

COMPLAINT

(for filers who are prisoners without lawyers)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

(Full name of plaintiff(s))

LaRon McKinley Bay ("Mr's Kinley Bay")

and all similarly situated MCI prisoners

in isolated Administrative Confinement,

v.

Case Number:

2:16-cv-00521-RTR

(Full name of defendant(s))
William Pollard, Brian Foster in his official capacity,
Tony Meli, Tom E. Litschke, Cathy Jess
Dr. Schmidt, Brian Greff, Paul Ludwigson,
Jon O'Donovan, Captain Mestre, Mr. Bonis,
C.O. Cundy, ACRC Inmate and Inmate Does 1-10,
Jessie I. Schneider, Shane M. Miller, Jeremy L. Staniec,
Joseph Beckman and John Does 1-10, and
all others in their individual and official capacities.

A. PARTIES

1. Plaintiff is a citizen of Wisconsin and is located at
(State)

Waupun Correctional Institution (MCI), P.O. Box 351, Waupun, WI 53983.
(Address of prison or jail)

(If more than one plaintiff is filing, use another piece of paper.)

2. Defendant William Pollard (Name)

Defendants

3. Brian Foster, MCI, P.O. Box 351, Waupun, WI 53983.
4. Tony Meli, MCI, P.O. Box 351, Waupun, WI 53983. DOC.
5. Tom E. Litschke, DOC(Central), P.O. Box 7925, Madison, WI 53707-7925.
6. Cathy Jess, DOC(Central), P.O. Box 7925, Madison, WI 53707-7925.
7. Dr. Schmidt, MCI, P.O. Box 351, Waupun, WI 53983. DOC.
8. Brian Greff, MCI, P.O. Box 351, Waupun, WI 53983. DOC.
9. Paul Ludwigson, MCI, P.O. Box 351, Waupun, WI 53983. DOC.
10. Tom O'Donovan (unknown).
11. Captain Mestre, MCI, P.O. Box 351, Waupun, WI 53983. DOC.
12. Mr. Bonis, MCI, P.O. Box 351, Waupun, WI 53983. DOC.
13. C.O. Cundy, MCI, P.O. Box 351, Waupun, WI 53983. DOC.
14. ACRC Inmate and Inmate Does 1-10, MCI, P.O. Box 351, Waupun, WI 53983. DOC.
15. Jessie I. Schneider, MCI, P.O. Box 351, Waupun, WI 53983. DOC.
16. Shane M. Miller, MCI, P.O. Box 351, Waupun, WI 53983. DOC.
17. Jeremy L. Staniec, MCI, P.O. Box 351, Waupun, WI 53983. DOC.
18. Joseph Beckman, MCI, P.O. Box 351, Waupun, WI 53983. DOC.
19. John Does 1-10, MCI, P.O. Box 351, Waupun, WI 53983. DOC.

is (if a person or private corporation) a citizen of Missouri (State if known)
and (if a person) resides at _____ (Address, if known)

and (if the defendant harmed you while doing the defendant's job) worked for Missouri Department Of Corrections, P.O. Box 7925, Madison, MI 53107-7925. (Employer's name and address, if known)

(If you need to list more defendants, use another piece of paper. See attached page.

B. STATEMENT OF CLAIM

On the space provided on the following pages, tell:

1. Who violated your rights;
2. What each defendant did;
3. When they did it;
4. Where it happened; and
5. Why they did it, if you know.

1. Each named defendant has acted under color of state law to deprive the plaintiffs of federal rights.

2. The number of past, present and future prisoners held by the defendants in supermax, long-term isolative Administrative Confinement ("AC") in the MCI Restrictive Housing Unit ("Seg Unit") are numerous, fluid, and comprise a bona fide class.

3. The plaintiffs as a class are held by the defendants in prolonged, supermax isolated Administrative Confinement, aka: "solitary confinement."

4. Segregation Unit: The Seg Unit is a state of the art supermax, isolative confinement unit within the MCI with some modifications to its original architect sensory deprivation design. Attached to a central gun tower, the unit is enclosed partially by a wall, cold fencing and bricked wire on its remaining sides. It is a highly restrictive, controlled, sparse living environment and most prisoners housed there are subjected to its restrictions for punitive purposes. It has an approximate 180 single cell capacity composed of three two-tiered housing wings (A, B and C wings) of six individual tiers of approximately 30 cells each.

5. Defendants Pollard, Meli, Goeff, Ludvigson, Schneider, Waller, Stawer, Bahrer, and John Doe 1 thru 10, are responsible part and partial, between July 2012 to the present for the implementation of, the maintenance of, the financing of subordinates in, the exercising of control of through their chain of command, on the actual use of, an insidious Pavlovian Classical Conditioning procedure upon plaintiffs and other prisoners in the seg unit without their informed consent. The classical conditioning ("cc") model and procedure is structured in the defendant's mode of food delivery as wave-filly set out in Ex 1001, which plaintiffs incorporate hereto.

Continued on attached pages:

6. On behalf, most prisoners targeted by the defendants' ex procedure set out in 5, above, are unaware of its insidious use upon them, as in its neglective effects. These prisoners are vulnerable to a dangerous undesired toyng with their personality and emotions that can induce symptoms and illness associated with mental illness. (Ex. 1002)

7. On or about 2012 to the present defendants Pallard, Meli, Teas, Litchner, O'Donovan, Mestron, Ludwigson, Gneff, Schneider, Mullen, Stawiec, Barkov, and John Das Thine ID, have created, perpetuated, and maintain a hostile environment between the seg guards, and the AC plaintiffs and seg prisoners, which allows seg guards to engage in abusive treatment practiced upon psychological coercion, violent assaults, fear-mongering, and prolonged isolation which has caused the plaintiffs' stress and mental anguishment. (Ex. 1003)

8. The Seg Unit by all accounts is an environment in which prisoners would choose not to be housed, and thus is designed and used by all of the defendants as part of a punishment regime for prisoners who violate rules.

