate staff explains the system to the offender
 - b. The offender understands that the decision to enter the GCA system cannot later be reversed
 - c. The offender signs a *Good Conduct Allowance Opt-In* 830_F3 indicating an understanding of the system and the finality of the informed consent.
 2. If appropriate treatment staff determine that an offender is not capable of making an informed decision on entry into the GCA system due to mental health condition or other limitations, the Facility Unit Head may be responsible for referring the offender to court-appointed or other appropriate legal counsel to facilitate an informed decision.
 3. The effective date of GCA system entry is the date that the offender signed the *Good Conduct Allowance Opt-In*.
 4. The level of entry into the GCA system is to be individually determined by the ICA with the approval of the Facility Unit Head in accordance with the evaluation portion of this operating procedure.
- C. There are four Class Levels in the GCA system differentiated by the amount of GCA earned per 30 day period served. The entire GCA earned reduces the time the offender must serve to satisfy the sentence. One-half of the GCA earned reduces the offender's parole eligibility date. The classes are:
 - Class Level I - the offender earns 30 days GCA for every 30 days served.
 - Class Level II - the offender earns 20 days GCA for every 30 days served.
 - Class Level III - the offender earns 10 days GCA for every 30 days served.
 - Class Level IV - the offender earns no days GCA.
- D. Offenders serving one or more life sentences or sentences for certain violent offenses will not exceed the good conduct earning rate of the GCA Class Level III on those related sentences.

VIII. EARNED SENTENCE CREDIT

- A. All offenders who committed their felony offense(s) on or after January 1, 1995, automatically enter the ESC system for the duration of all such felony sentences. Note that misdemeanor sentences continue to

be calculated under GCA.

- B. There are four Class Levels in the ESC system differentiated by the amount of ESC earned per 30 day period served. The entire ESC reduces the time the offender must serve to satisfy the sentence.
- Class Level I - the offender earns 4.5 days ESC for every 30 days served.
 - Class Level II - the offender earns 3 days ESC for every 30 days served.
 - Class Level III - the offender earns 1.5 days ESC for every 30 days served.
 - Class Level IV - the offender earns 0 days ESC.
- C. Offenders serving one or more life sentences are not eligible to receive earned sentence credits, but should be awarded L-I, L-II, L-III, or L-IV Class Levels for recognition purposes.

IX. SENTENCE REDUCTION

A. Eligibility

1. In accordance with COV §53.1-191, sentence reductions may not be applied to any sentence imposed for a felony offense committed on or after January 1, 1995. Offenders under the Earned Sentence Credit (ESC) system may be recognized in another manner, but no sentence reduction can be recommended.
2. One or more of the following criteria should apply for an offender to be considered for a sentence reduction:
 - a. An offender must have rendered effective and measurable assistance directly related to preventing an escape or in the apprehension of an escaped offender.
 - b. An offender must have voluntarily, or at the instance of a prison official, rendered other extraordinary services such as saving the life of any person, preventing serious bodily harm or substantial damage to State property.
 - c. An offender must have suffered serious or debilitating bodily injury that was not the result of misconduct by the offender and which was incurred by saving life or State property or in the performance of assigned job duties while in the prison system.

B. Facility Level

1. Each correctional employee is authorized and permitted to prepare an Internal Incident Report on any offender the employee deems deserving, who has been observed to perform any act defined as meritorious or injurious by this procedure.
2. Whenever an offender is observed to be performing one of the acts listed in the criteria above, the correctional employee observing the act should submit a written *Internal Incident Report*. See Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*. The report must include:
 - a. The offender's name and number
 - b. The location, by facility and area where the incident occurred.
 - c. The date and time of day.
 - d. A factual summary of what was observed.
 - e. The name of the reporting officer and any others who may have witnessed the incident.
3. The initial report should be submitted within one working day to the reporting employee's immediate supervisor who, if deemed appropriate, should submit a report providing additional pertinent details.
4. Reports written under Sections 2 and 3 above should normally be submitted to the Facility Unit Head within three working days of the incident.
5. Facility Unit Heads are responsible for reviewing each sentence reduction recommendation submitted by staff for completeness and approval or disapproval. The Facility Unit Head may refer the report back due to incompleteness or disapproval, or recommend another avenue of commendation. If approval is indicated, the Facility Unit Head will forward the report and attachments to the Regional Administrator for action.

6. Recommendations and incident summaries should be processed in a manner to ensure appropriate confidentiality. There is no requirement for recommendations to be reviewed by a facility committee or reviewer other than the Facility Unit Head.
7. A Special Investigations Unit investigation is to be conducted when one or more of the following occur:
 - a. A meritorious action that was not directly observed by a correctional employee.
 - b. A meritorious act that results in criminal charges being brought against an individual.
 - c. Any act which indicates a serious breach of facility security.
 - d. Disclosure of a discovered weapon.
8. It is the responsibility of the Facility Unit Head to investigate the reports, to verify all facts reported and to prepare a summary report to include:
 - a. Signed statements from witnesses
 - b. Copies of all reports which have been received to include the following when appropriate:
 - i. Internal Incident Report
 - ii. Incident Report
 - iii. Special Investigations Unit report
 - iv. Corrective action follow-up
 - v. Medical report indicating extent of injury
 - c. Facility Unit Head's statement regarding the impact of the offender's action upon the operation of the facility as a whole.
 - d. The Facility Unit Head should forward this report package to the office of the Regional Administrator within three working days after compilation of a completed report.
9. No recommendation is to be made at the facility level regarding the specific amount of credit to be given to an offender under this procedure. The recommendation will initially be made by the Sentence Reduction Committee.
10. If the Facility Unit Head determines that the offender's action does not warrant a recommendation for sentence reduction, the offender will normally be notified in writing of the decision. Notification should be made within seven working days of receipt of the initial reports.

C. Chief of Corrections Operations Level

1. All reports received from facilities regarding extraordinary service or injuries are to be reviewed in the office of the Regional Administrator/Regional Operations Chief for content and approval. The Regional Operations Chief may forward the recommendation with a cover letter stating approval to the Chief of Corrections Operations or return the report to the sending facility for disapproval, rewrite, or suggestion of alternative to sentence reduction.
2. The Chief of Corrections Operations or designee may accept or reject the recommendation. If accepted, the report is forwarded to the Sentence Reduction Review committee. If disapproved, it is returned to the Regional Operations Chief.
3. The Chief of Corrections Operations appoints a Sentence Reduction Review Committee composed of representatives from regional offices, facilities, and the Offender Management Services unit.
 - a. The Committee consists of a minimum of three members who are to be rotated periodically. The senior member of the Committee will preside as the Chairperson.
 - b. Additionally, the Director of Offender Management Services may designate a Sentence Reduction Review Coordinator to handle administrative work for the Committee.
 - c. The Committee may conduct an investigation into reports submitted by Facility Unit Heads. Included in the file presented to the Committee will be all identification and classification information pertinent to the individual. This record must accompany recommendations provided to the Chief of Corrections Operations by the Sentence Reduction Committee.

d. The Committee must consider each case independently and must submit its findings with appropriate recommendations for sentence credit to the Chief of Corrections Operations.

4. Upon receipt of all reports, the Chief of Corrections Operations reviews each Committee recommendation. If approved, it is forwarded to the Director for action.

D. Executive Level

1. In accordance with COV §53.1-202.4 a sentence reduction may considered and granted to offenders in cases of injuries to or as a result of extraordinary services performed.
2. A review of the facts will be conducted in each case, and where appropriate, recommendations made to the Governor for final approval.
3. Upon the Governor's approval, the Chief of Corrections Operations informs the Regional Operations Chief, Regional Administrator, Facility Unit Head, and offender in writing of the sentence credit authorized in this case.
4. Each sentence credit should be entered into the offender's record within ten working days of receipt from the Governor.

E. Offender Appeals - An offender may appeal any recommendations or decisions by submitting a grievance through the Offender Grievance Procedure at their assigned facility.

F. Sentence credits awarded under COV §53.1-191 may not be forfeited for violation of written facility rules and regulations.

X. REFERENCES

Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*

Operating Procedure 730.3, *Mental Health Services: Levels of Service*

Operating Procedure 735.1, *Sex Offender and Crimes against Minors Registration*

Operating Procedure 810.1, *Offender Reception and Classification*

Operating Procedure 820.2, *Re-entry Planning*

Operating Procedure 830.1, *Institution Classification Management*

Operating Procedure 861.1, *Offender Discipline, Institutions*

Operating Procedure 866.1, *Offender Grievance Procedure*

XI. FORM CITATIONS

Good Conduct Allowance Opt-In 830_F3

XII. REVIEW DATE

The office of primary responsibility shall review this operating procedure annually and re-write it no later than three years after the effective date.

The office of primary responsibility reviewed this operating procedure in March 2020 and no changes are needed at this time.

The content owner reviewed this operating procedure in March 2021 and necessary changes are being drafted.

Signature Copy on File

1/29/19

A. David Robinson, Chief of Corrections Operations

Date

Exhibit 14



Virginia Department of Corrections

Offender Management and Programs

Operating Procedure 841.4

Restorative Housing Units

Authority:

Directive 841, *Program Management*

Effective Date: August 1, 2021

Amended: 2/1/22, 3/1/22

Supersedes:

Operating Procedure 841.4, April 1, 2019

Access: ☐ Restricted ☒ Public ☒ Inmate

ACA/PREA Standards:

5-ACI-4A-01, 5-ACI-4A-02, 5-ACI-4A-04,
5-ACI-4A-05, 5-ACI-4A-07, 5-ACI-4A-08,
5-ACI-4A-10, 5-ACI-4A-11, 5-ACI-4A-12,
5-ACI-4A-15, 5-ACI-4A-16, 5-ACI-4A-20,
5-ACI-4A-21, 5-ACI-4A-22, 5-ACI-4A-23,
5-ACI-4A-24, 5-ACI-4A-25, 5-ACI-4A-27,
5-ACI-4B-02, 5-ACI-4B-03, 5-ACI-4B-04,
5-ACI-4B-08, 5-ACI-4B-09, 5-ACI-4B-10,
5-ACI-4B-12, 5-ACI-4B-14, 5-ACI-4B-15,
5-ACI-4B-16, 5-ACI-4B-20, 5-ACI-4B-21,
5-ACI-4B-22, 5-ACI-4B-23, 5-ACI-4B-24,
5-ACI-4B-25, 5-ACI-4B-26, 5-ACI-4B-28,
5-ACI-4B-29, 5-ACI-4B-30, 5-ACI-4B-31,
5-ACI-4B-32, 5-ACI-4B-33, 5-ACI-5C-08

Content Owner:	Lois Fegan Chief of Restorative Housing	<i>Signature Copy on File</i>	6/29/21
		Signature	Date
Reviewer:	Randall C. Mathena Director of Security & Correctional Enforcement	<i>Signature Copy on File</i>	6/30/21
		Signature	Date
Signatory:	A. David Robinson Chief of Corrections Operations	<i>Signature Copy on File</i>	7/5/21
		Signature	Date

REVIEW

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections. Practices and procedures must comply with applicable State and Federal laws and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

Table of Contents

PROCEDURE..... 5

I. Restorative Housing Units 5

II. Restorative Housing Unit Mission 5

III. Restorative Housing Unit Assignment Process 6

IV. Restorative Housing Unit Assignment Mental Health and Medical Reviews 6

V. Initial Assignment to General Detention - Inmate Classification Process 6

VI. Inmate Management Path Development 8

VII. Centralized Restorative Housing Unit Transfers..... 10

VIII. Restorative Housing Unit Status Reviews 10

IX. Security, Movement, and Control of Contraband 11

X. Mental Health and Medical Reviews and Care 12

XI. General Requirements for Restorative Housing Units 13

REFERENCES..... 18

ATTACHMENTS 18

FORM CITATIONS 18



DEFINITIONS

“At Risk” Inmate - An inmate who meets criteria for being “at risk” for deterioration, self-harm, and/or being a danger to others in a Restorative Housing Unit as determined by a Psychology Associate; see *Mental Health and Wellness Services Screening 730_F12*.

Centralized Restorative Housing Unit - A housing unit at a designated institution for eligible inmates who cannot return to the general population at their current institution, refuse to participate in their management path, or who are expected to require maximum security management in excess of 30 days.

Discharge - The release of an inmate or probationer/parolee from a facility due to satisfying the requirements for release from that facility; discharge may be due to parole, good time release, pardon, court order, completion of Community Corrections Alternative Program or other reasons. Discharge may be to the community with or without probation/parole/post-release obligations or discharge may be to law enforcement authorities for other legal obligations or deportation.

General Detention - Special purpose bed assignments, utilized under proper administrative process, for the immediate secure confinement of inmates pending review for an appropriate assignment

Health Care Staff - Licensed/certified workers who typically provide direct patient care, including RN, LPN, CHA, PA-C, Nurse Practitioner, Certified Nursing Assistant, Dental Hygienist, Dental Assistant, Lab Technician, Psychology Associate, and X-Ray Technician.

Health Trained Staff - A DOC employee, generally a Corrections Officer, who has been trained to administer health screening questionnaires, including training as to when to refer to health care staff and with what level of urgency.

High Risk Sexual Victim (HRSV) - As identified by the *Classification Assessment* and Psychology Associate assessment, any inmate/probationer/parolee confirmed as a sexual victim or identified as being at high risk of being sexually victimized.

Inmate - A person who is incarcerated in a Virginia Department of Corrections facility or who is Virginia Department of Corrections responsible to serve a state sentence.

Institution - A prison facility operated by the Department of Corrections; includes major institutions, field units, and work centers.

Institutional Classification Authority (ICA) - The facility staff person designated to conduct inmate case review hearings; hearings related to restorative housing status reviews are formal due process hearings and are generally conducted by a Multi-Disciplinary Team.

Management Path - The Restorative Housing Unit level to which the inmate is assigned and the remaining steps for the inmate to enter full privilege general population

Medical Practitioner - A physician, nurse practitioner, or physician’s assistant.

Mental Health Residential Treatment Unit - A designated treatment unit where mental health and wellness services are provided to inmates who are unable to function in a general population setting due to mental disorder but who typically do not meet the criteria for admission to an Acute Care Unit.

Multi-Disciplinary Team (MDT) - MDT members are responsible to review individual inmates related to restorative housing and step-down statuses and act as the Institutional Classification Authority to make recommendations for housing status, transfer, security level, good time class, etc.; decisions are the responsibilities of the Facility Unit Head and Regional Administrator.

Protective Custody Unit - A special purpose general population housing unit designated by the Director for inmates classified as requiring separation from other inmates as a result of their personal security needs; inmates requesting and requiring assignment to a Protective Custody Unit may be managed in general detention and restorative housing, as appropriate, pending assignment and transfer.

Psychology Associate - An individual with at least a Master’s degree in psychology, social work, or relevant human services field with knowledge, training, and skills in the diagnosis and treatment of mental disorders, which may include a Psychiatric Provider, Social Worker, or Registered Nurse.



Restorative Housing Unit - A general term for special purpose bed assignments including general detention, restorative housing, and step-down statuses; usually a housing unit or area separated from full privilege general population.

- **Restorative Housing (RHU)** - Special purpose bed assignments operated under maximum security regulations and procedures, and utilized under proper administrative process, for the personal protection or custodial management of inmates.
- **RH Step-Down 1 (SD-1), RH Step-Down 2 (SD-2)** - General population bed assignments operated with increased privileges above restorative housing but more control than full privilege general population.

Secure Diversionary Treatment Program (SDTP) - A residential programming unit with bed assignments designated for eligible inmates who are classified as Seriously Mentally Ill (SMI), and who meet the criteria for program admission. The SDTP is a formalized program that operates within structured security regulations and procedures, and provides for programming and treatment services conducive with evidence based treatment protocols and individualized treatment plans.

Serious Mental Illness (SMI) - An individual diagnosed with a Psychotic Disorder, Bipolar Disorder, Major Depressive Disorder, Posttraumatic Stress Disorder (PTSD) or Anxiety Disorder, or any diagnosed mental disorder (excluding substance use disorders) currently associated with serious impairment in psychological, cognitive, or behavioral functioning that substantially interferes with the person's ability to meet the ordinary demands of living.

Shared Allied Management (SAM) Unit - A residential programming unit operated at designated institutions to deliver intensive services in a safe environment to specific inmate populations that typically require a high level of services from security, mental health, and/or medical staff.

Steps to Achieve Reintegration (STAR) Program - A program operated at designated institutions for inmates, who motivated by unspecified fear, refuse to leave restorative housing and enter general population

Working Day - Weekdays, Monday through Friday, except official state holidays



PURPOSE

This operating procedure provides for the assignment of inmates housed in Department of Corrections (DOC) institutions to Restorative Housing Units, and establishes the minimum standards for the operation of these units and for the care and custody of the inmates assigned.

PROCEDURE

I. Restorative Housing Units

- A. This operating procedure provides inmates incarcerated in DOC institutions with information on the operation of Restorative Housing Units at Security Level 2 through Security Level 5 institutions and for the supervision of inmates under general detention, Restorative Housing (RHU), and Step-down statuses (SD-1 and SD-2). See Operating Procedure 425.4, *Management of Bed and Cell Assignments* (Restricted), for security considerations relating to Restorative Housing Units. (5-ACI-4A-04, 5-ACI-4B-03)
- B. Security Level W institutions, Security Level 1 institutions, and Deerfield Correctional Center do not operate Restorative Housing Units.
 1. When warranted, inmates will be expeditiously transferred to the designated parent/host institution for placement on general detention in the Restorative Housing Unit.
 2. Detention in restraints or holding cells is authorized pending transfer of the inmate.
- C. Restorative Housing Units at institutions that house Security Levels 5, 6 and S inmates will operate in accordance with this operating procedure for Security Level 5 inmates and the Red Onion State Prison/Wallens Ridge State Prison local operating procedure addressing the *Restorative Housing Reduction Step Down Program*, for Security Level 6 and S inmates.
- D. For institutions designated for multiple security level inmates, the Restorative Housing Unit will operate in accordance with Attachment 1, *Restorative Housing Operating Level Designation*.

II. Restorative Housing Unit Mission

- A. Restorative Housing Units provide for personal protection and custodial management measures, exercised by the institution for the welfare of the inmate, the institution, or both and will not be used as punishment.
- B. General detention will be utilized for the immediate secure confinement of an inmate only when their presence in the general population or a step-down status poses a direct threat to the inmate (to include when an inmate requires personal protection and no reasonable alternative is available), other inmates, institutional staff, or a clear threat to the safe, secure operation of the institution. The goals of a Restorative Housing Unit are to: (5-ACI-4B-02)
 1. Manage inmates in a safe and secure manner
 2. Provide a consistent, systems approach to the operation of Restorative Housing Units in all institutions to maximize positive outcomes in inmate adjustment
 3. Provide opportunities for inmates to increase their likelihood for success in a full privilege general population
- C. An inmate moved from general population into a Restorative Housing Unit must be initially assigned to General detention, which is authorized by the Shift Commander or above for the immediate secure confinement of an inmate pending review for an appropriate assignment. (5-ACI-4B-02)
- D. Assignment to any other restorative housing status requires a formal due process hearing held by the Multi-Disciplinary Team (MDT), and must be approved by the Facility Unit Head or designee in accordance with Operating Procedure 830.1, *Institution Classification Management*.
- E. The MDT conducts ICA hearings related to Restorative Housing Units and is responsible to review



individual inmates and make recommendations concerning the management paths as well as security level, good time class, transfer, etc.

III. Restorative Housing Unit Assignment Process

- A. Only the Shift Commander or a higher authority may authorize an inmate's placement in a Restorative Housing Unit.
 - 1. Institutional staff, such as but not limited to Corrections Officer, Investigator, Psychology Associate, or Health Authority may refer an inmate for general detention.
 - 2. The Shift Commander will meet with the referring staff member and the inmate, and will either place the inmate on general detention in the Restorative Housing Unit or return the inmate to general population.
- B. When an inmate requests protective custody and the need for protective custody is documented and no alternative exists, the Shift Commander will authorize the inmate's assignment to general detention in accordance with Operating Procedure 830.5, *Transfers, Institution Reassignments*, and Operating Procedure 830.6, *Offender Keep Separate Management*. (5-ACI-4A-05)
 - 1. When mental health or medical staff determines that an inmate must be assigned to a safety cell, medical cell, or other appropriate location in order to protect the inmate, other inmates, institutional staff, or the safe, secure operation of the institution, the staff member will notify the Shift Commander.
 - 2. Inmates identified as High Risk Sexual Victims (HRSV) or inmates alleged to have suffered sexual abuse or sexual harassment will not be placed in the Restorative Housing Unit without their consent unless an assessment of all available alternatives has been made, and it has been determined by the Psychology Associate in consultation with the Shift Commander and Regional PREA Analyst that there are no available alternative means of separation from likely abusers.

IV. Restorative Housing Unit Assignment Mental Health and Medical Reviews

- A. Inmates will be screened by a Psychology Associate before their placement or within one working day after placement in general detention so that any "at risk" inmates may be identified and monitored in accordance with Operating Procedure 730.5, *Mental Health and Wellness Services: Behavior Management*. At facilities with no Psychology Associate, health care personnel or health trained staff should screen the inmate to identify if there is any indication the inmate may be "at risk". (5-ACI-4B-10)
- B. Health care personnel will be informed immediately when an inmate is transferred from general population to general detention in order to provide assessment per protocols established by the Health Authority. This assessment will determine the impact that restorative housing may have on medical conditions exhibited by the inmate and the possible alternatives that may be available to compensate for such conditions. (5-ACI-4A-01, 5-ACI-4B-28)

V. Initial Assignment to General Detention - Inmate Classification Process

- A. The Facility Unit Head or other Administrative Duty Officer must review the inmate's placement in restorative housing on general detention within 24 hours and will either approve the placement or order the inmate returned to their previous status when general detention is not warranted. (5-ACI-4B-02)
- B. Within three working days of an inmate's initial placement on general detention, the MDT will review all available, relevant information and conduct a formal ICA hearing to determine if the inmate can return to the previous housing status (general population or step-down) or if the inmate will remain in the Restorative Housing Unit and assign to RHU or other appropriate internal status in restorative housing.
- C. Within 10 working days (15 working days for investigative status) of an inmate's initial placement on general detention, the MDT will conduct a formal ICA hearing to determine the following:
 - 1. Security Level 2 institutions



- a. The MDT will evaluate the inmate and determine if the inmate will be released to general population at their current institutional assignment.
 - b. Inmates who cannot return to the general population at the current institution but would be suitable for general population at another equal or higher level institution should be recommended for transfer to an appropriate institution.
 - c. Inmates who cannot return to the general population at the current institution and who are expected to require maximum security management in excess of 30 days should be recommended for transfer to the Centralized Restorative Housing Unit.
2. Security Level 3 and above institutions (5-ACI-4B-31)
- a. The MDT will determine if the inmate will be released to general population at their current institutional assignment.
 - b. Inmates who will remain in the Restorative Housing Unit at their current institution will be provided a management path (RHU, SD-1, SD-2) that is designed to address their behaviors and needs so that the inmate can enter a full privilege general population. Restorative housing inmates will be reviewed for placement in step-down statuses and general population as soon as the risk is reduced to an acceptable level.
 - c. Inmates who cannot return to the general population at the current institution and who are expected to require maximum security management in excess of 30 days (not achieve assignment to a step-down level or full privilege general population) should be recommended for transfer to the Centralized Restorative Housing Unit.
 - d. Inmates who cannot return to the general population at the current institution but would be suitable for general population at another equal or higher level institution, based on the severity of behaviors, should be recommended for transfer to an appropriate institution.
 - e. Restorative housing inmates will be reviewed for placement in step-down statuses and general population as soon as the risk is reduced to an acceptable level.
- D. SMI inmates must be reviewed within 10 working days after their initial placement on general detention; the MDT will conduct a formal ICA hearing to evaluate the inmate and determine the following: (5-ACI-4B-30)
1. If the inmate will be released to general population or placed in SD-1 or SD-2 within 28 days of their initial placement on general detention at their current institution
 2. SMI inmates who will not be released to general population or placed in SD-1 or SD-2 within 28 days must be reviewed to determine appropriate placement from the options below:
 - a. Referral to Marion Correctional Treatment Center's (MCTC) Acute Care Unit if the inmate meets the legal commitment criteria; see Operating Procedure 730.3, *Mental Health Services: Levels of Service*.
 - b. Referral to a Mental Health Residential Treatment Unit or other Mental Health Unit when the inmate does not meet the criteria for commitment to an Acute Care Unit but is unable to function in a general population; see Operating Procedure 730.3, *Mental Health Services: Levels of Service*.
 - c. Referral to a *Secure Diversionary Treatment Program* if the inmate frequently engages in assaultive, disruptive, and/or unmanageable behaviors; see Operating Procedure 830.5, *Transfers, Institution Reassignments*.
 - d. Specialized placement in a *Secured Allied Management Unit (SAM)*; see Operating Procedure 830.5, *Transfers, Institution Reassignments*.
 3. SMI inmates must be moved out of RHU status within 28 days of the inmate's initial placement on general detention unless a *Serious Mental Illness (SMI) 28 Day Exemption Request* been granted; see Operating Procedure 425.4, *Management of Bed and Cell Assignments* (Restricted).
 4. On the same day that the MDT holds the formal ICA hearing to evaluate a SMI inmate, a member of

the MDT must notify the Special Program Manager for Diversionary Housing. This notification will be submitted by email to the DOCSMI mailbox at docsmi@vadoc.virginia.gov and must include the following:

- a. Inmate Name and Number
 - b. Date Assigned to General Detention
 - c. Proposed pathway out of the Restorative Housing Unit
 - d. Any supporting documentation
- E. Pregnant inmates and inmates under the age of 18 must be reviewed within 10 working days after the initial placement on general detention; the MDT will conduct a formal ICA hearing to evaluate the inmate and determine the following: (5-ACI-4B-32, 5-ACI-4B-33)
1. If the inmate will be released to their previous housing assignment in general population or placed in SD-1 or SD-2 at their current institution within 28 days of the initial placement on general detention.
 2. If the inmate poses a risk to the safe, secure, and orderly operation of the institution and will not be released to their previous housing assignment in general population or placed in SD-1 or SD-2 within 28 days. The MDT will review the inmate to determine appropriate alternate housing.
 3. If the inmate is a pregnant inmate or an inmate under the age of 18 who is also SMI and will not be released to their previous housing assignment in general population or placed in SD-1 or SD-2 within 28 days. The MDT will consult with the Psychology Associate Senior at CCS to determine appropriate alternate housing. (5-ACI-4B-30)
- F. Inmates in a Restorative Housing Unit who refuse assignment to general population due to an unspecified fear and not for a specific fear or threat, violent or aggressive behavior, or legitimate protective custody needs should be reviewed for transfer to the *Steps to Achieve Reintegration (STAR) Program*; see Operating Procedure 830.5, *Transfers, Institution Reassignments*.
- G. Inmates in a Restorative Housing Unit who require separation from other inmates because of their personal security needs should be reviewed for transfer to a Protective Custody Unit; see Operating Procedure 830.1, *Institution Classification Management*, and Operating Procedure 830.5, *Transfers, Institution Reassignments*.
- H. Security Level S inmates who have been assigned to a Restorative Housing Unit in excess of 90 consecutive days (SM-Special Management) or 180 consecutive days (IM-Intensive Management), due to temporary transfer for medical, court, etc., must be provided adequate exercise, program services, and privileges in accordance with the Red Onion State Prison/Wallens Ridge State Prison local operating procedure addressing the *Restorative Housing Reduction Step-Down Program*.

VI. Inmate Management Path Development

- A. Inmates at Security Level 2 institutions are not provided a management path. Inmates will be required to participate in journaling and/or other program assignments as deemed appropriate by the MDT.
- B. Inmates at Security Level 3 and above institutions who will remain in the Restorative Housing Unit at their current institutional assignment will be evaluated and provided a management path that is designed to address their behaviors and needs so that the inmate can enter a full privilege general population. (5-ACI-4B-31)
 1. Restorative Housing (RHU) - To be used for inmates that must be managed under maximum security conditions.
 2. Step-down 1 (SD-1) - To be used for inmates whose behavior does not rise to the level of RHU or whose behavior has improved since assignment to RHU to include completion of required programmatic goals.



3. Step-down 2 (SD-2) - To be used for inmates who have been identified as needing a more structured living environment than in general population but do not need the level of control provided in RHU or SD-1 and/or inmates whose behavior has improved since assignment to RHU or SD-1 to include completion of required programmatic goals.
- C. MDT members will evaluate the inmate and develop the inmate's management path (RHU, SD-1, SD-2) within 10 working days (15 working days for investigative status) in accordance with this operating procedure.
1. Evaluation tools and program components include but are not limited to the following: (5-ACI-4B-31)
 - a. Review of COMPAS findings
 - b. Case Plan review and development
 - c. History of behavior
 - d. Risk/Needs assessment
 - e. Assessment of:
 - i. Disciplinary Violation Goals - Reduce or eliminate disciplinary violations
 - ii. Mental Health Goals - Medication compliant, number of office visits per month, etc.
 - iii. Responsible Behavior Goals - Personal hygiene, standing for count, cell compliance, deportment; satisfactory rapport with staff and inmates with compliance documented on the *Responsible Behavior Goals Progress Report* 841_F22
 - iv. Journaling and/or program assignments relevant to inmate needs and goals
 2. Once the inmate's management path is approved, staff must update the inmate's Case Plan in VACORIS.
 3. Inmates who refuse to participate in the requirements of their designated management path will be subject to disciplinary action; see Operating Procedure 861.1, *Offender Discipline, Institutions*.
 - a. Inmates at Security Level 2 institutions, who refuse to participate in journaling and/or other program assignments, and inmates at Security Level 3 institutions will be given a warning for their first refusal.
 - i. If the inmate again refuses to participate, the inmate will be charged with Offense Code 200, *Refusing to work or refusing to attend school or other program assignments mandated by procedure or by law, or failure to perform work or program assignment as instructed*.
 - ii. Upon conviction of Offense Code 200, the MDT will review the inmate for transfer to the Centralized Restorative Housing Unit.
 - b. Inmates who refuse to participate in the requirements of their designated management path in the Centralized Restorative Housing Unit will be given a warning for the first refusal.
 - i. If the inmate again refuses to participate, the inmate will be charged with Offense Code 119f, *Refusal to participate in the Restorative Housing Unit assignment*.
 - ii. Upon conviction of Offense Code 119f, the MDT will review the inmate for transfer to a higher security level institution.
 - c. Inmates who refuse to participate at Security Level 4 and above institutions will be charged with Offense Code 119f, *Refusal to participate in the Restorative Housing Unit assignment* and managed in the Restorative Housing Unit at their current location.
 - d. After the first refusal and warning, the inmate must be given the opportunity to comply. The inmate cannot be charged with a disciplinary offense until the next seven day *Restorative Housing Status Review*.
 - e. Upon conviction for refusal to participate, staff should review the inmate for a reduction to Good Time Class IV; see Operating Procedure 830.3, *Good Time Awards*.
 - f. The inmate can only be charged once during a continued period of refusal.



VII. Centralized Restorative Housing Unit Transfers

- A. Each institutional recommendation for an inmate's transfer to the Centralized Restorative Housing Unit requires a formal ICA Hearing conducted by the MDT and submitted via VACORIS; see Operating Procedure 830.1, *Institution Classification Management*.
 - 1. The MDT must submit their justification for assignment to the Centralized Restorative Housing Unit with their recommendation for transfer.
 - 2. Each transfer recommendation to a Centralized Restorative Housing Unit will be reviewed by the appropriate authorities to determine if the transfer is warranted.
- B. Security Level 4 and above institutions will not transfer inmates to the Centralized Restorative Housing Unit, inmates who require maximum security management in excess of 30 days will be managed in the Restorative Housing Unit at their current location.
- C. MDT recommendations for transfer to locations other than to the Centralized Restorative Housing Unit will be made through the normal processes appropriate to the type of transfer; see Operating Procedure 830.5, *Transfers, Institution Reassignments*.

VIII. Restorative Housing Unit Status Reviews

- A. Every seven days of an inmate's first 60 days on RHU status and every 30 days thereafter, the MDT will perform a *Restorative Housing Status Review* of all the inmates assigned to RHU to monitor the appropriateness of the inmate's status. If a formal review of the inmate's status is warranted, the inmate will be served an *Institution Classification Authority Hearing Notification*; see Operating Procedure 830.1, *Institution Classification Management*. (5-ACI-4A-07, 5-ACI-4B-08)
- B. The MDT will formally review an inmate's status at least once every 30 days while the inmate is assigned to the Restorative Housing Unit. (5-ACI-4A-08, 5-ACI-4B-09, 5-ACI-4B-31)
 - 1. The MDT will conduct a formal due process hearing to review the inmate's adjustment and behavior; see Operating Procedure 830.1, *Institution Classification Management*.
 - a. The MDT will evaluate the inmate and determine whether to recommend that the inmate continue in their current Restorative Housing Unit status for a subsequent period of up to 30 days or be assigned to another status.
 - b. The MDT should base its recommendation on the reason for the assignment, the inmate's behavior, and any progress made by the inmate on their management path and treatment objectives.
 - 2. When the MDT determines that an inmate's behavior or circumstances no longer warrant their current Restorative Housing Unit status, a recommendation for the inmate's reclassification to a different status or release to full privilege general population should be made.
 - 3. Inmates transferred for placement in the Centralized Restorative Housing Unit who complete SD-2 will be reviewed by the MDT to determine if the inmate will be released to the full privilege general population at that institution or transferred to general population at another Security Level 3 institution.
 - 4. The MDT should determine whether the inmate poses an unacceptable risk to them self to include personal protection and keep separates in the general population, or is a threat to other inmates, institutional staff, or the safe, secure operation of the institution.
 - a. Inmates in the Restorative Housing Unit pending approval for and transfer to a Protective Custody Unit or to the *Steps to Achieve Reintegration (STAR) Program* may be managed in the Restorative Housing Unit on RHU or SD-1 status as deemed appropriate by the MDT and approved by the Facility Unit Head or designee.
 - b. Inmates under investigation by the Special Investigations Unit (SIU), who cannot return to general population and must remain in the Restorative Housing Unit, may be managed on RHU or SD-1 status as deemed appropriate by the MDT and approved by the Facility Unit Head.



c. The MDT may recommend a transfer to another institution when return to the full privilege general population at the institution is not appropriate.

C. The MDT may conduct ICA hearings at the institution's discretion, any time a significant change in circumstances or the inmate's behavior warrants a review; see Operating Procedure 830.1, *Institution Classification Management*.

D. Inmates assigned to a Restorative Housing Unit in excess of 30 days should not be discharged directly to the community. (5-ACI-4B-29)

1. The MDT, no less than 30 days prior to the inmate's discharge date, will conduct a formal due process hearing to review the inmate's status and determine if the inmate can return to general population or if the inmate must be discharged from the Restorative Housing Unit.
2. If the inmate will be discharged from the Restorative Housing Unit, the MDT must document their justification on the *Institutional Classification Authority Hearing Notification* for review and approval by the Regional Operations Chief or Regional Administrator.
3. In addition to the release requirements mandated for all inmates in Operating Procedure 050.3, *Facility Release of Offenders*, Operating Procedure 720.3, *Health Maintenance Program*, and Operating Procedure 820.2, *Inmate Re-Entry Planning*, the following steps at a minimum must be taken:
 - a. Development of a release plan that is tailored to specific needs of the inmate
 - b. Notification of release to the supervising P&P Office who will contact state and local law enforcement
 - c. Notification to releasing inmate of applicable community resources
 - d. Notification to Victim through Victim Services, if applicable

E. Temporary Suspension of Time Frames

1. In the event of a widespread institutional disruption, natural disaster, or other unusual occurrence that requires emergency action, the Facility Unit Head may temporarily suspend any or all portions of this operating procedure.
2. Inmates involved in the emergency may be detained without being served an *Institutional Classification Authority Hearing Notification* or conducting an ICA Hearing throughout the course of the emergency.
3. Upon restoration of institutional order, all detained inmates will be subject to ICA and other reviews in accordance with this operating procedure.

IX. Security, Movement, and Control of Contraband

A. A Corrections Officer must check each inmate in general detention or on RHU status twice per hour, no more than 40 minutes apart, on an irregular schedule. (5-ACI-4A-11)

1. Corrections Officers should check inmates on SD-1 or SD-2 statuses on a similar schedule.
2. Inmates who are violent or mentally disordered or who demonstrate unusual or bizarre behavior will receive more frequent observation
3. Suicidal inmates are under continuous observation; see Operating Procedure 730.5, *Mental Health and Wellness Services: Behavior Management*
4. In addition to supervision provided by the unit's Corrections Officers, the Shift Commander or higher authority will visit the Restorative Housing Unit daily. (5-ACI-4A-12, 5-ACI-4B-12)

B. On days that showers and/or outside exercise are scheduled at the institution, a Security Supervisor will blow their whistle and make an announcement, at the beginning of their round, to alert inmates to their presence and to determine which inmates want to participate in showers and/or outside exercise .

C. Corrections Officers must strip search each inmate assigned to the Restorative Housing Unit before the



inmate exits their cell.

1. Each inmate on general detention or RHU status will be placed in restraints and escorted by two certified Corrections Officers whenever outside a secure area, such as a cell, shower, or exercise module. (5-ACI-4B-31)
 2. Restraints and escort requirements for inmate movement are based on Security Level and status; see Operating Procedure 425.4, *Management of Bed and Cell Assignments* (Restricted):
 3. A Corrections Officer will frisk search all Restorative Housing Unit inmates immediately after the inmate is removed from their cell or other secure area.
 4. A Corrections Officer will frisk search each inmate prior to returning the inmate to their Restorative Housing Unit cell.
 5. A Corrections Officer must search all items entering the Restorative Housing Unit to detect and eliminate contraband.
- D. Only one inmate at a time may be out of a secure area in the Restorative Housing Unit unless both inmates are restrained and with separate security escorts.
1. With approval of the Facility Unit Head, an exception may be made for inmates participating in small group programs (SD-2 - maximum ten inmates) within the Restorative Housing Unit. (5-ACI-4B-31)
 2. Protective custody inmates must be separated from known keep separates. Such inmates must be housed in separate cells and have no direct contact unless both inmates are in restraints and with separate security escorts.
- E. A Corrections Officer must inspect each Restorative Housing Unit cell whenever the inmate is removed from the cell.
1. This inspection is a general review of sanitation conditions and a scan for contraband.
 2. One Corrections Officer may conduct the cell inspection and the inmate need not be present..
 3. A Corrections Officer must conduct and document that a thorough search and inspection of the Restorative Housing Unit cell was completed each time an inmate is moved out of a cell, before another inmate is moved into the cell.
- F. Inmates from other general population housing units may provide housekeeping and other services in the Restorative Housing Unit.
1. If allowed to do so, each inmate worker must be specifically authorized by the Chief of Security.
 2. The inmate will be searched (strip search for Security Level 3 and higher) upon entrance and exit, and must remain under direct supervision of a staff member at all times.
 3. No inmate worker will be allowed physical contact with a Restorative Housing Unit inmate except as required for services rendered, i.e. barber.
- G. All housing areas in the Restorative Housing Unit, to include cells that house inmates identified as potentially suicidal, must have readily accessible equipment and supplies necessary in the event of an emergency.
- H. When an in-person assessment or examination of an inmate in general detention or on RHU status by a Psychology Associate or other health care professional is conducted in the cell, the inmate will be restrained and instructed to sit on their bunk.
- X. Mental Health and Medical Reviews and Care
- A. No inmate will be denied necessary or proper medical, dental, and or mental health care while assigned to a Restorative Housing Unit.
1. Any inmate with identified mental health problems who is placed in general detention or is on RHU



status will be monitored per Operating Procedure 720.1, *Access to Health Services*, and Operating Procedure 730.5, *Mental Health and Wellness Services: Behavior Management*.

2. Medical services will be provided in accordance with Operating Procedure 720.1, *Access to Health Services*, and Operating Procedure 720.2, *Medical Screening, Classification, and Levels of Care*.
 3. Dental staff will determine the need to provide dental care while the inmate is in a Restorative Housing Unit. Inmates should request dental services if needed.
 4. Prescribed medications will be provided in accordance with Operating Procedure 720.5, *Pharmacy Services*. (5-ACI-4A-15, 5-ACI-4B-14)
- B. "At risk" inmates should receive a physical screening i.e., weight and vital signs taken and recorded and checked for symptoms of possible side-effects to prescribed medications by appropriate health care staff no less than once every 14 days.
- C. Unless medical attention is needed more frequently, each inmate in general detention or on RHU status will receive a daily visit from appropriate health care staff to ensure that inmates have access to the health care system; not required for institutions that do not have health care staff on duty on weekends. (5-ACI-4A-01, 5-ACI-4A-12, 5-ACI-4B-12, 5-ACI-4B-28)
1. The presence of health care staff in the Restorative Housing Unit is announced and recorded.
 2. Health care requests, health care staff visits, and medications administered or refused will be recorded.
 3. Medical Practitioner visits to the Restorative Housing Unit are not required, inmates will submit a request to be seen by the Medical Practitioner through the established sick call process.
- D. Unless mental health attention is needed more frequently, each inmate on RHU status will receive a weekly visit from a Psychology Associate; see Operating Procedure 730.5, *Mental Health and Wellness Services: Behavior Management*. (5-ACI-4B-26, 5-ACI-4B-28, 5-ACI-4B-30)
1. The presence of a Psychology Associate in the Restorative Housing Unit is announced and recorded.
 2. A Psychology Associate will personally interview any inmate remaining on RHU status for more than seven days.
 3. If confinement continues beyond seven days, a Psychology Associate will conduct a mental health screening every seven days thereafter or more frequently if clinically indicated. (5-ACI-4A-10, 5-ACI-4B-10)

XI. General Requirements for Restorative Housing Units

- A. On initial assignment to a Restorative Housing Unit, inmates should receive orientation (written preferred but not required) on the available services and how to access them.
1. Inmates will have access to programs, privileges, education, and work opportunities to the extent possible while ensuring the inmate's safety.
 2. Inmates will receive laundry, barbering, and hair care services and are issued and afforded the opportunity to exchange clothing, bedding, and linen on the same basis as inmates in the general population.
- B. Restorative Housing Units provide living conditions that approximate those of the inmate general population; all exceptions are clearly documented in this operating procedure. (5-ACI-4A-02, 5-ACI-4B-04)
1. Cell Conditions
 - a. Restorative housing cells/rooms permit assigned inmates to converse with and be observed by staff. (5-ACI-4A-02, 5-ACI-4B-04)
 - b. Space is available inside the Restorative Housing Unit or external to the unit for treatment staff consultation with inmates. (5-ACI-4B-04)



- c. Restorative Housing Unit cells/rooms should be well ventilated, adequately lighted, appropriately heated and maintained in a sanitary condition at all times.
 - d. Except in emergencies, the number of inmates confined to each cell/room should not exceed the number for which it is designed, usually one inmate per cell.
 - i. With the approval of the Facility Unit Head, in cells with proper equipment, suitable inmates in SD-2 may be double bunked if the inmates are screened in accordance with Operating Procedure 425.4, *Management of Bed and Cell Assignments* (Restricted).
 - ii. If an emergency creates excess occupancy in the Restorative Housing Unit, the Facility Unit Head, or designee, should provide temporary written approval to exceed design capacity, and alleviate the situation as promptly as possible by providing other housing for the inmates so confined.
2. Correspondence
- a. Inmates are generally subject to the same mail regulations and privileges, including sending and receiving legal correspondence, as inmates assigned to general population; see Operating Procedure 803.1, *Inmate and Probationer/Parolee Correspondence*. (5-ACI-4A-20, 5-ACI-4B-20)
 - b. Secure messaging is a privilege, inmates assigned to general detention and RHU status are not provided access to the kiosk in order to retrieve or send their secure messages.
 - c. Inmates assigned to SD-1 and SD-2 will not have access to kiosks but may access their secure messages through the following process: (5-ACI-4B-31)
 - i. When requested by the inmate, all incoming messages will be printed by mailroom staff and delivered to the inmate through the institutional mail.
 - ii. If a pre-paid stamp is purchased by the sender, the pre-paid stamp will remain on the inmate's account for use once the inmate is released to a housing unit with kiosk access.
 - iii. The inmate may hand write a return letter and forward their response to the mailroom through the institutional mail for processing and delivery through the US Postal Service in the same manner as all other outgoing inmate correspondence.
 - d. Inmates in the Restorative Housing Unit will not receive the contents of their packages unless approved by the Facility Unit Head. Disapproved items may be stored if approved for general population, returned to the sender at the expense of the inmate or the sender, or disposed of in accordance with Operating Procedure 802.1, *Offender Property*.
3. Food
- a. Inmates assigned to a Restorative Housing Unit will receive the same number and type of meals served the general population.
 - b. Food will not be used as a disciplinary measure. Punitive diets i.e., bread and water for inmates are prohibited. (5-ACI-5C-08)
 - c. On initial placement in a Restorative Housing Unit, the inmate, if not on Common Fare or the Sealed Religious Diet, will designate if they want to receive regular or alternate entrée food trays.
 - i. The Restorative Housing Unit Supervisor must allow the inmate the opportunity to change their choice of tray type every 90 days that they remain in a Restorative Housing Unit.
 - ii. An inmate approved for Common Fare or the Sealed Religious Diet will be provided Common Fare and Sealed Religious Diet meals while in the Restorative Housing Unit, if available at that institution.
 - d. Whenever the inmate refuses to eat, the refusal should be documented on the *Individual Inmate Log*, *Special Watch Log* or in the Restorative Housing Unit logbook if the inmate is not on an individual log.
 - e. Inmates who refuse to eat will be managed in accordance with Operating Procedure 420.2, *Use of Restraints and Management of Inmate Behavior* (Restricted), and Operating Procedure 730.5, *Mental Health and Wellness Services: Behavior Management*.
 - f. Inmates who abuse the trays or food products served to them will be managed in accordance with



Operating Procedure 420.2, *Use of Restraints and Management of Inmate Behavior* (Restricted).

4. Legal Access

- a. Inmates are not prohibited from conducting litigation on their own behalf. (5-ACI-4A-22, 5-ACI-4B-22)
 - i. Inmates will be afforded access to institutional legal services to include the Facility Court Appointed Attorney and to Law Library materials; see Operating Procedure 866.3, *Offender Legal Access*.
 - ii. During orientation, inmates will be provided institution specific information on how to access legal services.
- b. Attorney visits will occur during normal working hours of the institution unless otherwise approved by the Facility Unit Head or designee; see Operating Procedure 851.1, *Visiting Privileges*.
- c. Legal calls will be conducted through the inmate telephone system; see Operating Procedure 866.3, *Offender Legal Access*.

5. Telephone (5-ACI-4A-25, 5-ACI-4B-25)

- a. Inmates are permitted to place telephone calls in accordance with Operating Procedure 803.3, *Offender Telephone Service*. (5-ACI-4B-31)
 - i. General detention/RHU will be allowed two calls per month
 - ii. SD-1 will be allowed four calls per month
 - iii. SD-2 will be allowed six calls per month
- b. During orientation, inmates should be provided institution specific information on how to access telephone services including legal and emergency calls.

6. Visitation

- a. Inmates will have opportunities for visitation unless there are substantial reasons for withholding such privileges. (5-ACI-4A-21, 5-ACI-4B-21)
- b. The Facility Unit Head determines the visitation schedule, as permitted by available staff and institution resources, for inmates in a Restorative Housing Unit.
 - i. Inmates should be provided a maximum of one visit per week for one hour with no more than five persons.
 - ii. Some facilities may set a lower limit on the number of visitors due to space limitations.
 - iii. Visitation will be non-contact unless approved by the Facility Unit Head.

- C. All inmates assigned to a Restorative Housing Unit will be provided clothing that is not degrading, and will have access to basic personal items for use in their cells unless there is imminent danger that an inmate or any other inmate(s) will destroy an item, use it as a weapon or instrument of escape, or induce self-injury. (5-ACI-4A-15, 5-ACI-4B-15)

1. Clothing and Bedding

- a. Upon arrival in a Restorative Housing Unit, inmates will be strip searched and should dress in state issue clothing
- b. The inmate's personal clothing will be removed, and the inmate will be furnished appropriate clothing and bedding; see Operating Procedure 802.1, *Offender Property*.
 - i. At least three times per week, clean state issue clothing will be immediately available when dirty clothes are taken off to be laundered.
 - ii. A clean washcloth and towel will be issued on a one-for-one exchange basis at shower time or included in the weekly linen exchange.
 - iii. Linens will be exchanged weekly.
- c. At the discretion of the Facility Unit Head, inmates may be issued the required amount of state clothing, wash clothes, towels, and linens on a weekly basis; the inmate must receive three complete sets of clean clothing, a clean towel, washcloth, and linen at least once per week.



d. Blankets will be exchanged as needed per the institution's schedule.

2. Personal Property

- a. A Corrections Officer and the inmate, or two Corrections Officers in the inmate's absence, will inventory all personal property items when an inmate is placed in the Restorative Housing Unit; see Operating Procedure 802.1, *Offender Property*.
 - i. Inmates will be issued only those items specified on the appropriate *Authorized Personal Property Matrix* while assigned to the Restorative Housing Unit.
 - ii. In addition to those property items allowed on the *Authorized Personal Property Matrix*, inmates assigned to SD-2, will be permitted to purchase consumable food items sold through the institution's commissary. (5-ACI-4B-31)
 - iii. Other personal property items that are not issued to the inmate, but are allowed at the inmate's security level and current institution will be placed in storage.
- b. The inmate will be given a copy of their property inventory and must sign for all property issued to them while assigned to the Restorative Housing Unit.
- c. The inmate may request in writing any authorized personal property that was stored and not initially issued to the inmate i.e., hygiene items to replace items that have been consumed. All property taken from the inmate's property in storage and delivered to the inmate will be documented on the initial inventory that was completed when the inmate was initially placed in the Restorative Housing Unit.
- d. Inmates in a Restorative Housing Unit will not be allowed to purchase any property that is not specifically authorized for possession on the appropriate *Authorized Personal Property Matrix*.
 - i. Any pre-approved item of personal property received that is not specifically authorized for inmate possession in the Restorative Housing Unit, will be held in Personal Property and will not be issued to the inmate.
 - ii. The inmate will be notified of the receipt of property items by Personal Property staff using the *Personal Property Request - Add/Drop 802_F1*.
 - iii. Inmates will not be allowed to view, try-on, or examine this property while assigned to the Restorative Housing Unit.
- e. When an inmate is discharged from a Restorative Housing Unit, the Restorative Housing Unit Supervisor will be notified and will have the inmate's property ready to be issued to the inmate upon their release. The inmate must sign for the property.

3. Personal Hygiene

- a. Inmates are permitted to shower and shave not less than three times each week and have the opportunity to sponge bathe whenever they choose. (5-ACI-4A-16, 5-ACI-4B-16)
 - i. Inmates will be moved directly to and from the showers.
 - ii. Inmates are allowed to take only the minimum items needed.
- b. Inmates are allowed to possess a reasonable quantity of personal hygiene items as determined by the Facility Unit Head consistent with the security needs of the institution.
 - i. If the inmate does not have basic personal hygiene items and is indigent, the institution should furnish them.
 - ii. The institution should provide security toothbrushes. Personal toothbrushes are generally not allowed since they may be used as weapons.
 - iii. No oils or lotions should be allowed, except prayer oil.
- c. Inmates should be provided razors by the institution.
 - i. Barbering services will be available on a regular basis.
 - ii. Personal razors should not be allowed.
 - iii. If the institution provides electric razors, they should be cordless with removable cutting heads. Cutting heads and screen covers should be sanitized after each use by soaking in a solution of suitable disinfectant in accordance with manufacturer's instructions.



- D. Within the resources available to the institution, unless security or safety considerations dictate otherwise, inmates in Restorative Housing Units have access to meaningful programs such as Interactive Journals and group elective options, educational services, commissary services, library services, social services, treatment services, religious guidance, and exercise programs. (5-ACI-4A-27, 5-ACI-4B-26)
1. Interactive Journals and Group Electives
 - a. Inmates with complete one hour of Interactive Journaling with group facilitation twice per week.
 - b. Daily group elective options are provided during non-programming days.
 2. Commissary
 - a. Commissary orders will be taken at least three times per month on scheduled days.
 - b. Inmates are allowed a \$40.00 spend limit per month. SD-2 inmates are allowed an additional \$10.00 per month of consumable items. (5-ACI-4B-31)
 - c. Glass, metal, and other hazardous containers or products may be restricted if determined by the institution to pose a risk to security.
 - d. Security writing instruments should be provided by the institution. Inmates assigned to a Restorative Housing Unit in excess of 30 days may be required to purchase personal security writing instruments after the initial issue.
 - e. A list of approved commissary items for inmates should be available in the Restorative Housing Unit.
 3. Educational and Library Book Services (5-ACI-4A-23, 5-ACI-4B-23)
 - a. Inmates will have access to library books for personal use.
 - b. Inmates will have access to educational services as determined by the institution Principal.
 4. Counseling Services (5-ACI-4A-12, 5-ACI-4B-12)
 - a. During orientation, inmates will be provided institution specific information on how to access counseling services and program staff upon request and for emergencies.
 - b. At a minimum, each inmate on RHU status will receive a weekly visit from treatment staff.
 5. Religious Guidance
 - a. Inmates are afforded access to religious guidance.
 - b. During orientation, inmates will be provided institution specific information on how to access the Chaplain or other available religious services.
 - c. Visits from spiritual leaders may be requested in accordance with Operating Procedure 851.1, *Visiting Privileges*.
 6. Out of Cell Activity (5-ACI-4A-24, 5-ACI-4B-24, 5-ACI-4B-31)
 - a. All inmates will be provided the opportunity to participate in a minimum of four hours out of cell activity consisting of showers, outdoor exercise, visitation, interactive journaling, programming, and other group elective options, seven days a week.
 - b. During periods of total institutional lockdown, out of cell exercise may be suspended for Restorative Housing Units.
- E. Exceptions to normally provided living conditions, activities, and services are permitted only when found necessary by the Shift Commander; exceptions must be documented in accordance with Operating Procedure 425.4, *Management of Bed and Cell Assignments* (Restricted). (5-ACI-4A-24, 5-ACI-4B-16, 5-ACI-4B-24)
1. If access to activities and services is more restrictive for inmates identified as HRSV or who have alleged to have suffered sexual abuse or sexual harassment than for others in their housing status, staff will document the opportunities that have been limited, the duration of the limitation and the reasons for such limitations.

REFERENCES

Operating Procedure 050.3, *Facility Release of Offenders*
Operating Procedure 420.2, *Use of Restraints and Management of Inmate Behavior* (Restricted)
Operating Procedure 425.4, *Management of Bed and Cell Assignments* (Restricted)
Operating Procedure 720.1, *Access to Health Services*
Operating Procedure 720.2, *Medical Screening, Classification, and Levels of Care*
Operating Procedure 720.3, *Health Maintenance Program*
Operating Procedure 720.5, *Pharmacy Services*
Operating Procedure 730.3, *Mental Health Services: Levels of Service*
Operating Procedure 730.5, *Mental Health and Wellness Services: Behavior Management*
Operating Procedure 802.1, *Offender Property*
Operating Procedure 803.1, *Inmate and Probationer/Parolee Correspondence*
Operating Procedure 803.3, *Offender Telephone Service*
Operating Procedure 820.2, *Inmate Re-Entry Planning*
Operating Procedure 830.1, *Institution Classification Management*
Operating Procedure 830.3, *Good Time Awards*
Operating Procedure 830.5, *Transfers, Institution Reassignments*
Operating Procedure 830.6, *Offender Keep Separate Management*
Operating Procedure 851.1, *Visiting Privileges*
Operating Procedure 861.1, *Offender Discipline, Institutions*
Operating Procedure 866.3, *Offender Legal Access*

ATTACHMENTS


Attachment 1, *Restorative Housing Operating Level Designation*

FORM CITATIONS

Mental Health and Wellness Services Screening 730_F12
Personal Property Request - Add/Drop 802_F1
Responsible Behavior Goals Progress Report 841_F22



Exhibit 15

 <h1 style="font-size: 2em; margin: 0;">Operating Procedure</h1>	Effective Date April 1, 2019	Number 841.4
	Amended 7/1/19, 9/1/19	Operating Level Department
	Supersedes Operating Procedure 841.4 (4/1/16) Operating Procedure 861.3 (4/1/15)	
	Authority COV §53.1-10, §53.1-25	
Subject <h2 style="margin: 0;">RESTRICTIVE HOUSING UNITS</h2>	ACA/PREA Standards 5-4A-4400, 5-4A-4140, 5-4A-4249, 5-4A-4251, 5-4A-4253, 5-4A-4254, 5-4A-4256, 5-4A-4257, 5-4A-4258, 5-4A-4261, 5-4A-4262, 5-4A-4263, 5-4A-4266, 5-4A-4267, 5-4A-4268, 5-4A-4269, 5-4A-4270, 5-4A-4271, 5-4A-4273, 5-4B-0002, 5-4B-0003, 5-4B-0004, 5-4B-0008, 5-4B-0009, 5-4B-0010, 5-4B-0011, 5-4B-0012, 5-4B-0015, 5-4B-0016, 5-4B-0017, 5-4B-0018, 5-4B-0021, 5-4B-0022, 5-4B-0023, 5-4B-0024, 5-4B-0025, 5-4B-0026, 5-4B-0027, 5-4B-0029, 5-4B-0030, 5-4B-0031, 5-4B-0032, 5-4B-0033, 5-4B-0034, 5-5C-4320; 4-4140, 4-4249, 4-4250, 4-4251, 4-4253, 4-4254, 4-4256, 4-4257, 4-4258, 4-4261, 4-4262, 4-4263, 4-4266, 4-4267, 4-4268, 4-4269, 4-4270, 4-4271, 4-4273, 4-4320, 4-4400	
Incarcerated Offender Access Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Public Access Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Attachments Yes <input checked="" type="checkbox"/> #1 No <input type="checkbox"/>	
Office of Primary Responsibility Chief of Restrictive Housing and Serious Mental Illness		

I. PURPOSE

This operating procedure provides for the classification of offenders incarcerated in Department of Corrections institutions to General Detention, and Restrictive Housing statuses, minimum standards for the operation of restrictive housing units, and minimum standards for the care and custody of offenders assigned to each of these statuses.

II. COMPLIANCE

This operating procedure applies to all units operated by the Department of Corrections (DOC). Practices and procedures must comply with applicable State and Federal laws and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

III. DEFINITIONS

“At Risk” Offender - An offender identified by a Qualified Mental Health Professional as meeting the criteria in Operating Procedure 730.5, *Mental Health Services: Behavior Management*, based on evaluation of the impact that restrictive housing may have on mental health conditions exhibited by the offender

Discharge - The release of an offender from a facility due to satisfying the requirements for incarceration at that facility; discharge may be due to parole, good time release, pardon, court order, completion of Community Corrections program or other reasons. Discharge may be to society with or without probation/parole/ post-release obligations or discharge may be to law enforcement authorities for other legal obligations or deportation.

General Detention - Special purpose bed assignments, utilized under proper administrative process, for the immediate secure confinement of offenders pending review for an appropriate assignment

Health Trained Staff - A DOC employee, generally a Corrections Officer, who has been trained to administer health screening questionnaires, including training as to when to refer to health care staff and with what level of urgency

High Risk Sexual Victim (HRSV) - As identified by the *Classification Assessment* and QMHP assessment, any incarcerated offender confirmed as a sexual victim or identified as being at high risk of being sexually victimized

Institution - A prison facility operated by the Department of Corrections - includes major institutions, field

units, and work centers.

Institutional Classification Authority (ICA) - The facility staff person designated to conduct offender case review hearings; hearings related to restrictive housing status review are formal due process hearings and are generally conducted by a Multi-Disciplinary Team.

Management Path - The restrictive housing unit level to which the offender is assigned and the remaining steps for the offender to enter full privilege general population

Medical Practitioner - A physician, physician's assistant, or nurse practitioner licensed to practice medicine in the Commonwealth of Virginia or in the jurisdiction where the treatment is to be rendered or withheld

Mental Health Residential Treatment Unit - A designated treatment unit where mental health services are provided to offenders who are unable to function in a general population setting due to mental disorder but who typically do not meet the criteria for admission to an Acute Care unit

Multi-Disciplinary Team (MDT) - MDT members are responsible to review individual offenders related to restrictive housing and step-down statuses and act as the Institutional Classification Authority to make recommendations for housing status, transfer, security level, good time class, etc.; decisions are the responsibilities of the Facility Unit Head and Regional Administrator.

Offender with Serious Mental Illness (SMI) - An offender diagnosed with a Psychotic Disorder, Bipolar Disorder, Major Depressive Disorder, Posttraumatic Stress Disorder (PTSD) or Anxiety Disorder, or any diagnosed mental disorder (excluding substance abuse disorders) currently associated with serious impairment in psychological, cognitive, or behavioral functioning that substantially interferes with the person's ability to meet the ordinary demands of living.

Protective Custody Unit - A special purpose general population housing unit designated by the Director for offenders classified as requiring separation from other offenders as a result of their personal security needs; offenders requesting and requiring assignment to a protective custody unit may be managed in General Detention and Restrictive Housing, as appropriate, pending assignment and transfer.

Qualified Mental Health Professional (QMHP) - An individual employed in a designated mental health services position as a Psychologist or Psychology Associate, Psychiatric Provider, Social Worker (Masters level) or Registered Nurse or an individual with at least a Master's degree in psychology, social work or relevant human services field with knowledge, training, and skills in the diagnosis and treatment of mental disorders

Restrictive Housing Unit - A general term for special purpose bed assignments including general detention, restrictive housing, and step-down statuses; usually a housing unit or area separated from full privilege general population

- **Restrictive Housing (RHU)** - Special purpose bed assignments operated under maximum security regulations and procedures, and utilized under proper administrative process, for the personal protection or custodial management of offenders
- **RH Step-down 1 (SD-1), RH Step-down 2 (SD-2)** - General population bed assignments operated with increased privileges above Restrictive Housing but more control than full privilege general population

Secure Diversionary Treatment Program (SDTP) - Bed assignments designated for offenders who have been classified as SMI; operates with structured security regulations and procedures, and provides programming and treatment services conducive with evidence based treatment protocols and individualized treatment plans

Shared Allied Management (SAM) Unit - A residential programming unit operated at designated DOC institutions to deliver intensive services in a safe environment to specific offender populations that typically require a high level of services from security, mental health, and/ or medical staff

Steps to Achieve Reintegration (STAR) Program - A DOC program operated at designated DOC institutions for offenders, who motivated by an unspecified fear, refuse to leave restrictive housing and enter general population

Working Day - Weekdays, Monday through Friday, except official state holidays

IV. PROCEDURES

A. Restrictive Housing Units

1. This operating procedure provides offenders incarcerated in Department of Corrections institutions with information on the operation of restrictive housing units at Security Level 1 through Security Level 5 institutions and for the supervision of offenders under General Detention, Restrictive Housing (RHU), and Step-down statuses (SD-1 and SD-2). (See Operating Procedure 425.4, *Management of Bed and Cell Assignments* (Restricted), for security considerations relating to restrictive housing units.) (5-4A-4249, 5-4B-0003; 4-4249)
2. Security Level W institutions and Deerfield Correctional Center do not operate restrictive housing units; when warranted, offenders will be immediately transferred to the designated parent/host institution for placement on General Detention in the restrictive housing unit.
3. Restrictive housing units at institutions that house Security Levels 5, 6 and S offenders will operate in accordance with this operating procedure for Security Level 5 offenders and the Red Onion State Prison/Wallens Ridge State Prison local operating procedure addressing the *Restrictive Housing Reduction Step Down Program*, for Security Level 6 and S offenders.
4. For institutions designated for multiple security level offenders, the restrictive housing unit will operate in accordance with Attachment 1, *Restrictive Housing Operating Level Designation*.

B. Restrictive Housing Mission

1. Restrictive housing units provide for personal protection and custodial management measures, exercised by the institution for the welfare of the offender, the institution, or both and will not be used as punishment.
2. General Detention will be utilized for the immediate secure confinement of an offender only when their presence in the general population or a step-down status poses a direct threat to the offender (to include when an offender requires personal protection and no reasonable alternative is available), other offenders, institutional staff, or a clear threat to the safe, secure operation of the institution. The goals of a restrictive housing unit are to: (5-4B-0002; 4-4250)
 - a. Manage offenders in a safe and secure manner
 - b. Provide a consistent, systems approach to the operation of restrictive housing units in all institutions to maximize positive outcomes in offender adjustment
 - c. Provide opportunities for offenders to increase their likelihood for success in a full privilege general population
3. An offender moved from general population into a restrictive housing unit must be initially assigned to General Detention, which is authorized by the Shift Commander or above for the immediate secure confinement of an offender pending review for an appropriate assignment. (5-4B-0002; 4-4250)
4. Assignment to any other restrictive housing status requires a formal due process hearing held by the Multi-Disciplinary Team (MDT), and must be approved by the Facility Unit Head or designee in accordance with Operating Procedure 830.1, *Institution Classification Management*.
5. The MDT has the authority to conduct Institutional Classification Authority hearings related to restrictive housing units and is responsible to review individual offenders and make recommendations concerning the management paths as well as security level, good time class, transfer, etc.

C. Restrictive Housing Assignment Process

1. Only the Shift Commander or a higher authority may authorize an offender's placement in a restrictive housing unit on General Detention.
 - a. Institutional staff, such as but not limited to Corrections Officer, Investigator, QMHP, or Health Authority may refer an offender for General Detention.
 - b. The Shift Commander will meet with the referring staff member and the offender, and will either

Operating Procedure: 841.4
April 1, 2019

place the offender on General Detention in the restrictive housing unit or return the offender to general population.

2. When an offender requests protective custody and the need for protective custody is documented and no alternative exists, the Shift Commander will authorize the offender's assignment to General Detention in accordance with Operating Procedure 830.5, *Transfers, Institution Reassignments*, and Operating Procedure 830.6, *Offender Keep Separate Management*. (5-4A-4251; 4-4251)
3. When Mental Health or Medical staff determine that an offender should be placed in a restrictive housing unit to protect the offender, other offenders, institutional staff, or the safe, secure operation of the institution, they may request to the Shift Commander that the offender be placed on General Detention.
4. Offenders identified as HRSV or offenders alleged to have suffered sexual abuse or sexual harassment will not be placed in the restrictive housing unit without their consent unless an assessment of all available alternatives has been made, and it has been determined by the QMHP in consultation with the Shift Commander and Regional PREA Analyst that there are no available alternative means of separation from likely abusers.

D. Restrictive Housing Assignment Mental Health and Medical Reviews

1. Offenders will be screened by a Qualified Mental Health Professional (QMHP) before their placement or within one working day after placement in General Detention so that any "at risk" offenders may be identified and monitored in accordance with Operating Procedure 730.5, *Mental Health Services: Behavior Management*. At facilities with no QMHP, health trained staff should screen the offender to identify if there is any indication the offender may be "at risk". (5-4B-0010)
2. Health care personnel will be informed immediately when an offender is transferred from general population to General Detention in order to provide assessment per protocols established by the Health Authority. This assessment will determine the impact that restrictive housing may have on medical conditions exhibited by the offender and the possible alternatives that may be available to compensate for such conditions. (5-4A-4400, 5-4B-0029; 4-4400)

E. Initial Assignment to General Detention - Offender Classification Process

1. The Facility Unit Head or other Administrative Duty Officer must review the offender's placement in restrictive housing on General Detention within 24 hours and will either approve the placement or order the offender returned to their previous status when General Detention is not warranted. (5-4B-0002; 4-4250)
2. Within three working days of an offender's initial placement on General Detention, the MDT will review all available, relevant information and conduct a formal ICA hearing to determine the following:
 - a. For Security Level 1 institutions and Baskerville Correctional Center
 - i. The MDT will determine if the offender will be released to general population at their current institutional assignment.
 - ii. Offenders who cannot return to the general population at the current institution but would be suitable for general population at another equal or higher level institution should be recommended for transfer to an appropriate institution.
 - iii. Offenders who cannot return to the general population at the current institution and who are expected to require maximum security management in excess of 30 days should be recommended for transfer to the Centralized Restrictive Housing Unit.
 - b. For Security Level 2 and above institutions, the MDT will determine if the offender can return to the previous housing status (general population or step-down) or remain in the restrictive housing unit and assign to RHU or other appropriate internal status in restrictive housing.
3. For Security Level 2 and above institutions, within 10 working days (15 working days for investigative status) of an offender's initial placement on General Detention, the MDT will conduct a formal ICA

hearing to determine the following:

- a. Security Level 2 institutions
 - i. The MDT will evaluate the offender and determine if the offender will be released to general population at their current institutional assignment.
 - ii. Offenders who cannot return to the general population at the current institution but would be suitable for general population at another equal or higher level institution should be recommended for transfer to an appropriate institution.
 - iii. Offenders who cannot return to the general population at the current institution and who are expected to require maximum security management in excess of 30 days should be recommended for transfer to the Centralized Restrictive Housing Unit.
- b. Security Level 3 and above institutions (5-4B-0032)
 - i. The MDT will determine if the offender will be released to general population at their current institutional assignment.
 - ii. Offenders who will remain in the restrictive housing unit at their current institution, will be provided a management path (RHU, SD-1, SD-2) that is designed to address their behaviors and needs so that the offender can enter a full privilege general population. Restrictive housing offenders will be reviewed for placement in Step-down statuses and general population as soon as the risk is reduced to an acceptable level.
 - iii. Offenders who cannot return to the general population at the current institution and who are expected to require maximum security management in excess of 30 days (not achieve assignment to a Step-down level or full privilege general population) should be recommended for transfer to the Centralized Restrictive Housing Unit.
 - iv. Offenders who cannot return to the general population at the current institution but would be suitable for general population at another equal or higher level institution, based on the severity of behaviors, should be recommended for transfer to an appropriate institution.
 - v. Restrictive housing offenders will be reviewed for placement in Step-down statuses and general population as soon as the risk is reduced to an acceptable level.
4. Offenders with a *Serious Mental Illness* (SMI) must be reviewed within 10 working days after the initial placement on General Detention; the MDT will conduct a formal ICA hearing to evaluate the offender and determine the following: (5-4B-0031)
 - a. If the offender will be released to general population or placed in SD-1 or SD-2 within 28 days of initial placement on General Detention at their current institution
 - b. SMI offenders who will not be released to general population or placed in SD-1 or SD-2 within 28 days will be reviewed to determine appropriate placement from the options below:
 - i. Referral to Marion Correctional Treatment Center's (MCTC) Acute Care Unit in accordance with Operating Procedure 730.3, *Mental Health Services: Levels of Service*, if the offender meets the legal commitment criteria.
 - ii. Referral to a Mental Health Residential Treatment Unit or other Mental Health Unit in accordance with Operating Procedure 730.3, *Mental Health Services: Levels of Service*, when the offender does not meet the criteria for commitment to an Acute Care Unit but is unable to function in a general population.
 - iii. Referral to a *Secure Diversionary Treatment Program* in accordance with in Operating Procedure 830.5, *Transfers, Institution Reassignments*, if the offender frequently engages in assaultive, disruptive, and/ or unmanageable behaviors.
 - iv. Specialized placement in a *Secured Allied Management Unit (SAM)* in accordance with Operating Procedure 830.5, *Transfers, Institution Reassignments*.
 - c. SMI offenders must be moved out of Restrictive Housing (RHU) within 28 days of placement on General Detention unless a *Serious Mental Illness (SMI) 28 Day Exemption Request* been granted in accordance with Operating Procedure 425.4, *Management of Bed and Cell Assignments* (Restricted).

Operating Procedure: 841.4
April 1, 2019

5. Pregnant offenders and offenders under the age of 18 must be reviewed within 10 working days after the initial placement on General Detention; the MDT will conduct a formal ICA hearing to evaluate the offender and determine the following: (5-4B-0033, 5-4B-0034)
 - a. If the offender will be released to their previous housing assignment in general population or placed in SD-1 or SD-2 at their current institution within 28 days of the initial placement on General Detention
 - b. Pregnant offenders and offenders under the age of 18 who will not be released to their previous housing assignment in general population or placed in SD-1 or SD-2 within 28 days because they pose a risk to the safe, secure, and orderly operation of the institution will be reviewed by the MDT to determine appropriate alternate housing.
 - c. Pregnant offenders and offenders under the age of 18 who are SMI who will not be released to their previous housing assignment in general population or placed in SD-1 or SD-2 within 28 days must be reviewed by the MDT who will consult with the Psychology Associate Senior at CCS to determine appropriate alternate housing. (5-4B-0031)
 6. Offenders in a restrictive housing unit who refuse assignment to general population due to an unspecified fear and not for a specific fear or threat, violent or aggressive behavior, or legitimate protective custody needs should be reviewed for transfer to the *Steps to Achieve Reintegration (STAR) Program*. (See Operating Procedure 830.5, *Transfers, Institution Reassignments*.)
 7. Offenders in a restrictive housing unit and who are classified as requiring separation from other offenders as a result of their personal security needs should be reviewed for transfer to a Protective Custody Unit. (See Operating Procedure 830.1, *Institution Classification Management*, and Operating Procedure 830.5, *Transfers, Institution Reassignments*.)
 8. Security Level S offenders in restrictive housing in excess of 90 consecutive days (SM-Special Management) or 180 consecutive days (IM-Intensive Management) due to temporary transfer for medical, court, etc., must be provided adequate recreation, program services, and privileges in accordance with the Red Onion State Prison/Wallens Ridge State Prison local operating procedure addressing the *Restrictive Housing Reduction Step-Down Program*.
- F. Offender Management Path Development
1. Offenders at Security Level 2 institutions are not provided a management path. Offenders will be required to participate in journaling and/or other program assignments as deemed appropriate by the MDT.
 2. Offenders at Security Level 3 and above institutions who will remain in the restrictive housing unit at their current institutional assignment will be evaluated and provided a management path that is designed to address their behaviors and needs so that the offender can enter a full privilege general population. (5-4B-0032)
 - a. Restrictive Housing (RHU) - To be used for offenders that must be managed under maximum security conditions.
 - b. Step-down 1 (SD-1) - To be used for offenders whose behavior does not rise to the level of RHU or whose behavior has improved since assignment to RHU to include completion of required programmatic goals.
 - c. Step-down 2 (SD-2) - To be used for offenders who have been identified as needing a more structured living environment than in general population but do not need the level of control provided in RHU or SD-1 and/ or offenders whose behavior has improved since assignment to RHU or SD-1 to include completion of required programmatic goals.
 3. Appropriate members of the MDT will evaluate the offender and develop the offender's management path (RHU, SD-1, SD-2) within 10 working days (15 working days for investigative status) in accordance with this operating procedure. Evaluation tools and program components include but are not limited to the following: (5-4B-0032)
 - a. Review of COMPAS findings

- b. Case Plan review and development
- c. History of behavior
- d. Risk/Needs assessment
- e. Assessment of:
 - i. Disciplinary Violation goals - to reduce or eliminate disciplinary violations
 - ii. Mental Health goals - medication compliant, number of office visits per month, etc.
 - iii. Responsible behavior goals - personal hygiene, standing for count, cell compliance, deportment; satisfactory rapport with staff and offenders with compliance documented on the Responsible Behavior Goals Progress Report 841_F22
 - iv. Journaling and/or program assignments relevant to offender needs and goals
- 4. Once the offender's management path is approved, the offender's Case Plan in VACORIS must be updated.
- 5. Offenders who refuse to participate in the requirements of their designated management path will subject to disciplinary action in accordance with Operating Procedure 861.1, *Offender Discipline, Institutions*.
 - a. Offenders at Security Level 2 institutions, who refuse to participate in journaling and/or other program assignments, and offenders at Security Level 3 institutions will be given a warning for their first refusal to participate.
 - i. If the offender again refuses to participate, the offender will be charged with Offense Code 200, *Refusing to work or refusing to attend school or other program assignments mandated by procedure or by law, or failure to perform work or program assignment as instructed*.
 - ii. Upon conviction of Offense Code 200, the offender will be reviewed by the MDT for transfer to the Centralized Restrictive Housing Unit.
 - b. Offenders who refuse to participate in the requirements of their designated management path in the Centralized Restrictive Housing Unit will be given a warning for the first refusal.
 - i. If the offender again refuses to participate, the offender will be charged with Offense Code 119f, *Refusal to participate in the restrictive housing unit assignment*.
 - ii. Upon conviction of Offense Code 119f, the offender will be reviewed by the MDT for transfer to higher security level institution.
 - c. Offenders who refuse to participate at Security Level 4 and above institutions will be charged with Offense Code 119f, *Refusal to participate in the restrictive housing unit assignment* and managed in the restrictive housing unit at their current location.
 - d. After the first refusal and warning, the offender must be given the opportunity to comply. The offender cannot be charged with a disciplinary offense until the next seven day *Restrictive Housing Status Review*.
 - e. Upon conviction for refusal to participate, the offender should be reviewed for reduction to Good Time Class IV in accordance with Operating Procedure 830.3, *Good Time Awards*.
 - f. An offender shall be charged only once during a continued period of refusal.
- G. Centralized Restrictive Housing Unit Transfers
 - 1. Each institutional recommendation for offender transfer to the Centralized Restrictive Housing Unit must be based on a formal ICA Hearing conducted by the MDT and submitted via VACORIS in accordance with Operating Procedure 830.1, *Institution Classification Management*.
 - a. The MDT must submit justification with each request for transfer.
 - b. Each recommendation for transfer to a Centralized Restrictive Housing Unit will be reviewed by the appropriate authorities to determine if the transfer is warranted.
 - 2. Security Level 4 and above institutions will not transfer offenders to the Centralized Restrictive Housing Unit, offenders who require maximum security management in excess of 30 days will be managed in the restrictive housing unit at their current location.

3. MDT recommendations for transfer other than to the Centralized Restrictive Housing Unit will be made through the normal processes appropriate to the type of transfer in accordance with Operating Procedure 830.5, *Transfers, Institution Reassignments*.

H. Restrictive Housing Status Reviews

1. Every seven days of an offender's first 60 days in RHU status and every 30 days thereafter, the MDT will perform a *Restrictive Housing Status Review* of all offenders assigned to RHU to monitor the appropriateness of this status. If a formal review of the offender's status is warranted, the offender will be served notice of an ICA hearing in accordance with Operating Procedure 830.1, *Facility Classification Management*. (5-4A-4253, 5-4B-0008; 4-4253)
2. The MDT will formally review the offender's status at least once every 30 days while they are assigned to any restrictive housing unit level. (5-4A-4254, 5-4B-0009, 5-4B-0032; 4-4254)
 - a. The MDT will conduct a formal due process hearing and review the offender's adjustment and behavior in accordance with Operating Procedure 830.1, *Institution Classification Management*.
 - i. The MDT will evaluate the offender and determine whether to recommend that the offender continue in the current restrictive housing level for a subsequent period of up to 30 days or be assigned to another level.
 - ii. The MDT should base its recommendation on the reason for the assignment, the offender's behavior, and any progress made on the management path and treatment objectives.
 - b. When the MDT determines that an offender's behavior or circumstances no longer warrant the current restrictive housing unit status, a recommendation for the offender's reclassification to a different status or release to full privilege general population should be made.
 - c. Offenders transferred for placement in the Centralized Restrictive Housing Unit who have completed SD-2 will be reviewed by the MDT to determine if the offender will be released to the full privilege general population at that institution or transferred to general population at another Security Level 3 institution.
 - d. The MDT should determine whether the offender poses an unacceptable risk to the offender to include personal protection and keep separates in the general population, or is a threat to other offenders, institutional staff, or the safe, secure operation of the institution.
 - i. Offenders in the restrictive housing unit pending approval for and transfer to a Protective Custody Unit or to the *Steps to Achieve Reintegration (STAR) Program* may be managed in the restrictive housing unit on RHU or SD-1 status as deemed appropriate by the MDT and approved by the Facility Unit Head or designee.
 - ii. Offenders under investigation by the Special Investigations Unit (SIU) who cannot return to general population and must remain in the restrictive housing unit, may be managed on RHU or SD-1 status as deemed appropriate by the MDT and approved by the Facility Unit Head.
 - iii. The MDT may recommend a transfer to another institution when return to the full privilege general population at that institution is not appropriate.
3. ICA hearings may be conducted by the MDT at the institution's discretion any time a significant change in circumstances or the offender's behavior warrants a review in accordance with Operating Procedure 830.1, *Institution Classification Management*.
4. Offenders assigned to a restrictive housing unit in excess of 30 days should not be discharged directly to the community. (5-4B-0030)
 - a. No less than 30 days prior to the offender's discharge date, the MDT will conduct a formal due process hearing to review the offender's status and determine if the offender can return to general population or if the offender must be discharged from the restrictive housing unit.
 - b. If the offender will be discharged from the restrictive housing unit, the MDT must document their justification on the *Institutional Classification Authority Hearing Notification* for review and approval by the Regional Operations Chief or Regional Administrator.
 - c. In addition to the release requirements mandated for all offender in Operating Procedure 050.3,

Operating Procedure: 841.4
April 1, 2019

Facility Release of Offenders, Operating Procedure 720.3, *Health Maintenance Program*, and Operating Procedure 820.2, *Re-Entry Planning*, the following must be taken at a minimum

- i. Development of a release plan that is tailored to specific needs of the offender
- ii. Notification of release to the supervising P&P Office who will contact state and local law enforcement
- iii. Notification to releasing offender of applicable community resources
- iv. Notification to Victim, if applicable

5. Temporary Suspension of Time Frames

- a. In the event of a widespread institutional disruption, natural disaster, or other unusual occurrence that requires emergency action, the Facility Unit Head may temporarily suspend any or all portions of this operating procedure.
- b. Offenders involved in the emergency may be detained without being served an *Institutional Classification Authority Hearing Notification* or conducting an ICA Hearing throughout the course of the emergency.
- c. Upon restoration of institutional order, all detained offenders will be subject to Institutional Classification Authority and other reviews in accordance with this operating procedure.

I. Security, Movement, and Control of Contraband

1. A Corrections Officer must check each offender in General Detention or on RHU status twice per hour, no more than 40 minutes apart, on an irregular schedule. (5-4A-4257, 5-4B-0011; 4-4257)
 - a. Offenders in SD-1 or SD-2 statuses should be checked on a similar schedule.
 - b. Offenders who are violent or mentally disordered or who demonstrate unusual or bizarre behavior will receive more frequent observation
 - c. Suicidal offenders are under continuous observation in accordance with Operating Procedure 730.5, *Mental Health Services: Behavior Management*
 - d. In addition to supervision provided by the unit Corrections Officers, the Shift Commander or higher authority will visit the restrictive housing unit daily. (5-4A-4258, 5-4B-0012; 4-4258)
2. A strip search must be conducted on each offender assigned to the restrictive housing unit before the offender exits their cell.
 - a. Each offender in General Detention or on RHU status will be placed in restraints and escorted by two certified Corrections Officers whenever outside a secure area, such as a cell, shower, or exercise module. (5-4B-0032)
 - i. An offender in SD-1 status at Security Level 4 and above institutions and the Centralized Restrictive Housing Unit will placed in handcuffs and escorted by two certified Corrections Officers. SD-1 offenders in Security Level 3 institutions may be moved within the restrictive housing unit area by two certified Corrections Officers without restraints and without direct escort.
 - ii. An offender in SD-2 status may be moved within the restrictive housing unit area by one certified Corrections Officer without restraints and without direct escort.
 - b. A frisk search will be conducted immediately after a restrictive housing unit offender is removed from their cell or other secure area.
 - c. A frisk search will be conducted on each offender prior to returning the offender to their restrictive housing unit cell.
3. Only one offender at a time may be out of a secure area in the restrictive housing unit unless both offenders are restrained with separate security escorts.
 - a. With approval of the Facility Unit Head, an exception may be made for offenders participating in small group programs (SD-2 - maximum ten offenders) within the restrictive housing unit area. (5-4B-0032)
 - b. Protective custody offenders must be separated from known keep separates. Such offenders must

Operating Procedure: 841.4
April 1, 2019

be housed in separate cells and have no direct contact unless both offenders are in restraints with separate security escorts.

4. Each restrictive housing unit cell will be inspected whenever an offender is removed from the cell.
 - a. This inspection is a general review of sanitation conditions and scan for contraband.
 - b. The restrictive housing unit cell inspection may be conducted by one Corrections Officer and the offender need not be present.
 - c. A thorough search and inspection of the restrictive housing unit cell will be conducted and documented each time an offender is moved out of a cell, before another offender is moved into the cell.
5. All items entering the restrictive housing unit must be searched to detect and eliminate contraband.
6. Offenders from general population may provide housekeeping and other services in the restrictive housing unit.
 - a. If allowed to do so, each worker must be specifically authorized by the Chief of Security, will be searched (strip search for Security Level 3 and higher) upon entrance and exit, and must remain under direct supervision of a staff member at all times.
 - b. No offender worker will be allowed physical contact with a restrictive housing unit offender except as required for services rendered, i.e. barber.
7. All housing areas in the restrictive housing unit, to include cells housing offenders identified as potentially suicidal, must have readily accessible equipment and supplies necessary in an emergency.