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9. The vast majority of seg admissions are for disciplinary reasons, estimating that of the total seg population 95% are for disciplinary reasons.

10. Isolation: The plaintiffs in supermax, prolonged isolated AC in the seg unit are typically confined alone to bathroom size cells 23 hours on Tuesdays, Wednesdays, Fridays, and Saturdays. However, we are confined to cells 24 hours on Sundays, Mondays and Thursdays. The "conditions" are as follows:

(i) The general employment and use of the Seg Unit is for punishment through varying degrees of isolation and status via a type of step down program between A and B ranges, and partitions of C Range. A and B, and partitions of C, being the sparsest in degree.

(ii) The "status" referred to in (i), above, are Disciplinary Separation ("DS"), Program Segregation ("Prog Seg"), and Control Segregation ("Control").

(iii) The plaintiffs are in prolonged isolated AC status which is supposed to be nonpunitive though the defendants use it as a de facto form of punishment, e.g. see 5-7, above.

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(iv) Since the plaintiffs are not allowed to have contact with other inmates, they each either have or are subject at any time to denotation to the statutes and ranges listed in (i) and (ii), above.

(v) The plaintiffs either have been or are subject to permanent isolation (Observation Status (OS)) because of stress and mental breakdown due to defendants' abuse and prolonged isolation regime.

(vi) Non AC prisoners who exhibit good behavior are moved to another seg area called "Transition" and "North Program" (which is in the North Cell Hall, a general population building), and are allowed to attend outdoor exercise with direct sunlight for an hour. AC prisoners are never allowed in the North Program and are maintained in the isolation Seg Unit only to attend an indoor, closed-off, exercise area devoid of direct sunlight.

(vii) All AC prisoners in the Seg Unit are denied life's minimal necessities by the defendants' practice of prolonged isolation that deprives them of all meaningful human contact: where they cannot congregate

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with each other, cannot have contact visits or window visits (all but attorney visits are by video monitor screen only), and hereby are subject to severe environmental and social isolation, and are forced inactivity (See 10 and 10 CIV 2017-1717, above) e.g. not allowed to have art supplies.

(viii) AC prisoners are not allowed to attend school or participate in certain "A & E Need" or court ordered programs while in seg.

(ix) The Seg Unit is very loud due to prisoners screaming, arguing, banging on doors, metal sinks, on walls, such that the defendants employ a muffling apparatus on some ranges to muffle the noise from escaping those areas.

(x) The Seg Unit's surveillance system consists of several low-resolution time-lapse "stationary cameras" mounted on the ceilings of the ranges and rec rooms with the exception of the strip cell area camera. These cameras record but the quality and resolution is poor. The remaining nonstationary cameras are mounted in the areas where frequented by staff and restrained prisoners. These cameras do not record and, therefore, are blindspots in the system with respect to preserving incidents in those areas. The seg guards

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operate and are familiar with this weakness in their surveillance system which they exploit to set-up, threaten, and assault prisoners in, and for other wrongful conduct. (EX. 1001, P.1, and 1004)

(XI) The range that houses us AC prisoners (2 Wing Lower) has a thundering echo that bounces off the hallway wall such that when prisoners bang and scream it literally sounds like a construction site 24-7.

(XII) Prisoners with serious mental illness, and who are suicidal, are placed both in prolonged isolated AC and housed among AC prisoners.

On information and belief, about 61% of the prisoners in Seg at the WCI are mentally ill. Many mentally ill prisoners try and act out because they've been broken by the effects of isolation.

(XIII) All Seg Unit cells' mirrors reflect a distorted image.

(XIV) There is no mandatory log-in/log-out security policy and procedure for all staff entry/exit times of the Seg Unit. Staff, especially supervisory officials, exploit this security loophole to avoid

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accountability by denying being present during crisis or other serious incidents.

(XV) The Psychological Services Unit (PSU) staff, during their seg rounds, lack time to talk at length with prisoners about their mental issues, nor do they provide the prisoner any privacy when they require a prisoner to talk to them at cell an estimated 99% of the time.

(XVI) The defendants have no brightline criterion or program that prisoners in isolative AC can follow for release from it.

(XVII) Each cell in the Seg Unit has a light on perpetually. Prolonged exposure to it causes and exacerbates sleep deprivation, and head and eye-aches.

(XVIII) Many isolated AC prisoners rather not attend rec for the following reasons: (1) the seg guards typically abuse and assault prisoners during escort that many prisoners would rather avoid staff physical contact; (2) the rec cages are filthy and contain urine and feces on their stairs on the floors or cage grating, because neither the rec cages nor the entire rec area contain any bathtubs or drinking water, and the guards

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refuse to bring prisoners in from rec to relieve ourselves. (3) the seg rec cages lack an emergency call button in event of a medical emergency, and (4) prisoners sometimes have urine and feces fights at rec by throwing excrement at each other, and AC prisoners could rather avoid rec altogether.

(XIX) During the Fall, winter, and early Spring months, the cells are typically cold such that, lacking long sleeves, prisoners rather stay in bed under covers all day, or if the cells are not extremely cold they are very hot.

(XX) There is a deliberate health benefit disparity between some canteen products available to GP prisoners and the unavailability of those health products to AC prisoners that is without penological purpose other than for punishment. For example, there are no cough drops, vitamins, honey, tea, hot cocoa, or coffee during the flu season and winter months, or at anytime, that AC prisoners can purchase.

(XXI) The seg guards deliberately disadvantage seg prisoners on the AC range by the following regarding staff manipulation when providing showers: (1) purposely not previously running the water in the shower stalls in order to allow it

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and forcing us to take freezing showers which compel AC and non AC prisoners to miss one or both weekly showers; (2) deliberate from the narrow shower bins without notice, and the guards conducting the showers will walk through the AC wing, without announcement, by passing us and refusing us showers because we were not standing at the cell door.

(XXII) AC prisoners are restricted from possessing certain personal property items compared to prisoners in GP, although AC is supposed to be "comparative" pursuant to DOC 308.01 and DOC 308.04(D).

(XXIII) The defendants maintain at least six de facto sensory deprivation cells on C Wing. They often use these cells in a punitive way by placing prisoners they despise in them to compound their isolation.

(XXIV) The seg food trays commonly are stained, cracked, chipped, and literally have their coating outer surface peeling from them.

(XXV) The Seg Unit sewer drains will and have backed-up and flooded fecal matter and urine throughout the cells on the lower ranges.

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(XXVI) The Seg Unit cells are infested with flying and crawling insects.

Most of these insects crawl from masonry cracks in the floors and walls.

11. Defendant Pollard was Warden of the WLI from 3/27/11 to 1/11/16.

As such he was responsible for the overall administration and operation of the prison including reviewing the Administrative Confidential Review Committee (ACRC) AC placements, direct appeals of AC placements, making decisions on releases or extensions of AC, and reviewing prisoners complaints re AC and seg conditions, *inter alia*. He is responsible for the conditions and policies of seg and those underlying the practice of prolonged isolation of the plaintiffs. He is aware that long-term isolation can be toxic to health.

12. Defendant Eyster is Warden of the WLI since about 1/11/16.

As such he is responsible for the overall administration and operation of the prison.

13. Defendant Meli is Security Director of the WLI. As such he is responsible for the overall institution security officer assignments, and for the direct or indirect supervision of the officers in his chain of command. He is aware that prolonged isolation can be toxic to prisoners' health.

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14. Defendant Litschen is Secretary of the DOC since on or around

January 2016. As such, per Ms. St. 8 15. 04, he has general supervisory authority over DOC operations including decisions on prisoners complaints. He is aware that the DOC-wide prolong isolation practice can be toxic to prisoners' health.

15. Defendant Joss is Director of Adult Institutions (DAI) of the DOC.

As such she is responsible for deciding AC appeals, and for policies affecting institutional conditions including seg and prolonged isolation. She is aware that long-term isolated confinement can be toxic to health.

16. Defendant Schmidt is Supervisor of the WLI Psychological Services Unit (PSU). He oversees the administration of psychological services and leads staff psychologist. As a psychologist he is aware of the harmful effects of prolonged seclusion.

17. Defendant Grief was, from 7/5/12 to about March 2015, and Ludvigson now is, the Program Connections Supervisor (PCS). They are responsible for the treatment and living conditions of all segregated prisoners and make recommendations for AC placements. Ludvigson is a psychologist. Both are aware that prolonged seclusion can be toxic to health.

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18. Defendants O'Donnovan was, and Webster now is, Captain at the MCI and Chair of the ACCRC, and Boris is social worker, and Gandy is Corrections Officer ("CO"), and Irene and John Doss (Irene D), are each, as were, regular members of the ACCRC which makes AC placements and is month reviews for AC continuance or release. Each are responsible for decision-making amounting to a practice of long-term isolated AC, and each are aware that prolonged isolated confinement is toxic to health.

19. Defendants Schneider and Walker were "Sgt Lieutenant" between about 2011 to 2016, and Walker was also Sergeant in seg from around 2012 to 2013. Both were responsible for security, supervising seg officers, and the treatment and care of all seg prisoners. Each made AC placement recommendations and are responsible for the treatment of and prolonged isolation and seg conditions of AC prisoners. Both are aware that prolonged isolation is harmful.

20. Defendants Stancic, Berkow, and John Doss (Irene D), were, and are "Seg 6" COs assigned to the Bubble and C-Ming from around 2012 to the present. Each were responsible for handing out breakfast and lunch trays, conducting showers, and

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supervising prisoners. Stancic is a student of psychology. He is aware of the harmful effect of prolonged isolative confinement.

PROPOSED CLASS & COMMON CLAIMS

21. Each defendant named at 11, 13-15 and 16-19, above, have held representative plaintiff McKinley Bey and putative class members (hereafter "plaintiffs") Daniel McBride ("McBride"), Terrence Clarka Pude ("Pude"), Rayshun Woods ("Woods"), Luis Nieves ("Nieves"), Shirrell Wlittkard Wlittkard, and Lamar Larry ("Larry"), in prolonged, supermax isolated AC at the MCI for more than 8 months each, which triggers a liberty interest where their prolonged isolative confinement together with the cumulative effect of the conditions outlined in 4-D, above, and 22-47, below, are atypical and significant as compared to the ordinary incident of prison life.