J. Mental Health and Medical Reviews and Care

1. No offender will be denied necessary or proper medical, dental, and or mental health care while in a restrictive housing unit.
 - a. Any offender with identified mental health problems who is placed in General Detention or is on RHU status will be monitored per Operating Procedure 720.1, *Access to Health Services*, and Operating Procedure 730.5, *Mental Health Services: Behavior Management*.
 - b. Medical services will be provided in accordance with Operating Procedure 720.1, *Access to Health Services*, and Operating Procedure 720.2, *Medical Screening, Classification, and Levels of Care*.
 - c. Offenders should request dental services if needed. Dental staff will determine the need to provide dental care while the offender is in a restrictive housing unit.
 - d. Prescribed medications will be provided in accordance with Operating Procedure 720.5, *Pharmacy Services*. (5-4A-4261, 5-4B-0015; 4-4261)
 - e. Any "at risk" offender should receive a physical screening (i.e., weight and vital signs taken and recorded and checked for symptoms of possible side-effects to prescribed medication) by a qualified health care professional (i.e., RN, LPN/CNT, or CHA) no less than once every 14 days.
2. Unless medical attention is needed more frequently, each offender in General Detention or on RHU status will receive a daily visit from a qualified health care professional (not required for institutions that do not have medical staff on duty on weekends). (5-4A-4400, 5-4A-4258, 5-4B-0012, 5-4B-0029; 4-4258, 4-4400)
 - a. The visit ensures that offenders have access to the health care system.
 - b. The presence of a health care professional in the restrictive housing unit is announced and recorded.
 - c. Medical requests, medical staff visits, and medications administered or refused will be recorded.
 - d. Medical Practitioner visits to the restrictive housing unit are not required, offenders will submit a request to be seen by the Medical Practitioner through the established sick call process.
3. Unless mental health attention is needed more frequently, each offender on RHU status will receive a weekly visit from mental health staff in accordance with Operating Procedure 730.5, *Mental Health Services: Behavior Management*. (5-4B-0027, 5-4B-0029; 5-4B-0031)

- a. A QMHP will personally interview any offender remaining in RHU status for more than 7 days.
 - b. If confinement continues beyond 7 days, a mental health screening by a QMHP must be conducted within 7 days thereafter or more frequently if clinically indicated. (5-4A-4256, 5-4B-0010; 4-4256)
4. When an in-person assessment or examination of an offender in General Detention or on RHU status by a QMHP or other health care professional is conducted in the cell, the offender will be restrained and instructed to sit on their bunk.

K. Living Conditions and General Requirements for Restrictive Housing Units

1. On initial assignment to a restrictive housing unit, offenders should receive an orientation (written preferred but not required) on available services and how to access them. Offenders will have access to programs, privileges, education, and work opportunities to the extent possible while ensuring the offender's safety.
2. Offenders will receive laundry, barbering, and hair care services and are issued and afforded the opportunity to exchange clothing, bedding, and linen on the same basis as offenders in the general population. (5-4A-4263, 5-4B-0018; 4-4263)
3. Restrictive housing units provide living conditions that approximate those of the general offender population; all exceptions are clearly documented in this operating procedure. (5-4A-4140, 5-4B-0004; 4-4140)
 - a. Cell Conditions
 - i. Restrictive housing cells/rooms permit the offenders assigned to them to converse with and be observed by staff members. (5-4A-4140, 5-4B-0004; 4-4140)
 - ii. Space is available either inside the restrictive housing unit or external to the unit for treatment staff consultation with restrictive housing offenders. (5-4B-0004)
 - iii. Restrictive housing cells or units should be well ventilated, adequately lighted, appropriately heated and maintained in a sanitary condition at all times.
 - iv. Except in emergencies, the number of offenders confined to each cell or room should not exceed the number for which it is designed (usually one offender per cell).
 - (a) With the approval of the Facility Unit Head, in cells with proper equipment, suitable offenders in SD-2 may be double bunked if they are screened in accordance with Operating Procedure 425.4, *Management of Bed and Cell Assignments* (Restricted).
 - (b) If an emergency creates excess occupancy in the restrictive housing unit, the Facility Unit Head, or designee, should provide temporary written approval to exceed design capacity, and alleviate the situation as promptly as possible by providing other housing for the offenders so confined.
 - b. Correspondence
 - i. Offenders are generally subject to the same mail regulations and privileges, including sending and receiving legal mail, as offenders assigned to general population in accordance with Operating Procedure 803.1, *Offender Correspondence*. (5-4A-4266, 5-4B-0021; 4-4266)
 - ii. Secure messaging is a privilege, offenders assigned to General Detention and RHU status will not be provided access to the kiosk in order to retrieve or send their secure messages.
 - iii. Offenders assigned to SD-1 and SD-2 will not have access to kiosks but may access their secure messages through the following process. (5-4B-0032)
 - (a) When requested by the offender, all incoming messages will be printed by institutional mailroom staff and delivered to the offender through the institutional mail.
 - (b) If a pre-paid stamp is purchased by the sender, the pre-paid stamp will remain on the offender's account for use once the offender is released to a housing unit with kiosk access.
 - (c) The offender may hand write a return letter and forward their response to the mailroom through the institutional mail for processing and delivery through the US Postal Service in the same manner as all other outgoing offender correspondence.
 - iv. Offenders in the restrictive housing unit will not receive the contents of packages unless approved by the Facility Unit Head. Disapproved items may be stored if approved for general

population, returned to the sender at the expense of the offender or the sender, or disposed of in accordance with Operating Procedure 802.1, *Offender Property*.

c. Food

- i. Offenders assigned to a restrictive housing unit will receive the same number and type of meals served the general population.
- ii. Food will not be used as a disciplinary measure. Punitive diets (i.e., bread and water) for offenders are prohibited. (5-5C-4320; 4-4320)
- iii. On initial placement in a restrictive housing unit, the offender (if not on Common Fare) will designate if they want to receive regular or alternate entrée food trays.
 - (a) The Restrictive Housing Unit Supervisor must allow the offender the opportunity to change their choice of tray type every 90 days that they remain in a restrictive housing unit.
 - (b) An offender approved for Common Fare will be provided Common Fare meals while in the restrictive housing unit, if Common Fare is available at that institution.
- iv. Whenever the offender refuses to eat, a record should be made on the *Individual Offender Log*, *Special Watch Log* or the restrictive housing unit logbook if the offender is not on an individual log.
- v. Offenders who refuse to eat will be managed in accordance with Operating Procedure 420.2, *Use of Restraints and Management of Offender Behavior* (Restricted), and Operating Procedure 730.5, *Mental Health Services: Behavior Management*.
- vi. Offenders who abuse the trays or food products served to them will be managed in accordance with Operating Procedure 420.2, *Use of Restraints and Management of Offender Behavior* (Restricted).

d. Legal Access

- i. Offenders will not be prohibited from conducting litigation on their own behalf.
- ii. Offenders will be afforded access to institutional legal services to include the Facility Court Appointed Attorney and Law Library materials in accordance with Operating Procedure 866.3, *Offender Legal Access*. During orientation, offenders will be provided institution specific information on how to access legal services. (5-4A-4268, 5-4B-0023; 4-4268)
- iii. Attorney visits will occur during normal working hours of the institution unless otherwise approved by the Facility Unit Head or designee. Attorneys will be required to present proper identification before being admitted to the institution and the visit will be conducted in accordance with Operating Procedure 851.1, *Visiting Privileges*.
- iv. Legal calls will be conducted through the offender telephone system in accordance with Operating Procedure 866.3, *Offender Legal Access*.

e. Telephone (5-4A-4271, 5-4B-0026; 4-4271)

- i. Offenders will be permitted to place telephone calls in accordance with Operating Procedure 803.3, *Offender Telephone Service*. (5-4B-0032)
 - (a) General Detention/RHU will be allowed two calls per month
 - (b) SD-1 will be allowed four calls per month
 - (c) SD-2 will be allowed six calls per month
- ii. During orientation, offenders should be provided institution specific information on how to access telephone services including legal and emergency calls.

f. Visitation

- i. Offenders will have opportunities for visitation unless there are substantial reasons for withholding such privileges. (5-4A-4267, 5-4B-0022; 4-4267)
- ii. The visitation schedule for offenders in a restrictive housing unit will be established by the Facility Unit Head as permitted by available staff and facilities.
 - (a) Offenders should be provided a maximum of one visit per week for one hour with no more than five persons.
 - (b) Some facilities may set a lower limit on the number of visitors due to space limitations.
- iii. Visitation will be non-contact unless approved by the Facility Unit Head.

Operating Procedure: 841.4
April 1, 2019

4. All offenders in a restrictive housing unit will be provided clothing that is not degrading, and access to basic personal items for use in their cells unless there is imminent danger that an offender or any other offender(s) will destroy an item, use it as a weapon or instrument of escape, or induce self-injury. (5-4A-4261, 5-4B-0016; 4-4261)
 - a. Clothing and Bedding
 - i. Upon arrival in a restrictive housing unit, offenders will be strip searched and should dress in state issue clothing
 - ii. The offender's personal clothing will be removed, and the offender will be furnished appropriate clothing and bedding in accordance with Operating Procedure 802.1, *Offender Property*.
 - (a) At least three times per week, clean state issue clothing should be immediately available when dirty clothes are taken off to be laundered.
 - (b) A clean washcloth and towel will be issued on a one-for-one exchange basis at shower time or included in the weekly linen exchange.
 - (c) Linens will be exchanged weekly.
 - iii. At the discretion of the Facility Unit Head, offenders may be issued the required amount of state clothing, wash clothes, towels, and linens on a weekly basis; the offender must receive three complete sets of clean clothing, a clean towel, washcloth, and linen at least once per week.
 - iv. Blankets will be exchanged as needed per the institution's schedule.
 - b. Personal Property
 - i. A Corrections Officer and the offender, or two Corrections Officers in the offender's absence, will inventory all personal property items when an offender is placed in the restrictive housing unit in accordance with Operating Procedure 802.1, *Offender Property*.
 - (a) Offenders should be issued only those items specified on the appropriate *Authorized Personal Property Matrix* while assigned to the restrictive housing unit.
 - (b) In addition to those property items allowed on the *Authorized Personal Property Matrix*, offenders assigned to SD-2, will be permitted to purchase consumable food items sold through the facility commissary. (5-4B-0032)
 - (c) Other personal property items that are not issued to the offender, but are allowed at the offender's security level and current institution will be placed in storage.
 - ii. The offender must be given a copy of the property inventory and will sign for all property issued while in a restrictive housing unit.
 - iii. The offender may request in writing any authorized personal property that was stored and not initially issued to the offender (i.e. hygiene items to replace items that have been consumed). All property taken from the offender's property storage and delivered to the offender will be documented on the initial inventory completed when the offender was initially placed in the restrictive housing unit.
 - iv. Offenders in a restrictive housing unit will not be allowed to purchase any property that is not specifically authorized for possession on the appropriate *Authorized Personal Property Matrix*.
 - (a) Any pre-approved item of personal property received that is not specifically authorized for offender possession in the restrictive housing unit, will be held in Personal Property and will not be issued to the offender.
 - (b) The offender will be notified of the receipt of property items by Personal Property staff via the *Personal Property Request - Add/Drop* 802_F1.
 - (c) Offenders will not be allowed to view, try-on, or examine this property while assigned to the restrictive housing unit.
 - v. When an offender is discharged from a restrictive housing unit, the Restrictive Housing Unit Supervisor will be notified and will have the offender's property ready to be issued when the offender is released. The offender must sign for the property when issued.
 - c. Personal Hygiene
 - i. Offenders should have the opportunity to sponge bathe whenever they choose. They will be permitted to shower and shave not less than three times each week. (5-4A-4262, 5-4B-0017; 4-4262)

- ii. Offenders will be moved directly to and from the showers. Offenders should be allowed to take only the minimum items needed.
 - iii. Offenders are allowed to possess a reasonable quantity of personal hygiene items as determined by the Facility Unit Head consistent with the security needs of the institution.
 - (a) If the offender does not have basic personal hygiene items and is indigent, the institution should furnish them.
 - (b) The institution should provide security toothbrushes. Personal toothbrushes are generally not allowed since they may be used as weapons.
 - (c) No oils or lotions should be allowed, except prayer oil.
 - iv. Offenders should be provided razors by the institution.
 - (a) Personal razors should not be allowed.
 - (b) If the institution provides electric razors, they should be cordless with removable cutting heads. Cutting heads and screen covers should be sanitized after each use by soaking in a solution of suitable disinfectant in accordance with manufacturer's instructions.
 - (c) Barbering services will be available on a regular basis.
5. Within the resources available to the institution, unless security or safety considerations dictate otherwise, offenders in restrictive housing units have access to educational services, commissary services, library services, social services, treatment services, religious guidance, and recreational programs. (5-4A-4273, 5-4B-0027; 4-4273)
- a. Commissary
 - i. Commissary orders will be taken at least 3 times per month on scheduled days.
 - ii. Offenders are allowed a \$40.00 spend limit per month. SD-2 offenders will be allowed an additional \$10.00 per month of consumable items. (5-4B-0032)
 - iii. Glass, metal, and other hazardous containers or products may be restricted if determined by the institution to pose a risk to security.
 - iv. Security writing instruments should be provided by the institution. Offenders who will remain in a restrictive housing unit in excess of 30 days may be required to purchase security writing instruments after the initial issue.
 - v. A list of approved Commissary items for restrictive housing unit offenders should be available in the unit.
 - b. Educational and Library Book Services (5-4A-4269, 5-4B-0024; 4-4269)
 - i. Offenders will have access to library books for personal use.
 - ii. Offenders will have access to educational services as determined by the institution Principal
 - c. During orientation, offenders will be provided institution specific information on how to access counseling services and program staff upon request and for emergencies. At a minimum, each offender on RHU status will receive a weekly visit from treatment staff (5-4A-4258, 5-4B-0012; 4-4258)
 - d. Religious Guidance
 - i. Offenders will be afforded access to religious guidance. During orientation, offenders will be provided institution specific information on how to access the Chaplain or other available religious services.
 - ii. Visits from spiritual leaders may be requested in accordance with Operating Procedure 851.1, *Visiting Privileges*.
 - e. Exercise (5-4A-4270, 5-4B-0025, 5-4B-0032; 4-4270)
 - i. Each institution should strive to confine offenders to their cells for less than 22 hours per day in restrictive housing units.
 - ii. Offenders assigned to General Detention and RHU status will be allowed a minimum of two hours of out of cell exercise five separate days per week in a supervised area, unless security or safety considerations dictate otherwise.
 - iii. Offenders assigned to SD-1 and SD-2 will be allowed a minimum of two hours of out of cell

exercise seven separate days per week in a supervised area.

- iv. During periods of total institutional lockdown, out of cell exercise may be suspended for restrictive housing units.
- 6. Exceptions to normally provided living conditions, activities, and services are permitted only when found necessary by the Shift Commander; exceptions must be documented in accordance with Operating Procedure 425.4, *Management of Bed and Cell Assignments* (Restricted). (5-4A-4263, 5-4B-0017, 5-4B-0018; 4-4263)
 - a. Unless offender behaviors or medical/mental health needs warrant the removal of specific property items or denial of specific activities, conditions for Mental Health and Medical Hold will conform to the living conditions for restrictive housing units.
 - b. If access to activities and services is more restrictive for offenders identified as HRSV or who have alleged to have suffered sexual abuse or sexual harassment than for others in their housing status, staff will document the opportunities that have been limited, the duration of the limitation and the reasons for such limitations.

V. REFERENCES

Operating Procedure 050.3, *Facility Release of Offenders*
Operating Procedure 420.2, *Use of Restraints and Management of Offender Behavior* (Restricted)
Operating Procedure 425.4, *Management of Bed and Cell Assignments* (Restricted)
Operating Procedure 720.1, *Access to Health Services*
Operating Procedure 720.2, *Medical Screening, Classification, and Levels of Care*
Operating Procedure 720.3, *Health Maintenance Program*
Operating Procedure 720.5, *Pharmacy Services*
Operating Procedure 730.3, *Mental Health Services: Levels of Service*
Operating Procedure 730.5, *Mental Health Services: Behavior Management*
Operating Procedure 802.1, *Offender Property*
Operating Procedure 803.1, *Offender Correspondence*
Operating Procedure 803.3, *Offender Telephone Service*
Operating Procedure 820.2, *Re-Entry Planning*
Operating Procedure 830.1, *Institution Classification Management*
Operating Procedure 830.3, *Good Time Awards*
Operating Procedure 830.5, *Transfers, Institution Reassignments*
Operating Procedure 830.6, *Offender Keep Separate Management*
Operating Procedure 851.1, *Visiting Privileges*
Operating Procedure 861.1, *Offender Discipline, Institutions*
Operating Procedure 866.3, *Offender Legal Access*

VI. FORM CITATIONS

Personal Property Request - Add/Drop 802_F1
Responsible Behavior Goals Progress Report 841_F22

VII. REVIEW DATE

The office of primary responsibility shall review this operating procedure annually and re-write it no later than three years after the effective date.


Operating Procedure: 841.4
April 1, 2019

Signature Copy on File

1/31/19

A. David Robinson, Chief of Corrections Operations

Date

 <h1 style="margin: 0;">Operating Procedure</h1>	Effective Date April 1, 2016	Number 841.4
	Amended	Operating Level Department
	Supersedes Operating Procedure 861.3 (4/1/15) Operating Procedure 841.7 (4/1/15)	
	Authority COV §53.1-10, §19.2-316.2, §19.2-316.3	
Subject <h2 style="text-align: center;">RESTRICTIVE HOUSING UNITS</h2>		
Incarcerated Offender Access Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	FOIA Exempt Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Attachments Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Office of Primary Responsibility Security Operations Manager

I. PURPOSE

This operating procedure provides for the classification of offenders incarcerated in Department of Corrections institutions to General Detention, and Restrictive Housing statuses, minimum standards for the operation of Restrictive Housing Units, and minimum standards for the care and custody of offenders assigned to each of these statuses.

This operating procedure also provides for the detention and consideration for program removal of offenders in DOC Community Corrections facilities.

II. COMPLIANCE

This operating procedure applies to Community Corrections facilities operated by the Department of Corrections (DOC) and all institutions operated under the restrictive housing model. Practices and procedures shall comply with applicable State and Federal laws and regulations, Board of Corrections policies and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

III. DEFINITIONS

At Risk Offender - An offender identified by a Qualified Mental Health Professional as meeting the criteria in Operating Procedure 730.5, *Mental Health Services: Behavior Management*

Community Corrections Facility - A residential facility operated by the Department of Corrections to provide the Detention Center Incarceration program in accordance with COV §53.1-67.8 or the Diversion Center Incarceration Program in accordance with COV §53.1-67.7.

Facility - Any Community Corrections facility or institution

Facility Review Committee (FRC) - A treatment team of at least three facility staff members; as designated by the Facility Unit Head to review and evaluate the overall progress of an offender; referral to the FRC may be made by the Hearings Officer or any staff member in direct contact with the offender, who feels the offender's behavior requires an intervention. Normally, the FRC includes the offender's Counselor or Probation Officer; Assistant Unit Head or Security Supervisor; and one from the following: Senior Probation Officer, Educational Instructor, or another Counselor or Probation Officer. (Community Corrections facilities only)

General Detention - Special purpose bed assignments, utilized under proper administrative process, for the immediate secure confinement of offenders pending review for an appropriate assignment

Health Trained Staff - A DOC employee, generally a Corrections Officer who has been trained to administer health screening questionnaires, including training as to when to refer to health care staff and with what level of urgency

Institution - A prison facility operated by the Department of Corrections - includes major institutions, field units, and work centers.

Institutional Classification Authority (ICA) - The facility staff person designated to conduct offender case review hearings; hearings related to restrictive housing status review are formal due process hearings

and are generally conducted by a Multi-Disciplinary Team.

Intractable Behavior - Behavior which, in the determination of the Department of Corrections, (i) indicates an (offender's) unwillingness or inability to conform his/her behavior to that necessary to his/her successful completion of the program or (ii) is so disruptive as to threaten the successful completion of the program by other offenders. - COV §19.2-311 (applies to youthful offenders) and COV §19.2-316.1 (applies to Community Corrections facilities)

Multi-Disciplinary Team (MDT) - MDT members are responsible to review individual offenders related to restrictive housing and step-down statuses and act as the Institutional Classification Authority to make recommendations for housing status, transfer, security level, good time class, etc.; decisions are the responsibilities of the Facility Unit Head and Regional Administrator.

Program Pathway - A document developed by the Multi-Disciplinary Team in cooperation with the offender, if possible, which documents the steps and programming goals the offender must achieve to be released to full privilege General Population.

Protective Custody Unit - A special purpose general population housing unit designated by the Director for offenders classified as requiring separation from other offenders as a result of their personal security needs. Offenders requesting and requiring assignment to a protective custody unit may be managed in General Detention and Restrictive Housing, as appropriate, pending assignment and transfer.

Qualified Mental Health Professional (QMHP) - An individual employed in a designated mental health services position as a Psychologist or Psychology Associate, Psychiatrist, Social Worker (Masters level), or Registered Nurse or an individual with at least a Masters degree in psychology, social work, or relevant human services field with knowledge, training, and skills in the diagnosis and treatment of mental disorders.

Restrictive Housing Unit - A general term for special purpose bed assignments including general detention, restrictive housing, and step-down statuses; usually a housing unit or area separated from full privilege general population.

- **Restrictive Housing (RHU)** - Special purpose bed assignments operated under maximum security regulations and procedures, and utilized under proper administrative process, for the personal protection or custodial management of offenders.
- **RH Step-down 1 (SD-1), RH Step-down 2 (SD-2)** - General population bed assignments operated with increased privileges above Restrictive Housing but more control than full privilege general population.

Working Day - Weekdays, Monday through Friday, except official state holidays

IV. COMMUNITY CORRECTIONS FACILITIES

A. Community Corrections facilities do not use Restrictive Housing Units but there is occasional need to detain an offender to preserve the orderly operation of the facility and to ensure the safety of the offender pending the review for possible removal of the offender from the program.

B. Other sections of this operating procedure do not apply to Community Corrections facilities except as specifically referenced in this section.

C. Detention of Offenders - General Procedures

1. The Facility Unit Head should delegate in writing those facility employees who may authorize the detention of an offender. This authorization will be posted or maintained in a procedure manual easily accessible to all facility employees.
2. Any offender may be detained in approved restraints (in accordance with Operating Procedure 420.2, *Use of Restraints and Management of Offender Behavior*) or within a secured holding cell as determined by the delegated authority.
3. Any time an offender is detained, the facility Administrative Duty Officer shall be notified immediately, and permission will be secured to continue the use of mechanical restraints and/or placement in a holding cell.

Operating Procedure: 841.4
April 1, 2016

4. An offender should not be detained in restraints for a period greater than four hours. If it becomes necessary to maintain the restraints for a period of more than four hours due to the offender's intractable behavior, the offender will be given the opportunity to use the restroom.
5. Detentions shall not be used for disciplinary or punishment sanctions.

D. Use of Holding Cells

1. The Assistant Facility Unit Head shall review any detention of an offender within 72 hours or less and recommend to the Facility Unit Head release of the offender, referral to the Hearings Officer, or referral to the Facility Review Committee for formal review of program continuation/removal.
2. Any offender detained in a holding cell through a meal shall be fed the same meals on the same schedule as the rest of the population.
3. Any offender detained in a holding cell shall be given prescribed medication as scheduled.
4. A holding cell used for overnight housing shall be equipped with a bed above floor level, a working toilet, hand basin, appropriate lighting, and ventilation.
5. Any offender detained in a holding cell overnight should be provided with the same bed linens and mattress and pillow as permitted the general population, offender behavior permitting.
6. Detention, not to exceed 72 hours, may be utilized during an investigation while facts and information are gathered prior to the filing of a Disciplinary Report.
7. Any offender detained in a holding cell will be permitted to shower and shave at least every third day.
8. Offenders that are detained in a holding cell should forfeit all personal property privileges. Offenders should be provided appropriate clothing and may be permitted to have one religious book. All personal property shall be secured and inventoried at the time the offender is placed in the holding cell.
9. Each offender detained in a holding cell should be checked by a corrections officer at least every 60 minutes on an irregular schedule, with each check recorded on the Restrictive Housing: Individual Log 425_F4.
10. While detained in a holding cell, each offender that is believed to be under the influence of drugs or intoxicants should be checked by a corrections officer at least every 15 minutes, with each check recorded on the Special Watch Log 425_F5.
11. While detained in a holding cell, each offender who is believed to be a threat to self should be checked by a corrections officer at least every 15 minutes, with each check recorded on the Special Watch Log 425_F5.

E. Documentation

1. All actions related to detention of a Community Corrections offender should be recorded in the offender *Case Notes*.
2. Copies (or originals if available) of all documents related to detention of a Community Corrections offender should be placed in the offender Case Record.

V. RESTRICTIVE HOUSING IN INSTITUTIONS

A. Restrictive Housing Units

1. This operating procedure provides information to offenders incarcerated in Department of Corrections institutions concerning the operation of Restrictive Housing Units for the supervision of offenders under General Detention, Restrictive Housing (RHU), and Step-down statuses (SD-1 and SD-2)
 - a. Refer to Operating Procedure 425.4, *Management of Bed and Cell Assignments* (Restricted), for

security considerations relating to Restrictive Housing.

- b. Refer to Operating Procedure 861.3, *Special Housing*, for offender information relating to Special Housing Units.
2. Restrictive Housing is not a disciplinary measure but a means of custodial or protective control. Restrictive Housing consists of personal protection and custodial management measures exercised by the institution for the welfare of the offender or the institution, or both.
3. Offenders shall be placed in a restrictive housing unit only when their presence in the general population poses an unacceptable risk to the offender, other offenders, institutional staff, or the safe, secure operation of the institution. Restrictive housing shall not be used as punishment. The goals of restrictive housing units are to:
 - a. Manage offenders in a safe and secure manner
 - b. Provide a consistent, systems approach to the operation of all DOC restrictive housing units in order to maximize positive outcomes in offender adjustment to incarceration
 - c. Provide opportunities for offenders to increase their likelihood for success in full privilege general population
4. When an offender requests protective custody, the Shift Commander should attempt to find a reasonable alternative to assignment to the Restrictive Housing Unit. If the need for protective custody is documented and no alternative exists, the Shift Commander shall authorize the offender's assignment to General Detention status.
5. An offender moved from general population into a restrictive housing unit shall be initially assigned to General Detention which is authorized by the Shift Commander or above for the immediate secure confinement of offenders pending review for an appropriate assignment.
6. General Detention shall be utilized for the immediate secure confinement of an offender only when their presence in the general population or a RH Step-down status poses an unacceptable risk to the offender, other offenders, institutional staff, or the safe, secure operation of the institution, including when an offender requires personal protection and no reasonable alternative is available.
7. Assignment to any other restrictive housing status requires a formal due process hearing held in accordance with Operating Procedure 830.1, *Facility Classification Management*, by the Multi-Disciplinary Team (MDT) and approval by the Facility Unit Head or designee.
8. Offenders assigned to a Restrictive Housing level will be provided a management path and a program pathway designed to meet that offender's behaviors and needs so that the offender can enter a full privilege general population.
9. Every seven days of an offender's first two months in RHU status and every 30 days thereafter, the Restrictive Housing Unit Supervisor or designee will perform a *Restrictive Housing Status Review* of all offenders assigned to RHU to monitor the appropriateness of this status. If a formal review of the offender's status is warranted, the offender will be served notice of a hearing in accordance with Operating Procedure 830.1, *Facility Classification Management*.

B. Assignment and Classification Processes

1. Only the Shift Commander or a higher authority may authorize an offender's placement in General Detention. The Facility Unit Head or other Administrative Duty Officer shall review this action within 72 hours of the offender's placement on General Detention.
 - a. Any staff, such as but not limited to Corrections Officer, Investigator, QMHP, or Health Authority may refer an offender for General Detention
 - b. The Shift Commander should meet with the referring person and the offender, and decide to either place the offender on General Detention in Restrictive Housing or return the offender to General Population.
 - c. The decision to assign offenders to medical observation units, infirmaries, or mental health units

- is a medical decision to be made by the treating physician according to appropriate medical procedures and is not governed by this operating procedure.
2. The Multi- Disciplinary Team has the authority to conduct Institutional Classification Authority hearings related to restrictive housing units and is responsible to review individual offenders and make recommendations concerning management paths and program pathways as well as security level, good time class, transfer, etc.
 - a. The Multi-Disciplinary Team (MDT) shall conduct a formal review for determination of appropriate housing assignment within three working days of the offender being placed on General Detention.
 - b. This review will consider the Internal Incident Report documenting placement into General Detention and any other available, relevant information.
 - c. Possible appropriate housing assignments are: return to the previous status (general population or Step-down) or remain in General Detention pending development of a program pathway for the offender.
 3. For offenders continued on General Detention, appropriate members of the MDT will evaluate the offender and develop a *Program Pathway*. Evaluation tools and program components may include but not be limited to the following:
 - a. Review of COMPAS findings
 - b. Case Plan review and development
 - c. History of behavior
 - d. Risk/Needs assessment
 - e. Develop *Program Pathway*
 - i. Disciplinary Violation goals - to reduce or eliminate disciplinary violations
 - ii. Responsible behavior goals
 - (a) Personal hygiene
 - (b) Standing for count
 - (c) Cell compliance
 - (d) Deportment; satisfactory rapport with staff and offenders
 - iii. Journaling and/or program assignments relevant to offender needs and goals
 - iv. Mental Health goals (Example: Medication Compliant, Number of Office Visits Per Month, etc.)
 - f. Once the offender's *Program Pathway* is approved by the Chief of Housing and Programs or higher authority, the *Program Pathway* will be added to the Re-entry Case Plan in VACORIS.
 4. Within 10 working days (15 working days for investigative status) after the initial assignment to General Detention, the MDT will conduct a formal ICA hearing to evaluate the offender and develop an appropriate housing assignment or management path (RHU, SD-1, SD-2, or general population) and a *Program Pathway*.
 - a. Restrictive Housing (RHU) - to be used for offenders that must be managed under maximum security conditions.
 - i. Offenders who cannot return to the general population at the current institution or who are expected to require maximum security management in excess of 30 days (not achieve assignment to a Step-down level or full privilege general population) should be recommended for transfer to a Centralized Restrictive Housing Unit or other institution based on the severity of behaviors as appropriate.
 - ii. The MDT must submit justification with each request for transfer.
 - iii. Each recommendation for transfer to a Centralized Restrictive Housing Unit will be reviewed by the appropriate authorities to determine if the transfer is warranted.
 - b. Step-down 1 (SD-1) - To be used for offenders whose behavior does not rise to the level of RHU or whose behavior has improved since assignment to RHU to include completion of required

programmatic goals.

- c. Step-down 2 (SD-2) - To be used for offenders who have been identified as needing a more structured living environment than in general population but do not need the level of control provided in RHU or SD-1. Also for offenders whose behavior has improved since assignment to RHU or SD-1 to include completion of required programmatic goals.
5. During the assignment to any Restrictive Housing level, the offender status will be formally reviewed by the MDT at least once every 30 days. The MDT will formally review the offender's adjustment and behavior in accordance with Operating Procedure 830.1, *Facility Classification Management*, and determine whether to recommend that the offender continue in the current Restrictive Housing level for a subsequent period of up to 30 days or be assigned to a less restrictive level.
 - a. The MDT should base its recommendation on consideration of the reason for the assignment, the offender's behavior, and the progress made on the Program Pathway and treatment objectives.
 - b. The MDT should determine whether the offender is a threat to security or if the offender may be in danger due to enemies in the general population.
 - c. If appropriate, offenders may be managed in a Restrictive Housing level pending approval for and transfer to a Protective Custody Unit or the *Steps to Achieve Reintegration (STAR) Program*.
 - d. The MDT may recommend a transfer to another institution when return to the full privilege general population is not appropriate.
6. MDT hearings may be conducted at the institution's discretion at any time a significant change in circumstances or the offender's behavior warrants a review.
7. When the MDT determines that an offender's behavior or circumstances no longer warrant the current Restrictive Housing level, a recommendation for the offender's reclassification to a different level or release to general population should be made.
8. Temporary Suspension of Time Frames
 - a. In the event of a widespread institutional disruption, natural disaster, or other unusual occurrence that requires emergency action, the Facility Unit Head may temporarily suspend any or all portions of this operating procedure.
 - b. Offenders involved in the emergency may be detained without being served an *Institutional Classification Authority Hearing Notification* or conducting an ICA Hearing throughout the course of the emergency.
 - c. Upon restoration of institutional order, all detained offenders shall be subject to Institutional Classification Authority and other reviews in accordance with this operating procedure.
- C. Security, Movement, and Control of Contraband
 1. Items entering Restrictive Housing Units are searched to detect and eliminate contraband.
 2. Control and movement of offenders in a Restrictive Housing Unit
 - a. A strip search shall be conducted on each offender in a Restrictive Housing Unit before exiting a cell.
 - b. Each offender in General Detention or RHU status shall be placed in restraints (hand cuffed from behind, leg irons) and escorted by two certified Corrections Officers whenever outside a secure area, such as a cell, shower, or exercise module. Any deviation from restraint requirements must be approved by the Chief of Security or higher authority.
 - c. An offender in SD-1 status may be moved within the Restrictive Housing Unit area by two certified Corrections Officers without restraints and without direct escort.
 - d. An offender in SD-2 status may be moved within the Restrictive Housing Unit area by one certified Corrections Officer without restraints and without direct escort.
 - e. A frisk search shall be conducted immediately after a Restrictive Housing Unit offender is

removed from a cell or other secure area.

- f. Only one offender at a time may be out of a secure area in the Restrictive Housing Unit unless both offenders are restrained with separate security escorts. With approval of the Facility Unit Head, an exception may be made for offenders participating in small group programs (SD-2 - maximum ten offenders) within the Restrictive Housing Unit area.
 - g. A frisk search shall be conducted prior to returning the offender to a Restrictive Housing Unit cell.
3. Each time an offender moves out of a Restrictive Housing Unit cell, a thorough search and inspection will be conducted and documented before another offender moves into the cell.
 4. Each Restrictive Housing Unit cell is inspected whenever an offender is removed from the cell.
 - a. This inspection is a general review of sanitation conditions and scan for contraband.
 - b. The Restrictive Housing cell inspection may be conducted by one Corrections Officer and the offender need not be present.
 5. Protective Custody offenders are separated from known enemies. Such offenders must be housed in separate cells and have no direct contact unless both offenders are in restraints with separate security escorts.
 6. Offenders from General Population may provide housekeeping and other services in the Restrictive Housing Unit.
 - a. If allowed to do so, each worker is specifically authorized by the Chief of Security, shall be searched (strip search for Security Level 3 and higher) upon entrance and exit, and remains under direct supervision of a staff member at all times.
 - b. No worker should be allowed physical contact with a Restrictive Housing Unit offender except as required for services rendered, i.e. barber.
 7. A Corrections Officer should check each offender in General Detention or RHU status twice per hour, no more than 40 minutes apart, on an irregular schedule.
 - a. Offenders in SD-1 or SD-2 statuses should be checked on a similar schedule.
 - b. Offenders who are violent or mentally disordered or who demonstrate unusual or bizarre behavior receive more frequent observation.
 8. In addition to supervision provided by the unit Corrections Officers, the Shift Commander or higher authority should visit the Restrictive Housing Unit daily.

D. Mental Health and Medical Reviews and Care

1. Offenders should be screened by a Qualified Mental Health Professional (QMHP) before their placement or within one working day after placement in special housing so any "at risk" offenders may be identified. At facilities with no QMHP, health trained staff should screen the offender to identify if there is any indication the offender may be "at risk".
2. Any offender with identified mental health problems who is placed in special housing should be monitored per Operating Procedure 730.5, *Mental Health Services: Suicide Prevention and Behavior Management*, and Operating Procedure 720.1, *Access to Health Services*.
3. When an offender is transferred from general population to General Detention or RHU status, health care personnel will be informed immediately to provide assessment and review as indicated by the protocols established by the Health Authority.
4. No offender will be denied necessary or proper medical, dental, and or mental health care while in a Restrictive Housing Unit.
5. Medical services should be provided in accordance with Operating Procedure 720.2, *Medical Screening, Classification, and Levels of Care*, and Operating Procedure 720.1, *Access to Health Services*.

Operating Procedure: 841.4
April 1, 2016

6. "At risk" offenders should be identified and monitored in accordance with Operating Procedure 730.5, *Mental Health Services: Behavior Management*.
 7. Any in-person assessment or examination of an offender in General Detention or RHU status by a QMHP or other health care professional shall be accomplished in the following manner:
 - a. The offender will be restrained by handcuffs behind the back; use of leg irons is optional dependent on security level and the offender's behavior pattern.
 - b. The offender will be instructed to sit on their bunk.
 - c. Two certified Corrections Officers and the QMHP/health care professional shall enter the cell to perform the assessment or examination.
 - d. Portable blood pressure equipment, scales, etc. should be available for checking vital signs and for routine assessments and examinations.
 - e. If the examination cannot be successfully completed with the hands cuffed behind the offender's back, the handcuffs may be moved to the front of the offender. If the examination still cannot be successfully completed, the offender shall be removed from the cell and escorted in appropriate restraints to an area where the examination can be completed.
 8. Unless medical attention is needed more frequently, each offender in restrictive housing shall receive a daily visit from a qualified health care provider (not required for facilities that do not have medical staff on duty on weekends).
 - a. The visit ensures that offenders have access to the health care system.
 - b. The presence of a health care provider in restrictive housing is announced.
 - c. The Health Authority determines the frequency of physician visits to restrictive housing units.
 9. Offenders should request dental services if needed. Dental staff will determine the need to provide dental care while the offender is in special housing.
 10. Prescribed medications will be provided in accordance with Operating Procedure 720.5, *Pharmacy Services*.
 11. Medical requests, medical staff visits, and medications administered or refused shall be recorded.
 12. A QMHP will personally interview any offender remaining in RHU status for more than 30 days in accordance with Operating Procedure 730.5, *Mental Health Services: Behavior Management*. If confinement continues beyond 30 days, a mental health assessment by a QMHP is made at least every 30 days for offenders who have an identified mental health need, and every three months for all other offenders and more frequently if prescribed by the Health Authority.
- E. Living Conditions and General Requirements for Restrictive Housing Units
1. On initial assignment to a Restrictive Housing Unit, offenders should receive an orientation (written preferred but not required) on available services and how to access them. Offenders being placed in a Restrictive Housing Unit should be provided information on how to access counseling services upon request and for emergencies.
 2. Restrictive Housing Units provide living conditions that approximate those of the general offender population; all exceptions are clearly documented throughout this operating procedure.
 3. All offenders in a Restrictive Housing Unit shall be provided prescribed medication, clothing that is not degrading and access to basic personal items for use in their cells unless there is imminent danger that an offender or any other offender(s) will destroy an item, use it as a weapon or instrument of escape, or induce self-injury.
 4. Within the resources available to the facility, unless security or safety considerations dictate otherwise, offenders in restrictive housing have access to educational services, commissary services, library services, social services, counseling services, religious guidance, and recreational programs.
 5. Restrictive housing cells or units should be well ventilated, adequately lighted, appropriately heated

and maintained in a sanitary condition at all times.

6. Exceptions to normally provided conditions are permitted only when found necessary by the Shift Commander; any exception is documented.
7. Number of Occupants
 - a. Except in emergencies, the number of offenders confined to each cell or room should not exceed the number for which it is designed (usually one offender per cell).
 - b. With the approval of the Facility Unit Head, in cells with proper equipment, suitable offenders in SD-2 may be double bunked.
 - c. If an emergency creates excess occupancy in the Restrictive Housing Unit, the Facility Unit Head, or designee, should provide temporary written approval to exceed design capacity, and alleviate the situation as promptly as possible by providing other housing for the offenders so confined.
8. Clothing and Bedding
 - a. Offenders assigned to a Restrictive Housing Unit should dress in State issue clothing and be furnished with clothing and bedding in accordance with Operating Procedure 802.1, *Offender Property*.
 - b. Upon arrival in a Restrictive Housing Unit, all offenders' personal clothing will be removed; offenders will be strip searched and issued appropriate clothing.
 - c. At least three times per week, clean clothes should be immediately available when dirty clothes are taken off to be washed.
 - d. Clean washcloth and towel will be issued on a one-for-one exchange basis at shower time.
 - e. Linens will be exchanged weekly. Blankets will be exchanged as needed.
9. Personal Property
 - a. Offenders in a Restrictive Housing Unit should be allowed to keep only those items allowed for their status in accordance with Operating Procedure 802.1, *Offender Property*.
 - b. A Corrections Officer and the offender, or two Corrections Officers in the offender's absence, will inventory all personal property items in accordance with Operating Procedure 802.1, *Offender Property*.
 - c. The offender will be given a copy of his property inventory and will sign for all property issued while in a Restrictive Housing Unit.
 - d. All other items of offender personal property that were not issued to the offender, but are allowed at the offender's security level and current facility, will be stored upon assignment to special housing, in accordance with Operating Procedure 802.1, *Offender Property*.
 - e. The offender must request in writing, any authorized personal property that was stored and not initially issued to the offender (i.e. hygiene items to replace items that have been consumed). All property taken from the offender's property storage and delivered to the offender will be documented on the initial inventory form completed when the offender was initially placed in the Restrictive Housing Unit.
 - f. Offenders in a Restrictive Housing Unit will not be allowed to purchase any property that is not specifically authorized to offenders for possession in their assigned status.
 - i. Any pre-approved item of personal property which is received while the offender is in a Restrictive Housing Unit, but which is not specifically authorized for the offender's status, will be held in Personal Property and not issued to the offender.
 - ii. The offender will be notified of the receipt of property items by Personal Property staff via the *Personal Property Request - Add/Drop*.
 - iii. Offenders will not be allowed to view, try-on, or examine this property while assigned to special housing.
 - g. When an offender is discharged from a Restrictive Housing Unit, the Restrictive Housing Unit

Supervisor will be notified and will have the offender's property ready to be issued when the offender is released. The offender will sign for the property when issued.

10. Food

- a. Offenders assigned to a Restrictive Housing Unit should receive the same number and type of meals served the general population.
- b. Food may not be used as a disciplinary measure. Punitive diets (i.e., bread and water) for offenders are prohibited.
- c. On initial placement in a Restrictive Housing Unit, the offender (if not on Common Fare) will designate if they want to receive regular or alternate entrée food trays.
 - i. The Restrictive Housing Unit Supervisor shall allow the offender the opportunity to change their choice of tray type every 90 days that they remain in a Restrictive Housing Unit.
 - ii. An offender approved for Common Fare should be provided Common Fare meals while in a Restrictive Housing Unit, if Common Fare is available at that institution.
- d. Whenever the offender refuses to eat, a record should be made on the *Special Housing Individual Log*.
- e. Offenders who refuse to eat will be managed in accordance with Operating Procedure 420.2, *Use of Restraints and Management of Offender Behavior* (Restricted) and Operating Procedure 730.5, *Mental Health Services: Suicide Prevention and Behavior Management*.
- f. Offenders who abuse the trays or food products served to them will be managed in accordance with Operating Procedure 420.2, *Use of Restraints and Management of Offender Behavior* (Restricted).

11. Personal Hygiene

- a. Offenders in a Restrictive Housing Unit receive laundry, barbering, and hair care services and are issued and exchange clothing, bedding, and linen on the same basis as offenders in the general population. Exceptions are permitted only when found necessary by the Shift Commander.
- b. Offenders assigned to a Restrictive Housing Unit should have the opportunity to sponge bathe whenever they choose. They should be permitted to shower and shave not less than three times each week.
- c. The offender is allowed to possess the personal hygiene items authorized for the assigned status in Operating Procedure 802.1, *Offender Property*. If the offender does not have basic personal hygiene items and is indigent, the facility should furnish them.
- d. The facility should provide security toothbrushes. Personal toothbrushes are generally not allowed since they may be used as weapons.
- e. No oils or lotions should be allowed, except prayer oil.
- f. Offenders assigned to a Restrictive Housing Unit and certain mental health units should be provided razors by the facility. Personal razors should not be allowed. The type of razor should be consistent with the security level of the facility.
 - i. When disposable razors are provided, the facility should assure the offender does not destroy the razor and use the blade to create a weapon or to cause self-harm.
 - (a) Staff should inspect the razor after use to ensure the offender has not tampered with the razor and the blade is present.
 - (b) The facility shall use an accountability system to ensure the same disposable razor is not issued to more than one offender.
 - ii. If the facility provides electric razors, they should be cordless with removable cutting heads. Cutting heads and screen covers should be sanitized after each use by soaking in a solution of suitable disinfectant in accordance with manufacturer's instructions.
- g. Offenders will be moved directly to and from the showers. Offenders should be allowed to take only the minimum items needed.
- h. Barbering services should be available on a regular basis.

12. Correspondence

- a. Offenders confined to special housing are generally subject to the same mail regulations and privileges, including sending and receiving legal mail, as offenders assigned to general population in accordance with Operating Procedure 803.1, *Offender Correspondence*.
- b. Secure messaging is a privilege, offenders assigned to General Detention or RHU status will not be provided access to the kiosk in order to retrieve or send their secure messages.
- c. Offenders assigned to General Detention or RHU status in a Centralized Restrictive Housing Unit will not have access to kiosks but may access secure messaging through the following process.
 - i. All incoming messages shall be printed by facility mailroom staff and delivered to the offender through the facility mail.
 - ii. If a pre-paid stamp is purchased by the sender, the offender may hand write a return letter on the blank pre-labelled page provided with their incoming message and forward their response to the mailroom through the facility mail.
 - iii. Upon receipt of the offender response, mailroom staff shall scan the offender's letter for delivery to the sender.
- d. Offenders in General Detention or RHU status will not receive the contents of packages unless approved by the Facility Unit Head. Disapproved items may be stored if approved for General Population, returned to the sender at the expense of the offender or the sender, or disposed of in accordance with Operating Procedure 802.1, *Offender Property*.

13. Access to Legal Services

- a. Offenders assigned to a Restrictive Housing Unit will not be prohibited from conducting litigation on their own behalf.
- b. Offenders assigned to a Restrictive Housing Unit shall be afforded access to facility legal services including the Facility Attorney and the use of Law Library materials in accordance with Operating Procedure 866.3, *Offender Legal Access*. Offenders being placed in a Restrictive Housing Unit should be provided information on how to access legal services.
- c. Attorney visits and legal calls are addressed in the *Visitation* and *Telephone* sections of this operating procedure.

14. Visitation

- a. Offenders in a Restrictive Housing Unit have opportunities for visitation unless there are substantial reasons for withholding such privileges.
- b. The visitation schedule for offenders in a Restrictive Housing Unit should be established by the Facility Unit Head as permitted by available staff and facilities.
- c. Visitation in a Restrictive Housing Unit will be non-contact unless approved otherwise by the Facility Unit Head.
- d. A maximum of one visit per week for one hour with no more than five persons should be granted to offenders in a Restrictive Housing Unit. Some facilities may set a lower limit on the number of visitors due to space limitations.
- e. Attorney visits to an offender in a Restrictive Housing Unit shall occur during normal working hours of the facility unless otherwise approved by the Facility Unit Head or designee. Attorneys shall be asked to present proper identification before being admitted to the facility and the visit will be conducted in accordance with Operating Procedure 851.1, *Visiting Privileges*.

15. Commissary

- a. Orders should be taken at least 3 times per month on scheduled days.
- b. Offenders in a Restrictive Housing Unit are allowed a \$40.00 spend limit per month. SD-2 offenders will be allowed an additional \$10.00 per month of consumable items.
- c. Glass, metal, and other hazardous containers or products may be restricted if determined by the facility to pose a risk to security. No oils or lotions should be allowed, except prayer oil.

- d. Security writing instruments should be provided by the facility. Long term Restrictive Housing facilities may require offenders to purchase security writing instruments after the initial issue.
- e. A list of approved Commissary items for restrictive housing unit offenders should be available in the Restrictive Housing Unit.

16. Exercise

- a. Restrictive Housing Unit offenders should be allowed a minimum of one hour of out of cell exercise five separate days per week in a supervised area, unless security or safety considerations dictate otherwise. SD-2 offenders may be allowed additional out of cell activity.
- b. During periods of total facility lockdown, out of cell exercise may also be suspended for offenders in a Restrictive Housing Unit.

17. Telephone

- a. Offenders assigned to a Restrictive Housing Unit should be permitted to place telephone calls in accordance with Operating Procedure 803.3, *Offender Telephone Service*.
 - i. General Detention/RHU allowed two calls per month
 - ii. SD-1 allowed four calls per month
 - iii. SD-2 allowed six calls per month
- b. Offenders being placed in a Restrictive Housing Unit should be provided information on how to access telephone services including legal and emergency calls.

18. Educational and Library Book Services

- a. Offenders assigned to a Restrictive Housing Unit will have access to educational services as determined by the Principal
- b. Offenders assigned to a Restrictive Housing Unit will have access to library books for personal use.

19. Religious Guidance

- a. Offenders assigned to a Restrictive Housing Unit will have access to religious guidance. Offenders being placed in a Restrictive Housing Unit should be provided information on how to access the Chaplain or other available religious services
- b. Visits from spiritual leaders may be requested in accordance with Operating Procedure 851.1, *Visiting Privileges*.

VI. REFERENCES

Operating Procedure 420.2, *Use of Restraints and Management of Offender Behavior*
Operating Procedure 425.4, *Management of Bed and Cell Assignments*
Operating Procedure 720.1, *Access to Health Services*
Operating Procedure 720.2, *Medical Screening, Classification, and Levels of Care*
Operating Procedure 720.5, *Pharmacy Services*
Operating Procedure 730.5, *Mental Health Services: Behavior Management*
Operating Procedure 802.1, *Offender Property*
Operating Procedure 803.1, *Offender Correspondence*
Operating Procedure 803.3, *Offender Telephone Service*
Operating Procedure 830.1, *Facility Classification Management*
Operating Procedure 851.1, *Visiting Privileges*
Operating Procedure 861.3, *Special Housing*
Operating Procedure 866.3, *Offender Legal Access*

Operating Procedure: 841.4
April 1, 2016

VII. FORM CITATIONS

Restrictive Housing: Individual Log 425_F4

Special Watch Log 425_F5

VIII. REVIEW DATE

The office of primary responsibility shall review this operating procedure annually and re-write it no later than three years from the effective date.

Signature Copy on File

3/30/16

A. David Robinson, Chief of Corrections Operations

Date

Exhibit 16



Virginia Department of Corrections

Offender Management and Programs

Operating Procedure 851.1

Visiting Privileges

Authority:

Directive 851, *Offender Visitation*

Effective Date: April 1, 2021

Amended: 7/1/21, 9/1/21, 1/1/22

Supersedes:

Operating Procedure 851.1, December 1, 2017

Access: ☐ Restricted ☒ Public ☒ Inmate

ACA/PREA Standards: 5-ACI-2E-03, 5-ACI-3D-02, 5-ACI-3D-07, 5-ACI-5E-02, 5-ACI-7D-14, 5-ACI-7D-15, 5-ACI-7D-16, 5-ACI-7D-17, 5-ACI-7D-19, 5-ACI-7D-21, 5-ACI-7D-22; 4-ACRS 2A-02, 4-ACRS 5A-16, 4-ACRS 5A-17, 4-ACRS 5A-18, 4-ACRS 6A-01; 2-CO-5D-01

Content Owner:	Yulonda Wyche Central Visitation Unit Manager	<i>Signature Copy on File</i>	2/24/21
		Signature	Date
Reviewer:	Jermiah Fitz, Jr. Corrections Operations Administrator	<i>Signature Copy on File</i>	2/24/21
		Signature	Date
Signatory:	A. David Robinson Chief of Corrections Operations	<i>Signature Copy on File</i>	2/24/21
		Signature	Date

REVIEW

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections. Practices and procedures must comply with applicable State and Federal laws and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

Table of Contents

DEFINITIONS	3
PURPOSE	5
PROCEDURE	5
I. Visitation Program	5
II. Visitor Approval Process - Institutions	7
III. Visitor Eligibility	9
IV. Sex Offender Visitation.....	11
V. Visiting Schedule - Institutions	12
VI. Admission Requirements	13
VII. Visitation Screening and Searches	15
VIII. Visiting Room Operation	16
IX. Alternate Visitation Methods - Institutions	17
X. Special Visits.....	21
XI. Visitation Denials, Terminations, Suspensions, and Inmate Restrictions	23
XII. Documentation	26
XIII. Appeals and Complaints.....	27
REFERENCES.....	27
ATTACHMENTS	28
FORM CITATIONS	28



DEFINITIONS

Central Visitation Unit - A unit in DOC Headquarters under the office of the Corrections Operations Administrator that has the responsibility to receive applications for inmate visitors, review visitor criminal history and other records, and approve visitors before they may enter DOC institutions

Clergy - A member of the community who is commissioned, licensed, ordained, endorsed, or otherwise accepted as a religious authority by the individual's religious organization, e.g., Minister, Priest, Rabbi, Imam, Medicine Man, etc.; this individual must not be a family member or relative of the inmate, probationer, or parolee.

Community Corrections Alternative Program (CCAP) - A system of residential facilities operated by the Department of Corrections to provide evidence-based programming as a diversionary alternative to incarceration in accordance with COV §53.1-67.9, *Establishment of community corrections alternative program; supervision upon completion*

Emancipated Minor - A person less than 18 years of age who has received an order from a Court declaring that the minor is released from parental care through marriage, is on active duty with the armed forces of the United States, or has a willful, consensual separation from parents or guardian and is capable of self-support

Facility - Any institution or Community Corrections Alternative Program

Former Inmate - Any person convicted of a felony in any jurisdiction (State or Federal) who is not currently incarcerated or under any type of probation, parole, or post release supervision

Immediate Family - An inmate's, probationer's, or parolee's parents, stepparents, grandparents, lawful spouse, biological, step or legally adopted children/grandchildren, and biological, half, step, or legally adopted siblings, appeals regarding an individual's status as immediate family will be decided by the Corrections Operations Administrator

Inmate - People who are incarcerated in a Virginia Department of Corrections facility or are Virginia Department of Corrections responsible to serve a state sentence and located at a local or regional jail.

Inmate Visitor - Any person seeking contact or non-contact visiting privileges with one or more inmates housed in a Department of Corrections institution

Institution - A prison facility operated by the Department of Corrections; includes major institutions, field units, and work centers

Legal Guardian - A person who has the powers and responsibilities of a parent concerning the child's support, care, education, health, and welfare

Minor - A person under 18 years of age

Non-Contact Video Visits - Visitation conducted through facility provided devices and inmate video visiting stations when the inmate's visitor is unable to enter the institution for security reasons

Non-Contact Visitation - Visitation conducted through a physical barrier when the inmate's visitor is able to enter the facility but either the visitor or inmate is restricted from physical contact.

Probationer/Parolee - People who are placed under or made subject to community supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of Courts, paroling authorities, the Virginia Department of Corrections, or other release authority; including Community Corrections Alternative Programs.

Re-entry Supporters - Persons with whom the inmate, probationer, or parolee is not biologically related, but who will provide post-release support; this includes persons serving as mentors and representatives of community organizations that are supporting re-entry.

Security Level - Institutions within the DOC are tiered for the supervision and management of inmates on a six level system. Community facilities are operated under low security requirements

Special Visit - A visit that occurs when the regular visiting schedule cannot accommodate it, or a visit that is an exception to the normal visiting rules; special visits require prior authorization by the Facility Unit Head or designee. These visitors may include, but are not limited to, attorneys, clergy, former or prospective employers, sponsors, parole advisors, re-entry supporters, or business representatives.



VACORIS - The computer-based Virginia Department of Corrections inmate and probationer/parolee information management system

Visitor Suspension - A prohibition of an individual's contact visiting privileges for a set time period of no more than three years.



PURPOSE

This operating procedure provides guidelines for the provision and management of inmate, probationer, and parolee visiting privileges at facilities operated by the Department of Corrections (DOC).

PROCEDURE

I. Visitation Program

- A. Inmate, probationer, and parolee visitation is a privilege and the DOC encourages such visitation when these visits do not pose a threat to others or violate any state or federal law. When necessary to ensure the security and good order of the facility, the Facility Unit Head may restrict an individual's visiting privileges. (2-CO-5D-01)
- B. Each facility's visitation program must not allow for the discrimination of inmates, probationers and parolees and/or their visitors, on the basis of a person's disability, in the provision of facility services, programs, and activities administered through the visitation program. (5-ACI-5E-02)
 1. Reasonable accommodations must be provided to allow visitors who are disabled to participate in the visitation program.
 2. Search areas should be equipped with pull up bars meeting the Americans with Disabilities Act (ADA) standards to assist in the transfer of a visitor into and out of DOC-owned wheelchairs, when required. DOC staff may assist in the transfer but must not lift the visitor.
 3. Reasonable accommodations must be provided for inmates, probationers, and parolees with communication disabilities to permit effective communication with their visitor.
 4. Service or guide animals that are required for visitor use during visitation are permitted with prior approval of the Facility Unit Head.

C. Institution Visitation Program

1. Each institution's visitation program provides inmates with opportunities for involvement with family, friends, as well as other individuals through a special visit process, and allows for inmate participation in community activities before final release. (4-ACRS-5A-16[I])
2. Inmates with disabilities will not be denied visitation with family members by placing them in distant institutions where they would not otherwise be housed; this does not preclude gathering groups of inmates with similar special needs, e.g., dialysis, geriatric, deaf and hard of hearing into one or more locations where special resources can be provided to meet those needs.
3. Each institution has a visiting area for contact visiting and, if necessary, a visiting area for non-contact visiting. (5-ACI-2E-03, 5-ACI-7D-16)
 - a. Contact visiting areas permit informal communication between the inmate and their visitors and provides the opportunity for physical contact.
 - b. Non-contact visitation areas in the institution do not permit physical contact and are for use in instances of a substantiated security risk only.
4. Each institution has a visitor and an inmate processing area that provides adequate space to permit the screening and searching of both inmates and their visitors. (5-ACI-2E-03)
5. Each institution provides a space for the proper storage of visitors' coats, handbags, and other personal items not allowed into the visiting area. (5-ACI-2E-03)
6. Written information on an institution's visitation program is available to inmates and their visitor(s); see Attachment 1, *Inmate Visitor Information Brochure*.
7. The *Inmate Visitor Information Brochure* provides inmates and their visitors with information and guidance on the following:
 - a. Visitor Approval - Visitor Online Application Process for Institutions, Inmate Visiting List, Visitor



Eligibility, and Sex Offender Visitation Approval

- b. Transportation Options - Personal Vehicles, Assisting Families of Inmates (AFOI) Transportation Program, Public Transportation Services (5-ACI-7D-22)
 - c. Visiting Schedule - General Population, Restorative Housing Visitation, Special Status Inmate Visitation, Institution Specific Visitation (Specialized Populations) (5-ACI-7D-15)
 - d. Admission Requirements - Identification Requirements, Admission of Minors, Approved Visitor Attire, Authorized Items (5-ACI-7D-15)
 - e. Visitation Screenings and Searches - Inmate Visitors, Mobility Impaired Visitors, Service or Guide Animals
 - f. Visiting Room Operation - General Guidelines, Prohibited Conduct, Supervision of Minors (5-ACI-7D-15)
 - g. Alternate Visitation Methods - Video Visitation Program, Non-Contact Visitation, Non-Contact Video Visits
 - h. The visitation program varies by institution to accommodate for the structural design, operational needs, security level, and mission of the institution; the institution specific *Inmate Visitor Information Brochure* provides additional information for that institution as follows:
 - i. Information on transportation services to the institution: AFOI and Public Transportation Services (5-ACI-7D-22)
 - ii. Information on an institution's visitation allocation system, when utilized
 - iii. Maximum number of visitors allowed to visit with each inmate at one time; specifying adult and minor if so restricted based on space requirements, limits on the number of visits each inmate may have per day if applicable, total number of inmate visiting hours per month by security level (5-ACI-7D-14, 5-ACI-7D-15)
 - iv. Visiting information for Restorative Housing Units to include available days, hours of operations, and maximum number of visitors
 - v. Visiting information for other special status inmates to include available days, hours of operation, contact or non-contact visitation and video visiting, and maximum number of visitors, when applicable
 - vi. Visiting information for specialized populations e.g., Security Level S, SDTP, STAR, Death Row, etc. to include available days, hours of operation, contact or non-contact visitation and video visiting, and maximum number of visitors when applicable
 - vii. Specific hours of operation for home internet video visitation
 - viii. Address/phone number, and directions to the institution (5-ACI-7D-15)
 - ix. Procedure for how visits are terminated (5-ACI-7D-14)
 - x. Rules prohibiting visitors of one inmate sending funds to or receiving funds from another inmate unless they are documented members of the immediate family and have prior approval from the Facility Unit Head
 - xi. Process for special visits, for example: family emergencies (5-ACI-7D-15; 4-ACRS-5A-18[I])
 - 8. Within twenty-four hours of arrival to any institution for reception or transfer, staff must provide a copy of the institution specific *Inmate Visitor Information Brochure* to the inmate and must make additional copies of the *Brochure* available, upon request, for inmates to send to their visitors by mail. (5-ACI-7D-15)
 - 9. Staff must make copies of the institution specific *Inmate Visitor Information Brochure* available to visitors in the visitor entry area and upon visitor request.
- D. Community Corrections Alternative Program (CCAP) Visitation Program
- 1. CCAP staff will provide probationers and parolees with information on the CCAP's visitation program during orientation; see 940.4, *Community Corrections Alternative Program*.
 - 2. Each CCAPs visitation program provides probationers and parolees with opportunities for



involvement with family as well as other individuals through a special visit process, and allows for participation in community activities before final release. (4-ACRS-5A-16[CC])

- a. Due to the structured and short-term nature of CCAPs, certain variances are authorized.
 - b. The provisions contained in this section apply only to CCAPs.
3. Probationers and parolees may visit with immediate family members who are approved to visit with a specific probationer/parolee participating in the CCAP.
 - a. Within three days of arrival, probationers and parolees are required to submit for approval to their assigned Counselor, P&P Officer, or other designated facility staff member, a listing of those persons that the probationer or parolee requests approval for visiting privileges.
 - b. Each CCAP Facility Unit Head may place additional limits on authorized visitors based on the facility mission and visiting space limitations.
 - c. CCAPs do not use the visitor application process or VACORIS Visitation-Volunteer Module.
 4. Each Facility Unit Head will develop procedures for the effective management of probationer and parolee visiting that includes at a minimum the following requirements:
 - a. Visitation Schedule - Visitation will occur on Saturdays or Sundays, any alternating weekend visitation schedules to reduce overcrowding in the assigned visiting area, when used at the facility.
 - b. Visitation Hours - Visiting hours should be held a minimum of four hours per month and a maximum of 16 hours per month, each probationer and parolee who receives a visit will be provided a minimum of one hour of visiting per scheduled visiting day.
 - c. Special Visits - The request and approval process for special visits to include clergy, former or prospective employers, sponsors, confidential contact with attorneys and their authorized representatives, or individuals not on an approved visiting list. (4-ACRS-5A-18[CC], 4-ACRS 6A-01[CC])
 - i. The Facility Unit Head or designee must approve all special visits.
 - ii. Staff will schedule a day and time for the visit s at the same time they approve the request.
 - E. Adult crime victims/survivors who do not wish to participate in regular on going visitation may request a one-time facilitated meeting; see Operating Procedure 021.2, *Victim/Offender Dialogue*.

II. Visitor Approval Process - Institutions

A. Visitor Online Application Process

1. All visitors to include minors must apply and receive approval from the Central Visitation Unit before attempting to visit with an inmate.
2. The Central Visitation Unit receives, and reviews all visitor applications for compliance with this operating procedure.
3. The Central Visitation Unit staff member review will include but is not limited to the following:
 - a. VCIN background checks on all visitors over the age of 15
 - b. Check of suspended visitors
 - c. Check of VACORIS database
 - d. Check of gang/security threat group databases
 - e. Check of staff databases
 - f. At the discretion of the Central Visitation Unit, review by Facility Unit Head or designee where the inmate is currently housed
4. Visitors who wish to visit multiple inmates who are family members must list each inmate and the family relationship on their online *Visitor Application and Background Investigation Authorization* for processing by the Central Visitation Unit:
 - a. Central Visitation Unit staff will only approve an individual to visit one inmate who is not an



immediate family member; non-immediate family member visits can only be changed once every twelve months.

- b. Central Visitation Unit staff will not approve an individual to visit more than one inmate at the same institution unless, with approval of the Facility Unit Head only, each inmate is an immediate family member of the visitor and the visitor(s) are on both inmate's *Visiting Lists*.

B. Inmate Visiting List

1. All inmates are required to complete and submit an [Inmate Visiting List](#) 851_F12 in order to receive visits while housed in a DOC institution.
 - a. Inmates newly received into the DOC must submit their initial *Inmate Visiting List* within 30 days of arrival at a reception center.
 - b. Inmates, who transfer prior to submitting their initial *Visiting List*, must submit their *List* within seven days of arrival at their first permanent institutional assignment.
 - c. The [Inmate Visiting List](#) 851_F12 must be legible and complete with name, address, and relationship. Staff will return all incomplete and/or illegible *Inmate Visiting Lists* to the inmate, and the inmate will be required to wait until the next submission period.
2. Each *Inmate Visiting List* is limited to a maximum of ten individual adult visitors to include family members and friends.
 - a. All visitors on the *Inmate Visiting List* must have a visitor application, approved by the Central Visitation Unit, on file before staff will allow a visit with the inmate.
 - b. Visitors on the *Inmate Visiting List* who do not have an approved visitor application on file must submit their application online through the DOC public website for processing and approval in accordance with this operating procedure.
 - c. Minor visitors are excluded from the maximum number of ten visitors allowed on the *Inmate Visiting List*.
 - i. In order to visit with an inmate, minor visitors must have a visitor application, approved by the Central Visitation Unit, on file and an approved adult visitor listed on the *Inmate Visiting List* must accompany the minor.
 - ii. Staff will not permit minors to visit until an application is submitted online through the DOC public website for processing approval in accordance with this operating procedure.
3. Inmates may update and submit a new [Inmate Visiting List](#) 851_F12 twice per year in the months of January and July.
 - a. If there are no changes, an inmate is not required to submit a new *Inmate Visiting List* to continue to receive visits.
 - b. Inmates may add or remove a visitor by submitting a new [Inmate Visiting List](#) 851_F12 to their assigned Counselor or designee for review and processing through the Central Visitation Unit.
 - i. The inmate's Counselor or designee will review the *Inmate Visiting List* and confirm that the *List* has no more than the maximum of ten adult visitors and that the inmate has provided the required information for each visitor.
 - ii. The Counselor or designee must return all incomplete and/or illegible *Inmate Visiting Lists* to the inmate for correction prior to submission to the Central Visitation Unit.
 - iii. The Counselor will submit all complete and legible *Inmate Visiting Lists* by email to doc-inmatevisitinglist@vadoc.virginia.gov for processing by the Central Visitation Unit. The Counselor or designated staff will upload the *Inmate Visiting List* as an external document into VACORIS under the *Visitation-Volunteer* Module.

C. Inmates on "Administrative Location"

1. Inmate visitors cannot utilize the online visitor application process through the DOC public website to apply for visitation with an inmate on "Administrative Location" status.



- a. The inmate will submit their [Inmate Visiting List](#) 851_F12 to their assigned Counselor for processing.
 - b. The Counselor will give the inmate an [Adult Visitor Application and Background Investigation Authorization](#) 851_F1, for each of the adult visitors, and a [Minor Visitor Application and Background Investigation Authorization](#) 851_F6 for each of the minor visitors for the inmate to mail to their visitors.
2. The visitor is responsible for completing the *Visitor Application* and returning it by mail to the Central Visitation Unit for processing.
 3. The Central Visitation Unit will not review, process, or hold a visitor's *Application* if the inmate has not first submitted their *Inmate Visiting List*.
- D. After the *Visitor Application* is reviewed, a Central Visitation Unit staff member will send the visitor an email notifying them of their approval and when to visit or notifying them of their disapproval and providing the reason(s) for disapproval.

III. Visitor Eligibility

- A. Visitors with any of the following considerations will not be approved to visit at an institution or a CCAP facility:
1. Conviction of COV §18.2-474.1, *Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons or equivalent offenses in other jurisdictions*
 2. Conviction of COV §18.2-473, *Persons aiding escape of prisoner or child* or equivalent offenses in other jurisdictions
 3. Conviction of COV §18.2-431.1, *Illegal conveyance or possession of cellular telephone or other wireless telecommunications device by prisoner or committed person; penalty*; or equivalent offenses in other jurisdictions
 4. An Existing protective order, CPS/APS ruling, or other no contact order prohibiting contact with the inmate, probationer or parolee
 5. Visitation with more than one inmate, probationer or parolee who is not an immediate family member
 6. Visitation with more than one inmate, probationer, or parolee at the same facility unless each inmate, probationer or is an immediate family member
- B. Visitors with the following history will only be considered for visitation with inmates, probationers and parolees who are family members; visitation with inmates, probationers and parolees who are not family members will be disapproved:
1. Visitors with felony conviction(s) for drug distribution and/or possession may be considered for visitation with immediate family members after three years since the last conviction.
 2. Visitors with felony conviction(s) for drug distribution and/or possession may be considered for visitation with non-immediate family members after five years since the last conviction.
 3. Visitors with any documented history of attempting to smuggle a controlled substance into a facility will only be considered for visitation with immediate family members and only after three years since the last conviction.
- C. The Corrections Operations Administrator or designee in consultation with the Facility Unit Head and Chief P&P Officer, when necessary, must approve for former inmates and probationer/parolees to visit with a current inmate or probationer/parolee.
1. Central Visitation Unit staff, for visitation with an inmate, will review each visitor application and check VACORIS to determine if an individual is a former inmate or on probation or parole supervision.
 2. The Corrections Operations Administrator or designee will review and, on a case-by-case basis,



- approve or disapprove for a valid security reason, visiting privileges for all former inmates, probationers, and parolees.
- a. If there are no pending charges, non-violent former inmates may be considered for approval to visit after completion of parole, probation, or post release supervision.
 - b. If there are no pending charges, former inmates with a violent history may be considered for approval to visit five years after completion of parole, probation, or post release supervision.
 - c. Non-violent and violent former inmates who are immediate family members of an inmate currently housed in an institution may be considered for approval to visit after successful completion of six months on supervision.
3. The Corrections Operations Administrator or designee will consult with both the Facility Unit Head and the Chief P&P Officer for an inmate on active probation, parole, post release, or conditional release supervision.
- D. Any individual currently under any pending indictment or any active pending charge may be restricted from visitation pending resolution of the charges.
- E. The Corrections Operations Administrator or designee, in consultation with the Facility Unit Head, must approve in writing for former staff, contract staff, volunteers, and interns of any DOC Organizational Unit to visit with an inmates, probationers and parolees.
1. Former staff, contractors, volunteers, and interns will not be considered for visitation with an inmate, probationer or parolee who is non-immediate family member for at least one year after their employment or service with the DOC has ended.
 2. Former staff, contractors, volunteers, and interns who were terminated, resigned in lieu of termination, or were barred for fraternization or suspected of fraternization with an inmate, probationer, or parolee will not be allowed to visit for a minimum period of two years after their employment or service with the DOC has ended.
 3. After the required time has passed, the individual may request visiting privileges with an inmate by submitting an online visitor application through the DOC public website. Requests for visiting privileges at a CCAP must be submitted to the Facility Unit Head.
 4. Visitor applications and requests for visiting privileges at CCAPs for non-immediate family members, formerly employed by the DOC, will be reviewed and approved or disapproved on a case-by-case basis.
- F. Prior to a current DOC staff, contract staff, volunteers, and interns submitting an online visitor application to visit with an inmate or a request to the Facility Unit Head of a CCAP, the following must occur:
1. The staff member, volunteer, or intern must submit a written request for permission to visit to their Organizational Unit Head or supervisor if the staff member is the Organizational Unit Head.
 2. If approved, the Organizational Unit Head will contact the Facility Unit Head of the facility where the inmates, probationers and parolees is located for their input.
 3. If approved by the Facility Unit Head, the Organizational Unit Head who initiated the request will forward it to the Regional Operations Chief of the region(s) involved for approval in accordance with Operating Procedure 135.2, *Rules of Conduct Governing Employees Relationships with Offenders*.
 4. The Regional Operations Chief, in consultation with the Central Visitation Unit, will ensure there is no additional relevant information and will issue final written approval or disapproval, and provide a copy to the requesting Organizational Unit Head, the Facility Unit Head, and the Central Visitation Unit Manager.
 5. When a contract staff member requests permission for visitation, the contractors employer must also provide prior written approval.
 6. The Chief of Corrections Operations or Deputy Director, as appropriate, must approve staff, contract



staff, volunteers, and interns not under the supervision of a Regional Operations Chief.

IV. Sex Offender Visitation

- A. Any inmate who has a conviction for an offense that would require them to register in the *Sex Offender and Crimes against Minors Registry* must request and be granted a sex offender visitation exemption before they will be permitted to visit with any minor.
1. The inmate must be at least six months infraction free to be considered for a sex offender visitation exemption.
 2. Inmates with any conviction for a sexual offense that requires registration will only be considered for an exemption to visit with their biological, legally adopted, or stepchildren.
 3. Inmates, with convictions for non-sexual registration offenses, only, may be considered for an exemption to visit with any minor.
 4. There must not be a Court Order restricting such visits.
- B. A sex offender visitation exemption can only be requested through the following process:
1. Inmates who wish to request an exemption to visit with a minor must obtain a [Sex Offender Minor Visitation Questionnaire \(Inmate\)](#) 851_F10 from their assigned Counselor.
 - a. The inmate will complete the [Sex Offender Minor Visitation Questionnaire \(Inmate\)](#) 851_F10 and return it to their assigned Counselor for processing.
 - b. The inmate's Counselor will review the inmate's *Visitation Questionnaire* and determine whether the offense requiring registration is a non-sexual or a sexual offense.
 2. If the offense is a non-sexual offense, the Counselor will notify the Central Visitation Unit by emailing the *Questionnaire* to VisitationApplications@vadoc.virginia.gov.
 - a. The Counselor will instruct the inmate to notify the parent or legal guardian of the minor to submit an online application for themselves and the minor for processing in accordance with this operating procedure.
 - b. Visitor applications received for a minor prior to an inmate's approval for a sex offender exemption will be disapproved.
 - c. The Central Visitation Unit will not hold a visitor application for a minor if the inmate has not requested a sex offender exemption.
 3. If the offense is a sexual offense, the Counselor will provide the inmate with a [Sex Offender Minor Visitation Questionnaire \(Parent/ Guardian\)](#) 851_F11 and will instruct the inmate to notify the parent or legal guardian of the minor to submit an online application for themselves and the minor for processing in accordance with this operating procedure.
 - a. The inmate will forward the [Sex Offender Minor Visitation Questionnaire \(Parent/ Guardian\)](#) 851_F11 to the potential visitor.
 - b. Once the completed parent/guardian *Questionnaire* is returned to the inmate's assigned Counselor, the Counselor will forward the [Sex Offender Minor Visitation Questionnaire \(Inmate\)](#) 851_F10 and the [Sex Offender Minor Visitation Questionnaire \(Parent/ Guardian\)](#) 851_F11 by email to SexOffenderVisitation@vadoc.virginia.gov.
 - i. The *Sex Offender Visitation Mailbox Administrator* will assign the exemption request to an evaluator who will complete an assessment either face-to-face or by videoconference.
 - ii. A copy of the evaluator assignment will be sent via email to the Facility Unit Head and the Sex Offender Program Director (SOPD).
 - c. Once the assessment is complete, the evaluator will forward the completed assessment, [Sex Offender Minor Visitation Questionnaire \(Inmate\)](#) 851_F10, and the [Sex Offender Minor Visitation Questionnaire \(Parent/ Guardian\)](#) 851_F11 to the SOPD or designee.
 - i. A copy of the completed assessment must be sent to the Medical Department for filing in the



inmate's Health Record.

- ii. The assessment may only be released with the approval of the SOPD and in accordance with the dissemination requirements in Operating Procedure 701.3, *Health Records*.
 - (a) Institution staff, who receive a request for a copy of an inmate's assessment, must notify the SOPD.
 - (b) The SOPD will review the inmate's assessment, consult with the Chief of Mental Health Services to determine if the assessment is exempt from release, and notify the staff member of the decision.
 - (c) Copying charges will apply to all inmate record documents provided to inmates and the public.
- d. The *Sex Offender Visitation Committee* comprised of designated staff appointed by the Chief of Corrections Operations will meet at least quarterly to review inmates for a sex offender visitation exemption.
 - i. The committee will review all available information and forward their recommendation for approval or disapproval to the Corrections Operations Administrator.
 - ii. If an inmate is denied a sex offender visitation exemption, the inmate can reapply after one year.

V. Visiting Schedule - Institutions

A. Newly received inmates are not allowed visits for the first 60 days of their assignment to a reception center.

B. General Population Inmates

- 1. The total number of hours an inmate may visit per month will be in accordance with Operating Procedure 801.4, *Privileges by Security Level*.
- 2. Generally, visitation for general population inmates is held for a minimum of 6 hours each visiting day.
- 3. If needed due to the demand for visitation routinely exceeding visiting area capacity, institutions may use an allocation system (alphabetical or numerical) which allows visits for a portion of the inmate population each visiting day.
 - a. Visitors transported by non-profit service providers with which the DOC has an agreement such as AFOI must be allowed to visit on the visitor's scheduled transport day regardless of the institution's allocation system.
 - i. These visitors will be identified by name badges or by a list of riders provided by the transportation service provider.
 - ii. Other visitors arriving at the institution on a day not allocated to that inmate may be allowed to visit subject to space availability and approval of the Shift Commander or above.
 - b. When an inmate receives a visit on a day that is not their normal allocated visiting day, the visit will serve as the inmate's visiting day.
- 4. On a case-by-case basis and as approved by the Facility Unit Head or designee, inmates may request approval in advance for an extended visit based on special circumstance or need, such as infrequent visits and extreme travel distance. (5-ACI-7D-19)

C. Restorative Housing Inmates

- 1. Inmates assigned to a Restorative Housing Unit are limited to non-contact visits, except for visits with their attorney.
 - a. If the attorney has a current attorney-client relationship with the inmate, the Facility Unit Head or designee should approve contact visits with the attorney.
 - b. The Facility Unit Head or designee will only approve a contact visit at the request of the attorney.
- 2. Information on inmate visitation in Restorative Housing Units is available in Operating Procedure



841.4, *Restorative Housing Units*.

D. Special Status Inmates

1. Inmates housed in an institution's infirmary, observation beds, or in a mental health residential or acute care unit may receive visits if approved by the Facility Unit Head or designee.
 - a. The Facility Unit Head will consult with the Health Authority or Mental Health Unit Director, as appropriate, when making decision on visitation.
 - b. The location, length, and circumstances of the visit will be decided on a case-by-case basis.
2. Visits with inmates housed in off-site hospital beds will be in accordance with Operating Procedure 425.2, *Hospital Security* (Restricted).
 - a. The Facility Unit Head or designee, in consultation with the attending physician, must approve all inmate visits for inmates in off-site hospital beds.
 - i. In general, hospitalized inmates may receive visits from immediate family members only.
 - ii. The location, length, and circumstances of the visit will be decided on a case-by-case basis.
 - b. Security ward staff will manage inmate visitation in DOC operated hospital security wards.
 - c. The facility providing security at other hospitals will manage visiting with inmates.

E. Specialized Population Inmates

1. The Chief of Corrections Operations has granted the Facility Unit Head the authority to restrict and grant visiting privileges as incentives for appropriate inmate behaviors at designated facilities and/or for specialized populations.
2. Visitation for inmates assigned to a specialized population setting e.g., Security Level S, Secure Diversionary Treatment Program (SDTP), Steps to Achieve Reintegration (STAR) Program, Death row, etc. is institution specific and can be found in the institution's *Inmate Visitor Information Brochure* subject to the following requirements:
 - a. Inmates, classified as Security Level S, will be limited to non-contact visits, except for contact visits with their attorney provided the attorney has a current attorney-client relationship with the inmate. Contact visits will be approved at the request of the attorney only.
 - b. Inmate housed in death row are authorized contact and non-contact visits with immediate family members and one non-family member approved by the Director.
 - i. The Facility Unit Head or Assistant Facility Unit Head may approve extended visitation periods on a case-by-case basis; the inmate must request the extended visit in advance. (5-ACI-7D-19)
 - ii. Contact visits with an attorney require approval of the Facility Unit Head or designee.
 - c. All inmate visitors must submit an online application and be pre-approved and listed in VACORIS as an approved visitor prior to being allowed to visit with an inmate unless otherwise exempted in this operating procedure.
 - d. All visitors and inmates are expected to follow all rules in the *Inmate Visitor Information Brochure* and this operating procedure.

VI. Admission Requirements

- A. All visitors must register upon entry into the facility and will be subject to a search of their person, belongings, and vehicles by electronic scanning and detection devices, pat-down frisk searches, and contraband detection canines. (5-ACI-7D-21)

B. Identification Requirements

1. All adult visitors and emancipated minors must submit a valid government issued picture identification card to be maintained in a secure location until the visitor leaves the facility.
2. Visitors to an institution will have their government issued identification card scanned into VACORIS.



- a. The name and identification number on the identification card must match the approved visitor's profile information in VACORIS.
 - b. If VACORIS does not show an identification card associated with the approved visitor, the address on the identification card provided at the time of visitation must match the address recorded in their visitor profile.
 - c. If VACORIS shows an identification card associated with the approved visitor but indicates a different address, the address in VACORIS updates automatically when the identification card is scanned.
 - d. If the name and number on the identification card does not match the profile information of a currently approved visitor in VACORIS, the visitor will be given a copy of Attachment 2, *Central Visitation Unit Decline Notification*.
3. Emancipated minors must provide documentation of their emancipation in addition to a valid picture identification card.

C. Admission of Minors

1. Minors must be accompanied by their parent, legal guardian, or other adult who is an approved visitor listed on the inmate's or probationer's/parolee's visiting list.
2. A [*Notarized Statement – Minor Visitor*](#) 851_F4, signed by the minor's parent/legal guardian and notarized, is required for any minor(s) to visit with an inmate or probationer/parolee, unless there is a valid Court Order directing that the child be allowed to visit the inmate or probationer/ parolee without the parent/legal guardian's permission.
 - a. The parent, legal guardian, and any accompanying adult must present the completed *Notarized Statement* or a copy of the Court Order each time the minor is brought to visit.
 - b. By signing the *Notarized Statement*, the parent/legal guardian is certifying their parental status and no further confirmation will be required unless there is reasonable suspicion that person is not the minor's parent or legal guardian.
 - c. The [*Notarized Statement – Minor Visitor*](#) 851_F4 will expire one year from the signature date of the parent/ legal guardian, unless otherwise indicated on the *Statement*.
 - d. The *Notarized Statement* is not valid if the notary's certification was expired at the time of signature.
3. Regardless of accompanying adult, minors will not be permitted to visit if any of the following circumstances exist:
 - a. The DOC is notified of a Court Order prohibiting visits between the child and the inmate or probationer/parolee
 - b. The DOC is notified that the parental rights of the inmate or probationer/parolee for the child have been terminated
 - c. The minor is a direct victim of a violent crime committed by the inmate or probationer/parolee
 - d. The inmate, probationer or parolee is required to register in the *Sex Offender and Crimes against Minor Registry* for conviction of a sexual offense and the minor is not the inmate's or probationer's/parolee's biological, legally adopted, or stepchild
4. Restrictions of this nature, if at all possible, will be documented as an alert in the VACORIS Visitation-Volunteer Module in advance of any visit.
5. When available, identification cards or photographs of authorized minor visitors will be scanned into the VACORIS Visitation-Volunteer Module to aid in identification.

D. Visitor Attire

1. All visitors, to include minors, must dress appropriately for visitation in institutions and CCAP facilities or their visit will be denied for that day's visitation



- a. Clothing must cover from the neck to the kneecaps.
- b. All visitors must wear underwear.
- c. All visitors must wear footwear, bare feet are not allowed.
- d. Watches and all wearable technology devices (i.e. google glasses) are prohibited.
- e. Clothing that resembles inmate or probationer/parolee clothing other than denim is prohibited.
- f. Form-fitting clothes such as leotards, spandex, leggings, and jeggings must be worn under clothing that covers from the neck to the kneecaps and otherwise meets the visitor attire requirements.
- g. The following types of clothing are not allowed to be worn:
 - i. Tube tops, tank tops, or halter tops unless covered by garments that meet the visitor attire requirements
 - ii. Clothes that expose a person's midriff, side, or back
 - iii. Mini-skirts, mini-dresses, shorts, skorts, or culottes (at or above the kneecap)
 - iv. See-through clothing (Clothing that exposes the visitor's undergarments, torso, and/ or skin above the knee caps is prohibited.)
 - v. Tops or dresses that have revealing necklines showing cleavage and/or excessive splits at or above the kneecap
 - vi. Clothing that contains symbols or signs with inappropriate language or graphics, including gang symbols, racist comments, inflammatory communications, etc.
2. The Shift Commander or higher authority must approve any denial of visitation on the basis that the visitor is not appropriately dressed.
3. Visitors may wear hats, caps, scarves and other head coverings coats, jackets, rain gear, shawls, and scarves into visitation or they may place them in a designated location available in the visiting area.
4. Umbrellas are not permitted and must be left in the vehicle.
5. All property brought by the visitors into the visiting area and left in the facility provided designated area is the responsibility of the visitor, neither the DOC nor the facility is responsible for any loss, theft, or damage that may occur.