22. During each day that McBride, Bey, McBride, Pude, Woods, Nieves, Wlittkard, and Larry, inter alia, are in AC at the MCI each are regularly being exposed to the defendants' listed at 11, 13, 17 and 19-20, above, insidious cc feed procedure during meal delivery, inter alia, as incorporated hereto and more fully outlined at 5-6, above, and attached Ex. 1001.

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23. The long-term, supermax, isolated AC conditions outlined in 4-1D, above, in their cumulative effect together with those incarcerated here and set out in 24-47, below, are punitive and deprives McKinley Bey, McBride, Ponder, Woods, Neves, Matkins, and Larry, inter alia, of a basic human need and puts each at a substantial risk of serious mental injury, exacerbation of preexisting mental illness, medical problems, and psychosocial impairment and other disabilities.

24. As a direct effect of his long-term, supermax, relative AC of more than 25 years McKinley Bey has or is now experiencing the following "SHU Syndrome" symptoms: persistent stress; irritability; occasional panic attacks; occasional depression; occasional emotional flatness - loss of ability to have feelings; mood swings; hopelessness; hostility; anger; outbursts of physical and verbal violence; poor concentration; impaired memory and verbal recall; occasional disorientation/hypersensitivity to noises; hyper-reactivity and hyper-susceptibility to stimuli; hyper-reactivity to stimuli/easily startled, etc.; occasional disorientation in time and space; recurrent and persistent ruminations of a vengeful character; suicide ideations; sleep problems; and mental and emotional anguish/abuse.

25. As a direct effect of his long-term isolative AC McKinley Bey,

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who had no prior mental illness was diagnosed around 7/10/12 with a Delusional Disorder - Persecutory Type and a Antisocial Personality Disorder. This diagnosis is a mental health Classification "M12a", a serious mental illness. This diagnostic criteria excluded his being housed at the Missouri Secure Program Facility (MSPF), a supermax.

26. The prolonged, supermax isolated confinement of McKinley Bey is the direct cause of his mental illness and symptoms, and defendants Pallas, Tess, Meli, Litscher, Ludvigson, Greff, Mustafa, O'Donovan, and Schmidt, and their agents, are aware that his mental impairment is environmentally induced, and that continued isolation deprives him of the capacity to function normally, (E.x. 1002).

27. On information and belief, as a direct effect of his prolonged, supermax, isolated confinement, McBride, who has been in isolation for about 32 months, has been diagnosed with PTSD, a serious mental illness. He had the following multiple mental illnesses and issues prior to his placement in AC: Personality Disorder - Misch Type; Unspecified Personal Disorder; Antisocial Personality Disorder; Antisocial or Borderline...; Emotional Disorder; Poly-Substance Dependence in Controlled Environment; Borderline Personality Disorder; Personality Disorder.

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28. Mr. Bide's mental health classification is "MH2b," a serious mental illness. He is a "cutter," one who cuts, injures, and disfigures themselves, sometimes in suicide attempts. He has been placed in OS about 6 times since his indefinite isolated AC placement. On belief, his prolonged isolation is causing him many adverse psychological and physical reactions known as "SHU Syndrome," which is exacerbating his existing mental illness.

29. On information and belief, as a direct effect of his long-term isolative confinement, Prude is experiencing adverse psychological and physical reactions known as "SHU Syndrome." He describes these as fear of imminent death; mood swings; unprovoked anger; neck, back and shoulder pain; depression; poor memory; heart palpitations; major claustrophobia; social withdrawal; violent thoughts; and paranoia.

30. Prude, who has been in isolative confinement for more than 3 years, was arbitrarily made by the defendants at 11, 13-15 and 17-19, above, to do 6 months in AC, between August 2015 and February 2016, without a reason from the ACRC contrary to the

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requirements of Mr. Alm. Code § DDC 308.01(8)(e).

31. On information and belief, as a direct effect of his long-term isolative confinement, Woods, who has been in supermax, isolative confinement for about 4 1/2 months, is experiencing adverse psychological and physical reactions known as "SHU Syndrome." He describes these as irritability; major depression; emotional lability, loss of ability to have any feelings; mood swings; hostility; unprovoked anger; verbal outbursts; short attention span; poor memory; confused thought processes; disorientation; hypersensitivity to noises; hallucinations of seeing things move when they don't; self-cutting and suicide attempts; headaches; high stress; loneliness; sleeplessness; and self-communication.

32. Since his placement in isolation Woods has been diagnosed with Major Depression; Antisocial Personality Disorder; PTSD, and has recently had to begin taking medication for his issues.

33. Nieves has been in isolative AC more than 5 years. He is presently an "rotation" whereby he is moved to a different prison about

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every 6 weeks. He was last "reviewed" for AC continuance by the WCI AERC.

34. As a direct effect of his long-term isolated AC Nieves has experienced adverse psychological and physical reactions that has taken a toll on his health, namely: increased epileptic seizure activity; Obsessive Compulsive Disorder; Explosive Disorder; Bipolar Disorder; Multi-Personality Disorder, and Autistic Disorder. He has also been afflicted with a pulmonary embolism. On belief, Nieves is a MHA or MH2b.

35. On information and belief, as a direct effect of his long-term isolative confinement of more than 5 1/2 years, Watkins has been met with adverse psychological and physical reactions known as "SHU Syndrome." He describes these as severe mental anguishment; sleeplessness; high stress; headaches; weight fluctuation; eyeaches; depression; hyperreaction to situations; isolation (loneliness); slant attention span; poor concentration; and poor memory.