VII. Visitation Screening and Searches

- A. All inmate, probationer and parolee visitors are subject to search by electronic scanning and detection devices, pat-down frisk searches, and contraband detection canines in order to enter the facility for visitation; see Operating Procedure 445.1, *Employee, Visitor, and Offender Searches* (Restricted).
- B. Inmate, Probationer and Parolee Visitor Searches (5-ACI-7D-21)
 1. Visitors will be required to remove coats, jackets, and excess layers of outer clothing to allow an effective pat-down frisk search.
 2. Visitors will be required to turn all clothing pockets inside out, if the garment construction allows and remove their shoes, as approved by the Regional Operations Chief
 3. Transgender or intersex visitors who have a preference regarding the gender of the staff member conducting the search must notify staff and request that a staff member of their preferred gender conduct the search; this notification and request must be made at each visit.
 4. Visitors may wear hats, caps, scarves and other head coverings into the visiting area
 - a. All hats, caps, scarves and other head coverings will be subject to search prior to the visitor entering the visiting room.
 - b. Visitors who wear a head covering for religious purposes will be required to remove the covering for search and then be allowed to wear the covering in the visiting room.
 - c. Female visitors who wear scarves or veils as a face covering for religious reasons will be allowed to remove the veil in a private area in the presence of a female officer to identify positively the



visitor prior to entry into the visiting room and prior to exiting the facility after visitation.

- d. Visitors who wear wigs or other hair pieces will not be required to remove the hairpiece for search except when there is reasonable suspicion that a further search is necessary as authorized by the Shift Commander.

C. Mobility Impaired Visitors

1. Visitors with mobility impairments should contact the facility before visiting to ensure accommodations are in place.
2. Due to the difficulty of thoroughly searching such devices, visitors requiring the use of walkers or wheelchairs to access the visiting area will be required to use a DOC-owned wheelchair for the visit.
3. Search areas should be equipped with pull up bars meeting ADA standards to assist in transfer into and out of DOC-owned wheelchairs. DOC staff may assist in the transfer but must not lift the visitor.
4. Specialized wheel chairs may be allowed after a reasonable search. These would include chairs that are medically required for a visitor without use of their extremities (e.g. quadriplegic) and or those who are unable to stand at all.

D. Service or Guide Animals

1. Visitors requiring use of a service or guide animal in visitation should request prior approval from the Facility Unit Head by submitting
 - a. Available documentation of need
 - b. Description of services provided by the animal
 - c. Description of the size and type of animal.
 2. The Administrative Duty Officer (ADO) may admit service or guide animals not previously approved at their discretion.
 3. Search of Service Animals
 - a. Staff must not separate the visitor and their service animal during the search process.
 - b. Staff conducting the search will explain the search steps and request cooperation of the visitor in the search process.
 - c. Staff will visually search and may be frisk search, when a visual search is not sufficient to detect contraband e.g. long, fluffy coats, all service animals.
 - d. Any pockets, flaps, etc. on the harness or collar will be thoroughly searched.
 - e. If staff must remove the harness for the search, staff should replace the harness very quickly since removal indicates to the animal they are off duty.
 4. Service or guide animals may be attentive and "on guard" but must not be aggressive or barking excessively. The visitor will be required to leave the visitation area if the animal's behavior is aggressive or disrupting.
 5. Food and/or other treats are not allowed in the visiting room.
 6. Service animals are working and must not be petted.
- E. Visitors who decline to submit to any search required for entry into a facility, is unable to clear a metal/cell phone detector, an anomaly was detected, and/ or a canine alerted and are unable to enter the institution that day for visitation will be provided the opportunity to participate in a 55-minute video visit.

VIII. Visiting Room Operation

A. General Guidelines

1. Each Facility Unit Head will develop protocols for facility visiting room operation consistent with this operating procedure.



- a. Within available resources, adequate waiting areas, chairs, and protection from inclement weather for visitors waiting to be processed into the visiting area will be provided.
 - b. Security Supervisors will carefully screen Corrections Officers before their assignment to visitation.
 - i. Corrections Officers will be screened for their customer service skills and knowledgeable about visitation procedures and practices.
 - ii. Supervisors must monitor the visitation process and re-train or re-assign Corrections Officers as needed to ensure that all visitors are treated courteously and assisted promptly.
 - c. The Facility Unit Head will use signs, video information boards, etc. to provide information to visitors.
2. Inmates, probationers and parolees must be notified and agree to the visit(s) prior to a visitor entering the visiting room.
 - a. Under no circumstances will any private citizen be admitted for visitation or be permitted to visit an inmate or probationer/parolee when they refused the visit, unless there is legal authority such as a Court Order to compel the inmate or probationer/parolee to meet with the visitor.
 - b. When an inmate or probationer/parolee refuses the visit, facility staff will notify the visitor and will not permit the visit; this refusal to visit will be documented.
 3. Facility staff will monitor and control the movement of all visitors within the facility. (4-ACRS-2A-02)
 4. Inmate, Probationer and Parolee Visitation Searches
 - a. All inmates, probationers and parolees will be searched prior to contact visitation.
 - b. Inmates housed in or participating in visitation at Security Level 2 and above institutions will be required to change into a state issue jumpsuit, a pair of state issue socks, and state issue canvas shoes.
 - i. Male inmates will be required to change into state issue undergarments (briefs and undershirt).
 - ii. At the conclusion of visitation, the state issue jumpsuits, undergarments, socks and shoes will be collected from the inmates and appropriately laundered prior to being re-issued to other inmates for use during visitation; currently laundered through Virginia Correctional Enterprises, hospital process.
 - c. Inmates who need to use the restroom during visitation at Security Level 2 and above institutions will be processed from the visiting room and escorted to a separate location where the inmate will be searched prior to and after use of the restroom.
 - i. The inmate will be allowed to return to the visitation area after the required search has been completed.
 - ii. Inmates are only allowed to exit and return to the visiting area one time during their visit.
 5. Accommodations will be made to allow visitors to breastfeed in the visiting room in accordance with COV §32.1-370, *Right to breastfeed*.

IX. Alternate Visitation Methods - Institutions

A. Assisting Families of Inmates (AFOI) - Video Visitation Program

1. In partnership with Global Tel Link (GTL) and the DOC, AFOI offers Home Internet Video Visitation and Visitor Center Video Visitation at all institutions.
 - a. Inmates must meet the following eligibility requirements to be considered for Home Internet Video Visitation and Video Visitation Center visits:
 - i. Initial Reception Inmates are not eligible for video visits
 - ii. Security Level W, 1, 2, and 3 - No restrictions on video visits
 - iii. Security Level 4 and 5 - 6 months infraction free for video visits
 - iv. Security Level S - IM0, IM1, IM2



- (a) IM0 - 1 video visit per month, 6 months infraction free
 - (b) IM1 - 1 video visit per month, 12 months infraction free
 - (c) IM2 - 2 video visits per month, 18 months infraction free
- v. Security Level 6-IM - Closed (Phase 1 and Phase 2) & IM Re-Entry (Phase 1 and Phase 2)
 - (a) IM SL6 Closed & IM Re-Entry Phase 1 - 3 video visits per month, 18 months infraction free
 - (b) IM SL6 Closed & IM Re-Entry Phase 2 - 4 video visits per month, 18 months infraction free
- vi. Security Level S- SM0, SM1, SM2
 - (a) SM0 - Not eligible for video visits
 - (b) SM1 - 1 video visit per month, 6 months infraction free
 - (c) SM2 - 2 video visit per month, 18 months infraction free
- vii. Security Level 6- Step Down Phase 1 and Phase 2, SM Re-Entry, Secure Integrated Pod (SIP), & Secure Allied Management (SAM)
 - (a) SL6, Phase 1 & SM Re-Entry - 3 video visits per month, 18 months infraction free
 - (b) SL6, Phase 2 - 4 video visits per month, 18 months infraction free
- viii. Steps to Achieve Reintegration (STAR) Program
 - (a) STAR Program - 4 video visits per month
 - (b) STAR Step 2 - 3 video visits per week
 - (c) STAR Step 3 - 4 video visits per week
- b. The *Video Visitation Program* provides visitors unable to participate in contact visitation with the opportunity to visit with an eligible inmate through video.
 - i. Video visitation on the weekends between 9:00 a.m. to 2:00 p.m. is for video visits conducted through video visitation centers, only.
 - ii. Video visitation is not to be used for legal visits, as there is no guarantee of confidentiality.
 - iii. All video visits are monitored and recorded.
 - (a) GTL will maintain all video recordings for six months.
 - (b) If there is a violation of DOC operating procedure, that resulted in inmate disciplinary action or a referral for visitation suspension, facility staff must make a copy of the video visit recording to document the violation; the recording must be uploaded in accordance with Operating Procedure 030.1. *Evidence Collection and Preservation*.
- c. Inmates who are or who are potentially required to register on the *Sex Offender and Crimes against Minors* registry are not eligible to participate in the *Video Visitation Program* unless the inmate has been approved as follows:
 - i. AFOI Video Visitation Centers
 - (a) Inmates who wish to visit with a minor through one of the AFOI Video Visitation Centers must be approved by the *Sex Offender Visitation Committee* and have an approved sex offender visitation exemption.
 - (b) If approved, the video visits with a minor will only take place through one of the AFOI Video Visitation Centers.
 - (c) Only adult and minor visitors approved by the Central Visitation Unit may participate in the visit.
 - ii. Home Internet Video Visitation
 - (a) At-home internet video visits are not permitted for registered Sex Offenders and inmates potentially required to register for a sexual offense on the *Sex Offender and Crimes against Minors* registry.
 - (b) Inmates who are required or potentially required to register on the *Sex Offender and Crimes against Minors* registry for a non- sexual offense may be granted a video visitation exemption to participate in home internet video visitation.
 - (c) Eligible inmates who wish to request an exemption must obtain a *Home Video Visitation Exemption Questionnaire* 851_F13 from their assigned Counselor.
 - (d) The inmate will complete the *Home Video Visitation Exemption Questionnaire* and return it to their Counselor for processing.

- (e) If there is a Potential Registry alert in VACORIS, the Counselor will review the *Home Video Visitation Exemption Questionnaire*, make a recommendation as to whether the offense requiring registration is a non-sexual offense, scan, and email a copy to the Sex Offender Registry contact, at the institution, who will determine if registry is required and will update VACORIS accordingly.
 - (f) The Counselor will forward a scanned copy of the *Home Video Visitation Exemption Questionnaire* to VideoVisits@vadoc.virginia.gov and shred the original questionnaire.
 - (g) Sex Offender Screening and Assessment Unit staff will review the questionnaire and approve or disapprove the exemption documenting their decision in VACORIS alerts.
 - (h) Sex Offender Screening and Assessment Unit staff will add the alert indicating approval or disapproval and will upload a copy of the approved *Home Video Visitation Exemption Questionnaire* in VACORIS
 - (i) Once the decision is made, a Sex Offender Screening and Assessment Unit staff member must notify the inmate's Counselor who will inform the inmate of the decision.
 - d. A staff member authorized by the Facility Unit Head and trained on the video visitation system will print the *Visitation Activity Report* each night after the last video visitation session is complete for the next day.
 - i. The staff member, after selecting the facility and AFOI Visitor Centers from the *Visitation Activity Report*, will print copies of the *Daily Report* and will post a copy of this report in each housing unit.
 - ii. Prior to the visit, a Corrections Officer must confirm the inmate's identity.
 - (a) A Corrections Officer will remain in the area to supervise the inmate's video visit at Security Level W-5 institutions.
 - (b) Security Level Security Level 6 and S, Intensive Management (IM), Special Management (SM) and Step Down inmates must be under constant sight supervision during the visit.
 - iii. The inmate must be on time to participate in their video visitation session; the visit cannot be extended due to the inmate or visitor not being on time for the visit.
 - (a) The video visit will begin at the exact time scheduled, if a visit does not begin on time due to no fault of the inmate, staff must enter a note in the video visitation system as to the reason.
 - (b) GTL will only consider a refund when the inmate or the visitor is not able to participate due to no fault of the visitor or inmate, i.e., internet connectivity, equipment failure, etc. GTL will refer to the notes made in the system by staff when considering a refund.
 - e. Visitors who engage in inappropriate behavior during a video visit will be referred to the Facility Unit Head for a possible suspension of visiting privileges for a set period of no more than three years.
 - i. Minor violations will result in a suspension of video visitation for a set period of no more than six months.
 - ii. Serious violations will result in a suspension of video visitation for a set period of no more than three years.
2. Home Internet Video Visitation
- a. Home internet video visitation allows visitors to video visit with eligible inmates at any DOC institution using their personal electronic devices, e.g., desktops, laptops, tablets, and android smartphones; IOS system is not supported.
 - b. The specific hours of operation for home internet video visitation varies by institution as provided in the *Inmate Visitor Information Brochure*. The minimum number of hours that home internet visitation will be made available is as follows:
 - i. Security Level W, 1, 2, and 3 - 12 hours per day, 7 days a week
 - ii. Security Level 4 and 5 - 8 hours per day, 5 days per week to include weekends
 - iii. Security Level 6 and S, IM, SM and Step Down - Inmates have limited video visit access.
 - c. Inmates must meet the following eligibility requirements to be considered for home internet video

visits:

- i. Inmates who are (or are potentially) required to register on the *Sex Offender and Crimes against Minors* registry for a sexual offense are not eligible to participate.
- ii. Inmates in general population will have unlimited access during the institution's designated hours of operation.
- iii. Access for inmates assigned to non-general population housing is based on the inmate's internal status.
- d. Visitors who wish to schedule a home internet video visit must register through GTL's website at <https://vadoc.gtlvisitme.com/app>. Once registered, visitors can schedule home internet video visits with eligible inmates through *GTL - Schedule Visits (1 of 2)* and *GTL - Internet Visits (2 of 2)*.
- e. A visitor's use of video visitation and acceptance of the rules are both consent to the audio/video recording as well as agreement to the visitation rules.

3. Video Visitation Centers

- a. Video visitation centers provide video visitation with inmates housed at all institutions; see Attachment 3, *Video Visitation Visitor Centers*, for available visitor center locations.
- b. Inmates who wish to request a Video Visitation Center visit will contact their Counselor or institutional designee to obtain a [Video Visiting List](#) 851_F5; visitors may obtain a [Video Visiting List](#) 851_F5 from the DOC public website.
- c. The visitor must agree to and sign Attachment 4, *Video Visitation Rules and Dress Code*.
- d. The completed *Video Visiting List*, signed *Video Visitation Rules and Dress Code*, and required fee must be mailed to AFOI for processing and to schedule the visit.
- e. Prior to approving a video visit, AFOI staff will contact the Central Visitation Unit for the following:
 - i. Confirmation that each requested visitor is currently registered in VACORIS.
 - ii. Determination on whether the inmate has a potential registry offense or is required to register as a sex offender.
- f. AFOI will review their video visitation system to determine if the inmate or the visitor has been suspended from video visitation. If either is suspended, the video visit will be disapproved.
- g. Once the [Video Visiting List](#) 851_F5 is approved, AFOI will contact the institution and the visitor to confirm the date and time of the video visit.

B. Non-Contact Visitation

1. Non-Contact Visitation

- a. The Facility Unit Head may restrict an inmate to non-contact visits in any of the following circumstances:
 - i. It is in the best interest of the inmate due to health or mental health treatment needs as recommended by the Physician or Psychology Associate. The Facility Unit Head makes the final decision on such restrictions.
 - ii. The inmate was found guilty of a disciplinary offense related to a contact visit or an offense related to the inmate's contact (mail, phone, visiting) with certain visitors.
 - (a) If the disciplinary offense is related to contact visitation, the inmate may be limited to non-contact visitation for a set period of no more than 180 days.
 - (b) If the disciplinary offense is related to mail or phone contact with a specific visitor, the inmate may be limited to non-contact visiting with that visitor for a period not to exceed 180 days.
 - iii. The inmate is under an enhanced penalty for repeated violations of Category I offense or the inmate is under visiting restrictions imposed for convictions of a 122a, 122b, 122c, 122d, 122e, 122f, or a 198a, 198b, 198c to these offenses; see Operating Procedure 861.1, *Offender Discipline, Institutions*.
 - iv. The inmate's visitor is caught carrying or is detected attempting to carry contraband into the



visiting room.

- (a) First Incident: Non-contact visits with immediate family only for six months
- (b) Second Incident: Non-contact visits with immediate family only for one year
- (c) Third Incident: Non-contact visits with immediate family only for two years
- (d) Fourth Incident and any additional incidents: Non-contact visits with immediate family only for five years
- (e) If an additional incident occurs while the inmate is on non-contact visiting status for a previous incident, the inmate will not be required to complete the previous period of non-contact visiting; the new non-contact visiting period will be imposed from the date of the latest incident.
- v. It is for an approved programmatic purpose to include but not limited to Cognitive Therapeutic Community Program, SDTP, STAR, Restorative Housing Units, Security Level S, etc.
- vi. The Facility Unit Head determined that safety and security could not be maintained otherwise.
- b. Visits between an inmate and an attorney who has a current attorney-client relationship with the inmate cannot be restricted to non-contact, contact visits must be provided when requested by the attorney.
- c. Institutions that do not have permanent non-contact visiting areas must have sufficient portable non-contact visiting booths to accommodate inmates restricted to non-contact visiting.
 - i. Non-contact visiting will be scheduled based on the operational needs of the institution; the Facility Unit Head will allocate a day, time, and location for non-contact visits.
 - ii. The *Inmate Visitor Information Brochure* must identify the day, time, location, maximum length of the visit, the number of visits, and visitors allowed per day for non-contact visiting.
- 2. Non-Contact Video Visitation
 - a. Non-contact video visitation allows a visitor, who for security reasons is unable to enter the institution that day for visitation the opportunity to participate in a 55-minute video visit.
 - b. Due to the limited number of inmate video visiting stations, visitors may be required to wait until a station is available as non-contact video visits are held on the same inmate stations as all other video visits.

X. Special Visits (5-ACI-7D-17; 4-ACRS-5A-18)

A. Eligibility and Approval

1. The Facility Unit Head or designee will establish a process for the review and approve of all special visit requests consistent with the requirements of this operating procedure.
 - a. Facility specific information on the process for special visits must be included in the *Inmate Visitor Information Brochure* for institutions or provided during orientation for CCAP facilities.
 - b. Special visits can include, but are not limited to visits with attorneys, clergy, former or prospective employers, sponsors, and parole advisers as deemed appropriate by the Facility Unit Head or designee as well as any official of the legislative, judicial, or executive branch of the state or federal government on official business with the inmate or probationer/parolee.
 - c. Media visits are not special visits; see Operating Procedure 022.1, *News Media Relations*, and Operating Procedure 022.2, *Offender Access to the News Media*, for guidance on media visits.
2. Submission of an online visitor application and pre-approval through the Central Visitation Unit is not required for a special visit.
3. The Facility Unit Head will not approve a contact visit through the special visit process for any person suspended from visitation during the period of their suspension.
4. Special visits will usually be scheduled during normal working hours on business days.
 - a. The Facility Unit Head or designee may make exceptions for special circumstances.
 - b. Special visits will not be counted toward any visitation allowance.



B. Legal Visits

1. An attorney or representative acting on the attorney's behalf on official business may qualify for a legal visit with an inmate or probationer/parolee.
 - a. An attorney or the attorney's legal representative may request to visit with an inmate or probationer/parolee by submitting a [Legal Visit Request](#) 851_F3 to the Facility Unit Head or designee. (5-ACI-3D-02; 4-ACRS-6A-01)
 - i. In the absence of Court documents requiring the visit, legal visits will be limited to attorneys and legal representatives of law firms with a current attorney-client relationship with the inmate or probationer/parolee.
 - ii. The [Legal Visit Request](#) 851_F3 must be submitted with reasonable advance notice, normally 48 hours but not less than 24 hours, of the intended visit.
 - iii. Visits will occur during normal working hours of the facility unless otherwise approved by the Facility Unit Head or designee.
 - iv. The Facility Unit Head or designee will review the *Request* and notify the attorney or attorney's legal representative of the decision.
 - b. A Court Order is required to take an inmate's or probationer's/parolee's deposition in a facility; video depositions will never be required nor will they be allowed.
 - c. A Court Order is required for an expert to evaluate an inmate or probationer/parolee for a Court proceeding, unless the evaluation is initiated by the DOC or the Office of the Attorney General.
 - d. Attorneys and their legal representatives will be required to present a government-issued identification card in order to enter the facility for a scheduled legal visit.
 - i. An attorney must also present their State Bar Association card.
 - ii. Legal representatives must present a letter on official letterhead signed by the attorney or law firm authorizing the representative to visit on the attorney's behalf.
 - e. Conditions for inmate or probationer/parolee visits with an attorney or a legal representative must maintain the confidentiality of the attorney-client conversations while ensuring proper security and sight supervision. (5-ACI-3D-02; 4-ACRS-6A-01)
 - i. Conversations between attorneys and an inmate or probationer/parolee are monitored only by sight.
 - ii. Attorneys and legal representatives must not give any articles directly to the inmate or probationer/parolee.
 - (a) Legal documents must be searched, not read, by the Corrections Officer supervising the visit who will then hand the documents to the inmate or probationer/parolee.
 - (b) Legal documents must in paper format, no CD's, DVD's, flash drives, or other data storage formats will be given to the inmate or probationer/parolee.
 - f. All photographs and audio or video recordings made at the facility in connection with a legal visit must be requested in advance of the legal visit and approved by the Facility Unit.
 - i. The attorney or attorney's legal representative is responsible to provide documentation of the specific legal necessity to make a photograph, audio, or video recording.
 - ii. This documentation must include the specific court case or other legal authorization and attach any Court Orders.
 - iii. The Facility Unit Head or their designee may contact the Office of the Attorney General for guidance in individual cases.

C. Guidance on other Special Visits

1. Clergy Visits

- a. The Facility Unit Head or designee may require a member of the clergy to provide written verification of their clergy status to qualify for a visit.
- b. A member of the clergy or other official may be approved to perform a marriage ceremony; see



Operating Procedure 801.5, *Marriage Ceremonies for Offenders.*

2. Re-entry Visits

- a. Re-entry visits are special extended visits by immediate family, extended family, or re-entry supporters to assist in re-entry preparation. (5-ACI-7D-19)
- b. Re-entry visits may include in-person or video visits that are supervised or mediated by DOC staff or professionals from other organizations who have been approved by DOC to perform this function.
- c. Re-entry visits will occur at the discretion of the Facility Unit Head and are dependent on the inmate's or probationer's/parolee's needs and the facility's mission.
- d. To be eligible for consideration for a special visit, re-entry supporters must not participate in regular visitation with the inmate or probationer/parolee.

3. Business Representative Visits

- a. Special visits from business representatives may be permitted to enable an inmate or probationer/parolee to protect personal resources or financial interests.
- b. Inmates or probationer/parolees may not actively participate in a business. If there are excessive requests for business visits, or if criminal or illegal activity is suspected, the matter will be brought to the attention of the Regional Administrator.

4. Diplomatic Representative Visits

- a. Inmates or probationers/parolees who are foreign nationals must have access to the diplomatic representative of their country of citizenship through the special visit process; see Operating Procedure 866.3, *Offender Legal Access*. (5-ACI-3D-07)
- b. The Director, Chief of Corrections Operations, and Regional Administrator must be notified of approval.

D. Immediate Family for Special Circumstances - Institutions

1. The Facility Unit Head or designee may grant a special visit for immediate family based on special need or exceptional circumstances such as family members, who have unexpectedly traveled long distances (200 miles or more), or when an inmate's death is imminent.
 - a. Special visits for immediate family, in exceptional circumstances, will be scheduled during normal visiting days.
 - b. In the event of an inmate's imminent death, only, a special visit for immediate family during normal business days and working hours may be scheduled.
2. The family member(s) must complete and submit the online [Adult Visitor Application and Background Investigation Authorization](#) 851_F1 and/or [Minor Visitor Application and Background Investigation Authorization](#) 851_F6.
3. Institutional staff will contact Central Visitation Unit and notify them of the approval for a special visit.
 - a. Institutional staff will request that Central Visitation Unit enter the application into VACORIS.
 - b. Central Visitation Unit staff will enter the application information, conduct a criminal record check, and associate the visitor with the inmate.
 - c. The visitor must not be allowed to enter for visitation until the criminal record check conducted by the Central Visitation Unit is complete.
4. The special visit must be recorded in VACORIS and counted toward the inmate's visitation allowance.

XI. Visitation Denials, Terminations, Suspensions, and Inmate Restrictions

A. Visitation Denials and Terminations



1. Visitors will be denied entry into the facility or, if already in the facility, the visit will be immediately terminated for the following: (5-ACI-7D-14)
 - a. The inmate or probationer/parolee declines the visit.
 - b. The visitor declines to complete the visitor application and/or have their identification card scanned into VACORIS, when required. If the name of the visitor is known then the incident will be documented and the Facility Unit Head notified.
 - c. The inmate or probationer/parolee or visitor appear to be intoxicated or under the influence of a controlled substance.
 - d. The DOC is notified that the inmate's or probationer's/parolee's parental rights for a visiting minor have been terminated.
 - e. Reliable information is received that the visitor or the inmate or probationer/parolee is expected to commit an illegal act. The facility's Regional Administrator must be notified when a visit is denied or terminated for this reason.
 - f. The inmate or probationer/parolee or visitor fails to comply with visiting rules, DOC and facility procedures.
 - g. The visitor is verbally abusive towards staff, other inmates, probationers/parolees, or other visitors.
 - h. The inmate or probationer/parolee commits a disciplinary violation in the visiting room.
 - i. The visitor, inmate or probationer/parolee imposes physical punishment to discipline a minor.
 - j. The demand for visitation exceeds visiting room capacity, overcrowding.
 - i. The visit that began first will be terminated first provided the visit has met the minimum of one hour.
 - ii. The Facility Unit Head may grant an exception to individuals traveling great distances or who have other extenuating circumstances. (5-ACI-7D-19)
2. If circumstances permit, a Supervisor will verbally explain, at the time of the incident, the reason for denying or terminating a visit.
 - a. If the denial or termination is the result of the visitor's conduct, the visitor will not be allowed to visit for the remainder of that day/weekend and may be subject to a suspension of visiting privileges.
 - b. If the inmate's or probationer's/parolee's conduct results in the denial or termination of a visit:
 - i. The inmate should be given a *Disciplinary Offense Report* for any violation(s) committed and may be subject to a visiting restriction.
 - ii. Probationer/parolee conduct will be addressed utilizing a [Probationer/Parolee Conduct Report](#) 940_F15 or [CCAP Violation Report](#) 940_F16, as appropriate; see Operating Procedure 940.4, *Community Corrections Alternative Program*.
 - c. The incident will be documented, and depending on the severity of misconduct, an appropriate incident report completed; see Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*.

B. Visitor Visitation Suspension

1. Inmates or probationers/parolees are permitted to visit with their approved visitors except where there is substantial evidence that the visitor poses a threat to the safety of the inmate or probationer/parolee or the security of the visitation program or facility. (4-ACRS-5A-17)
 - a. The Facility Unit Head may suspend a visitor's contact visiting privileges for a set period of no more than three years for any conduct that compromises the safety of others and security of the facility; the length of the suspension will be based on the seriousness of the violation.
 - i. Minor violations will result in a suspension of contact visiting privileges for a set period of no more than six months.
 - ii. Serious violations will result in a suspension of contact visiting privileges for a set period of no more than three years.



- b. A Headquarters or Regional Office staff member may initiate a visitor suspension for a set period of no more than three years based on visitor activities affecting more than one facility.
 - c. A visitor's contact visiting privileges will be suspended for a maximum period of three years and the visitor will not be allowed to access DOC property if any of the following occur:
 - i. The visitor's conduct compromises the safety of others or security of the facility.
 - ii. The visitor smuggles, conspires to smuggle, or attempts to smuggle contraband into the facility.
 - iii. The visitor assaults staff or others, or threatens them with physical harm.
 - iv. The visitor conspires to assist an inmate to escape or conspires to assist a probationer or parolee to abscond from a CCAP program.
 - v. The visitor has a pending felony or misdemeanor charge or has been found guilty of a felony or misdemeanor that occurred in connection with a visit.
 - vi. The visitor provides false information related to visiting rules or procedures.
 - vii. The visitor damages or attempts to damage DOC property or engages in disruptive behavior while on DOC property.
 - viii. The visitor removes or attempts to remove any item from the facility without authorization.
 - ix. The inmate, probationer or parolee or visitor touches or exposes the breast, unless breastfeeding, buttocks, or genital area during a visit, or engages in any other inappropriate physical or obscene behavior during a visit, including signs, signals, or other behaviors related to gang identification or gang activities.
 - x. The visitor falsifies any information on the visitor application, when applicable.
 - d. The maximum three year period of suspension will be imposed in the following circumstances:
 - i. The visitor smuggles, conspires to smuggle, or attempts to smuggle a cell phone, controlled substance, firearm, or other weapon into a facility.
 - ii. The visitor assaults staff or others resulting in serious physical injury.
 - iii. The visitor assists or attempts to assist an inmate escape.
 - iv. The visitor is convicted of a felony for any behavior that resulted in the suspension.
 - e. Suspension of a visitor's contact visiting privileges for conduct that compromises the safety of others and security of the facility does not have to occur in connection with a visit. Any visitor who conspires, attempts, plans, and/or aides an inmate or probationer/parolee by telephone, mail, or other method in the commission of such conduct may be suspended for a set period of no more than three years.
 2. In addition to visiting suspensions specified above, possible Court proceedings may be initiated against a visitor who violates the law such violations include but is not limited the following:
 - a. Visitors who give or attempt to give a cellular telephone to any inmate may be charged with a felony under COV §18.2-431.1, *Illegal conveyance or possession of cellular telephone or other wireless telecommunications device by prisoner or committed person; penalty*
 - b. Visitors who attempt to give or convey any item to an inmate to help them escape, or in any manner attempt to aid an inmate in escape, either with force or otherwise, may be charged with a felony as specified in COV §18.2-473, *Persons aiding escape of prisoner or child*
 - c. Visitors attempting to give or found to have given to any inmate any items that have not been specifically approved or processed may be charged with a Class I misdemeanor in accordance with COV §18.2-474, *Delivery of articles to prisoners or committed person*
 - d. Visitors who give, attempt to give or conspire to give drugs, firearms or explosives to any inmate may be charged with a felony as specified in COV §18.2-474.1, *Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons*
 3. When the Facility Unit Head suspends a visitor's contact visiting privileges, the Facility Unit Head must provide a written explanation to the visitor and the inmate or probationer/parolee involved to include notification of the length of suspension.
 4. When a Headquarters or Central Office staff member suspends a visitor's contact visiting privileges,



the visitor must be provided a written explanation to include notice of the length of suspension.

- a. If the visitor disagrees with the suspension, the visitor may request a review of the decision by the Corrections Operations Administrator within 30 days of the written notice.
 - b. The Corrections Operations Administrator's decision will be final.
5. Suspended visitors will be allowed to reapply for reinstatement of their contact visiting privileges following the expiration of the suspension.
- a. The visitor may resume contact visitation at the end of the suspension period if their visitor application is still valid and they are on the inmate's *Visiting List* or the approved list of visitors for a probationer or parolee.
 - b. If the visitor application has expired at the end of the suspension period, the visitor must complete a new application through the DOC public website, when required. A new visitor application will not be considered until the suspension period has expired.
 - c. If the visitor is not on the inmate's or probationer's/parolee's visiting list at the end of the suspension period, the visitor will not be allowed to visit until the inmate adds them to their *Visiting List* during the next update period or the probationer/parolee updates their approved list of visitors, as appropriate.

C. Inmate Visiting Restrictions - Institutions

1. Loss of all visiting privileges to include contact, non-contact, and video visiting may be imposed as a penalty for conviction of a disciplinary infraction; see Operating Procedure 861.1, *Offender Discipline, Institutions*.
 - a. The Facility Unit Head has the discretion to grant visiting privileges on a case-by-case basis in special circumstances during the period that the inmate is serving the penalty.
 - b. When an inmate is serving a disciplinary penalty restricting visiting privileges, contact legal visits must be allowed provided the attorney has a current attorney-client relationship with the inmate. Contact visits will only be approved at the request of the attorney.
2. The Facility Unit Head may restrict an inmate to non-contact visitation in accordance with this operating procedure
3. The Regional Administrator, upon request of the Facility Unit Head, may restrict an inmate's visiting privileges to non-contact as follows:
 - a. Any inmate who is convicted or found guilty of the following may be restricted to non-contact visiting for a set period of no more than two years:
 - i. A felony or misdemeanor that occurred during a visit
 - ii. Escape, attempted escape, or conspiracy to escape
 - b. Inmates may be restricted to non-contact visiting permanently for the following:
 - i. A felony conviction for an incident that occurred during a visit
 - ii. An escape, attempted escape, or conspiracy to escape associated with a visit
 - c. The Regional Administrator will ensure that the Facility Unit Head is notified of the decision, and that the decision is entered into VACORIS. The Facility Unit Head must ensure the inmate is notified of the Regional Administrator's determination.
4. If an inmate's visits have been restricted to non-contact, contact visits will be allowed with attorneys and their authorized representatives, when requested by the attorney, provided there is a current attorney-client relationship with the inmate.
5. If an inmate's visits have been restricted to non-contact, contact visits may be allowed with clergy as approved by the Facility Unit Head.

XII. Documentation

- A. Every facility must maintain a record of each visit, showing inmate or probationer/parolee name, DOC



number, visitor name(s), date, and time of every visit. Institutions will utilize VACORIS for documentation.

B. All visitor suspensions and inmate visiting restrictions must be data-entered into VACORIS at institutions.

1. Institution staff will enter the visitor suspension and length of the suspension in VACORIS. Suspensions will be entered based on the visitor and marked with a start and end date of no more than three years, with a reason selected and comments entered to document the reason for the suspension.
2. Inmate visiting restrictions will be entered as a visitation alert with an end date selected for the restriction.

XIII. Appeals and Complaints

A. If a visitor disagrees with a suspension of their visiting privileges, the visitor may submit a written appeal for reconsideration to the Facility Unit Head within 30 days of receipt of the written notice.

1. The appeal should provide any additional information or extenuating circumstances, if applicable.
 - a. If the suspension is the result of a pending felony or misdemeanor charge, the visitor must provide written documentation that the charge was dismissed or that the charge has resulted in a non-guilty finding.
 - b. The Facility Unit Head may require a meeting with the suspended visitor prior to making a decision on reinstatement of visiting privileges.
 - c. If visiting privileges are reinstated, non-contact visits may be required in institutions at the discretion of the Facility Unit Head.
2. If the visitor is not satisfied with the Facility Unit Head's response, the visitor may request within 30 days of the Facility Unit Head's response, that the Regional Administrator review the decision. The Regional Administrator's decision will be final.

B. The Facility Unit Head or the inmate may submit a reconsideration request to the Regional Administrator who may remove an inmate's visiting restriction subject to the following:

1. The reconsideration request will not be considered for at least five years after imposition of the restriction if the restriction is based on a felony that occurred during a visit, or if it is based on an escape, attempted escape, or conspiracy to escape associated with a visit.
2. The reconsideration request will not be considered for at least two years after imposition of the restriction if the restriction is based on convictions for two or more drug related disciplinary offenses.

C. Inmates may address their complaints related to visitation through Operating Procedure 866.1, *Offender Grievance Procedure*.

D. Probationers/parolees and visitors who want to appeal any adverse decision or render a complaint regarding visitation at CCAP facilities may appeal to the Facility Unit Head who will be the final level of appeal. See Operating Procedure 866.2, *Offender Complaints, Community Corrections*, for additional information on probationer and parolee complaints.

REFERENCES

COV §18.2-431.1, *Illegal conveyance or possession of cellular telephone or other wireless telecommunications device by prisoner or committed person; penalty*

COV §18.2-473, *Persons aiding escape of prisoner or child*

COV §18.2-474, *Delivery of articles to prisoners or committed person*

COV §18.2-474.1, *Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons*

COV §32.1-370, *Right to breastfeed*



COV §53.1-67.9, Establishment of community corrections alternative program; supervision upon completion

Operating Procedure 021.2, *Victim/Offender Dialogue*

Operating Procedure 022.1, *News Media Relations*

Operating Procedure 022.2, *Offender Access to the News Media*

Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*

Operating Procedure 135.2, *Rules of Conduct Governing Employees Relationships with Offenders*

Operating Procedure 425.2, *Hospital Security (Restricted)*

Operating Procedure 445.1, *Employee, Visitor, and Offender Searches (Restricted)*

Operating Procedure 701.3, *Health Records*

Operating Procedure 801.4, *Privileges by Security Level*

Operating Procedure 801.5, *Marriage Ceremonies for Offenders*

Operating Procedure 841.4, *Restorative Housing Units*

Operating Procedure 861.1, *Offender Discipline, Institutions*

Operating Procedure 866.1, *Offender Grievance Procedure*

Operating Procedure 866.2, *Offender Complaints, Community Corrections*

Operating Procedure 866.3, *Offender Legal Access*

Operating Procedure 940.4, *Community Corrections Alternative Program*

ATTACHMENTS

Attachment 1, *Inmate Visitor Information Brochure*

Attachment 2, *Central Visitation Unit Decline Notification*

Attachment 3, *Video Visitation Visitor Centers*

Attachment 4, *Video Visitation Rules and Dress Code*

FORM CITATIONS

[Adult Visitor Application and Background Investigation Authorization](#) 851_F1

[Legal Visit Request](#) 851_F3

[Notarized Statement – Minor Visitor](#) 851_F4

[Video Visiting List](#) 851_F5

[Minor Visitor Application and Background Investigation Authorization](#) 851_F6

[Sex Offender Minor Visitation Questionnaire \(Inmate\)](#) 851_F10

[Sex Offender Minor Visitation Questionnaire \(Parent/ Guardian\)](#) 851_F11

[Inmate Visiting List](#) 851_F12

[Home Video Visitation Exemption Questionnaire](#) 851_F13

[Probationer/Parolee Conduct Report](#) 940_F15

[CCAP Violation Report](#) 940_F16



Exhibit 17

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION**

WILLIAM THORPE, *et al.*,

Plaintiffs,

v.

VIRGINIA DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

Civil Case No. 2:20-cv-00007-JPJ-PMS

EXPERT REPORT OF DAN PACHOLKE

TABLE OF CONTENTS

I. INTRODUCTION	2
II. METHODOLOGY AND QUALIFICATIONS	3
III. OPINIONS.....	6
A. THERE IS A NATIONAL MOVEMENT LIMITING THE USE OF SOLITARY CONFINEMENT IN THE CORRECTIONAL FIELD.	6
B. VDOC’S POLICIES AND PROCEDURES GOVERNING THE STEP-DOWN PROGRAM AND RESTRICTIVE HOUSING	12
i. Key VDOC Operating Procedures Do Not Accurately Reflect ACA Standards.....	13
ii. VDOC’s Application of “Evidence-Based Principles” Are Incorrect.....	16
iii. VDOC’s Housing Policies Are Confusing and Overly Complicated.....	21
iv. VDOC’s Disciplinary Procedures Contribute to Indefinite Stays in Segregation..	23
v. Programming in Step-Down Frustrates Prisoners Trying to Progress Out of Restrictive Housing.....	27
vi. The Step-Down Program’s Review Processes are Illusory.	29
vii. The Data Supports Prisoner’s Long Lengths of Stay in the Step-Down Program.	34
viii. Prisoners Report Having Difficulties Grieving Their Length of Stay.....	36
C. CONDITIONS OF CONFINEMENT.....	37
ix. Physical Conditions of Confinement Contribute to Prisoners’ Isolation.	37
x. Staff Retaliation and Abuse is Prevalent.	40
xi. VDOC’s Use of Attack Dogs Is Against Evidence-Based Principles.	42
D. PRISONERS ARE OVERWHELMINGLY UNAWARE OF HOW TO REQUEST ACCOMMODATIONS FOR HEALTH NEEDS.....	43
IV. CONCLUSION	46

I. Introduction

1. I am a consultant and expert in penology with almost thirty-five years' experience in the field of adult institutional corrections. For the class certification stage of this case, I was asked by Plaintiffs to assess the conditions of confinement at Red Onion State Prison ("ROSP") and Wallens Ridge State Prison ("Wallens Ridge") and review the policies and other documentation related to the Virginia Department of Corrections' ("VDOC") restricted housing practices for those prisoners, and assess if the Defendants complied with generally accepted practices, principles, and standards with regard to the management, placement, and retention and conditions in segregation, which is also called confinement, restrictive housing, or most recently in VDOC policy, "restorative housing."
2. I reach the following opinions at the current class certification stage. Prisons should use restrictive housing in a limited way, as a response to the most serious and threatening behavior, for the shortest time possible, and with the least restrictive conditions possible. VDOC's policies governing operations in the Step-Down Program and restrictive housing subject prisoners to unnecessary deprivation well beyond the length of time necessary to address direct threats to the safety of people or the orderly operation of the facility, in part, because they are overcomplicated, are difficult to comprehend, and appear to circumvent the standard limitations on restrictive housing under the guise and misapplication of correctional research. Additionally, the processes outlined in VDOC policy and procedures to assign and review restrictive housing decisions are illusory and have minimal protections for prisoners, which contributes to prisoners' indeterminate lengths of stay in the Step-Down program and restrictive housing.

II. Methodology and Qualifications

3. In order to evaluate how a prison operates, I review the prison's policies and procedures, as well as evaluate how the policies are applied in practice. To complete my analysis, I apply widely accepted correctional practices against the prison's policies, procedures, and practices.
4. I have reviewed and analyzed VDOC policies in the preparation of this report. I also reviewed materials related to the Step-Down Program and management of restrictive housing units ("RHU") within VDOC. A list of the materials I reviewed is attached to this report as Appendix B.
5. I participated in prisoner interviews at Wallens Ridge on December 20, 2021, and in prisoner interviews and a facility tour at ROSP on December 21 and 22, 2021. I conducted interviews with prisoners who agreed to speak to me when I asked them cell-side as I toured the buildings where Security Level 6 and S prisoners are held.
6. I have also relied on my thirty-five (35) years of experience, related training, and related education in the field of adult institutional corrections. This experience includes eight years in administration in the Washington State Department of Corrections ("WADOC"), including as Secretary, Deputy Secretary, Director Prisons, and Deputy Director Prisons, as well as more than twenty years in the following corrections positions: Correctional Officer (2.5 years); Lieutenant (3 years); Captain (6 years); Superintendent (5 years); and Director of Performance Management (4 years). I have performed consulting and expert work in over 20 states and six jurisdictions outside of the continental United States.

7. My correctional experience included responsibility for, and a focus on, people housed in conditions that in VDOC are now referred to as “restorative housing.”¹ Specifically, as a Correctional Sergeant and Captain, I directly managed segregation units. As a Superintendent and Deputy Director, I led efforts to reform the system-wide use of long-term segregation in Washington State. My efforts resulted in an over 50% decrease in the number of people housed in this setting, while also lowering system-wide violence for eight consecutive years. This reform is described in more detail in a U.S. Department of Justice policy paper I co-authored, “More than Emptying Beds: A Systems Approach to Segregation Reform.”² I have published several other articles related to corrections and segregation, including prison safety, restricted housing reform, crisis management, and innovative programs.
8. I have served as a trainer and consultant with the National Institute of Corrections, the Defense Technology Corporation, and New York University. With these agencies, I provided training nationally in emergency operations, security management, leadership, and correctional reform development and implementation. At New York University, I also served as co-director of Segregation Solutions, an initiative that assisted correctional agencies with reducing the use of segregation while also maintaining or improving safety in prison facilities. I am currently a consultant for the U.S. Department of Justice Civil Rights Division advising in its investigations of two state correctional agencies.
9. I have served as an expert witness and correctional consultant for other cases and disputes. I have testified in the following cases:

¹ VDOC Operating Procedure 841.4 August 1, 2021.

² Dan Pacholke & Sandy Felkey Mullins, *More Than Emptying Beds: A Systems Approach to Segregation Reform*, U.S. Dep’t of Justice (May 2016), available at <https://www.bja.gov/publications/MorethanEmptyingBeds.pdf>.

- a. *Strange v. The District of Columbia*, Civil No. 2016 CA 001250 B. (D.C. Super. Ct.).
- b. *Hampton v. Lashbrook, et al.*, Civil No. 3:17-cv-00936-DHR (S.D. Ill.).
- c. *Hall v. Wetzel, et al.*, Civil No. 17-cv-4738 (E.D. Pa.).
- d. *Flores v. Morris et al.*, No. 16-02756 (D. Ariz.).
- e. *White v. Stephens et al.*, Case No. A16CV059 (W.D. Tex.).
- f. *H'Shaka v. O'Gorman et al.*, Case No. 9:17-cv-00108GTS-ATB (N.D.N.Y.).
- g. *Vermillion v. Levenhagen, et al.*, Case No. 1:15-cv605-RLY-TAB (S.D. Ind.).
- h. *Tay Tay v. Baldwin, et al.*, Case No. 19-cv-501 (S.D. Ill.).
- i. *Tate v. Wexford Health Services INC., et al.*, Case No. 16-cv-92 (S.D. Ill.).
- j. *Sanders v. Moss, et al.*, Case No. 16-cv-01366-JBM (C.D. Ill.).
- k. *Monroe v. Baldwin, et al.*, Case No. 19-cv-01060 (C.D. Ill.).
- l. *Hampton v. Baldwin, et al.*, Case No. 3:18-CV-550-NJR-RJD (S.D. Ill.).
- m. *Fletcher v. Whittington, et al.*, Case No. 5:18-cv-01153-SMH-KLH (W.D. La.).
- n. *Harvard, et al v. Dixon, et al.*, Case No. 4:19-cv00212-MW-CAS (N.D. Fla.).
- o. *Tellis, et al v. LeBlanc, et al.*, Case No. 5:18-cv-0541 (W.D. La.).

10. A complete copy of my curriculum vitae is attached as Appendix A.

11. I understand that discovery is ongoing and additional depositions and documents will be secured in the future. I therefore reserve the opportunity to consider additional information obtained in this case as it becomes available, in preparation for filing an expert report on the merits of the case when the fact and expert discovery deadlines in this case are set. I plan to review prisoners' medical, mental health, and institutional files

for those who participated in the step-down program, review prisoners' incident reports, review log books from VDOC officers, and review deposition testimony of prison staff and VDOC officials from this case. I plan to continue reviewing aggregate data regarding prisoners' status level assignments and security classifications within the step-down program, as well as VDOC's current and former policies. If I find it necessary, I will tour the ROSP again, which would include further interviews with prisoners. I understand that discovery is still ongoing, and I anticipate reviewing documents that are produced throughout the course of future discovery. I have used these methods in past cases, and courts have relied upon the reports based on these methods. *See, e.g., Tellis, et al v. LeBlanc, et al.*, Case No. 5:18-cv-0541 (W.D. La.).

III. Opinions

A. There is a National Movement Limiting the Use of Solitary Confinement in the Correctional Field.

12. Special Management Units or Restricted Housing Units should only be used as a response to the most serious and threatening behavior and for the shortest time possible with the least restrictive conditions possible.
13. For decades, efforts have steadily increased to understand and mitigate the use and negative impacts of segregation. This is largely in response to an ever-growing body of research on the effects of segregation, especially use of long-term segregation, on the prisoners living in these conditions, as described below.
14. Another motivator driving this deeper understanding of segregation is cost. In my experience, if segregation units are properly managed, they are the most expensive beds in a correctional system. These units require the lowest staff-to-prisoner ratio to manage

their associated duties, such as regular checks, escorts to any out-of-cell activity (e.g. medical, programming, recreation, showers, classification hearings), cell deliveries (e.g. meals, mail, laundry, commissary, hygiene items), and other security measures. The more restrictive the environment, the more staff are necessary to manage the needs of the people confined in the corresponding unit. In the Federal Bureau of Prisons, it costs \$216.12 a day to house a person in their highest security segregation units compared to \$85.74 to house a person in general population. In Ohio, housing a person in super-max costs \$149 a day, while it costs \$63 a day in general population.³ Similarly in California, an prisoner assigned to a secure housing unit (i.e. segregation) costs \$70,641 per year versus \$58,424 for general population. In Texas, the cost to house a prisoner in administrative segregation is \$61.63 per day versus \$42.46 per day in general population, resulting in a 45% higher cost to house a prisoner in administrative segregation.⁴ In recent years, building on the growing recognition that long-term isolation is harmful, counterproductive, and costly, most states have taken measures to reduce the number of prisoners in these bed assignments and the amount of time prisoners spend in segregation.⁵

³ Alison Shames et al., *Solitary Confinement: Common Misconceptions and Emerging Safe Alternatives*, New York, NY: Vera Institute of Justice (May 2015), at pg. 24, available at https://www.vera.org/downloads/publications/solitary-confinement-misconceptions-safe-alternatives-report_1.pdf.

⁴ Salvadore Rodriguez, *Fact Sheet: The High Cost of Solitary Confinement*, Solitary Watch (2011), available at <https://solitarywatch.org/wp-content/uploads/2011/06/fact-sheet-the-high-cost-of-solitary-confinement.pdf>.

⁵ The Association of State Correctional Administrators and The Liman Center For Public Interest Law at Yale Law School, *Reforming Restrictive Housing: The 2018 ASCA-Liman Nationwide Survey of Time-in-Cell* (October 2018), at pgs. 60-65, 119-122, available at https://law.yale.edu/sites/default/files/documents/pdf/Liman/asca_liman_2018_restrictive_housing_revised_sept_25_2018_-_embargoed_unt.pdf; Eli Hager & Gerald Rich, *Shifting Away from Solitary: More States Have Passed Solitary Confinement Reforms This Year Than in the Past 16 Years*, The Marshall Project (Dec. 23, 2014), available at <https://www.themarshallproject.org/2014/12/23/shifting-away-from-solitary>; *See Safe Alternatives to Segregation Initiative: Findings and Recommendations*, Vera Inst. of Justice (May 2019), available at <https://www.vera.org/publications/safe-alternatives-segregation-initiative-findings-recommendations>; Léon Digard et al., *Rethinking Restrictive Housing Lessons from Five U.S. Jail and Prison*

15. In Washington State, our acuity around this issue was initially informed by the work of Dr. David Lovell and Dr. Lorna Rhodes from the University of Washington, beginning with a study they published in 2000 examining the prisoners WADOC kept in segregation.⁶ Through the latter half of my career, I continued to focus on understanding and mitigating the impacts of segregation and reducing its use overall, a process I described in a U.S. Department of Justice policy paper, *More than Emptying Beds: A Systems Approach to Segregation Reform*. We approached this by examining the people, the reasons, and the context by which people were coming into segregation (the inflow). We also approached this by developing strategies to deter behaviors leading to placement in segregation by increasing the use of incentives, implementing a group violence reduction strategy, and using more graduated sanctions. We reformed the processes we used while people were in segregation, for example, by centralizing reviews, increasing the frequency of retention reviews, and increasing the prisoners' programming and congregate activity to motivate and prepare people for return to general population.
16. One of our best investments was increasing staff training for those who worked in these units. Staff received training on Motivational Interviewing, a counseling technique that is recognized as a correctional evidence-based practice to support behavior change,⁷ and Core Correctional Practices, which are strategies to encourage and support behavior change through the everyday application of "fair but firm" authority, modelling and

Systems, Vera Inst. of Justice 5-8 (May 2018), available at <https://www.vera.org/publications/rethinking-restrictive-housing>.

⁶ David Lovell et al., *Who Lives in Super-Maximum Custody? A Washington State Study*, 64 Fed. Probation 33 (December 2000), available at https://www.uscourts.gov/sites/default/files/64_2_6_0.pdf.

⁷ See Bradford Bogue & Anjali Nandi, *Motivational Interviewing in Corrections: A Comprehensive Guide to Implementing MI in Corrections*, U.S. Dep't of Justice, National Institute of Corrections (February 2012), available at <https://s3.amazonaws.com/static.nicic.gov/Library/025556.pdf>.

reinforcing pro-social actions, problem solving, using resources, and quality interpersonal interactions.⁸ We also provided additional training on recognizing and managing mental health issues. As a result, contacts between staff and prisoners became more meaningful. What used to be cursory interactions delivering meals or conducting an escort, became an opportunity to model pro-social skills and humanize an otherwise coercive environment. Even staff who were initially skeptical came to recognize the value of this approach when they shifted their behaviors; even something as simple as asking how someone was doing that day or saying thank you lead prisoners to respond in turn, and the whole unit became a less volatile and dangerous place to live and work. We also became more intentional in managing how we brought people out of restrictive housing, placing them in “safe harbors” where they were less likely to need to protect themselves, due to gang affiliation or crime of commitment, and thus were less likely to return to segregation. In doing this work, the primary metric we used to measure the impact of our efforts was violence. We were successful at cutting the number of people in segregation by 52% while also reducing violence system-wide by over 30%.⁹ Colorado Department of Corrections also tracked violence, finding that when it decreased its use of segregation by 85%, prisoner-on-staff violence dropped to the lowest it had been since 2006.¹⁰

17. Nationally, prominent mental health professionals have been writing about the psychological impacts of segregation since the late 1980s. Among other organizations monitoring carceral conditions, Human Rights Watch issued a report in 1997, “Cold

⁸ Craig Dowden & D. A. Andrews, *The importance of staff practice in delivering effective correctional treatment: A meta-analytic review of core correctional practice*, International Journal of Offender Therapy and comparative criminology 48(2) (2004).

⁹ Pacholke & Mullins, *supra* note 2.

¹⁰ Shames, *supra* note 3, at pg. 18.

Storage: Super-Maximum Security Confinement in Indiana,”¹¹ which criticized the operations of super-max facilities operated by the Indiana Department of Corrections, and assessed how it failed to comply with human rights standards in the hope of “assist[ing] the people and government of Indiana evaluate their legality, wisdom, and impact.”¹² The report recommended segregation reform in the treatment and conditions of confinement for mentally ill prisoners, lengths of stay, improvements in physical conditions at the facilities, use of “harsh and counterproductive practices,” and monitoring.¹³ The National Institute of Corrections has been offering training on the effects of restrictive housing since the early 2000s.

18. In 2016, the U.S. Department of Justice also issued a set of guiding principles on the use of restrictive housing and stated that segregation should be used only as a last resort, when “officials conclude, based on evidence, that no other form of housing will ensure the inmate’s safety and the safety of staff, other inmates, and the public.”¹⁴

19. The American Correctional Association (“ACA”) is a professional organization for people who work in the field of corrections. In addition to professional development opportunities, it develops standards for correctional facilities, and promote an accreditation process. In 2016, the ACA adopted new performance-based standards¹⁵ for the use of restrictive housing. The latest edition (5th) of the ACA standards fully

¹¹ Human Rights Watch, *Cold Storage: Super-Maximum Security Confinement in Indiana* (October 1997), available at <https://www.hrw.org/legacy/reports/1997/usind/>.

¹² *Id.*

¹³ *Id.*

¹⁴ U.S. Dep’t of Justice, *Report and Recommendations Concerning the Use of Restrictive Housing* (January 2016), at pg. 98, available at <https://www.justice.gov/dag/file/815551/download>.

¹⁵ The full 2016 standards are available online at www.aca.org. Select “Standards & Accreditation,” then “Standards & Committees,” and then select “Restrictive Housing Committee.”

incorporates the new segregation standards.¹⁶ ACA standards do not represent innovative national practices, but instead set the basic practices in which all correctional systems should operate at minimum. The standards reflect several decades of research, litigation, correctional trade publication articles and discussion at conferences, training events, and national and regional correctional professional meetings. In my experience, ACA accreditation is one method to ensure that an agency has written policies and procedures that provide for the most basic measures of safe and humane operations, but it does not mean that these policies and procedures are being adhered to by staff or applied appropriately.¹⁷

20. In my experience, ACA standards represent the “floor,” or minimum baseline the correctional field has set for itself. ACA standards are “self-policing,” as they are written and developed by correctional professionals who determine what correctional standards they wish to bind themselves to. If a prison meets ACA standards, it does not mean that the prison is contemporary and consistent with the ongoing reforms of restrictive housing.

¹⁶ American Correctional Association, *Performance-Based Standards and Expected Standards for Adult Correctional Institutions* (5th ed. March 2021).

¹⁷ I found numerous instances of violations of policy and ACA standards in *Reyes v. Clarke*. See Frank Green, *Settlement reached in case of Virginia inmate allegedly held in solitary for more than 12 years*, Richmond Times Dispatch (January 20, 2021), available at https://richmond.com/news/state-and-regional/settlement-reached-in-case-of-virginia-inmate-allegedly-held-in-solitary-for-more-than-12/article_93863eee-8b8e-55e9-bbbb-e7470265ea5d.html. As another example, footage was released by media earlier this year showing a unit supervisor at Keen Mt. Correctional Center putting his hand on the neck of an inmate in five-point restraints before the camera turning away. That supervisor was not disciplined and later became the Chief of Housing and Programs at ROSP. Choking an inmate and failing to fully record a use of force is certainly in violation of policy and ACA Standards. Patrick Wilson, *DOC refers prison incident to prosecutor in Buchanan; Virginia DOC refers alleged officer choking of inmate to prosecutor for review after RTD obtains Video*, Richmond Times Dispatch (January 23, 2022), available at https://richmond.com/news/state-and-regional/virginia-doc-refers-alleged-officer-choking-of-inmate-to-prosecutor-for-review-after-rtd-obtains/article_f054e53f-e027-5ce5-8b81-d774b3c2f478.html.

21. With a national emphasis on limiting the use of restrictive housing, segregation, and solitary confinement within the correctional field, I now turn my attention to the policies, procedures, and practices of VDOC concerning the Step-Down Program, restrictive housing units, and other forms of segregation at ROSP and Wallens Ridge.

B. VDOC's Policies and Procedures Governing the Step-Down Program and Restrictive Housing

22. Foundationally, a step down program in the correctional context is designed to progress prisoners out of RHUs: more specifically, to help progress those who would cycle in and out of RHUs frequently or had spent long periods of time in them. The Step-Down Program at VDOC contains prisoners who are given security classifications of Security Level S ("Level S"), or "non-scored security level reserved for offenders who must be managed in a segregation setting." The Step-Down Program, too, contains some prisoners with security classifications of Security Level 6. Security Level 6 is the "step down" for Security Level S and is managed in accordance with the Structured Living Unit OP 841.7.

23. Within the Step-Down Program, there are largely two different pathways in which prisoners can be assigned and in which they can progress: Intensive Management ("IM") or Special Management ("SM"). IM assignments are given to prisoners who have "a history and proven capability for extreme or deadly violence [and] will be managed through Security Level S Intensive Management strategies" because "no reliable assessment instrument or set of criteria has been found as of this writing to predict with

certainty the level of danger towards staff or other offenders.”¹⁸ SM assignments are for prisoners who “may display an institutional adjustment history indicating repeated disruptive behavior at lower level facilities, a history of fighting..., and/or violent resistance toward a staff intervention resulting in harm...without the intent to invoke serious harm..., or serious damage to the facility, and where reasonable intervention at the lower security level has not been successful in elimination disruptive behaviors”.¹⁹

i. Key VDOC Operating Procedures Do Not Accurately Reflect ACA Standards.

24. VDOC incorporates and references ACA standards in its operating procedures (“OP”).

Although I found several places within the VDOC OP where an ACA standard was cited, the VDOC procedures did not actually reflect the ACA standard.

25. For instance, ACA Standard 5-ACI-3C-03 states that a rulebook containing all chargeable offenses, ranges of penalties, and disciplinary procedures is given to each prisoner and staff member, is translated into those languages spoken by significant numbers of prisoners, and, when a literacy or language problem prevents an prisoner from understanding this rulebook, a staff member or translator assists the prisoner in understanding the rules. VDOC OP 861.1, which contains the chargeable offenses, penalties and procedures, cites this standard several times. The first reference is in the instruction to upload to their database a form, signed by the prisoner, acknowledging that they have received the policy.²⁰ The second reference is where it states the need to translate the Offender Disciplinary Procedure into other languages, which will be

¹⁸ Virginia Department of Corrections, *Restrictive Housing Reduction Step-Down Program* (February 2020), at pg. 27.

¹⁹ VDOC Operating Procedure 830.A.III, February 15, 2018, VADOC00100520.

²⁰ *Id.* IV.C.2.a.

determined by the Offender Disciplinary Unit.²¹ The third reference is in the instruction that when literacy, language barrier, or other limitation exists, the Hearings Officer should appoint an interpreter, translator, and/or advisor to assist the offender in understanding the disciplinary procedure and as needed the disciplinary process.²²

26. The first OP reference only partially complies with the ACA standard in that it does not require that staff assist prisoners who need help understanding the rulebook. The second OP reference also fails to fully comply with the ACA standard because it does not provide the Disciplinary Housing Unit with guidance as to how they will determine which languages to translate the procedure into. The third OP reference does not reflect what the ACA standard says. By the time a Hearings Officer comes into contact with the prisoner, a disciplinary charge has already been issued. As the ACA Standard states in a comment, “rules and regulations governing prisoner conduct are of limited value unless the prisoner understands them.”²³ For a prisoner with literacy, language, cognitive, or other communication and comprehension challenges, it is fundamentally unfair to wait until after a charge has been issued before ensuring that they have been adequately assisted in understanding the rules.

27. I found another example of VDOC misrepresenting an ACA Standard in VDOC OP 841.4.II.B and OP 425.4.III.A.1. Both state that the goals of RHUs are to 1) manage prisoners in a safe and secure manner; 2) provide a consistent, systems approach to the operation of RHUs in all institutions to maximize positive outcomes in prisoner adjustment; and 3) provide opportunities for prisoners to increase their likelihood for

²¹ *Id.* IV.G.1.

²² *Id.* IV.I.1.

²³ American Correctional Association, *supra* note 16, at pg. 96.

success in a full privilege population. They cite ACA Standard 5-ACI-4B-01, which states that restrictive housing shall be limited to circumstances that pose a direct threat to the safety of persons or a clear threat to the safe and secure operations of the facility.²⁴ By changing the name and adding these seemingly noble goals, VDOC has done something that is actually quite perverse. It is taking away prisoners' liberties, not as a limited response to a direct or clear threat as would be justifiable, but instead for what it has deemed to be the prisoners' own good. It cites the standard regarding the limited use of restrictive housing and then exceeds that standard's limit.

28. In another misrepresentation of an ACA standard, OP 841.4.V.C.2 states that prisoners in a RHU "will be reviewed for step-down statuses and general population placement as soon as the risk is reduced to acceptable level." This section of the OP discusses the formal Institutional Classification Authority ("ICA") hearing that must occur within 10 to 15 working days following an initial assignment to general detention, specifically those that occur at Security Level 3 and above institutions. In this section, VDOC references ACA Standard 5-ACI-4B-31, which states that step down programs should be "offered to Extended Restrictive Housing prisoners to facilitate the reintegration of the prisoner into general population or the community" and describes what these programs should include.²⁵ ACA defines "extended restrictive housing" as more than 30 days.²⁶ By applying this standard to an ICA review that occurs within the first three weeks that prisoner is in the RHU, VDOC misuses the concept of step-down programs. The standard applies specifically to the management of people in extended restrictive housing, not for a

²⁴ *Id.* at pg. 121.

²⁵ *Id.* at pg. 133.

²⁶ *Id.* at pg. 293.

determination of ongoing placement in the RHU. The standard for determining the need for RHU placement is 5-ACI-4B-01, which limits this placement to circumstances that pose a direct or clear threat.²⁷ This distinction is extremely important and is lost in VDOC's complicated system of "restorative" housing and numerous versions of multi-level step down programs.²⁸

29. Although the VDOC OP cite the ACA standards, it is clear from a review of key VDOC procedures that the ACA standards are not properly incorporated with the OP itself.

ii. VDOC's Application of "Evidence-Based Principles" Are Incorrect.

30. VDOC's Step-Down Program purports to use "evidenced-based principles" in the development of the program. However, my review of the program reveals that VDOC misapplies the principles it claims to adopt in the Step-Down Program.

31. The step-down program operations strategy, in Appendix B,²⁹ lists the evidence-based principles, which would be the science that supposedly informed the development of the program. This list mentions principles associated with the risk-needs-responsivity ("RNR") model that was first developed in Canada in the 1980s³⁰ and is now the model in the U.S. that is considered evidence-based practice to reduce future criminal offending.³¹ It also lists "Risk Management and Risk Reduction Principles," the "Social

²⁷ *Id.* at pg. 121.

²⁸ VDOC Operating Procedure 841.4, August 1, 2021; VDOC Operating Procedure 425.4, August 1, 2021; Virginia Department of Corrections, *Restrictive Housing Reduction Step-Down Program* (February 2020).

²⁹ Virginia Department of Corrections, *Restrictive Housing Reduction Step-Down Program* (February 2020), at pg. 40.

³⁰ See James Bonta & D. A. Andrews, *Risk-need-responsibility model for offender assessment and rehabilitation 2007-06* (2007), available at <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/rsk-nd-rspnsvty/index-en.aspx>.

³¹ See U.S. Dep't of Justice National Institute of Corrections, *The Risk-Need-Responsivity Model for Assessment and Rehabilitation*, available at <https://info.nicic.gov/tjc/module-5-section-2-risk-need-responsivity-model-assessment-and-rehabilitation>.

Learning Principle,” “Motivational Principles,” “Systems Perspective,” and “Put in Balance Past Behavior, Change, and Predicting Future Behavior.”³²

32. I do not think a criminologist would agree that any of these principles are being correctly applied to this step-down program, but I will focus on what I am most familiar with – the RNR model. Washington State has been working with the RNR model since the 1990s. It has been the subject of national correctional trainings and publications for over three decades.

33. The RNR model is a systematic approach to reducing the likelihood that prisoners will reoffend in the community following their release. There are three components of the model. The first, risk, refers to an individual’s risk of reoffending as measured by a validated assessment tool. VDOC uses the COMPAS assessment.³³ The second component, needs, is assessed alongside risk to measure criminogenic needs, which are the factors that have been shown to have the biggest impact on future offending. The factors are substance use, antisocial cognition, antisocial associates, family and marital relations, employment, and leisure and recreational activities. The third, responsivity, is a bit more complex, but essential to the model. There are two kinds of responsivity. General responsivity relates to the use of social-learning and cognitive behavioral approaches to address criminogenic needs. Specific responsivity involves matching the delivery and type of interventions with the specific learning styles, motivations, strengths, personalities, and demographics of offenders. Specific responsivity takes into account

³² Virginia Department of Corrections, *Restrictive Housing Reduction Step-Down Program* (February 2020), at pgs. 40-42.

³³ VDOC Operating Procedure 810.1, March 1, 2022, at pg. 3.

gender-responsiveness, ethnic-responsiveness, age-appropriateness, clinical status, and intelligence.³⁴

34. VDOC's policy breaks responsivity out into two components, but its interpretations do not align with the literature. It lists "Offender Management and Program Matching" as one component of responsivity and sorted the Level S population based on identified risks, needs, and characteristics of the target groups. It mentions patterning off "the Nebraska DOC model" and creates four sub-groups³⁵ that "deserve a specific behavior management strategy and specific program strategy."³⁶ I am familiar with Nebraska Department of Correctional Services, but have never heard of the model on which VDOC claims to have based its high-security sorting system. VDOC lists these subgroups as prisoners 1) with potential for extreme and deadly violence or high escape risk; 2) with high profile crimes that received significant media attention; 3) with frequently recurring disciplinary violations; and 4) who intentionally commit disciplinary violations with the goal of remaining in an RHU.³⁷

35. VDOC's subgroups are placement and classification categories, not categories for interventions to address criminogenic needs. These subgroups might be responsive to ROSP's management needs, but it is misapplying an evidence-based principle, applying it completely out of context in a manner that is, to my knowledge, not based in any research of responsivity.

³⁴ D. A. Andrews & Craig Dowden, C., *The risk-need-responsivity model of assessment and human service in prevention and corrections: Crime-prevention jurisprudence*, Canadian Journal of Criminology and Criminal Justice, 49(4) (2007), at pgs. 447; James, N. A. *Risk and needs assessment in the federal prison system*, Congressional Research Service, at pp. 7-5700 (2018), <https://sgp.fas.org/crs/misc/R44087.pdf>.

³⁵ A fifth new sub-group is mentioned but not listed.

³⁶ Virginia Department of Corrections, *Restrictive Housing Reduction Step-Down Program* (February 2020), at pg. 40, bullet 3.

³⁷ *Id.* at pg. 41.

36. The second responsivity component listed in VDOC's policy is applied to "Responsivity Principle, Program Options and Program Planning" and states that "programs and motivational enhancements should be delivered in a way that the offender is most likely to gain and that is directed at an identified need," that it "should not be misused as a tool to reduce idleness alone," and that a "menu of programs...based on the constellation of needs identified in the target population...and connected to the need identified in the offender's case plan" should be implemented. This first part aligns with the responsivity concept, but then VDOC includes concepts that I have never seen applied as responsivity issues or in any guidelines about program options or planning. In this section they also state that "related to the principle of program matching is the idea that management methods should be matched to the offender characteristics." It offers, as an example, that someone who demonstrates "non-violent nuisance behavior" should not be managed the same way someone that "poses a serious risk of extreme or deadly violence" is managed. It goes further, stating that someone with "the history and high potential for extreme or deadly violence cannot be seen as low risk because they have not misbehaved even for an extensive period of time in high security."³⁸

37. Here again, the research related to providing the most effective programmatic interventions to reduce recidivism is being tied to security management in a way that is not done in the literature. Drs. Donald Andrews and James Bonta are two of the Canadian correctional psychologists credited with developing the risk-needs-responsivity model. Regarding punishment, they note that it has many unwanted side effects that work against

³⁸ *Id.* at pg. 41.

the goal of curbing antisocial behavior.³⁹ If the punishment is viewed as unfair and undeserving, it can elicit hate and anger that manifests in unwanted behaviors such as “reflexive aggression toward the punisher”.⁴⁰ Research has found that reinforcing desirable behavior is more effective than punishing unwanted behavior because reinforcement can shape new behaviors and punishment will only suppress the unwanted behavior.⁴¹ As Drs. Andrews and Bonta have written, given the developmental histories of neglect and abuse experienced by many prisoners, “where is the logic that more of the same will suppress antisocial behavior”?⁴²

38. Prisons are filled with people who have committed murders in the community that do not commit acts of violence when they are behind bars, or who act out when they first come to prison, especially if they are young, and then settle down and do their time more peacefully. Although there are exceptions, in my experience, for the most part, people serving life or long sentences for violent crimes often become “easy keepers.” That is, after accepting that they will be spending most if not all of their life in prison, these prisoners don’t misbehave and even help keep the peace, because they want to have the best life possible behind bars. VDOC is wrong to presume that someone with a history of deadly violence can never be “seen as low risk,” which I assume means managed at a lower security level, after an extensive stint without violations in high security. In fact, according to experts, this management technique can make staff less safe if the prisoners who are subjected to these conditions see their placement as unfair because no matter how long they remain infraction free, their placement can always be justified as necessary

³⁹ Andrews, D., Bonta, J., & Holsinger, A. M., *The psychology of criminal conduct*. (2010), at pg. 458.

⁴⁰ *Id.* at pg. 448.

⁴¹ *Id.* at pg. 450.

⁴² *Id.* at pg. 447.

for safe and secure operations. Perversely, the longer VDOC fails to reinforce these prisoner's positive behavior and continues to punish them by keeping them in segregation where they do not have opportunities to build pro-social skills, the more likely they may be to eventually act out, either from frustration and anger, mental health decompensation, or a combination of both. This management technique is essentially a self-fulfilling prophesy and it is a misapplication of an evidence-based principle that essentially creates an excuse for VDOC to respond more aggressively to violations that occur in IM than it would to the same behavior for a prisoner SM or Level 6.

39. The scientific and evidence-based principles that VDOC claims to rely on do not align with the procedures in the Step-Down Program as described above.

iii. VDOC's Housing Policies Are Confusing and Overly Complicated.

40. I have been reading correctional policies and developing and implementing programs my entire career. This maze of policies and statuses that VDOC has created around its system of restrictive housing is by far the most confusing I have ever encountered.

41. Although VDOC purports to have discontinued the practice of disciplinary segregation, it has created a new form of confinement that is indeterminate and isolated.

42. First implemented in 2016 as a pilot at four facilities before expanding statewide by 2018, VDOC's Restrictive Housing Program formally removed the use of segregation as a disciplinary sanction.⁴³ Disciplinary segregation is a determinate sanction to restricted housing as a punishment for disciplinary infractions. This is a policy change that has

⁴³ Kline, B., et al., *Safe Alternatives to Segregation Initiative: Findings and Recommendations for the Virginia Department of Corrections*, Vera Institute of Justice, Center on Sentencing and Corrections (2018), at pg. 11 & 37, available at <https://www.vera.org/downloads/publications/segregation-findings-recommendations-virginia-dept-corrections.pdf>.

become popular in recent years. Colorado, Nebraska, and Washington⁴⁴ state correctional systems have also eliminated disciplinary segregation.

43. However, the “administrative segregation” to which VDOC has shifted is an indeterminate placement in restricted housing, which could ultimately be to the disadvantage of the prisoners in these units.
44. That is, while this shift could be a potentially positive step towards reducing the numbers and length of stays in restricted housing on paper, it may have the opposite effect in practice, leading to more people spending longer periods in restricted living conditions. With a disciplinary sanction, there is at least an end date to a prisoner’s stay in RHU, similar to having a determinate sentence to incarceration. Without this, placements in RHU are indeterminate, leaving the decision to release subject to the same subjective biases as a parole system.
45. VDOC has come up with all sorts of new names for administrative segregation---general detention, Restorative Housing, Step-down 1, and Step-down 2.⁴⁵ There are additional designations included in the “Segregation Reduction Step-Down Program” outlined in OP 830.A. These designations include Security Level S as a “non-scored security level reserved for offenders who must be managed in a segregation setting” that includes IM, SM, and Level S Reentry Unit.⁴⁶ Security Level 6 is the Security Level S Step-down and is managed in accordance with the Structured Living Unit OP 841.7. On SL6, prisoners

⁴⁴ When WADOC ended the use of disciplinary segregation in 2021, it based this decision on data analysis that showed that the average length of time given in disciplinary segregation was 11 days for non-violent infractions and 16 days for violent ones and that most individuals who were given a sanction of segregation were given credit for time served and returned to general population. *See PRESS RELEASE: Washington State Department of Corrections Ends Disciplinary Segregation*, Washington State Department of Corrections, September 20, 2021, available at <https://www.doc.wa.gov/news/2021/09302021p.htm>.

⁴⁵ VDOC Operating Procedure 841.4, August 1, 2021.

⁴⁶ VADOC-00003146.

are assigned to IM SL6 Closed Pod, Secure Integrated Pod (“SIP”), Secured Allied Management (“SAM”), or Step-Down Pods Phase 1 or Phase II. For prisoners identified as being Seriously Mentally Ill (“SMI”), there is an Acute Care Center at Marion Correctional treatment Center, Mental Health Residential Treatment Units, or Secure Diversionary Treatment Program (“SDTP”).⁴⁷ A document that apparently governs the ROSP and Wallens Ridge Security Level S and Level 6 Operations Strategy titled *Restrictive Housing Reduction Step-Down Program: Guided by Evidence-Based Practices, “Partnering Science with Corrections,”* outlines a complicated system of committees conducting reviews and making recommendations.⁴⁸

46. The policies and programs it operationalizes should contain sufficient information so that staff and prisoners know what is expected of them and be conveyed in such a way that they are understandable. VDOC’s policies and procedures are so complicated that they are practically nonsensical, and, as one prisoner noted, “people need to be able to read to comprehend policy changes.” These policy changes are incredibly confusing – even if you can read – and the only thing that is clear about the elaborate system of administrative segregation that VDOC has created is that there is a tremendous amount of discretion and minimal due process, as discussed below.

iv. VDOC’s Disciplinary Procedures Contribute to Indefinite Stays in Segregation.

⁴⁷ VADOC-00003201.

⁴⁸ Virginia Department of Corrections, *Restrictive Housing Reduction Step-Down Program* (February 2020).

47. After reviewing the VDOC procedures and discussing with prisoners, I have found that disciplinary charges – in policy and practice – play a part in the indefinite stays in segregation.

48. The IM and SM “pathways” status level goals include the “responsible behavior goals” of personal hygiene, standing for count, cell compliance, and satisfactory rapport with staff and prisoners.⁴⁹ Not doing these things can result in a category II disciplinary infraction such as disobeying an order (201a), failing to follow facility count procedures (213), or failing to follow facility rules and regulations (243).⁵⁰ Possible sanctions for these infractions include up to 60 days loss of telephone access, visiting, personal electronic devices, commissary, or recreation, or up to 30 days of cell restriction.⁵¹ In my experience, these behaviors can also be signs of mental health decompensation that staff who work in RHUs should be trained to recognize as potentially requiring interventions more appropriate than disciplinary charges.

49. Moreover, there are examples of unclear and conflicting disciplinary policies. The disciplinary policy states that a loss of recreation may not be used to deny a prisoner in RHU out-of-cell exercise as required in VDOC OP 841.4, but then, in the next sentence, it states that prisoners assessed this penalty will not be allowed to participate in recreational activities in their living unit or outside their living unit in the gym or recreation yard.⁵² In essence, this policy both directs staff to deny participation in recreational activities outside of a prisoner’s cell and prevents staff from denying

⁴⁹ VDOC Operating Procedure 830.A.IV.D.3.a & E.5.a, February 15, 2018, VADOC00100520; Virginia Department of Corrections, *Restrictive Housing Reduction Step-Down Program* (February 2020), at pgs. 50 & 55.

⁵⁰ VDOC Operating Procedure 861.1.V.B.

⁵¹ *Id.* VI.A.

⁵² *Id.* VIII.G.2.

participation in recreational activities outside of prisoner's cell. VDOC fails to give clear instructions to prison staff, which leaves the disciplinary choice up to the prison staff's discretion.

50. I didn't find a specific reference to out-of-cell exercise in OP 841.4 other than in section XI.D.6.a, which states that all prisoners will be provided with the opportunity to participate in a minimum of four hours out-of-cell activities, including outdoor exercise, seven days a week. Section 841.4.XI.E states that exceptions are only permitted when found necessary by the Shift Commander and must be documented. The RH Reduction Step-Down Program (Feb. 2020) lists "approved out of cell activities" as a basic requirement on the tables of IM and SM privilege levels,⁵³ but does not give any specific requirement for out-of-cell exercise. I have not found anything that makes it clear to me that prisoners in RHU who receive a sanction restricting their recreation are still getting the one hour, five days a week of out-of-cell exercise time required by ACA Standard 5-ACI-4B-24.⁵⁴ To assess if prisoners in RHU are receiving out-of-cell exercise, I would have to review the RHU logbooks and Individual Inmate Logs or Special Watch Logs where staff are required to note when exercise is accepted or refused.⁵⁵

51. Although disciplinary segregation is no longer a sanction that can be imposed as an official response to an infraction, prisoners in RHU are instead sanctioned to up to 60 days of increased deprivation. In essence, this means that prisoners are deprived of recreation for 60 days and are only allowed to leave for specific reasons, such as showers and call outs. On top of that, they are subjected to longer stays in whatever level of RHU

⁵³ Virginia Department of Corrections, *Restrictive Housing Reduction Step-Down Program* (February 2020), at pgs. 49 & 54.

⁵⁴ ACA at pg. 131.

⁵⁵ VDOC Operating Procedure 425.4.XI.D.6.c.

they are assigned or can be placed in a more restrictive level as a response to receiving a disciplinary violation because they aren't meeting the disciplinary behavior "goals" required for them to stay at their current level or progress to a level with less restrictions.⁵⁶

52. Remaining charge-free in segregation is difficult because you can get infracted for inconsequential actions, such as yelling to someone in another cell or trying to get a staff member's attention by banging on a cell door. Discipline in these lockdown conditions can also be used by staff as a form of abuse and retribution because there are few witnesses, cameras do not cover all areas, and even when there is video, it is often impossible to see exactly what happened.

53. In my interviews, I heard many accounts of discipline being used abusively or unfairly enforced. One prisoner told me that he would just like "equal treatment" and for staff not to "lock people up for things they did not do." Another that "different people treated different," which I took to mean that discipline was not administered consistently or fairly. I was told that staff would give them an order and put their hands on them at the same time, that violations can be easily imposed on them because they are "behind the door," and that staff would "fabricate violations that fit your history." Another person who told me that he received charges for things he did not do explained "if they don't want you to leave, you're not leaving." As another described, "one of their favorite things is to put a threatening charge on you for nothing." I was told that disciplinary charges "keep you in the program and resets your clock" and that sometimes they "get bogus

⁵⁶ Virginia Department of Corrections, *Restrictive Housing Reduction Step-Down Program* (February 2020), at pgs. 50 & 55; VDOC Operating Procedure 830.A February 15, 2018 (IV.D.3.a.i, D.4.a, E.5.a.i, E.6.a.), VADOC00100520.

charges just to keep the program going.” What these prisoners, and I am quite sure VDOC staff know, is that “the program” is just a euphemism for segregation.

v. Programming in Step-Down Frustrates Prisoners Trying to Progress Out of Restrictive Housing.

54. Prisoners in the Step-Down Program are repeatedly forced to restart the same programming available to them, resulting in their progress in the Step-Down Program frequently being undone.

55. I asked the prisoners about the programming available to them, and most told me that they had done the Challenge Series multiple times. The only cognitive behavioral programming listed as available to prisoners at Level S is the in-cell Challenges Series and Life Skills journals.⁵⁷ The Challenge Series is seven journals and Life Skills is a video, a self-assessment journal and four additional journals completed primarily within a prisoner’s cell. Although policy states that “more effective programming is possible” with increased direct contact with a counselor or in facilitated groups,”⁵⁸ for prisoners in IM, in-cell programming is the only option until the prisoner’s “pattern of programming and motivation are better understood” and the counselor and prisoner “rapport has had time to be established.”⁵⁹ Given the minimal staff contact that prisoners receive from staff for their reviews, as I will discuss in more detail in later paragraphs, it is not clear to me how this better understanding and rapport building can take place. Several prisoners also told me that they had worked on their GED in their cell, including one prisoner that said

⁵⁷ Virginia Department of Corrections, *Restrictive Housing Reduction Step-Down Program* (February 2020), at pgs. 20-22.

⁵⁸ *Id.* at pg. 20.

⁵⁹ *Id.* at pg. 22.

he had attended classes in the past every other week in a secure chair. Some shared that they had been or were in levels where they had received anger management, Thinking for a Change, and some mental health groups in the pod.

56. However, there seemed to be a lot of back and forth from Level S to Level 6 and the SIP and SAM units. Prisoners explained that they had to redo the Challenge Series every time they were moved back to Level S. I was told that “if you get a violation, they make you restart programs.” If this is the case, programming is being used as a punishment rather than an evidence-based intervention. I am not aware of the penological benefit of having someone complete the same programming repeatedly, especially if it involves filling out the same workbooks alone in a cell. It frustrates the prisoners, delegitimizes the program, and limits the effectiveness of the curriculum.

57. Some had been able to participate in programming in the security chairs or programming cages in the past, but it was infrequent and others had never been to programming outside their cell. As one prisoner noted, when you are just told to complete workbooks, “it’s like facing your problems alone.” Another prisoner who had been able to participate in a group program in the past told me it was “weird” because the “CO’s who assault us may be teaching the class.”

58. As I noted earlier, step down programs were developed to get people out of RHUs, specifically those who would cycle in and out frequently or had spent long periods of time in them. Some of the inmates I interviewed spoke positively about a few of the programs they had received outside of their cells, but nobody I spoke with seemed to think the programming was helping them get out of RHU. They were obviously frustrated by the requirement that they complete the same workbooks every time they were moved

back to a more restrictive level and my impression was that this contributed to their skepticism about the programming.

vi. The Step-Down Program's Review Processes are Illusory.

59. Despite VDOC procedures mandating processes to assign and review placement in the Step-Down Program, these processes are illusory. As discussed, many reviews do not have any prisoner involvement, and the one review process that incorporates prisoner input is, in practice, not meaningfully performed.