36. Since Watkins placement in isolated confinement he has been prescribed 45 mg Mirtazapine to treat depression.

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37. On information and belief as a direct effect of his long-term isolative confinement, Larry, who has been in isolative confinement more than 1 year, has experienced the following described "SHU Syndrome" symptoms: antisocial feelings; anger; depression; disinterest in talking to anyone at times; hopelessness; anxiety; and loss of ability to care about anything.

38. Wix, Adm. Code § DOC 308.04 punts McKinley Bey, McBride, Pude, Woods, Nieves, Watkins, and Larry, inter alias, a protected liberty interest in remaining free of AC, and in avoiding continued AC placement pursuant to § DOC 308.04(2)(c) thru(d).

39. Each named defendant listed at 11, 13-15 and 16-19, above, are aware that prolonged isolation and lack of meaningful social, environmental, and occupational stimulation is toxic to the health of prisoners with serious mental illness as McKinley Bey, McBride, and Nieves, inter alias, and can cause mental illness and psychosomatic and psychosocial harm and impairment to others such as Pude, Woods, Watkins, and Larry, inter alias, and that McKinley Bey and, on belief, McBride and Nieves, has suffered such harms, and the continued, indefinite, supererogative

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AC of all or any one of the above, or the class, places them at a
Kraman excessive, substantial risk of serious harm, or further harm.

40. The defendants listed at 11, 13-15 and 16-19, above, have a
long-standing practice of indefinite isolative AC of the seriously
mentally ill through the device of mere perfunctory and sham to
month reviews with a lack of a substantive and realistic brightline
criterion for McKinley Boy, McBride, Nieves, inter alios, to meet for
release with regard to their mental state and ability to conform.

41. Lloods, Nieves, Pude, and Larry, have not had a Conduct
Report (CR²), and McBride, na Motion CR, and each have completed
multiple programs since their AC placements. Yet, the defendants
listed at 11, 13-15 and 17-19, above, either have or continue to use
the ACCRC to month AC reviews, and their overall application of
isolative AC at the MCI, to punish Lloods, Nieves, Pude, Larry,
and McBride inter alios, for old conduct without interest in
current behavior. By attaching the label "Administrative Confinement"
to its actions, and the defendants offering no brightline criterion as

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a single bona fide AC Program to the plaintiffs, the ACCRC in substance
transform disciplinary action into administrative action. The "reviews" are
a pretext for supermax, indefinite punitive confinement and are merely
perfunctory where Lloods, Nieves, Pude, Larry, and McBride, inter alios,
have exhibited model conduct, and there is no new misconduct to justify
their continued indefinite AC.

42. Mattins, inter alios, placement in indefinite AC and prolonged
isolative confinement by the defendants named at 11, 13-15 and 17-19,
above, has caused him to be ineligible for parole for more than
5½ years and is a typical and significant compared to the ordinary
incidents of prison life, and the fact he has been in a "nonpunitive"
status throughout the vast majority of that time.

43. For about 4 continuous weeks between 11/1/15 to 11/25/15, following
his use of the cc feed procedure as set out at 5, above, and Ex. 1001, the
"peg" to officer defendant Beaman with John Deas 1 thru 10
subjected McKinley Boy, McBride, Pude, Lloods, Nieves, Mattins,
and Larry, inter alios, to a regime of aversive conditioning in the

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From about 7/11/12 to the present, have each either participated in, caused, condoned, or turned a blind eye to, a regime of retaliation and abuse to cause the plaintiff mental and emotional harm. The various noxious and coercive tactics used are further outlined in Ex. 1001.

LEGAL THEORY

48. The decision of all defendants to harm all plaintiffs in AC under conditions of indefinite social, environmental, and occupational isolation that causes or puts them at an excessive risk of mental, emotional, in psychosocial pain and impairment and other disabilities; physical ailments; and increased mortality; is official action which infringes upon one's capacity to learn, reason, to think about political, social, cultural, artistic, and spiritual matters, constituting state action that invades the sphere of intellect and spirit in violation of the First Amendment which it is the purpose of to reserve from official control. Beard v. Banks, 548 U.S. 521, 552 (2006) (Stevens, J., dissenting); Jeffrey Mead, Anxiety, Depression And The Madding Isolation Of Solitary Confinement: Invoking the First Amendment's Protections Against State Action that Invades the Sphere Of Intellect And Spirit, 70 U. Ill. L. Rev. 647, 670-72 (2009).

49. The decision of defendants Pollard, Mali, Litscher, Jess, Schmidt, Gref, Ludvigson, O'Donovan, Westra, Boris, Cundy, and ACRE Tane and John Does 1 through 10, and Schneider, and Miller, to house mentally ill plaintiffs, McKinley Bay, Mc Bride, Nieves, inter alios, and Prude, Woods, Wlittkins, and Larry, inter alios,

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in prolonged, supermax, isolated AC under multiple conditions having a mutually enforcing effect deprives them of a minimal life necessity, poses a significant risk to their basic level of mental health, and subjects them to a present and known risk of harm in violation of their Eighth Amendment right. Innes v. El v. Borge, 164 F. Supp. 2d 1091, 1116-25 (M.D. Wis. 2001); Freeman v. Borge, 283 F. Supp. 2d 1009, 1015 (M.D. Wis. 2003); Malkerson v. Staller, 639 F. Supp. 2d 654, 678, 681 (M.D. La. 2007). (See Ex. 1001e)

50. The action of all defendants named at 49, above, to confine plaintiffs McKinley Bay, Mc Bride, Prude, Woods, Nieves, Wlittkins, and Larry, inter alios, in supermax, prolonged isolated AC under conditions having a mutually enforcing effect including perfunctory and show la worth "rewards", and putting them at an increased risk of mental harm and anguishment, triggers a state created protected liberty interest where such confinement is an atypical and significant hardship in the prison context, in violation of plaintiffs' Eighth and Fourteenth Amendment rights. McClary v. Kelly, 4 F. Supp. 2d 115, 208 (M.D. N.Y. 1998).

51. In a continuing course of conduct defendants Pollard, Mali, Gref, Ludvigson, Schneider, Miller, Stawiec, Babor, and John Does 1 through 10, between July 2012 to the present, either implemented, maintained, trained their subordinates in, can trained, or directly used, classical conditioning procedure on McKinley Bay, Mc Bride, Prude, Woods, Nieves, Wlittkins, and Larry, inter alios, without their informed consent, in violation of Title 45 C.F.R., Title 18 U.S.C. §§ 241 and 242, and the Eighth Amendment.

52. In a continuing course of conduct defendant Babor, and John Does 1

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through ID, subjected McKinley Bey, McBride, Proke, Woods, Nieves, Watkins, and Lavery, inter alios, to a regimen of aversive conditioning in the form of freezing showers. Beahm also subjected McKinley Bey to a regimen of implied death threats, all of which caused them mental and emotional anguish in violation of Title 45 C.F.R. and the Eighth Amendment.

53. Defendants Pollard, Meli, and Walker, between 7/11/12 to 9/15/12, caused McKinley Bey under Supreme sensory deprivation conditions that deprived him of a minimal life necessity, posed a significant risk to his basic level of mental health, and subjected him to a present and known risk of harm in violation of his Eighth Amendment right.

54. In a continuing course of abusive conduct Defendants Plaviec, Walker, Schneider, Goff, Pollard, Meli, Ludvigson, Beahm, and John Doe 1 through 10, participated in, caused, condoned, or turned a blind eye to, a regime of retaliation and abuse via aversive conditioning, etc, and various coercive and noxious tactics, to cause McKinley Bey mental and emotional harm in violation of his Eighth Amendment right.

C. JURISDICTION

I am suing for a violation of federal law under 28 U.S.C. § 1331.

OR

I am suing under state law. The state citizenship of the plaintiff(s) is (are) different from the state citizenship of every defendant, and the amount of money at stake in this case (not counting interest and costs) is \$ _____.

D. RELIEF WANTED

Describe what you want the Court to do if you win your lawsuit. Examples may include an award of money or an order telling defendants to do something or to stop doing something.

A. Injunctive Relief

1. A preliminary order prohibiting the defendant from conducting any plaintiff(s) with a serious mental illness: MH2, MH2b, etc, in Supreme isolation AC or any prolonged punitive or punitive condition of isolation incompatible with solitary confinement. "Prolonged" is more than 30 days.

2. A preliminary order mandating the immediate release to a general population setting all plaintiffs who have spent more than 10 years in AC.

3. A preliminary order prohibiting the defendants from using classical conditioning on any other coercive procedures upon the plaintiff(s) as set out in _____

Continued on attached pages

This complaint.

4. A preliminary order prohibiting the defendants from harassing the plaintiffs in the punitive AC conditions set out in this complaint.
5. A preliminary order mandating the defendants establish a Brightline Rule Criterion for AC prisoners to follow for projected release from AC.
6. A preliminary order mandating that defendants obtain, install, and maintain cameras throughout the Seg Unit that surveil and record in real time all areas used by staff and prisoners, except nonobservation cells, shower cubicles, strip search cages, the HSLU room, and visitor booths.
7. A preliminary order mandating that all persons entering or exiting the RHH/Seg Unit be required to log-in/log-out: name, time, and date.
8. A preliminary order mandating the defendants establish a bona fide AC Program such as the Common Grounds Program (Ex. 1005) with a dignified path to obtain release.