60. Prisoners in the step-down program at ROSP and Wallens Ridge receive bi-annual reviews by an External Review Team (“ERT”).⁶⁰ The ROSP warden makes the decision to reassign Level S to Level 6 and makes the recommendation for reassignment from Level 6 to Level 5, which must then be reviewed by the regional operations chief.⁶¹ There is a Dual Treatment Team (“DTT”) that reviews and makes recommendations for an “appropriate pathway” for prisoners in Level S orientation, and assigning prisoners from IM and SM to Level 6 statuses.⁶² The policy explicitly states that its recommendations are to be reached through “dialogue and consensus” and not a “voting majority.”⁶³ The decisions are the responsibility of the wardens and regional operations chief.⁶⁴ The DTT meets “as circumstances deem necessary,” and it is instructed to consider the prisoner’s “motivators and triggers,” “institutional adjustment history,” “history of street behavior

⁶⁰ *Id.* at pg. 9.

⁶¹ *Id.* at pg. 10.

⁶² *Id.* at pg. 11.

⁶³ *Id.*

⁶⁴ *Id.*

and crimes,” the prisoner’s “intent in addition to the results of their actions,” and their COMPAS assessment results.⁶⁵

61. There is also a Building Management Committee (“BMC”) comprised of people directly involved in the operations of a specific unit at ROSP.⁶⁶ It is responsible for making recommendations about assigning prisoners in SM to levels SM0 or SM1, and prisoners in IM to levels IM0, IM1, or IM2.⁶⁷ The BMC assigns prisoners to “earlier levels due to excessive disciplinary behavior or unsatisfactory performance”, prepares recommendations for the DTT and ICA, discusses and adjusts individual prisoners’ incentives and sanctions, including the removal of prisoners from security protocols prior to being returned to “normal status.”⁶⁸ These decisions are then the responsibility of the Chief of Housing and Programming.⁶⁹ Like the DTT, the BMC is also directed to make its recommendations through dialogue and consensus rather than a vote and is instructed to default to the “safer options” if it cannot reach a consensus.⁷⁰ Each Level S prisoner receives a review by the ICA at least every 90 days “to ensure that the reclassification of Level S offenders is consistent with policy).⁷¹

62. All inmates in VDOC custody receive an annual review conducted by their assigned counselor to update their Home Plan, Employment Plan, Re-entry Timeline, Re-entry Case Plan, emergency contact, and next of kin information. Due process is not required

⁶⁵ *Id.*

⁶⁶ *Id.* at pg. 12.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.* at pg. 13.

but counselors are directed to receive input from the prisoner.⁷² In my interviews, I was told that these are conducted at cell front and last just a few minutes.

63. The ROSP prisoners I interviewed were from various units and levels, and I asked them about their experiences and impressions of all these reviews. One prisoner told me that ERT, DTT, and ICA were all the same people, and that ERT is the only one that matters. He said he had never seen the DTT or BMC. There is no requirement in policy that the BMC meets with the prisoners they are reviewing, but the DTT is required to interview the prisoner as part of their Level S orientation.⁷³ One person I interviewed said he saw the ERT once in 2019. Another said he saw the ERT when he went from IM to SM. Another told me that he had had about three ERT hearings and that he would learn their decision days or weeks later without any “real reason” for the decision. I was told by another prisoner that the ERT had wanted to put him in a unit that was moving him backwards and that, despite having multiple recommendations from mental health staff that he be put in a mental health placement, he had not been placed in one. He said that prisoners have to be approved by security staff to get out in a mental health unit at ROSP.
64. None of the prisoners I spoke with thought the 90-day ICA review was legitimate. This is the only review for which they are supposed to receive notification and due process. For formal ICA hearings, a prisoner must receive notification 48 hours in advance of the hearing, they are advised of their due process rights, including the right to be present at the hearing, to have a staff advisor present, and to call witness.⁷⁴ Nevertheless, the ICA reviews are conducted cell-front and involve a very short, two to three minute exchange.

⁷² VDOC Operating Procedure 830.1.I.B.2.a.

⁷³ Virginia Department of Corrections, *Restrictive Housing Reduction Step-Down Program* (February 2020), at pg. 11.

⁷⁴ VDOC Operating Procedure 830.1.I.2.A., VDOC-00003102.

One prisoner I interviewed said that he is just told what he has completed and that once he had to wait 90 days until his next ICA review to be told the outcome of his last ICA review. Another prisoner said that at each cell-front ICA hearing he is asked if he wants to make a statement and he just says “I want GP [General Population]” and then he gets a form later that “basically says remain in seg[regation].” Another described the same experience in which he is asked if he wants to make a statement, is ultimately told he will be kept in segregation for the original charge, and is not told any information about why he cannot progress. I heard variations of this process over and over:

- “They come to your door and let you know that you are not going anywhere.”
- “Never really get an answer why I don’t progress.”
- “They say things like you ain’t getting out.”
- “They come to your door and tell you what they go[ing to] do.”
- “They tell you the decision like you haven’t completed the requirements to leave.”
- “They never include your comments.”
- “I don’t really press to go to G[eneral] P[opulation]. They aren’t going to release me anyways.”

65. Moreover, for prisoners on the IM pathway of the Step-Down Program, the review criteria’s emphasis on danger assessment undercuts prisoners’ abilities to ever progress out of the Step-Down Program.

66. For prisoners in IM, the policy is all about danger assessment.⁷⁵ According to the operations strategy, prisoners placed in IM based on “a history and proven capability for extreme or deadly violence will be managed through Security Level S Intensive Management strategies” because “no reliable assessment instrument or set of criteria has been found as of this writing to predict with certainty the level of danger towards staff or other offenders” so “the safest strategy is to rely on the evidence based principle that past behavior is one predictor of the likelihood of future behavior.”⁷⁶ The policy then states that, although the restricted housing restraint policies curtail “the opportunity for violence,” the “potential for violence may not be reduced by even an extensive period in Restrictive Housing status.”⁷⁷ It then goes further, “even an extensive period without receiving institutional charges is not considered a trustworthy measure of safety from violent behavior” so “good behavior while managed with Security Level S restraints has not been shown to be a reliable predictor for how dangerous offenders will behave once the restraints are removed.”⁷⁸

67. Prisoners in IM stay in IM unless, at their biannual ERT review, they receive a status change to be placed in SM.⁷⁹ Those that still meet the IM criteria to be assigned to IM “will progress no further than Security Level 6 Closed Pod at this time.”⁸⁰ As noted earlier, the ROSP and Wallens Ridge wardens make the decision to reassign a prisoner at Level S (IM and SM) to Level 6.⁸¹ The policy states that there is a “strong commitment to

⁷⁵ Virginia Department of Corrections, *Restrictive Housing Reduction Step-Down Program* (February 2020), at pgs. 26-28.

⁷⁶ *Id.* at pg. 27.

⁷⁷ *Id.* at pgs. 27 & 28.

⁷⁸ *Id.* at pg. 28.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.* at pg. 10.

develop a model to support an improved quality of life and greater opportunities for self-improvement for this dangerous population” but that “guidelines or models are not available for predicting safety” with this population and that “once the larger Step-Down plan in general is implemented and stable, attention will be focused on additional IM step-down opportunities.”⁸² If an IM prisoner has a “successful and charge free” 12 months in IM Closed Phase I, they may be eligible to progress to Closed Phase II with BMC approval.⁸³

68. This is essentially a catch-22. That is, VDOC posits that the potential for violence may not be reduced by even an extensive period in restrictive housing, however even an extensive period without receiving institutional charges is not considered a trustworthy measure of safety from violent acts so good behavior may not be a good predictor for how dangerous offenders will behave once restraints are removed. This essentially means that a long stay and/or good behavior very well may not lead to your release, and it makes it very clear why none of the inmates I spoke with knew what it would take to be released from ROSP back to GP.

69. The fact of the matter is that prisons are largely comprised of inmates who are serving sentences for violent offenses and these offenders are managed in general population at a high ratio all the time.

vii. The Data Supports Prisoner’s Long Lengths of Stay in the Step-Down Program.

⁸² *Id.* at pg. 30.

⁸³ *Id.*

70. We conducted a data analysis to get a clearer picture of how long people were in Level S at ROSP and Wallens Ridge. Rather than look at a one month snapshot, we examined the number and duration of Level S placements, or Security Level S periods⁸⁴ of stay, from August 1, 2012 to July 2021 in these facilities. We found that in this period, there were 480 prisoners who experienced 638 Security Level S periods of stay. This means that some prisoners experienced more than one placement during this time. The average length of these stays was 1,192 days (3.26 years).⁸⁵

Table 1. Length of Stay Distribution of Periods of Stay in Level S (January 1, 2012-September 30, 2020).

<u>Length</u>	<u>Days</u>	<u># of Security Levels</u>
Under 6 months	<i>Less than 183</i>	74
6 months - a year	<i>183-364</i>	74
1 to 1.5 years	<i>365-546</i>	99
1.5 to 2 years	<i>547-728</i>	79
2 - 3 years	<i>729-1,092</i>	81
3 - 5 years	<i>1,093-1,820</i>	99
5 - 10 years	<i>1,821-3,640</i>	115
10+ years	<i>3,641+</i>	17

71. We then did this same analysis looking at Security Level S and 6 combined. We found that there were 550 prisoners who experienced a total of 600 Security Level S & 6 periods of stay. The average length of these stays was 3,452 days (9.45 years).

Table 1. Length of Stay Distribution of Periods of Stay in Level S & 6 (January 1, 2012-September 30, 2020).

<u>Length</u>	<u>Days</u>	<u># of Security Levels</u>
Under 6 months	<i>Less than 183</i>	67

⁸⁴ Security Level S Periods are defined as the first classification start date and the end date of the last consecutive Security Classification of Segregation or Level 6. A gap of less than 15 days between an end date and the next start date does not constitute a break in Security Classification Period. However, any gap of 15 or more days would generate a new Security Classification Period. Declaration of Peter Graham, Ex. A.

⁸⁵ Declaration of Peter Graham, Ex. A.

6 months - a year	183-364	22
1 to 1.5 years	365-546	60
1.5 to 2 years	547-728	42
2 - 3 years	729-1,092	66
3 - 5 years	1,093-1,820	100
5 - 10 years	1,821-3,640	168
10+ years	3,641+	75

72. This analysis shows that when people are placed in RHU at ROSP and Wallens Ridge they are correct in their perception, as the prisoners I interviewed expressed, that they would not be back in general population soon, if ever.

viii. Prisoners Report Having Difficulties Grieving Their Length of Stay.

73. Despite the evidence described above about the length of prisoners' stays in the Step-Down Program, prisoners report having difficulty grieving their length of stay.

74. The grievance process is the formal mechanism for prisoners to register complaints. Its purpose is to ensure that prisoners' concerns are addressed in a timely manner by the agency and that complaints can be elevated to higher levels of authority if prisoners are not satisfied with the response, so I asked those I interviewed about ROSP's grievance process:

- "If you file a grievance or challenge the system they will violate you... I had to stay six more months for a made-up reason."
- "They basically tell you not to write stuff up."
- "(Staff) say if you file grievances I'll put you back in seg[regation]."
- "Grievances don't get heard"
- "Grievance office makes stuff up, misleads investigation."
- "Hard to get grievance forms."

- “I grieved almost every ICA.”
- “I have filed complaints when staff lied on me.”

75. It is important for prisoners to have the ability grieve their placement in the Step-Down Program. Grievance processes give prisoners a formal way to challenge the fairness of correctional practices, and it gives the institution a way to place value on the prisoners’ input. Retaliation by staff, as suggested by the prisoners I interviewed, undermines the legitimacy of these grievance processes.

C. Conditions of Confinement

ix. Physical Conditions of Confinement Contribute to Prisoners’ Isolation.

76. The cells that are described in this section are designed for isolation and impede any contact or communications outside of the cell.

77. Photograph 1 is a photo of cell front in c-unit at ROSP. The 8’ by 10’ cells are isolated by design, featuring solid steel doors, wide distances separating cells opposite one another, and a small window. The cell door has a window approximately 6” by 24” inch. In addition to the window, there is a port or high security tray slot which is utilized to issue food trays, medicines, toilet paper, laundry and other supplies. Everything issued to a prisoner is delivered at the cell door. This port is also used to handcuff inmates before they are escorted from their cells. The door is solid steel and greatly reduces the ability for a prisoner to talk or converse with people on the outside of the cell unless they yell or raise their voice considerably. Speaking through the crack on either side of the door is somewhat helpful, however it does not allow you to view the person’s face or expressions. Communicating from cell to cell is impossible without yelling or talking through the vent. When I toured ROSP for another case, I went into a cell like the one in

this photo and was able to speak through a cell vent to someone in a cell immediately above the cell I was in when I stood on top of the cell sink.

Photograph. 1. External View of a Cell Door in C-Unit at ROSP. DSC00023.JPG.



78. Photograph 2 is a cell door from the inside of the cell. Here you can also see the writing surface and a call/audio speaker to communicate in the event of an emergency. In interviews, I was told that typically these don't work, or staff don't respond to them.

Photograph 2. Internal View of a Cell Door in C-Building. DSC00027.JPG.



79. Prisoners spend nearly the entire day in their small cells—where they eat, sleep, urinate and defecate—and are subject to strip searches whenever they leave or enter their cell. Prisoners are behind a door like this when they receive their annual review from their counselor. They are also behind this door when they receive formal ICA hearings. When mental health staff make rounds, they ask through this door if the prisoner is thinking about hurting themselves or others before moving on. There is no privacy. The only way to communicate without yelling is to talk through the edges of the door where you can't make eye contact. One prisoner told me he wanted treatment but not in solitary confinement. Another told me that he was in school and that consisted of sliding papers back and forth under the cell door. As one prisoner told me, "it messes with you being by yourself, you become very antisocial and your patience is lower." I was told that the

lights stay from 0530 to 2200 hrs. Prisoners are spending, on average, 1,192 days in these conditions when they are placed at ROSP and Wallens Ridge.⁸⁶

80. Photograph 3 is the showers. When they are allowed to shower up to 3 times per week, they do so in small showers at one end of the concrete “recreation” area containing the combination table-chairs to which the prisoners are shackled when they are in that area, and around which the solitary cells are positioned in a wide U-shape. The whole pod is comprised of concrete and metal and has no windows to the outside world. The doors allow for staff to remove handcuff once the inmate is placed in the shower. The green curtains have been installed for privacy. I was told in interviews that everything was cleaned and toilets were fixed in anticipation of our arrival.

Photograph 3. DSC00060.JPG.



x. Staff Retaliation and Abuse is Prevalent.

81. Almost every prisoner I spoke with described stark conditions and staff abuse and retaliation. Despite being entitled to two hours of recreation a day in the cages, they said

⁸⁶ Declaration of Peter Graham, Ex. A.

that staff retaliated against them for taking it, so they do not go to recreation because “it’s a set-up.” I was told that sometimes staff will say that a prisoner failed a strip search to deny recreation, keep a prisoner’s clothes when they are strip searched, or cancel recreation when “they feel like it.” One prisoner told me that he had not been to recreation for several decades. Another told me that if they go to recreation, eventually they “go to the hole,” which is how prisoners refer to isolation or segregation. Another said he had been assaulted by staff in the back recreation cages. Most told me that they did not go to recreation or went infrequently. Sleeping, reading, watching TV and listening to the radio were the activities most described as filling their day, though one prisoner told me that the first year and a half he had been there he did not have a TV or radio.

82. Several prisoners reported that they were either denied food or that their food was tampered with. “I try not to piss the C[ommanding] O[fficers] off so I can get shower, rec[reation], and food.” “You got[] [to] worry if the C[ommanding] O[fficers] are go[ing to] feed you.” Several told me that they had lost weight. One told me that if someone has a problem with an officer and filed a complaint that they won’t advance you, which I take to mean won’t let you progress to a less restrictive status. Someone who had been at ROSP for many years told us that there was less retaliation than there had been in the last decade, but several prisoners told me that they would be retaliated against for talking with us. “People go[ing to] get in trouble for talking to you. Set up with knives, beat-up, not fed. This is Red Onion.” One person said, “I don’t want what I say to get back to the officers,” I assume because he fears retaliation. Someone else said that “yesterday they told us, if you go over and talk to them we are going to shake down your cell.” Another

prisoner corroborated the other's statement, explaining that "C[ommanding] O[fficers] are going in our cells and messing stuff up because we are coming to talk to you."

Several described being beat by officers.

xi. VDOC's Use of Attack Dogs Is Against Evidence-Based Principles.

83. Before my first visit to ROSP in 2019 for another case, I had never seen attack dogs used in a prison. On that visit and my most recent, some of these dogs ferociously barked and lunged with teeth bared at me and the others in my group. I am not sure how this security technique, which has a historical connection in this country to the hunting of people, fits into VDOC's stated goal of "partnering science with corrections." The only other correctional systems I have heard of that used dogs in this way, Arizona and Massachusetts, ended this practice over 15 years ago.

84. Several of the prisoners I interviewed had scars from dog bites. One prisoner described having the dog released on him when he got into a fight in a lower security level even though he was already on the ground. He had to be hospitalized afterwards. Another with multiple scars from bites described having a dog released on him when he started fighting back after an officer punched him despite a large number of staff responding. Another man, who had been to the hospital after being bit, described how the dogs are used to intimidate prisoners: "you don't know what to do when a dog attacks you – people aren't prepared for it." One of VDOC's "advanced security practices" includes the use of K-9s that are to "be present outside the housing units during any out-of-cell movement including showers, recreation, and movement" to program areas.⁸⁷

⁸⁷ Virginia Department of Corrections, *Restrictive Housing Reduction Step-Down Program* (February 2020) at pg. 13.

85. In the Level S and 6 operations strategy, VDOC states that it is changing the culture of ROSP through the use of “evidence-based principles and programming to engage and promote pro-social behaviors...., changes in the facility operating procedures, and an extensive staff training program.”⁸⁸ If this is what VDOC hopes to accomplish, it must stop using these dogs to intimidate and attack prisoners. Using these dogs requires having staff dedicated to this purpose, staff that, according to contemporary correctional practice, would be better trained and deployed for de-escalation and crisis intervention, or to simply assist with escorts. And more fundamentally, this is a barbaric practice that is about as far away from an evidence-based principle to support pro-social behaviors as you can get. The use of attack dogs makes clear to staff and prisoners that behavior management through intimidation and brute force is an acceptable part of ROSP culture.

D. Prisoners Are Overwhelmingly Unaware of How to Request Accommodations for Health Needs.

86. Mental health and physical well-being of prisoners was an important part of my responsibilities as a correctional officer, supervisor, and administrator. In those positions, I had to make operational decisions that could impact the mental health and well-being of the people in our custody. I relied heavily on what I learned in training and the input and recommendations of clinicians, and I balanced their concerns with the security measures necessary to maintain safe facilities. I was also responsible for ensuring that there were systems in place to make sure we were addressing and accommodating the health needs of prisoners and that these systems were functioning as they should.

⁸⁸ *Id.* at pg. 7.

87. One of the most fundamental examples of systems in place for accommodating health needs of prisoners is the use of Americans with Disabilities Act (“ADA”) coordinators. In my experience, to ensure that prisoners with disabilities are receiving the proper accommodations no matter which security level they are in, ADA coordinators conduct routine meetings with prisoners with disabilities, work with housing and medical staff to identify people who may need accommodation, and respond to grievances. I asked the prisoners I spoke with, many of whom had obvious physical and cognitive deficits or reported that they had a mental health diagnosis, whether they knew who the ROSP ADA coordinator was and how to request an ADA accommodation. The responses were consistent:

- “People say they don’t know what you are talking about when we ask. Haven’t seen an ADA policy”
- “I don’t know what an ADA coordinator is. I’ve never heard of an accommodation.”
- “Never heard of ADA.”
- “I learned about ADA by reading this case. There’s no ADA coordinator at ROSP. I don’t know how to request an accommodation.”
- “ADA coordinator? I don’t believe so.”
- “I don’t think there is an ADA coordinator.”
- “Never heard of that.”
- “Never heard of an ADA coordinator.”
- “I’ve never heard of the person, don’t know the name. I know who the regional person is.”

- “I learned about it the newspaper. Not sure if there is a coordinator here.”
- “I don’t know. No form that I know of.”
- “Never heard of it.”
- “ADA? I don’t think they have one. No form.”
- “Never heard of one.”
- “I have no idea, I would say no.”
- “Never heard of it.”

88. ACA Standard 5-ACI-5E-03 requires that there is a written policy, procedure, and practice to provide for staff and prisoner access to an appropriately trained and qualified individual who is educated in 1) the problems and challenges faced by prisoners with physical and/or mental impairments, 2) programs designed to educate and assist disabled prisoners, and 3) all legal requirements for the protection of offenders with disabilities. The comment to this standard states that this person is someone designated by the warden or other authority to coordinate efforts to comply with the American with Disabilities Act. VDOC OP 801.3 on managing offenders with disabilities is seemingly responsive to this standard. It requires that prisoners receive notice of their rights under the ADA at their orientation and contact information for the facility ADA coordinator in their facility orientation manual.⁸⁹ Yet this standard does not seem to be reflected in practice at ROSP – at least not in a way that prisoners can avail themselves of this assistance.

⁸⁹ VDOC Operating Procedure 801.3.I.C.

IV. Conclusion

89. The prisoners I spoke with at ROSP expressed frustration and hopelessness about when they would ever be able to get out of the black hole that VDOC has dubbed restorative housing. From the prisoners' perspective:

- "I'm stuck, no way to get out. What's the point of me doing anything?"
- "Once you've been here for a while, you always come back."
- "I was told that I would never be released to GP many times."
- "Up here you don't do the time, the time does you."
- "Sometimes you forget what day it is."
- "Long term seg is not for humans. Everybody has a breaking point. The worst part is the walls felt like they were closing in."
- "Sometimes I feel like ending it."
- "I can't remember why I was originally placed in here".
- "No explanation on how to progress out of these units."
- "Not clear why I'm still in, no idea when I'll get out."
- "No clear way to get out. You never know when you can get out."
- "A prisoner has no way to get to general population."

90. Putting aside the semantics, restrictive housing should be limited only as a last resort, as a response to the most serious and threatening behavior, for the shortest time possible, and with the least restrictive conditions possible. The VDOC criteria for release from segregation have substantial flaws as outlined above. In my opinion, experience, and based on the contemporary standard of decency, people should be released from segregation when they no longer pose an imminent threat to other people or the orderly

operation of the institution. The longer people are retained in segregation, the more difficult it is for them to earn their way out through good behavior. Isolation is disorienting and can make it difficult to adhere to the simplest of rules and procedures. It is fundamentally unfair – and unrelated to legitimate penological purpose – to subject people to conditions that cause these difficulties and then further penalize them, especially when most of the resulting behavior causes no direct threat to the safety of people or the orderly operation of the facility.

[illegible]

Dan Pacholke

Date

June 20, 2022

APPENDIX A

DAN PACHOLKE

PROFILE

Served the Washington State Department of Corrections for 33 years, starting as a Correctional Officer and retiring as Secretary. Leader in segregation reform and violence reduction in prisons. Extensive experience in program development and implementation, facility management, and marshaling and allocating resources. Proven ability to make change. Led efforts resulting in a 30% reduction in violence and a 52% reduction in use of segregation in Washington State Prisons. Co-founder of Sustainability in Prisons Project. Champion of humanity, hope and legitimacy in corrections.

EMPLOYMENT HISTORY

Principal, Dan Pacholke Consulting, LLC. 2018 to Present

Offering a full range of consulting services in the field of corrections.

New York University, Litmus at Marron Institute of Urban Management

Associate Director 2016-2017

Collaborate with researchers and practitioners to develop alternatives to segregation and transform corrections management. Advance stakeholder-led research and innovation by soliciting, supporting, and disseminating the best new strategies to create safer, more rehabilitative corrections environments.

Washington State Department of Corrections

Secretary 2015-2016

Governor appointee providing executive oversight of the agency with a yearly operating budget of 850 million and 8,200 full time employees. Reorganized agency to allow for greater emphasis on effective reentry. Led department through response and recovery from a crisis resulting from the discovery of a sentencing calculation error that had occurred for over 13 years.

Deputy Secretary 2014-2015

Oversight over operations divisions: Offender Change; Correctional Industries; Community Corrections (16 Work Releases and 150 field offices); Prisons (15 facilities); and Health Services. These combined operations had a yearly operating budget of 700 million and 7,166 full time employees. Emphasis on core correctional operations, violence reduction, and performance management leadership to affect positive and sustainable system wide change.

Director, Prisons Division 2011-2014

Oversight over 15 institutions and contract relationships with jails and out of state institutions incarcerating approximately 18,000 offenders. Also responsible for providing emergency response and readiness oversight to all facilities and field offices of all divisions. Advanced multi-faceted violence reduction strategy to include the development and implementation of the "Operation Ceasefire" group violence reduction strategy for application in close custody units in prisons. Expanded Sustainability in Prisons Project programs to all prison facilities. Implemented classroom-setting congregant programming in intensive management units.

Deputy Director, Prisons Division 2008-2011

Administrator over 6 major facility prisons, multi-custody level for adult male offenders

with a biennial budget of 290 million. Provided leadership and appointing authority decision making to six facility Superintendents. Through Great Recession implemented staffing reductions, offender movement alterations and cost savings initiatives while maintaining safety and security. Represented the Department in legal issues, labor relations, media, staff discipline hearings, union relations and bargaining. Oversaw statewide operations of Emergency Preparedness and Response, Intelligence & Investigations, Intensive Management Units, Offender Grievance Program, Offender Disciplinary Program, Food Service, Sustainability and Close Custody Operations. Implemented statewide system of security advisory councils and security forums to improve staff safety.

Monroe Correctional Complex

Interim Superintendent 2008

Led a 2,486-bed, multi-custody facility for adult male offenders.

Stafford Creek Corrections Center

Superintendent 2007-2008

Led a 2,000-bed, multi-custody facility for adult male offenders with a biennial budget of 39 million. Implemented Sustainability in Prisons Project initiatives to include large scale composting to include zero-waste garbage sorting. Initiated first dog training programs for male offenders.

Cedar Creek Corrections Center

Superintendent 2003-2007

Led a 400-bed, minimum-security adult male correctional facility, with a biennial budget of 7.3 million.-Directed operational and related program activities to include security and custody programs, medical services, plant maintenance, education, and food service. Co-founded the Sustainability in Prisons Project with Nalini Nadkarni, PhD.

Monroe Correctional Complex

Special Assignment Deputy Superintendent 2002

Formulated new strategic direction in order to enhance operations and security at the Complex, which consists of four separate units and houses approximately 2,300 adult male felons. Managed unit operations and security. Supervised the Intelligence Investigative Unit and Offender Grievance System. Developed and implemented capital construction initiatives at the Special Offender Unit and the Washington Reformatory Unit to enhance security of these Units.

Headquarters

Performance System Administrator 1999-2002

Led the development and implementation shift from staff training department to an organizational performance system. Administered staff performance academies, supervised five regional teams, four Program Managers and provided leadership for policy development to support this department wide program. Administered the Department's Emergency Response Plan, Emergency Operations, Officer Safety Program and Firearms Training Unit.

Headquarters

Emergency Response Manager 1995-1999

Developed and implemented statewide emergency response system. Directed the development of departmental policy, emergency response team academies and response protocols. Managed emergencies and security events. Directed Critical Incident Review Teams in the post incident analysis of critical incidents department wide. Led

development of security plans for the management of high-risk operations to include 400 offenders out of state, Y2K, and execution security.

Clallam Bay Corrections Center

Correctional Captain 1989-1995

Responsible for the security management of a maximum, close, and medium custody male facility. Oversaw facility mission changes including: close custody conversion; implementation of blind feeding; facility double bunking; opening of an intensive management unit; opening of first direct supervision unit; and developed the facility's Emergency Response Plan.

Clallam Bay Corrections Center

Correctional Lieutenant 1986 -1989

Washington Corrections Center

Correctional Sergeant 1985-1986

McNeil Island Corrections Center

Correctional Officer 1982-1985

PUBLICATIONS

Useem, Bert, Dan Pacholke, and Sandy Felkey Mullins. "Case Study–The Making of an Institutional Crisis: The Mass Release of Inmates by a Correctional Agency." *Journal of Contingencies and Crisis Management* (2016)

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Aubrey, D., LeRoy, C. J., Nadkarni, N., Pacholke, D. J., & Bush, K. Rearing endangered butterflies in prison: Incarcerated women as collaborating conservation partners. 2012.

AWARDS

Olympia Rotary Club, Environmental Protection Award, 2013

Governor's Distinguished Managers Award, 2012

Secretary of State, Extra Mile Award, 2007

Governor's Sustaining Leadership Award, 2003

CONSULTING

Her Majesty's Prison Service, U.K.
2020

Presented at a summit in the U.K., toured H.M. Prison Pentonville in London, and advised prison leadership in U.S. correctional innovations.

Sustainability in Prisons Project, Co-Director
2004-2015

U.S. White House
2015

Presented on a panel on arts, innovation, and reentry at an event hosted at the Eisenhower Building of the White House.

Mexican Consulate
2015

Toured and reviewed a program at the Santa Marta Penitentiary in Mexico City.

Nebraska Department of Correctional Services
2015

With Bert Useem, PhD, provided system assessment following May 2015 disturbance at Tecumseh State Correctional Institution in which two inmates were killed. Identified underlying causal factors and provided recommendations.

National Institute of Corrections
1998-2002

Provided training and consultation services in seventeen states, the US Commonwealth of Saipan, and the US Territory of Guam in Security Management, Entry Level Supervisions, Emergency Preparedness Assessment, Disturbance Management and Basic Security.

Defensive Technology Corporation
Senior Instructor
1995 to 1998

Provided tactical and specialty munitions training to correctional and law enforcement personnel throughout the U.S.

Security Auditing & Critical Incident Reviews
Lead Auditor

Completed security audits and critical incident fact finding reviews in facilities throughout the Washington State Department of Corrections and two correctional jurisdictions in other states, one of which involved multi-jurisdictional entities.

EDUCATION:

The Evergreen State College, BA, Olympia, Washington

APPENDIX B

List of Materials

1. 2015-08 Step-Down Program Manual
2. 2017-03-05 Op 830.3 Good Time Award
3. 2017-09 Step-Down Program Manual
4. 2020-02 Step-Down Program Manual
5. VADOC00003235 841B Progressive Housing Program
6. VADOC000052689 Restrictive Housing Program Manual
7. VADOC00002972 730.4 MHS Offenders at Risk
8. VADOC00003146 830.A Step Down Program
9. 2018-15-02 Restrictive Housing Reduction Step-Down Program
10. VADOC00002913 730.2 Mental Health Services
11. VADOC00002976 730.5 MHS Suicide Prevention
12. VADOC00003072 801.4 Privileges by Security Level
13. VADOC00003078 810.1 Offender Classification
14. VADOC00003078 Security Level Classification
15. VADOC00003102 830.1 Facility Classification Management
16. VADOC00003166 841.4 Restricted Housing Units
17. VADOC00003201 841.7 Structured Living Unit Program
18. VADOC00003241 Sam Pod Operations Manual
19. VADOC00003260 Sam Operations Manual
20. VADOC00100520 830.A Restrictive Housing Reduction Step-Down Program
21. 2020-10-01 720.2 Medical Screening and Levels
22. 2020-11-01 841.6 Recreation Programs
23. 2021-02-01 830.1 Institution Classification Management
24. 2021-08-01 425.4 Management of Bed and Cell Assignments.
25. 2021-04-01 730.1 Mental Health Administration
26. 2021-04-01 851.1 Visitation
27. 2021-06-01 730.2 Mental Health Services
28. 2021-07-01 730.5 Mental Health Behavioral Management
29. 2021-08-01 841.4 Restorative Housing
30. 2021-09-01 861.1 Grievance Procedure
31. 2021-09-01 861.1 Offender Discipline Institution
32. 2021-10-01 830.2 Security Level Classification
33. 2021-09-01 801.3 Managing Offenders with Disabilities
34. 2022-03-01 810.1 Inmate Reception and Classification
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36. Declaration of Peter Graham, Ex. A.
37. Alison Shames et al., *Solitary Confinement: Common Misconceptions and Emerging Safe Alternatives*, New York, NY: Vera Institute of Justice (May 2015) available at https://www.vera.org/downloads/publications/solitary-confinement-misconceptions-safe-alternatives-report_1.pdf.
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63. DSC00027.JPG
64. DSC00028.JPG
65. DSC00029.JPG
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67. DSC00031.JPG
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84. DSC00049.JPG
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86. DSC00051.JPG
87. DSC00052.JPG
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123. DSC00089.JPG
124. DSC00090.JPG
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126. DSC00092.JPG
127. Outside Mental Health Restraint Cell in Medical.JPG

APPENDIX C

Supplemental Information: Dan Pacholke

Compensation:

- \$200.00 dollars an hour for research, report writing, and all associated casework.
\$100.00 dollars an hour for travel and \$300.00 dollars an hour for courtroom testimony and depositions.

Expert consulting experience that required a deposition or courtroom testimony:

1. *Gregory Strange v. The District of Columbia* (Civil No. 2016 CA 001250 B. Superior Court of the District of Columbia Civil Division)—Deposition
2. *Deon Hampton v. Jacqueline Lashbrook, et al* (Civil No. 3:17-cv-00936-DRH. United States District Court for the Southern District of Illinois)—Courtroom Testimony, twice.
3. *Darrick Hall v. John Wetzel, et al* (Civil No. 17-CV-4738 United States District Court for the Eastern District of Pennsylvania)—Courtroom Testimony
4. *Fransisca Flores as the Personal Representative of the Estate of Lino Flores v. Stephen Morris, et al* (No. 16-02756 (D.AZ) In the United States District Court for the District of Arizona)—Deposition
5. *Terry White v. William Stephens, et al* (Case No. A16CV059 In the United States District Court for the Western District of Texas, Austin Division) – Courtroom Testimony
6. *Imhotep H'Shaka v. James O'Gorman, et al* (Case No. 9:17-cv-00108-GTS-ATB In the United States District Court Northern District of New York) – Deposition 03/2019 & Courtroom Testimony
7. *Jay F. Vermillion, Plaintiff, v. Mark E. Levenhagan, et al.*, (Case No. 1:15-cv-605-RLY-TAB) Southern District Court, Southern District of Indiana, Indianapolis Division. Plaintiff's Third Amended Complaint Under Title 42 U.S.C 1983 – Deposition 05/31/19
8. *Tay Tay v. John Baldwin, et al.*, (Case No. 19-cv-501); *Tate vs. Wexford Health Services, INC., et. al.*, Case No. 16-cv-92 In the United States District Court for The Southern District of Illinois – Deposition 12/20/19
9. *Cordell Sanders v. Andrea Moss, et. al.*, (Case No. 16-cv-01366-JBM) In the United States District Court for The Central District of Illinois – Deposition 01/17/20
10. *Janiah Monroe v. John Baldwin*, Director Illinois Department of Corrections

(Case No. 19-cv-01060). In the United States District Court for the Central District of Illinois – Deposition 01/29/20

11. *Deon Hampton v. John Baldwin*, Director Illinois Department of Corrections (Case No.: 3:18-CV-00550) *et. al.* –Deposition 08/18/20
12. *Thomas B. Fletcher v. Julian C. Whittington, et al.*, (Case No. 5:18-cv-01153-SMH-KLH (W.D. of L.A.) –Deposition 12/18/20
13. *Jac’quann (Admire) Harvard, et al., v. Mark Inch, et al.*, (Case No.: 4:19-cv-00212-mw-cas. – Courtroom Testimony 01/15/21
14. *Anthony Tellis and Bruce Charles v. James M. Le Blanc, Secretary, et al.*, Civil Action No.: 5:18-cv-00541-EEF-MLH. – Deposition 03/23/21
15. *Jac’quann (Admire) Harvard, et al., v. Mark Inch, et al.*, (Case No.: 4:19-cv-00212-mw-cas. – Deposition 07/21/21
16. *William H. Melendez v. Mark Inch et al.*, (Civil Action No.: 3:20-cv-01023) – Courtroom Testimony 1/20/22
17. *Disability Montana, Inc., vs. Gootkin & Salmonsens.*, (Civil Action No.: 2-15-cv-000-DWM) – Deposition 2/11/22

Additional expert experience- report only:

18. *Angel Goff v. State of Arizona, Juan Ignacio Ramirez, Charles Ryan, Carson McWilliams, & Berry Larson.* 9/30/18
19. *Ernest Porter v. John Wetzel, et al.*, (Civil Action No. 17-763. United States District Court, W.D. Pennsylvania) 3/27/18
20. *Shawnfaee Bridges v. John Wetzel, et al.*, 3/16/18
21. *Earl Barnes v. The District of Columbia* (CA 007305. Superior Court of the District of Columbia, Civil Division) 5/11/19
22. *Damon Thomas v. The District of Columbia* (Case No. 18-0005482. Superior Court of the District of Columbia, Civil Division) 8/9/19
23. *Marcus Hunter v. The District of Columbia* (Case No. 18-0002937. Superior Court of the District of Columbia, Civil Division) 11/28/18
24. *Timothy Finley v. Erica Huss & Susan Schroeder* (Case No. 2:18-cv-00100. The United States District Court for the Western District of Michigan, Northern Division) 9/17/19

25. *Mohamed Dirsche v. The Geo Group, Inc.* (Case No:2019CV30695. District Court Adams County Colorado) 2/17/20
26. *Tawna Z. Neelman v. Robert Maben, et al.*, (Case No. 1:15-cv-01579-CCC. In the United States District Court for the Middle District of Pennsylvania) 6/25/18
27. *Alicia Barraza v. The State of New York* (Claim No. 126830) 6/19/18
28. *Nicholas Reyes v. Harold Clarke et al.*, (Case No. 2:19-CV-00035 (W.D. Va.) 8/15/20

Investigation consultation:

29. United States of Justice, Civil Rights Division. Investigation of Massachusetts Department of Corrections. Reviewed use of restricted housing and suicide watch procedures. 11/17/20
30. United States Department of Justice, Civil Rights Division. Investigation of Mississippi State Penitentiary (MSP). 4/20/21

Exhibit 18

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION**

WILLIAM THORPE, *et al.*,

Plaintiffs,

v.
VIRGINIA DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

CASE NO. 2:20-cv-00007-JPJ-PMS

EXPERT REPORT OF CRAIG HANEY, Ph.D., J.D.

TABLE OF CONTENTS

I. ROLE IN THIS CASE.....	2
II. EXPERT QUALIFICATIONS.....	3
III. BASIS OF EXPERT OPINION.....	7
IV. SUMMARY OF EXPERT OPINIONS	8
V. THE CONDITIONS, PRACTICES, AND PROCEDURES THAT CONSTITUTE WHAT IS MEANT BY “SOLITARY CONFINEMENT” IN THE SCIENTIFIC, LEGAL, AND CORRECTIONAL LITERATURE.....	15
VI. THE SCIENTIFIC EVIDENCE THAT SOLITARY CONFINEMENT PLACES PERSONS AT SIGNIFICANT RISK OF SERIOUS HARM.....	19
1) A BRIEF SUMMARY OF EXTENSIVE PAST RESEARCH ESTABLISHING THE HARMFUL EFFECTS OF SOLITARY CONFINEMENT	20
A) HISTORICAL KNOWLEDGE ABOUT THE HARMFULNESS OF SOLITARY CONFINEMENT.....	20
B) DOCUMENTING THE HARMFULNESS OF SOLITARY CONFINEMENT IN THE MODERN ERA.....	23
2) A SUMMARY OF THE EXTENSIVE RECENT RESEARCH ESTABLISHING THE HARMFULNESS OF SOLITARY CONFINEMENT	38
3) THE BROADER “SCIENCE OF SOLITARY” THAT PROVIDES A FRAMEWORK FOR UNDERSTANDING THE HARMFULNESS OF SOLITARY CONFINEMENT.	80
VII. SOLITARY CONFINEMENT PLACES MENTALLY ILL PRISONERS AT A HEIGHTENED RISK OF SERIOUS HARM	83
VIII. THE SCIENTIFIC EVIDENCE OF THE HARMFUL EFFECTS OF SOLITARY CONFINEMENT CAN BE REASONABLY AND JUSTIFIABLY APPLIED TO COMPARABLE CONDITIONS, PRACTICES AND PROCEDURES	92
IX. THE USE OF SOLITARY CONFINEMENT IN THE VIRGINIA DEPARTMENT OF CORRECTIONS.....	93
X. CONCLUSION	100

I, Craig Haney, declare under penalty of perjury:

I. Role in This Case

1. I have been retained by counsel for Plaintiffs in *Thorpe., et al. v. Virginia Department of Corrections, et al.*, to analyze and form expert opinions about several inter-related issues: a) what prison conditions, practices, and procedures constitute what is commonly understood as “solitary confinement” in the scientific, legal and correctional community; b) the current state of scientific knowledge about the effects of solitary or isolated confinement on incarcerated persons; c) what is scientifically known about those effects for persons with mental illness, in particular, including whether and how negative consequences associated with solitary confinement are exacerbated for this group of prisoners; d) whether and to what degree existing scientific knowledge about the harmful effects of solitary confinement can be reasonably and justifiably applied to prisoners who are housed in units whose conditions, practices, and procedures are similar or identical to those that constitute solitary confinement; e) whether there is a reliable and widely-accepted methodology that I and other experts regularly employ to analyze class-wide issues relating to the harms of solitary confinement using common evidence (i.e., evidence that is common to class members); and f) whether, based on a review of key policies, procedures, and related documents, the specific conditions, practices, and procedures at issue in this case would expose the group

of prisoners subjected to them to the same risks of harm that are described in the scientific literature.

2. If called upon to testify, I could and would do so competently as follows.

II. Expert Qualifications

3. To briefly summarize my expert qualifications, I am an academic psychology professor, currently a Distinguished Professor of Psychology at the University of California, Santa Cruz. In addition to receiving a bachelor's degree from the University of Pennsylvania and a J.D. degree from the Stanford Law School, I was trained in and received a Ph.D. from a distinguished research-oriented graduate program in the Psychology Department at Stanford University. Since coming to the University of California many years ago, I have regularly taught graduate courses in research methods in the social psychology Ph.D. program. The social psychology graduate program at Santa Cruz is a doctoral program for which I also have served as Director (in addition to serving, at different points in my tenure at the university, as chair of the Department of Psychology, Department of Sociology, and director of the Program in Legal Studies). I am also a Distinguished Professor in the University of California system, a distinction reserved for professors who have reached the very highest level of the professoriate, after being nominated by our respective universities and

undergoing a national and international review. I recently served a several year term as a UC Presidential Chair, an honor awarded typically to a single professor on each University of California campus, in recognition of his or her scholarly distinction.

4. My area of academic specialization is in what is generally termed “psychology and law,” which is the application of psychological data and principles to legal issues. I have published numerous scholarly articles and book chapters on topics in law and psychology, including encyclopedia and handbook chapters on the psychological effects of confinement in correctional settings (such as jails and prisons) and the nature and consequences of being housed in segregated or solitary-type confinement. In addition to these scholarly articles and book chapters, I have published three sole-authored books: *Death by Design: Capital Punishment as a Social Psychological System* (Oxford Univ. Press 2005); *Reforming Punishment: Psychological Limits to the Pains of Imprisonment* (2006); and, most recently, *Criminality in Context: The Psychological Foundations of Criminal Justice Reform* (2020). I was also a member of the National Academy of Sciences committee that co-authored *The Growth of Incarceration in the United States: Exploring the Causes and Consequences* (2014).¹

¹ The committee’s analyses and recommendations appear in: *The Growth of Incarceration in the United States: Exploring the Causes and Consequences* (with Jeremy Travis et al.). Report of the National Academy of Sciences Committee on the Causes and Consequences of High Rates of Incarceration in the United States, Washington, DC: National Academy Press (2014). Among other things, the committee’s

5. In my capacity as an expert on the psychological effects of incarceration, I also have served as a consultant to numerous governmental, law enforcement, and legal agencies and organizations on jail-and prison-related issues. In addition to having served on a joint American Bar Association/American Association for the Advancement of Science National Conference of Lawyers and Scientists and the White House Forum on the Uses of Science and Technology to Improve National Crime and Prison Policy, as I noted above, I more recently served as a member of a committee of the nation's most esteemed scientific organization, the National Academy of Sciences. Our committee was charged with the responsibility of scientifically analyzing the causes and consequences of the high rates of incarceration in the United States and proposing recommendations for reform. I also testified before the United States Senate Judiciary Committee in a historic hearing held by Senator Richard Durbin on the nature and consequences of solitary confinement.

6. I have spent approximately five decades studying the psychological effects of living and working in institutional environments, including juvenile facilities, mainline adult prison and jail settings, specialized correctional housing

jointly authored report analyzed the psychological and other effects of conditions of prison confinement, including solitary confinement. Once the report was finalized, I and other committee members briefed representatives of various governmental agencies, including members of Congress and their staffs and the President's Domestic Policy Council, on our findings and recommendations.

units (such as solitary and “supermax”-type confinement), and immigration detention facilities. In the course of that work, I have toured and inspected numerous jails and prisons and related facilities (in Alabama, Arkansas, Arizona, California, Florida, Georgia, Hawaii, Idaho, Illinois, Louisiana, Maine, Massachusetts, Mississippi, Montana, Nevada, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, and Washington), many maximum security federal prisons (including the Administrative Maximum or “ADX” facility in Florence, Colorado), and prisons in Canada, Cuba, England, Ireland, Hungary, Mexico, Netherlands, and Norway. I also have conducted numerous interviews with many hundreds of correctional officials, officers, and incarcerated persons to assess the impact of penal confinement, and analyzed aggregate data from correctional documents and other official records to examine the effects of specific conditions of confinement on the quality of institutional life and the ability of persons housed there to adjust to them. I estimate that I have toured and inspected, and interviewed persons housed in solitary confinement units in one or multiple facilities in approximately twenty different state prison systems as well as many federal prisons.

7. I also have been qualified and have testified as an expert in various federal courts, including: United States District Courts in Alabama, Arkansas, Arizona, California, Georgia, Louisiana, New Mexico, North Carolina,

Pennsylvania, Texas, and Washington, and in numerous state courts, including courts in Arizona, Colorado, Florida, Montana, New Jersey, Nevada, New Mexico, Ohio, Oregon, Tennessee, Utah, and Wyoming. My research, writing, and testimony have been cited by state courts, including the California Supreme Court, and by Federal District Courts, Circuit Courts of Appeal, and the Supreme Court of the United States.²

8. A copy of my current curriculum vitae is attached to this Report as Appendix A. A statement of my compensation in this case and a list of cases in which I have testified in the last four years is attached to this Report as Appendix B.

III. Basis of Expert Opinion

9. My opinions in the present Report are based on a number of sources, including a review of the extensive and current published literature that addresses the psychological effects of solitary confinement, literature that addresses the legally relevant forms of psychological vulnerability of mentally ill persons. I have reviewed key Virginia Department of Corrections policies, key operating procedures and documents concerning the Step-Down Program, affidavits from Plaintiffs detailing their experiences in confinement, and other documents

² For example, see *Brown v. Plata*, 563 U.S. 493 (2011); see also Appendix A which includes a list of some of the prison conditions cases on which I have worked.

produced in this case. In addition, I have drawn on my over 40 years of experience studying, inspecting, and evaluating prison conditions, including conditions of solitary confinement, and conducting interviews with correctional staff and incarcerated persons about the effects of the conditions, practices, and procedures to which they are subjects.

10. A copy of the materials I reviewed is attached to this Report as Appendix C.

IV. Summary of Expert Opinions

11. By way of summary, it is my expert opinion that the conditions of confinement in the Virginia Department of Corrections that were described in the documents I reviewed and the photographs I examined clearly constitute what is meant in the scientific, correctional, and legal literature by the term “solitary confinement.”

12. It is also my expert opinion that being housed in solitary confinement is known to produce a number of negative psychological effects and to place incarcerated persons³ at significant risk of serious psychological harm. These effects are clearly and consistently described in the scientific literature. These harmful effects are now widely accepted and well-understood; they have been for a

³ I will use the terms “prisoners” and “incarcerated persons” interchangeably in this Report to refer to persons who are incarcerated or detained in correctional facilities. The scientific and professional literature typically uses these terms in the same way.

number of years. Indeed, there is a broad scientific and professional consensus to this effect. In addition, the scientific knowledge about the harmful effects of solitary confinement is based on sound empirical research. The data are derived from a variety of methodological strategies that are entirely appropriate to the research task at hand (and are exactly the kind used in a wide variety of entirely legitimate scientific disciplines, including ones that have important, socially consequential applications). The findings from this research are “robust”—that is, they come from studies that were conducted by researchers and clinicians from diverse backgrounds and perspectives, were completed and published over a period of many decades, and are empirically very consistent. Indeed, their overwhelming import derives from the overall pattern of the results. With remarkably few exceptions, virtually every one of these studies has documented the pain and suffering that isolated prisoners endure and the risk of psychological harm that they confront.

13. In addition, the empirical findings are grounded in sound scientific theory. That is, there is a well-understood and widely accepted scientific framework that explains why long-term isolation, the absence of meaningful social interaction and activity, and the other severe deprivations that commonly occur in solitary confinement are harmful. This framework has been developed and validated through years of extensive scientific research documenting the various

ways in which social isolation in general produces adverse psychological effects in contexts other than prison—that is, in society at large. It establishes social isolation as a social and even physical stressor and risk factor, considered by a number of scientists to affect well-being and mortality as adversely as smoking, obesity, and physical inactivity. Of course, solitary confinement imposes conditions that are significantly harsher than those that prevail in society at large, exacerbating the harmfulness of isolation itself.

14. My own professional experience and study and the decades of scientific research that has been conducted by other scholars and researchers collectively have established that these kinds of conditions of confinement place all prisoners at significant risk of serious harm. In fact, this research demonstrates that solitary confinement can undermine the psychological health and well-being of all incarcerated persons exposed to them, regardless of their pre-existing mental health status.

15. In addition, the scientific research and related professional literature establishes that the risk of serious psychological harm is further heightened for persons who are mentally ill. The fact that incarcerated persons who suffer from mental illness are less able to tolerate the painful experience of isolation or solitary confinement is an extension of another widely accepted scientific framework. All other things equal, mentally ill persons are more susceptible in general to stressful

and traumatic experiences of the sort that occur more often in solitary confinement. In addition, many of the most prevalent adverse effects of isolation (such as depression) are similar to and aggravate many of the symptoms that are associated with various forms of mental illness, adding to or worsening already existing psychiatric conditions (such as anxiety or Post-Traumatic Stress Disorder). Finally, isolation removes people from the stabilizing and normalizing influence of social contact and social connection, undermining personal identity and one's sense of self. This is especially problematic for mentally ill persons whose contact with social reality may already be fragile and tenuous.

16. These facts also mean that any correctional system that places incarcerated persons, especially mentally ill persons, into solitary confinement, including even after they have experienced incidents of self-harming behavior, suicide attempts, or involuntary emergency hospitalizations in a mental health facility, is ignoring the fact that these incidents are very often themselves manifestations of the adverse consequence of placement in solitary confinement. Not only are mentally ill persons confined in solitary confinement placed at an especially heightened risk of serious harm, but any policy that returns mentally ill incarcerated persons to the very places that have hurt them is especially cruel and singularly inappropriate.

17. It is also my expert opinion that the scientifically established negative effects of solitary confinement, and the significant risk of serious harm they create, can be reasonably and justifiably applied to persons who are incarcerated within any individual prison facility or housing unit in which they are subjected to conditions, practices, and procedures that are similar or identical to what has been defined as “solitary confinement.” It is also the case that the heightened risk of serious harm that solitary confinement represents for persons who are mentally ill reasonably and justifiably applies to persons in housing units that are similar or identical to what is defined as “solitary confinement.” These statements apply to housing units within the Virginia Department of Corrections and any other prison system.

18. Finally, I conducted an initial assessment of the use of solitary confinement by the Virginia Department of Corrections based on key policies and procedures I have reviewed as well as the scientific, correctional, and legal literature described in my report. It is my opinion that the conditions, policies, and practices that characterize the Step-Down Program do constitute solitary confinement, as that term is used in this literature. Among other things, the materials I reviewed indicate that prisoners in the Step-Down Program can be kept indefinitely at the most restrictive steps in the Program, and must spend a minimum of either three or six months there, under severely isolating and

extremely deprived conditions. Prisoners in these initial steps are housed in cells that are furnished with only a bed and a toilet, and a slot on the door through which communication with prison officials may take place. Recently changed policy indicates that prisoners may receive as much as four hours per day of out-of-cell time, but prisoners report that that policy is often not followed. They also report that the other kind of out-of-cell time that is permitted consists of time spent in barren rec cages that resemble dog kennels, with the threatening presence of nearby K-9s (who have attacked or bitten them), or of other programming that is delivered to them in individual cages or when they are shackled at the wrists and ankles while sitting in “program chairs.” These same overall conditions, practices, and procedures are also inflicted on mentally ill prisoners, who are at even greater risk of serious harm as a result of the isolation to which they subjected, and whose outwardly deteriorating mental conditions can significantly worsen the overall atmosphere in the housing units themselves.

19. These opinions expressed herein concerning the use, nature, and effects of isolated confinement in the VDOC are offered at the class certification stage of this litigation. It is my understanding that additional information will be forthcoming during the course of the litigation. For example, I have not been able to tour the VDOC facilities; interview staff or prisoners; or review prisoner files and other sets of potentially relevant documents. Nonetheless, based on the key

policies procedures, and the various documents that I have reviewed, I am able to formulate opinions about VDOC's isolation policies and practices at the class certification stage of this litigation. This is not a complete list of the opinions that I anticipate I will reach in this case and these opinions will be developed and supplemented as more information becomes available.

20. I will employ the same reliable, widely used methodology that I and other experts have regularly used to analyze class-wide issues relating to the harms of solitary confinement and to determine, in this instance, whether the Step-Down Program imposes conditions that are similar or identical to what is defined in the literature and in correctional practice as "solitary confinement." I will follow the procedure and standard methodology that I have employed for approximately the past forty-plus years, whenever I have been retained to evaluate and form opinions about conditions of confinement and policies and practices in correctional facilities or prison systems. Thus, I will review a wide range of documents that I will request from counsel for plaintiffs, including: various Virginia Department of Corrections policy documents; rosters of prisoners within restrictive housing; the movement histories, institutional files, medical and mental health files for the prisoners whom I will confidentially interview; various logbooks and incident reports; documents related to prisoner suicides that occurred in restrictive housing; various Step-Down

Program materials; and the case-related deposition transcripts of prisoners and Virginia Department of Corrections employees.

21. Additionally, I will tour and inspect the Red Onion State Prison facilities, conduct in-passing interviews with prison staff members, conduct cell-front interviews with prisoners, and conduct longer, individual, confidential interviews with prisoners. I will also review photographs taken during the tour and accompany my final report with photographs that depict representative areas of the facility. I also look forward to reviewing what I would expect to be a substantial amount of additional discovery material, including additional documents, deposition testimony, and other pertinent information. I have used these methods in other expert reports that have been relied upon by courts in many other cases. *See, e.g., Brown v. Plata*, 563 U.S. 493 (2011); *Braggs v. Dunn*, 257 F. Supp. 3d 1171 (M.D. Ala. 2017); *Coleman v. Brown*, 28 F. Supp. 3d 1068 (E.D. Cal. 2014); *Ruiz v. Johnson*, 37 F. Supp. 2d 855 (S.D. Texas 1999); *Charles v. LeBlanc*, 5:18-cv-00541 (W.D. La., suit filed Feb. 20, 2018); *Davis v. Jeffreys*, 3:16-cv-00600 (S.D. Ill., suit filed June 2, 2016).

V. The Conditions, Practices, and Procedures That Constitute What is Meant by “Solitary Confinement” in the Scientific, Legal, and Correctional Literature

22. “Solitary confinement” is a generic term that encompasses a relatively wide range of prison housing arrangements to which various labels have been

applied. No matter the specific label that is applied (which include “administrative segregation,” “close management,” “security housing,” “isolated confinement,” and “restrictive housing”), in the scientific, legal, and correctional literature it is used to mean segregation from the mainstream prisoner population, in attached housing within a larger facility or in free-standing facilities devoted to such confinement.

23. Prisoners who are housed in what is commonly described as “solitary confinement” are typically involuntarily confined in their cells for upwards of 22 hours a day or more, given only extremely limited opportunities for direct, normal, meaningful social contact with other persons, having been placed there for a variety of reasons (including as disciplinary punishment or for other administrative reasons). In the definition employed by the National Institute of Corrections (NIC), as cited by Chase Riveland in a standard reference work on solitary-type confinement that was sponsored and disseminated by the United States Department of Justice, Riveland noted that the NIC itself had defined solitary or “supermax” housing as occurring in a “freestanding facility, or a distinct unit within a freestanding facility, that provides for the management and secure control of

inmates” under conditions characterized by “separation, restricted movement, and limited access to staff and other inmates.”⁴

24. However, strictly speaking, whether someone is in “solitary confinement” is determined less by the amount of time they are forced to spend in their cells or the correctional rationale for placing them there than by the degree to which they are deprived of meaningful social contact and access to positive environmental stimulation, wherever and however those deprivations are imposed.

Thus, as I have previously written:

From a psychological perspective, “solitary confinement” is defined less by the purpose for which it is imposed (i.e., its correctional justification), or the exact amount of time during which prisoners are confined to their cells, than by the degree to which they are deprived of normal, direct, meaningful social contact and denied access to positive environmental stimulation and activity. Thus, even a regime incorporating a considerable amount of out-of-cell time during which a prisoner is simultaneously prohibited from engaging in normal, direct, meaningful social contact and positive stimulation or programming would still constitute a painful and potentially damaging form of solitary confinement. Especially in a prison context, the terms “normal”

⁴ Chase Riveland, *Supermax Prisons: Overview and General Considerations*, National Institute of Corrections: United States Department of Justice (1999), at 3, available at https://www.prisonpolicy.org/scans/NIC_014937.pdf. More recently, the Department of Justice employed a similar definition, noting that “the terms ‘isolation’ or ‘solitary confinement’ mean the state of being confined to one’s cell for approximately 22 hours per day or more, alone or with other prisoners, that limits contact with others... An isolation unit means a unit where all or most of those housed in the unit are subjected to isolation.” United States Department of Justice, *Letter to the Honorable Tom Corbett, Re: Investigation of the State Correctional Institution at Cresson and Notice of Expanded Investigation*, (May 31, 2013), at 5, available at http://www.justice.gov/crt/about/spl/documents/cresson_findings_5-31-13.pdf. The Department of Justice cites *Wilkinson v. Austin*, 545 U.S. 209, 214, 224 (2005), where the United States Supreme Court described solitary confinement as limiting human contact for 23 hours per day; and *Tillery v. Owens*, 907 F.2d 418, 422 (3d Cir. 1990), where the Third Circuit described it as limiting contact for 21 to 22 hours per day. *Id.*

and “direct” mean that the contact itself is not mediated or obstructed by bars, restraints, security glass or screens, or the like. “Meaningful” refers to voluntary contact that permits purposeful activities of common interest or consequence that takes place in the course of genuine social interaction and engagement with others.⁵

25. It is also important to note in this context that the negative effects of solitary confinement derive primarily but not exclusively from the deprivation of meaningful social contact. As I will discuss at greater length later in this Report, social isolation and social exclusion, and the related experience of loneliness, have been extensively studied by scientific researchers in contexts outside of prison and determined to be extremely harmful, even dangerous to mental as well as physical health. However, it is also important to note that solitary confinement settings typically impose additional forms of deprivation—including the deprivation of property and access to programming and other forms of positive environmental stimulation that can significantly amplify or add to the deleterious effects of social isolation per se.

26. The additional deprivations typically imposed on prisoners in solitary confinement include severe limitations placed on the nature and amount of personal property prisoners may possess, the fact that they are afforded little or no access to positive environmental stimulation (such as through electronic devices or

⁵ Craig Haney, *The Science of Solitary: Expanding the Harmfulness Narrative*, 115 NW. L. REV. 211, 212 n.1 (2020) [hereafter, “Haney, The Science of Solitary (2020)"]. A copy of this article is attached to this expert report as Appendix D.

appliances and contact with the natural environment), given extremely limited or non-existent to engage in the forms of treatment, programming, vocational training, and work in which mainline prisoners routinely participate, and suffer significant limitations on the nature and amount of visitation that they are permitted. In addition, there are typically a host of onerous security-related practices and procedures that govern the manner in which prison staff interact with and escort prisoners in solitary confinement.

27. Thus, throughout this Report, my use of the term “solitary confinement” is intended to refer to the combination of all of these forms of severe deprivations imposed on prisoners—primarily the deprivation of meaningful human social contact, as I have defined it, but also severe limitations on property, visitation, access to positive environmental stimulation, and the forms of treatment, programming, vocational training, and work in which mainline prisoners routinely participate.

VI. The Scientific Evidence that Solitary Confinement Places Persons at Significant Risk of Serious Harm

28. As I summarize in following paragraphs, systematic research documenting the significant risk of harm to which prisoners are exposed in solitary confinement extends over a period of many decades. There is historical evidence that led to the abandonment of the widespread use of solitary confinement, more

recent research conducted in the modern era of prison studies and, as I will show, a substantial body of very recent research that consistently document the harmful effects brought about by this practice.

1) A Brief Summary of Extensive Past Research Establishing the Harmful Effects of Solitary Confinement

29. As I summarize in the following paragraphs, systematic research documenting the significant risk of harm to which prisoners are exposed in solitary confinement extends over a period of many decades. In fact, knowledge about the substantial psychological risks associated with solitary confinement began to be amassed long before more systematic empirical research was conducted on the topic. Documented accounts of the harmfulness of the practice were prevalent in the 19th century, surfacing almost as soon as solitary confinement began to be used on a widespread basis in the very first penitentiaries in the United States. This knowledge was instrumental in helping to end the practice long before the turn of the 20th century.

a) Historical Knowledge About the Harmfulness of Solitary Confinement

30. In the mid-1800s, for example, the president of the New Jersey medical society and director of its mental hospital wrote about the adverse consequences of the “gloom of solitude” that befell the typical prisoner, who lived in isolation in the state penitentiary and “suffered greatly in body as well as mind,”

stating that the conditions there were “most effectual to drive [the prisoner] mad, or reduce him to imbecility, beside inducing organic diseases almost incurable.”⁶ Indeed, the warden of the nearby Rhode Island Penitentiary, who had been instructed to visit New Jersey to learn how to institute solitary confinement in his own prison, also expressed grave doubts about the practice to his state legislature, noting that: “Of the thirty-seven convicts who have been committed to the prison, six have become insane. Several others have, at times, exhibited slight symptoms of derangement.”⁷

31. The second half of the 19th century is replete with accounts much like these, chronicling the disastrous psychological and other consequences that befell persons placed in solitary confinement. They led prison officials in the United States to relatively quickly modify the use of this draconian prison practice and to implement forms of imprisonment that did not depend on the isolation of prisoners. In fact, the United States Supreme Court opined in 1890 that “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

⁶ Dr. James B. Coleman, Report of the Joint Committee on the State Prison accounts, with the Inspector’s and Physician’s report, 2(4) PENN. J. OF DISCIPLINE AND PHILANTHROPY (Oct. 1846).

⁷ Wines, D., & Dwight, T., Report on Prisons and Reformatories in the United States and Canada Made to the Legislature of New York, at 54 (1867).

solitary confinement was found to be too severe.”⁸ The Court noted further that “[i]n Great Britain, as in other countries, public sentiment revolted against this severity and... the additional punishment of solitary confinement was repealed.”⁹

32. Solitary confinement—at least as a long, rather than short-term punishment—remained more or less “repealed” in the United States for the better part of the 20th century. With the exception of the notorious federal penitentiary on Alcatraz Island, solitary confinement was used mostly as a disciplinary sanction of brief duration. Indeed, by 1925 a *New York Times* commentator observed that solitary confinement had “been abandoned everywhere, even in Pennsylvania,” where it had originated.¹⁰ By the late-1950s, when sociologist Gresham Sykes published what is generally regarded as the classic discussion of the nature of life inside a maximum-security U.S. prison, *Society of Captives*,¹¹ he made only passing reference to solitary confinement. Sykes reported that the practice was reserved only as an “ultimate penalty” for rule violations. Indeed, his list of the various punishments that were imposed for an array of disciplinary infractions that were committed during a presumably typical week at the prison confirmed that

⁸ *In re Medley*, 134 U.S. 160, 168 (1890).

⁹ *Id.* at 170.

¹⁰ Edward Smith, *Prisons Cannot Keep Pace with Criminals*, *New York Times*, at 5 (Oct. 4, 1925).

¹¹ Gresham Sykes, *The Society of Captives: A Study of a Maximum Security Prison* (1958; 2007).

solitary confinement was very sparingly employed. For example, Sykes's list indicated that the offense of "possession of a homemade knife" resulted in no more than "5 days in segregation with a restricted diet."¹² Although it was not a prominent feature of prison life, Sykes clearly understood the harmfulness of solitary confinement. He wrote early in *Society of Captives* that "[i]n a very fundamental sense, a man perpetually locked by himself in a cage is no longer a man at all; rather, he is a semi-human object, an organism with a number." He quoted fellow sociologist Kingsley Davis, to the effect that "the structure of the human personality is so much a product of social interaction that when this interaction ceases it tends to decay."¹³

b) Documenting the Harmfulness of Solitary Confinement in the Modern Era

33. Needless to say, times and conditions have changed since the earliest solitary confinement units were in operation in the United States and elsewhere. Even since Sykes's time, the introduction of technology and different architectural designs have modernized solitary confinement units and significantly improved and upgraded physical conditions. Yet, the essence of the experience—the nearly total, forced deprivation of meaningful social contact—remains much the same. In

¹² *Id.* at 43.

¹³ *Id.* at 6.

the modern history of solitary confinement, as prisons in the United States became increasingly overcrowded in the 1970s, correctional administrators began to turn back to the much-discredited practice of placing prisoners in longer-term isolation, in theory as a way of controlling the unprecedented and rapid influx of prisoners coming into systems largely unprepared to receive them. As the use of solitary confinement became more widespread, it once again became a topic of significant academic and legal interest. Since then, a substantial body of published literature has clearly documented distinctive specific indices and broader patterns of psychological harm. The specific indices and broader patterns of harm have been consistently identified through a variety of research methods, including personal accounts written by persons confined in isolation, descriptive studies authored by mental health professionals who worked in many such places, and systematic research conducted on the nature and effects of solitary confinement.

34. By now, these research findings are very robust—spanning many decades, conducted by researchers from different geographical locations, with different disciplinary backgrounds, employing different methods of study, but virtually all reaching the same conclusions about the harmfulness of solitary confinement.¹⁴ Of course, the “perfect” study of the effects of solitary confinement

¹⁴ There are a few “outlier” studies that report null effects. The one most often cited by the very few commentators who continue to defend the use of solitary confinement against claims of significant risk of serious harm, the so-called “Colorado Study” [Maureen O’Keefe, Kelli Klebe, Alysha Stucker, Kristin Sturm, & William Leggett, *One Year Longitudinal Study of the Psychological Effects of Administrative*

would be relatively straightforward to design but impossible to implement. The realities of prison life and the practical and ethical challenges of conducting research in prisons (including, for example, “random assignment” to conditions) would prevent such a study from ever being conducted.

35. In fact, more than a decade ago, I wrote:

No more than basic knowledge of research methodology is required to design the “perfect” study of the effects of solitary confinement: dividing a representative sample of prisoners (who had never been in solitary confinement) into two groups by randomly assigning half to either a treatment condition (say, two or more years in solitary

Segregation, National Institute of Justice (2010), hereafter, “O’Keefe et al., 2010”] has so many insurmountable methodological flaws that its reported “results” are actually uninterpretable. I will discuss this study in more detail later in this report. For a lengthy discussion of the methodological flaws and a discussion of why and how they render the study’s results not only flawed but uninterpretable, see Craig Haney, *The Psychological Effects of Solitary Confinement: A Systematic Critique*, 47 Crime & Just. 365 (2018) (hereafter, “Haney, A Systematic Critique (2018)”). In addition to my criticisms, the study has been roundly criticized by many other prominent solitary confinement experts, including two, David Lovell and Hans Toch, who called its findings “flabbergasting.” David Lovell & Hans Toch, *Some Observations about the Colorado Segregation Study*, 13(1) Correctional Mental Health Report, at 3–4, 14 (2011). In addition, see Stuart Grassian & Terry Kupers, *The Colorado Study versus the Reality of Supermax Confinement*, 13(1) Correctional Mental Health Report, at 1, 9–11 (2011); Lorna Rhodes & David Lovell, *Is Adaptation the Right Question? Addressing the Larger Context of Administrative Segregation: Commentary on One Year Longitudinal Study of the Psychological Effects of Administrative Segregation*, Corrections and Mental Health: An Update of the National Institute of Corrections (June 21, 2011), available at http://community.nicic.gov/cfs-file.ashx/_key/CommunityServer.Components.PostAttachments/00.00.05.95.19/Supermax-_2D00_-T-_2D00_-Rhodes-and-Lovell.pdf; Sharon Shalev & Monica Lloyd, *If This Be Method, Yet There Is Madness in It: Commentary on One Year Longitudinal Study of the Psychological Effects of Administrative Segregation*, Corrections and Mental Health: An Update of the National Institute of Corrections (June 21, 2011), available at http://community.nicic.gov/cfs-file.ashx/_key/CommunityServer.Components.PostAttachments/00.00.05.95.21/Supermax-_2D00_-T-_2D00_-Shalev-and-Lloyd.pdf; and Peter Scharff Smith, *The Effects of Solitary Confinement: Commentary on One Year Longitudinal Study of the Psychological Effects of Administrative Segregation*, Corrections and Mental Health: An Update of the National Institute of Corrections (June 21, 2011), available at http://community.nicic.gov/cfs-file.ashx/_key/CommunityServer.Components.PostAttachments/00.00.05.95.22/Supermax-_2D00_-T-_2D00_-Smith.pdf. Obviously, any study that used data from the Colorado Study, or any meta-analysis that

relied heavily on its uninterpretable data, would be similarly compromised by its fatal and other methodological flaws.

confinement) or a control condition (the same length of time residing in a typical prison housing unit), and conducting longitudinal assessments of both groups (i.e., before, during, and after their experiences), by impartial researchers skilled at gaining the trust of prisoners (including ones perceived by the prisoner-participants as having absolutely no connection to the prison administration). Unfortunately, no more than basic knowledge of the realities of prison life and the practicalities of conducting research in prisons is required to understand why such a study would be impossible to ever conduct. Moreover, any prison system that allowed truly independent, experienced researchers to perform even a reasonable approximation of such a study would be, almost by definition, so atypical as to call the generalizability of the results into question. Keep in mind also that the assessment process itself—depending on who carried it out, how often it was done, and in what manner—might well provide the solitary confinement participants with more meaningful social contact than they are currently afforded in a number of such units with which I am familiar, thereby significantly changing (and improving) the conditions of their confinement.¹⁵

36. It is my opinion that commentators who ignore these facts about the impossibility of doing such a perfect study, and would dismiss the extensive scientific knowledge that has been accumulated about the harmful effects of solitary confinement because it is not based on a type of research that simply cannot be conducted in prisons, are insisting on an unobtainable methodological standard that not only would essentially end prison research (and prison litigation) but also undermine the value of a vast amount of scientific knowledge that has been acquired in numerous non-laboratory, non-experimental scientific disciplines,

¹⁵ Craig Haney, The Social Psychology of Isolation: Why Solitary Confinement Is Psychologically Harmful, 181 PRISON SERV. J. 12-20 (2009), at 13 n.8.

including in the social sciences (e.g., anthropology, economics, political science, and sociology), physical sciences (e.g., astronomy, botany, geology) and many areas of medicine (e.g., epidemiology, psychiatry). All of these perfectly legitimate scientific endeavors—that produce extremely important, socially consequential knowledge on which society regularly relies—are similarly constrained from conducting pure experiments and depend instead on systematic, naturalistic observation and scientifically justified inferences drawn from patterns of correlational data.¹⁶

37. Notwithstanding the lack of a “perfect” study on solitary confinement, there are numerous direct studies of solitary confinement—so numerous that any detailed discussion of all of them in this report would be prohibitively lengthy (but the results of which are summarized in numerous literature reviews published since the late 1990s, as referenced in the below footnote).¹⁷

¹⁶ For a more in-depth discussion of these issues in prison research and an extended example of the problems that can arise when researchers proceed as if they had the same control over research in a prison as in a laboratory, when they clearly do not, *see* Haney, *A Systematic Critique* (2018), *supra* note 14.

¹⁷ Summaries of the key findings from the key studies are contained in numerous literature reviews published over the last 25 years. For example, *see* Bruce Arrigo & J. Bullock, *The Psychological Effects of Solitary Confinement on Prisoners in Supermax Units: Reviewing What We Know and What Should Change*, 52 INT’L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 622-640 (2008); Kristin Cloyes, David Lovell, David Allen & Lorna Rhodes, *Assessment of Psychosocial Impairment in a Supermaximum Security Unit Sample*, 33 CRIM. JUST. & BEHAV., 760-781 (2006); Stuart Grassian, *Psychiatric Effects of Solitary Confinement*, 22 WASH. U. J. L. & POL. 325-383 (2006); Craig Haney, *Mental Health Issues in Long-Term Solitary and “Supermax” Confinement*, 49 CRIME & DELINQ. 124-156 (2003) (hereafter “Haney, *Mental Health Issues in Long-Term Solitary* (2003)”); Craig Haney, *Restricting the Use of Solitary Confinement*, 1 ANN. REV. CRIMINOL. 285-310 (2018) (hereafter, “Haney, *Restricting Solitary Confinement* (2018)”); Craig Haney & Mona Lynch, *Regulating Prisons of the Future: The Psychological Consequences of Solitary and Supermax Confinement*, 23 N. Y. REV. L. & SOC. CHANGE

38. In addition, research findings regarding solitary confinement connect directly to the vast scientific literature on the effects of social isolation, social exclusion, and loneliness in the larger society. A published article of mine summarizing this scientific literature and its implications for our understanding of the nature and extent of the harmful effects of solitary confinement is attached as Appendix D.¹⁸ This larger body of scientific research provides the broad theoretical framework within which the direct studies of the harmful effects of solitary confinement are grounded and can be better understood. However, the direct studies are themselves substantial in number and import.

39. For example, there are a number of accounts written by mental health and correctional staff who have worked in disciplinary segregation and isolation units and reported observing a range of problematic symptoms manifested by the prisoners who were confined in these places.¹⁹ In addition to these firsthand observers, more systematic research has been conducted on solitary confinement.

477-570 (1997) (hereafter “Haney & Lynch, *The Psychological Consequences of Solitary* (1997)”); and Peter Scharff Smith, *The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature*, 34 CRIME & JUSTICE 441-528 (2006). As I noted, there are a few outlier studies that purport to find few if any negative effects. For a detailed discussion of the serious methodological flaws that plague these studies, see Haney, *A Systematic Critique* (2018), *supra* note 14.

¹⁸ Haney, *The Science of Solitary* (2020), attached to this expert report as Appendix D.

¹⁹ Discussions of and citations to some of these studies appear in some of the review articles listed in footnotes 15 and 17 above, and footnotes 20 and 24 below. For example, see Haney & Lynch, *The Psychological Consequences of Solitary* (1997), *supra* note 17, at 512-514.

The authors of one of the early studies summarized their findings by concluding that “[e]xcessive deprivation of liberty, here defined as near complete confinement to the cell, results in deep emotional disturbances.”²⁰

40. In the mid-1970s, Professor Hans Toch’s large-scale psychological study of prisoners “in crisis” in New York State correctional facilities included important observations about the effects of isolation.²¹ After he and his colleagues had conducted numerous in-depth interviews of prisoners, Toch concluded that “isolation panic” was a serious problem in solitary confinement. The symptoms

²⁰ Bruno Cormier & Paul Williams, *Excessive Deprivation of Liberty*, 11 CAN. PSYCHIATRIC ASS’N J., 470-484 (1966), at 484. The very first studies of solitary confinement in the “modern” era of such research arose in the 1960s and early 1970s, less in response to the increased use of the practice and more because of growing academic interest in “sensory deprivation,” which was then seen as a key component of solitary confinement. Although these early studies are compromised by their focus on the effects of solitary confinement that was experienced for very short durations and often included persons who had “volunteered” for the experience, aspects of them are instructive. For some of the early studies of solitary confinement, see Paul Gendreau, N. Freedman, G. Wilde, & George Scott, *Changes in EEG Alpha Frequency and Evoked Response Latency During Solitary Confinement*, 79 J. ABNORMAL PSYCHOL. 54-59 (1972), at 57 (“[t]he present experiment confirms that a slowing in EEG frequency occurs during solitary confinement of prisoners... quite similar [to] slowing effects” in sensory deprivation settings; George Scott & Paul Gendreau, *Psychiatric Implications of Sensory Deprivation in a Maximum Security Prison*, 12 CAN. PSYCHIATRIC ASS’N J. 337, 341 (1969) (stating that decreases in EEG over seven days in isolation correlated with apathetic/lethargic behavior and led the authors to speculate that the prisoners’ adaptation to “deprivation circumstances” might compromise their ability to adjust to free society); Richard H. Walters, John E. Callagan & Albert F. Newman, *Effect of Solitary Confinement on Prisoners*, 119 AM. J. PSYCHIATRY 771-773 (1963) (reporting that four days in an isolation cell produced a significant increase in anxiety but no mental or “psychomotor” deterioration in a group of volunteer prisoners). Underscoring the brevity of the time typically spent in solitary confinement in those days, one of these early studies kept prisoners in solitary confinement for a period of no more than ten days, noting that this was “the longest time inmates usually remain in solitary.” C. E. J. Eccelstone, Paul Gendreau, & Clifford Knox, *Solitary Confinement of Prisoners: An Assessment of Its Effects on Inmates’ Personal Constructs and Adrenocortical Activity*, 6 CAN. J. BEHAV. SCI. 178-191 (1974), at 179 (emphasis added). Even so, half of the original eight prisoners who volunteered to be placed in solitary confinement, and who had been screened for their fitness to do so, quit the study by their second day in isolation. *Id.*

²¹ Hans Toch, *Men in Crisis: Human Breakdowns in Prisons*, Chicago: Aldine Publishing Co. (1975).

that Toch reported included rage, panic, loss of control and breakdowns, psychological regression, and a build-up of physiological and psychic tension that led to incidents of self-mutilation.²² Professor Toch noted that although isolation panic could occur under other conditions of confinement it was “most sharply prevalent in segregation.” Moreover, it marked the “distinction between imprisonment, which is tolerable, and isolation, which is not.”²³

41. More recent studies identified numerous problematic and potentially dangerous symptoms that prisoners housed in solitary confinement disproportionately suffer. Those symptoms include: appetite and sleep disturbances, anxiety, panic, a sense of impending emotional breakdown, lethargy, hypersensitivity to stimuli, irritability, aggression, rage, loss of control, ruminations, paranoia, perceptual distortions, cognitive dysfunction, hallucinations, depression, self-mutilation, suicidal ideation and behavior, and social withdrawal.²⁴

²² *Id.* at 54.

²³ *Id.*

²⁴ See the articles cited in footnotes 15, 17, and 20 *supra* for summaries of the relevant literature. In addition to the numerous studies cited in the articles referenced these notes, there is a significant international literature on the adverse effects of solitary confinement. For example, see Henri Barte, *L'isolement carcéral*, 28 PERSPECTIVES PSYCHIATRIQUES 252 (1989). Barte analyzed what he called the “psychopathogenic” effects of solitary confinement in French prisons and concluded that prisoners placed there for extended periods of time could become schizophrenic instead of receptive to social rehabilitation. He argued that the practice was unjustifiable, counterproductive, and “a denial of the bonds that unite humankind.” In addition, see Reto Volkart, *Einzelhaft: Eine Literaturübersicht* (Solitary confinement: A literature survey), 42 PSYCHOLOGIE - SCHWEIZERISCHE ZEITSCHRIFT FÜR PSYCHOLOGIE UND IHRE ANWENDUNGEN 1-24 (1983) (reviewing the empirical and theoretical literature on the negative effects of solitary confinement); Reto Volkart, Adolf Dittrich, Thomas Rothenfluh, & Paul Werner, *Eine Kontrollierte Untersuchung über Psychopathologische Effekte der Einzelhaft* (A controlled investigation

42. In addition, there are correlational studies of the relationship between housing type and various kinds of incident reports in prison. They show that self-mutilation and suicide are more prevalent in isolated, punitive housing units such as administrative segregation and security housing where prisoners are subjected to solitary-like conditions of confinement. For example, clinical researchers Ray Patterson and Kerry Hughes attributed higher suicide rates in solitary confinement-type units to the heightened levels of “environmental stress” that are generated by the “isolation, punitive sanctions, [and] severely restricted living conditions” that

on psychopathological effects of solitary confinement), 42 *PSYCHOLOGIE - SCHWEIZERISCHE ZEITSCHRIFT FÜR PSYCHOLOGIE UND IHRE ANWENDUNGEN* 25-46 (1983) (finding that when prisoners in “normal” conditions of confinement were compared to those in solitary confinement, the latter were found to display considerably more psychopathological symptoms including heightened feelings of anxiety, emotional hypersensitivity, ideas of persecution, and thought disorders); Reto Volkart, et al., *Einzelhaft als Risikofaktor für Psychiatrische Hospitalisierung* (Solitary confinement as a risk for psychiatric hospitalization), 16 *PSYCHIATRIA CLINICA*, 365-377 (1983) (finding that prisoners who were hospitalized in a psychiatric clinic included a disproportionate number who had been kept in solitary confinement); Boguslaw Waligora, *Funkcjonowanie Człowieka W Warunkach Izolacji Wieziennej* (How men function in conditions of penitentiary isolation), *SERIA PSYCHOLOGIA I PEDAGOGIKA* NR 34, (1974) (concluding that so-called “pejorative isolation” of the sort that occurs in prison strengthens “the asocial features in the criminal’s personality thus becoming an essential cause of difficulties and failures in the process of his resocialization”). See, also Ida Koch, *Mental and Social Sequelae of Isolation: The Evidence of Deprivation Experiments and of Pretrial Detention in Denmark*, in *THE EXPANSION OF EUROPEAN PRISON SYSTEMS, Working Papers in European Criminology* No. 7, 119, 124 (Bill Rolston & Mike Tomlinson eds. 1986) (finding evidence of “acute isolation syndrome” among detainees that occurred after only a few days in isolation and included “problems of concentration, restlessness, failure of memory, sleeping problems and impaired sense of time and ability to follow the rhythm of day and night”. If the isolated confinement persisted—“a few weeks” or more—there was the possibility that detainees would develop “chronic isolation syndrome,” including intensified difficulties with memory and concentration, “inexplicable fatigue,” a “distinct emotional lability” that can include “fits of rage,” hallucinations, and the “extremely common” belief among isolated prisoners that “they have gone or are going mad.” *Id.* at 125. See also Michael Bauer, Stefan Priebe, Bettina Haring & Kerstin Adamczak, *Long-Term Mental Sequelae of Political Imprisonment in East Germany*, 181 *J. NERVOUS & MENTAL DISEASE* 257-262 (1993) (reporting on the serious and persistent psychiatric symptoms suffered by a group of former East German political prisoners who sought mental health treatment upon release and whose adverse conditions of confinement had included punitive isolation).

exist there.²⁵ These authors reported that “the conditions of deprivation in locked units and higher-security housing were a common stressor shared by many of the prisoners who committed suicide.”²⁶ In addition, signs of deteriorating mental and physical health (beyond self-injury), other-directed violence such as stabbings, attacks on staff, and property destruction, and collective violence are also more prevalent in these units.²⁷

43. As one index of the painfulness and damaging potential of extreme forms of solitary confinement, it is used in so-called “brainwashing” and certain

²⁵ Raymond Patterson & Kerry Hughes, Review of Completed Suicides in the California Department of Corrections and Rehabilitation, 1999-2004, 59 PSYCHIATRIC SERVS. 676-682 (2008), at 678.

²⁶ *Id.* See also Lindsay M. Hayes, *National Study of Jail Suicides: Seven Years Later*, Special Issue: Jail Suicide: A Comprehensive Approach to a Continuing National Problem, 60 PSYCHIATRIC Q., 7 (1989); Alison Liebling, *Vulnerability and Prison Suicide*, 36 BRIT. J. CRIMINOL. 173-187 (1995); Alison Liebling, *Prison Suicide and Prisoner Coping*, 26 CRIME & JUST. 283-359 (1999); and Paolo Roma, Maurizio Pompili, David Lester, Paolo Giradi, & Stefano Ferracito, *Incremental Conditions of Isolation as a Predictor of Suicide in Prisoners*, FORENSIC SCI. INT'L 233 (2013), at e1-e2. Prisoners appear to be at greatest risk of suicide early in their stay in solitary confinement, but they remain at risk throughout. See Bruce Way, Donald Sawyer, Sharen Barboza, & Robin Nash, *Inmate Suicide and Time Spent in Special Disciplinary Housing in New York State Prison*, 58 PSYCHIATRIC SERVS. 558-560 (2007). Homer Venters and his colleagues have found similar increased risk of self-harm among isolated jail inmates. See Fatos Kaba, Anrea Lewis, Sarah Glowa-Kollisch, James Hadler, et al., *Solitary Confinement and Risk of Self-Harm among Jail Inmates*, 104 AM. J. PUB. HEALTH 442-447 (2014).

²⁷ See, e.g., Howard Bidna, Effects of Increased Security on Prison Violence, 3 J. CRIM. JUST. 33-46 (1975); K. Anthony Edwards, Some Characteristics of Prisoners Transferred from Prison to a State Mental Hospital, BEHAV. SCI. & L. 131-137 (1988); Elmer H. Johnson, *Felon Self-Mutilation: Correlate of Stress in Prison*, in *Jail House Blues* (Bruce L. Danto ed., Epic Publications 1973); Anne Jones, *Self-Mutilation in Prison: A Comparison of Mutilators and Nonmutilators*, 13 CRIM. JUST. & BEHAV. 286-296 (1986); Peter Kratcoski, *The Implications of Research Explaining Prison Violence and Disruption*, 52 FED. PROBATION, 27-32 (1988); Ernest Otto Moore, *A Prison Environment: Its Effect on Health Care Utilization*, Dissertation Abstracts, Ann Arbor, Michigan (1980); Frank Porporino, *Managing Violent Individuals in Correctional Settings*, 1 J. INTERPERSONAL VIOLENCE 213-237 (1986); and Pamela Steinke, *Using Situational Factors to Predict Types of Prison Violence*, 17 J. OFFENDER REHABILITATION 119-132 (1991).

forms of torture. In fact, many of the negative effects of solitary confinement are analogous to the acute reactions suffered by torture and trauma victims, including post-traumatic stress disorder (“PTSD”) and the kind of psychiatric sequelae that plague victims of what are called “deprivation and constraint” torture techniques.²⁸

44. Although not every isolated prisoner will experience all or even most of the negative psychological symptoms associated with solitary confinement, the prevalence of these symptoms (that is, the extent to which prisoners who are placed in these units suffer from these and related symptoms) is often very high. For example, in an early study that I conducted of a representative sample of one hundred prisoners who were housed in the Security Housing Unit at Pelican Bay Prison in California,²⁹ I found that every symptom of psychological distress that I measured but one (fainting spells) was suffered by more than half of the prisoners

²⁸ Solitary confinement is among the most frequently used psychological torture techniques. In D. Foster, Detention & Torture in South Africa: Psychological, Legal & Historical Studies (Cape Town: David Philip (1987)), psychologist Foster listed solitary confinement among the most common “psychological procedures” used to torture South African detainees (at 69) and concluded that “[g]iven the full context of dependency, helplessness and social isolation common to conditions of South African security law detention, there can be little doubt that solitary confinement under these circumstances should in itself be regarded as a form of torture” (at 136). *See also* Matthew Lippman, *The Development and Drafting of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 27 B.C. INT’L & COMP. L. REV. 275 (1994); Tim Shallice, *Solitary Confinement—A Torture Revived?* NEW SCIENTIST, Nov. 28, 1974; F.E. Somnier & I.K. Genefke, *Psychotherapy for Victims of Torture*, 149 BRIT. J. PSYCHIATRY 323-329 (1986); and Shaun R. Whittaker, *Counseling Torture Victims*, 16 THE COUNSELING PSYCHOLOGIST 272-278 (1988).

²⁹ To ensure the representativeness of the sample, all of the interviewees were randomly selected from the prison roster.

who were interviewed.³⁰ Many of the symptoms were reported by two-thirds or more of the prisoners assessed in this isolation housing unit, and some were suffered by nearly everyone. Well over half of the Pelican Bay isolated prisoners in this study reported a constellation of symptoms—headaches, trembling, sweaty palms, and heart palpitations—that is commonly associated with hypertension.

45. With respect to a separate set of symptoms—those that have been identified in the literature as direct psychopathological effects of isolation—I also found that almost all of the prisoners whom I evaluated reported ruminations or intrusive thoughts, an oversensitivity to external stimuli, irrational anger and irritability, difficulties with attention and often with memory, and a tendency to socially withdraw. Almost as many prisoners reported a constellation of symptoms indicative of mood or emotional disorders—concerns over emotional flatness or losing the ability to feel, swings in emotional responding, and feelings of depression or sadness that did not go away. Finally, sizable minorities of the prisoners reported symptoms that are typically only associated with more extreme forms of psychopathology—hallucinations, perceptual distortions, and thoughts of suicide.

³⁰ See discussions of these data in Haney, *Mental Health Issues in Long-Term Solitary* (2003), *supra* note 17, and more recent data collected at the same facility, showing much the same pattern of results, Haney, *Restricting Solitary Confinement* (2018), cited *supra* in note 17.

46. In addition to these specific symptoms of psychological stress and the psychopathological reactions to isolation that have been well-documented by myself and others, the extreme and long-term deprivation of social contact destabilizes a person's sense of self, undermines their social identity, and ultimately can destroy their ability to function normally in free society.

47. The experience of social isolation is psychologically harmful and potentially destabilizing in part because it deprives people of the opportunity to affiliate with others. The importance of "affiliation"—the opportunity to have meaningful contact with others—in reducing anxiety in the face of uncertain or fear-arousing stimuli is long-established in social psychological literature.³¹ In addition, one of the ways that people determine the appropriateness of their feelings—indeed, how we establish the very nature and tenor of our emotions—is through contact with others.³²

48. Solitary confinement is a socially pathological environment that forces long-term inhabitants to develop their own socially pathological

³¹ See, e.g., Stanley Schachter, *The Psychology of Affiliation: Experimental Studies of the Sources of Gregariousness* (1959); Irving Sarnoff & Philip Zimbardo, *Anxiety, Fear, and Social Affiliation*, 62 J. ABNORMAL SOC. PSYCHOL. 356-363 (1961); Philip Zimbardo & Robert Formica, *Emotional Comparison and Self-Esteem as Determinants of Affiliation*, 31 J. PERSONALITY 141-162 (1963).

³² See, e.g., A. Fischer, A. Manstead, & R. Zaalberg, *Social Influences on the Emotion Process*, in 14 EUR. REV. SOC. PSYCHOL. 171-202 (2004); C. Saarni, *The Development of Emotional Competence*, (1999); Stanley Schachter & Jerome Singer, *Cognitive, Social, and Physiological Determinants of Emotional State*, 69 PSYCHOL. REV. 379-399 (1962); L. Tiedens & C. Leach (Eds.), *The Social Life of Emotions* (2004); and S. Truax, *Determinants of Emotion Attributions: A Unifying View*, 8 MOTIVATION AND EMOTION 33-54 (1984).

adaptations—ones premised on the absence of meaningful contact with people—in order to function and survive. Prisoners have reported to me that, as a result, they feel that they are gradually changing their patterns of thinking, acting and feeling to cope with their largely asocial world and the impossibility of relying on social support or the routine feedback that comes from normal contact with others. These adaptations thus represent “social pathologies” brought about by the socially pathological environment of isolation. Moreover, the patterns can become internalized so deeply that they persist long after time in isolation has ended.

49. For example, in order to cope with the asociality of their daily existence, some prisoners move from initially being starved for social contact to eventually being disoriented and even frightened by it. As they become increasingly unfamiliar and uncomfortable with social interaction, they are further alienated from others and made anxious in their presence. This helps explain the seeming paradox wherein some isolated prisoners socially withdraw even further from the world around them, receding even more deeply into themselves than the sheer physical isolation of solitary confinement and its attendant procedures require.

50. Although social deprivation is at the core of solitary confinement, and what seemingly accounts for its most intense psychological pain and the greatest risk of harm, prison isolation units inflict additional deprivations on prisoners that

negatively impact their health in significant ways. The characteristically high levels of repressive control, enforced idleness, reduced positive environmental stimulation, and physical and material deprivations also lead to psychological distress and can create even more lasting negative consequences. Indeed, most of the things that we know are beneficial to prisoners—such as increased participation in institutional programming, visits with persons from outside the prison, physical exercise, and so on³³—are either functionally denied or greatly restricted in solitary confinement units.

51. People also require a certain level of mental and physical activity in order to remain healthy. The extremely limited opportunities for movement and exercise in most solitary confinement units unquestionably impacts prisoners' mental as well as physical health. Simply put, without sufficient access to normal physical activity, prisoners are also placed at risk of harm.

52. Apart from the profound social, psychological, and physical deprivations that solitary confinement imposes, isolated prisoners experience extended periods of monotony and idleness. Many of them experience a form of sensory deprivation—there is an unvarying sameness to the physical stimuli that surround them, they exist within the same limited spaces and are subjected to the

³³ John Wooldredge, *Inmate Experiences and Psychological Well-Being*, 16 CRIM. JUST. & BEHAV. 235-250 (1999).

same repetitive routines, and there is little or no external variation to the experiences they are permitted to have or can create for themselves. This loss of perceptual and cognitive or mental stimulation may result in the atrophy of important related skills and capacities.³⁴

53. Scientific research also indicates that the adverse effects of isolated confinement can persist long after such confinement ends,³⁵ including even after a person has been released from incarceration. For example, solitary confinement survivors suffer post-incarceration adjustment problems at higher rates than the already high rates experienced by formerly incarcerated persons in general, including being more likely to manifest symptoms of PTSD.³⁶

2) A Summary of the Extensive Recent Research Establishing the Harmfulness of Solitary Confinement

³⁴ See the articles cited in the reviews referenced in footnote 20 *supra*. In addition, see Stanley Brodsky & Forrest Scogin, *Inmates in Protective Custody: First Data on Emotional Effects*, 1 FORENSIC REP. 267-289 (1988).

³⁵ For example, a group of Stanford researchers found that behavioral patterns and psychological reactions developed in the course of adapting to solitary confinement were persistent and problematic when formerly long-term isolated prisoners attempted to transition back to mainline prison housing. See Human Rights in Trauma Mental Health Lab, Stanford University, *Mental Health Consequences Following Release from Long-Term Solitary Confinement in California* (2017), available at https://ccrjustice.org/sites/default/files/attach/2018/04/CCR_StanfordLab-SHURreport.pdf [<https://perma.cc/5WGGK-UBBN>]. Psychiatrist Terry Kupers, who has written extensively about the mental health risks of solitary confinement, has termed the lingering effects of the experience “SHU postrelease syndrome.” See Terry Kupers, *Solitary: The Inside Story of Supermax Isolation and What We Can Do to Abolish It*, (2017), especially at 151-167.

³⁶ See, e.g., Brian Hagan, et al., *History of Solitary Confinement Is Associated with Post-Traumatic Stress Disorder Symptoms among Individuals Recently Released from Prison*, 95 J. URB. HEALTH 141-148 (2018); and Arthur Ryan & Jordan DeVlyder, *Previously Incarcerated Individuals with Psychotic Symptoms Are More Likely to Report a History of Solitary Confinement*, 290 PSYCHIATRY RES. 113064 (2020). Both articles are briefly discussed in the next section of this report.

54. In addition to the long-standing historical record on the harmfulness of solitary confinement and the extensive research summarized in numerous literature reviews published over the last several decades, much of which I discussed in the above paragraphs, contemporary researchers have continued to study solitary confinement and amass data on its negative effects. Indeed, numerous articles published in just the last several years have continued to underscore and buttress the scientific consensus about risk of harm that solitary confinement entails. These publications underscore the fact that this consensus is not only widespread but continues to be corroborated and extended in current research and analyses.

55. For example, in 2018, Alicia Piper and David Berle reviewed research that examined the relationship between forms of trauma experienced during incarceration and post-traumatic stress disorder (“PTSD”) symptoms, and identified the significant empirical association between PTSD and the experience of having been in solitary confinement.³⁷ They concluded that this particular outcome “supports earlier research, suggesting that solitary confinement represents an environment of physical and psychological deprivation, and may also represent

³⁷ Alicia Piper & David Berle, The Association between Trauma Experienced during Incarceration and PTSD Outcomes: A Systematic Review and Meta-Analysis, 30 J. FORENSIC PSYCHIATRY & PSYCHOL. 854-875 (2018), at 866.

a barrier to treatment and other opportunities of growth.”³⁸ As the authors summarized: “[T]hese results highlight the detrimental effects of solitary confinement on the psychological well-being of incarcerated individuals.”³⁹

56. Also in 2018, Carly Chadick and her colleagues reported on a study conducted in a Kansas prison, comparing prisoners who had spent on average nearly two years in solitary confinement with a matched sample of general population prisoners.⁴⁰ Despite using a convenience measure that had been administered to all prisoners entering the Kansas Department of Corrections that was not intended as, nor necessarily a very sensitive measure of, psychological distress, Chadick et al. nonetheless found that the prisoners in solitary confinement not only showed “notable” increases in scores for anxiety and PTSD after spending time in solitary but also that they “endorsed greater post-assessment levels of anxiety, depressed mood, post-traumatic stress, and somatoform complaints compared to non-segregated inmates.”⁴¹ In fact, the solitary confinement prisoners

³⁸ *Id.* at 868.

³⁹ *Id.*

⁴⁰ Carly Chadick, Ashley Batastini, Samuel Levulis, & Robert Morgan, The Psychological Impact of Solitary: A Longitudinal Comparison of General Population and Long-Term Administratively Segregated Male Inmates, 23 *LEGAL & CRIMINOL. PSYCHOL.* 101-116 (2018).

⁴¹ *Id.* at 110. The fact that “neither the segregated nor non-segregated inmates endorsed symptoms that were in the clinically significant range” despite the fact that 62.9% of both groups had a formal mental health diagnosis may underscore the insensitivity of the measure. *Id.* at 104, 110.

had elevated pre- and post-scores on literally 9 of the 10 scales that were administered and that the authors reported on.⁴² Chadick et al. concluded their article with a series of recommendations about prison “best practices” with respect to solitary confinement, citing an article that I co-authored.⁴³ If conscientiously implemented, their recommendations—including prohibiting the isolation of mentally ill prisoners except in “extreme instances” of “imminent danger,” instituting “therapeutic stepdown” programs for prisoners who have served more than 60 days in solitary confinement, providing for enhanced mental health monitoring and the removal of prisoners who display symptoms of decompensation, involving mental health personnel in determining disciplinary sanctions, and creating clear behavioral markers to enable prisoners to obtain their release from solitary—would likely result in very significant reductions in the use of solitary confinement overall and help to ameliorate at least some of its well-known psychological harms.

⁴² *Id.* at 108, Table 2 (comparing Administrative Segregation prisoners for Pre- and Post- scores). It is interesting to note that, in the original sole authored report from which the later co-authored publication’s data were taken, Carly Chadick wrote that “[p]articipants in segregation scored higher on the anxiety, major depression, and delusional disorder scales than those who never spent time in segregation, coinciding with previous research,” and ended by encouraging mental health workers to “help prevent psychological deterioration from occurring” in solitary confinement. See Carly Chadick, *Psychological Symptoms of Administrative Long-Term Segregation: A Pre- and Post-Segregation Analysis at a Kansas Correctional Facility*, Master’s Thesis, Emporia State University (2009) at 26, 30-31.

⁴³ Cyrus Ahalt, Craig Haney, Sarah Rios, Matthew Fox, David Farabee, & Brie Williams, *Reducing the Use and Impact of Solitary Confinement in Corrections*, 13 INT’L J. PRISONER HEALTH 41-48 (2018).

57. A literature review by Hunter Astor, Thomas Fagan, and David Shapiro focused on published studies they described as “peer-reviewed, empirical studies supported by quantitative data” (although curiously omitting my own 2003 study, despite it meeting those criteria).⁴⁴ They concluded that the task of comparing studies was compromised by variations in solitary confinement practices and a lack of standardization in research protocols and that, overall, the results were “mixed,” including that “[n]umerous cross sectional studies report a relatively high prevalence of psychological symptoms/psychopathology... and suicide attempts/hospitalizations,” as did “studies using at least one comparison sample” (but noting that both kinds of studies were limited by the possible influence of pre-existing conditions),⁴⁵ and that longitudinal studies suggested “positive, neutral, or adverse effects of restrictive housing on psychological functioning” (findings that could also be limited by, among other things, “high rates of attrition” which, they correctly noted, was “relatively common for studies conducted in correctional settings”).⁴⁶

⁴⁴ Hunter Astor, Thomas Fagan, & David Shapiro, *The Effects of Restrictive Housing on the Psychological Functioning of Inmates*, 24 J. CORRECTIONAL HEALTH CARE 8-20 (2018).

⁴⁵ *Id.* at 9-10.

⁴⁶ *Id.* at 16. It is worth noting that Astor et al. did not take into account the numerous additional publications that became available in 2018, after their literature review was written, and that all corroborated the already substantial evidence of harmfulness. As I will note later, it is entirely reasonable to assume that, in light of this additional scientific evidence, none of which was “mixed,” Astor et al. might well have reached a different judgment.

58. In the next year, 2019, Keramit Reiter and her colleagues published the results of their research on the effects of long-term solitary confinement in several different Washington State prisons. Focusing on a sample of more than one hundred prisoners, who were housed on average for 14.5 months in several different Washington State prisons,⁴⁷ they used a psychiatric rating scale, qualitative interviews, and medical file reviews to assess distress and harm. The researchers reported that “clinically significant” psychiatric ratings were found in “as much as a quarter of the population sampled, especially for the depression and anxiety symptoms,” and that there was “additional evidence of clinically significant psychiatric distress in as much as half of the population sampled.”⁴⁸ Moreover, the interview data collected from the prisoners housed in solitary confinement provided additional self-reported evidence of the “emotional toll” of being in solitary confinement and the feelings of social isolation that it engendered.⁴⁹ Not only were “[s]ymptoms such as anxiety and depression [...]

⁴⁷ Keramit Reiter, Joseph Ventura, David Lovell, Dallas Augustine, et al., *Psychological Distress in Solitary Confinement: Symptoms, Severity, and Prevalence in the United States, 2017-2018*, 110 AM. J. PUB. HEALTH S56-S62 (2019).

⁴⁸ *Id.* at S58. These researchers also observed that, although the Brief Psychiatric Rating Scale they employed is widely used to identify psychiatric symptoms, it “does not capture the full spectrum of psychiatric distress incarcerated people experience in solitary confinement,” so that, “[i]f we study people in solitary confinement solely with instruments validated with non-incarcerated populations... we may fail to capture the extent of incarcerated people’s psychological distress.” *Id.* at S60-61.

⁴⁹ *Id.* at S59.

especially prevalent” among the isolated prisoners but so, too, were “symptoms ostensibly specific to solitary confinement, such as sensory oversensitivity and a perceived loss of identity...”⁵⁰ The authors concluded that the association of solitary confinement with psychopathology calls into question the usefulness of the practice, “let alone its justice.”⁵¹

59. Also in 2019, Michael Campagna and his colleagues conducted a study with a sample of over 400 prisoners from a prison system in the Western United States.⁵² Although—at least compared to some studies—the amount of time prisoners spent in solitary confinement was relatively modest (averaging 21.15 days), even when researchers controlled for a host of other variables, the number of days a person spent in solitary confinement “was negatively and significantly associated with mental health status.”⁵³ Time spent in solitary confinement not

⁵⁰ *Id.* at S60.

⁵¹ *Id.* at S61.

⁵² Michael Campagna, et al., *Understanding Offender Needs Over Forms of Isolation Using a Repeated Measures Design*, 99 PRISON J. 639-661 (2019).

⁵³ *Id.* at 649 (emphasis added). They found that other background variables also were negatively associated with mental health. However, even after those variables were controlled for, days spent in solitary confinement had an adverse effect on mental health. Campagna et al. acknowledged that although “the results support the hypothesis that [solitary confinement] has a negative effect on offenders’ mental health,” *id.* at 650, and the measured negative effects on mental health were significant (such that each day in solitary confinement decreased the odds of a positive mental health score by 1.7%), the adverse effects were not as drastic or deleterious as those reported in some other research. This is not surprising, given the fact that the conditions of confinement in other studies were often identified as very severe (for example, “supermax”-type conditions, as opposed to the unspecified conditions of solitary confinement in Campagna et al.’s study), and the amounts of time spent in solitary confinement in those other studies were measured in months or years, rather than weeks or days, as in the study Campagna and colleagues conducted. *Id.* at 649, 652.

only negatively affected mental health status, as indicated by scores on a mental health needs assessment, but had other deleterious effects as well. Thus, the researchers also found that time spent in solitary confinement had presumably unintended negative consequences—it significantly negatively affected the prisoners’ behavior toward authority figures—and failed to achieve several apparent goals (i.e., it did not have any positive effect on impulse control or on a measure of what the researchers termed the prisoners’ “readiness to change”).⁵⁴ In light of their findings, the authors joined prior recommendations that prison administrators should “[i]nvariably” develop alternative approaches to managing prisoner behavior “that minimize the use of isolation” and should prohibit it outright for prisoners with mental health problems “except in the case of extreme circumstances related to safety [...]”⁵⁵

60. Another study, published in 2019, examined a different issue—the association of self-reported time spent in solitary confinement with mental illness diagnoses, in this instance among juveniles waived into the adult criminal justice system.⁵⁶ Based on a sample of 92 juveniles who had spent time in adult criminal

⁵⁴ *Id.* at 650-651.

⁵⁵ *Id.* at 652.

⁵⁶ Colby Valentine, Emily Restivo, & Kathy Wright, *Prolonged Isolation as a Predictor of Mental Health for Waived Juveniles*, 58 J. OFFENDER REHABILITATION 352-369 (2019).

justice facilities in New Jersey, Colby Valentine and her colleagues reported that those “who spend more time in segregation have a greater number of mental health diagnoses.”⁵⁷ Even when a host of other variables (e.g., demographics, waived offense, medication use, physical and sexual abuse while incarcerated) were taken into account, the researchers found that “the number of mental illness diagnoses for waived youth increases by approximately 26% with every one-unit increase in time in segregation.”⁵⁸ They concluded that, given the “limited social contact with other human beings,” and the “limited and inadequate access to medical and mental health treatment as well as to rehabilitative and educational programming” that often characterizes solitary confinement units, “it is not surprising that segregation may be psychologically damaging, especially for juveniles.”⁵⁹

61. My own research, published in a journal article in 2018 and a 2020 book chapter, reported on the results of a study that used a different methodology, contrasting the psychological state of a group of extremely long-term solitary confinement prisoners with a comparable sample of prisoners currently housed in general population.⁶⁰ The prisoners in both groups were randomly selected to

⁵⁷ *Id.* at 360.

⁵⁸ *Id.* at 362.

⁵⁹ *Id.* at 363.

⁶⁰ See Haney, Restricting Solitary Confinement (2018), *supra* note 17, and Craig Haney, *Solitary Confinement, Loneliness, and Psychological Harm*, in Solitary Confinement: Effects, Practices, and Pathways to Reform (Jules Lobel and Peter Scharff Smith, eds., 2020), at 129-152. The solitary

ensure representativeness (but did not include anyone on the prison's mental health caseload).⁶¹ I found that those prisoners who were subjected to extremely long-term, continuous solitary confinement reported nearly twice the number of symptoms of stress-related trauma and twice the number of isolation-related pathology overall, as compared to the prisoners in prison for comparable amounts of time but who were currently housed in general population. In addition, the isolated prisoners reported more than twice the mean intensity levels for both categories of problematic symptoms than the long-term general population prisoners.⁶² The same study also found that, compared to long-term prisoners in general population, the long-term isolated prisoners were significantly more "lonely," as measured by a standard and widely used loneliness scale. In fact, they reported levels of extreme loneliness rarely found anywhere in the literature.⁶³

confinement prisoners had spent 10 continuous years or more housed in the Security Housing Unit at Pelican Bay State Prison; the general population prisoners had been incarcerated for at least 10 continuous years and were now housed in the mainline unit at the same prison.

⁶¹ In *Madrid v. Gomez*, 889 F. Supp. 1146 (N.D. Cal. 1995), the Court prohibited the housing of mentally ill prisoners in the Pelican Bay solitary confinement unit. To ensure the comparability of the samples in this regard, no general population prisoner who was on the prison system's mental health caseload was included in the study.

⁶² A sequential multiple linear regression was used to determine whether solitary status explained the difference in the intensity of these isolation-related pathological symptoms. In fact, being in solitary confinement was by far the largest contributor to the intensity of isolation-related symptoms suffered, even after controlling for age, marital status, and estimated total time in prison.

⁶³ See Dan Russell, Letitia Peplau, & Carolyn Cutrona, *The Revised UCLA Loneliness Scale: Concurrent and Discriminant Validity Evidence*, 39 J. PERSONALITY & SOC. PSYCHOL. 472-480 (1980).

62. To my knowledge, virtually every study of the topic has found that suicide and rates of self-harm are significantly higher in solitary confinement than in other prison settings.⁶⁴ Several publications that have appeared recently underscore the heightened risk of self-harm and suicidality that solitary confinement incurs. For example, in 2018 Robert Canning and Joel Dvoskin acknowledged that suicide was related to placement in solitary confinement and that even prisoners who were placed there for their own protection may experience “anxiety and agitation” that “can rise to psychotic proportions and quickly precipitate a suicidal crisis.”⁶⁵ More recently, in 2021, Louis Favril and his colleagues conducted a comprehensive review of studies done across some 20 countries and concluded that placement in solitary confinement was a significant environmental risk factor for self-harm.⁶⁶

⁶⁴ For example, see Meredith Dye, *Deprivation, Importation, and Prison Suicide: Combined Effects of Institutional Conditions and Inmate Composition*, 38 J. CRIM. JUST. 796-806 (2010); Seena Fazel, Julia Cartwright, Arabella Norman-Nott, & Keith Hawton, *Suicide in Prisoners: A Systematic Review of Prisoners*, 69 J. CLINICAL PSYCHIATRY, 1721-1731 (2008); Stefan Fruehwald, Teresa Matschnig, Franz Koenig, Peter Bauer, & Patrick Frottier, *Suicide in Custody: Case-Control Study*, 185 BRIT. J. PSYCHIATRY 494-498 (2004); and Fatos Kaba, Andrea Lewis, Sarah Glowa-Kollisch, James Hadler, et al., *Solitary Confinement and Risk of Self-Harm Among Jail Inmates*, 104 AM. J. PUB. HEALTH 442-447 (2014).

⁶⁵ Robert Canning & Joel Dvoskin, *Preventing Suicide in Detention and Correctional Facilities*, in Oxford Handbook of Prisons and Imprisonment (J. Wooldredge & P. Smith eds., Oxford University Press 2018), at 551-578, 555.

⁶⁶ Louis Favril, Rongqin Yu, Keith Hawton, & Seena Fazel, *Risk Factors for Self-Harm in Prison: A Systematic Review and Meta-Analysis*, 7 LANCET:PSYCHIATRY 682-691 (2021). See also Louis Favril, Ciska Wittouck, Kurt Audenaert, & Freya Vander Laenen, *17 year National Study of Suicides in Belgium* 40 CRISIS 42-53 (2018), who found much the same thing.

63. A number of studies done in the past few years also focused on the negative physical or medical effects of solitary confinement. For example, in a 2019 study, Lauren Brinkley-Rubinstein and her colleagues showed that the stressfulness and long-term damage that is inflicted by solitary confinement can adversely affect someone's life expectancy. Specifically, they analyzed the experiences of more than 200,000 people who were released from a state prison system between 2000 and 2015 and found that those persons who spent any time in solitary-type confinement (such as administrative or disciplinary segregation) "were 24% more likely to die in the first year after release."⁶⁷ Prisoners who spent time in solitary-type confinement also were more likely to commit suicide (78% more likely than other inmates) and to be victims of homicide (54% more likely) after being released from prison,⁶⁸ and they were "127% more likely to die of an opioid overdose in the first 2 weeks after release."⁶⁹

64. In addition to Brinkley-Rubenstein et al.'s research on the relationship of solitary confinement to mortality or life expectancy, three other publications recently also addressed the medical risks of solitary confinement. In the first, law

⁶⁷ Lauren Brinkley-Rubinstein et al., *Association of Restrictive Housing During Incarceration with Mortality After Release*, J. AM. MED. (October 4, 2019), available at <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2752350>.

⁶⁸ *Id.*

⁶⁹ *Id.*

professor Jules Lobel and neuroscientist Huda Akil reported on the well-documented neurological changes that take place in brain structure and function in response to social isolation and extrapolated them to the adverse effects of solitary confinement.⁷⁰ Summarizing the work and quoting the opinions of several prominent neuroscientists, including Akil herself as well as Matthew Lieberman, Naomi Eisenberger, and Michael Zigmond, they noted “it is considered settled science within the field of psychology that humans and all mammals have a fundamental need for social connection,” that the social pain of isolation involves “the same neural and neurochemical process invoked during physical pain,” and that social isolation affects “neural activity in certain cortical regions of the brain associated with physical distress, in the same way physical pain would.”⁷¹ In addition, “neuroscience studies suggest that solitary confinement can ‘fundamentally alter the structure of the human brain in profound and permanent ways,’” that “the key features of solitary confinement [are] ‘sufficient to change the brain [...] dramatically depending on whether it lasts briefly or is extended,’”⁷² and that the brains of isolated animals demonstrate impaired functioning and

⁷⁰ Jules Lobel & Huda Akil, *Law & Neuroscience: The Case of Solitary Confinement*, 147 DAEDALUS 61-75 (2018).

⁷¹ *Id.* at 69 (quoting neuroscientist Matthew Lieberman).

⁷² *Id.* at 69-70 (quoting neuroscientist Huda Akil).

structural dimensions, including having fewer nerve cells, smaller neurons, and poorer neurotransmission.⁷³ Lobel and Akil concluded by suggesting that this evidence indicates that “neuroscience can play an important role in the legal struggle against prolonged solitary confinement.”⁷⁴ Lobel and Akil also wisely noted something that I stated earlier about the practical and other obstacles that preclude conducting a “perfect” study of the effects of solitary confinement: “Not only would the cost of doing such a study be massive and untenable for a public interest lawsuit, but even if the necessary funds could be raised, prison officials do not allow scientists into the prison to do studies, and, absent an unlikely court order, the plan would not be workable.”⁷⁵

65. In another paper on the negative physical/medical effects of solitary confinement, this one published in 2019, medical school professor Brie Williams and her colleagues used data on the differential rates of hypertension between general population and solitary confinement prisoners to estimate the toll of solitary confinement on the loss of what they termed “quality-adjusted life years” and the increased medical costs of treating additional isolation-related cases of

⁷³ *Id.* at 70 (summarizing the work of neuroscientist Michael Zigmond).

⁷⁴ *Id.* at 71.

⁷⁵ *Id.* at 68.

hypertension.⁷⁶ Noting that “a wealth of research describes the impact of isolation on stress hormone dysfunction and adverse cardiovascular outcomes including hypertension and mortality,”⁷⁷ Williams et al. estimated an approximately 31% increase in the prevalence of hypertension brought about by being subjected to solitary confinement which, by their calculations, would conservatively result in a loss of 5673 quality-of-life years and \$155 million in additional future healthcare costs. As they concluded, “[t]hese findings, coupled with the growing consensus that solitary confinement is counter-productive as a public safety measure, suggest an urgent need to dramatically reduce solitary confinement using alternative strategies that achieve safety without compromising health.”⁷⁸

66. The final paper published during this time frame that addressed the medical risks of solitary confinement appeared in 2020 and examined the “physical health impacts” of solitary confinement.⁷⁹ Using surveys and interviews with an overall sample of several hundred prisoners, reviews of their medical and mental

⁷⁶ Brie Williams, Amanda Li, Cyrus Ahalt, Pamela Coxson, James Kahn, & Kirsten Bibbins-Domingo, *The Cardiovascular Health Burdens of Solitary Confinement*, 34 J. GEN. INTERNAL MED. 1977-1980 (2019).

⁷⁷ *Id.* at 1977.

⁷⁸ *Id.* at 1979-1980.

⁷⁹ Justin Strong, Keramit Reiter, Gabriela Gonzalez, Rebecca Tublitz, Dallas Augustine, et al., *The Body in Isolation: The Physical Health Impacts of Incarceration in Solitary Confinement*, 15 PLoS ONE 1-20 (2020) at e0238510.

health files, and institutional data, Justin Strong and his colleagues found that one in seven prisoners housed in solitary confinement reported “clinically significant” concerns over their bodily health, and that the concerns tended to persist if the persons remained in solitary confinement. The health concerns included “a range of physical ailments directly connected to the conditions of their confinement” (including “various deprivations of movement, provisions... and human contact”),⁸⁰ and solitary confinement policies and practices “exacerbated [the prisoners’] physical ailments, especially their chronic health problems.”⁸¹ The authors also noted that the widespread complaints that prisoners voiced about “musculoskeletal pain” included the fact that it was often “untreated” and yet serious enough to interfere “(physically and mentally) with even those few, limited activities available to them in solitary confinement.”⁸² Strong et al. noted that because persons in solitary confinement “are left with very few options to effectively manage persistent pain” it appears “to foster more maladaptive behavior, such as ruminations, stress, and despair.”⁸³ They concluded that, although they could not definitively establish the prevalence of symptoms and

⁸⁰ *Id.* at 8.

⁸¹ *Id.* at 10.

⁸² *Id.* at 12.

⁸³ *Id.*

mechanisms of suffering in the units under study, “evidence is clear that solitary confinement poses serious health risks,” and that “[p]hysical suffering reveals itself to be a crucial dimension of experience in solitary confinement.”⁸⁴

67. In Ellie Brown’s 2020 “systematic review” of the solitary confinement literature she synthesized past quantitative “meta-analytic” reviews with narrative accounts of a broader range of empirical studies, as well as separately examining the results of sixteen studies focusing on psychological effects.⁸⁵ Brown concluded that a majority of the individual studies “revealed a negative effect of segregation” and that the symptomatology identified in those studies “was broad ranging,” including higher levels of psychological distress, psychiatric morbidity, self-harm and, in one instance, a significant association between the experience of solitary confinement and post-traumatic stress disorder.⁸⁶ She also acknowledged that, among the results of studies that lacked control groups, “[i]mportantly, negative psychological responses such as hallucinations, hyper-responsivity to stimuli, perceptual distortions, anxiety and psychotic disturbances were common” as were elevated “prevalence and

⁸⁴ *Id.* at 15.

⁸⁵ Ellie Brown, *A Systematic Review of the Effects of Prison Segregation*, 52 AGGRESSION & VIOLENT BEHAV. 101389 (2020).

⁸⁶ *Id.* at 10.

disproportionality of events such as suicide and self-harm,” and that these findings were corroborated by “a substantial number of other studies, which adopt different methodological designs...”⁸⁷

68. Similarly, a meta-analysis performed by Mimosa Luigi and her colleagues that was published in 2020, and encompassed 13 separate studies comprising a total sample of 382,440 prisoners overall, concluded that “solitary is associated with the psychological deterioration of inmates.”⁸⁸ Although the association between solitary confinement and increased mental health symptomatology was moderate overall, “[h]igher quality studies from the systematic review also showed [solitary confinement] was related to deleterious effects with regards to mood symptoms, PTSD-related outcomes, psychotic experiences, hostility, self-injurious behavior, and mortality.”⁸⁹ The researchers also observed that the fact that mental health staff typically have only “obstructed access to inmates” in solitary confinement, and rely heavily on the administration of psychotropic medications and “short and infrequent cell-front visits” for

⁸⁷ *Id.* at 12.

⁸⁸ Mimosa Luigi, Laura Dellazizzo, Charles-Edouard Giguere, Marie-Helene Goulet, & Alexandre Dumais, Shedding Light on “the Hole”: A Systematic Review and Meta-Analysis on Adverse Psychological Effects and Mortality in Correctional Settings, 11 FRONTIERS IN PSYCHIATRY 840 1-1 (2020).

⁸⁹ *Id.* at 6. Unlike some other meta-analytic reviews, Luigi et al. were careful not to overweight the results of the methodologically flawed “Colorado Study.” See Haney, A Systematic Critique (2018), *supra* note 14, for a discussion of the pitfalls of overweighting the results of the Colorado Study.

treatment, tends to “make monitoring of psychological deterioration difficult and possibly under detected.”⁹⁰ Moreover, Luigi et al. found that “the association between psychological deterioration and [solitary confinement] exposure grew even stronger when removing a sample entirely composed of inmates with prior mental illnesses,” indicating that prisoners “with prior mental illness are not driving the entirety of the association between [solitary confinement] and psychological distress.”⁹¹

69. Also in 2020, the Northwestern Law Review published a literature review that pertained in a different but related way to these issues—my own review of the vast amount of scientific evidence that has established the negative psychological and physical effects of social isolation, social exclusion, and loneliness, its applicability to solitary confinement, and the way in which this broad literature expands the narrative about harmfulness of the practice. As I said, “knowledge about solitary confinement does not exist in an empirical or theoretical vacuum,” but is instead an extension of “a wealth of scientific knowledge about the adverse consequences [of social isolation, loneliness, and social exclusion] as they

⁹⁰ Luigi et al., *supra* note 88, at 8.

⁹¹ *Id.* They wisely raised another issue that may result in underestimates of the full magnitude of the psychological distress experienced in solitary confinement, namely that “cross-sectional or retrospective designs, such as those used in most studies included, do not account for the loss of inmates so adversely affected by [solitary confinement] that they necessitate transfer out of this housing.” *Id.* at 9.

occur in context and settings outside prison.”⁹² Indeed, this research has underscored the “destructive and even life-threatening consequences of isolation.”⁹³ If anything, because of how completely, forcefully, and pejoratively it is employed there, “adverse effects of isolation in a *correctional* setting are likely to be far greater.”⁹⁴

70. In addition to the empirical studies of the direct negative effects of solitary confinement, and the literature reviews depicting various aspects of its harmfulness, several other studies published in recent years reported on associations between the experience of solitary confinement and post-imprisonment negative psychological and other problematic events. For example, Brian Hagan and his colleagues reported in 2018 that formerly incarcerated persons with a history of having been in solitary confinement were significantly more likely to report PTSD symptoms than those without solitary confinement,⁹⁵ and that this relationship remained significant even after screening out persons

⁹² Haney, *The Science of Solitary* (2020) at 222.

⁹³ *Id.* at 235.

⁹⁴ *Id.*

⁹⁵ Brian Hagan, Emily Wang, Jenerius Aminawung, Carmen Albizu-Garcia, et al., *History of Solitary Confinement Is Associated with Post-Traumatic Stress Disorder Symptoms among Individuals Recently Released from Prison*, 95 J. URB. HEALTH 141-148 (2018).

with prior PTSD diagnoses and prior mental health conditions (but not those with a history of chronic mental health conditions).⁹⁶

71. In 2020, Arthur Ryan and Jordan DeVolder reported on research showing that “[p]reviously incarcerated individuals with psychotic symptoms were [...] approximately 50% more likely to report a history of solitary confinement than those without psychotic symptoms,”⁹⁷ leading the authors to recommend the development of alternative means for managing psychotic-illness-associated behavior among incarcerated individuals without resorting to punitive and potentially harmful practices, such as solitary confinement and excessive physical restraint.⁹⁸

72. Also in 2020, Christopher Wildeman and Lars Andersen examined the long-term “re-entry” consequences of solitary confinement.⁹⁹ Noting that being placed in solitary confinement “is considered one of the most devastating experiences a human can endure,”¹⁰⁰ they used a complex set of statistical analyses

⁹⁶ *Id.* at 145-146.

⁹⁷ Arthur Ryan and Jordan DeVolder, *Previously Incarcerated Individuals with Psychotic Symptoms Are More Likely to Report a History of Solitary Confinement*, 290 PSYCHIATRY RES. 113064 (2020), at 2.

⁹⁸ *Id.* at 3.

⁹⁹ Christopher Wildeman & Lars Andersen, *Long-term Consequences of Being Placed in Disciplinary Segregation* 58 CRIMINOLOGY 423-453 (2020). The authors focused specifically on what is called “disciplinary segregation” in Denmark—a form of solitary confinement in which prisoners spend 22-23 hours per day in a cell as punishment for disciplinary infractions, for terms that “cannot exceed 4 consecutive weeks for any offense.” *Id.* at 427.

¹⁰⁰ *Id.* at 423.

to reach what they characterized as “two straightforward conclusions,” namely that prisoners placed in solitary confinement “experience a larger percent increase in the risk of recidivism, measured here as a new conviction” as compared to prisoners who were not placed in solitary confinement, and that the isolated prisoners also suffered “decreas[ed] labor force participation” (i.e., had a more difficult time obtaining post-prison employment).¹⁰¹ The authors concluded by noting that the use of solitary confinement in this context not only has long-term consequences for the persons subjected to it but “may also be counterproductive as placing prisoners in restrictive housing... can significantly compromise their chance of successfully reintegrating into society in two vitally important dimensions after release” (i.e., subsequent employment and criminal convictions).¹⁰²

73. In addition to the empirical studies and literature reviews that I have discussed so far, there were several authoritative commentaries that were published by expert groups during this period, each of which reached very similar conclusions about the harmfulness of solitary confinement. The first one was the product of a long-standing collaboration between a national organization of high-level correctional administrators, formerly the Association of State Correctional

¹⁰¹ *Id.* at 448.

¹⁰² *Id.*

Administrators (“ASCA”), now the Correctional Leaders Association (“CLA”), and the Arthur Liman Center for Public Interest Law (“Liman Center”). The results of nationwide surveys have resulted in a series of monographs (“CLA/Liman Center Reports”) on the nature and degree to which solitary confinement is used by correctional systems across the United States. The first of the two most recent ASCA/Liman Center Reports, published in October 2018, referenced the 2016 revision of the American Correctional Association Standards, which the ASCA/Liman Center authors acknowledged as “reflect[ing] the national consensus to limit the use of restrictive housing for pregnant women, juveniles, and seriously mentally ill individuals, as well as not to use a person’s gender identity as the sole basis for segregation,” a development they noted was consistent with the fact that “[c]orrectional systems around the country are engaging in targeted efforts to reform their practice of isolating prisoners.”¹⁰³ Commenting on attempts to reduce the use of solitary confinement, undertaken not only by U.S. correctional officials but also by legislatures, courts, and international bodies, the 2018 ASCA/Liman Center Report also acknowledged that “these endeavors reflect the national and international consensus that restrictive housing imposes grave harms on individuals confined, on staff, and on the communities to which prisoners return. Once solitary

¹⁰³ Association of State Correctional Administrators & Liman Center for Public Interest Law, *Reforming Restrictive Housing: The 2018 ASCA-Liman Nationwide Survey of Time-in-Cell*, at 5 (Oct. 2018).

confinement was seen as a solution to a problem. Now prison officials around the United States are finding ways to solve the problem of restrictive housing.”¹⁰⁴

74. The specific reforms in the nature and use of solitary confinement that the 2018 ASCA/Liman Center Report documented included limiting the use of solitary confinement for only the most serious offenses, explicitly considering less restrictive alternatives before placing someone in solitary confinement (including special mental health and/or drug units and separate protective housing units), increasing the nature and frequency of monitoring the well-being of persons in solitary confinement, adding more structured and unstructured programming for persons in solitary confinement (including group programming) and otherwise increasing all forms of out-of-cell time, increased mental health training for staff members who work inside solitary confinement units, placing limits on the amount of time someone could spend in solitary confinement, and developing or implementing “step down” programs to facilitate post-solitary confinement adjustment. The 2018 ASCA/Liman Center Report ending by commenting on the Vera Institute of Justice publication that recommended limiting the number of people placed in solitary confinement, shortening the length of time people spend there, and improving conditions inside solitary confinement units.¹⁰⁵ Like Vera’s,

¹⁰⁴ *Id.* at 6.

¹⁰⁵ *Id.* at 82-83.

the ASCA/Liman Center Report acknowledged that “[d]epriving individuals of virtually all normal sociability has long been understood as disabling,” especially for mentally ill prisoners, where solitary confinement “adds insult to injury.”¹⁰⁶

75. In 2020, the same group (now the “CLA/Liman Center”) reported on the most recent results of their periodic nationwide survey of solitary confinement practices in U.S. prisons.¹⁰⁷ They began by noting that, although solitary confinement was “[o]nce a regular tool of discipline,” it had now become “a matter of grave concern.”¹⁰⁸ Indeed, as they put it, many developments in recent years “underscore the need to reduce or to end the practice of holding individuals inside small cells for almost all hours of the day for weeks, months, or years.”¹⁰⁹ The CLA/Liman Center Report went on to note that there now were many national and even global efforts underway to address the use of isolation in prisons. The authors were clear about the scientific underpinnings of these national and international initiatives: “Animating many of these efforts is documentation of the harms that flow from the deprivations that isolation entails,” as provided by “[s]ocial

¹⁰⁶ *Id.* at 85.

¹⁰⁷ Correctional Leaders Association & Arthur Liman Association, *Time-In-Cell 2019: A Snapshot of Restrictive Housing, Based on a Nationwide Survey of U.S. Prison Systems*, (Sept. 2020) (hereafter “CLA/Liman Center Report”).

¹⁰⁸ *Id.* at 1.

¹⁰⁹ *Id.*

scientists, joined by correctional and health professionals,” who “continue to analyze the impact of prison conditions on the people who live and work in prison.”¹¹⁰ Despite a few commentators who have argued that the harmfulness of solitary confinement has been overstated, “most experts in this arena agree that the profound deprivations that radically restrict physical movements and human sociability have disabling effects.”¹¹¹

76. The CLA/Liman Report authors also reported that “legislation to limit the use of isolation in prison,” curtailing its use with “pregnant prisoners, youth, and those with serious mental illness,” had been recently introduced in at least twenty-nine jurisdictions in the United States.¹¹² In addition to state legislation, as they noted, the federal First Step Act of 2018 “prohibits ‘the involuntary placement’ of a juvenile ‘alone in a cell, room, or area for any reason’ other than as a response to ‘a serious and immediate risk of physical harm to any individual.’”¹¹³ The CLA/Liman Report also cited to a number of state and federal court decisions, “approving or extending settlement agreements in class action that challenged the constitutionality of long-term placement in isolation.”¹¹⁴ These cases arose in a

¹¹⁰ *Id.* at 79.

¹¹¹ *Id.*

¹¹² *Id.* at 80.

¹¹³ *Id.*

¹¹⁴ *Id.* at 83.

number of states, including in Alabama, California, Connecticut, Georgia, Pennsylvania, and Virginia, and pertained in some instances to limiting the use of solitary confinement for prisoners in general, and in other instances to special limitations placed on its use with certain categories of prisoners (such as the mentally ill).¹¹⁵ The CLA/Liman Report also pointed to numerous instances in which international bodies had formally condemned various forms of solitary confinement, including the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment reaffirming in 2020 the U.N.’s earlier conclusion that “subjecting prisoners to solitary confinement for more than fifteen days is regarded as a form of ‘psychological torture,’” and this time “voic[ing] alarm at the excessive use of solitary confinement by correctional facilities in the United States,”” as well as several Canadian cases and pieces of litigation that drastically limited the use of solitary confinement to a period of no more than fifteen days.¹¹⁶

77. A separate authoritative commentary was also published in 2020, by the Northwestern Law Review. The “Consensus Statement from the Santa Cruz

¹¹⁵ *Id.* at 84-85.

¹¹⁶ *Id.* at 86.

Summit on Solitary Confinement and Health”¹¹⁷ summarized the conclusions reached by an international group of experts who were drawn from a range of different disciplines, including corrections, mental health, medicine, law, and human rights. Building on the principles included in the Istanbul Statement,¹¹⁸ which was published approximately a decade before the Santa Cruz Summit, the authors of the more recent document noted: “To advance solitary confinement reform based on the wealth of accumulated knowledge about its harmful effects, Summit participants developed a set of guiding principles to inform significant science- and ethics-based changes to correctional policies that can and should govern its practice.”¹¹⁹ The “guiding principles” included in the Santa Cruz Consensus Statement were based on the signatories’ conclusion that because “[e]xisting research clearly establishes that solitary confinement subjects prisoners

¹¹⁷ Consensus Statement from the Santa Cruz Summit on Solitary Confinement and Health, 115 NW. U. L. REV. 335-359 (2020) [hereafter “Santa Cruz Consensus Statement”].

¹¹⁸ In formal recognition of the already substantial scientific evidence about the risk of harm from solitary confinement, a gathering of prominent trauma, mental health, and prison experts at the International Psychological Trauma Symposium in Turkey formulated what came to be known as the “Istanbul Statement on the Use and Effects of Solitary Confinement.” The Statement summarized the well-known harms of solitary confinement and concluded that the practice should be employed only in exceptional circumstances, as an absolute last resort, and then only for as short a time as necessary. The Istanbul Statement was submitted to the U.N. General Assembly by the Special Rapporteur on Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment in 2008. *See* Istanbul Statement on the Use and Effects of Solitary Confinement (Dec. 9, 2007), http://solitaryconfinement.org/uploads/Istanbul_expert_statement_on_sc.pdf [[https://perma.cc/NNC5 - RLCL5YCF-6UHI](https://perma.cc/NNC5-RLCL5YCF-6UHI)].

¹¹⁹ Santa Cruz Consensus Statement at 344. The invitees “included researchers, clinicians, practicing lawyers, correctional officials and staff, human rights experts and advocates, and persons engaged in correctional monitoring and oversight.” *Id.*

to significant risk of harm,” the practice should be used, “if ever, only when absolutely necessary, and only for the shortest amount of time possible.”¹²⁰ In addition, in light of their recognition that “solitary confinement is a form of physical and psychological trauma,” that it “can have serious adverse effects on the correctional and clinical staff who are charged with administering it,” and that it “achieves few, if any, penological purposes that cannot be accomplished through less harmful alternatives,”¹²¹ the Santa Cruz Summit participants not only urged that solitary confinement be significantly limited overall but also recommended imposing mandatory training for prison staff about the harmfulness of the practice (to themselves and the prisoners), the use of meaningful outside and internal monitoring of solitary confinement practices, and in-depth studies of the kind of broader dysfunctions in prison operations that give rise to its overuse.

78. Finally, even as recently as 2021, several additional publications appeared that also addressed the negative effects of solitary confinement. For example, researchers Rebecca Trammell, Mackenzie Rundle, and Andrea Borrego published the results of an interview study they conducted with a random sample

¹²⁰ *Id.* at 346.

¹²¹ *Id.* at 357.

of over 300 prisoners,¹²² a subset of whom were confined in solitary confinement units, where “interviewees feel isolated from both staff members and each other,” creating “a culture where no one trusts one another.”¹²³ They observed that “[d]ue to the social isolation, inmates and staff are not able to engage in social reciprocity to build respect” and that the “social disconnect creates feelings of distrust among inmates.”¹²⁴ Noting that, because “human beings are social animals,” the punishment meted out in solitary confinement “creates pockets of loneliness and despair” that could even “increase violent acts” in the long run “if inmates come to believe that they have nothing to lose and they have made no positive connections with staff or each other.”¹²⁵

79. Also in 2021, Liat Tayer, Tomer Einat, and Anat Yaron Antar reported on the results of a small-scale qualitative interview study that they conducted with currently or formerly incarcerated persons who had spent between one month and ten years in solitary confinement in Israeli prisons.¹²⁶ They found

¹²² Rebecca Trammel, Mackenzie Rundle, & Andrea Borrego, *Anger, Frustration, and Snitching: Inmates Describe Structured Isolation in a High Tech Prison*, 42 *DEVIANT BEHAV.* 1067-1085 (2020).

¹²³ *Id.* at 1081.

¹²⁴ *Id.* at 1080.

¹²⁵ *Id.* at 1082. The authors further observed that “[i]f prison officials create an atmosphere where inmates are structurally isolated from each other and the staff members, the level of frustration will increase, and inmates might lash out.” *Id.*

¹²⁶ Liat Tayer Tomer Einat & Anat Yaron Antar, *The Long-Term Effects of Solitary Confinement From the Perspective of Inmates*, 10 *PRISON J.* 652-674 (2021).

that their interviewees consistently reported suffering from a host of extremely negative psychological reactions to the experience, including the perception that solitary confinement was unjustly imposed and intensified their feelings of hostility toward and resentment of prison authorities. As the authors noted, “this leads many inmates to lose trust in the system, and act with increased violence against its representatives, with some of this violence also directed against themselves and their environment.”¹²⁷ Indeed, the authors reported that the men saw solitary confinement “as unfairly and excessively punitive, filling them with anger, frustration and hatred.”¹²⁸ In addition, all of the study participants reported suffering from a wide range of negative psychological reactions that they attributed to the time they had spent in solitary confinement. Many of these reactions lingered for “months and even years after their release,” and included paranoia, emotional flatness, and difficulties adjusting to social life.¹²⁹ These and other negative aftereffects that, again, “all of the participants” casually connected to the time they had spent in solitary confinement, were described as “irreversible and

¹²⁷ *Id.* at 664 (emphasis in original).

¹²⁸ *Id.* at 659.

¹²⁹ *Id.* at 660.

seriously affect[ing] their wellbeing and quality of life.”¹³⁰ The authors summarized further:

The perceived illegitimacy of separation, together with the severe mental and physical conditions and short-term effects it involves, lead many inmates to experience intense anger, stress, and anxiety, that persist months and even years after their release, exacerbated by paranoid ideation.¹³¹

80. Tayer et al. concluded with a discussion of what they characterized as a “worrying picture,” namely one in which persons exposed to solitary confinement suffered a host of negative effects that “must not be regarded as merely a problem that affects life in prison” but also “has a dramatic potential impact on the community that assimilates the inmates after their release.”¹³² They concluded further that the use of solitary confinement was “an inappropriate, violent practice, in which the prison authority exerts an excessive force against the population for which it is responsible to safeguard,”¹³³ and recommended a host of significant reforms in the way the practice should be employed.

¹³⁰ *Id.* at 661.

¹³¹ *Id.* at 665 (emphasis in original).

¹³² *Id.* at 666.

¹³³ *Id.* at 667-668. The reforms included strict time limits (of no more than 10-15 days), weekly assessments and psychiatric evaluations by independent, outside experts in exceptional cases that extended beyond that limit, legal counsel for persons considered for placement in solitary confinement, and that “living conditions in separation units must be dramatically improved,” including larger cells, greater amounts of personal property (including televisions and computers), more out-of-cell time, opportunities for meaningful programming, and social contact with other prisoners. *Id.* at 668.

81. Another study published in 2021 by Hannah Pullen-Blasnik and her colleagues examined racial disproportions in the likelihood of spending time in solitary confinement and the potential for negative long-term social impacts and public health effects.¹³⁴ Beginning with the acknowledgement that “[s]olitary confinement has been found to have a variety of negative effects,” and that “extended solitary confinement” has been “especially harmful,” including being “associated with anxiety, depression, impulse control disorder, social withdrawal, lethargy, apathy, self-harming, and suicidal behavior,” Pullen-Blasnik et al. looked at whether different racial groups were more likely than others to be subjected to this damaging experience. The authors reported that although most of the racial disparities were attributable to differential rates of incarceration rather than disparate treatment inside the prisons, they found that “black men are about 8.2 times more likely to spend at least a day in solitary confinement compared to white men by 32” and that this disparity “increases to 10.6 times for periods of confinement of at least a year.”¹³⁵ They concluded further that: “Because solitary confinement has harmful effects on health and well-being, and federal courts have scrutinized conditions of extreme isolation, the pattern of imprisonment itself”—

¹³⁴ Hannah Pullen-Blasnik Jessica Simes & Bruce Western, *The Population Prevalence of Solitary Confinement*, 7 SCI. ADVANCES 1-9 (2021).

¹³⁵ *Id.* at 5.

including the pattern of racially disproportionate exposure to solitary confinement they uncovered—“may have a social impact, threatening public health and collective security against cruel and unusual punishment guaranteed by the Constitution.”¹³⁶

82. Also in 2021, Bruce Western and his colleagues reported the results of research they conducted with men housed in solitary confinement/restricted housing units in a Pennsylvania prison.¹³⁷ Although the lengths of stay were moderate compared to some other studies (averaging 38 days), Western and his colleagues found that both the extreme material deprivation the men experienced and, especially, the significant amount of social isolation to which they were subjected were associated with high levels of “psychological distress.” Specifically, “many respondents reported intrusive thoughts, panic attacks, and feelings of anger.”¹³⁸ In addition, “[p]sychological distress in solitary confinement was higher among men with a history of mental illness.”¹³⁹ Once prisoners were returned to general population living conditions, psychological distress abated. As the authors noted, “[q]ualitative accounts of social process can provide empirical

¹³⁶ *Id.* at 6.

¹³⁷ Bruce Western, Jessica Simes, & Kendra Bradner, *Solitary Confinement and Institutional Harm*, 3 INCARCERATION 1 (2021), [hereafter, “Western, Simes, & Bradner (2021)”].

¹³⁸ *Id.* at 19.

¹³⁹ *Id.*

evidence of mechanisms” that can “connect prison conditions to psychological distress.”¹⁴⁰ Indeed, the qualitative interviews Western et al. conducted with isolated prisoners led them to conclude that “threats to human dignity appear to be woven into the structure of solitary confinement itself, where material deprivation, social isolation, and psychological distress are commonplace.”¹⁴¹

83. In addition to the publications that I have summarized so far, there are two more studies also published in just the last year that indirectly acknowledged the harmful effects of solitary confinement, as well as the widespread scientific and also professional consensus that exists that its harmfulness should be addressed by implementing significant changes in whether, how often, and how solitary confinement should be used. The first is a published study that I co-authored with Brie Williams and our colleagues at the University of California, San Francisco School of Medicine, evaluating the development, implementation, and impact of a series of solitary confinement reforms undertaken by the North Dakota Department

¹⁴⁰ *Id.* at 9.

¹⁴¹ *Id.* at 20. Western, Simes, & Bradner also summarized the results of peer-reviewed studies published since 2000 that “analyzed data from the U.S. prisons and included measures of solitary confinement and psychological well-being.” *Id.* at 5. Of those that used a control group or conducted pre-post comparisons, the only two that reported null effects both used the same flawed data collected in the methodologically compromised O’Keefe et al. or “Colorado Study” that I discussed earlier in this expert report.

of Corrections.¹⁴² The reforms—inspired in large part by an international collaboration project that my colleagues and I helped develop and oversee and in which North Dakota prison officials participated—were intended to and did substantially and rapidly reduce (by nearly 75%) the number of persons held in solitary confinement and, among other things, provided enhanced services to mentally ill prisoners in lieu of punitively isolating them. As we reported, the dramatic reductions in the use of solitary confinement and the modifications in the way the units were structured and operated “resulted in a host of positive changes in a range of policies and practices that were reported as beneficial to the health and well-being of both incarcerated people and staff.”¹⁴³

84. The second indirect confirmation of the harmfulness of solitary confinement came about in part as a result of the same international collaboration project that Brie Williams and her colleagues and I developed and oversaw. Based on the explicit recognition of the harmfulness of solitary confinement (to staff and incarcerated persons alike), leaders of the Oregon Department of Corrections have proactively sought to significantly reduce its use of solitary confinement and

¹⁴² David Cloud, Dallas Augustine, Cyrus Ahalt, Craig Haney, Lisa Peterson, Colby Braun, & Brie Williams, *“We Just Needed to Open the Door”: A Case Study of the Quest to End Solitary Confinement in North Dakota*, 9:28 HEALTH AND JUSTICE 1 (2021).

¹⁴³ *Id.* at 23.

transform the conditions and procedures under which it operates.¹⁴⁴ Thus, in a 2021 publication preliminarily assessing one component of this overall reform project,¹⁴⁵ Ryan Labrecque and his colleagues positively evaluated a solitary confinement reform project that was intended to target what are understood by researchers and correctional decision-makers as “mechanisms believed to bring out problem behavior and poor health among the people who are placed in restrictive housing, namely the excessive deprivations and limited social interactions with others.”¹⁴⁶ Labrecque et al. further acknowledged that “[p]roviding more opportunities for time out-of-cell, quality social interaction, and cultural changes away from coercion *should* lessen [the] incidence of misconduct and *improve indicators of health and psychological well-being*” among prisoners.¹⁴⁷ They further embraced the notion that programs that “provide more out-of-cell time, increased social

¹⁴⁴ I was one of the co-directors of the University of California, San Francisco “Amend” program that took Oregon Department of Corrections officials to Norway in 2018, accompanied Oregon correctional staff on a 2019 return trip, and consulted with them about Norway-inspired reforms in their solitary confinement unit. See C. Ahalt, C. Haney, K. Ekhaugen, & B. Williams, *Role of US-Norway Exchange in Placing Health and Well-Being at the Center of US Prison Reform*, 110 AM. J. OF PUBLIC HEALTH S1, S27-29 (2020). Along with my colleagues, I helped to devise the specific interventions that Oregon correctional officials undertook in creating the program that was evaluated in the Labrecque et al. publication discussed in this paragraph.

¹⁴⁵ R. Labrecque, J. Tostlebe, B. Useem, & D. Pyrooz, *Reforming solitary confinement: The development, implementation, and processes of a restrictive housing step down reentry program in Oregon* 9:23 HEALTH AND JUSTICE 1 (2021) [hereafter, “Labrecque et al. (2021)”].

¹⁴⁶ *Id.* at 3.

¹⁴⁷ *Id.* at 3 (emphasis added).

interaction, and more opportunities for rehabilitative treatment” are designed to “alleviat[e] potential *physiological and psychological harms* of restrictive housing” and to increase a prisoner’s “success upon returning to the general prison population or community.”¹⁴⁸ Labrecque et al. concluded the article by stating that “[a] stronger dosage” of the kind of isolation-reducing reforms that I and my colleagues were instrumental in devising “should further alleviate the potentially harmful aspects of this type of [isolated] housing which, in turn, could improve indicators of prisoner health and well-being.”¹⁴⁹

85. And, most recently, a study published in 2022 by Jaquelyn Jahn and her colleagues found that persons housed in solitary confinement in Pennsylvania suffered from a host of physical and psychological symptoms that were worsened as a result of the conditions under which they were housed.¹⁵⁰ The researchers addressed what they termed the medical and mental health “burdens” of a sample of 99 prisoners in solitary confinement through structured interviews that were conducted within two months of the prisoners’ arrival in the isolation unit. Over

¹⁴⁸ *Id.* at 8 (emphasis added). He returned to the same fact near the end of the article, noting that “restrictive housing specifically, is often criticized for producing adverse effects on prisoner health and well-being” and that “[a] number of initiatives have sought to alleviate the potential harmful effects of incarceration, including a national movement to reform the use of solitary confinement.” *Id.* at 12.

¹⁴⁹ *Id.* at 13.

¹⁵⁰ Jaquelyn Jahn, Nicolette Bardele, Jessica Simes, & Bruce Western, *Clustering of Health Burdens in Solitary Confinement: A Mixed Methods Approach*, 2 QUALITATIVE RESEARCH IN HEALTH 1 (2022).

three quarters of the respondents reported suffering from some kind of physical health diagnosis and, although the sample explicitly excluded persons who had been diagnosed with serious mental illness (who were housed in a special unit that was not included in the study), “over half reported a mental health diagnosis.”¹⁵¹ Even respondents who were described as “relatively healthy” found solitary confinement “particularly challenging,” including nearly two-thirds of whom said it was “generally stressful,” including suffering idleness-related ruminations, panic attacks, “feeling depressed in solitary confinement,” and receiving “delayed and insufficient healthcare” that “engendered feelings of mistrust and skepticism” among many of them.¹⁵² Other respondents reported that their pre-existing mental health conditions “made the stressors of solitary confinement more challenging,” including “worsen[ing] pre-existing problems with depression.”¹⁵³ The researchers also found that, irrespective of the prisoners’ prior mental health condition, many of them reported witnessing or hearing about suicide in solitary confinement. However, suicidal feelings were most common among those who did have identifiable mental health problems; indeed, “[t]heir isolation and idleness—along

¹⁵¹ *Id.* at 3.

¹⁵² *Id.* at 4.

¹⁵³ *Id.* at 5.

with prior trauma—were seen as intensifying these thoughts.”¹⁵⁴ Especially among those prisoners with more significant physical health concerns, “insufficient exercise, poor sleep quality, and uncomfortable bedding” were linked to ongoing medical concerns.¹⁵⁵ The authors concluded that “conditions of solitary confinement exacerbate both mental and physical health problems,”¹⁵⁶ and pointed to the “need for policies that further restrict the use of solitary confinement, in addition to monitoring and oversight of prisons and jails to prevent the health harms of solitary confinement and improve healthcare standards and delivery in this context.”¹⁵⁷

86. This brings to 30 the total number of published studies and review published in just the last few years that either directly or indirectly reported on the wide range of damaging effects that solitary confinement inflicts on prisoners.¹⁵⁸

¹⁵⁴ *Id.*

¹⁵⁵ *Id.* at 5-6.

¹⁵⁶ *Id.* at 6.

¹⁵⁷ *Id.* at 7.

¹⁵⁸ Here I am counting the “mixed” conclusions of Astor et al. (2018), and note that they were reached without the benefit of the 29 other publications that appeared after their review was completed, all of which provided corroborated, extended, or otherwise, supported the scientific consensus that solitary confinement incurs a wide range of damaging effects. However, I have omitted one study entirely from my discussion of recent publications: Glenn Walters, *Do Restrictive Housing and Mental Health Needs Add Up to Psychological Deterioration*, 45(9) CRIM. JUST. & BEHAV. 1347-1362 (2018), because it is based entirely on data from the uninterpretable Colorado Study I discussed in note 14 *supra*. In fact, the particular data Walters reused were especially problematic because they were based on a measure that even the Colorado researchers found was too unreliable for them to interpret, admitting, among other things, that its scores did not necessarily accurately reflect what they were supposed to measure, contained potential rater bias, did not correlate well with self-report data in the study, may have reflected

These 30 different articles were written by several dozen different researchers, from a variety of different disciplines, reporting on individual empirical studies or syntheses of multiple studies, and are in addition to the extensive prior research that was conducted in the United States and elsewhere. Thus, to be clear, there was already an existing, substantial body of scientific knowledge about the harmful effects of solitary confinement. As I have noted, the research on which that knowledge was based was summarized in numerous reviews of the empirical literature, including my own nearly 100-page publication co-authored with Mona Lynch a quarter of a century ago (in 1997).¹⁵⁹ The more recently published research, reviews, and authoritative commentaries that I reviewed in the immediately preceding paragraphs further buttress and add to that already existing, substantial body of knowledge.

87. As with the previous research, there is a remarkable degree of consistency to recent publications as summarized above. Thus, of the 30 that I reviewed (listed in Appendix C), 29 of them reported clearly and consistently on a wide range of effects and in many instances a new array of data—much of it recently acquired—that all documented and discussed the various negative effects

less distress than inmates validly reported, and was not completed by a sufficient number of staff members.

¹⁵⁹ Haney & Lynch, *The Psychological Consequences of Solitary* (1997), *supra* note 17.

of solitary confinement.¹⁶⁰ The one exception, a literature review that characterized the prior literature as “mixed,” clearly did not have the benefit of the many publications that appeared after it, publications in which the conclusions that numerous authors reached about the harmfulness of solitary confinement were anything but “mixed.”

88. As I acknowledged earlier, no one study is or could be perfect. However, taken together, this research consistently maps the many dimensions of suffering and the significant risks of harm to which people in solitary confinement are subjected. Thus, the scientific database on the negative effects of solitary confinement per se is substantial and continues to grow. Commentators who claim otherwise are either simply uninformed or for some reason have chosen to ignore the consistent and consistently mounting evidence of the significant risk of serious harm.

89. Of course, not every isolated prisoner will experience all nor necessarily even most of the range of adverse reactions that I and other researchers have documented, as described in the above paragraphs. But the nature, magnitude, and consistency of the negative psychological consequences underscore the stressfulness of this kind of confinement, the lengths to which prisoners must go to

¹⁶⁰ The one exception that declared the record “mixed,” Astor et al., was published in 2018, a time frame that did not allow its authors to consider any of the subsequently published 29 empirical studies, literature reviews, or authoritative commentaries.

adapt and adjust to it, and the grave risk of harm that is created by isolation and its broad range of severe stressors and deprivations. The devastating effects of solitary confinement are reflected in the disproportionately high numbers of suicide deaths and incidents of self-harm and self-mutilation that occur there. Years of sustained research on solitary confinement and the observable outcomes produced by this form of incarceration across time and locality underscore its severe, negative impact on the cognitive, emotional, and behavioral functioning of persons exposed to it. The effects are long-lasting and, for some persons, will prove irreversible, even fatal.

3) The Broader “Science of Solitary” That Provides a Framework for Understanding the Harmfulness of Solitary Confinement.

90. It is also important to explain the larger scientific framework in which a meaningful understanding of the harmful nature of solitary confinement is grounded. As I noted previously, Appendix D contains a 2020 article that I wrote on “the science of solitary” (and referenced above) in which some of the most recent published research on the topic of the wide-ranging harmful effects of social isolation is summarized.¹⁶¹

91. As I pointed out in that article, relying on knowledge from a larger and more elaborately studied area of research is a standard form of scientific

¹⁶¹ Haney, The Science of Solitary (2020).

reasoning. Scientific understanding is regularly enriched through “triangulation” in which research findings from other studies in theoretically related areas are logically connected to data collected in another, similar setting or on a related topic. In the case of solitary confinement, the application of relevant findings from numerous elaborate, sophisticated scientific inquiries conducted on social isolation, loneliness, and social exclusion in general provide insights into and a framework for understanding how and why isolation in the much harsher setting of prison has such damaging effects.

92. Although the amount of scientific study devoted to the issues of social isolation, loneliness, and social exclusion has increased dramatically in recent years, psychology and other behavioral sciences have recognized for decades that social contact is fundamental to establishing and maintaining emotional health and well-being.¹⁶² Social neuroscientist Matthew Lieberman has observed that the human brain is literally “wired to connect” to other persons, and meaningful social contact is crucial to normal human development.¹⁶³ He noted further that: “Our brains evolved to experience threats to our social connections in much the same way they experience physical pain . . . The neural link between social and physical

¹⁶² See Roy Baumeister & Mark Leary, The Need to Belong: Desire for Interpersonal Attachments as a Fundamental Human Motivation, 117 *PSYCHOLOGICAL BULLETIN*, 497 (1995).

¹⁶³ Matthew Lieberman, *Social: Why Our Brains Are Wired to Connect* (2013).

pain also ensures that staying socially connected will be a lifelong need, like food and warmth.”¹⁶⁴ Impairing or depriving persons of the ability to connect to others undermines psychological well-being, produces a range of interrelated maladies in juveniles as well as adults, and increases physical morbidity and mortality.¹⁶⁵

93. Although I will not belabor these issues by repeating the citations to all of the scientific studies that document these important research findings, it is worth emphasizing that we now know that social isolation and loneliness are significant risk factors for a wide range of mental health problems, including depression and anxiety among juveniles and adults, psychosis, paranoia, and suicidal behavior, and have been implicated in the persistence of delusional or psychotic beliefs, a lack of insight into one’s psychiatric symptoms, and higher rates of hospitalization and re-hospitalization. In addition, there are a number of well-documented harmful physical and medical outcomes associated with social isolation and loneliness in humans, including adverse effects on neurological and endocrinological processes, possible effects on the structural and functional integrity of multiple brain regions. The fact that social isolation, loneliness, and

¹⁶⁴ *Id.* at 4-5.

¹⁶⁵ See, e.g., Linda Chernus, *Separation/Abandonment/Isolation Trauma: What We Can Learn From Our Nonhuman Primate Relatives*, 8 JOURNAL EMOTIONAL ABUSE, 469, 470 (2008) (discussing the harmful developmental consequences of early social deprivation in the form of maternal loss for humans and non-human primates).

social exclusion are implicated in adverse physical or medical outcomes have led them to be identified as a “global health concern” and the basis of a global health crisis leading, among other things, the current Surgeon General of the United States Vivek Murthy to write a book describing many of the negative effects of isolation and recommending ways to combat them.¹⁶⁶ In fact, as noted in my 2020 article referenced herein, in a study designed to contribute to “a larger global effort to combat the adverse health impacts of social isolation,”¹⁶⁷ a National Academy of Sciences Committee concluded that the negative consequences of social isolation “may be comparable to or greater than other well-established risk factors such as smoking, obesity, and physical inactivity.”¹⁶⁸

94. Thus, social isolation is a scientifically known psychological and even physical toxin. The concentrated doses of it that prisoners in solitary confinement are subjected to, along with the other potentially damaging deprivations that typically accompany it, underscore its significant risk of serious harm.

VII. Solitary Confinement Places Mentally Ill Prisoners at A Heightened Risk of Serious Harm

¹⁶⁶ Vivek Murthy, *Together: The Healing Power of Human Connection in a Sometimes Lonely World* (2020).

¹⁶⁷ National Academies of Science, Engineering, and Medicine, *Social Isolation and Loneliness in Older Adults* xii (2020).

¹⁶⁸ *Id.* at 2–12. Another group of prominent researchers termed the experience of loneliness a “lethal behavioral toxin” that accounted for more annual deaths than cancer or strokes. Dilip Jeste, Ellen Lee, and Stephanie Cacioppo, *Battling the Modern Behavioral Epidemic of Loneliness: Suggestions for Research and Interventions*, 77(6) JAMA PSYCHIATRY 553, 553 (2020).

95. Although isolated confinement creates risks of harm for all persons subjected to it, most experts acknowledge that the adverse psychological effects of such confinement vary as a function not only of the specific nature and duration of the isolation (such that more deprived conditions experienced for longer amounts of time are likely to have more detrimental consequences), but also as a function of the characteristics of the prisoners subjected to it. Very rarely, an unusually resilient prisoner may report being able to withstand even harsh forms of solitary confinement with few or minor adverse effects, especially if the exposure is relatively brief. But the overwhelming majority of prisoners acknowledge some form of often very severe psychological distress and harm, as I have reported above. Moreover, there are many prisoners who are especially vulnerable to the psychological pain and pressure of solitary confinement. Mentally ill prisoners are particularly at risk in these environments and have been precluded from them in some jurisdictions precisely because of this.¹⁶⁹

96. Several factors explain the heightened vulnerability of persons with mental illness in isolated confinement. For one, as I have noted, solitary confinement or isolation is a significantly more stressful and psychologically

¹⁶⁹ See, e.g., *Madrid v. Gomez*, 889 F.Supp. 1146 (N.D. Cal. 1995); *Ruiz v. Johnson*, 37 F.Supp.2d 855 (S.D. Tex. 1999); *Jones'El v. Berge*, 164 F. Supp.2d 1096 (W.D. Wisc. 2001); *Ind. Protection and Advocacy Comm'n v. Comm'r, Ind. Dep't of Corr.*, No. 1:08-CV-01317-TWP, 2012 WL 6738517 (S.D. Ind. 2012).

painful form of prison confinement. Mentally ill prisoners are generally more sensitive and reactive to psychological stressors and emotional pain. In many ways, the harshness and severe levels of deprivation that are imposed on them in isolation are the antithesis of the benign and socially supportive atmosphere that mental health clinicians seek to create within therapeutic environments. Not surprisingly, mentally ill prisoners generally deteriorate and decompensate when they are placed in harsh and stressful isolation units.

97. Some of the exacerbation of mental illness that occurs in isolated confinement comes about as a result of the critically important role that social contact and social interaction play in maintaining psychological equilibrium. Psychologists and psychiatrists know that social contact and social interaction are essential components in the creation and maintenance of normal social identity and social reality. One of the most fundamental ways that solitary confinement psychologically destabilizes prisoners is by undermining their sense of self or social identity and eroding their connection to a shared social reality. Isolated prisoners have few if any opportunities to receive feedback about their feelings and beliefs, which become increasingly untethered from any normal social context. As Cooke and Goldstein put it:

A socially isolated individual who has few, and/or superficial contacts with family, peers, and community cannot benefit from social comparison. Thus, these individuals have no mechanism to evaluate their own beliefs and actions in terms of reasonableness or acceptability

within the broader community. They are apt to confuse reality with their idiosyncratic beliefs and fantasies and likely to act upon such fantasies, including violent ones.¹⁷⁰

In extreme cases, a related pattern emerges: isolated confinement becomes so painful, so bizarre, and so impossible to make sense of that some prisoners create their own reality—they live in a world of fantasy instead of the intolerable one that surrounds them.

98. Finally, many of the direct negative psychological effects of isolation are themselves very similar if not identical to certain symptoms of mental illness. Even though these specific effects are typically thought to be somewhat less chronic or persistent when produced by the prisoner's conditions of confinement than those that derive from a diagnosable mental illness, when they occur in combination, they are likely to exacerbate not only the outward manifestation of the symptoms but also the internal experience of the disorder. For example, many studies have documented the degree to which isolated confinement contributes to feelings of lethargy, hopelessness, and depressed mood. For clinically depressed prisoners, these situational effects are likely to exacerbate their pre-existing chronic condition and lead to worsening of their depressed state. Similarly, the mood swings that some prisoners report in isolation would be expected to amplify

¹⁷⁰ Compare, also, Margaret Cooke & Jeffrey Goldstein, *Social Isolation and Violent Behavior*, 2 FORENSIC REPORTS, 287, 288 (1989).

the emotional instability that prisoners diagnosed with bipolar disorder suffer.

Prisoners who suffer from disorders of impulse control would likely find their pre-existing condition made worse by the frustration, irritability, and anger that many isolated prisoners report experiencing. And prisoners prone to psychotic breaks may suffer more in isolated confinement due to conditions that deny them the stabilizing influence of normal social feedback.

99. As a result of the special vulnerability of mentally ill prisoners to the psychological effects of solitary confinement, numerous corrections officials and courts that have considered the issue have prohibited them from being placed in such units.¹⁷¹ Mental health staff in many prison systems with which I am familiar are charged with the responsibility of screening prisoners in advance of their possible placement in isolation (so that the mentally ill can be excluded). In addition, mental health staff in these systems also typically conduct ongoing monitoring of non-mentally ill prisoners housed in solitary confinement, to detect signs of emerging mental illness that would require their removal.

100. For example, twenty-seven years ago, one federal court that was presented with systematic evidence of the psychological risk of harm that solitary confinement entailed concluded that the seriously mentally ill must be excluded

¹⁷¹ See the cases cited in footnote 169.

from such environments. The court noted that those prisoners for whom the psychological risks were “particularly”—and unacceptably—high included anyone suffering from “overt paranoia, psychotic breaks with reality, or massive exacerbations of existing mental illness as a result of the conditions in [solitary confinement].”¹⁷² The court elaborated on this conclusion by noting that those who should be excluded from isolated confinement included:

[T]he already mentally ill, as well as persons with borderline personality disorders, brain damage or mental retardation, impulse-ridden personalities, or a history of prior psychiatric problems or chronic depression. For these inmates, placing them in [isolated confinement] is the mental equivalent of putting an asthmatic in a place with little air to breathe. The risk is high enough, and the consequences serious enough, that we have no hesitancy in finding that the risk is plainly “unreasonable.”¹⁷³

101. In addition to federal courts that have directly considered the issue, many professional organizations have recommended drastic limitations on the use of solitary confinement or the outright prohibitions against placing certain vulnerable populations (such as the mentally ill) in isolated housing. For example, the American Psychological Association acknowledged that solitary confinement was associated with heightened risk of self-mutilation and suicidality, a range of adverse psychological symptoms such as anxiety, depression, sleep disturbance,

¹⁷² Madrid v. Gomez, 889 F. Supp. 1146, 1265 (N.D. Cal. 1995) (citation omitted).

¹⁷³ *Id.*

paranoia and aggression as well as the exacerbation of pre-existing mental illness and trauma-related symptoms.¹⁷⁴ The American Public Health Association issued a statement in which it detailed the public-health harms posed by solitary confinement, urged correctional authorities to “eliminate solitary confinement for security purposes unless no other less restrictive option is available to manage a current, serious, and ongoing threat to the safety of others,” and recommended that “[p]unitive segregation should be eliminated.”¹⁷⁵

102. Similarly, the American Psychiatric Association recommended that “Prolonged segregation of adult inmates with serious mental illness, with rare exceptions, should be avoided due to the potential for harm to such inmates.”¹⁷⁶ The position statement of the Society of Correctional Physicians similarly acknowledged “that prolonged segregation of inmates with serious mental illness, with rare exceptions, violates basic tenets of mental health treatment,” and

¹⁷⁴ American Psychological Association, *Solitary Confinement of Juvenile Offenders* (2017), available at <https://www.apa.org/about/gr/issues/cyf/solitary.pdf>.

¹⁷⁵ American Public Health Association, *Solitary Confinement as a Public Health Issue: Policy No. 201310* (2013), available at <http://www.apha.org/advocacy/policy/policysearch/default.htm?id=1462>.

¹⁷⁶ American Psychiatric Association, *Position Statement on Segregation of Prisoners with Mental Illness* (2012), available at http://www.psych.org/File%20Library/Learn/Archives/ps2012_PrisonerSegregation.pdf. See, also, the statements of psychiatrist Jeffrey Metzner and attorney Jamie Fellner on this issue: Jeffrey Metzner & Jamie Fellner, 38 *Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics*, J. OF THE AM. ACAD. OF PSYCHIATRY & L., at 104-108 (2010).

recommended against holding these prisoners in segregated housing for more than four weeks).¹⁷⁷

103. Other organizations have also recommended banning the use of solitary confinement outright for use with prisoners who are mentally ill, including the United Nations,¹⁷⁸ and the National Commission on Correctional Healthcare.¹⁷⁹ Similarly, the National Alliance on Mental Illness issued a statement “oppos[ing] the use of solitary confinement and equivalent forms of extended administrative segregation for persons with mental illnesses.”¹⁸⁰

¹⁷⁷ Society of Correctional Physicians, *Position Statement: Restricted Housing of Mentally Ill Inmates*, available at https://accpmed.org/restricted_housing_of_mentally.php#:~:text=Position%20Statement,tenets%20of%20mental%20health%20treatment.

¹⁷⁸ Comm’n on Crime Prevention & Crim. Just., *United Nations Standard Minimum Rules for the Treatment of Prisoners*, U.N. Econ. & Soc. Council (2015) (commonly known as the “Mandela Rules.”)

¹⁷⁹ Specifically, the NCCHC Position Statement included the provision that juveniles, mentally ill individuals, and pregnant women should be “excluded from solitary confinement of any duration” (emphasis added), and that health care staff should advocate to correctional officials that stays in solitary confinement should never exceed 15 days continuous duration, and also advocate to them that they should bar juveniles and mentally ill prisoners entirely from such confinement. Nat’l Comm’n on Correctional Health Care, *Solitary Confinement (Isolation)* (2016), available at <https://www.ncchc.org/solitary-confinement-isolation-2016/>.

¹⁸⁰ Nat’l Alliance on Mental Illness, *Public Policy Platform of the National Alliance on Mental Illness*, at Section 9.8 (12th ed. 2016) available at <https://www.nami.org/About-NAMI/Policy-Platform>. As I noted earlier, in 2018, a group of international legal, medical, mental health, and human rights scholars and experts were convened in Santa Cruz, California, to produce a set of “guiding principles” designed to advance solitary confinement reform in the United States and internationally. The principles established in the Consensus Statement that resulted included the overarching admonitions that solitary confinement should only be used when absolutely necessary (i.e., in response to exigent circumstances that cannot be addressed any other way), for the shortest amount of time possible (from periods of a few hours to no more than a 15-day maximum), and never with certain vulnerable populations (such as juveniles and the mentally ill). Craig Haney, Brie Williams, & Cyrus Ahalt, *Consensus Statement from the Santa Cruz Summit on Solitary Confinement and Health*, 115 NW. U. L. REV. 335, 335-60 (2020).

104. Finally, a number of jurisdictions across the U.S. are moving towards severely restricting or ending the use of long-term solitary confinement based on the scientific findings and outcomes I have summarized above. For example, in 2017, Colorado, led by the director of its Department of Corrections, barred the use of isolation in its prisons other than for serious disciplinary infractions and limited the length of stay to no longer than 15 days. In 2019, New Jersey passed a law prohibiting use of solitary confinement in prisons and jails statewide for more than 20 consecutive days or longer than 30 days during a 60-day period. New Jersey also prohibited use of solitary confinement for people with serious mental illness. Also in 2019, Washington State Department of Corrections joined a number of states that have entered into a partnership with the Vera Institute of Justice to reduce the use of restrictive housing.

105. I am a member of this Advisory Board of the Vera Institute program, called Safe Alternatives to Segregation, and can attest that, over the last several years, a number of state correctional and county jail systems also have enrolled in this program and have implemented steps to significantly reduce the population of prisoners held in isolation/solitary confinement, significantly improve the conditions of confinement to which they are subjected, and imposed time limits on lengths of stay in these units.