Complaint- 4a

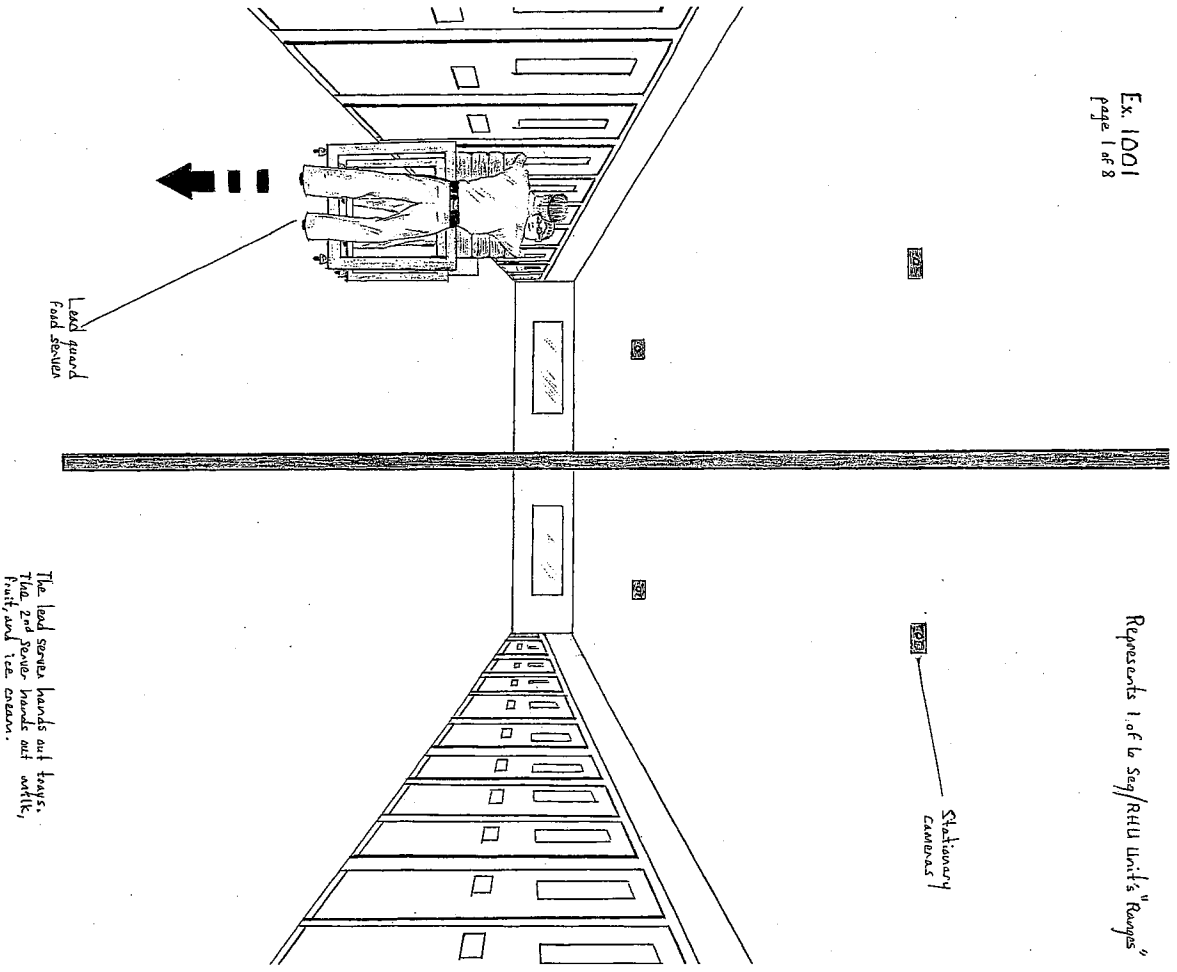
9. An order mandating that defendants establish a new Restricted Housing General Population Unit (RHGP) to house AC prisoners in GP conditions where very prolonged AC will be severely limited and those so confined provided significantly more time out-of-cell and to congregate with other AC prisoners.

B. Declaratory Judgment

1. A Declaration that the defendants acts and omissions violated the plaintiffs' First, Fifth, Eighth, and Fourteenth Amendment rights.
2. A Declaration that Miss. Adm. Code §§ DOC 308.04 and 308.04(x)(a) and (d) grants plaintiffs a protected liberty interest in remaining free of AC, and in avoiding continued AC placement.
3. A Declaration that the defendants' practice of prolonged social, environmental, and occupational dehumanization in AC is harmful.
4. A Declaration that the defendants' made of prolonged isolative AC is punitive in nature.

Complaint- 4b

Representative 1 of 6 Seg/RHU Unit's "Ranges"



The lead server hands out trays.
The 2nd server hands out milk,
fruit, and ice cream.

La Ron McKinley Bay verifies to the best of my information, understanding,

direct experience, and belief, the following explains what is being done to me and other prisoners in the MCI Seg Unit by the defendants to establish and exploit the "stimulus-response bond" as follows:

- 1) The illustration on p. 1 depicts the physical layout and cell arrangement of 1 of 6 "ranges" of the MCI Restrictive Housing Unit "RHU" (hereafter "Seg Unit"), a state of the art supermax isolative confinement unit.
- 2) Among the Seg Unit cells' features is a Pavlovian-like bell intercom system (see attached p. 8) used by the defendants to signal (audio cue) food delivery, when this cell door with the cell light on it he wants to receive a tray. The food procedure in which the lead food server/guard precedes the food (attached p. 1) appears benign if not for the defendants' conversion of it into a covert behavior modification regimen against unwitting prisoners as follows:
 - 3) Pavlovian Classical Conditioning ("cc") is a reflexive (automatic) type of learning in which a stimulus acquires the capacity to evoke a response that was originally evoked by another stimulus. (Attached p. 7)
 - 4) The Classical Conditioning Model is: CS...US--R. The Conditioned Stimulus (CS) precedes the Unconditioned Stimulus (US) which evokes a Response (R). (p. 8)

Ex. 1001, p. 3

5) The procedure that produces classical conditioning is pairing of CS and US.

Note: 4) and 5), above, and 6) and 7), below, explain the fundamental laws underlying CC.

6) A US is anything that evokes an instinctive response.

7) A CS initially starts off as a neutral stimulus (p. 8), i.e. it does not evoke a response but, over time through repeated pairing (association) with a US, it can acquire the capacity to evoke the same response as the US.

A CS also be used as a predictor or signal. Visual and auditory cues can also be used as a CS. (p. 8)

8) The above model and procedure, set out in pars 4-5, is embedded within the mode of serving food to prisoners in the MCI seg. In the defendants' feed mode the CS and the US are actually the guards and the food. (p. 1)

The seg guards are trained to strictly adhere to this system during tray delivery.

Through their chain of command supervisory officials exercise control over each instance, including preparation of stimuli and the tactics to be employed, against a targeted prisoner as follows:

a) Each lead guard food server (p. 1) starts off as a neutral stimulus.