106. Even more recently, New York State enacted legislation prohibiting prison and jails statewide from holding people in solitary confinement for more than 15 consecutive days, and disallowing solitary confinement completely for people under 22 or over 54 years of age, those who are pregnant, people with disabilities, and people with serious mental illness.¹⁸¹

VIII. The Scientific Evidence of the Harmful Effects of Solitary Confinement Can Be Reasonably and Justifiably Applied to Comparable Conditions, Practices and Procedures

107. To summarize: The accumulated weight of the scientific evidence that I have cited to and summarized above demonstrates the negative psychological effects of isolated confinement—what happens to people who are deprived of normal social contact for extended periods of time. This evidence underscores the substantial dangers that isolation creates for human beings in the form of mental pain and suffering and increased tendencies towards self-harm and suicide, and even physical damage, susceptibility to harmful medical conditions, and heightened mortality. The evidence further underscores the psychological and

¹⁸¹ Links to news reports that detail these solitary confinement reforms can be found here: Troy Closson, *New York Will End Long-Term Solitary Confinement in Prisons and Jails*, N.Y. Times (Apr. 24, 2021), available at <https://www.nytimes.com/2021/04/01/nyregion/solitary-confinement-restricted.html>; Rick Raemisch, *Why I Ended the Horror of Long-Term Solitary in Colorado's Prisons*, Am. C.L. Union (Dec. 5, 2018), available at <https://www.aclu.org/blog/prisoners-rights/solitary-confinement/why-i-ended-horror-long-term-solitary-colorados-prisons>; *Gov. Murphy Signs Isolated Confinement Restriction Act Into Law*, Am. C.L. Union N.J. (July 11, 2019), available at <https://www.aclu-nj.org/news/2019/07/11/gov-murphy-signs-isolated-confinement-restriction-act-law>; Rachel Friederich, *Washington Corrections Continues Restrictive Housing Reforms*, Dept. of Corrections Wash. State (Oct. 28, 2020), available at <https://www.doc.wa.gov/news/2020/10282020.htm>.

medical importance of meaningful social contact and interaction, and in essence establishes these things as identifiable human needs. Over the long-term, they may be as essential to a person's psychological well-being as adequate food, clothing, and shelter are to his or her physical well-being.

108. Established principles of scientific reasoning and the logic of empirical science allow for the reasonable and justified extrapolation of one set of findings to conditions, practices, and procedures that are similar or identical in nature. In this context, this means that the scientific conclusions that have been reached with respect to the harmfulness of solitary confinement can and should be generalized to other similar or identical circumstances and to persons who, because of where they are held and how they are treated, are similarly situated to those persons who have been studied in prior research.

IX. The Use of Solitary Confinement in the Virginia Department of Corrections

109. For reasons that I discuss below, it is my opinion that the scientific findings that I have summarized at length in the above paragraphs can be reasonably extrapolated and properly applied to the Step-Down Program that is the focus of the present case. That opinion is based on my review of the key written policies, key procedures, and plaintiffs' affidavits, my consideration of the body of scientific literature I have discussed in detail above, and my knowledge, skill, and

expertise in analyzing the nature and effects of solitary confinement in numerous other prison systems.

110. There are several important factors that establish the fact that what is referred to as “the Step-Down Program” at Red Onion State Prison (“ROSP”) and Wallens Ridge State Prison (“WRSP”) is essentially what is commonly known as isolated, solitary or supermax-type confinement. For one, the cells in which the prisoners are confined for extensive periods of time are small, sparsely furnished (especially for prisoners at the beginning stages of the program). Thus, according to the documents I have reviewed, the cells used for the Step-Down Program are 8x10 feet. At the IM-0 and SM-0 levels, where all prisoners must begin their pathways in confinement, they are furnished with only a bed and a toilet with a slot in the door through which communication with prison officials may take place.¹⁸² While prisoners who are able to progress through the different levels of the pathway beyond IM-0 and SM-0 are able to earn more privileges such as televisions in their cells, this can only occur after the initial mandatory minimum periods, and only if the prisoner is able to actually progress through the requirements of the program which is at the discretion of prison staff.¹⁸³

¹⁸² Hammer Aff. ¶ 24.

¹⁸³ Segregation Reduction Step-Down Plan (Feb. 2020), Appendix F and G, VADOC-00053480 [hereinafter “2020 Step-Down Plan”].

111. In addition, conditions of confinement in the isolation units include extremely limited out-of-cell time. Prisoners spend almost the entire day in their cells and are subject to intrusive cavity searches whenever they leave or enter their cell.¹⁸⁴ Although the most recent policy purports to allow “four hours of out of cell time” per day for prisoners, meaning a minimum confinement of 20 hours per day; this was a change made in 2020, only after this lawsuit was commenced. Previous to the newly enacted policy, prisoners were allowed a maximum of only two hours of recreation daily.¹⁸⁵ Moreover, although this policy purportedly increases the amount of time prisoners would spend out-of-cell, there is an outstanding factual question as to whether this occurs in practice. In my experience, department of corrections written policies and procedures are frequently aspirational rather than actual. This is especially true in solitary confinement units, where what is actually being done or delivered in a unit and on the ground frequently falls short of the standards or requirements set by written policies. In the additional inquiry that I will conduct, I will examine and assess the quantity and quality of out-of-cell time actually provided to prisoners in lieu of this policy change.

¹⁸⁴ OPA 841.4 2021, at 11-12.

¹⁸⁵ 2020 Step-Down Plan, Appendix A, at 39, VADOC-00053480; Segregation Reduction Step-Down Plan (Sept. 2017), Appendix A, at 43 (hereinafter “2017 Step-Down Plan”).

112. In fact, despite the new policy, I note that some prisoners report that they often are denied recreation or opportunities for programming, seemingly arbitrarily and sometimes for multi-day stretches, resulting in their average daily out-of-cell time being substantially less than four hours and reflecting more severe solitary confinement conditions.¹⁸⁶ Even where prisoners do receive the amount of out-of-cell time allotted under policy, prisoners report that they are confined and leashed, alone, to empty cages that resemble dog kennels for outdoor recreation.¹⁸⁷ They also report that there are often K-9s nearby, at times acting aggressively towards them, while they are in the caged rec pens, including instances in which prisoners have been attacked or bitten while engaging in recreation.¹⁸⁸

113. Further, the cages are all situated next to and around each other. This means that, as prisoners report, those who are mentally unwell can and do act out by throwing feces or shoving them through the fencing of the cages. Other prisoners seeking to engage in outdoor recreation cannot avoid exposure to this behavior.¹⁸⁹ Other out-of-cell programming typically entails the use of “therapeutic

¹⁸⁶ Hammer Aff. ¶ 25.

¹⁸⁷ Riddick Aff. ¶ 4; 2017 Step-Down Plan, Appendix F and G, at 54 and 57.

¹⁸⁸ Wall Aff. ¶ 4.

¹⁸⁹ Riddick Aff. ¶ 4.

modules” (essentially single-seat cages) or restraining prisoners in “program chairs” to which they are shackled by both their ankles and wrists.¹⁹⁰

114. The nature and duration of the time prisoners can spend in these units are also problematic. Thus, there is no maximum amount of time a prisoner can be kept at the initial and most restrictive Level S or progressed through each level of the IM or SM pathways. In addition, prisoners are required to spend minimum amounts of time at each level before progressing, which means that all prisoners assigned to IM-0 spend at least six months in the most restrictive conditions possible on that pathway, and those assigned to SM-0 spend at least three months at that level.¹⁹¹ As noted previously, the negative effects of solitary confinement can be seen after shorter durations (e.g., the United Nations Mandela Rules define solitary confinement for longer than 15 days as “torture”),¹⁹² meaning that all prisoners placed in this program are exposed to the significant risks of harms outlined in the literature that I have discussed.

115. For all of these reasons, it is my opinion that the conditions of extreme social isolation and enforced idleness described in the documents that I have reviewed are very similar (and perhaps identical) to the types of isolation

¹⁹⁰ 2020 Step-Down Plan, at 13-14, VADOC-00053480.

¹⁹¹ *Id.* at Appendix F and G.

¹⁹² *See* note 178.

conditions that I have seen and studied in numerous other correctional institutions, as well as to those referred to and described in the literature that I summarized above. Such conditions are harsh and severe and are precisely the kind that create a significant risk of substantial harm for all the prisoners who are subjected to them.

116. In addition, the documents that I reviewed indicated that VDOC has no written policy prohibiting prisoners suffering from what is traditionally referred to as serious mental illness (SMI) in what are traditionally referred to as solitary confinement or supermax-type units.¹⁹³ Indeed, it is clear that such prisoners, including some Named Plaintiffs, have been and are likely currently housed in such units within ROSP and WRSP.¹⁹⁴ This is true for both prisoners who had mental health diagnoses that predated their entry into these units, or even prison, as well as those who developed such a diagnosis while housed in these units. Based on the documents I have reviewed, prisoners on the SM pathway of the Step-Down Program may become eligible for assignment to the Shared Allied Management (“SAM”) Pod.¹⁹⁵ However, this option is not available to prisoners placed on the IM pathway, and requires prisoners with mental illness to still progress through the initial SM pathway levels before eligibility can be achieved, meaning that

¹⁹³ 2020 Step-Down Plan, VADOC-00053480; OPA 830.A 2018.

¹⁹⁴ Khavkin Aff. ¶ 19; Cavitt Aff. ¶ 3.

¹⁹⁵ 2020 Step-Down Plan, at 31-32, VADOC-00053480; OPA 830.A 2018, at 6.

prisoners with pre-existing or developed mental illness are not adequately diverted.¹⁹⁶

117. It is further apparent that some of the seriously mentally ill prisoners in these units, including those who are on psychotropic medications, have been subjected to the use of chemical agents, a practice that is apparently permitted by VDOC policy.¹⁹⁷ In my professional opinion, this practice exacerbates an already existing significant risk of serious harm. As I have noted, mentally ill prisoners are prone to deterioration and decompensation in solitary confinement. Their worsening behavior, which often includes acting out and rule infractions, is typically the product of their mental illness, exacerbated by the fact that they have been inappropriately placed in solitary confinement where their conditions predictably worsen. Punishing them in these harsh and potentially dangerous ways for behavior that they cannot control, and that has been exacerbated by the decisions of corrections officials themselves, is singularly inappropriate and dangerous.

118. I reviewed the affidavits of several named plaintiffs who are now or have previously been confined in the restrictive housing units. These plaintiffs describe symptoms of mental suffering, increased mental illness, suicidal thoughts

¹⁹⁶ 2020 Step-Down Plan, at 32, VADOC-00053480.

¹⁹⁷ Riddick Aff. ¶ 12(e).

and acts, and incidents of self-harm, including repeated acts of self-mutilation.¹⁹⁸

This is confirmed by some limited data I have been able to review that indicates higher proportions of self-harm incidents as well as suicide attempts and completions in these units as compared to in general population.¹⁹⁹ The problems described by the plaintiffs are consistent with the types of symptoms and suffering that I would expect to find in a system with the conditions, policies, and practices I have noted exist in the Step-Down Program.

119. Finally, it should be noted that the placement of seriously mentally ill prisoners in isolated confinement is not only harmful to them, but also increases the risks and harmfulness of isolated confinement for other prisoners as well. Out-of-control mentally ill prisoners whose conditions may worsen in isolated confinement may become assaultive to staff and other prisoners, may engage in loud and otherwise noxious behavior (e.g., smearing themselves in feces), and precipitate forceful interventions (e.g., the use of chemical agents) that adversely affect the well-being of everyone in the housing unit.

X. Conclusion

120. The accumulated weight of the scientific evidence that I cited to and summarized above clearly demonstrated the negative psychological effects of

¹⁹⁸ Hammer Aff. ¶ 28.

¹⁹⁹ VADOC-00044583.

isolated confinement—what happens to people who are deprived of normal social contact for extended periods of time. I noted that there was substantial scientific evidence underscoring the substantial dangers that isolation creates for human beings.

121. The significant risk of harm of solitary confinement includes subjecting people to mental pain and suffering, increased tendencies towards self-harm and suicide, and even physical damage, susceptibility to harmful medical conditions, and heightened mortality. The evidence underscores the psychological and medical importance of meaningful social contact and interaction. It, in essence, establishes these things as identifiable human needs. Over the long-term, they may be as essential to a person's psychological well-being as adequate food, clothing, and shelter are to his or her physical well-being.

122. Knowledgeable experts as well as a host of professional scientific, legal, human rights, and even correctional organizations now recognize that placing people in solitary confinement puts them at significant risk of serious harm. That harm can and sometimes does occur very early in the course of the experience, is potentially harmful for everyone exposed but especially to vulnerable populations, such as persons who are mentally ill, and the resulting damage can be long-lasting. Indeed, when it leads to self-harm and suicide, the consequences can be permanent and even fatal.

123. Indeed, the fact that prisoners who suffer from mental illness are less able to tolerate the painful experience of isolation or solitary confinement is an extension of another widely accepted scientific framework. All other things equal, mentally ill persons are more susceptible in general to stressful and traumatic experiences of the sort that occur more often in solitary confinement. In addition, many of the most prevalent adverse effects of isolation (such as depression) are similar to and aggravate many of the symptoms that are associated with various forms of mental illness, adding to or worsening already existing psychiatric conditions. Finally, isolation removes people from the stabilizing and normalizing influence of social contact and social connection, undermining personal identity and one's sense of self. This is especially problematic for mentally ill persons whose contact with social reality may already be fragile and tenuous.

124. The opinions I have expressed are based on a substantial body of sound science, amassed over a period of many years. What was already well-known about the significant risk of harm which solitary confinement imposes on those subjected to it has been corroborated in research conducted over the last several years, adding to the already substantial body of knowledge about harmfulness. This knowledge is also rooted in a larger scientific framework, one that establishes and explains the nature of the harms that social isolation incurs in society at large. That body of research is empirically rich and theoretically sound

and it helps to ground what is known about the harmfulness of solitary confinement.

125. I hold the above stated opinions to a reasonable degree of scientific certainty.

Under 42 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 20 th day of June, 2022.

Craig Haney Ph.D., J.D.
Craig Haney, Ph.D., J.D.

APPENDIX A

CURRICULUM VITAE

Craig William Haney
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PREVIOUS EMPLOYMENT

2015-2018	University of California Presidential Chair
2014-present	Distinguished Professor of Psychology, University of California, Santa Cruz
1985-2014	University of California, Santa Cruz, Professor of Psychology
1981-85	University of California, Santa Cruz, Associate Professor of Psychology
1978-81	University of California, Santa Cruz, Assistant Professor of Psychology
1977-78	University of California, Santa Cruz, Lecturer in Psychology
1976-77	Stanford University, Acting Assistant Professor of Psychology

EDUCATION

1978	Stanford Law School, J.D.
1978	Stanford University, Ph.D. (Psychology)

1972	Stanford University, M.A. (Psychology)
1970	University of Pennsylvania, B.A.

HONORS AWARDS GRANTS

2022	Nominated for the Social Science Research Council's Albert O. Hirschman Prize for excellence in social and behavioral science. Psychology Department "Most Inspiring Instructor"
2021	Finalist, Association of American Publishers, Professional and Scholarly Excellence (PROSE) Award for Excellence in Social Science (for <u>Criminality in Context: Psychological Foundations of Criminal Justice Reform</u>).
2020	Finalist, Stockholm Prize in Criminology (for "outstanding achievements in criminological research or for the application of research results by practitioners for the reduction of crime and the advancement of human rights").
2018	Emerald Literati Award for "Outstanding Paper" (for "Reducing the Use and Impact of Solitary Confinement in Corrections").
2016	Vera Institute of Justice "Reimagining Prisons" Initiative Advisory Council. Psychology Department "Most Inspiring Instructor"
2015	University of California Presidential Chair (2015-2018 Term) Martin F. Chemers Award for Outstanding Research in Social Science Excellence in Teaching Award (Academic Senate Committee on Teaching). President's Research Catalyst Award for "UC Consortium on Criminal Justice Healthcare" (with Brie Williams and Scott Allen). Vera Institute of Justice "Safe Alternatives to Segregation" (SAS) Initiative Advisory Council. Who's Who in Psychology (Top 20 Psychology Professors in California) [http://careersinpsychology.org/psychology-degrees-schools-employment-ca/#ca-psych-prof]

- 2014 Distinguished Faculty Research Lecturer, University of California, Santa Cruz.
- 2013 Distinguished Plenary Speaker, American Psychological Association Annual Convention.
- 2012 Appointed to National Academy of Sciences Committee to Study the Causes and Consequences of High Rates of Incarceration in the United States.
- Invited Expert Witness, United States Senate, Judiciary Committee.
- 2011 Edward G. Donnelly Memorial Speaker, University of West Virginia Law School.
- 2009 Nominated as American Psychological Foundation William Bevan Distinguished Lecturer.
- Psi Chi “Best Lecturer” Award (by vote of UCSC undergraduate psychology majors).
- 2006 Herbert Jacobs Prize for Most Outstanding Book published on law and society in 2005 (from the Law & Society Association, for Death by Design).
- Nominated for National Book Award (by American Psychological Association Books, for Reforming Punishment: Psychological Limits to the Pains of Imprisonment).
- “Dream course” instructor in psychology and law, University of Oklahoma.
- 2005 Annual Distinguished Faculty Alumni Lecturer, University of California, Santa Cruz.
- Invited Expert Witness, United States House of Representatives, Subcommittee on Immigration, Border Security, and Claims, Committee on the Judiciary
- Arthur C. Helton Human Rights Award from the American Immigration Lawyers Association (co-recipient).
- Scholar-in-Residence, Center for Social Justice, Boalt Hall School of Law (University of California, Berkeley).

- 2004 “Golden Apple Award” for Distinguished Teaching, awarded by the Social Sciences Division, University of California, Santa Cruz.
- National Science Foundation Grant to Study Capital Jury Decision-making
- 2002 Santa Cruz Alumni Association Distinguished Teaching Award, University of California, Santa Cruz.
- United States Department of Health & Human Services/Urban Institute, “Effects of Incarceration on Children, Families, and Low-Income Communities” Project.
- American Association for the Advancement of Science/American Academy of Forensic Science Project: “Scientific Evidence Summit” Planning Committee.
- Teacher of the Year (UC Santa Cruz Re-Entry Students’ Award).
- 2000 Invited Participant White House Forum on the Uses of Science and Technology to Improve National Crime and Prison Policy.
- Excellence in Teaching Award (Academic Senate Committee on Teaching).
- Joint American Association for the Advancement of Science-American Bar Association Science and Technology Section National Conference of Lawyers and Scientists.
- 1999 American Psychology-Law Society Presidential Initiative Invitee (“Reviewing the Discipline: A Bridge to the Future”)
- National Science Foundation Grant to Study Capital Jury Decision-making (renewal and extension).
- 1997 National Science Foundation Grant to Study Capital Jury Decision-making.
- 1996 Teacher of the Year (UC Santa Cruz Re-Entry Students’ Award).
- 1995 Gordon Allport Intergroup Relations Prize (Honorable Mention)
- Excellence in Teaching Convocation, Social Sciences Division
- 1994 Outstanding Contributions to Preservation of Constitutional Rights, California Attorneys for Criminal Justice.

1992	Psychology Undergraduate Student Association Teaching Award SR 43 Grant for Policy-Oriented Research With Linguistically Diverse Minorities
1991	Alumni Association Teaching Award (“Favorite Professor”)
1990	Prison Law Office Award for Contributions to Prison Litigation
1989	UC Mexus Award for Comparative Research on Mexican Prisons
1976	Hilmer Oehlmann Jr. Award for Excellence in Legal Writing at Stanford Law School
1975-76	Law and Psychology Fellow, Stanford Law School
1974-76	Russell Sage Foundation Residency in Law and Social Science
1974	Gordon Allport Intergroup Relations Prize, Honorable Mention
1969-71	University Fellow, Stanford University
1969-74	Society of Sigma Xi
1969	B.A. Degree <u>Magna cum laude</u> with Honors in Psychology Phi Beta Kappa
1967-1969	University Scholar, University of Pennsylvania

UNIVERSITY SERVICE AND ADMINISTRATION

2010-2016	Director, Legal Studies Program
2010-2014	Director, Graduate Program in Social Psychology
2009	Chair, Legal Studies Review Committee
2004-2006	Chair, Committee on Academic Personnel
1998-2002	Chair, Department of Psychology
1994-1998	Chair, Department of Sociology

1992-1995	Chair, Legal Studies Program
1995 (Fall)	Committee on Academic Personnel
1995-1996	University Committee on Academic Personnel (UCAP)
1990-1992	Committee on Academic Personnel
1991-1992	Chair, Social Science Division Academic Personnel Committee
1984-1986	Chair, Committee on Privilege and Tenure

WRITINGS AND OTHER CREATIVE ACTIVITIES IN PROGRESS

Books:

Counting Casualties in the War on Prisoners: Toward a Just and Lasting Peace
(working title, in preparation).

Articles:

“The Psychological Foundations of Capital Mitigation: Why Social Historical Factors Are Central to Assessing Culpability,” in preparation.

PUBLISHED WRITINGS AND CREATIVE ACTIVITIES

Books

2020	<u>Criminality in Context: The Psychological Foundations of Criminal Justice Reform</u> . Washington, DC: American Psychological Association Books.
2014	<u>The Growth of Incarceration in the United States: Exploring the Causes and Consequences</u> (with Jeremy Travis, Bruce Western, et al.). [Report of the National Academy of Sciences Committee on the Causes and Consequences of High Rates of Incarceration in the United States.] Washington, DC: National Academy Press.
2006	<u>Reforming Punishment: Psychological Limits to the Pains of Imprisonment</u> , Washington, DC: American Psychological Association Books.

- 2005 Death by Design: Capital Punishment as a Social Psychological System. New York: Oxford University Press.

Monographs and Technical Reports

- 1989 Employment Testing and Employment Discrimination (with Hurtado). Technical Report for the National Commission on Testing and Public Policy. New York: Ford Foundation.
- 2005 Conditions of Confinement for Detained Asylum Seekers Subject to Expedited Removal (Appendix C in Study of Asylum Seekers in Expedited Removal As Authorized by Section 605 of International Religious Freedom Act of 1998).

Articles in Professional Journals and Book Chapters

- 2021 “Sykes’s Prison in Context: Change and Continuity in the Life Span of a Penitentiary,” in B. Crewe, A. Goldsmith, & M. Halsey (Eds.), Power and authority in the modern prison: Revisiting the *Society of Captives*. New York: Oxford University Press, in press.
- “The Impact of Isolation on Brain Health” (with Vibol Heng and Richard Smeyne), in M. Zigmond, L. Rowland, & J. Coyle (Eds.), The Neurobiology of Brain Disorders: Biological Basis of Neurological and Psychiatric Disorders. Second Edition. Elsevier, in press.
- “‘We Just Need to Open the Door’: A Case Study of North Dakota Department of Corrections’ Quest to End Solitary Confinement” (with David Cloud, Dallas Augustine, Cyrus Ahalt, Lisa Peterson, Colby Braun, & Brie Williams), Heath & Justice, 9(28).
<https://doi.org/10.1186/s40352-021-00155-5>
- “The Death Qualification Process Continues to Render Capital Juries Less Representative and More Unfair. Amicus Journal, 42, 20-25.
- “The Continuing Unfairness of Death Qualification: Changing Death Penalty Attitudes and Capital Jury Selection” (with Eileen Zurbriggen & Joanna Weill), Psychology, Public Policy, and Law, in press.

- 2020 “Solitary Confinement, Loneliness, and Psychological Harm,” in Jules Lobel and Peter Scharff Smith (Eds.), Solitary Confinement: Effects, Practices, and Pathways to Reform (129-152). New York: Oxford University Press.
- “Continuing to Acknowledge the Power of Dehumanizing Environments: Responding to Haslam, et al. (2019) and Le Texier (2019)” (with Philip Zimbardo), American Psychologist, 75(3), 400-402.
- “Framing Criminal Justice and Crime in the News, 2015-2017” (with Camille Conrey), Journal of Crime and Justice, in press.
- “The Science of Solitary: Expanding the Harmfulness Narrative,” Northwestern Law Review, 115(1), 211-256.
- “Consensus Statement from the Santa Cruz Summit on Solitary Confinement and Health” (with Brie Williams and Cyrus Ahalt), Northwestern University Law Review, 115(1), 335-360.
- “Solitary Confinement is Not Solitude: The Worst Case Scenario of Being ‘Along’ in Prison,” in Robert Coplan, Julie Bowker, & Larry Nelson (Eds.), Handbook of Solitude: Psychological Perspectives on Isolation, Social Withdrawal, and Being Alone (pp. 390-403). Second Edition. New York: Wiley-Blackwell, in press.
- 2019 “Afterword,” in Robert Johnson, Condemned to Die: Life Under Sentence of Death (pp. 137-141). Second Edition. New York: Routledge.
- “Changing Correctional Culture: Exploring the Role of U.S.-Norway Exchange in Placing Health and Well-Being at the Center of U.S. Prison Reform” (with Cyrus Ahalt, Brie Williams, and Kim Ekhaugen), American Journal of Public Health, 110(S1), S27-S29.
- 2018 “Restricting the Use of Solitary Confinement,” Annual Review of Criminology, 1, 285-310.
- “Death Qualification in Black and White: Racialized Decision-Making and Death-Qualified Juries” (with Mona Lynch), Law & Policy, 40(2), 148-171.

“Balancing the Rights to Protection and Participation: A Call for Expanded Access to Ethically Conducted Correctional Research. Journal of General Internal Medicine, 33(22). DOI: 10.1007/s11606-018-4318-9.

“The Plight of Long-Term Mentally-Ill Prisoners” (with Camille Conrey and Roxy Davis), in Kelly Frailing and Risdon Slate (Eds.), The Criminalization of Mental Illness (pp. 163-180). Durham, NC: Carolina Academic Press.

“The Psychological Effects of Solitary Confinement: A Systematic Critique,” Crime and Justice, 47, 365-416.

“The Media’s Impact on the Right to a Fair Trial: A Content Analysis of Pretrial Publicity in Capital Cases (with Shirin Bakhshay), Psychology, Public Policy, and Law, 24, 326-346.

2017 “Mechanisms of Moral Disengagement and Prisoner Abuse” (with Joanna Weill). Analyses of Social Issues and Public Policy, 17, 286-318.

“‘Madness’ and Penal Confinement: Observations on Mental Illness and Prison Pain,” Punishment and Society, 19, 310-326.

“Contexts of Ill-Treatment: The Relationship of Captivity and Prison Confinement to Cruel, Inhuman, or Degrading Treatment and Torture” (with Shirin Bakhshay), in Metin Başoğlu (Ed.), Torture and Its Definition in International Law: An Interdisciplinary Approach (pp. 139-178). New York: Oxford.

Special Issue: “Translating Research into Policy to Advance Correctional Health” (guest editor with B. Williams, C. Ahalt, S. Allen, & J. Rich), Part II, International Journal of Prisoner Health, 13, 137-227.

“Reducing the Use and Impact of Solitary Confinement in Corrections” (with Cyrus Ahalt, Sarah Rios, Matthew Fox, David Farabee, and Brie Williams), International Journal of Prisoner Health, 13, 41-48.

2016 “Examining Jail Isolation: What We Don’t Know Can Be Profoundly Harmful” (with Joanna Weill, Shirin Bakhshay, and Tiffany Winslow), The Prison Journal, 96, 126-152.

“On Structural Evil: Disengaging From Our Moral Selves,” Review of the book Moral Disengagement: How People Do Harm and Live With Themselves, by A. Bandura], PsycCRITIQUES, 61(8).

- 2015 “When Did Prisons Become Acceptable Mental Healthcare Facilities?,” Report of the Stanford Law School Three Strikes Project (with Michael Romano et al.) [available at: http://law.stanford.edu/wp-content/uploads/sites/default/files/child-page/632655/doc/slspublic/Report_v12.pdf].
- “Emotion, Authority, and Death: (Raced) Negotiations in Capital Jury Negotiations” (with Mona Lynch), Law & Social Inquiry, 40, 377-405.
- “Prison Overcrowding,” in B. Cutler & P. Zapf (Eds.), APA Handbook of Forensic Psychology (pp. 415-436). Washington, DC: APA Books.
- “The Death Penalty” (with Joanna Weill & Mona Lynch), in B. Cutler & P. Zapf (Eds.), APA Handbook of Forensic Psychology (pp. 451-510). Washington, DC: APA Books.
- “‘Prisonization’ and Latinas in Alternative High Schools” (with Aida Hurtado & Ruby Hernandez), in J. Hall (Ed.), Routledge Studies in Education and Neoliberalism: Female Students and Cultures of Violence in the City (pp. 113-134). Florence, KY: Routledge.
- 2014 “How Healthcare Reform Can Transform the Health of Criminal Justice-Involved Individuals” (with Josiah Rich, et al.), Health Affairs, 33:3 (March), 1-6.
- 2013 “Foreword,” for H. Toch, Organizational Change Through Individual Empowerment: Applying Social Psychology in Prisons and Policing. Washington, DC: APA Books.
- “Foreword,” for J. Ashford & M. Kupferberg, Death Penalty Mitigation: A Handbook for Mitigation Specialists, Investigators, Social Scientists, and Lawyers. New York: Oxford University Press.
- 2012 “Politicizing Crime and Punishment: Redefining ‘Justice’ to Fight the ‘War on Prisoners,’” West Virginia Law Review, 114, 373-414.

“Prison Effects in the Age of Mass Incarceration,” Prison Journal, 92, 1-24.

“The Psychological Effects of Imprisonment,” in J. Petersilia & K. Reitz (Eds.), Oxford Handbook of Sentencing and Corrections (pp. 584-605). New York: Oxford University Press.

2011 “The Perversions of Prison: On the Origins of Hypermasculinity and Sexual Violence in Confinement,” American Criminal Law Review, 48, 121-141. [Reprinted in: S. Ferguson (Ed.), Readings in Race, Gender, Sexuality, and Social Class. Sage Publications (2012).]

“Mapping the Racial Bias of the White Male Capital Juror: Jury Composition and the ‘Empathic Divide’” (with Mona Lynch), Law and Society Review, 45, 69-102.

“Getting to the Point: Attempting to Improve Juror Comprehension of Capital Penalty Phase Instructions” (with Amy Smith), Law and Human Behavior, 35, 339-350.

“Where the Boys Are: Macro and Micro Considerations for the Study of Young Latino Men’s Educational Achievement” (with A. Hurtado & J. Hurtado), in P. Noguera & A. Hurtado (Eds.), Understanding the Disenfranchisement of Latino Males: Contemporary Perspectives on Cultural and Structural Factors (pp. 101-121). New York: Routledge Press.

“Looking Across the Empathic Divide: Racialized Decision-Making on the Capital Jury” (with Mona Lynch), Michigan State Law Review, 2011, 573-608.

2010 “Demonizing the ‘Enemy’: The Role of Science in Declaring the ‘War on Prisoners,’” Connecticut Public Interest Law Review, 9, 139-196.

“Hiding From the Death Penalty,” Huffington Post, July 26, 2010 [www.huffingtonpost.com/craig-haney/hiding-from-the-death-pen-pen_b_659940.html]; reprinted in Sentencing and Justice Reform Advocate, 2, 3 (February, 2011).

2009 “Capital Jury Deliberation: Effects on Death Sentencing, Comprehension, and Discrimination” (with Mona Lynch), Law and Human Behavior, 33, 481-496.

“The Social Psychology of Isolation: Why Solitary Confinement is Psychologically Harmful,” Prison Service Journal UK (Solitary Confinement Special Issue), Issue 181, 12-20. [Reprinted: California Prison Focus, #36, 1, 14-15 (2011).]

“The Stanford Prison Experiment,” in John Levine & Michael Hogg (Eds.), Encyclopedia of Group Processes and Intergroup Relations. Thousand Oaks, CA: Sage Publications.

“Media Criminology and the Death Penalty,” DePaul Law Review, 58, 689-740. (Reprinted: Capital Litigation Update, 2010.)

“On Mitigation as Counter-Narrative: A Case Study of the Hidden Context of Prison Violence,” University of Missouri-Kansas City Law Review, 77, 911-946.

“Persistent Dispositionalism in Interactionist Clothing: Fundamental Attribution Error in Explaining Prison Abuse,” (with P. Zimbardo), Personality and Social Psychology Bulletin, 35, 807-814.

2008 “Counting Casualties in the War on Prisoners,” University of San Francisco Law Review, 43, 87-138.

“Evolving Standards of Decency: Advancing the Nature and Logic of Capital Mitigation,” Hofstra Law Review, 36, 835-882.

“A Culture of Harm: Taming the Dynamics of Cruelty in Supermax Prisons,” Criminal Justice and Behavior, 35, 956-984.

“The Consequences of Prison Life: Notes on the New Psychology of Prison Effects,” in D. Canter & R. Zukauskienė (Eds.), Psychology and Law: Bridging the Gap (pp. 143-165). Burlington, VT: Ashgate Publishing.

“The Stanford Prison Experiment,” in J. Bennett & Y. Jewkes (Eds.), Dictionary of Prisons (pp. 278-280). Devon, UK: Willan Publishers.

“Capital Mitigation,” in Brian Cutler (Ed.), The Encyclopedia of Psychology and the Law (pp. 60-63). Volume I. Thousand Oaks, CA: Sage Publications.

“Death Qualification of Juries,” in Brian Cutler (Ed.), The Encyclopedia of Psychology and the Law (pp. 190-192). Volume I. Thousand Oaks, CA: Sage Publications.

“Stanford Prison Experiment,” in Brian Cutler (Ed.), The Encyclopedia of Psychology and the Law (pp. 756-757) (with P. Zimbardo). Volume II. Thousand Oaks, CA: Sage Publications.

“Supermax Prisons,” in Brian Cutler (Ed.), The Encyclopedia of Psychology and the Law (pp. 787-790). Volume II. Thousand Oaks, CA: Sage Publications.

- 2006 “The Wages of Prison Overcrowding: Harmful Psychological Consequences and Dysfunctional Correctional Reactions,” Washington University Journal of Law & Policy, 22, 265-293. [Reprinted in: N. Berlatsky, Opposing Viewpoints: America’s Prisons. Florence, KY: Cengage Learning, 2010.]
- “Exonerations and Wrongful Condemnations: Expanding the Zone of Perceived Injustice in Capital Cases,” Golden Gate Law Review, 37, 131-173.
- “Preface,” D. Jones (Ed.), Humane Prisons. San Francisco, CA: Radcliffe Medical Press.

- 2005 “The Contextual Revolution in Psychology and the Question of Prison Effects,” in Alison Liebling and Shadd Maruna (Eds.), The Effects of Imprisonment (pp. 66-93). Devon, UK: Willan Publishing.

“Achieving Educational Equity: Beyond Individual Measures of Merit,” (with A. Hurtado), Harvard Journal of Hispanic Policy, 17, 87-92.

“Conditions of Confinement for Detained Asylum Seekers Subject to Expedited Removal,” in M. Hetfield (Ed.), Report on Asylum Seekers in Expedited Removal. Volume II: Expert Reports. Washington, DC: United States Commission on International Religious Freedom.

- 2004 “Special Issue on the Death Penalty in the United States” (co-edited with R. Weiner), Psychology, Public Policy, and Law, 10, 374-621.
- “Death Is Different: An Editorial Introduction” (with R. Wiener), Psychology, Public Policy, and Law, 10, 374-378.
- “The Death Penalty in the United States: A Crisis of Conscience” (with R. Wiener), Psychology, Public Policy, and Law, 10, 618-621.

“Condemning the Other in Death Penalty Trials: Biographical Racism, Structural Mitigation, and the Empathic Divide,” DePaul Law Review, 53, 1557-1590.

“Capital Constructions: Newspaper Reporting in Death Penalty Cases” (with S. Greene), Analyses of Social Issues and Public Policy (ASAP), 4, 1-22.

“Abu Ghraib and the American Prison System,” The Commonwealth, 98 (#16), 40-42.

“Disciplinary Segregation,” in Mary Bosworth (Ed.), Encyclopedia of U.S. Prisons and Correctional Facilities (240-244). Volume 1. Thousand Oaks, CA: Sage Publications.

“Super-Maximum Secure Prisons,” in Mary Bosworth (Ed.), Encyclopedia of U.S. Prisons and Correctional Facilities (pp. 938-944). Volume 2. Thousand Oaks, CA: Sage Publications.

2003 “Mental Health Issues in Long-Term Solitary and ‘Supermax’ Confinement,” Crime & Delinquency (special issue on mental health and the criminal justice system), 49, 124-156. [Reprinted in: Roesch, R., & Gagnon, N. (Eds.), Psychology and Law: Criminal and Civil Perspectives. Hampshire, UK: Ashgate (2007).]

“The Psychological Impact of Incarceration: Implications for Post-Prison Adjustment,” in Travis, J., & Waul, M. (Eds.), Prisoners Once Removed: The Impact of Incarceration and Reentry on Children, Families, and Communities (pp. 33-66). Washington, DC: Urban Institute Press.

“Comments on “Dying Twice”: Death Row Confinement in the Age of the Supermax,” Capital University Law Review.

2002 “Making Law Modern: Toward a Contextual Model of Justice, Psychology, Public Policy, and Law, 7, 3-63.

“Psychological Jurisprudence: Taking Psychology and Law into the Twenty-First Century,” (with John Darley, Sol Fulero, and Tom Tyler), in J. Ogloff (Ed.), Taking Psychology and Law into the Twenty-First Century (pp. 35-59). New York: Kluwer Academic/Plenum Publishing.

- “Science, Law, and Psychological Injury: The Daubert Standards and Beyond,” (with Amy Smith), in Schultz, I., Brady, D., and Carella, S., The Handbook of Psychological Injury (pp. 184-201). Chicago, IL: American Bar Association. [CD-ROM format]
- 2001 “Vulnerable Offenders and the Law: Treatment Rights in Uncertain Legal Times” (with D. Specter). In J. Ashford, B. Sales, & W. Reid (Eds.), Treating Adult and Juvenile Offenders with Special Needs (pp. 51-79). Washington, D.C.: American Psychological Association.
- “Afterword,” in J. Evans (Ed.), Undoing Time (pp. 245-256). Boston, MA: Northeastern University Press.
- 2000 “Discrimination and Instructional Comprehension: Guided Discretion, Racial Bias, and the Death Penalty” (with M. Lynch), Law and Human Behavior, 24, 337-358.
- “Cycles of Pain: Risk Factors in the Lives of Incarcerated Women and Their Children,” (with S. Greene and A. Hurtado), Prison Journal, 80, 3-23.
- 1999 “Reflections on the Stanford Prison Experiment: Genesis, Transformations, Consequences (‘The SPE and the Analysis of Institutions’),” In Thomas Blass (Ed.), Obedience to Authority: Current Perspectives on the Milgram Paradigm (pp. 221-237). Hillsdale, NJ: Erlbaum.
- “Ideology and Crime Control,” American Psychologist, 54, 786-788.
- 1998 “The Past and Future of U.S. Prison Policy: Twenty-Five Years After the Stanford Prison Experiment,” (with P. Zimbardo), American Psychologist, 53, 709-727. [Reprinted in special issue of Norwegian journal as: USAs fengselspolitikk i fortid og fremtid, Vardoger, 25, 171-183 (2000); in H. Tischler (Ed.), Debating Points: Crime and Punishment. Englewood Cliffs, NJ: Prentice-Hall (2001); Annual Editions: Criminal Justice. Guilford, CT: Dushkin/McGraw-Hill, in press; Herman, Peter (Ed.), The American Prison System (pp. 17-43) (Reference Shelf Series). New York: H.W. Wilson (2001); and in Edward Latessa & Alexander Holsinger (Eds.), Correctional Contexts: Contemporary and Classical Readings. Fourth Edition. Oxford University Press (2010).]

“Riding the Punishment Wave: On the Origins of Our Devolving Standards of Decency,” Hastings Women’s Law Journal, 9, 27-78.

“Becoming the Mainstream: “Merit,” Changing Demographics, and Higher Education in California” (with A. Hurtado and E. Garcia), La Raza Law Journal, 10, 645-690.

1997 “Regulating Prisons of the Future: A Psychological Analysis of Supermax and Solitary Confinement,” (with M. Lynch), New York University Review of Law and Social Change, 23, 477-570.

“Psychology and the Limits to Prison Pain: Confronting the Coming Crisis in Eighth Amendment Law,” Psychology, Public Policy, and Law, 3, 499-588.

“Commonsense Justice and the Death Penalty: Problematizing the ‘Will of the People,’” Psychology, Public Policy, and Law, 3, 303-337.

“Violence and the Capital Jury: Mechanisms of Moral Disengagement and the Impulse to Condemn to Death,” Stanford Law Review, 49, 1447-1486.

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- “Broken Promise: The Supreme Court’s Response to Social Science Research on Capital Punishment” (with D. Logan), Journal of Social Issues (special issue on the death penalty in the United States), 50, 75-101.
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- “Processing the Mad, Badly,” Contemporary Psychology, 39, 898-899.
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- 1988 “In Defense of the Jury,” Contemporary Psychology, 33, 653-655.
- 1986 “Civil Rights and Institutional Law: The Role of Social Psychology in Judicial Implementation,” (with T. Pettigrew), Journal of Community Psychology, 14, 267-277.
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- “On the Selection of Capital Juries: The Biasing Effects of Death Qualification,” Law and Human Behavior, 8, 121-132.
- “Examining Death Qualification: Further Analysis of the Process Effect,” Law and Human Behavior, 8, 133-151.
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- “Social Factfinding and Legal Decisions: Judicial Reform and the Use of Social Science.” In Muller, D., Blackman, D., and Chapman, A. (Eds.), Perspectives in Psychology and Law. New York: John Wiley, pp. 43-54.

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- 1980 “Juries and the Death Penalty: Readdressing the Witherspoon Question,” Crime and Delinquency, October, pp. 512-527.
- “Psychology and Legal Change: On the Limits of a Factual Jurisprudence,” Law and Human Behavior, 6, 191-235. [Reprinted in Loh, Wallace (Ed.), Social Research and the Judicial Process. New York: Russell Sage, 1983.]

“The Creation of Legal Dependency: Law School in a Nutshell” (with M. Lowy), in R. Warner (Ed.), The People’s Law Review. Reading, Mass.: Addison-Wesley, pp. 36-41.

“Television Criminology: Network Illusions of Criminal Justice Realities” (with J. Manzolari), in E. Aronson (Ed.), Readings on the Social Animal. San Francisco, W.H. Freeman, pp. 125-136.

1979 “A Psychologist Looks at the Criminal Justice System,” in A. Calvin (Ed.), Challenges and Alternatives to the Criminal Justice System. Ann Arbor: Monograph Press, pp. 77-85.

“Social Psychology and the Criminal Law,” in P. Middlebrook (Ed.), Social Psychology and Modern Life. New York: Random House, pp. 671-711.

“Bargain Justice in an Unjust World: Good Deals in the Criminal Courts” (with M. Lowy), Law and Society Review, 13, pp. 633-650. [Reprinted in Kadish, Sanford and Paulsen, Robert (Eds.), Criminal Law and Its Processes. Boston: Little, Brown, 1983.]

1977 “Prison Behavior” (with P. Zimbardo), in B. Wolman (Ed.), The Encyclopedia of Neurology, Psychiatry, Psychoanalysis, and Psychology, Vol. IX, pp. 70-74.

“The Socialization into Criminality: On Becoming a Prisoner and a Guard” (with P. Zimbardo), in J. Tapp and F. Levine (Eds.), Law, Justice, and the Individual in Society: Psychological and Legal Issues (pp. 198-223). New York: Holt, Rinehart, and Winston.

1976 “The Play’s the Thing: Methodological Notes on Social Simulations,” in P. Golden (Ed.), The Research Experience, pp. 177-190. Itasca, IL: Peacock.

1975 “The Blackboard Penitentiary: It’s Tough to Tell a High School from a Prison” (with P. Zimbardo). Psychology Today, 26ff.

“Implementing Research Results in Criminal Justice Settings,” Proceedings, Third Annual Conference on Corrections in the U.S. Military, Center for Advanced Study in the Behavioral Sciences, June 6-7.

“The Psychology of Imprisonment: Privation, Power, and Pathology” (with P. Zimbardo, C. Banks, and D. Jaffe), in D. Rosenhan and P. London (Eds.), Theory and Research in Abnormal Psychology. New York: Holt Rinehart, and Winston. [Reprinted in: Rubin, Z. (Ed.), Doing Unto Others: Joining, Molding, Conforming, Helping, Loving. Englewood Cliffs: Prentice-Hall, 1974. Brigham, John, and Wrightsman, Lawrence (Eds.) Contemporary Issues in Social Psychology. Third Edition. Monterey: Brooks/Cole, 1977. Calhoun, James Readings, Cases, and Study Guide for Psychology of Adjustment and Human Relationships. New York: Random House, 1978; translated as: La Psicología del encarcelamiento: privación, poder y patología, Revisita de Psicología Social, 1, 95-105 (1986).]

1973

“Social Roles, Role-Playing, and Education” (with P. Zimbardo), The Behavioral and Social Science Teacher, Fall, 1(1), pp. 24-45. [Reprinted in: Zimbardo, P., and Maslach, C. (Eds.) Psychology For Our Times. Glenview, Ill.: Scott, Foresman, 1977. Hollander, E. and Hunt, R. (Eds.) Current Perspectives in Social Psychology. Third Edition. New York: Oxford University Press, 1978.]

“The Mind is a Formidable Jailer: A Pirandellian Prison” (with P. Zimbardo, C. Banks, and D. Jaffe), The New York Times Magazine, April 8, Section 6, 38-60. [Reprinted in Krupat, E. (Ed.), Psychology Is Social: Readings and Conversations in Social Psychology. Glenview, Ill.: Scott, Foresman, 1982.]

“Interpersonal Dynamics in a Simulated Prison” (with C. Banks and P. Zimbardo), International Journal of Criminology and Penology, 1, pp. 69-97. [Reprinted in: Steffensmeier, Darrell, and Terry, Robert (Eds.) Examining Deviance Experimentally. New York: Alfred Publishing, 1975; Golden, P. (Ed.) The Research Experience. Itasca, Ill.: Peacock, 1976; Leger, Robert (Ed.) The Sociology of Corrections. New York: John Wiley, 1977; A kiserleti tarsadalom-lelektan foarma. Budapest, Hungary: Gondolat Konyvkiado, 1977; Johnston, Norman, and Savitz, L. Justice and Corrections. New York: John Wiley, 1978; Research Methods in Education and Social Sciences. The Open University, 1979; Goldstein, J. (Ed.), Modern Sociology. British Columbia: Open Learning Institute, 1980; Ross, Robert R. (Ed.), Prison Guard/ Correctional Officer: The Use and Abuse of Human Resources of Prison. Toronto: Butterworth's 1981; Monahan, John, and Walker, Laurens (Eds.), Social Science in Law: Cases, Materials, and Problems. Foundation Press, 1985; Siuta, Jerzy (Ed.), The Context of Human Behavior. Jagiellonian University Press, 2001; Ferguson, Susan (Ed.), Mapping the Social Landscape: Readings in Sociology. St. Enumclaw, WA: Mayfield

Publishing, 2001 & 2010; Pethes, Nicolas (Ed.), Menschenversuche (Experiments with Humans). Frankfurt, Germany: Suhrkamp Verlag, 2006.]

“A Study of Prisoners and Guards” (with C. Banks and P. Zimbardo). Naval Research Reviews, 1-17. [Reprinted in Aronson, E. (Ed.) Readings About the Social Animal. San Francisco: W.H. Freeman, 1980; Gross, R. (Ed.) Key Studies in Psychology. Third Edition. London: Hodder & Stoughton, 1999; Collier, C. (Ed.), Basic Themes in Law and Jurisprudence. Anderson Publishing, 2000.]

MEMBERSHIP/ACTIVITIES IN PROFESSIONAL ASSOCIATIONS

American Psychological Association

American Psychology and Law Society

Law and Society Association

National Council on Crime and Delinquency

INVITED ADDRESSES AND PAPERS PRESENTED AT PROFESSIONAL ACADEMIC MEETINGS AND RELATED SETTINGS (SELECTED)

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| 2019 | “The Recent History of Corrections in Norway and the United States,” Plenary Address, Justice Reinvestment Summit, Salem, OR, February. |
| | “The Dimensions of Suffering in Solitary Confinement,” Plenary Address, Washington College of Law at American University, Washington, DC, March. |
| | “Implementing Norwegian Correctional Principles to Change Prison Culture in Oregon Prisons,” Invited Address, Oregon Department of Corrections Leadership Team, Salem, OR, June. |
| | “Humanizing American Jails and Prisons,” Center for Court Innovation, International Summit, New York, NY, June. |
| | “From the Stanford Prison Experiment to Supermax Prisons and Back Again: Changing the Narrative in Criminal Justice Reform,” |

Invited Address, Norwegian Correctional Academy, Oslo, Norway, September.

Plenary Address, “Perspectives on Solitary Confinement,” Northwestern University Law Review Symposium, Chicago, IL, November.

2018 “The Art and Science of Capital Mitigation,” Federal Death Penalty Training Conference, Atlanta, Georgia, June.

“From Eastern State Penitentiary to Supermax Prisons,” Safe Alternatives to Segregation Conference, Vera Institute of Justice, Philadelphia, PA, June.

Plenary Address, “Advancing Prisoners’ Rights Through Law and Psychology,” Denver Law Prisoners’ Advocates Conference, University of Denver Sturm College of Law, Denver, CO, October.

“In Praise of Positivism in the Age of ‘Fake News’ and ‘Alternative Facts,’” Research Frontiers Conference, Santa Cruz, CA, October.

2017 “Neuroscience in Policy: Solitary Confinement in California,” Law & Neuroscience Conference, San Francisco, CA, February.

“In My Solitude: The Detrimental Effects of Solitary Confinement on the Brain,” Exploratorium-Fisher Bay Observation Gallery, San Francisco, CA, February.

“Brief History of Correctional Reform in the United States,” Community Corrections Partnership/Smart on Crime Community Forum, Santa Cruz Civic Auditorium, May.

“Reducing and Eliminating the Use of Solitary Confinement in Irish Prisons,” Joint Conference with the Irish Prison Service, Department of Justice, and Irish Penal Reform Trust, Dublin, Ireland, June.

“The Emerging Consensus on When, for How Long, and On Whom Solitary Confinement Should Ever Be Imposed,” Leadership, Culture and Managing Prisons: Knowledge Exchange between the USA and Europe (LEADERS), Trinity College, Dublin, Ireland, June.

“Sykes and Solitary: The Transformation of the Penal Subject in the Devolution from a ‘Society of Captives’ to Supermax Prisons,” Power and Authority in Modern Prisons: Essays in Memory of

Gresham Sykes Workshop, Centre for Prison Research, Cambridge University, Cambridge, England, September.

“Context Is Everything: The Social Psychology of Imprisonment,” Joint USA/Scandinavian Correctional Exchange Program, Oslo, Norway, September.

2016 “The Culture of Punishment,” American Justice Summit, New York, January.

“Mental Illness and Prison Confinement,” Conference on Race, Class, Gender and Ethnicity (CRCGE), University of North Carolina Law School, Chapel Hill, NC, February.

“Reforming the Treatment of California’s Mentally Ill Prisoners: Coleman and Beyond,” Meeting of the UC Consortium on Criminal Justice & Health, San Francisco, April.

“Bending Toward Justice? The Urgency (and Possibility) of Criminal Justice Reform,” UC Santa Cruz Alumni Association “Original Thinkers” Series, San Jose, CA (March), and Museum of Tolerance, Los Angeles (April).

“Isolation and Mental Health,” International and Inter-Disciplinary Perspectives on Prolonged Solitary Confinement, University of Pittsburgh Law School, Pittsburgh, PA, April.

“Mechanisms of Moral Disengagement in the Treatment of Prisoners” (with Joanna Weill), Conference of the Society for the Study of Social Issues, Minneapolis, June.

2015 “Reforming the Criminal Justice System,” Bipartisan Summit on Criminal Justice Reform, American Civil Liberties Union/Koch Industries co-sponsored, Washington, DC, March.

“PrisonWorld: How Mass Incarceration Transformed U.S. Prisons, Impacted Prisoners, and Changed American Society,” Distinguished Faculty Research Lecture, UC Santa Cruz, March.

“Think Different, About Crime and Punishment,” Invited Lecture, UC Santa Cruz 50th Anniversary Alumni Reunion, April.

“The Intellectual Legacy of the Civil Rights Movement: Two Fifty-Year Anniversaries,” College 10 Commencement Address, June.

“Race and Capital Mitigation,” Perspectives on Racial and Ethnic Bias for Capital and Non-Capital Lawyers, New York, September.

“The Dimensions of Suffering in Solitary Confinement,” Vera Institute of Justice, “Safe Alternatives to Solitary Confinement-A Human Dignity Approach” Conference, Washington, DC, September.

“Mental Health and Administrative Segregation,” Topical Working Group on the Use of Administrative Segregation in the U.S., National Institute of Justice/Department of Justice, Washington, DC, October.

“The Psychological Effects of Segregated Confinement,” Ninth Circuit Court of Appeals “Corrections Summit,” Sacramento, CA, November.

“How Can the University of California Address Mass Incarceration in California and Beyond?,” Keynote Address, Inaugural Meeting of the UC Consortium on Criminal Justice & Health, San Francisco, November.

- 2014 “Solitary Confinement: Legal, Clinical, and Neurobiological Perspectives,” American Association for the Advancement of Science (AAAS), Chicago, IL February.
- “Overcrowding, Isolation, and Mental Health Care, Prisoners’ Access to Justice: Exploring Legal, Medical, and Educational Rights,” University of California, School of Law, Irvine, CA, February.
- “The Continuing Significance of Death Qualification” (with Joanna Weill), Annual Conference of the American Psychology-Law Society, New Orleans, March.
- “Using Psychology at Multiple Levels to Transform Adverse Conditions of Confinement,” Society for the Study of Social Issues Conference, Portland, OR, June.
- “Humane and Effective Alternatives to Isolated Confinement,” American Civil Liberties Union National Prison Project Convening on Solitary Confinement, Washington, DC, September.
- “Community of Assessment of Public Safety,” Community Assessment Project of Santa Cruz County, Year 20, Cabrillo College, November.

“Overview of National Academy of Sciences Report on Causes and Consequences of High Rates of Incarceration,” Chief Justice Earl Warren Institute on Law & Social Policy, Boalt Hall Law School, Berkeley, CA, November.

“Presidential Panel, Overview of National Academy of Sciences Report on Causes and Consequences of High Rates of Incarceration,” American Society for Criminology, San Francisco, November.

“Presidential Panel, National Academy of Sciences Report on Consequences of High Rates of Incarceration on Individuals,” American Society for Criminology, San Francisco, November.

“Findings of National Academy of Sciences Committee on the Causes and Consequences of High Rates of Incarceration,” Association of Public Policy Analysis and Management Convention (APPAM), Albuquerque, NM, November.

“Politics and the Penal State: Mass Incarceration and American Society,” New York University Abu Dhabi International Scholars Program, Abu Dhabi, United Arab Emirates, December.

2013 “Isolation and Mental Health,” Michigan Journal of Race and Law Symposium, University of Michigan School of Law, Ann Arbor, MI, February.

“Social Histories of Capital Defendants” (with Joanna Weill), Annual Conference of Psychology-Law Society, Portland, OR, March.

“Risk Factors and Trauma in the Lives of Capital Defendants” (with Joanna Weill), American Psychological Association Annual Convention, Honolulu, HI, August.

“Bending Toward Justice: Psychological Science and Criminal Justice Reform,” Invited Plenary Address, American Psychological Association Annual Convention, Honolulu, HI, August.

“Severe Conditions of Confinement and International Torture Standards,” Istanbul Center for Behavior Research and Therapy, Istanbul, Turkey, December.

- 2012 “The Psychological Consequences of Long-term Solitary Confinement,” Joint Yale/Columbia Law School Conference on Incarceration and Isolation, New York, April.
- “The Creation of the Penal State in America,” Managing Social Vulnerability: The Welfare and Penal System in Comparative Perspective, Central European University, Budapest, Hungary, July.
- 2011 “Tensions Between Psychology and the Criminal Justice System: On the Persistence of Injustice,” opening presentation, “A Critical Eye on Criminal Justice” lecture series, Golden Gate University Law School, San Francisco, CA, January.
- “The Decline in Death Penalty Verdicts and Executions: The Death of Capital Punishment?” Presentation at “A Legacy of Justice” week, at the University of California, Davis King Hall Law School, Davis, CA, January.
- “Invited Keynote Address: The Nature and Consequences of Prison Overcrowding—Urgency and Implications,” West Virginia School of Law, Morgantown, West Virginia, March.
- “Symposium: The Stanford Prison Experiment—Enduring Lessons 40 Years Later,” American Psychological Association Annual Convention, Washington, DC, August.
- “The Dangerous Overuse of Solitary Confinement: Pervasive Human Rights Violations in Prisons, Jails, and Other Places of Detention” Panel, United Nations, New York, New York, October.
- “Criminal Justice Reform: Issues and Recommendation,” United States Congress, Washington, DC, November.
- 2010 “The Hardening of Prison Conditions,” Opening Address, “The Imprisoned” Arthur Liman Colloquium Public Interest Series, Yale Law School, New Haven, CN, March.
- “Desensitization to Inhumane Treatment: The Pitfalls of Prison Work,” panel presentation at “The Imprisoned” Arthur Liman Colloquium Public Interest Series, Yale Law School, New Haven, CN, March.
- “Mental Ill Health in Immigration Detention,” Department of Homeland Security/DOJ Office for Civil Rights and Civil Liberties, Washington, DC, September.

- 2009 “Counting Casualties in the War on Prisoners,” Keynote Address, at “The Road to Prison Reform: Treating the Causes and Conditions of Our Overburdened System,” University of Connecticut Law School, Hartford, CN, February.
- “Defining the Problem in California’s Prison Crisis: Overcrowding and Its Consequences,” California Correctional Crisis Conference,” Hastings Law School, San Francisco, CA, March.
- 2008 “Prisonization and Contemporary Conditions of Confinement,” Keynote Address, Women Defenders Association, Boalt Law School, University of California, November.
- “Media Criminology and the Empathic Divide: The Continuing Significance of Race in Capital Trials,” Invited Address, Media, Race, and the Death Penalty Conference, DePaul University School of Law, Chicago, IL, March.
- “The State of the Prisons in California,” Invited Opening Address, Confronting the Crisis: Current State Initiatives and Lasting Solutions for California’s Prison Conditions Conference, University of San Francisco School of Law, San Francisco, CA, March.
- “Mass Incarceration and Its Effects on American Society,” Invited Opening Address, Behind the Walls Prison Law Symposium, University of California Davis School of Law, Davis, CA, March.
- 2007 “The Psychology of Imprisonment: How Prison Conditions Affect Prisoners and Correctional Officers,” United States Department of Justice, National Institute of Corrections Management Training for “Correctional Excellence” Course, Denver, CO, May.
- “Statement on Psychologists, Detention, and Torture,” Invited Address, American Psychological Association Annual Convention, San Francisco, CA, August.
- “Prisoners of Isolation,” Invited Address, University of Indiana Law School, Indianapolis, IN, October.
- “Mitigation in Three Strikes Cases,” Stanford Law School, Palo Alto, CA, September.

“The Psychology of Imprisonment,” Occidental College, Los Angeles, CA, November.

2006 “Mitigation and Social Histories in Death Penalty Cases,” Ninth Circuit Federal Capital Case Committee, Seattle, WA, May.

“The Crisis in the Prisons: Using Psychology to Understand and Improve Prison Conditions,” Invited Keynote Address, Psi Chi (Undergraduate Psychology Honor Society) Research Conference, San Francisco, CA, May.

“Exoneration and ‘Wrongful Condemnation’: Why Juries Sentence to Death When Life is the Proper Verdict,” Faces of Innocence Conference, UCLA Law School, April.

“The Continuing Effects of Imprisonment: Implications for Families and Communities,” Research and Practice Symposium on Incarceration and Marriage, United States Department of Health and Human Services, Washington, DC, April.

“Ordinary People, Extraordinary Acts,” National Guantanamo Teach In, Seton Hall School of Law, Newark, NJ, October.

“The Next Generation of Death Penalty Research,” Invited Address, State University of New York, School of Criminal Justice, Albany, NY, October.

2005 “The ‘Design’ of the System of Death Sentencing: Systemic Forms of ‘Moral Disengagement in the Administration of Capital Punishment, Scholar-in-Residence, invited address, Center for Social Justice, Boalt Hall School of Law (Berkeley), March.

“Humane Treatment for Asylum Seekers in U.S. Detention Centers,” United States House of Representatives, Washington, DC, March.

“Prisonworld: What Overincarceration Has Done to Prisoners and the Rest of Us,” Scholar-in-Residence, invited address, Center for Social Justice, Boalt Hall School of Law (Berkeley), March.

“Prison Conditions and Their Psychological Effects on Prisoners,” European Association for Psychology and Law, Vilnius, Lithuania, July.

- 2004 “Recognizing the Adverse Psychological Effects of Incarceration, With Special Attention to Solitary-Type Confinement and Other Forms of ‘Ill-Treatment’ in Detention,” International Committee of the Red Cross, Training Program for Detention Monitors, Geneva, Switzerland, November.
- “Prison Conditions in Post-“War on Crime” Era: Coming to Terms with the Continuing Pains of Imprisonment,” Boalt Law School Conference, After the War on Crime: Race, Democracy, and a New Reconstruction, Berkeley, CA, October.
- “Cruel and Unusual? The United States Prison System at the Start of the 21st Century,” Invited speaker, Siebel Scholars Convocation, University of Illinois, Urbana, IL, October.
- “The Social Historical Roots of Violence: Introducing Life Narratives into Capital Sentencing Procedures,” Invited Symposium, XXVIII International Congress of Psychology, Beijing, China, August.
- “Death by Design: Capital Punishment as a Social Psychological System,” Division 41 (Psychology and Law) Invited Address, American Psychological Association Annual Convention, Honolulu, HI, July.
- “The Psychology of Imprisonment and the Lessons of Abu Ghraib,” Commonwealth Club Public Interest Lecture Series, San Francisco, May.
- “Restructuring Prisons and Restructuring Prison Reform,” Yale Law School Conference on the Current Status of Prison Litigation in the United States, New Haven, CN, May.
- “The Effects of Prison Conditions on Prisoners and Guards: Using Psychological Theory and Data to Understand Prison Behavior,” United States Department of Justice, National Institute of Corrections Management Training Course, Denver, CO, May.
- “The Contextual Revolution in Psychology and the Question of Prison Effects: What We Know about How Prison Affects Prisoners and Guards,” Cambridge University, Cambridge, England, April.
- “Death Penalty Attitudes, Death Qualification, and Juror Instructional Comprehension,” American Psychology-Law Society, Annual Conference, Scottsdale, AZ, March.

- 2003 “Crossing the Empathic Divide: Race Factors in Death Penalty Decisionmaking,” DePaul Law School Symposium on Race and the Death Penalty in the United States, Chicago, October.
- “Supermax Prisons and the Prison Reform Paradigm,” PACE Law School Conference on Prison Reform Revisited: The Unfinished Agenda, New York, October.
- “Mental Health Issues in Supermax Confinement,” European Psychology and Law Conference, University of Edinburgh, Scotland, July.
- “Roundtable on Capital Punishment in the United States: The Key Psychological Issues,” European Psychology and Law Conference, University of Edinburgh, Scotland, July.
- “Psychology and Legal Change: Taking Stock,” European Psychology and Law Conference, University of Edinburgh, Scotland, July.
- “Economic Justice and Criminal Justice: Social Welfare and Social Control,” Society for the Study of Social Issues Conference, January.
- “Race, Gender, and Class Issues in the Criminal Justice System,” Center for Justice, Tolerance & Community and Barrios Unidos Conference, March.
- 2002 “The Psychological Effects of Imprisonment: Prisonization and Beyond.” Joint Urban Institute and United States Department of Health and Human Services Conference on “From Prison to Home.” Washington, DC, January.
- “On the Nature of Mitigation: Current Research on Capital Jury Decisionmaking.” American Psychology and Law Society, Mid-Winter Meetings, Austin, Texas, March.
- “Prison Conditions and Death Row Confinement.” New York Bar Association, New York City, June.
- 2001 “Supermax and Solitary Confinement: The State of the Research and the State of the Prisons.” Best Practices and Human Rights in Supermax Prisons: A Dialogue. Conference sponsored by University of Washington and the Washington Department of Corrections, Seattle, September.

“Mental Health in Supermax: On Psychological Distress and Institutional Care.” Best Practices and Human Rights in Supermax Prisons: A Dialogue. Conference sponsored by University of Washington and the Washington Department of Corrections, Seattle, September.

“On the Nature of Mitigation: Research Results and Trial Process and Outcomes.” Boalt Hall School of Law, University of California, Berkeley, August.

“Toward an Integrated Theory of Mitigation.” American Psychological Association Annual Convention, San Francisco, CA, August.

Discussant: “Constructing Class Identities—The Impact of Educational Experiences.” American Psychological Association Annual Convention, San Francisco, CA, August.

“The Rise of Carceral Consciousness.” American Psychological Association Annual Convention, San Francisco, CA, August.

2000

“On the Nature of Mitigation: Countering Generic Myths in Death Penalty Decisionmaking,” City University of New York Second International Advances in Qualitative Psychology Conference, March.

“Why Has U.S. Prison Policy Gone From Bad to Worse? Insights From the Stanford Prison Study and Beyond,” Claremont Conference on Women, Prisons, and Criminal Injustice, March.

“The Use of Social Histories in Capital Litigation,” Yale Law School, April.

“Debunking Myths About Capital Violence,” Georgetown Law School, April.

“Research on Capital Jury Decisionmaking: New Data on Juror Comprehension and the Nature of Mitigation,” Society for Study of Social Issues Convention, Minneapolis, June.

“Crime and Punishment: Where Do We Go From Here?” Division 41 Invited Symposium, “Beyond the Boundaries: Where Should Psychology and Law Be Taking Us?” American Psychological Association Annual Convention, Washington, DC, August.

- 1999 “Psychology and the State of U.S. Prisons at the Millennium,” American Psychological Association Annual Convention, Boston, MA, August.
- “Spreading Prison Pain: On the Worldwide Movement Towards Incarcerative Social Control,” Joint American Psychology-Law Society/European Association of Psychology and Law Conference, Dublin, Ireland, July.
- 1998 “Prison Conditions and Prisoner Mental Health,” Beyond the Prison Industrial Complex Conference, University of California, Berkeley, September.
- “The State of US Prisons: A Conversation,” International Congress of Applied Psychology, San Francisco, CA, August.
- “Deathwork: Capital Punishment as a Social Psychological System,” Invited SPPSI Address, American Psychological Association Annual Convention, San Francisco, CA, August.
- “The Use and Misuse of Psychology in Justice Studies: Psychology and Legal Change: What Happened to Justice?,” (panelist), American Psychological Association Annual Convention, San Francisco, CA, August.
- “Twenty Five Years of American Corrections: Past and Future,” American Psychology and Law Society, Redondo Beach, CA, March.
- 1997 “Deconstructing the Death Penalty,” School of Justice Studies, Arizona State University, Tempe, AZ, October.
- “Mitigation and the Study of Lives,” Invited Address to Division 41 (Psychology and Law), American Psychological Association Annual Convention, Chicago, August.
- 1996 “The Stanford Prison Experiment and 25 Years of American Prison Policy,” American Psychological Association Annual Convention, Toronto, August.
- 1995 “Looking Closely at the Death Penalty: Public Stereotypes and Capital Punishment,” Invited Address, Arizona State University College of Public Programs series on Free Speech, Affirmative Action and Multiculturalism, Tempe, AZ, April.

“Race and the Flaws of the Meritocratic Vision,” Invited Address, Arizona State University College of Public Programs series on Free Speech, Affirmative Action and Multiculturalism, Tempe, AZ, April.

“Taking Capital Jurors Seriously,” Invited Address, National Conference on Juries and the Death Penalty, Indiana Law School, Bloomington, February.

1994 “Mitigation and the Social Genetics of Violence: Childhood Treatment and Adult Criminality,” Invited Address, Conference on the Capital Punishment, Santa Clara Law School, October, Santa Clara.

1992 “Social Science and the Death Penalty,” Chair and Discussant, American Psychological Association Annual Convention, San Francisco, CA, August.

1991 “Capital Jury Decisionmaking,” Invited panelist, American Psychological Association Annual Convention, Atlanta, GA, August.

1990 “Racial Discrimination in Death Penalty Cases,” Invited presentation, NAACP Legal Defense Fund Conference on Capital Litigation, August, Airlie, VA.

1989 “Psychology and Legal Change: The Impact of a Decade,” Invited Address to Division 41 (Psychology and Law), American Psychological Association Annual Convention, New Orleans, LA., August.

“Judicial Remedies to Pretrial Prejudice,” Law & Society Association Annual Meeting, Madison, WI, June.

“The Social Psychology of Police Interrogation Techniques” (with R. Liebowitz), Law & Society Association Annual Meeting, Madison, WI, June.

1987 “The Fourteenth Amendment and Symbolic Legality: Let Them Eat Due Process,” APA Annual Convention, New York, N.Y. August.

- “The Nature and Function of Prison in the United States and Mexico: A Preliminary Comparison,” InterAmerican Congress of Psychology, Havana, Cuba, July.
- 1986 Chair, Division 41 Invited Address and “Commentary on the Execution Ritual,” APA Annual Convention, Washington, D.C., August.
- “Capital Punishment,” Invited Address, National Association of Criminal Defense Lawyers Annual Convention, Monterey, CA, August.
- 1985 “The Role of Law in Graduate Social Science Programs” and “Current Directions in Death Qualification Research,” American Society of Criminology, San Diego, CA, November.
- “The State of the Prisons: What’s Happened to ‘Justice’ in the ‘70s and ‘80s?” Invited Address to Division 41 (Psychology and Law); APA Annual Convention, Los Angeles, CA, August.
- 1983 “The Role of Social Science in Death Penalty Litigation.” Invited Address in National College of Criminal Defense Death Penalty Conference, Indianapolis, IN, September.
- 1982 “Psychology in the Court: Social Science Data and Legal Decision-Making.” Invited Plenary Address, International Conference on Psychology and Law, University College, Swansea, Wales, July.
- 1982 “Paradigms in Conflict: Contrasting Methods and Styles of Psychology and Law.” Invited Address, Social Science Research Council, Conference on Psychology and Law, Wolfson College, Oxford University, March.
- 1982 “Law and Psychology: Conflicts in Professional Roles.” Invited paper, Western Psychological Association Annual Meeting, April.
- 1980 “Using Psychology in Test Case Litigation,” panelist, American Psychological Association Annual Convention, Montreal, Canada, September.

“On the Selection of Capital Juries: The Biasing Effects of Death Qualification.” Paper presented at the Interdisciplinary Conference on Capital Punishment. Georgia State University, Atlanta, GA, April.

“Diminished Capacity and Imprisonment: The Legal and Psychological Issues,” Proceedings of the American Trial Lawyers Association, Mid-Winter Meeting, January.

1975 “Social Change and the Ideology of Individualism in Psychology and Law.” Paper presented at the Western Psychological Association Annual Meeting, April.

SERVICE TO STAFF OR EDITORIAL BOARDS OF FOUNDATIONS, SCHOLARLY JOURNALS OR PRESSES

2018-present: Editorial Consultant, PLoS ONE.

2016-present Editorial Consultant, Translational Issues in Psychological Science.

2016-present Editorial Consultant, International Journal of Law and Psychiatry.

2016-present Editorial Consultant, Justice Quarterly.

2015-present Editorial Consultant, Criminal Justice Review.

2015-present Editorial Consultant, American Journal of Criminal Justice.

2015-present Editorial Consultant, American Journal of Psychology.

2015-present Editorial Consultant, Criminal Justice Policy Review.

2014-2018 Editorial Board Member, Law and Social Inquiry.

2013-present Editorial Consultant, Criminal Justice and Behavior.

2012-present: Editorial Consultant, American Sociological Review.

2012-present: Editorial Consultant, Criminology.

2011-present	Editorial Consultant, <u>Social Psychological and Personality Science</u> .
2008-present	Editorial Consultant, <u>New England Journal of Medicine</u> .
2007-present	Editorial Board Member, <u>Correctional Mental Health Reporter</u> .
2007-present	Editorial Consultant, <u>Journal of Offender Rehabilitation</u> .
2004-2016	Editorial Board Member, American Psychology and Law Society Book Series, Oxford University Press.
2000-2003	Reviewer, Society for the Study of Social Issues Grants-in-Aid Program.
2000-present:	Editorial Consultant, <u>Punishment and Society</u> .
2000-2015	Editorial Board Member, <u>ASAP</u> (on-line journal of the Society for the Study of Social Issues)
1997-2004	Editorial Board Member, <u>Psychology, Public Policy, and Law</u>
1997-present	Editorial Consultant, <u>Psychology, Public Policy, and Law</u>
1991	Editorial Consultant, Brooks/Cole Publishing
1989-present	Editorial Consultant, <u>Journal of Personality and Social Psychology</u>
1988-present	Editorial Consultant, <u>American Psychologist</u>
1985	Editorial Consultant, <u>American Bar Foundation Research Journal</u>
1985-2006	<u>Law and Human Behavior</u> , Editorial Board Member
1985	Editorial Consultant, Columbia University Press
1985-present	Editorial Consultant, <u>Law and Social Inquiry</u>
1980-present	Reviewer, National Science Foundation
1997	Reviewer, National Institutes of Mental Health
1980-present	Editorial Consultant, <u>Law and Society Review</u>
1979-present	Editorial Consultant, <u>Law and Human Behavior</u>

1997-present Editorial Consultant, Legal and Criminological Psychology

GOVERNMENTAL, LEGAL AND CRIMINAL JUSTICE CONSULTING

Training Consultant, Palo Alto Police Department, 1973-1974.

Evaluation Consultant, San Mateo County Sheriff's Department, 1974.

Design and Training Consultant to Napa County Board of Supervisors, County Sheriff's Department (county jail), 1974.

Training Consultation, California Department of Corrections, 1974.

Consultant to California Legislature Select Committee in Criminal Justice, 1974, 1980-1981 (effects of prison conditions, evaluation of proposed prison legislation).

Reviewer, National Science Foundation (Law and Social Science, Research Applied to National Needs Programs), 1978-present.

Consultant, Santa Clara County Board of Supervisors, 1980 (effects of jail overcrowding, evaluation of county criminal justice policy).

Consultant to Packard Foundation, 1981 (evaluation of inmate counseling and guard training programs at San Quentin and Soledad prisons).

Member, San Francisco Foundation Criminal Justice Task Force, 1980-1982 (corrections expert).

Consultant to NAACP Legal Defense Fund, 1982- present (expert witness, case evaluation, attorney training).

Faculty, National Judicial College, 1980-1983.

Consultant to Public Advocates, Inc., 1983-1986 (public interest litigation).

Consultant to California Child, Youth, Family Coalition, 1981-82 (evaluation of proposed juvenile justice legislation).

Consultant to California Senate Office of Research, 1982 (evaluation of causes

and consequences of overcrowding in California Youth Authority facilities).

Consultant, New Mexico State Public Defender, 1980-1983 (investigation of causes of February, 1980 prison riot).

Consultant, California State Supreme Court, 1983 (evaluation of county jail conditions).

Member, California State Bar Committee on Standards in Prisons and Jails, 1983.

Consultant, California Legislature Joint Committee on Prison Construction and Operations, 1985.

Consultant, United States Bureau of Prisons and United States Department of the Interior (Prison History, Conditions of Confinement Exhibition, Alcatraz Island), 1989-1991.

Consultant to United States Department of Justice, 1980-1990 (evaluation of institutional conditions).

Consultant to California Judicial Council (judicial training programs), 2000.

Consultant to American Bar Association/American Association for Advancement of Science Task Force on Forensic Standards for Scientific Evidence, 2000.

Invited Participant, White House Forum on the Uses of Science and Technology to Improve Crime and Prison Policy, 2000.

Member, Joint Legislative/California Department of Corrections Task Force on Violence, 2001.

Consultant, United States Department of Health & Human Services/Urban Institute, "Effects of Incarceration on Children, Families, and Low-Income Communities" Project, 2002.

Detention Consultant, United States Commission on International Religious Freedom (USCIRF). Evaluation of Immigration and Naturalization Service Detention Facilities, July, 2004-2005.

Consultant, International Committee of the Red Cross, Geneva, Switzerland, Consultant on international conditions of confinement.

Member, Institutional Research External Review Panel, California Department of Corrections, November, 2004-2008.

Consultant, United States Department of Health & Human Services on programs

designed to enhance post-prison success and community reintegration, 2006.

Consultant/Witness, U.S. House of Representatives, Judiciary Committee, Evaluation of legislative and budgetary proposals concerning the detention of undocumented persons, February-March, 2005.

Invited Expert Witness to National Commission on Safety and Abuse in America's Prisons (Nicholas Katzenbach, Chair); Newark, New Jersey, July 19-20, 2005.

Testimony to the United States Senate, Judiciary Subcommittee on the Constitution, Civil Rights, and Property Rights (Senators Brownback and Feingold, co-chairs), Hearing on "An Examination of the Death Penalty in the United States," February 7, 2006.

National Council of Crime and Delinquency "Sentencing and Correctional Policy Task Force," member providing written policy recommendations to the California legislature concerning overcrowding crisis in the California Department of Corrections and Rehabilitation.

Trainer/Instructor, Federal Bureau of Prisons and United States Department of Justice, "Correctional Excellence" Program, providing instruction concerning conditions of confinement and psychological stresses of living and working in correctional environments to mid-level management corrections professionals, May, 2004-2008.

Invited Expert Witness, California Commission on the Fair Administration of Justice, Public Hearing, Santa Clara University, March 28, 2008.

Invited Participant, Department of Homeland Security, Mental Health Effects of Detention and Isolation, 2010.

Invited Witness, Before the California Assembly Committee on Public Safety, August 23, 2011.

Consultant, "Reforming the Criminal Justice System in the United States" Joint Working Group with Senator James Webb and Congressional Staffs, 2011 Developing National Criminal Justice Commission Legislation.

Invited Participant, United Nations, Forum with United Nations Special Rapporteur on Torture Concerning the Overuse of Solitary Confinement, New York, October, 2011.

Invited Witness, Before United States Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights Hearing on Solitary Confinement, June 19, 2012.

Member, National Academy of Sciences Committee to Study the Causes and Consequences of the High Rate of Incarceration in the United States, 2012-2014.

Member, National Academy of Sciences Briefing Group, briefed media and public officials at Pew Research Center, Congressional staff, and White House staff concerning policy implications of The Growth of Incarceration in the United States: Exploring the Causes and Consequences (2014), April 30-May 1.

Consultant to United States Department of Justice and White House Domestic Policy Council on formulation of federal policy concerning use of segregation confinement, 2015.

PRISON AND JAIL CONDITIONS EVALUATIONS

Hoptowit v. Ray [United States District Court, Eastern District of Washington, 1980; 682 F.2d 1237 (9th Cir. 1982)]. Evaluation of psychological effects of conditions of confinement at Washington State Penitentiary at Walla Walla for United States Department of Justice.

Wilson v. Brown (Marin County Superior Court; September, 1982, Justice Burke). Evaluation of effects of overcrowding on San Quentin mainline inmates.

Thompson v. Enomoto (United States District Court, Northern District of California, Judge Stanley Weigel, 1982 and continuing). Evaluation of conditions of confinement on Condemned Row, San Quentin Prison.

Toussaint v. McCarthy [United States District Court, Northern District of California, Judge Stanley Weigel, 553 F. Supp. 1365 (1983); 722 F. 2d 1490 (9th Cir. 1984) 711 F. Supp. 536 (1989)]. Evaluation of psychological effects of conditions of confinement in lockup units at DVI, Folsom, San Quentin, and Soledad.

In re Priest (Proceeding by special appointment of the California Supreme Court, Judge Spurgeon Avakian, 1983). Evaluation of conditions of confinement in Lake County Jail.

Ruiz v. Estelle [United States District Court, Southern District of Texas, Judge William Justice, 503 F. Supp. 1265 (1980)]. Evaluation of effects of overcrowding in the Texas prison system, 1983-1985.

In re Atascadero State Hospital (Civil Rights of Institutionalized Persons Act of 1980 action). Evaluation of conditions of confinement and nature of patient care at ASH for United States Department of Justice, 1983-1984.

In re Rock (Monterey County Superior Court 1984). Appointed to evaluate conditions of confinement in Soledad State Prison in Soledad, California.

In re Mackey (Sacramento County Superior Court, 1985). Appointed to evaluate conditions of confinement at Folsom State Prison mainline housing units.

Bruscino v. Carlson (United States District Court, Southern District of Illinois 1984 1985). Evaluation of conditions of confinement at the United States Penitentiary at Marion, Illinois [654 F. Supp. 609 (1987); 854 F.2d 162 (7th Cir. 1988)].

Dohner v. McCarthy [United States District Court, Central District of California, 1984-1985; 636 F. Supp. 408 (1985)]. Evaluation of conditions of confinement at California Men's Colony, San Luis Obispo.

Invited Testimony before Joint Legislative Committee on Prison Construction and Operations hearings on the causes and consequences of violence at Folsom Prison, June, 1985.

Stewart v. Gates [United States District Court, 1987]. Evaluation of conditions of confinement in psychiatric and medical units in Orange County Main Jail, Santa Ana, California.

Duran v. Anaya (United States District Court, 1987-1988). Evaluation of conditions of confinement in the Penitentiary of New Mexico, Santa Fe, New Mexico [Duran v. Anaya, No. 77-721 (D. N.M. July 17, 1980); Duran v. King, No. 77-721 (D. N.M. March 15, 1984)].

Gates v. Deukmejian (United States District Court, Eastern District of California, 1989). Evaluation of conditions of confinement at California Medical Facility, Vacaville, California.

Kozeak v. McCarthy (San Bernardino Superior Court, 1990). Evaluation of conditions of confinement at California Institution for Women, Frontera, California.

Coleman v. Gomez (United States District Court, Eastern District of California, 1992-3; Magistrate Moulds, Chief Judge Lawrence Karlton, 912 F. Supp. 1282 (1995). Evaluation of study of quality of mental health care in California prison system, special mental health needs at Pelican Bay State Prison.

Madrid v. Gomez (United States District Court, Northern District of California, 1993, District Judge Thelton Henderson, 889 F. Supp. 1146 (N.D. Cal. 1995). Evaluation of conditions of confinement and psychological consequences of

isolation in Security Housing Unit at Pelican Bay State Prison, Crescent City, California.

Clark v. Wilson, (United States District Court, Northern District of California, 1998, District Judge Fern Smith, No. C-96-1486 FMS), evaluation of screening procedures to identify and treatment of developmentally disabled prisoners in California Department of Corrections.

Turay v. Seling [United States District Court, Western District of Washington (1998)]. Evaluation of Conditions of Confinement-Related Issues in Special Commitment Center at McNeil Island Correctional Center.

In re: The Commitment of Durden, Jackson, Leach, & Wilson. [Circuit Court, Palm Beach County, Florida (1999).] Evaluation of Conditions of Confinement in Martin Treatment Facility.

Ruiz v. Johnson [United States District Court, Southern District of Texas, District Judge William Wayne Justice, 37 F. Supp. 2d 855 (SD Texas 1999)]. Evaluation of current conditions of confinement, especially in security housing or “high security” units.

Osterback v. Moore (United States District Court, Southern District of Florida (97-2806-CIV-MORENO) (2001) [see, Osterback v. Moore, 531 U.S. 1172 (2001)]. Evaluation of Close Management Units and Conditions in the Florida Department of Corrections.

Valdivia v. Davis (United States District Court, Eastern District of California, 2002). Evaluation of due process protections afforded mentally ill and developmentally disabled parolees in parole revocation process.

Ayers v. Perry (United States District Court, New Mexico, 2003). Evaluation of conditions of confinement and mental health services in New Mexico Department of Corrections “special controls facilities.”

Disability Law Center v. Massachusetts Department of Corrections (Federal District Court, Massachusetts, 2007). Evaluation of conditions of confinement and treatment of mentally ill prisoners in disciplinary lockup and segregation units.

Plata/Coleman v. Schwarzenegger (Ninth Circuit Court of Appeals, Three-Judge Panel, 2008). Evaluation of conditions of confinement, effects of overcrowding on provision of medical and mental health care in California Department of Corrections and Rehabilitation. [See Brown v. Plata, 563 U.S. 493 (2011).]

Ashker v. Brown (United States District Court, Northern District of California, 2013-2015). Evaluation of the effect of long-term isolated confinement in Pelican Bay State Prison Security Housing Unit.

Parsons v. Ryan (United States District Court, District of Arizona, 2012-14). Evaluation of conditions of segregated confinement for mentally ill and non-mentally ill prisoners in statewide correctional facilities. [See Parsons v. Ryan, 754 F.3d 657 (9th Cir. 2014)].

Coleman v. Brown (United States District Court, District of California, 2013-2014). Evaluation of treatment of mentally ill prisoners housed in administrative segregation in California prisons. [See Coleman v. Brown, 28 F.Supp.3d 1068 (2014).]

Braggs v. Dunn (United States District Court, Middle District of Alabama, 2015-2017). Evaluation of mental health care delivery system, overcrowded conditions of confinement, and use of segregation in statewide prison system. [See Braggs v. Dunn, 257 F. Supp. 3d 1171 (M.D. Ala. 2017).]

APPENDIX B

Appendix B

Professor Craig Haney

Statement of Compensation: My rate of compensation is \$350/hour for out-of-court legal consulting, \$500/hour for deposition and trial testimony.

Trial and Deposition Testimony Over the Past Four Years
(2018 through present)

2018 Braggs v. Dunn (federal), hearing testimony.

People v. Bracamontes, trial testimony.

Gumm v. Ward, (federal), deposition testimony. [Georgia isolation]

2019 Francis v. Her Majesty the Queen in Right of Ontario (Canada), deposition testimony.

Sabata v. Nebraska Department of Correctional Services (federal),
deposition testimony.

Henry Davis et al. v. John Baldwin et al. (federal), deposition testimony.

2020 U.S. v. Alejandro Toledo (federal), hearing testimony.

Raymond Tarlton, et al. v. Kenneth Sealey, et al. (federal), deposition
testimony. [NC Henry McCollum, Leon Brown]

Novoa v. GEO (federal), deposition testimony.

In re Lisle (federal), hearing testimony.

2021 Raymond Tarlton, et al. v. Kenneth Sealey, et al. (federal), trial
testimony. [NC Henry McCollum, Leon Brown]

Tellis v. LeBlanc (federal), deposition testimony.

Harvard v. Inch (federal), deposition testimony.

Parsons v. Ryan (federal), hearing testimony.

2022 Tellis v. LeBlanc (federal, trial testimony)

G.H. et al. v. Department of Juvenile Justice (federal), deposition
testimony.

APPENDIX C

Materials Index

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- *Braggs v. Dunn*, 257 F. Supp. 3d 1171 (M.D. Ala. 2017)
- *Brown v. Plata*, 563 U.S. 493 (2011);
- *Charles v. LeBlanc*, 5:18-cv-00541 (W.D. La., suit filed Feb. 20, 2018)
- *Coleman v. Brown*, 28 F.Supp.3d 1068 (2014)
- *Davis v. Jeffreys*, 3:16-cv-00600 (S.D. Ill., suit filed June 2, 2016)
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- *Ind. Protection and Advocacy Comm’n v. Comm’r, Ind. Dep’t of Corr.*, No. 1:08-CV-01317-TWP, 2012 WL 6738517 (S.D. Ind. 2012)
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- *Madrid v. Gomez*, 889 F.Supp. 1146 (N.D. Cal. 1995)
- *Ruiz v. Johnson*, 37 F.Supp.2d 855 (S.D. Tex. 1999)
- *Tillery v. Owens*, 907 F.2d 418, 422 (3d Cir. 1990)
- *Wilkinson v. Austin*, 545 U.S. 209, 214, 224 (2005)

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- Cavitt Aff.
- Cornelison Aff.
- Hammer Aff.
- Khavkin Aff.
- McNabb Aff.
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- OPA 830.A 2018.
- OPA 841.4 2021
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- Segregation Reduction Step-Down Plan (Sept. 2017).
- Snodgrass Aff.
- Thorpe Aff.
- VADOC-00044583.
- Wall Aff.

- Photographs taken by Defendants at the request of Dan Pacholke during his expert tour of Red Onion on December 21 and 22, 2021
 - C-1 Pod.JPG
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 - DSC00024.JPG
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- DSC00070.JPG
- DSC00071.JPG
- DSC00072.JPG
- DSC00073.JPG
- DSC00074.JPG
- Outside Mental Health Restraint Cell in Medical.JPG
- DSC00083.JPG
- DSC00084.JPG
- DSC00085.JPG
- DSC00086.JPG
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APPENDIX D

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THE SCIENCE OF SOLITARY: EXPANDING THE HARMFULNESS NARRATIVE

Craig Haney

ABSTRACT—The harmful effects of solitary confinement have been established in a variety of direct observations and empirical studies that date back to the nineteenth century, conducted in many different countries by researchers with diverse disciplinary backgrounds. This Essay argues that these effects should be situated and understood in the context of a much larger scientific literature that documents the adverse and sometimes life-threatening psychological and physical consequences of social isolation, social exclusion, loneliness, and the deprivation of caring human touch as they occur in free society. These dangerous conditions are the hallmarks of solitary confinement. Yet they are imposed on prisoners in far more toxic forms that exacerbate their harmful effects, are incurred in addition to the adverse consequences of incarceration per se, and operate in ways that increase their long-term negative impact. This broader empirical and theoretically grounded scientific perspective expands the harmfulness narrative about solitary confinement and argues in favor of much greater restrictions on its use.

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NORTHWESTERN UNIVERSITY LAW REVIEW

INTRODUCTION	212
I. THE EFFECTS OF SOLITARY CONFINEMENT ARE SITUATED WITHIN A BROAD AND WELL-ESTABLISHED SCIENTIFIC LITERATURE	221
II. SOLITARY CONFINEMENT AS “TOXIC” SOCIAL ISOLATION	235
III. THE EFFECTS OF SOLITARY CONFINEMENT ARE COMPOUNDED BY THE EFFECTS OF IMPRISONMENT PER SE	241
IV. THE LEGACY OF SOLITARY CONFINEMENT: THE PERSISTENCE OF ISOLATION EFFECTS	248
CONCLUSION	254

INTRODUCTION

Knowledge about the psychological and physical harms inflicted by solitary confinement has evolved considerably over the last several decades.¹ Ironically, growing awareness of its serious adverse effects coincided with the increasingly widespread use of the practice during the era of mass incarceration that began in the 1970s.² This recent several-decade period of prison growth also represents the “modern era” of solitary confinement in corrections, in contrast to its widespread—and, for a time, nearly universal—use in the nineteenth century. Over a century ago, the terrible effects that solitary confinement had on prisoners led to condemnation of the practice

¹ “Solitary confinement” is a term of art in corrections, one whose longstanding negative connotations have spawned a number of seemingly less pejorative alternative descriptors across different jurisdictions (including “administrative segregation,” “close management,” “security housing,” and what appears to be the current favorite, “restrictive housing”). In this Essay, I will use the original term to encompass all of these variations. From a psychological perspective, “solitary confinement” is defined less by the purpose for which it is imposed, or the exact amount of time during which prisoners are confined to their cells, than by the degree to which they are deprived of normal, direct, meaningful social contact and denied access to positive environmental stimulation and activity. Thus, even a regime incorporating a considerable amount of out-of-cell time during which a prisoner is simultaneously prohibited from engaging in normal, direct, meaningful social contact and positive stimulation or programming would still constitute a painful and potentially damaging form of solitary confinement. Especially in a prison context, the terms “normal” and “direct” mean that the contact itself is not mediated or obstructed by bars, restraints, security glass or screens, or the like. “Meaningful” refers to voluntary contact that permits purposeful activities of common interest or consequence that takes place in the course of genuine social interaction and engagement with others.

² For several different perspectives on this pivotal era in the United States’ criminal justice history and its consequences for prisoners and the larger society from which they were drawn, see MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* (rev. ed. 2012); MARIEKE LIEM, *AFTER LIFE IMPRISONMENT: REENTRY IN THE ERA OF MASS INCARCERATION* (2016); NAT’L RESEARCH COUNCIL OF THE NAT’L ACADS., *THE GROWTH OF INCARCERATION IN THE UNITED STATES: EXPLORING CAUSES AND CONSEQUENCES* (Jeremy Travis, Bruce Western & F. Stevens Redburn eds., 2014).

115:211 (2020)

The Science of Solitary

and a long period of relative disuse. Thus, even by the mid-nineteenth century, many state prison systems had concluded that the once widely used harsh form of complete isolation was “impracticable, inhuman, and intolerably expensive.”³

Of course, solitary confinement—“the hole”—was never completely eliminated. Most prisons and jails retained special cells in which prisoners could be kept for relatively brief periods of time to separate them from others for safety reasons, or as a form of punishment for disciplinary infractions. For example, in Gresham Sykes’s classic account of a typical maximum-security prison in the United States in the mid-1950s, he reported that solitary confinement was used sparingly “for those prisoners who are being punished for infractions of the prison rules.”⁴ Moreover, even before the era of mass incarceration produced widespread overcrowding and countenanced harsh treatment of prisoners more broadly, some especially troubled and cruel prisons did utilize solitary confinement as a form of severe punishment. For example, in the mid-1950s, Mississippi’s Parchman prison farm built a special “Maximum Security Unit” (or MSU), described as a “low-slung brick-and-concrete bunker in the middle of a former cotton field, surrounded by four guard towers, two razor-wire fences, and a series of electric gates” that housed the state’s new gas chamber and a solitary confinement unit.⁵ The latter was used “for the isolation and punishment of disruptive convicts” that one prisoner recalled as a place “where they just beat the living crap out of you. . . . Nobody left there without bumps and busted bones.”⁶

However, the widespread use of longer-term solitary confinement returned with a vengeance in the 1970s. Changes brought about in the recent modern era of the use of solitary confinement saw significant increases in the numbers of persons who were subjected to it and the lengths of time they were kept there. Not only have prisoners been placed in solitary confinement for months and years rather than days or weeks, but increasing numbers of prisoners have been subjected to this form of harsh treatment.⁷ Its renewed

³ *Adoption of the Separate System in the States of Central Europe,—and Its Prospects Else-Where*, 12 PA. J. PRISON DISCIPLINE & PHILANTHROPY 79 (1857).

⁴ GRESHAM M. SYKES, *THE SOCIETY OF CAPTIVES: A STUDY OF A MAXIMUM SECURITY PRISON* 7 (First Princeton Classic ed. 2007) (1958). As an indication of exactly how sparingly even short-term solitary confinement was employed, the offense of “possession of home-made knife, metal, and emery paper” resulted in “5 days in segregation with restricted diet.” *Id.* at 43.

⁵ DAVID M. OSHINSKY, “WORSE THAN SLAVERY”: PARCHMAN FARM AND THE ORDEAL OF JIM CROW JUSTICE 228 (1996).

⁶ *Id.* at 229.

⁷ See, e.g., *infra* note 8; see also John J. Gibbons & Nicholas de B. Katzenbach, *Confronting Confinement: A Report of the Commission on Safety and Abuse in America’s Prisons*, 22 WASH. U. J.L.

NORTHWESTERN UNIVERSITY LAW REVIEW

popularity continued until recently, despite accumulating evidence that solitary confinement fails to achieve the penological purposes for which it is ostensibly used, is far more expensive to implement and operate than other correctional regimes, and produces negative psychological and physical consequences that raise serious questions about its constitutionality and its status as a form of torture.⁸

My own involvement in prison research and litigation examining the psychological effects of isolation parallels the recent resurgence of this condemnable punishment in the late 1970s and early 1980s. The early challenges to solitary confinement in which I was involved focused on what were sometimes termed “lock-up” units in different parts of the country. These cases resulted in narrowly drawn court opinions concerned largely with the degraded environmental conditions inside these facilities and whether prisoners were deprived of the “basic necessities of life,” interpreted to mean “adequate food, clothing, shelter, sanitation, medical care, and personal safety.”⁹ The era of mass incarceration was already underway when these challenges were brought, which meant that overcrowded prison systems throughout the country were struggling to maintain order in the face of an unprecedented influx of prisoners. In an attempt to meet this and other demands, prison administrators often adopted an exigent strategy: to segregate prisoners whom they viewed as disruptive or problematic. The

& POL’Y 385, 461–62 (2006) (reporting that between 1995 and 2000 the overall number of prisoners in segregation or solitary confinement increased 40%, and the number in “disciplinary segregation” increased 68%); Ryan T. Sakoda & Jessica T. Simes, *Solitary Confinement and the U.S Prison Boom*, CRIM. JUST. POL’Y REV. (Dec. 29, 2019), <https://journals.sagepub.com/doi/full/10.1177/0887403419895315> [<https://perma.cc/QY8H-2B4E>] (reporting the increasing use and especially the increasing lengths of stay in solitary confinement units in the Kansas prison system that roughly coincided with the era of mass incarceration in the United States).

⁸ See the studies and statements reviewed and summarized in *Consensus Statement of the Santa Cruz Summit on Solitary Confinement and Health*, 115 NW. U. L. REV. 335 (2020) [hereinafter *Santa Cruz Summit*]; Craig Haney & Shirin Bakhshay, *Contexts of Ill-Treatment: The Relationship of Captivity and Prison Confinement to Cruel, Inhuman, or Degrading Treatment and Torture*, in TORTURE AND ITS DEFINITION IN INTERNATIONAL LAW: AN INTERDISCIPLINARY APPROACH 139 (Metin Başoğlu ed., 2017); Craig Haney, *Restricting the Use of Solitary Confinement*, 1 ANN. REV. CRIMINOLOGY 285 (2018) [hereinafter Haney, *Restricting Solitary Confinement*]; see also Federica Coppola, *The Brain in Solitude: An (Other) Eighth Amendment Challenge to Solitary Confinement*, 6 J.L. & BIOSCIENCES 1 (2019); Jules Lobel, *Prolonged Solitary Confinement and the Constitution*, 11 U. PA. J. CONST. L. 115 (2008). Relatedly, philosopher Kimberley Brownlee has argued that social deprivation, which she defined as “a persisting lack of minimally adequate opportunities for decent or supportive human contact including interpersonal interaction, associative inclusion, and interdependent care,” represents a deprivation of a basic human right. Kimberley Brownlee, *A Human Right Against Social Deprivation*, 63 PHIL. Q. 199, 199 (2013).

⁹ *Hoptowit v. Ray*, 682 F.2d 1237, 1258 (9th Cir. 1982) (opining on conditions of confinement in the isolation, segregation, and protective custody units in Washington State Penitentiary).

115:211 (2020)

The Science of Solitary

decisions to do so were often reached on vague, unspecified, and questionable bases. Some appeared to stem from racially tinged fears about prisoners of color becoming politically militant and better organized, including those accused of “practic[ing] Black Pantherism.”¹⁰ As Heather Thompson’s book about the tragic 1971 Attica prisoner rebellion notes, by the start of the 1970s several New York prisons operated dreaded solitary confinement units that were used to house prisoners whom correctional officials perceived to be political activists, many of whom were prisoners of color.¹¹ Her compelling account is also replete with examples of the role that law enforcement and prison officers’ racial fears of and animosities toward

¹⁰ This was one of the specific justifications for the continued retention of members of the “Angola 3” in a form of solitary confinement inside Louisiana’s Angola Prison Farm for approximately four decades. See ALBERT WOODFOX WITH LESLIE GEORGE, *SOLITARY* 192 (2019). The extremely long-term, indefinite solitary confinement of prisoners—lasting a decade or more—was often reserved for prisoners perceived to be members of prison gangs, a designation that frequently had racial or ethnic implications. See, e.g., Keramet A. Reiter, *Parole, Snitch, or Die: California’s Supermax Prisons and Prisoners, 1997-2007*, 14 PUNISHMENT & SOC’Y 530 (2012); Keramet Reiter, Joseph Ventura, David Lovell, Dallas Augustine, Melissa Barragan, Thomas Blair, Kelsie Chesnut, Pasha Dashtgard, Gabriela Gonzalez, Natalie Pifer & Justin Strong, *Psychological Distress in Solitary Confinement: Symptoms, Severity, and Prevalence in the United States, 2017-2018*, 110 AM. J. PUB. HEALTH SUPPLEMENT S56, S58 (2020); see also Scott N. Tachiki, *Indeterminate Sentences in Supermax Prisons Based upon Alleged Gang Affiliations: A Reexamination of Procedural Protection and a Proposal for Greater Procedural Requirements*, 83 CALIF. L. REV. 1115, 1117–49 (1995). Comprehensive surveys and individual statewide investigations have documented the overrepresentation of prisoners of color in solitary confinement units. For example, a self-report survey of a very large sample of U.S. correctional jurisdictions conducted from 2017 to 2018 by the Association of State Correctional Administrators (ASCA) and the Yale Law School’s Liman Center for Public Interest Law found that among the thirty-three jurisdictions that provided racial breakdowns, there were modest racial disproportions in solitary confinement overall—including an especially large overrepresentation of African-American women in solitary confinement compared to their white counterparts—and wide variations between jurisdictions. THE ASS’N OF STATE CORR. ADM’RS & THE LIMAN CTR. FOR PUB. INTEREST LAW AT YALE LAW SCHOOL, *REFORMING RESTRICTIVE HOUSING: THE 2018 ASCA-LIMAN NATIONWIDE SURVEY OF TIME-IN-CELL* (2018), <https://law.yale.edu/centers-workshops/arthur-liman-center-public-interest-law/liman-center-publications> [<https://perma.cc/68A2-KZXH>]; see also Margo Schlanger, *Prison Segregation: Symposium Introduction and Preliminary Data on Racial Disparities*, 18 MICH. J. RACE & L. 241 (2013) (reporting racial disproportions in the use of solitary confinement in several different state prison systems); Sakoda & Simes, *supra* note 7 (reporting racial disproportions in the use of solitary confinement in the Kansas prison system, especially in the durations of time spent in solitary confinement by young African-American men); Michael Schwirtz, Michael Winerip & Robert Gebeloff, *The Scourge of Racial Bias in New York State’s Prisons*, N.Y. TIMES (Dec. 3, 2016) https://www.nytimes.com/2016/12/03/nyregion/new-york-state-prisons-inmates-racial-bias.html?_r=0 [<https://perma.cc/529Y-MJDX>] (reporting that African-American prisoners were 65% more likely to be sent to solitary confinement than whites). See generally Andrea C. Armstrong, *Race, Prison Discipline, and the Law*, 5 U.C. IRVINE L. REV. 759 (2015).

¹¹ HEATHER ANN THOMPSON, *BLOOD IN THE WATER: THE ATTICA PRISON UPRISING OF 1971 AND ITS LEGACY* (2016).

NORTHWESTERN UNIVERSITY LAW REVIEW

African-American prisoners played in fueling their overreactions before, during, and after their violent, deadly retaking of the prison.

It is important to note that the era of mass incarceration and increased use of solitary confinement followed on the heels of the civil rights and Black Power movements of the 1960s and 1970s. Both are now understood as having “empowered marginalized groups to engage in protest that demanded a radical redistribution of political, social and economic power.”¹² In the larger society, and certainly in U.S. prisons, the attempted power redistribution was met with forceful resistance that was designed to suppress and eliminate it. The fact that “the American penal system [was] a locus of black power activism”¹³ was arguably one factor that contributed to the rise of long-term solitary confinement. In my experience, a disproportionate number of the prisoners who were placed in solitary confinement, and especially those who were subjected to extremely long-term solitary confinement—stays measured in years or even decades—were prisoners of color.¹⁴ The often unverified perception that their radical political views—as much or more than their specific actions—posed a “threat to the safety and security of the institution” served as the premise for their lengthy, often indefinite isolation.

In any event, prisoners began to be crammed inside makeshift lockup units for expediency more than anything else,¹⁵ and the nineteenth century’s lessons about the harmfulness of solitary confinement were either forgotten

¹² Zoe Colley, *War Without Terms: George Jackson, Black Power and the American Radical Prison Rights Movement, 1941–1971*, 101 HISTORY 265, 266–67 (2016). See also historian Joe Street’s speculation that the postprison demise of former Black Panther Party leader Huey Newton was caused not only by unrelenting police harassment but also the “soul break[ing]” effects of his experiences in solitary confinement. Joe Street, *The Shadow of the Soul Breaker: Solitary Confinement, Cocaine, and the Decline of Huey P. Newton*, 84 PAC. HIST. REV. 333, 336–37, 345 (2015).

¹³ Colley, *supra* note 12, at 267; see also DAN BERGER, CAPTIVE NATION: BLACK PRISON ORGANIZING IN THE CIVIL RIGHTS ERA (2014); DONALD F. TIBBS, FROM BLACK POWER TO PRISON POWER: THE MAKING OF JONES V. NORTH CAROLINA PRISONERS’ LABOR UNION (2012); Angela A. Allen-Bell, *Perception Profiling & Prolonged Solitary Confinement Viewed Through the Lens of the Angola 3 Case: When Prison Officials Become Judges, Judges Become Visually Challenged, and Justice Becomes Legally Blind*, 39 HASTINGS CONST. L.Q. 763, 766 (2012) (discussing the legal implications of the Angola 3 case and the prolonged solitary confinement to which they were subjected).

¹⁴ See *supra* note 10; see also Johnson v. Wetzel, 209 F. Supp. 3d 766 (M.D. Pa. 2016) (ordering the release from solitary into general population of an African-American prisoner who, despite suffering ongoing psychological harm, was held in solitary confinement for thirty-six years in the absence of credible evidence that he posed a threat to institutional security).

¹⁵ See, e.g., Toussaint v. Rushen, 553 F. Supp. 1365, 1374–75 (N.D. Cal. 1983) (opining on the fact that prisoners were being “arbitrarily placed and retained in segregated housing” as a way “to simply warehouse” them, including “for reasons other than their conduct”).

115:211 (2020)

The Science of Solitary

or ignored in the face of what were perceived as more pressing concerns.¹⁶ The devolution of the federal penitentiary in Marion, Illinois is an instructive example. Marion was opened in 1963 and was intended to replace the high-security federal prison at Alcatraz, which closed the same year.¹⁷ Although it was designated as the highest security level prison in the federal system, as Stephen Richards noted, “In effect, Marion was a small version of a ‘mainline’ penitentiary.”¹⁸ A “control unit” with a limited number of cells was constructed within Marion penitentiary in 1973, and was operated as a dedicated solitary confinement unit in which prisoners were intended to be housed in nearly complete isolation for extremely long periods of time. However, largely in response to the lethal violence that occurred within the control unit in October 1983, the entire prison was “locked down” and began to be operated as a long-term lockup prison. Thus, after 1983, Marion was “the first federal prison operated entirely as a high-security isolation supermax.”¹⁹

That same year, psychiatrist Stuart Grassian published an in-depth clinical assessment of a group of prisoners in a solitary confinement unit in a prison in Walpole, Massachusetts. His findings helped to raise awareness about the potentially severe psychiatric consequences of this kind of extreme prison isolation.²⁰ Increased concern about the issue came at an especially opportune time, as more prison systems in the United States were beginning a return to the long-abandoned practice of solitary confinement. In fact, a number of prison systems reacted to the unprecedented influx of prisoners in the 1970s and 1980s (that included a significant number of mentally ill prisoners whose needs penal institutions were thoroughly ill-equipped to address) by creating what was essentially a new prison form. Sometimes called “supermax” prisons, these facilities were explicitly designed to impose extreme levels of isolation (often made possible by the introduction

¹⁶ In an often-quoted passage from a late nineteenth-century case, *In re Medley*, 134 U.S. 160, 168 (1890), Justice Samuel Miller summarized the consensus view that the once widespread practice of solitary confinement was “too severe.” He noted that “[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.” *Id.*

¹⁷ Stephen C. Richards, *USP Marion—The First Federal Supermax*, 88 PRISON J. 6, 9 (2008).

¹⁸ *Id.*

¹⁹ *Id.* at 10, 18; see also THE MARION EXPERIMENT: LONG-TERM SOLITARY CONFINEMENT & THE SUPERMAX MOVEMENT (Stephen C. Richards ed., 2015). A “high tech” federal supermax, ADX, was opened in 1994, and Marion was eventually converted into a medium-security prison in 2007.

²⁰ Stuart Grassian, *Psychopathological Effects of Solitary Confinement*, 140 AM. J. PSYCHIATRY 1450, 1450–54 (1983).

NORTHWESTERN UNIVERSITY LAW REVIEW

of a new generation of correctional technology) and to do so on a long-term basis.²¹ As Chase Riveland observed in the late 1990s, in addition to an expedient attempt to manage such an unexpectedly large numbers of prisoners, the proliferation of supermax prisons was also in part motivated by the fact that they were seen as “politically and publicly attractive” facilities that, at the time, had “become political symbols of how ‘tough’ a jurisdiction ha[d] become.”²²

My first experience inside a truly modern supermax prison occurred in 1990, when I toured the recently opened Security Housing Unit (SHU) at the Pelican Bay State Prison in California. At the time, Pelican Bay’s reputation as one of the nation’s first and most draconian supermax prisons was just being established. By then, I had been inside many makeshift solitary confinement units where prison systems were beginning to isolate increasingly large numbers of prisoners for what would eventually amount to unprecedented amounts of time. I had learned that many prisoners in these units struggled to adapt to and survive the degraded conditions, enforced idleness, and extreme social deprivation to which they were subjected. However, researchers like myself were just beginning to understand and document the depth and breadth of the suffering.

In contrast to the crowded, noisy, and dirty lockup units I visited in places like San Quentin and Folsom State Prisons, the Penitentiary of New Mexico, and the Washington State Penitentiary, the free-standing SHU at Pelican Bay was stark and frightening for an entirely different reason: it gave no indication that it was a place that housed actual human beings. Although I had been inside many prisons before my first visit to Pelican Bay, I had never seen one like this, resembling a massive storage facility where inanimate objects are housed. The sights and sounds of human activity or evidence that real people lived there—the sorts of things that every prison manifested—were nowhere to be found. Even inside the housing units, or

²¹ CHASE RIVELAND, NAT’L INST. CORR., U.S. DEP’T JUSTICE, SUPERMAX PRISONS: OVERVIEW AND GENERAL CONSIDERATIONS 2 (1999). Riveland correctly noted in 1999 that “[t]here is no universal definition of what supermax facilities are and who should be placed in them.” *Id.* at 4. Although there is still no precise definition for what constitutes a “supermax” prison, they are generally identified by: (1) the extent to which the facility itself is devoted to isolating prisoners (i.e., typically a freestanding facility rather than a unit within a prison that otherwise does not utilize isolation); (2) the heightened degree of isolation they impose (primarily because most were explicitly designed to isolate prisoners and tend to be somewhat newer facilities that employ correctional technology in order to more effectively do so); and (3) the reasons or justifications for placing prisoners in solitary confinement, with a disproportionate number of prisoners confined there because of who the prison system perceives them to be, including representing generalized threats to the safety and security of the institution, rather than specific acts for which they are being punished. *See id.* at 4–6.

²² *Id.* at 5.

115:211 (2020)

The Science of Solitary

“pods,” there was an eerie, unsettling quiet, and a reliance more on technological than human forms of control. These conditions led *60 Minutes* correspondent Mike Wallace to exclaim, when he first entered one of the Pelican Bay housing units, that it “looks a little bit like a spaceship or a space station.”²³

In 1992, after the prison had been operating for only a few years, I began a series of court-ordered visits there to interview a large sample of prisoners, selected randomly from the prison roster, to try to determine whether and how they were being affected by the experience. The level of suffering and trauma they reported shocked me and led me to spend the next several decades studying the effects of prison isolation in scores of prisons and correctional systems around the country. When I returned to Pelican Bay some twenty years later, it was a bittersweet reunion with several of the men from my original sample—ones who, tragically, had never left the SHU in the intervening two decades.²⁴

The basic harmfulness of solitary confinement is now a largely settled scientific fact. A number of articles published in recent years have comprehensively catalogued a wide range of studies demonstrating the adverse psychological effects and other consequences that befall persons who are subjected to this cruel form of imprisonment.²⁵ A few outlier studies

²³ *60 Minutes: Wallace at Pelican Bay* (CBS television broadcast Sept. 12, 1993), https://www.cbs.com/shows/60_minutes/video/c77u_9DB_JMZCukdtURkP9SUu0TFLIK8/from-the-archives-60-minutes-first-pelican-bay-report/ [<https://perma.cc/RPS7-YBFB>].

²⁴ As I will describe later in this Essay, I returned to the SHU at Pelican Bay in 2011 to conduct interviews with a representative sample of prisoners who had been confined there on an extremely long-term basis (i.e., ten years or more). See *infra* notes 130–136 and accompanying text. I was also able to separately interview a number of men who had been in the SHU essentially since it had opened in 1989, including several from my original 1992 sample. See Craig Haney, *Solitary Confinement, Loneliness, and Psychological Harm* [hereinafter Haney, *Solitary Confinement, Loneliness, and Psychological Harm*], in SOLITARY CONFINEMENT: EFFECTS, PRACTICES, AND PATHWAYS TOWARD REFORM 129, 134–35 (Jules Lobel & Peter Scharff Smith eds., 2020).

²⁵ These many studies have been carefully reviewed in a number of publications. See, e.g., Kristin G. Cloyes, David Lovell, David G. Allen & Lorna A. Rhodes, *Assessment of Psychosocial Impairment in a Supermaximum Security Unit Sample*, 33 CRIM. JUST. & BEHAV. 760 (2006); Stuart Grassian, *Psychiatric Effects of Solitary Confinement*, 22 WASH. U. J.L. & POL’Y 325 (2006); Craig Haney & Mona Lynch, *Regulating Prisons of the Future: A Psychological Analysis of Supermax and Solitary Confinement*, 23 N.Y.U. REV. L. & SOC. CHANGE 477 (1997); Haney, *Restricting Solitary Confinement*, *supra* note 8; Peter Scharff Smith, *The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature*, 34 CRIME & JUST. 441 (2006); see also, Mimosa Luigi, Laura Dellazizzo, Charles-Édouard Giguère, Marie-Hélène Goulet & Alexandre Dumaïs, *Shedding Light on “the Hole”: A Systematic Review and Meta-Analysis on Adverse Psychological Effects and Mortality Following Solitary Confinement in Correctional Settings*, FRONTIERS IN PSYCHIATRY, Aug. 2020.

NORTHWESTERN UNIVERSITY LAW REVIEW

that purport to find little or no harm have been largely debunked,²⁶ and many professional mental health, medical, legal, human rights, and correctional organizations have promulgated strong position statements that urge or require significantly limiting the use of solitary confinement and even prohibiting it entirely for especially vulnerable groups of prisoners.²⁷ Placement in solitary confinement can have dramatic, even lethal, effects; for example, research continues to show that the highest rates of self-harm and suicide in prison occur in conditions of isolation.²⁸ However, even those prisoners who survive the experience of solitary confinement often suffer long-lasting physical and psychological damage.²⁹

In this Essay, I address several separate but interrelated issues that are often only alluded to in discussions about the nature and effects of solitary confinement. Although sometimes overlooked, they importantly expand the narrative about the harmfulness of this increasingly unjustifiable practice. These issues are critical to make explicit and to directly address, in part to respond to the occasional but persistent claims minimizing the magnitude of the harm inflicted by solitary confinement. A very small number of defenders of solitary confinement continue to advance three specific minimizing arguments, namely that: (1) there is simply not enough evidence to establish the harmfulness of solitary confinement; (2) although the negative effects may be real, their impact is *de minimis*; and (3) whatever effects do occur will dissipate quickly over time, so that persons adversely affected soon regain their prior level of psychological well-being.

However, I argue that these assertions can and should be turned on their heads. Indeed, their *opposite* is actually true. First, we now know that solitary

²⁶ See, e.g., Craig Haney, *The Psychological Effects of Solitary Confinement: A Systematic Critique*, 47 CRIME & JUST. 365 (2018) [hereinafter Haney, *Psychological Effects of Solitary Confinement*].

²⁷ See, e.g., WMA Statement on Solitary Confinement, WORLD MED. ASS'N (Nov. 28, 2019), <https://www.wma.net/policies-post/wma-statement-on-solitary-confinement/> [<https://perma.cc/S8TW-8X2Y>] (prohibiting the use of solitary confinement with children, pregnant women, women less than six months postpartum, breastfeeding mothers and those with infants, prisoners with “mental health problems,” and those with “physical disabilities or other medical conditions where their conditions would be exacerbated by such measures”).

²⁸ See, e.g., Louis Favril, Rongqin Yu, Keith Hawton & Seena Fazel, *Risk Factors for Self-Harm in Prison: A Systematic Review and Meta-Analysis*, 7 LANCET PSYCHIATRY 682 (2020); Fatos Kaba, Andrea Lewis, Sarah Glowa-Kollisch, James Hadler, David Lee, Howard Alper, Daniel Selling, Ross MacDonald, Angela Solimo, Amanda Parsons & Homer Venters, *Solitary Confinement and Risk of Self-Harm Among Jail Inmates*, 104 AM. J. PUB. HEALTH 442 (2014); Paolo Roma, Maurizio Pompili, David Lester, Paolo Girardi & Stefano Ferracuti, *Incremental Conditions of Isolation as a Predictor of Suicide in Prisoners*, 233 FORENSIC SCI. INT'L e1, e1 (2013). Prisoners appear to be at greatest risk of suicide early in their stay in solitary confinement, but they remain at risk throughout. See Bruce B. Way, Donald A. Sawyer, Sharen Barboza & Robin Nash, *Inmate Suicide and Time Spent in Special Disciplinary Housing in New York State Prison*, 58 PSYCHIATRIC SERVS. 558, 559 (2007).

²⁹ See *infra* notes 142–153 and accompanying text.

115:211 (2020)

The Science of Solitary

confinement research represents a subset of a much larger scientific literature where the adverse consequences of analogous experiences have been *extensively* documented and are beyond question. Second, the effects of solitary confinement are hardly *de minimis*, especially because they occur *in addition* to the baseline and very substantial harms of imprisonment per se. And finally, the harmful effects can persist long after a person leaves solitary confinement. In fact, sometimes the most disabling consequences manifest themselves most clearly and strongly upon release.

I. THE EFFECTS OF SOLITARY CONFINEMENT ARE SITUATED WITHIN A BROAD AND WELL-ESTABLISHED SCIENTIFIC LITERATURE

It is commonplace and entirely appropriate in scientific circles to repeat the mantra that “more research is needed.” In so many words, most empirical articles end with a form of this admonition. It is always a defensible and sometimes necessary refrain. There is really no research topic on which additional data would not be at least marginally useful and some for which, given the relatively undeveloped state of our knowledge, it would be essential. However, that claim that we simply do not have enough data to conclude that solitary confinement is harmful to prisoners is sometimes employed for a different reason—to justify its continued use. Yet the assertion is incorrect and inapt. As I noted earlier, we now have more than sufficient data to conclude that solitary confinement is a harmful practice. The findings that support this conclusion are robust and derive from an array of studies conducted from the nineteenth century onwards by researchers with different kinds of scientific training, employing a variety of methods, and operating in several different continents. Thus, statements to the effect that “existing literature documenting the effects of segregation . . . is inconclusive” are made by authors who are either unaware of the full extent of the research on solitary confinement and what it shows or who, for some reason, fail to consider the larger body of scientific knowledge of which it is a part.³⁰

However, beyond ensuring that the *entire* database that bears directly on the issue is taken into account, it is also important to understand that although solitary confinement is often discussed as if it were *sui generis*—a distinct, unique phenomenon that only occurs and therefore can only be studied and assessed in prison settings—it has clear analogues in the free world. These civilian analogues are critical for prison scholars and researchers as well as litigators, correctional policymakers, and legal

³⁰ Carl B. Clements, Richard Althouse, Robert K. Ax, Phillip R. Magaletta, Thomas J. Fagan & J. Stephen Wormith, *Systemic Issues and Correctional Outcomes: Expanding the Scope of Correctional Psychology*, 34 CRIM. JUST. & BEHAV. 919, 925 (2007).

NORTHWESTERN UNIVERSITY LAW REVIEW

decision-makers to consistently acknowledge, advert to, and rely on. They serve as the broad and deep scientific underpinnings of research that demonstrates the harmful effects of solitary confinement per se. Thus, knowledge about solitary confinement does not exist in an empirical or theoretical vacuum. Instead, what we know about the negative psychological effects of prison isolation is situated in a much larger scientific literature about the harmfulness of social isolation, loneliness, and social exclusion in society more generally. There is now a wealth of scientific knowledge about the adverse consequences of these negative experiences as they occur in contexts and settings outside prison.

This broader literature about the deleterious impact of isolation is the scientific framework through which the effects of solitary confinement should be understood and interpreted, in part because prison research is notoriously difficult to conduct and even more difficult to conduct properly. Prisons are the quintessential closed institutions in our society to which meaningful access is especially challenging, if not often impossible, to arrange.³¹ Moreover, even those intrepid researchers who do obtain access to prisons typically lack control over where and how prisoners are housed and for how long, as these decisions are governed by correctional staff rather than scientific contingencies.³² Solitary confinement units are especially closed off to outsiders and dominated by nonnegotiable correctional mandates and practices. Absent these constraints in the world outside prison, researchers from a wide variety of disciplines have been able to conduct a vast number of scientific studies on the effects of social isolation and social exclusion and the related experience of loneliness. This extensive literature forms the much larger empirical database and theoretical framework in which the results of research on solitary confinement in prison are situated.

Current scientific knowledge on the effects of social isolation and social exclusion is based on a wealth of methodologically sophisticated studies, many of which have been conducted over the last three decades. The data

³¹ It is a truism among researchers that “[p]risons are far more shrouded from publicity” than other aspects of the criminal justice system. Aaron Doyle & Richard V. Ericson, *Breaking into Prison: News Sources and Correctional Institutions*, 38 CANADIAN J. CRIMINOLOGY 155, 180 (1996). The lack of direct access affects the nature, amount, and quality of the scholarship as well as news coverage that is devoted to these facilities. See, e.g., Beth Schwartzapfel, *Inside Stories*, COLUM. JOURNALISM REV. (Mar./Apr. 2013), https://archives.cjr.org/cover_story/inside_stories.php [<https://perma.cc/6VD7-C4UD>].

³² The inability of researchers to exercise proper control over their prisoner participants doomed several well-intentioned longitudinal studies of solitary confinement, ones in which normal correctional decision-making resulted in unacceptable and confounding levels of attrition and the contamination of research conditions that doomed any meaningful interpretation of the results. See, e.g., Haney, *Psychological Effects of Solitary Confinement*, *supra* note 26.

115:211 (2020)

The Science of Solitary

produced have corroborated, underscored, and deepened what many of us who have been studying prison solitary confinement have learned as well—namely, that meaningful social contact is a fundamental human need whose deprivation has a range of potentially very serious psychological and even physical effects. Because the research on the harmfulness of social isolation in general is so extensive, I am able to review no more than a representative sample of its most important findings in this Essay. However, even this brief summary establishes that there is now an extremely impressive body of scientific knowledge that enables us to more fully understand and appreciate the nature and significance of the adverse effects of solitary confinement in prison.³³

The need to belong, to be socially connected, and to have social contact with others has been recognized for decades in psychology and other behavioral sciences.³⁴ Psychologists have long known that social contact is fundamental to establishing and maintaining emotional health and well-being. In fact, years ago, social psychologist Herbert Kelman argued that denying persons contact with others was a form of “dehumanization”—it denied people something that was fundamental to their humanity.³⁵ As one researcher put it more recently: “Since its inception, the field of psychology emphasized the importance of social connections.”³⁶ Social psychologists have also demonstrated, in classic research conducted decades ago, that “affiliation”—the opportunity to have meaningful contact with others—helps reduce anxiety in the face of uncertainty or fear-arousing stimuli.³⁷ Indeed, one of the ways that people not only determine the appropriateness of their feelings but also how we establish the very nature and tenor of our emotions is through the social contact we have with others.³⁸ Thus, prolonged

³³ See Coppola, *supra* note 8, at 186–87 (discussing some of the legal implications of this broader literature for the regulation and elimination of solitary confinement).

³⁴ See Roy F. Baumeister & Mark R. Leary, *The Need to Belong: Desire for Interpersonal Attachments as a Fundamental Human Motivation*, 117 PSYCHOL. BULL. 497, 497 (1995).

³⁵ Herbert C. Kelman, *Violence Without Moral Restraint: Reflections on the Dehumanization of Victims and Victimizers*, 29 J. SOC. ISSUES 25 (1973).

³⁶ C. Nathan DeWall, *Looking Back and Forward: Lessons Learned and Moving Ahead*, in THE OXFORD HANDBOOK OF SOCIAL EXCLUSION 301, 301 (C. Nathan DeWall ed., 2013).

³⁷ See STANLEY SCHACHTER, THE PSYCHOLOGY OF AFFILIATION: EXPERIMENTAL STUDIES OF THE SOURCES OF GREGARIOUSNESS (1959); Irving Sarnoff & Philip G. Zimbardo, *Anxiety, Fear, and Social Affiliation*, 62 J. ABNORMAL & SOC. PSYCHOL. 356, 356 (1961); Philip Zimbardo & Robert Formica, *Emotional Comparison and Self-Esteem as Determinants of Affiliation*, 31 J. PERSONALITY 141 (1963).

³⁸ See CAROLYN SAARNI, THE DEVELOPMENT OF EMOTIONAL COMPETENCE (1999); Agneta H. Fischer, Antony S.R. Manstead & Ruud Zaalberg, *Social Influences on the Emotion Process*, 14 EUR. REV. SOC. PSYCHOL. 171 (2003); Stanley Schachter & Jerome E. Singer, *Cognitive, Social, and Physiological Determinants of Emotional State*, 69 PSYCHOL. REV. 379, 383–84 (1962); Steven R. Truax,

NORTHWESTERN UNIVERSITY LAW REVIEW

social deprivation is painful and destabilizing in part because it deprives persons of the opportunity to ground their thoughts and emotions in a meaningful social context—to know what they feel and whether those feelings are appropriate.

In addition, Naomi Eisenberger and Matthew Lieberman and others have concluded that there is a neurological basis for “social pain”—the feelings of hurt and distress that come from negative social experiences such as social deprivation, exclusion, rejection, or loss. They and their colleagues have found that the neurological underpinnings of social and physical pain are related; both kinds of feelings share some of the same neural circuitry and computational mechanisms (i.e., they are processed in some of the same ways).³⁹ Moreover, as they observed, unlike the experience of physical pain, which is largely transitory, social pain is more susceptible to being relived. Indeed, although persons who experience physical pain can recall the qualities and degree of intensity of the painful experience, they are largely unable to reexperience the sensation. Social pain, on the other hand, engages the affective pain system and can be actually relived months, or even years, later.⁴⁰

Not surprisingly then, numerous scientific studies have established the psychological significance of social contact, connectedness, and belongingness. Among other things, researchers have concluded that, as Lieberman put it, the human brain is literally “wired to connect” to other

Determinants of Emotion Attributions: A Unifying View, 8 MOTIVATION & EMOTION 33 (1984). See generally THE SOCIAL LIFE OF EMOTIONS (Larissa Z. Tiedens & Colin Wayne Leach eds., 2004).

³⁹ See Naomi I. Eisenberger, *The Pain of Social Disconnection: Examining the Shared Neural Underpinnings of Physical and Social Pain*, 13 NATURE REV.: NEUROSCIENCE 421, 421 (2012). Eisenberger’s and related research found that, although physical and social pain are “not the same experience,” they do “share some underlying neural substrates,” and there is “a common experiential element” to them both that “motivates individuals to terminate or escape the negative stimulus” they represent. Naomi I. Eisenberger, *Social Pain and the Brain: Controversies, Questions, and Where to Go from Here*, 66 ANN. REV. PSYCHOL. 601, 621 (2015); see also Naomi I. Eisenberger, Matthew D. Lieberman & Kipling D. Williams, *Does Rejection Hurt? An fMRI Study of Social Exclusion*, 302 SCIENCE 290 (2003); Naomi I. Eisenberger & Matthew D. Lieberman, *Why Rejection Hurts: A Common Neural Alarm System for Physical and Social Pain*, 8 TRENDS COGNITIVE SCI. 294, 294 (2004); Meghan L. Meyer, Kipling D. Williams & Naomi I. Eisenberger, *Why Social Pain Can Live On: Different Neural Mechanisms Are Associated with Reliving Social and Physical Pain*, PLoS ONE (June 10, 2015) [hereinafter Meyer et al., *Why Social Pain Can Live On*], <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0128294> [https://perma.cc/GDU5-P26T].

⁴⁰ Meghan L. Meyer and her colleagues noted that “reliving a socially painful event could lead to other affective experiences besides pain, such as feelings of sadness, loss, or even anger.” Meyer et al., *Why Social Pain Can Live On*, *supra* note 39.

115:211 (2020)

The Science of Solitary

persons.⁴¹ Thwarting this need to connect not only undermines psychological well-being but also increases physical morbidity and mortality.⁴² Social contact is crucial to normal human development, and when it is impaired, disrupted, or denied, a host of interrelated maladies occur in children as well as adults.⁴³ Thus, the deprivation of something as fundamentally important as social contact produces a range of predictably negative effects.

Some of the most dramatic demonstrations of the harmful effects of social deprivation have been found in animal research, where researchers are able to employ more intrusive scientific procedures and controls than with humans. These studies have found that social isolation actually alters the brain's neurochemistry, structure, and function. Thus, social isolation operates as a chronic stressor that can change the brain chemistry of animals in ways that negatively affect the cellular mechanisms of aging,⁴⁴ precipitate depression-like behavior in mammals,⁴⁵ and suppress the animal immune response to illness.⁴⁶ Social isolation also leads to anxiety-like behavior in animals, impairs their working memory, and disrupts their brain activity.⁴⁷ It also modifies their neuroendocrinal responses in ways that exacerbate the effects of stress,⁴⁸ which suggests that isolation is not only stressful in its own

⁴¹ MATTHEW D. LIEBERMAN, *SOCIAL: WHY OUR BRAINS ARE WIRED TO CONNECT* (2013). Lieberman wrote that: "Our brains evolved to experience threats to our social connections in much the same way they experience physical pain The neural link between social and physical pain also ensures that staying socially connected will be a lifelong need, like food and warmth." *Id.* at 4–5.

⁴² See *infra* notes 65–81 and the studies cited therein.

⁴³ See, e.g., Linda A. Chernus, "Separation/Abandonment/Isolation Trauma: What We Can Learn from Our Nonhuman Primate Relatives," 8 J. EMOTIONAL ABUSE 469, 470 (2008) (discussing the harmful developmental consequences of early social deprivation in the form of maternal loss for humans and nonhuman primates).

⁴⁴ See Jennie R. Stevenson, Elyse K. McMahon, Winnie Boner & Mark F. Haussmann, *Oxytocin Administration Prevents Cellular Aging Caused by Social Isolation*, 103 PSYCHONEUROENDOCRINOLOGY 52, 52–53 (2019).

⁴⁵ See Yu Gong, Lijuan Tong, Rongrong Yang, Wenfeng Hu, Xingguo Xu, Wenjing Wang, Peng Wang, Xu Lu, Minhui Gao, Yue Wu, Xing Xu, Yaru Zhang, Zhuo Chen & Chao Huang, *Dynamic Changes in Hippocampal Microglia Contribute to Depressive-Like Behavior Induced by Early Social Isolation*, 135 NEUROPHARMACOLOGY 223 (2018).

⁴⁶ See John P. Capitanio, Stephanie Cacioppo & Steven W. Cole, *Loneliness in Monkeys: Neuroimmune Mechanisms*, 28 CURRENT OPINION BEHAV. SCI. 51, 51 (2019); Wenjuan Wu, Takeshi Yamaura, Koji Murakami, Jun Murata, Kinzo Matsumoto, Hiroshi Watanabe & Ikuo Saiki, *Social Isolation Stress Enhanced Liver Metastasis of Murine Colon 26-L5 Carcinoma Cells by Suppressing Immune Response in Mice*, 66 LIFE SCI. 1827, 1827–28 (2000).

⁴⁷ See Candela Zorzo, Magdalena Méndez-López, Marta Méndez & Jorge L. Arias, *Adult Social Isolation Leads to Anxiety and Spatial Memory Impairment: Brain Activity Pattern of COx and c-Fos*, 365 BEHAV. BRAIN RES. 170, 170–71 (2019).

⁴⁸ See Juliano Viana Borges, Betânia Souza de Freitas, Vinicius Antoniazzi, Cristophod de Souza dos Santos, Kelem Vedovelli, Vivian Naziaseno Pires, Leticia Paludo, Maria Noêmia Martins de Lima & Elke Bromberg, *Social Isolation and Social Support at Adulthood Affect Epigenetic Mechanisms, Brain-*

NORTHWESTERN UNIVERSITY LAW REVIEW

right, but also compromises an organism's ability to tolerate and manage stress more generally.⁴⁹

In fact, the damaging effects of social isolation on laboratory animals are so well documented that they have led governmental and scientific funding organizations, such as the National Research Council, to prohibit researchers from placing animals in completely isolated conditions for prolonged periods.⁵⁰ Such treatment is considered unethical and constitutes a basis for denying or revoking funding to scientists who violate this prohibition. As a result, university research facilities that conduct animal research have "institutional animal care and use committees" that promulgate guidelines for conducting animal research, virtually all of which include limitations on the degree to which laboratory animals can be subjected to any form of social isolation.⁵¹

Derived Neurotrophic Factor Levels and Behavior of Chronically Stressed Rats, 366 BEHAV. BRAIN RES. 36, 36–37 (2019); Marishka K. Brown, Ewa Strus & Nirinjini Naidoo, *Reduced Sleep During Social Isolation Leads to Cellular Stress and Induction of the Unfolded Protein Response*, 40 SLEEP 1, 1 (2017).

⁴⁹ Some researchers have discerned what they believe is a relationship between isolation and an animal world analogue of PTSD, noting, for example, that socially isolated mice manifest "an exacerbation of aggressive behavior and . . . an increase in anxiety- and depressive-like behaviors, as well as . . . exaggerated contextual fear responses and impaired fear extinction." Andrea Locci & Graziano Pinna, *Social Isolation as a Promising Animal Model of PTSD Comorbid Suicide: Neurosteroids and Cannabinoids as Possible Treatment Options*, 92 PROGRESS NEURO-PSYCHOPHARMACOLOGY & BIOLOGICAL PSYCHIATRY 243, 244 (2019) (citation omitted).

⁵⁰ The National Research Council cautions researchers that, because "[a]ppropriate social interactions among members of the same species" are "essential to normal development and well-being," the "[s]ingle housing of social species should be the exception and justified based on experimental requirements or veterinary-related concerns about animal well-being," "limited to the minimum period necessary," and "enrich[ed]" either by other forms of species-compatible (and even human) contact. INST. FOR LAB. ANIMAL RESEARCH, NAT'L RESEARCH COUNCIL OF THE NAT'L ACADS., GUIDE FOR THE CARE AND USE OF LABORATORY ANIMALS 64 (8th ed. 2011); *see also* Alka Chandna, *Commentary: A Belmont Report for Animals: An Idea Whose Time Has Come*, 29 CAMBRIDGE Q. HEALTHCARE ETHICS 46, 47–48 (2020) (referencing studies documenting the suffering and self-destructive behavior engaged in by laboratory animals confined in "ethologically inappropriate environments" such as social isolation, including the pathological reactions that occur "when primates are deprived of companionship, sufficient space, and sufficient environmental complexity").

⁵¹ For example, Emory University's animal care guidelines mandate "environmental enrichment" for nonhuman primates used in research. The enrichment is aimed at "identifying and providing the environmental stimuli necessary for psychological and physiological wellbeing." INSTITUTIONAL ANIMAL CARE AND USE COMM., EMORY UNIV., ENVIRONMENTAL ENRICHMENT FOR NONHUMAN PRIMATES 1 (2019), http://www.iacuc.emory.edu/documents/policies/360_Environmental_Enrichment_for_Nonhuman_Primates.pdf [https://perma.cc/5UTL-8YJ5] (citation omitted). The Emory guidelines mandate that "all nonhuman primates must be housed with one or more members of the same species." *Id.* at 2. Any exception to this policy requires advanced approval and is "reviewed by the Attending Veterinarian every 30 days." *Id.*

115:211 (2020)

The Science of Solitary

Of course, the results of animal studies are not directly transferable to human populations. However, hundreds of studies done with human participants have reached many of the same conclusions. As I noted above, the scientific literature that documents these adverse effects is far too voluminous to comprehensively review. In the summary that follows, to narrow the focus to a manageable, yet representative sample of studies, I will concentrate primarily on those published in just the last several years.

Scientists have continued to add to existing knowledge about the ways in which social isolation and loneliness in society at large are significant risk factors for a wide range of mental health problems.⁵² Specifically, social isolation increases the prevalence of depression and anxiety among

⁵² Although very closely related, the experiences of “loneliness” and “social isolation” are not identical. Loneliness is the negative *subjective* feeling of being isolated or disconnected from others, whereas social isolation is the *objective* condition of that disconnection. For obvious reasons, animal studies focus only on the effects of social isolation; studies with human participants may examine one or another or both experiences. See, e.g., Nancy E.G. Newall & Verena H. Menec, *Loneliness and Social Isolation of Older Adults: Why It Is Important to Examine These Social Aspects Together*, 36 J. SOC. & PERS. RELATIONSHIPS 925, 926–27 (2019); Kimberley J. Smith & Christina Victor, *Typologies of Loneliness, Living Alone, and Social Isolation, and Their Associations with Physical and Mental Health*, 39 AGEING & SOC’Y 1709, 1710 (2019); Jingyi Wang, Brynmor Lloyd-Evans, Domenico Giacco, Rebecca Forsyth, Cynthia Nebo, Farhana Mann & Sonia Johnson, *Social Isolation in Mental Health: A Conceptual and Methodological Review*, 52 SOC. PSYCHIATRY & PSYCHIATRIC EPIDEMIOLOGY 1451 (2017). Not surprisingly, there are high levels of loneliness among prisoners housed in the extreme social isolation of solitary confinement. See Haney, *Solitary Confinement, Loneliness, and Psychological Harm*, *supra* note 24, at 136. In my review of the broader scientific literature, I will refer to the experience—loneliness or social isolation—as it is identified in the research itself.

NORTHWESTERN UNIVERSITY LAW REVIEW

adolescents and adults⁵³ and is also related to psychosis,⁵⁴ paranoia,⁵⁵ and suicidal behavior.⁵⁶ Among those persons who already have been diagnosed or identified as suffering from psychiatric disorders in free society, isolation has been implicated in the persistence of delusional or psychotic beliefs,⁵⁷ a lack of insight into one's psychiatric symptoms,⁵⁸ and a higher rate of

⁵³ See, e.g., Joshua Hyong-Jin Cho, Richard Olmstead, Hanbyul Choi, Carmen Carrillo, Teresa E. Seeman & Michael R. Irwin, *Associations of Objective Versus Subjective Social Isolation with Sleep Disturbance, Depression, and Fatigue in Community-Dwelling Older Adults*, 23 AGING & MENTAL HEALTH 1130 (2019); Nathaniel A. Dell, Michelle Pelham & Allison M. Murphy, *Loneliness and Depressive Symptoms in Middle Aged and Older Adults Experiencing Serious Mental Illness*, 42 PSYCHIATRIC REHABILITATION J. 113 (2019); S. Häfner, R.T. Emeny, M.E. Lacruz, J. Baumert, C. Herder, W. Koenig, B. Thorand & K.H. Ladwig, *Association Between Social Isolation and Inflammatory Markers in Depressed and Non-Depressed Individuals: Results from the MONICA/KORA Study*, 25 BRAIN, BEHAV., & IMMUNITY 1701 (2011); Lisa M. Jaremka, Rebecca R. Andridge, Christopher P. Fagundes, Catherine M. Alfano, Stephen P. Povoski, Adele M. Lipari, Doreen M. Agnese, Mark W. Arnold, William B. Farrar, Lisa D. Yee, William E. Carson, III, Tanios Bekaii-Saab, Edward W. Martin, Jr., Carl R. Schmidt & Janice K. Kiecolt-Glaser, *Pain, Depression and Fatigue: Loneliness as a Longitudinal Risk Factor*, 33 HEALTH PSYCHOL. 948 (2014); C. Richardson, E. Oar, J. Fardouly, N. Magson, C. Johnco, M. Forbes & R. Rapee, *The Moderating Role of Sleep in the Relationship Between Social Isolation and Internalising Problems in Early Adolescence*, 50 CHILD PSYCHIATRY & HUM. DEV. 1011 (2019); Ilse M. J. van Beljouw, Eric van Exel, Jenny de Jong Gierveld, Hannie C. Comijs, Marjolijn Heerings, Max. L. Stek & Harm W. J. van Marwijk, *"Being All Alone Makes Me Sad": Loneliness in Older Adults with Depressive Symptoms*, 26 INT'L PSYCHOGERIATRICS 1541 (2014); Lixia Ge, Chun Wei Yap, Reuben Ong & Bee Hoon Heng, *Social Isolation, Loneliness and Their Relationships with Depressive Symptoms: A Population-Based Study*, PLOS ONE (Aug. 23, 2017), <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0182145> [https://perma.cc/63Q4-YZME].

⁵⁴ See, e.g., Anson K. C. Chau, Chen Zhu & Suzanne Ho-Wai So, *Loneliness and the Psychosis Continuum: A Meta-Analysis on Positive Psychotic Experiences and a Meta-Analysis on Negative Psychotic Experiences*, 31 INT'L REV. PSYCHIATRY 5 (2019); Dorothy Ann Nejedlo DeNiro, *Perceived Alienation in Individuals with Residual-Type Schizophrenia*, 16 ISSUES IN MENTAL HEALTH NURSING 185 (1995).

⁵⁵ See, e.g., Sarah Butter, Jamie Murphy, Mark Shevlin & James Houston, *Social Isolation and Psychosis-Like Experiences: A UK General Population Analysis*, 9 PSYCHOSIS 291 (2017).

⁵⁶ See, e.g., COMM. ON PATHOPHYSIOLOGY & PREVENTION OF ADOLESCENT & ADULT SUICIDE, INST. OF MED. OF THE NAT'L ACADS., REDUCING SUICIDE: A NATIONAL IMPERATIVE (S.K. Goldsmith, T. C. Pellmar, A. M. Kleinman & W. E. Burney eds., 2002); Raffaella Calati, Chiara Ferrari, Marie Brittner, Osmano Oasi, Emilie Olié, André F. Carvalho & Philippe Courtet, *Suicidal Thoughts and Behaviors and Social Isolation: A Narrative Review of the Literature*, 245 J. AFFECTIVE DISORDERS 653 (2019); John L. Olfiffe, Genevieve Creighton, Steve Robertson, Alex Broom, Emily K. Jenkins, John S. Ogrodniczuk & Oliver Ferlatte, *Injury, Interiority, and Isolation in Men's Suicidality*, 11 AM. J. MEN'S HEALTH 888 (2017).

⁵⁷ See, e.g., P. A. Garety, E. Kuipers, D. Fowler, D. Freeman & P. E. Bebbington, *A Cognitive Model of the Positive Symptoms of Psychosis*, 31 PSYCHOL. MED. 189, 190–91 (2001) (writing about the way that social marginalization contributes to beliefs about the self as "vulnerable to threat, or about others as dangerous" and the way that "social isolation contributes to the acceptance of . . . psychotic appraisal by reducing access to alternative more normalizing explanations").

⁵⁸ See, e.g., R. White, P. Bebbington, J. Pearson, S. Johnson & D. Ellis, *The Social Context of Insight in Schizophrenia*, 35 SOC. PSYCHIATRY & PSYCHIATRIC EPIDEMIOLOGY 500 (2000).

115:211 (2020)

The Science of Solitary

hospitalization and rehospitalization.⁵⁹ Persons experiencing mental health crises also report severe loneliness which may, in turn, exacerbate their mental illness,⁶⁰ creating a downward spiral toward decompensation.

Social isolation can also lead to reduced cognitive functioning in humans.⁶¹ Some studies have shown that the significant direct relationship between loneliness and decreased cognitive functioning is partially mediated by the presence of depressive symptoms.⁶² However, a study by Elvira Lara and her colleagues found that loneliness and social isolation lead to decreased intellectual functioning on a variety of cognitive tests over time, even after controlling for depression among older participants. To prevent such a decline, the study recommended “the enhancement of social participation and the maintenance of emotionally supportive relationships.”⁶³ Other studies demonstrate that even when loneliness does not directly produce cognitive decline, it has an effect on neural processes that, in turn, “relate[s] to worse cognitive performance on processing speed and attention, executive function, working memory, and verbal memory immediate recall.”⁶⁴

As in studies with laboratory animals, there are a number of well documented harmful physical and medical outcomes associated with social isolation and loneliness in humans, including adverse effects on neurological

⁵⁹ See, e.g., Tennyson Mgutshini, *Risk Factors for Psychiatric Re-Hospitalization: An Exploration*, 19 INT’L J. MENTAL HEALTH NURSING 257 (2010); Graham Thornicroft, *Social Deprivation and Rates of Treated Mental Disorder: Developing Statistical Models to Predict Psychiatric Service Utilisation*, 158 BRIT. J. PSYCHIATRY 475 (1991).

⁶⁰ See, e.g., Jingyi Wang, Brynmor Lloyd-Evans, Louise Martson, Ruimin Ma, Farhana Mann, Francesca Solmi & Sonia Johnson, *Epidemiology of Loneliness in a Cohort of UK Mental Health Community Crisis Service Users*, 55 SOC. PSYCHIATRY & PSYCHIATRIC EPIDEMIOLOGY 811 (2019).

⁶¹ See, e.g., Paolo de Sousa, William Sellwood, Alaw Eldridge & Richard P. Bentall, *The Role of Social Isolation and Social Cognition in Thought Disorder*, 269 PSYCHIATRY RES. 56 (2018); Laura Fratiglioni, Hui-Xin Wang, Kjerstin Ericsson, Margaret Maytan & Bengt Winblad, *Influence of Social Network on Occurrence of Dementia: A Community-Based Longitudinal Study*, 355 LANCET 1315 (2000); Aparna Shankar, Mark Hamer, Anne McMunn & Andrew Steptoe, *Social Isolation and Loneliness: Relationships with Cognitive Function During 4 Years of Follow-Up in the English Longitudinal Study of Ageing*, 75 PSYCHOSOMATIC MED. 161 (2013).

⁶² See, e.g., Joanna McHugh Power, Jianjun Tang, Rose Ann Kenny, Brian A. Lawlor & Frank Kee, *Mediating the Relationship Between Loneliness and Cognitive Function: The Role of Depressive and Anxiety Symptoms*, 24 AGING & MENTAL HEALTH 1071, 1076 (2019) (noting that among older adults there is likely a reciprocal effect between loneliness and decreased cognitive functioning).

⁶³ Elvira Lara, Francisco Félix Caballero, Laura Alejandra Rico-Urbe, Beatriz Olaya, Josep Maria Haro, José Luis Ayuso-Mateos & Marta Miret, *Are Loneliness and Social Isolation Associated with Cognitive Decline?*, 34 INT’L J. GERIATRIC PSYCHIATRY 1613, 1614, 1620 (2019).

⁶⁴ Terea Montoliu, Vanesa Hidalgo & Alicia Salvador, *The Relationship Between Loneliness and Cognition in Healthy Older Men and Women: The Role of Cortisol*, 107 PSYCHONEUROENDOCRINOLOGY 270, 277 (2019).

NORTHWESTERN UNIVERSITY LAW REVIEW

and endocrinological processes. As one group of researchers summarized, “These findings indicate that loneliness may compromise the structural and functional integrity of multiple brain regions.”⁶⁵ For example, Nathan Spreng and his colleagues have shown that loneliness is inversely related to a sense of “life meaning” (i.e., a subjective sense of purpose), and that both are in turn related to measures of neural connectivity.⁶⁶ In addition, social isolation adversely impacts the functioning of the human immune system,⁶⁷ undermines health outcomes in general,⁶⁸ and is associated with higher rates of mortality. That is, the experience of social isolation literally lowers the age at which people die.⁶⁹ In fact, researchers have concluded that the health

⁶⁵ Laetitia Mwilambwe-Tshilobo, Tian Ge, Minqi Chong, Michael A. Ferguson, Bratislav Mistic, Anthony L. Burrow, Richard M. Leahy & R. Nathan Spreng, *Loneliness and Meaning in Life Are Reflected in the Intrinsic Network Architecture of the Brain*, 14 SOC. COGNITIVE & AFFECTIVE NEUROSCIENCE 423, 424 (2019); *see also* Jacob Y. Stein, Yafit Levin, Yael Lahav, Orit Uziel, Heba Abumock & Zahava Solomon, *Perceived Social Support, Loneliness, and Later Life Telomere Length Following Wartime Captivity*, 37 HEALTH PSYCH. 1067 (2018).

⁶⁶ Mwilambwe-Tshilobo et al., *supra* note 65.

⁶⁷ *See, e.g.*, Naomi I. Eisenberger, Mona Moieni, Tristen K. Inagaki, Keely A. Muscatell & Michael R. Irwin, *In Sickness and in Health: The Co-Regulation of Inflammation and Social Behavior*, 42 NEUROPSYCHOPHARMACOLOGY REVIEWS. 242 (2017); Sarah D. Pressman, Sheldon Cohen, Gregory E. Miller, Anita Barkin, Bruce S. Rabin & John J. Treanor, *Loneliness, Social Network Size, and Immune Response to Influenza Vaccination in College Freshmen*, 24 HEALTH PSYCH. 297 (2005); Bert N. Uchino, Ryan Trettervik, Robert G. Kent de Grey, Sierra Cronan, Jasara Hogan & Brian R. W. Baucom, *Social Support, Social Integration, and Inflammatory Cytokines: A Meta-Analysis*, 37 HEALTH PSYCH. 462 (2018).

⁶⁸ *See, e.g.*, Johannes Beller & Adina Wagner, *Loneliness, Social Isolation, Their Synergistic Interaction, and Mortality*, 37 HEALTH PSYCH. 808 (2018); Caitlin E. Coyle & Elizabeth Dugan, *Social Isolation, Loneliness and Health Among Older Adults*, 24 J. AGING & HEALTH 1346 (2012); Damiano Fiorillo & Fabio Sabatini, *Quality and Quantity: The Role of Social Interactions in Self-Reported Individual Health*, 73 SOC. SCI. & MED. 1644 (2011); Liesl M. Heinrich & Eleonora Gullone, *The Clinical Significance of Loneliness: A Literature Review*, 26 CLINICAL PSYCH. REV. 695 (2006).

⁶⁹ *See* Marko Elovainio, Christian Hakulinen, Laura Pulkki-Räback, Marianna Virtanen, Kim Josefsson, Markus Jokela, Jussi Vahtera & Mika Kivimäki, *Contribution of Risk Factors to Excess Mortality in Isolated and Lonely Individuals: An Analysis of Data from the UK Biobank Cohort Study*, 2 LANCET PUB. HEALTH e260 (2017); Brett Friedler, Joshua Crapser & Louise McCullough, *One Is the Deadliest Number: The Detrimental Effects of Social Isolation on Cerebrovascular Diseases and Cognition*, 129 ACTA NEUROPATHOLOGY 493 (2015); Louise C. Hawkey & John T. Cacioppo, *Loneliness Matters: A Theoretical and Empirical Review of Consequences and Mechanisms*, 40 ANNALS BEHAV. MED. 218, 219 (2010); Julianne Holt-Lunstad, Timothy B. Smith & J. Bradley Layton, *Loneliness and Social Isolation as Risk Factors for Mortality: A Meta-Analytic Review*, 10 PERSPS. PSYCH. SCI. 227 (2015); Matthew Pantell, David Rehkopf, Douglas Jutte, Leonard Syme, John Balmes & Nancy Adler, *Social Isolation: A Predictor of Mortality Comparable to Traditional Clinical Risk Factors*, 103 AM. J. PUB. HEALTH 2056 (2013); Jussi Tanskanen & Timo Anttila, *A Prospective Study of Social Isolation, Loneliness, and Mortality in Finland*, 106 AM. J. PUB. HEALTH 2042 (2016); Andrea Fleisch Marcus, Alex H. Illescas, Bernadette C. Hohl & Adana A. M. Llanos, *Relationships Between Social Isolation, Neighborhood Poverty, and Cancer Mortality in a Population-Based Study of US Adults*,

115:211 (2020)

The Science of Solitary

risk of social isolation on mortality rates is comparable to that caused by cigarette smoking.⁷⁰

In part because of its dramatic life-shortening effects, as one recent review of the literature put it, “The problem of loneliness and social isolation is of growing global concern.”⁷¹ Indeed, the well-documented negative psychological and physical effects of social isolation and loneliness have led to international recognition that they represent a worldwide public health crisis.⁷² Acknowledging this fact, an international commission assembled by former French President Nicholas Sarkozy and led by Nobel Prize winners Joseph Stiglitz and Amartya Sen and economist Jean-Paul Fitoussi identified social connectedness as one of the key indicators of a nation’s social progress, quality of life, and well-being.⁷³ More recently, the social isolation of older adults was the focus of two Canadian National Seniors Council reports, which discussed the nature of the psychological and medical risks of social isolation and what can be done to address them.⁷⁴ In 2017, the former Surgeon General of the United States, Vivek Murthy, warned business leaders about what he described as a “loneliness epidemic” and its harmful health consequences.⁷⁵ In a more recent book, Murthy elaborated on the

PLOS ONE (Mar. 8, 2017), <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0173370> [https://perma.cc/89KS-DGE3].

⁷⁰ See Julianne Holt-Lunstad, Timothy B. Smith, Mark Baker, Tyler Harris & David Stephenson, *Social Relationships and Mortality Risk: A Meta-Analytic Review*, PLOS MED. (July 27, 2010), <https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1000316> [https://perma.cc/J8DP-JN99].

⁷¹ Cathrine Mihalopoulos, Long Khanh-Dao Le, Mary Lou Chatterton, Jessica Bucholz, Julianne Holt-Lunstad, Michelle H. Lim & Lidia Engel, *The Economic Costs of Loneliness: A Review of Cost-of-Illness and Economic Evaluation Studies*, 55 SOC. PSYCHIATRY & PSYCHIATRIC EPIDEMIOLOGY 823, 834 (2019). Although the authors concluded that it was difficult to precisely estimate the economic costs of loneliness and social isolation, they noted that most studies “reported excess healthcare costs associated with loneliness/isolation,” and that the projected costs “are likely to be under-estimated.” *Id.*

⁷² See, e.g., N. Leigh-Hunt, *An Overview of Systematic Reviews on the Public Health Consequences of Social Isolation and Loneliness*, 152 PUB. HEALTH 157 (2017).

⁷³ JOSEPH E. STIGLITZ, AMARTYA SEN & JEAN-PAUL FITOUSSI, REPORT BY THE COMMISSION ON THE MEASUREMENT OF ECONOMIC PERFORMANCE AND SOCIAL PROGRESS (2009), <https://www.cpc.unc.edu/projects/rims-hse/publications/1921> [https://perma.cc/KD95-F2GA].

⁷⁴ THE NAT’L SENIORS COUNCIL, GOV’T OF CAN., REPORT ON THE SOCIAL ISOLATION OF SENIORS 2013-2014 (2014), <https://www.canada.ca/en/national-seniors-council/programs/publications-reports/2014/scoping-social-isolation.html> [https://perma.cc/2NY8-8FYH]; THE NAT’L SENIORS COUNCIL, GOV’T OF CAN., WHO’S AT RISK AND WHAT CAN BE DONE ABOUT IT? A REVIEW OF THE LITERATURE ON THE SOCIAL ISOLATION OF DIFFERENT GROUPS OF SENIORS (2017), <https://www.canada.ca/en/national-seniors-council/programs/publications-reports/2017/review-social-isolation-seniors.html> [https://perma.cc/E4DZ-SSJB].

⁷⁵ See Vivek Murthy, *Work and the Loneliness Epidemic: Reducing Isolation at Work Is Good for Business*, HARV. BUS. REV. (2017), <https://hbr.org/cover-story/2017/09/work-and-the-loneliness-epidemic> [https://perma.cc/QWQ6-HZCK]; Dan Schawbel, *Vivek Murthy: How to Solve the Work*

NORTHWESTERN UNIVERSITY LAW REVIEW

negative effects of social isolation, made recommendations about how to best combat them, and promoted what he called “the healing power of human connection.”⁷⁶ In 2018, the British Prime Minister, Theresa May, appointed a “Minister for Loneliness” for her nation,⁷⁷ as news magazines conceded that it represented a “serious public health problem.”⁷⁸ Finally, in 2020, in a study designed to contribute to “a larger global effort to combat the adverse health impacts of social isolation,”⁷⁹ a National Academy of Sciences Committee concluded that the negative consequences of social isolation “may be comparable to or greater than other well-established risk factors such as smoking, obesity, and physical inactivity,”⁸⁰ and another group of prominent researchers termed the experience of loneliness a “modern behavioral epidemic” and cautioned that it represented a “lethal behavioral toxin” that accounted for more annual deaths than cancer or strokes.⁸¹

Paralleling the research that has been conducted on the adverse psychological and medical effects of social isolation and loneliness, there is a closely related and well-developed body of literature on what has been termed “social exclusion”—what happens when people are involuntarily and purposely separated from others, as they are in prison solitary confinement units. These studies, too, show that this kind of social separation produces a host of serious negative consequences. For example, Mark Leary and his colleagues have shown that increasing degrees of social exclusion can successively lower self-esteem, which in turn relates to greater levels of depression, anxiety, and a host of other psychological problems. In fact, they have suggested that self-esteem itself may be largely a reflection of a

Loneliness Epidemic, FORBES (Oct. 7, 2017, 9:54 AM), <https://www.forbes.com/sites/danschawbel/2017/10/07/vivek-murthy-how-to-solve-the-work-loneliness-epidemic-at-work/#22653b417172> [https://perma.cc/DNC3-5B4K].

⁷⁶ VIVEK H. MURTHY, *TOGETHER: THE HEALING POWER OF HUMAN CONNECTION IN A SOMETIMES LONELY WORLD* (2020).

⁷⁷ See Ceylan Yeginsu, *U.K. Appoints a Minister for Loneliness*, N.Y. TIMES (Jan. 17, 2018), <https://www.nytimes.com/2018/01/17/world/europe/uk-britain-loneliness.html> [https://perma.cc/QX94-ZY7A].

⁷⁸ *Loneliness Is a Serious Public-Health Problem*, ECONOMIST (Sept. 1, 2018), <https://www.economist.com/international/2018/09/01/loneliness-is-a-serious-public-health-problem> [https://perma.cc/YQ3X-P2SJ].

⁷⁹ COMM. ON THE HEALTH & MED. DIMENSIONS OF SOC. ISOLATION & LONELINESS IN OLDER ADULTS, THE NAT’L ACADS. OF SCIS., ENG’G & MED., *SOCIAL ISOLATION AND LONELINESS IN OLDER ADULTS: OPPORTUNITIES FOR THE HEALTH CARE SYSTEM*, at xii (2020).

⁸⁰ *Id.* at 2–12.

⁸¹ Dilip V. Jeste, Ellen E. Lee & Stephanie Cacioppo, *Battling the Modern Behavioral Epidemic of Loneliness: Suggestions for Research and Interventions*, 77 JAMA PSYCHIATRY 553 (2020).

115:211 (2020)

The Science of Solitary

person's level or state of social connectedness.⁸² Researchers have also documented the fact that excluding persons from contact with others is not only "painful in itself," but also "undermines people's sense of belonging, control, self-esteem, and meaningfulness, . . . reduces pro-social behavior, and impairs self-regulation."⁸³ Indeed, the subjective experience of social exclusion can result in what have been called "cognitive deconstructive states," which include emotional numbing, reduced empathy, cognitive inflexibility, lethargy, and an absence of meaningful thought.⁸⁴

Social exclusion also has been shown to heighten people's feelings of physical vulnerability and increase the expectation that they will experience physical harm in the future.⁸⁵ It may also precipitate aggressive behavior—"action-oriented coping"—in response.⁸⁶ Two authors summarized these overall effects this way:

Social exclusion is detrimental and can lead to depression, alienation, and sometimes even to violent behaviour. Laboratory studies show that even a brief episode of exclusion lowers mood, causes social pain, which is analogous to physical pain, and elicits various behavioural responses, such as aggressive behaviour or affiliation-seeking behavior.⁸⁷

In fact, the editor of the *Oxford Handbook of Social Exclusion* concluded the volume by summarizing the "serious threat" that social exclusion represents to psychological health and well-being, including "increase[d] salivary cortisol levels . . . and blood flow to brain regions

⁸² See, e.g., Mark R. Leary, Alison L. Haupt, Kristine S. Straussen & Jason T. Chokel, *Calibrating the Sociometer: The Relationship Between Interpersonal Appraisals and State Self-Esteem*, 74 J. PERSONALITY & SOC. PSYCHOL. 1290, 1297–98 (1998); Mark R. Leary, Lisa S. Schreindorfer & Alison L. Haupt, *The Role of Low Self-Esteem in Emotional and Behavioral Problems: Why Is Low Self-Esteem Dysfunctional?*, 14 J. SOC. & CLINICAL PSYCHOL. 297, 307 (1995).

⁸³ Brock Bastian & Nick Haslam, *Excluded from Humanity: The Dehumanizing Effects of Social Ostracism*, 46 J. EXPERIMENTAL SOC. PSYCHOL. 107, 107 (2010) (internal citations omitted).

⁸⁴ See Jean M. Twenge, Kathleen R. Catanese & Roy F. Baumeister, *Social Exclusion and the Deconstructed State: Time Perception, Meaninglessness, Lethargy, Lack of Emotion, and Self-Awareness*, 85 J. PERSONALITY & SOC. PSYCHOL. 409, 411, 415, 421 (2003).

⁸⁵ See, e.g., Kristy K. Dean, Grace Wentworth & Nikole LeCompte, *Social Exclusion and Perceived Vulnerability to Physical Harm*, 18 SELF & IDENTITY 87 (2019).

⁸⁶ Katharina Reiter-Scheidl, Ilona Papousek, Helmut K. Lackner, Manuela Paechter, Elisabeth M. Weiss & Nilüfer Aydin, *Aggressive Behavior After Social Exclusion Is Linked with the Spontaneous Initiation of More Action-Oriented Coping Immediately Following the Exclusion Episode*, 195 PHYSIOLOGY & BEHAV. 142, 142, 148 (2018).

⁸⁷ Aleksi H. Syrjämäki & Jari K. Hietanen, *The Effects of Social Exclusion on Processing of Social Information—A Cognitive Psychology Perspective*, 58 BRIT. J. SOC. PSYCHOL. 730, 730 (2018) (citations omitted); see also C. Nathan DeWall, Timothy Deckman, Richard S. Pond, Jr. & Ian Bonser, *Belongingness as a Core Personality Trait: How Social Exclusion Influences Social Functioning and Personality Expression*, 79 J. PERSONALITY 1281, 1281–82 (2011).

NORTHWESTERN UNIVERSITY LAW REVIEW

associated with physical pain,” “sweeping changes” in attention, memory, thinking, and self-regulation, as well as changes in aggression and prosocial behavior. As he put it, “This dizzying array of responses to social exclusion supports the premise that it strikes at the core of well-being.”⁸⁸

An additional, painful component of solitary confinement is the fact that prisoners in such units are denied opportunities to give and receive caring human touch. Many of them go for weeks, months, or even years without touching another person with affection. This kind of deprivation also has been studied extensively in contexts outside prison. Psychologists have long known that “[t]ouch is central to human social life. It is the most developed sensory modality at birth, and it contributes to cognitive, brain, and socioemotional development throughout infancy and childhood.”⁸⁹ Recent research now indicates that “touch is a primary platform for the development of secure attachments and cooperative relationships.”⁹⁰ We know that, among other things, it is “intimately involved in patterns of caregiving.”⁹¹ Indeed, caring physical touch functions as a “powerful means by which individuals reduce the suffering of others.”⁹² It also “promotes cooperation and reciprocal altruism.”⁹³

The need for caring human touch is so fundamental that early deprivation is an established risk factor for neurodevelopmental disorders, depression, suicidality, and other self-destructive behavior.⁹⁴ Later deprivation is associated with violent behavior in adolescents.⁹⁵ The uniquely prosocial emotion of “[c]ompassion is universally signaled through touch,” so that persons who live in a world without touch are denied the experience

⁸⁸ DeWall, *supra* note 36, at 302; Johan C. Karremans, Dirk J. Heslenfeld, Lotte F. van Dillen & Paul A. M. Van Lange, *Secure Attachment Partners Attenuate Neural Responses to Social Exclusion: An fMRI Investigation*, 81 INT’L J. PSYCHOPHYSIOLOGY 44, 44, 49 (2011).

⁸⁹ Matthew J. Hertenstein, Dacher Keltner, Betsy App, Brittany A. Bulleit & Ariane R. Jaskolka, *Touch Communicates Distinct Emotions*, 6 EMOTION 528, 528 (2006). *See generally* THE HANDBOOK OF TOUCH: NEUROSCIENCE, BEHAVIORAL, AND HEALTH PERSPECTIVES 373–499 (Matthew J. Hertenstein & Sandra J. Weiss eds., 2011) (discussing, in Section V, the relevance of touch for development and health).

⁹⁰ Jennifer L. Goetz, Dacher Keltner & Emiliana Simon-Thomas, *Compassion: An Evolutionary Analysis and Empirical Review*, 136 PSYCHOL. BULL. 351, 360 (2010).

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *See, e.g.*, Carissa J. Cascio, *Somatosensory Processes in Neurodevelopmental Disorders*, 2 J. NEURODEVELOPMENTAL DISORDERS 62, 62–63 (2010) (neurodevelopmental disorders); Tiffany Field, *Touch Deprivation and Aggression Against Self Among Adolescents*, in DEVELOPMENTAL PSYCHOBIOLOGY OF AGGRESSION 117, 117 (David M. Stoff & Elizabeth J. Susman eds., 2005) (depression, suicidality, and other self-destructive behavior).

⁹⁵ *See* Tiffany Field, *Violence and Touch Deprivation in Adolescents*, 37 ADOLESCENCE 735, 735, 744–45 (2002).

115:211 (2020)

The Science of Solitary

of receiving or expressing compassion in this way.⁹⁶ Conversely, a number of experts argue that caring human touch is so integral to our well-being that it is actually therapeutic. Thus, it has been recommended to treat a host of psychological maladies including depression, suicidality, and learning disabilities.⁹⁷ Researchers have found that caring human touch mediates a sense of security and place, a sense of shared companionship, a sense of being nurtured, feelings of worth and competence, access to reliable alliance and assistance, and guidance and support in stressful situations.⁹⁸ The deprivation of caring human touch in solitary confinement deprives prisoners of these things.

In sum, there is a carefully developed and empirically well-documented scientific framework that catalogues the broad range of very serious adverse effects brought about by social isolation, loneliness, social exclusion, and the deprivation of caring touch. These effects have been found in numerous studies that confirm the destructive and even life-threatening consequences for animals as well as humans. It is important not only to situate the harmfulness of solitary confinement in this larger scientific framework but also to recognize that, for reasons discussed below, the adverse effects of isolation in a *correctional* setting are likely to be far greater.

II. SOLITARY CONFINEMENT AS “TOXIC” SOCIAL ISOLATION

The literature reviewed in the preceding Part summarized findings from studies conducted in a wide range of free-world settings. It is important to acknowledge that, the animal research notwithstanding, the adverse effects of social isolation, loneliness, social exclusion, and the deprivation of caring human touch that I reviewed above were assessed in environments that are much more benign than those that prevail in jail and prison solitary confinement units. By virtually any measure, solitary confinement in correctional settings is likely to be significantly *more* stressful, hurtful, harmful, and dangerous than in the larger society, where the range of deleterious effects I reviewed in the previous Part have been elaborately documented.

⁹⁶ See, e.g., Jennifer E. Stellar & Dacher Keltner, *Compassion*, in HANDBOOK OF POSITIVE EMOTIONS 329, 337 (Michele M. Tugade, Michelle N. Shiota & Leslie D. Kirby eds., 2014).

⁹⁷ See, e.g., Susan Dobson, Shripati Upadhyaya, Ian Conyers & Raghu Raghavan, *Touch in the Care of People with Profound and Complex Needs*, 6 J. LEARNING DISABILITIES 351, 360 (2002); Field, *supra* note 94, at 134.

⁹⁸ See, e.g., Robert S. Weiss, *The Attachment Bond in Childhood and Adulthood*, in ATTACHMENT ACROSS THE LIFE CYCLE 72–75 (Colin Murray Parkes, Joan Stevenson-Hinde & Peter Marris eds., 1995).

NORTHWESTERN UNIVERSITY LAW REVIEW

Of course, there are arguably “better” and “worse” solitary confinement units, and prisoners are likely to suffer more and deteriorate more rapidly in those that are the harshest and most deprived. Thus, psychologist Carl Clements and his colleagues were surely correct to observe that relevant “[c]ontext factors includ[ing] privacy, access to daylight, length of cell confinement per day, noise and overcrowding levels, and staff functioning”⁹⁹ have some bearing on the isolated prisoner’s well-being. Yet, even their discussion seemed to ignore what researchers now understand to be the most destructive aspect of solitary confinement—the deprivation of meaningful human social contact. As the larger literature I reviewed on social isolation and loneliness underscores, although the immediate discomforting aspects of the experience can be ameliorated, it is isolation itself that is dangerous.

Obviously, lonely, isolated persons in the free world are likely to have far more privacy, access to nature, freedom of movement, and so on than prisoners housed in solitary confinement. Yet they are still at great psychological and physical risk by virtue of their social isolation. The onerous aspects of prison and jail isolation only intensify the painfulness of this powerful stressor and worsen its impact. For one, prison and jail solitary confinement is a form of coercively enforced and nearly complete isolation. As I have noted before, “There is no other place on earth where persons are so completely and involuntarily isolated from one another.”¹⁰⁰ Except in special cases, prisoners rarely go willingly into solitary confinement. Indeed, in many instances they must be forcibly removed from their cells (“cell extracted”) and taken to solitary confinement by special tactical units of correctional officers who are suited up in body armor, armed with special weapons (e.g., batons, pepper spray, tasers), and who operate in tandem to physically control, subdue, and dominate prisoners.¹⁰¹ The elaborate procedures correctional officers are routinely instructed to employ means that the encounters themselves are inherently confrontational and prone to

⁹⁹ Clements et al., *supra* note 30, at 926.

¹⁰⁰ Haney, *Solitary Confinement, Loneliness, and Psychological Harm*, *supra* note 24, at 132.

¹⁰¹ In California, Department of Corrections procedures explicitly instructed standard five-man cell extraction teams to proceed in this fashion: the first member of the team enters the cell carrying a large shield, used to push the prisoner back into a corner of the cell; the second member follows closely, wielding a special cell extraction baton, to strike the inmate on the upper part of his body to induce him to raise his arms in self-protection; thus unsteadied, the inmate is pulled off balance by another member of the team whose job is to place leg irons around his ankles; once downed, a fourth member of the team places him in handcuffs; the fifth member stands ready to fire a taser gun or rifle that shoots wooden or rubber bullets at prisoners who continue to resist. Craig Haney, “*Infamous Punishment*”: *The Psychological Consequences of Isolation*, 8 NAT’L PRISON PROJECT J. 3, 21 n.6 (1993).

115:211 (2020)

The Science of Solitary

escalation. It is not uncommon for them to turn increasingly physically violent and, in that sense, they are traumatic for everyone involved.¹⁰²

To take just one firsthand account, here is the description of Mika'il DeVeaux, a sociology lecturer who spent twenty-five years incarcerated in the New York State prison system. He observed frequent cell extractions (termed "being dragged out") occurring inside solitary confinement units in the 1980s, ones that were traumatizing to witness as well as to experience directly:

[B]eing "dragged out" meant that a person was dragged out of a cell feet first, with their head trailing behind on the floor, and often being beaten while being moved. I can still remember the screams, the wailing, the cursing, and the anger. These events were alarming because all who witnessed them unfold could feel the humiliation and shame. We in the cells were utterly powerless and could face a similar fate. There was nothing I could do, nothing anyone could do, except hope to get out of there alive. The possibility of being beaten was all too real. Whom could I tell? Who would listen? Who would care?¹⁰³

Moreover, solitary confinement is virtually always accompanied by a host of additional deprivations that extend beyond the sheer lack of meaningful social contact. Those additional deprivations commonly include the lack of positive or pleasurable environmental stimulation in settings that prisoners are unable to significantly modify. That is, the physical environment in most solitary confinement units is characterized by its closed-in nature (in the cells, of course, but also in the cellblocks themselves) and unchanging drabness. As I have described them previously: "Inside their cells, units, and 'yards,'" prisoners in solitary confinement units "are surrounded by nothing but concrete, steel, cinderblock, and metal fencing—often gray or faded pastel, drab and sometimes peeling paint, dingy, worn floors. There is no time when they escape from these barren 'industrial' environments."¹⁰⁴ Indeed, many of these units are explicitly, often inventively, designed to limit or eliminate the prisoners' contact with nature—restricting or foreclosing exposure to natural light, grass, and even glimpses of the horizon or sky. There are even some units where prisoners cannot easily tell whether it is day or night.

¹⁰² See Erica Goode, *When Cell Door Opens, Tough Tactics and Risk*, N.Y. TIMES, July 29, 2014, at A1, A12; Erica Goode, *New Trial Sought in Death of Man Pulled from Cell*, N.Y. TIMES, Aug. 23, 2014, at A16.

¹⁰³ Mika'il DeVeaux, *The Trauma of the Incarceration Experience*, 48 HARV. C.R.-C.L. L. REV. 257, 273 (2013).

¹⁰⁴ Craig Haney, *A Culture of Harm: Taming the Dynamics of Cruelty in Supermax Prisons*, 35 CRIM. JUST. & BEHAV. 956, 968 (2008).

NORTHWESTERN UNIVERSITY LAW REVIEW

The only variations in sensory stimulation are typically auditory, but these too often come in the form of aversive, loud noises that, in addition to the banging of heavy metal doors, include pounding on walls and shouting or screaming at all hours of the day and night from other prisoners who may be mentally ill and/or suffering from the effects of isolation.¹⁰⁵

In addition, solitary confinement virtually always entails severe restrictions on the amount and kind of personal property prisoners can possess. In many such units, they have limited access to electronic appliances (such as radios and televisions) or may be prohibited from having any, and are more severely restricted than other prisoners in terms of the commissary products they may purchase from the prison store and even in the already limited amount of reading material they can keep in their cells. Prisoners in solitary confinement also typically have limited or no access to meaningful activity or programming, either inside or outside their cells. Other than the few prisoners who are selected as “tier tenders”—to clean units and perhaps deliver mail to other prisoners—they are prohibited from working, receiving vocational training, taking in-person educational classes of any kind, or participating in hobby craft. Most solitary confinement units impose strict limits on access to telephones so that, in addition to limited numbers of noncontact visits, they are significantly cut off from the outside world.

Stuart Grassian has noted that the medical profession has long known that, even in hospital settings where patients go to receive caring treatment, greatly restricted access to social and environmental stimulation can have a “profoundly deleterious effect,”¹⁰⁶ including adversely impacting “patients in intensive care units, spinal patients immobilized by the need for prolonged

¹⁰⁵ I have personally toured and inspected a number of solitary confinement units in which the noise was so loud that it was difficult to converse with persons standing nearby. On the other hand, some solitary confinement units do, in fact, approximate the near total sensory deprivation paradigm in operation in early experiments conducted on the subject—darkened cells, little or no sound, and so on. But they are relatively rare nowadays. More commonly in contemporary prisons, solitary confinement units subject prisoners to what has been termed “reduced environmental stimulation”—a term that acknowledges the fact that there is not *total* (or even nearly total) deprivation of sensory input of any kind, but that the meaningful, positive, stimulating aspects of the environment are lacking. Thus, prisoners in solitary confinement are exposed to a reduced and monotonous kind of sensory input—an extremely limited and repetitive perceptual and experiential sameness in the physical environment around them. In some other instances, they are subjected to a great deal of stimulation, but it is aversive or noxious in nature—loud noise, bright lights, foul smells—and they have little or no control over the exposure. In these cases, the reduction in their “environmental stimulation” refers to the lack of *positive* stimuli, despite being bombarded with aversive stimuli that are beyond their control. All of these different but nonetheless problematic sensory aspects of the experience can be harmful to normal, healthy psychological functioning.

¹⁰⁶ Stuart Grassian, *Neuropsychiatric Effects of Solitary Confinement*, in *THE TRAUMA OF PSYCHOLOGICAL TORTURE* 113, 114 (Almerindo E. Ojeda ed., 2008).

115:211 (2020)

The Science of Solitary

traction, and patients with impairment of their sensory apparatus (such as eye-patched or hearing impaired patients).”¹⁰⁷ Of course, prisoners are not placed in solitary confinement to receive treatment or be administered to in caring ways. Unlike social isolation in most free-world contexts, solitary confinement in jails and prisons is also “pejoratively imposed,” in the sense that significant stigma and gratuitous humiliation are commonly associated with it. From the perspective of the staff at least, and in some instances the prisoners as well, a prisoner in solitary confinement is in an even more degraded status than a mainline prisoner. Prisoners who are placed in solitary confinement are sometimes referred to as the “worst of the worst,” but they are virtually always treated as the “lowest of the low.”¹⁰⁸ I have suggested elsewhere that prisoners in solitary confinement are enveloped in a “culture of harm” that includes not only the isolating architecture and procedures that characterize the environment, but also the “atmosphere of thinly veiled hostility and disdain [that] prevails.”¹⁰⁹ Interactions with staff are “fraught with resentment and recrimination”¹¹⁰ and an “ecology of cruelty” subjects

¹⁰⁷ *Id.* (citing Florence S. Downs, *Bed Rest and Sensory Disturbances*, 74 AM. J. NURSING 434 (1974); Rosemary Ellis, *Unusual Sensory and Thought Disturbances After Cardiac Surgery*, 72 AM. J. NURSING 2021 (1972); C. Wesley Jackson, Jr., *Clinical Sensory Deprivation: A Review of Hospitalized Eye-Surgery Patients*, in SENSORY DEPRIVATION: FIFTEEN YEARS OF RESEARCH (John P. Zubek ed., 1969); Donald S. Kornfeld, Sheldon Zimberg & James R. Malm, *Psychiatric Complications of Open-Heart Surgery*, 273 NEW ENG. J. MED. 287 (1965); Herbert R. Lazarus & Jerome H. Hagens, *Prevention of Psychosis Following Open-Heart Surgery*, 124 AM. J. PSYCHIATRY 1190 (1968); Eugene Ziskind, *Isolation Stress in Medical and Mental Illness*, 168 J. AM. MED. ASS’N 1427 (1958); Eugene Ziskind, Harold Jones, William Filante & Jack Goldberg, *Observations on Mental Symptoms in Eye Patched Patients: Hypnagogic Symptoms in Sensory Deprivation*, 116 AM. J. PSYCHIATRY 89 (1960)). Grassian also reported on early studies of the ways in which extreme social isolation and the deprivation of positive environmental stimulation could take a severe toll on persons in other contexts where they were voluntarily pursuing otherwise positive goals and activities, such as “extremely isolating military settings and explorations in land and space.” *Id.* (citing A. M. Hastin Bennett, *Sensory Deprivation in Aviation*, in SENSORY DEPRIVATION 161 (Philip Solomon, Philip E. Kubzansky, P. Herbert Leiderman, Jack H. Mendelson, Richard Trumbull & Donald Wexler eds., 1961); Jeanette J. Cochrane & S.J.J. Freeman, *Working in Arctic and Sub-Arctic Conditions: Mental Health Issues*, 34 CANADIAN J. PSYCHIATRY 884 (1989); Sanford J. Freedman & Milton Greenblatt, *Studies in Human Isolation II: Hallucinations and Other Cognitive Findings*, 11 U.S. ARMED FORCES MED. J. 1479 (1960); E.K. Eric Gunderson, *Emotional Symptoms in Extremely Isolated Groups*, 9 ARCHIVES GEN. PSYCHIATRY 362 (1963); E.K. Eric Gunderson & Paul D. Nelson, *Adaptation of Small Groups to Extreme Environments*, 34 AEROSPACE MED. 1111 (1963)).

¹⁰⁸ Among the many “pains of imprisonment” to which prisoners in general are subjected, and that have the capacity to adversely affect them upon release, is the extent to which they are dehumanized, degraded, and disrespected. *See, e.g.*, James M. Binnall, *Respecting Beasts: The Dehumanizing Quality of the Modern Prison and an Unusual Model for Penal Reform*, 17 J.L. & POL’Y 161, 185–86 (2008). These aspects of prison life are greatly intensified in solitary confinement units.

¹⁰⁹ Haney, *supra* note 104, at 960.

¹¹⁰ *Id.*

NORTHWESTERN UNIVERSITY LAW REVIEW

prisoners in solitary confinement to the implements of forceful subjugation, including “handcuffs, belly chains, leg irons, spit shields, strip cells, four-point restraints, canisters of pepper spray, batons, and rifles,” often wielded by flak-jacketed, helmeted officers.¹¹¹

Unlike socially isolated persons in free society, prisoners in solitary confinement are profoundly “alone” but, paradoxically, are afforded limited or no access to privacy. Among other things, they are subjected to unannounced, prolonged, and invasive visual inspections in a way that other prisoners are not. Since literally everything prisoners in solitary confinement “do” occurs within the small space of their cell (or, during brief periods of time when they have access to it, the “yard,” where they are also carefully monitored), their surveillance far exceeds that of even mainline prisoners. The latter have at least some freedom of movement to enter limited prison spaces where they are not so closely observed. In extreme cases, prisoners in solitary confinement may have cameras trained on them literally all the time (and frequently do if they are placed in suicide or aptly named “watch” cells, where around-the-clock video monitoring is commonplace). In addition, the limited contact that prisoners in solitary confinement have with medical and mental health staff often takes place “cell front,” so even otherwise highly sensitive conversations about physical or psychological vulnerabilities and personal concerns are susceptible to being “overheard” by custody staff and other prisoners. This helps explain why many prisoners in solitary confinement forego these contacts altogether. In any event, the constant surveillance and lack of privacy are additional toxic aspects of solitary confinement.¹¹²

The multiple dimensions of institutional control and surveillance and harsh contingencies that prevail inside jail and prison solitary confinement units not only produce natural human reactions and adaptations to the experience of social isolation and loneliness but also can set other dysfunctional and problematic dynamics in motion. These dynamics, in turn, may lead to even more painful and extended stays in solitary confinement. For example, several studies have found that the experience of loneliness leads naturally to hypervigilance about perceived social threats which, in

¹¹¹ *Id.* at 970.

¹¹² Access to privacy is “important because it is posited to provide experiences that support normal psychological functioning, stable interpersonal relationships, and personal development.” Stephen T. Margulis, *Privacy as a Social Issue and Behavioral Concept*, 59 J. SOC. ISSUES 243, 246 (2003); see also Darren Ellis, Ian Tucker & David Harper, *The Affective Atmospheres of Surveillance*, 23 THEORY & PSYCH. 716 (2017); Darhl M. Pedersen, *Psychological Functions of Privacy*, 17 J. ENVTL. PSYCH. 147 (1997).

115:211 (2020)

The Science of Solitary

turn, can produce overreactions to potentially threatening external stimuli.¹¹³ This helps to explain why prisoners in solitary confinement are susceptible to a form of “institutional paranoia” in which they come to distrust literally everyone with whom they interact. This distrust may include not only prison personnel, but also extend to other prisoners whom they begin to suspect of harboring ill will or conspiring against them. Although entirely understandable under the circumstances in which it occurs—prisoners in solitary confinement have often said to me, only partly in jest, that “it isn’t paranoia if people really *are* out to get you”—the adaptation of distrusting everyone and distancing oneself from them makes the social pain of solitary confinement more difficult for them to alleviate. Relatedly, researchers have found that loneliness reduces the amount of pleasure persons derive from rewarding social stimuli.¹¹⁴ This means that even the extraordinarily rare forms of positive social stimulation that might occur in solitary confinement may have only limited beneficial or ameliorating effects because the effects of extreme isolation have numbed the prisoners’ capacity to enjoy or benefit from it.

Thus, there are many reasons why the adverse psychological and physical effects of social isolation and exclusion and the deprivation of caring touch that occur in the course of solitary confinement in correctional settings are likely to be *far worse* than in society at large, where those effects have proven to be severe and even life-threatening.

III. THE EFFECTS OF SOLITARY CONFINEMENT ARE COMPOUNDED BY THE EFFECTS OF IMPRISONMENT PER SE

Although there is a well-settled scientific consensus over the harmfulness of solitary confinement, there are occasional outlier claims made that appear to unduly minimize the seriousness of the damage it does to prisoners. Typically voiced by persons who seem unaware of the much larger compelling body of scientific knowledge about the adverse effects of social isolation in society at large,¹¹⁵ this seeming defense of the continued

¹¹³ See, e.g., Munirah Bangee, Rebecca A. Harris, Nikola Bridges, Ken J. Rotenberg & Pamela Qualter, *Loneliness and Attention to Social Threat in Young Adults: Findings from an Eye Tracker Study*, 63 PERSONALITY & INDIVIDUAL DIFFERENCES 16, 22 (2014); Stephanie Cacioppo, Munirah Bangee, Stephen Balogh, Carlos Cardenas-Iniguez, Pamela Qualter & John T. Cacioppo, *Loneliness and Implicit Attention to Social Threat: A High-Performance Electrical Neuroimaging Study*, 7 COGNITIVE NEUROSCIENCE 138, 155–56 (2016).

¹¹⁴ See, e.g., John T. Cacioppo & Louise C. Hawkley, *Perceived Social Isolation and Cognition*, 13 TRENDS IN COGNITIVE SCI. 447, 449 (2009).

¹¹⁵ Commentators such as Paul Gendreau and Ryan Labrecque who incorrectly describe solitary confinement as primarily “an environment with severe restrictions placed on auditory, visual and

NORTHWESTERN UNIVERSITY LAW REVIEW

use of solitary confinement takes several forms. In addition to the claim that I addressed in Part I (to the effect that “there is just not enough data to know”), some commentators have asserted that, although solitary confinement is potentially harmful, it inflicts only *de minimis* damage that, in any event, is likely to dissipate over time (i.e., upon release back to a mainline prison population or into free society). For example, meta-analysts Robert Morgan and his colleagues made a point of rejecting what they characterized as “fiery opinions” lodged by a number of knowledgeable experts against the practice of solitary confinement, accusing the scholars who voiced them of “lack[ing] a social perspective.” The “social perspective” Morgan and his colleagues appeared to have in mind was their own claim that the effects of solitary confinement are no greater than the “adverse effects resulting from general incarceration.”¹¹⁶ They repeated the same assertion a page later in their article: “[T]he magnitude of the adverse effects of [solitary confinement] placement tend to be *small to moderate*, and no greater than the magnitude of effects for incarceration, generally speaking.”¹¹⁷

Two other coauthors of the Morgan meta-analysis go even further, stating “there are no estimates of the precise magnitude of the effects of prison life, although we expect it is likely close to zero.”¹¹⁸ This same kind of minimization appears in sworn testimony given by some of the same authors, testifying as expert witnesses in defense of the use of solitary confinement in various jurisdictions, including in a case where prisoners were held continuously for at least ten years or more (some for more than

kinesthetic stimulation” but make little or no mention of the social deprivation that is its essence have badly missed the point. Paul Gendreau & Ryan M. Labrecque, *The Effects of Administrative Segregation: A Lesson in Knowledge Cumulation*, in THE OXFORD HANDBOOK OF PRISONS AND IMPRISONMENT 340, 340 (John Wooldredge & Paula Smith eds., 2018). Solitary confinement is harmful primarily because it deprives prisoners of meaningful social contact; the deprivation of positive environmental stimulation exacerbates those effects, but it is not the primary source of the harm. Thus, despite noble calls to “search for convergent validity from diverse empirical and theoretical literatures,” they have completely ignored the most relevant literature of all—that which documents the extremely deleterious effects of social deprivation. *Id.* at 342.

¹¹⁶ Robert D. Morgan, Paul Gendreau, Paula Smith, Andrew L. Gray, Ryan M. Labrecque, Nina MacLean, Stephanie A. Van Horn, Angelea D. Bolanos & Ashley B. Batastini, *Quantitative Syntheses of the Effects of Administrative Segregation on Inmates’ Well-Being*, 22 PSYCHOL., PUB. POL’Y, & L. 439, 455 (2016).

¹¹⁷ *Id.* at 456 (emphasis added).

¹¹⁸ Gendreau & Labrecque, *supra* note 115, at 343. They argued further that, if there are any effects of prison life (“close to zero”), it is “criminogenic outcomes” rather than psychological disability that is “the most adverse outcome of incarceration.” *Id.* at 344. In fact, current research indicates that the adverse effects are a great deal more than “zero” and extend well beyond criminogenic outcomes.

115:211 (2020)

The Science of Solitary

twenty years).¹¹⁹ The point of these and similar statements appears to be to implicitly minimize the suffering and harm “from segregation” by suggesting that the amount is “no more than” or “comparable to” the suffering and harm that prison life in general inflicts, which the defenders of solitary confinement allege are “mild to moderate.” By characterizing the negative effects of prison in general as *de minimis* (indeed, “close to zero”), and the harmfulness of solitary confinement as “no more than that,” they seem to imply that there is relatively little reason for concern.¹²⁰

In fact, however, if we were to assume that the suffering and harm inflicted by solitary confinement are actually “comparable to” or “no more than” the suffering and harm brought about by incarceration generally, then there would still be *grave* cause for concern. That is because what are commonly described as the “pains of imprisonment” are now well understood to have a powerful psychological and even physical impact. The negative effects are well documented and often truly severe.¹²¹ As I will

¹¹⁹ Robert Morgan, the first author of the aforementioned meta-analysis, has made this exact point in several cases in which he has offered such testimony. For example: “Thus, it is my opinion that the mental health concerns experienced by inmates in the SHU are not time dependent (i.e., 2 years, 5 years, 10 years, 20 years) such that inmates serving 10 or more years in the PBSP SHU are no better or worse off, from a clinical mental health perspective, than if they served less than 10 years of SHU confinement.” Expert Report by Dr. Robert Morgan at 12, *Ashker v. Brown*, No. C 09-05796 CW (N.D. Cal. Mar. 13, 2015).

¹²⁰ Defenders of solitary confinement also sometimes point to the fact that a sizable minority of prisoners in some prison systems seem to “prefer” solitary confinement to mainline prison housing because the prisoners sometimes request placement in so-called “protective custody,” “safekeeping,” or “sensitive needs” housing units that may operate as *de facto* solitary confinement units. The problem with this assertion is that it overlooks the terrible Hobson’s choice with which such prisoners are confronted, namely, whether or not to attempt to preserve their physical well-being at the expense of their mental health. Because physical threats in prison are often dire, tangible, and imminent, it is not surprising that some prisoners assume (or gamble) that they may be able to psychologically withstand the rigors of solitary confinement while protecting themselves from violent victimization. Some miscalculate and suffer significant psychological pain or worse. *See, e.g.*, Stanley L. Brodsky & Forrest R. Scogin, *Inmates in Protective Custody: First Data on Emotional Effects*, 1 *FORENSIC REP.* 267, 269–70 (1988). Kimberley Brownlee has argued in this context that the notion of “voluntary self-isolation” should be regarded with great skepticism because, as she noted, “‘voluntariness’ depends on the range and value of the choices available.” Brownlee, *supra* note 8, at 206. Moreover, “[i]f a person’s principal forms of social interaction are hostile, degrading, or cruel, then she may voluntarily withdraw from that social environment but, given the context, her decision will not differ much from a non-voluntary withdrawal.” *Id.* The prisoners’ “preferences” in these cases are more a reflection of the terrible mainline prison conditions and forms of treatment from which they are fleeing than the benign nature of the solitary confinement units they have been compelled to enter.

¹²¹ Much of this evidence is summarized in several book-length treatments of the topic. *See, e.g.*, CRAIG HANEY, *REFORMING PUNISHMENT: PSYCHOLOGICAL LIMITS TO THE PAINS OF IMPRISONMENT* (2006) [hereinafter HANEY, *REFORMING PUNISHMENT*]; COMM. ON CAUSES & CONSEQUENCES OF HIGH RATES OF INCARCERATION, NAT’L RES. COUNCIL OF THE NAT’L ACADS., *THE GROWTH OF INCARCERATION IN THE UNITED STATES: EXPLORING CAUSES AND CONSEQUENCES* (Jeremy Travis,

NORTHWESTERN UNIVERSITY LAW REVIEW

discuss in more detail below, although some of the effects of general incarceration do not fully manifest themselves until after prisoners are released from prison, the adverse consequences of imprisonment are substantial and can be life altering. They are hardly “small to moderate” or “close to zero.”

For example, Alison Liebling and her colleagues reported that the measured levels of distress in eleven of the twelve prisons they studied were “extraordinarily high” and above the threshold that ordinarily triggers an inquiry into whether a patient is suffering from a treatable emotional or psychological illness.¹²² Reviews of the literature on the prevalence of post-traumatic stress disorder (PTSD) and interrelated trauma-based symptoms that include depression, emotional numbing, anxiety, isolation, and hypervigilance among prisoners suggest that this disorder may occur as much as ten times more often than in the general population.¹²³ The severity of environmental stress to which prisoners are exposed significantly affects the levels of anxiety and depression that they experience during confinement.¹²⁴ In addition, Jason Schnittker and his colleagues have shown

Bruce Western & Steve Redburn eds., 2014); THE EFFECTS OF IMPRISONMENT (Alison Liebling & Shadd Maruna eds., 2005). In addition, there are numerous empirical studies and published reviews of the available literature. See, e.g., Craig Haney, *Prison Effects in the Era of Mass Incarceration*, 20 PRISON J. 1 (2012) [hereinafter Haney, *Prison Effects*]; Diana Johns, *Confronting the Disabling Effects of Imprisonment: Toward Prehabilitation*, 45 SOC. JUST. 27 (2018).

¹²² Alison Liebling, Linda Durie, Annick Stiles & Sarah Tait, *Revisiting Prison Suicide: The Role of Fairness and Distress*, in THE EFFECTS OF IMPRISONMENT, *supra* note 121, at 216.

¹²³ Although the orders of magnitude vary as a function of the different prevalence estimates for both the general and incarcerated populations, no researchers doubt that “inmate rates of PTSD are substantially higher than rates in the general population.” Laura E. Gibson, John C. Holt, Karen M. Fondacaro, Tricia S. Tang, Thomas A. Powell & Erin L. Turbitt, *An Examination of Antecedent Traumas and Psychiatric Comorbidity Among Male Inmates with PTSD*, 12 J. TRAUMATIC STRESS 473, 474 (1999); see also Ashley Goff, Emmeline Rose, Suzanna Rose & David Purves, *Does PTSD Occur in Sentenced Prison Populations? A Systematic Literature Review*, 17 CRIM. BEHAV. & MENTAL HEALTH 152 (2007); Carolyn J. Heckman, Karen L. Cropsey & Tawana Olds-Davis, *Posttraumatic Stress Disorder Treatment in Correctional Settings: A Brief Review of the Empirical Literature and Suggestions for Future Research*, 44 PSYCHOTHERAPY: THEORY, RES., PRAC., TRAINING 46 (2007); Nancy Wolff, Jessica Huening, Jing Shi & B. Christopher Frueh, *Trauma Exposure and Posttraumatic Stress Disorder Among Incarcerated Men*, 91 J. URB. HEALTH 707 (2014). A recent international meta-analysis of the prevalence of PTSD among prisoners estimated it to be five times greater among imprisoned men and eight times greater among imprisoned women than in the general population. Gergo Baranyi, Megan Cassidy, Seena Fazel, Stefan Priebe & Adrian P. Mundt, *Prevalence of Posttraumatic Stress Disorder in Prisoners*, 40 EPIDEMIOLOGIC REV. 134, 142 (2018).

¹²⁴ See, e.g., Colin Cooper & Sinéad Berwick, *Factors Affecting Psychological Well-Being of Three Groups of Suicide-Prone Prisoners*, 20 CURRENT PSYCHOL. 169 (2001). It is important to be reminded exactly what such stress consists of. For example, noting that “[n]o one leaves unscarred,” Mika’il DeVeaux has provided a powerful firsthand account of the traumatic nature of the prison life he experienced, one whose aftereffects he still struggled to overcome long after his release: “I found the

115:211 (2020)

The Science of Solitary

that many of these psychiatric symptoms (especially anxiety- and depression-related disorders) persist long after release and represent significant obstacles to successful reentry.¹²⁵

Moreover, the experience of imprisonment is so stressful that it adversely affects prisoners' physical health. Having been in prison can increase rates of morbidity, especially the likelihood of contracting infectious and stress-related illnesses.¹²⁶ It also affects mortality rates.¹²⁷ In fact, Evelyn Patterson's study of persons released from prison in New York State concluded that each year spent in prison reduced a person's life span by two years.¹²⁸ As I noted, many of the adverse effects on physical and mental health are long-lasting, persisting well beyond a person's time in prison.¹²⁹

Thus, the assertion that incarceration in general produces only "small to moderate" negative effects is flatly incorrect. In this context, however, it

prison experience traumatic because of the assaults and murders I witnessed while incarcerated, because of the constant threat of violence, because of the number of suicides that took place, and because I felt utterly helpless about the degree to which I could protect myself." DeVeaux, *supra* note 103, at 257, 264–65.

¹²⁵ Jason Schnittker, *The Psychological Dimensions and the Social Consequences of Incarceration*, 651 ANNALS AM. ACAD. POL. & SOC. SCI. 122, 135–36 (2014); Kristin Turney, Christopher Wildeman & Jason Schnittker, *As Fathers and Felons: Explaining the Effects of Current and Recent Incarceration on Major Depression*, 53 J. HEALTH & SOC. BEHAV. 465, 466 (2012); *see also* Shelley Johnson Listwan, Mark Colvin, Dena Hanley & Daniel Flannery, *Victimization, Social Support, and Psychological Well-Being: A Study of Recently Released Prisoners*, 37 CRIM. JUST. & BEHAV. 1140 (2010).

¹²⁶ *See, e.g.*, Michael Massoglia & Brianna Remster, *Linkages Between Incarceration and Health*, 134 PUB. HEALTH REPS. 8S, 10S (2019) (Supplement I); Michael Massoglia, *Incarceration as Exposure: The Prison, Infectious Disease, and Other Stress-Related Illnesses*, 49 J. HEALTH & SOC. BEHAV. 56, 57 (2008).

¹²⁷ *See, e.g.*, Ingrid A. Binswanger, Marc F. Stern, Richard A. Deyo, Patrick J. Heagerty, Allen Cheadle, Joann G. Elmore & Thomas D. Koepsell, *Release from Prison—A High Risk of Death for Former Inmates*, 356 NEW ENG. J. MED. 157, 159–61 (2007).

¹²⁸ Evelyn J. Patterson, *The Dose-Response of Time Served in Prison on Mortality: New York State, 1989–2003*, 103 AM. J. PUB. HEALTH 523, 523 (2013) [hereinafter Patterson, *The Dose-Response of Time Served in Prison on Mortality*].

¹²⁹ *See, e.g.*, Paul C. Archibald, *Criminal Justice Contact, Stressors, and Depressive Symptoms Among Black Adults in the United States*, 43 AM. J. CRIM. JUST. 486, 488 (2018); Shervin Assari, Reuben Jonathan Miller, Robert Joseph Taylor, Dawne Mouzon, Verna Keith & Linda M. Chatters, *Discrimination Fully Mediates the Effects of Incarceration History on Depressive Symptoms and Psychological Distress Among African American Men*, 5 J. RACIAL & ETHNIC HEALTH DISPARITIES 243, 246 (2018); Robynn Cox, *Mass Incarceration, Racial Disparities in Health, and Successful Aging*, 42 J. AM. SOC'Y ON AGING 48, 51 (2018); Adrian Grounds & Ruth Jamieson, *No Sense of an Ending: Researching the Experience of Imprisonment and Release Among Republican Ex-Prisoners*, 7 THEORETICAL CRIMINOLOGY 347, 351, 354–56 (2003); Yujin Kim, *The Effect of Incarceration on Midlife Health: A Life-Course Approach*, 34 POPULATION RES. POL'Y REV. 827, 829 (2015); Turney et al., *supra* note 125, at 466; Tomoko Udo, *Chronic Medical Conditions in U.S. Adults with Incarceration History*, 38 HEALTH PSYCHOL. 217, 217–18 (2019).

NORTHWESTERN UNIVERSITY LAW REVIEW

is important to keep in mind that whether or not the adverse effects of solitary confinement are nearly equal to or perhaps much greater than the effects of incarceration generally, they are experienced in addition to the baseline effects of imprisonment. In this way, the harmfulness of solitary confinement represents an *increment* of suffering and harm that is always incurred above and beyond the deleterious effects of imprisonment per se, which are already experienced by prisoners who are, by definition, already incarcerated at the time they are placed in solitary confinement.

This fact was underscored by a study I conducted several years ago at Pelican Bay State Prison, comparing the number and intensity of symptoms of psychological stress, trauma, and isolation-related psychopathology between a sample of long-term isolated prisoners and a sample of long-term general population prisoners.¹³⁰ I used a structured interview and systematic assessment format to identify the symptoms they were experiencing and selected the sample participants randomly to ensure their representativeness (except that I explicitly excluded persons suffering from diagnosed mental health problems at the time the study was conducted).¹³¹ Because of the harshness of the mainline maximum security prison from which the general population prisoners were drawn—which a number of them described as “the worst” they had ever been in—the comparison between the groups represented an especially stringent test of the effects of long-term solitary confinement.¹³² An additional factor that added to the stringency of this

¹³⁰ The isolated prisoners had spent ten years or more in continuous solitary confinement at the Pelican Bay Security Housing Unit, and they were compared to the general population prisoners (then housed at the Pelican Bay maximum-security mainline prison) who had spent ten years or more in continuous imprisonment. All of the prisoners in both groups were otherwise mentally healthy; that is, no one from either group was currently on the prison system’s mental health caseload. The details of this study are described in Haney, *Restricting Solitary Confinement*, *supra* note 8, at 291–92, and Haney, *Solitary Confinement, Loneliness, and Psychological Harm*, *supra* note 24, at 134–38.

¹³¹ Largely as a result of a federal court decision, no prisoner on the California Department of Corrections and Rehabilitation’s mental health caseload was permitted to be housed in the solitary confinement facility at Pelican Bay. *Madrid v. Gomez*, 889 F. Supp. 1146 (N.D. Cal. 1995). To ensure comparability of the samples in this respect, no long-term general population prisoner currently on the mental health caseload was included in the study.

¹³² The conditions of confinement in the maximum-security prison from which the general population prisoners were selected were severe. They were virtually all double-celled inside standard general population cells, were “cell fed” (i.e., they ate all of their meals in their cells rather than in a common dining hall), had very limited “out-of-cell time,” could obtain access to only a restricted number of “jobs” (e.g., working in the kitchen, barber shop, or serving as a tier tender), and could enroll in only a single educational class. In addition, because the general population facility was located in the same geographically remote location as the solitary confinement facility, general population prisoners, like their solitary confinement counterparts, also tended to have relatively few visitors. However, unlike the solitary confinement prisoners, those in general population were allowed to congregate through “dayroom” time, outdoor group exercise, and to have contact visits. *See Haney, Restricting Solitary*

115:211 (2020)

The Science of Solitary

comparison was the fact that many general population prisoners had themselves spent long periods (for some, years) confined in one or another solitary confinement unit before their current nonsolitary housing assignment. For some of them, this included previously having spent time in the Pelican Bay solitary confinement unit under study.¹³³

Given the severity of the overall conditions to which both groups of prisoners were subjected, it was not surprising to learn they all acknowledged some degree of suffering and distress. Yet there was absolutely no comparison in the levels reported by the general population versus isolated prisoners. On nearly every single specific dimension measured, the prisoners currently in solitary confinement were in significantly more pain, were more traumatized and stressed, and manifested far more isolation-related pathological reactions. Thus, they not only reported experiencing significantly more stress and trauma-related symptoms¹³⁴ and significantly more isolation-related indices of pathology,¹³⁵ but the orders of magnitude were quite large. The isolated prisoners reported nearly twice as many symptoms overall as compared to those in the general population.

In addition to determining the presence or absence of a symptom, I also asked prisoners to estimate the frequency with which they had been bothered by these symptoms over approximately the last three-month period (as a way of gauging intensity or the degree to which they suffered from the particular symptom or underlying problem).¹³⁶ With the exception of headaches, which were reported at reasonably high levels of intensity for both groups, the only symptoms on which there were no significant differences between the solitary confinement and general population prisoners pertained almost exclusively to symptoms that were reported very infrequently by both groups (e.g., fainting, suicidality). In fact, the mean intensities of the reported

Confinement, *supra* note 8, at 291–92; Haney, *Solitary Confinement, Loneliness, and Psychological Harm*, *supra* note 24, at 134–38.

¹³³ Many of the general population prisoners who had been in solitary confinement in the past acknowledged the lasting aftereffects of isolation. Some attributed at least some of the problems and symptoms that they were currently experiencing to the time that they had spent in solitary confinement and acknowledged struggling to overcome these effects (including impaired social relations and persistent feelings of loneliness) once released from isolation. *See* Haney, *Restricting Solitary Confinement*, *supra* note 8, at 291–92; Haney, *Solitary Confinement, Loneliness, and Psychological Harm*, *supra* note 24, at 134–38.

¹³⁴ These symptoms included experiencing anxiety, lethargy, troubled sleep, heart palpitations, and a sense of impending breakdown. *See* Haney, *Restricting Solitary Confinement*, *supra* note 8, at 291–93.

¹³⁵ These symptoms included depression, uncontrolled ruminations, impaired thought processes, and social withdrawal. *Id.*

¹³⁶ Prisoners who reported suffering from a symptom were asked whether they experienced it rarely, sometimes, often, or constantly. *Id.*

NORTHWESTERN UNIVERSITY LAW REVIEW

symptoms were not only significantly different between the groups, but also nearly or more than double for the prisoners in solitary confinement as compared to those prisoners housed in general population.

It is also important to note that the painful, traumatic, and harmful experience of imprisonment is endured by many persons who have suffered a disproportionate number of adverse experiences *before* incarceration. They are thus especially vulnerable to the “retraumatization” of prison.¹³⁷ As Cherie Armour summarized: “[P]re-existing traumatic experiences are common in both male and female prisoners which are further exacerbated by traumas experienced within prison.”¹³⁸ The same can be said of prisoners confined in solitary confinement, who are traumatized yet again by the added stress and deprivation imposed by social isolation.¹³⁹

IV. THE LEGACY OF SOLITARY CONFINEMENT: THE PERSISTENCE OF ISOLATION EFFECTS

Another way to minimize the harmfulness of solitary confinement is to assume that, however unpleasant the experience may be, its effects will dissipate over time once a prisoner is moved to a different and better setting, either into a mainline prison or through release back to free society. Thus, apologists for the practice argue “the effects of [solitary] confinement are

¹³⁷ For a discussion of the role of preprison risk factors and traumas in the etiology of criminal behavior that can lead to imprisonment, see Craig Haney, *CRIMINALITY IN CONTEXT: THE PSYCHOLOGICAL FOUNDATIONS OF CRIMINAL JUSTICE REFORM* (2020).

¹³⁸ Cherie Armour, *Mental Health in Prison: A Trauma Perspective on Importation and Deprivation*, 5 INT’L J. CRIMINOLOGY & SOC. THEORY 886, 891 (2012); see also Andy Hochstetler, Daniel S. Murphy & Ronald L. Simons, *Damaged Goods: Exploring Predictors of Distress in Prison Inmates*, 50 CRIME & DELINQ. 436 (2004) (finding that there were significant interrelationships between preprison and prison trauma that had lasting postprison effects); Alison Liebling, *Vulnerability and Prison Suicide*, 35 BRIT. J. CRIMINOLOGY 173 (1995); Benjamin Meade & Benjamin Steiner, *The Effects of Exposure to Violence on Inmate Maladjustment*, 40 CRIM. JUST. & BEHAV. 1228, 1230 (2013) (finding that exposure to various forms of violence before incarceration adversely affects adjustment to prison); Merry Morash, Seokjin Jeong, Miriam Northcutt Bohmert & Daniel R. Bush, *Men’s Vulnerability to Prisoner-on-Prisoner Violence: A State Correctional System Case Study*, 92 PRISON J. 290, 299–304 (2012) (finding that the strongest predictor of whether a male prisoner was sexually victimized in prison was having had a history of childhood sexual abuse).

¹³⁹ Not surprisingly, the stressfulness of prison life in general and solitary confinement in particular impacts persons with preexisting vulnerabilities even more acutely and can lead to heightened levels of suicidality. See, e.g., Ronald L. Bonner, *Stressful Segregation Housing and Psychosocial Vulnerability in Prison Suicide Ideators*, 36 SUICIDE & LIFE-THREATENING BEHAV. 250, 252 (2006); Eric Lanes, *The Association of Administrative Segregation and Other Risk Factors with the Self-Injury-Free Time of Male Prisoners*, 48 J. OFFENDER REHABILITATION 529, 533 (2009); Raymond F. Patterson & Kerry Hughes, *Review of Completed Suicides in the California Department of Corrections and Rehabilitation, 1999 to 2004*, 59 PSYCHIATRIC SERVS. 676, 677–78 (2008).

115:211 (2020)

The Science of Solitary

negative but do not produce ‘lasting emotional damage.’”¹⁴⁰ Unfortunately, this misapprehends the nature of prison effects generally and the effects of solitary confinement more specifically. Some of the worst effects of incarceration derive from the forced accommodations prisoners must make to the atypical and dehumanizing nature of prison life. Sometimes termed “prisonization,” the necessary adaptations to the pains of imprisonment require prisoners to undergo a series of psychological changes that are often difficult to relinquish upon release, when these habits and ways of being are no longer needed or even functional. They represent the psychic aftereffects of incarceration that may significantly interfere with successful reintegration into the world outside prison.¹⁴¹ This is especially true when formerly incarcerated persons enter free society without proper preparation or ongoing transitional services designed to help them traverse the psychological, social, and economic barriers they are likely to confront.

In fact, as implied by my discussion of the impact of imprisonment per se in Part III, there is now extensive research documenting the long-lasting consequences of incarceration, ones that can undermine a formerly incarcerated person’s quality of life. They contribute to the difficulties many face in attempting to avoid a return to prison, as well as in ensuring their physical and mental health and enabling them to become contributing members of society. Some of the lasting effects of time spent in prison impact formerly incarcerated persons directly on a personal and psychological level.¹⁴² Other adverse effects impair the nature and stability of the relationships that formerly incarcerated persons are able to initiate and maintain.¹⁴³ Still others relate directly to the negative health consequences

¹⁴⁰ Gendreau & Labrecque, *supra* note 115, at 350 (taking issue with the contrary observation of psychiatrist Terry Kupers).

¹⁴¹ See, e.g., STEPHEN J. BAHR, RETURNING HOME: REINTEGRATION AFTER PRISON OR JAIL (2015); Craig Haney, *The Psychological Impact of Incarceration: Implications for Postprison Adjustment* [hereinafter Haney, *The Psychological Impact of Incarceration*], in PRISONERS ONCE REMOVED: THE IMPACT OF INCARCERATION AND REENTRY ON CHILDREN, FAMILIES, AND COMMUNITIES 33 (Jeremy Travis & Michelle Waul eds., 2003); Christy A. Visher & Jeremy Travis, *Transitions from Prison to Community: Understanding Individual Pathways*, 29 ANN. REV. SOC. 89 (2003).

¹⁴² See, e.g., HANEY, REFORMING PUNISHMENT, *supra* note 121; Haney, *Prison Effects*, *supra* note 121; Haney, *The Psychological Impact of Incarceration*, *supra* note 141; Michael Massoglia & William Alex Pridemore, *Incarceration and Health*, 41 ANN. REV. SOC. 291, 293 (2015); Schnittker, *supra* note 125; Turney et al., *supra* note 125, at 466.

¹⁴³ See, e.g., Holly Foster & John Hagan, *Supportive Ties in the Lives of Incarcerated Women: Gender, Race/Ethnicity, and Children’s Human Rights*, 17 J. GENDER RACE & JUST. 257, 258 (2014); Michael Massoglia & Cody Warner, *The Consequences of Incarceration: Challenges for Scientifically Informed and Policy-Relevant Research*, 10 CRIMINOLOGY & PUB. POL’Y 851, 853 (2011); Kristin Turney, *Hopelessly Devoted? Relationship Quality During and After Incarceration*, 77 J. MARRIAGE &

NORTHWESTERN UNIVERSITY LAW REVIEW

that compromise their physical well-being.¹⁴⁴ They combine with the social stigma and diminished employment opportunities and other “collateral consequences”¹⁴⁵ of having been imprisoned to create substantial barriers to reintegration and long-term well-being. For example, Sebastian Daza and his colleagues provided a stark summary of the results of their long-term, nationwide study of this issue, stating that they “estimate that incarceration’s adult mortality excess translates into a loss of between four and five years of life expectancy at age 40” and that at least some of the “gap in mortality between the United States and peer countries” seems to be attributable to this nation’s “differential imprisonment experiences.”¹⁴⁶

Bruce Western and his colleagues have chronicled the numerous structural challenges that formerly incarcerated persons face upon their release from prison. Under the best of circumstances, this stressful transition involves the “anxiety of adjusting to social interaction in a free society under conditions of severe material deprivation.”¹⁴⁷ Except in the most carefully implemented reentry programs, however, many who are released from prison are left to navigate these challenges on their own with minimal governmental or outside assistance. Alessandro De Giorgi’s compelling narrative of the plight of many formerly incarcerated persons describes them as not only forced to grapple with the stigma of incarceration, but also “scrambling to disentangle themselves from the treacherous grips of chronic poverty, sudden homelessness, untreated physical and mental suffering, and the lack of meaningful social services.”¹⁴⁸ There is reason to believe that time spent

FAM. 480, 480–81 (2015); Christopher Wildeman, *Parental Imprisonment, the Prison Boom, and the Concentration of Childhood Disadvantage*, 46 DEMOGRAPHY 265, 266 (2009).

¹⁴⁴ See, e.g., Valerio Baćak & Christopher Wildeman, *An Empirical Assessment of the “Healthy Prisoner Hypothesis,”* 138 SOC. SCI. & MED. 187 (2015); Binswanger et al., *supra* note 127, at 159–61; Massoglia, *supra* note 126, at 57; Evelyn J. Patterson, *Incarcerating Death: Mortality in U.S. State Correctional Facilities, 1985–1998*, 47 DEMOGRAPHY 587, 601 (2010); Patterson, *The Dose-Response of Time Served in Prison on Mortality*, *supra* note 128, at 523; David L. Rosen, Victor J. Schoenbach & David A. Wohl, *All-Cause and Cause-Specific Mortality Among Men Released from State Prison, 1980–2005*, 98 AM. J. PUB. HEALTH 2278, 2278 (2008); Jason Schnittker & Andrea John, *Enduring Stigma: The Long-Term Effects of Incarceration on Health*, 48 J. HEALTH & SOC. BEHAV. 115, 115–16 (2007).

¹⁴⁵ See, e.g., INVISIBLE PUNISHMENT: THE COLLATERAL CONSEQUENCES OF MASS INCARCERATION (Marc Mauer & Meda Chesney-Lind eds., 2002); Gabriel J. Chin, *The New Civil Death: Rethinking Punishment in the Era of Mass Incarceration*, 160 U. PA. L. REV. 1789 (2012).

¹⁴⁶ Sebastian Daza, Alberto Palloni & Jerrett Jones, *The Consequences of Incarceration for Mortality in the United States*, 57 DEMOGRAPHY 577, 591–92 (2020).

¹⁴⁷ Bruce Western, Anthony A. Braga, Jaclyn Davis & Catherine Sirois, *Stress and Hardship After Prison*, 120 AM. J. SOC. 1512, 1514 (2015).

¹⁴⁸ Alessandro De Giorgi, *Back to Nothing: Prisoner Reentry and Neoliberal Neglect*, 44 SOC. JUST. 83, 88 (2017).

115:211 (2020)

The Science of Solitary

in solitary confinement increases the difficulty of successfully overcoming these barriers.

Although data are mixed on whether time spent in solitary confinement specifically increases postprison criminal behavior (beyond the criminogenic effects of incarceration per se), it surely does not decrease it.¹⁴⁹ Here, too, a more meaningful measure of the extent of long-lasting damage incurred by solitary confinement is the quality of life that prisoners who endured it are able to manage once released.¹⁵⁰ There is evidence that they encounter more serious obstacles to successful reintegration back into free society, and that there are few if any specific programs available that acknowledge their solitary-confinement-related traumas and assist them in overcoming the psychological aftereffects.¹⁵¹ Solitary confinement survivors suffer postprison adjustment problems at higher rates than the already high rates

¹⁴⁹ See, e.g., H. Daniel Butler, Benjamin Steiner, Matthew D. Makarios & Lawrence F. Travis III, *Assessing the Effects of Exposure to Supermax Confinement on Offender Postrelease Behaviors*, 97 PRISON J. 275, 277–80 (2017); David Lovell, L. Clark Johnson & Kevin C. Cain, *Recidivism of Supermax Prisoners in Washington State*, 53 CRIME & DELINQ. 633, 643–49 (2007); Daniel P. Mears & William D. Bales, *Supermax Incarceration and Recidivism*, 47 CRIMINOLOGY 1131, 1151 (2009); Laurence L. Motiuk & Kelley Blanchette, *Characteristics of Administratively Segregated Offenders in Federal Corrections*, 41 CANADIAN J. CRIMINOLOGY 131, 139–40 (2001); Youngki Woo, Laurie Drapela, Michael Campagna, Mary K. Stohr, Zachary K. Hamilton, Xiaohan Mei & Elizabeth Thompson Tollefsbol, *Disciplinary Segregation's Effects on Inmate Behavior: Institutional and Community Outcomes*, CRIM. JUST. POL'Y REV. 1, 11–14 (2019). The most recent study on this issue concluded that, in comparison to a matched sample of formerly incarcerated persons who had not been housed in solitary confinement during their prison term, solitary confinement survivors suffered “higher post-release recidivism, proportionately more new commitments for all crime types, and shorter time to rearrest.” Kristen M. Zgoba, Jesenia M. Pizarro & Laura M. Salerno, *Assessing the Impact of Restrictive Housing on Inmate Post-Release Criminal Behavior*, 45 AM. J. CRIM. JUST. 102, 118 (2020) (emphasis in original).

¹⁵⁰ Most research on the effects of solitary confinement on subsequent in-prison behavior (i.e., in the mainline housing units to which prisoners are returned to serve the remainder of their prison sentences) has focused narrowly on disciplinary infractions. See e.g., Justine A. Medrano, Turgut Ozkan & Robert Morris, *Solitary Confinement Exposure and Capital Inmate Misconduct*, 42 AM. J. CRIM. JUST. 863, 864 (2017); Robert G. Morris, *Exploring the Effect of Exposure to Short-Term Solitary Confinement Among Violent Prison Inmates*, 32 J. QUANTITATIVE CRIMINOLOGY 1, 2 (2016). More broadly, however, a group of Stanford researchers found that behavioral patterns and psychological reactions developed in the course of adapting to solitary confinement were persistent and problematic when formerly long-term isolated prisoners attempted to transition back to mainline prison housing. See HUMAN RIGHTS IN TRAUMA MENTAL HEALTH LAB, STANFORD UNIV., MENTAL HEALTH CONSEQUENCES FOLLOWING RELEASE FROM LONG-TERM SOLITARY CONFINEMENT IN CALIFORNIA 10 (2017), https://ccrjustice.org/sites/default/files/attach/2018/04/CCR_StanfordLab-SHURreport.pdf [https://perma.cc/5WGK-UBBN]. Psychiatrist Terry Kupers, who has written extensively about the mental health risks of solitary confinement, has termed the lingering effects of the experience “SHU postrelease syndrome.” See TERRY ALLEN KUPERS, SOLITARY: THE INSIDE STORY OF SUPERMAX ISOLATION AND HOW WE CAN ABOLISH IT 151–67 (2017).

¹⁵¹ See, e.g., Daniel Pforte, *Evaluating and Intervening in the Trauma of Solitary Confinement: A Social Work Perspective*, 48 CLINICAL SOC. WORK J. 77, 85 (2020).

NORTHWESTERN UNIVERSITY LAW REVIEW

experienced by formerly incarcerated persons in general, including being more likely to manifest symptoms of PTSD.¹⁵² In addition, as Lauren Brinkley-Rubinstein and her colleagues reported, formerly incarcerated persons who had spent time in solitary confinement were significantly more likely than other former prisoners to die during their first year of community reentry, especially from suicide, homicide, and opioid abuse.¹⁵³

Western and his colleagues have emphasized the critical role played by “social integration”—not just finding a stable residence and obtaining gainful employment, but also “establishing community belonging”—in facilitating postprison adjustment.¹⁵⁴ They also acknowledged the critical importance of family ties “in normalizing the lives of those coming out of prison.”¹⁵⁵ Yet these are precisely the things that time spent in solitary confinement can directly impede. The barriers that are routinely placed on access to telephones and visitation for prisoners in solitary confinement (special procedures and limited times), and the typically impersonal, noncontact nature of the visits (that must often take place “through glass and over phones”) interfere with ongoing communication and contact; they serve as significant obstacles to the preservation of meaningful social relationships, beyond those typically encountered by prisoners in general.

In addition, prisoners in solitary confinement are often forced to adopt a range of necessary but ultimately problematic survival strategies. Although they are normal reactions adopted in response to the abnormal social deprivation of solitary confinement, they represent “social pathologies”—learning to live in the absence of others—that can impede subsequent social adjustment. As I have previously described them, these adaptations transcend the immediate and specific indices of pain and suffering that are reflected in studies of the effects of solitary confinement and involve significant changes in prisoners’ relationships with others and even with

¹⁵² See e.g., Brian O. Hagan, Emily A. Wang, Jenerius A. Aminawung, Carmen E. Albizu-Garcia, Nickolas Zaller, Sylvia Nyamu, Shira Shavit, Joseph Deluca & Aaron D. Fox, *History of Solitary Confinement Is Associated with Post-Traumatic Stress Disorder Symptoms Among Individuals Recently Released from Prison*, 95 J. URB. HEALTH 141, 146 (2018).

¹⁵³ Lauren Brinkley-Rubinstein, Josie Sivaraman, David L. Rosen, David H. Cloud, Gary Junker, Scott Proescholdbell, Meghan E. Shanahan & Shabbar I. Ranapurwala, *Association of Restrictive Housing During Incarceration with Mortality After Release*, JAMA NETWORK OPEN, Oct. 2019, <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2752350> [https://perma.cc/6NDF-NQY2]; see also Christopher Wildeman & Lars Andersen, *Solitary Confinement Placement and Post-Release Mortality Among Formerly Incarcerated Individuals: A Population-Based Study*, 5 LANCET PUB. HEALTH e107 (2020).

¹⁵⁴ Western et al., *supra* note 147, at 1515.

¹⁵⁵ *Id.*

115:211 (2020)

The Science of Solitary

themselves.¹⁵⁶ Prisoners in solitary confinement are forced into even greater levels of dependency on institutional structures than those in mainline prisons because there is so much less they are allowed to “do” for themselves. The forced asociality they endure can undermine their sense of self, placing them “literally at risk of losing their grasp on who they are,” as well as eventually “becom[ing] increasingly unfamiliar and uncomfortable with social interaction.”¹⁵⁷ If and when this happens, it will become increasingly difficult for them to undertake the task of social integration that Western and others have identified as crucial to the successful reintegration. Moreover, if the experience of solitary confinement places them at greater risk of remaining at the margins of social life after prison, they are ironically and painfully more likely to incur what we now know are the harmful effects of social isolation and loneliness that befall others in free society.

There is one additional issue that increases the potentially long-lasting negative effects of time spent in solitary confinement—the disproportionate number of mentally ill prisoners who are still being placed there by some prison systems.¹⁵⁸ The explanations for this unfortunate fact are multifaceted and difficult to completely disentangle. For one, persons with mental illness are at greater risk of committing disciplinary infractions and, in prisons that do not properly take their mental health conditions into account, they may be placed in solitary confinement as a result. In addition, some prisoners without preexisting mental health problems may develop them there, while others with underlying but undetected psychological disorders or vulnerabilities may have their conditions greatly exacerbated under the extraordinary stress of isolated confinement. Whatever the origins of their mental health symptoms and problems, these prisoners are all uniquely vulnerable to the harmful effects of solitary confinement. Their heightened vulnerability is precisely why many legal, human rights, mental health, and even correctional organizations have issued recommendations or mandates to exclude the mentally ill from such units.¹⁵⁹ The unfortunate fact that some

¹⁵⁶ Craig Haney, *Mental Health Issues in Solitary and “Supermax” Confinement*, 49 CRIME & DELINQ. 124, 139 (2003).

¹⁵⁷ *Id.* at 139–40.

¹⁵⁸ Laura Dellazizzo, Mimosa Luigi, Charles-Édouard Giguère, Marie-Hélène Goulet & Alexandre Dumais, *Is Mental Illness Associated with Placement in Solitary Confinement in Correctional Settings? A Systematic Review and Meta-Analysis*, 29 INT’L J. MENTAL HEALTH NURSING 576, 579 (2020); Reiter, et al., *supra* note 10; Arthur T. Ryan & Jordan DeVlyder, *Previously Incarcerated Individuals with Psychotic Symptoms Are More Likely to Report a History of Solitary Confinement*, 290 PSYCHIATRY RES. 113064 (2020).

¹⁵⁹ For example, the United Nations’ so-called “Mandela Rules” on the treatment of prisoners prohibits the placement of mentally ill persons in solitary confinement. *See* UNITED NATIONS ON DRUGS

NORTHWESTERN UNIVERSITY LAW REVIEW

backward prison systems still place disproportionate numbers of mentally ill prisoners in solitary confinement means that there will be a number of formerly incarcerated persons who not only eventually reenter society with psychological or emotional problems that may require them to arrange and maintain access to treatment, but also that many of them will be solitary confinement survivors who must cope with its aftereffects as well.¹⁶⁰

In any event, for mentally ill prisoners and all others released from solitary confinement, one of the most damaging aspects of the experience may well be its capacity to instill a sense of perpetual loneliness. If human beings are “wired to connect,” then solitary confinement acts to disconnect those wires. Many people struggle to reconnect them long after returning to a social world and to the routine presence of others in their life. Some cannot successfully do so. Indeed, many prisoners in long-term solitary confinement fear that their ability to form or maintain relationships with other people will atrophy so significantly that it never regenerates. This is in many ways its cruelest and most debilitating long-term consequence, another component of the “social death” so many victims of long-term solitary confinement experience. It means that the experience of solitary confinement is not only a concentrated—indeed, “toxic”—form of social isolation that is harmful in its own right, but one that also has lasting effects, increasing the risk that its victims will be consigned to isolated and lonely lives even after they have been released from prison.

CONCLUSION

Solitary confinement represents a particularly toxic, dangerous subset of a much broader, scientifically well-documented, extremely harmful condition—the deprivation of meaningful social contact. Researchers, public health policymakers, and politicians now understand the adverse effects of social isolation, and many are devising strategies to respond to the very serious threat to personal and even societal well-being that this kind of deprivation represents. The research on this topic is compelling and has burgeoned over the last several decades. The evidence continues to mount

& CRIME, THE UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (THE NELSON MANDELA RULES) 14 (2015), https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf [<https://perma.cc/62U6-Q4SJ>]. Others do as well. See *Solitary Confinement (Isolation)*, NAT’L COMM’N ON CORR. HEALTH CARE (Apr. 10, 2016), <http://www.ncchc.org/solitary-confinement> [<https://perma.cc/3QSS-R4L7>]. See also the statement from the 2018 international Santa Cruz Summit, *Santa Cruz Summit*, *supra* note 8.

¹⁶⁰ Perhaps not surprisingly, formerly incarcerated persons who also suffer from mental illness have more difficulty in generally successfully adjusting to postprison life. See, e.g., Kristin G. Cloyes, Bob Wong, Seth Latimer & Jose Abarca, *Time to Prison Return for Offenders with Serious Mental Illness Released from Prison: A Survival Analysis*, 37 CRIM. JUST. & BEHAV. 175 (2010).

115:211 (2020)

The Science of Solitary

that social isolation, social exclusion, loneliness, and the deprivation of caring human touch can and do inflict serious psychological and physical damage.

As this Essay makes clear, nowhere in society are these kinds of social harms inflicted as completely, cruelly, and intentionally than in solitary confinement units. Direct studies of the terrible consequences of prison isolation are but one component of the theoretically coherent and extensive empirical database on which legal and correctional decisionmakers can and should draw in devising policies to address the harmfulness of this dangerous practice. In contrast to the now well-known adverse consequences of social isolation in society at large, the deprivations inflicted in solitary confinement units are truly extreme and forcefully impose many additional kinds of deprivation, ones that worsen the painful and damaging effects of the experience. Moreover, the toxic deprivations of solitary confinement are imposed *in addition to* the already significant and harmful pains of imprisonment per se. The negative consequences of time spent in solitary confinement are hardly *de minimis* or short-lived, but rather have the capacity to incur serious and even life-threatening damage that persists long after the experience of prison isolation, or imprisonment itself, has ended.

There are now unquestionably sound scientific reasons to radically rethink the circumstances under which solitary confinement can be humanely employed if, indeed, it can or ever should be.

NORTHWESTERN UNIVERSITY LAW REVIEW

Exhibit 19

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION**

WILLIAM THORPE, *et al.*,

Plaintiffs,

v.

VIRGINIA DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

CASE NO. 2:20-cv-00007-JPJ-PMS

AFFIDAVIT OF VERNON BROOKS

I, VERNON BROOKS (also known as Asiatic Royalprince Allah), declare under penalty of perjury pursuant to 28 U.S.C. §1746:

1. My name is Vernon Brooks. I am over the age of 21, and I am competent to give this affidavit and to testify regarding the matters in this affidavit. I am one of the named plaintiffs in *William Thorpe et al. v. Virginia Department of Corrections et al*, No. 2:20-cv-00007.
2. I have been a prisoner in the Virginia Department of Corrections (“VDOC”) custody since 2004. I was incarcerated at Red Onion State Prison (“ROSP”) from July of 2015 until I was transferred to Sussex II State Prison in 2021. When I was transferred to Sussex II State Prison, I entered general population. As explained in further detail herein, I was held in long-term solitary confinement for the majority of my time at ROSP, essentially remaining in solitary confinement from the time that I arrived in 2015 until May 2020.
3. While confined at Red Onion State Prison in the Intensive Management (“IM”) pathway, I was subjected to long-term solitary confinement. I spent approximately 22 to 24 hours a day in a single 8’ x 10’ cell alone. Nearly all of my limited personal interactions were with prison staff, as out of cell activities and face-to-face contact with other incarcerated persons

was limited. As a result of the conditions in the IM pathway, I often pace my cell and suffer from short-term memory loss.

4. While on the IM pathway, the only time I was permitted to be outside of my cell was for a 15-minute shower three times per week, or for one to two hours of “outdoor recreation” per day. These opportunities to leave my cell were routinely revoked by corrections officers with no reason given, or were inconsistently provided.
5. During outdoor recreation, I was taken out to the “yard” in shackles connected to a leash with two corrections officer escorts. I was then placed in a “recreation cage” that resembles a dog kennel. The cage was entirely empty.
6. Each time I was permitted to leave my cell, I was forced to endure daily cavity searches. This required me to strip naked before two officers, who then inspected my head, hair, mouth, torso, pelvic area, legs, and feet. I was also required to open my mouth, raise my arms, turn around, spread my legs, raise my penis and testicles, turn around to face the back of the cell, spread my buttocks, bend over so that guards could inspect my anus, squat, and cough. The experience of these daily cavity searches was dehumanizing.
7. I was transferred to ROSP from Augusta Correctional Center after an incident that occurred on April 2, 2015, after which I received an institutional disciplinary infraction. Specifically, I received an institutional disciplinary infraction for attempting to commit / aggravated assault on another prisoner. The other prisoner involved in this incident also received an institutional disciplinary infraction deriving from the incident. We were both found guilty of the same charge at a disciplinary hearing.
8. On April 30, 2015, an Institutional Classification Authority (“ICA”) hearing was conducted at Augusta Correctional Center. During the hearing, the ICA recommended that I be assigned to Segregation-Administration. That recommendation was later approved.
9. Another ICA hearing was held on or after May 14, 2015. During that hearing, it was recommended that my class level and security level increase to Security Level 5. On May 20, 2015, the ICA recommended that I be transferred to ROSP. The transfer recommendation was approved on Central Classification Services (“CCS”) Review.

10. I was transferred to ROSP in July of 2015 and immediately assigned to the IM Pathway. By contrast, the other prisoner involved in the April 2, 2015 incident—who was found guilty of the same charge as me—was transferred to Wallens Ridge State Prison (“WRSP”), where he was released to general population upon his arrival.
11. I did not know what the IM pathway was or how the workbooks for the program functioned and had to learn much of the information from other inmates in the Step-Down Program.
12. According to a Doc-11H ICA Referral Notice, on July 20, 2015, an ICA hearing was conducted. I was not given an opportunity to be present at the ICA hearing, and the corrections officers falsely reported that I did not want to attend. After the “hearing,” Unite Manager Walter G. Swiney, recommended that I remain in segregation pending review. The ICA Referral Notice indicates that Mr. Swiney then posed as the “Administrative Review” personnel and approved his own ICA recommendation, which set my internal status to Segregation-Administration. The fact that I was not present at the ICA hearing is in violation of VDOC’s Operating Procedure (“OP”) 830.1.
13. Additional ICA hearings were held on August 4, 2015 and October 16, 2015. I was not permitted to be present at either hearing. At the August 4, 2015 hearing, the ICA officially recommended that my security level be changed from Security-Level 5 to Security Level “S”—even though I had already been in the hole on the IM pathway since July 2015. The Administrative Review and CCS Review ultimately approved the security level change to level “S-Segregation.” No reasoning was provided.
14. At the October 16, 2015 hearing, although I was not physically present, the staff entered my statement as “been in hole 6 months. completed books.” At that hearing, the reporting staff recommended that I remain in segregation with an internal status change to IM-0, the most restrictive form of long-term solitary confinement. No reasoning is provided in the DOC-11H ICA Referral Notice for this recommendation. The Administrative Review approved the internal status change to IM-0.
15. I attempted, on multiple occasions, to grieve the fact that I was not provided the DOC-11F form classifying me to IM status. Specifically, I filed an informal complaint on August 28, 2018, a regular grievance on September 11, 2018, a second informal complaint on November 11, 2018, a second regular grievance on November 29, 2018, a third informal

complaint on December 27, 2018, and a third regular grievance on January 13, 2019. In these grievances, I raised issues related to (i) ROSP's failure to provide me with a DOC-11F form documenting my assignment to IM status so that I could properly appeal, (ii) ROSP's failure to allow me to attend the ICA hearing, and (iii) ROSP's failure to provide a reason for assigning me to IM status. In ROSP staff's responses they (a) indicated that my grievances were "non-grievable," (b) provided responses that were wholly unrelated to my grievance, or (c) simply stated that the DOC-11F form was not used at ROSP or was not a notification form. No attempts were made to resolve my grievances, provide documentation of the ICA hearing assigning me to IM status, or provide reasoning for my status change.

16. By September of 2015, I completed my first two program books and received a certificate for completion. I also remained charge free for 6 months and requested clarification on when my status would be changed to IM-1. The response I received acknowledged that I had completed the books, but said that I was required to wait 180 days for a status change. Thus, despite having completed the materials and remaining charge free, I was required to remain in segregation on IM-0 status.
17. On January 8, 2016, ROSP conducted another ICA hearing, during which it was recommended that I remain on IM-0 status. The recommendation was approved on January 12, 2016.
18. On April 8, 2016, an annual review ICA hearing was held. The ICA recommended that my status remain at IM-0, reasoning that I was "housed appropriately in segregation" and "progressing." The ICA recommendation was approved on May 11, 2016. Administrative Review commented that I was to remain in segregation as I had "not met the requirements of the Step-Down program."
19. On May 20, 2016, the 2016 annual review ICA hearing was held. The ICA recommended that my "Good Conduct Allowance" level ("GCA" or "class level")—another classification for prisoners separate from security levels or status assignments within the Step-Down Program, but which is taken into account when progressing prisoners through the Step-Down Program—be lowered to GCA3, stating that I had "participated in programs" and had "been nearly 10 months charge free." The Administrative Review approved the ICA

recommendation on June 10, 2016. However, after CCS Review on June 13, 2016, my class level was changed to GCA4. The CCS Review reasoned that I should “remain class level 4 based on score of 45 pts with X override. . . .” they also stated that I “received eight institutional infractions during the review period.” None of those infractions were explained in detail. To be clear, despite class level changes, I remained in segregation.

20. Roughly four months later, on October 6, 2016, ROSP held another ICA hearing, which should occur every 90 days. During that hearing, reporting staff recommended that I remain in segregation. The ICA recommended that my status should be changed to IM-1 and I should remain in segregation, stating that I had not met all of the requirements of the Step Down Program. The recommendation was approved on October 11, 2016 during Administrative Review.
21. On January 3, 2017, ROSP conducted an ICA hearing, where the reporting staff again recommended that I remain in segregation. The ICA recommended that my internal status change to IM-2. That recommendation was approved by Administrative Review on January 5, 2017.
22. On March 27, 2017, at an appropriate housing hearing, the ICA recommended that I remain in segregation on IM-2. The recommendation was approved by Administrative Review, citing that I had “not completed all the requirements of the Step-Down Program” as justification, but did not elaborate which requirements.
23. On May 5, 2017, an ICA Annual Review hearing was held. The ICA recommended that my class level be changed to GCA3. The ICA stated the following as its rationale “Offender scores Level 1 points, but due to being Security Level S, offender cannot exceed GCA3. Offender did not receive a disciplinary charge in this review period. Offender did complete the challenge series in the review period. Offender has been enrolled in the GED program.” The recommendation was ultimately approved on both Administrative and CCS Review on May 8, 2017. To be clear, despite class level changes, I remained in segregation.
24. Despite the positive findings from the May 5, 2017 ICA hearing regarding my security level, at a June 22, 2017 ICA hearing it was recommended that I remain in segregation. The ICA recommended that, based on approval by the Dual Treatment Team, I be sent to

the IM Closed Pod pending bed space. The Administrative Review approved the recommendation.

25. After an ICA hearing on July 25, 2017, the CCS Review approved a change in my security level to Security Level 6 due to my completion of the *Challenge Series*. Thus, in August of 2017, I was finally moved to the IM Closed Pod Security Level 6. However, the conditions in this pod were no different than the below-mentioned conditions in IM security Level S.
26. After a few months, on October 17, 2017, a housing review hearing was held, during which the ICA recommended that I remain assigned to Closed Pod-1. The only reasoning provided was that the “ICA recommends that offender Allah remain IM Closed phase I.” The Administrative Review approved the decision on October 23, 2017.
27. On February 6, 2018, after enduring continuous threats and harassment from the corrections officers about complaints I filed related to ROSP’s failure to acknowledge my chosen and legal name as well as my religion, a treatment officer was sent to my IM cell for a “shake down”. During the cell shake, I was charged with the wholly fabricated charge of “conspiracy or making plans to commit / possession or use of a weapon.” A disciplinary hearing was held on February 14, 2018 to adjudicate the fabricated charge. According to the hearings officer, during the cell shake, the treatment officer claimed he saw “that a knife blade had been drawn and scored into the metal in three separate locations of the cell.” Despite the fact that I asked the treatment officer whether the cell was in this condition before I was moved to the cell, the hearings officer determined that I was “responsible for the condition of the cell once assigned.” The hearings officer found that “the paint removed and a knife blade being drawn into the metal” was a “plan to possession of a weapon.” I was ultimately found guilty of the fabricated charge: a drawing of what officers claimed was a knife. I was not permitted to present documentary evidence during the hearing, and was therefore unable to adequately mount a defense against the charge. Despite my attempts to appeal the charge, the charge was ultimately upheld on June 11, 2018 after disposition of the Level II Appeal.

28. On February 16, 2018, an ICA hearing was conducted and it was recommended that I be moved back to IM-0 after the guilty verdict rendered on February 14, 2018. The decision was approved on the same date, without waiting for the results of the appeal.
29. On April 24, 2018, the 2018 Annual Review hearing was held. After that hearing, on April 26, 2018, the ICA recommended that my class level remain GCA 3 with a security level of "S." The recommendation was approved on Administrative Review on April 30, 2018.
30. Additional ICA hearings were conducted on May 4, 2018 and July 2, 2018, but I remained IM-0 status. I eventually progressed to IM-1 on August 24, 2018.
31. After an ICA hearing on December 3, 2018, the result of which required me to remain on IM-1 status, I filed a regular grievance, noting that I had been under segregation conditions for over 3 years and never once was brought in front of the External Review Team ("ERT"). I requested to be released back to general population. The Warden/Superintendent responded that the grievance was unfounded "as procedures have been correctly applied."
32. I subsequently filed the following documents to protest my IM status: (1) an informal complaint protesting my IM status on January 6, 2019, (2) a regular grievance protesting my IM status and lack of ERT review, on January 13, 2019, and (3) a separate regular grievance protesting my IM status and lack of ERT review, on January 28, 2019. The protests were unsuccessful. I eventually progressed to IM-1 on August 24, 2018 and then to IM-2 on February 28, 2019.
33. On March 4, 2019, the ICA recommended that I remain on IM status and that my security level remain at "S." I was never afforded an opportunity to attend the hearing, and the ICA falsely stated that I refused to come out of my cell to attend the hearing. The ICA's recommendation was approved on Administrative Review on March 5, 2019.
34. The ICA again determined that I would remain at GCA 3 with no change for the 2019 annual review year based on the fact that I had one infraction, was working through the *Challenge Series*, and was unemployed. The ICA Referral Notice notes that I was to "remain at Level S for the review year."
35. VDOC OP 830.A requires that prisoners in the Step-Down Program be seen by the ERT once a year in order to determine whether I should remain in the IM Pathway. As of May

15, 2019, approximately four years after being assigned to the IM Pathway, I still had not been brought in front of the ERT. I filed a grievance alleging that this was a direct violation of VDOC policy; ROSP staff only responded that I was being “housed accordingly as of today.”

36. On May 16, 2019, the ICA again recommended that my security level remain at “S.” I was not given an opportunity to be present at the hearing, and the officers falsely stated that I requested to remain in my cell and do the hearing at the door. After Administrative Review it was determined that I would remain at security level “S” on IM-2 “due to incompleteness of time in current status.”
37. Another ICA hearing was held on August 1, 2019. The ICA recommended that I remain in IM-2 status at security level “S”, which was approved on Administrative Review on August 16, 2019. Shortly thereafter, on August 30, 2019, the ICA recommended that my security level change to Security Level 6 and that I be released to IM Closed pod. CCS Review approved that recommendation on the same date.
38. The ERT reviewed me on October 24, 2019—5 months after the commencement of this action—and decided to change my pathway from IM to Special Management (“SM”). This was the first time I was seen by the ERT. The ERT did not even know I was on the IM pathway, they thought I was on the SM pathway.
39. Later, on November 21, 2021, the ICA recommended that my status change to SM Step Down Phase 1, and the recommendation was approved the same day.
40. In May 2020, I was transferred to general population in ROSP given my low security points.
41. I have suffered from mental health issues my whole life and these issues are documented in my court record. Despite these issues, I have consistently been classified as a mental health code MH-0 and denied mental health treatment while in VDOC. I had previously submitted complaints about being denied mental health treatment while at Wallens Ridge State Prison and I have reached out to Qualified Mental Health Professionals for mental health care, but have continuously been denied.

42. On or around October of 2021, I was placed on medication for mental health issues caused by solitary confinement. As a result of being subjected to long-term solitary confinement, I suffer from pacing, agitation, inability to concentrate, weight loss, insomnia, short-term memory lapses, and paranoia.
43. Currently, I cannot file any papers in any legal actions. I have no access to a law library and my counselor will not notarize any legal documents as a result of my participation in the case. I am thus prevented from pursuing my individual legal cases. In some cases, I have paid the filing fee, but cannot continue because I do not have access to the necessary materials.
44. I agreed to be a Plaintiff in this lawsuit because I do not agree with the Step-Down Program's effectiveness and believe that the program amounts to an unconstitutional violation of prisoners' rights.
45. I understand that this lawsuit is brought by me and others on behalf of everyone at Red Onion or Wallens Ridge who have had to go through the Step-Down Program and that I am seeking the same relief as my fellow class members.
46. I intend to represent everyone in this lawsuit and understand and accept my responsibilities in that regard.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature Vernon Brooks

Dated this 20 of June, 2022

Vernon Brooks
Sussex I State Prison

Exhibit 20

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION**

WILLIAM THORPE, *et al.*,

Plaintiffs,

v.

VIRGINIA DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

CASE NO. 2:20-cv-00007-JPJ-PMS

AFFIDAVIT OF BRIAN CAVITT

I, Brian Cavitt, declare the following under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. My name is Brian Cavitt. I am one of the named plaintiffs in *William Thorpe et al. v. Virginia Department of Corrections et al*, No. 2:20-cv-00007. I am over the age of 21, and I am competent to give this affidavit and to testify regarding the matters in this affidavit.
2. I have been incarcerated in the Virginia Department of Corrections (“VDOC”) since November 2016. At that time, I was transferred to Red Onion State Prison (“ROSP”) on Interstate Compact from Massachusetts. Even though I had just completed disciplinary segregation in Massachusetts when I was transferred, I have been housed in long-term solitary confinement for most of my time in Virginia. In all, I spent over four-and-a-half years in solitary confinement at ROSP, exclusively on the Intensive Management (“IM”) pathway. I was finally moved to general population at ROSP in April 2021.
3. I have a long history of mental-health challenges, including engaging in self-harm, intermittent explosive disorder, and several suicide attempts. As a child I was hospitalized multiple times. I have previously been diagnosed with depressive disorder, oppositional defiant disorder, and suicide attempt. To treat my depression, I was previously prescribed Tegretol, Thorazine, and Risperdal, but I no longer take any medication for mental health

issues. The conditions in long-term solitary confinement are detrimental to my physical and mental health.

4. On November 15, 2016, a week after I was transferred to Virginia, I participated in an Institutional Classification Authority (“ICA”) hearing and was placed in administrative segregation. After an additional ICA hearing on November 28 to determine my Security Level Assignment, I was classified as Level “S - Segregation” and assigned to the IM Pathway. This change was approved by Henry Ponton on December 7, 2016, and I was transferred to Building C on December 13, 2016.
5. Due to my classification, I also began the *Challenge Series* shortly after I arrived in Virginia. This consisted of seven journals of in-cell programming and by early 2017, I had already completed the first two books of the *Challenge Series*.
6. I did not understand why I was placed in segregation or on the IM Pathway as I was not initially given a copy of my ICA review, despite consistently requesting the review. ROSP staff did not give me very much information about segregation, the IM Pathway, or the Step-Down Program. I learned much of what I know about the IM Pathway and the Step-Down Program from information gathered from people in my housing unit. My neighbors explained that “IM” is long-term solitary confinement. The only thing ROSP staff told me when I asked why I was placed in segregation, was because of my “past history in Massachusetts.”
7. This led me to file a series of grievances and informal complaints starting in January 2017, because ROSP did not follow O.P. 830.A when it placed me on the IM Pathway. Both were denied and I was given limited information why this happened. In what I believe was a Dual Treatment Team (“DTT”) meeting shortly after my arrival at ROSP, I was told that I would “never see” general population in Virginia by Officer Gallagher and Officer Artrip.
8. I continued to file grievances related to a number of issues with the conditions at ROSP throughout early 2017. Shortly after I received a copy of my initial ICA review, I filed another grievance to contest the basis of my placement. It too was denied; this time because

I filed it more than 30 days after my placement. Denial of all grievances appeared to be the norm, but I continued to file them throughout my time at ROSP.

9. In April 2017, I was written up for the first of three disciplinary infractions I received during my time at ROSP. I covered the bottom of my window while using the restroom and did not immediately obey a guard's order to uncover it, so I lost telephone privileges for 30 days. After my May 2017 90-day ICA review, it was recommended that my status remain IM-0 and I remained in segregation because I had not "met all the requirements of the step down program." The ICA hearing documents make no mention of my disciplinary infraction in April, and I am unsure whether it had any impact on the result of my hearing. Operating Procedures allow progression through the program even with a few minor infractions. It was never explained to me what program requirements I had failed to meet. Officer Duncan said I did not progress because of "the way I talk."
10. In June 2017, I filed a complaint because I was denied advancement to IM-1 and ROSP officials had denied my request to receive information on the criteria used to evaluate inmates for advancement in the Step Down Program. This grievance was denied by Lieutenant Kiser on the vague basis that my progression through the program had been slowed due to my receiving "poor ratings in the Respect Category" on my Weekly Status Reviews. I subsequently filed a regular grievance raising the same issues in July 2017. Unsurprisingly, this grievance was also denied. This time it was because "privilege levels are not grievable." These experiences were emblematic of my time during the years I spent in the Step Down Program.
11. That same month, on July 12, 2017, I had another ICA review that recommended my status be changed to IM-0. I am unsure why ROSP staff made this recommendation on my hearing documents because I understand that my status was already IM-0 at the time. My status was ultimately changed to IM-1 a week later.
12. During the year plus I was classified as IM-1, no disciplinary reports were filed against me and I continued to file grievances concerning my placement and my treatment at ROSP. I believe I was denied advancement for no justifiable reason at my ICA hearings, because they did not want me in general population. At my ICA hearings, I did not have a

meaningful opportunity to ask questions or to challenge my status other than very brief statements.

13. Still, I continued to progress through the *Challenge Series* in the hopes that completion would get me one step closer to general population. By December 2017, I had completed Book 5 and my floor officer reported having no issues with me. In spite of this, in my annual review, ROSP stated I needed to “develop and maintain infraction free behavior,” so I remained in segregation.
14. In January 2018, I was classified at IM-2. By June 2018, I had completed Book 7, the final book of the *Challenge Series*. However, I remained on the IM Pathway without a status change. I was told this was because they did not have room in the IM-Closed pod.
15. Weeks after I had completed the *Challenge Series* and over a year after my latest infraction (for “disobeying an order” in April 2017), my status was changed to IM-Closed in mid-August 2018. For several more weeks, I stayed on the IM pathway in long-term solitary confinement. Only after another ICA hearing on August 27 was my IM-Closed Security Status reduced from “S” to “6.” This made my status IM SL-6, which is essentially the same as Level S long-term solitary confinement, except that I was allowed to work rolling spoons while chained to a table in the unit. It was at this point that I was moved from the C building to the D building and placed in D-4.
16. For the next year after being moved, I did not have any of the 90-day ICA status hearings to which inmates in long-term solitary confinement are entitled. Essentially, the only change to my daily routine was my occasional work as a utensil prep worker. I would work rolling spoons for an hour or two at a time while chained to a table. During my six-month review board meeting in May 2019, I was even asked the exact same questions I had been asked at my first post-transfer review in November 2016, though this time by the external review team as opposed to the dual treatment team.
17. I still continued to request information from ROSP staff, including the Unit Manager in my building, about why I was on the IM Pathway. In August 2019, my “Aggression Alternative Skills” counselor informed me that D-4, the housing unit I had been assigned

to in August 2018, was internally labelled as general population. This appears to be why I was no longer afforded 90-day ICA reviews of my status.

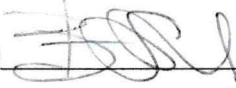
18. In September 2019, my frustration with the delay in my advancement to Phase II of the Step-Down Program boiled over, and I received my second disciplinary offense at ROSP. I was disciplined for using threatening language toward a guard, though I did not threaten the guard. I unsuccessfully appealed this decision and do not believe that ROSP took into account the fact that I had only one other disciplinary infraction during the prior three years. I was placed on Segregation Administration after my infraction. After an ICA hearing specific to this issue, my status was reclassified and I progressed to IM-Closed.
19. By early 2020, I had completed the *Challenge Series*, Aggression Alternative Skills Group, and other group programs. At this point, I had done everything I could in the hope that I would one day gain access to general population, but made seemingly no progress in three years. Despite these efforts, I continued to challenge my placement in long-term solitary confinement and my failure to progress in the program in every way available to me, including by filing grievances and complaints contesting my housing assignment, and talking directly with ROSP staff. I also discussed my discontent multiple times with Marcus Elam and Henry Ponton, who are both defendants in this class action.
20. The responses I received when I attempted to grieve my classification were pro forma, and not individualized to my particular grievance. ROSP has rejected multiple grievances that I filed because I did not include a particular form that I had never heard of and did not have access to. Because there are no appeals forms available, I simply wrote letters appealing the grievance denials. With respect to my lack of progress, the response was always the same—"the decision is up to the review board." Similarly, my "Massachusetts history" seemed to be the only answer to the question of why I remained in segregation.
21. I spent approximately four and a half years in long-term solitary confinement at ROSP on the IM Pathway. I did not know if or when I would ever leave the IM Pathway though I tried anything I could to get even one-step closer to being moved to general population. ROSP staff told me "D6-IM-Closed will be as far as you go." I spent two years on IM-

Closed. It was not until April 2021 that I was finally moved to the general population, nearly 54 months after I was placed in solitary confinement.

22. While on the IM pathway, I was handcuffed and shackled every time I was removed from my cell. I was subjected to strip searches before I was permitted to leave my cell, and I ate all of meals in my cell. I was given only three showers and a few hours recreation each week. I did not have access to the chow hall, library, religious services, or yard in the same manner that I have access to now in the general population.
23. I did not go outside from May 2017 to the beginning of 2018 and during my entire time on IM-Closed I went outside fewer than 10 times.
24. While I am not currently on the mental health caseload at ROSP, being housed in long-term solitary confinement deeply impacted and continues to impact my mental and physical health, and I continue to suffer from anxiety, depression, and bouts of disorientation. Being housed in segregation with no end in sight was unbearable.
25. Access to mental health providers is limited at ROSP. Mental health staff rarely ever did rounds. When they did, the visits were short, and they typically asked no more than one or two questions.
26. Despite my health issues, I was never seen by an ADA coordinator and did not even know that an ADA coordinator existed until the commencement of this lawsuit.
27. I agreed to be a Plaintiff in this lawsuit because I do not agree that the Step-Down Program is effective and I believe that it amounts to an unconstitutional violation of prisoners' rights.
28. I understand that I am bringing this lawsuit on behalf of myself and everyone at Red Onion or Wallens Ridge who has had to go through the Step-Down Program.
29. I intend to represent everyone in this lawsuit, and I understand and accept my responsibilities in that regard. I am seeking the same relief as other class members.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge.

Signature

A handwritten signature in black ink, appearing to read "Brian Cavitt", written over a horizontal line.

Dated this 20 of June, 2022

Brian Cavitt
Red Onion State Prison