"Lead" means the guard regularly precedes the food during delivery. Over time s/he acquires (between s/he and the prisoners s/he regularly feeds) the capacity

Ex. 1001, p. 4

to evoke the response of the food (see par. 3 and p. 8) forming a "stimulus-response bond" between them. This guard is now a CS.

b) The stimulus-response bond is one sided, only affecting the prisoner, and is reflexive, i.e. evoking an involuntary physiological response involving action of the glands (salivary in this case) and smooth muscles (see Autonomic Nervous System). The "response" is not only physiological but psychological too.

c) Prisoners in isolative confinement at the MCI routinely are fed 3 daily meals: 2 on 1st Shift and 1 on 2nd Shift. Over time many guards on both shifts are prepped to act as lead food servers. Some may be initially unaware that they are being groomed as CS. For example, a regular fluid of rookie guards are prepped and used when are eager and must follow orders if they are to keep their employment beyond the probationary period.

d) Through prepping and use of several CSs either as "excitatory" CSs (CS+) or "inhibitory" CSs (CS-) by way of pairing of CS and US (par. 3) and manipulation of the environment of a targeted prisoner (having food delivery, or other opportunities at his cell front, out of cell activities, and movements, etc.) the MCI officials over time will tailor a regimen suited to target a specific prisoner to expose him to a relentless array of noxious stimuli (par. 8, below) for aversive conditioning and other forms of psychological coercion.

9) Repeated pairing of CS+ with US, or CS- with US, can be used to induce emotional states and behavior as to inhibit emotional states and behavior to condition emotional responses. The defendants accomplish this by various tactics involving use of several stimuli; for example, noxious stimuli (US) when paired with (CS) evokes a distasteful response. Because a CS+ signals or predicts an upcoming US it has learning potential, for example, a CS+ paired with noxious or non-noxious stimuli can and is being used by the defendants upon this writer through repetitive "trials (pairings)" to force learning (p. 7) in effort to condition emotional responses in an unconscious aversive conditioning program.

10) Noxious stimuli. Among the several types of noxious stimuli used by the defendants against this writer in repeated pairings, are male guards and staff, and female guards and staff, presented as homosexual and lesbian, respectively, or paired with them; repeated placement in darkened (lightless) rec and shower cubicles (implied death threat); repetitious placement in the same shower cubicle; repetitious placement in lightless shower cubicle (death threat) in combination with freezing shower water (shock); frequent placement in threatening, uncomfortable, or stressful situations, for example, repeated partial removal or lessening of restraints during escort as an implied threat/set-up; shock therapy via sudden ear piercing sound. Inter alia.

11) Repetitive exposure to noxious and other stimuli in a coercive way brings mental and emotional pain and anguish. It is punishment.

12) When ce is deployed covertly, one automatically (reflexively) learns what it is the defendants want to communicate. The defendants do this through careful manipulation of the environment, in combination with ce procedure, so that connections (associations) between events in the environment are made. In this way one is being forced to learn against their will, consent, or even knowledge.

13) The defendants sometimes use a double ce procedure where both guards precede food delivery, i.e. the lead guard serves and the 2nd guard serves.

Note: This explanation is not exhaustive.



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Classical Conditioning (Pavlov)

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Summary: Classical conditioning is a reflexive or automatic type of learning in which a stimulus acquires the capacity to evoke a response that was originally evoked by another stimulus.

Originators and Key Contributors: First described by Ivan Pavlov (1849-1936), Russian physiologist, in 1903, and studied in infants by John B. Watson (1878-1958).

Keywords: stimulus-response, psychic reflexes, unconditioned stimulus, conditioned response, respondent conditioning

Classical Conditioning (Ivan Pavlov)

Several types of learning exist. The most basic form is *associative learning*, i.e., making a new association between events in the environment. There are two forms of associative learning: classical conditioning (made famous by Ivan Pavlov's experiments with dogs) and operant conditioning.

Free Personality Test

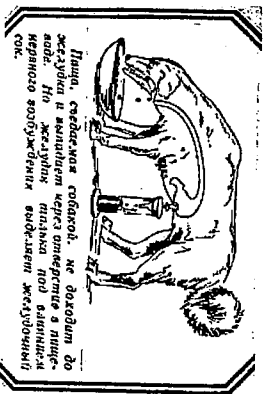
The most accurate personality test available free on the web today. Just click images to get amazing results!

Discover the real you
Start the test

In the early twentieth century, Russian physiologist Ivan Pavlov did Nobel prize-winning work on digestion. While studying the role of saliva in dogs' digestive processes, he stumbled upon a phenomenon he labeled "psychic reflexes." While an accidental discovery, he had the foresight to see the importance of it. Pavlov's dogs, restrained in an experimental chamber, were presented with meat powder and they had their saliva collected via a surgically implanted tube in their saliva glands. Over time, he noticed that his dogs who begin salivation before the meat powder was even presented, whether it was by the presence of the handler or merely by a clicking noise produced by the device that distributed the meat powder.

Fascinated by this finding, Pavlov paired the meat powder with various stimuli such as the ringing of a bell. After the meat powder and bell (auditory stimulus) were presented together several times, the bell was used alone. Pavlov's dogs, as predicted, responded by salivating to the sound of the bell (without the food). The bell began as a neutral stimulus (i.e. the bell itself did not produce the dogs' salivation). However, by pairing the bell with the stimulus that did produce the salivation response, the bell was able to acquire the ability to trigger the salivation response. Pavlov therefore demonstrated how stimulus-response bonds (which some consider as the basic building blocks of learning) are formed. He dedicated much of the rest of his career further exploring this finding.

In technical terms, the meat powder is considered an unconditioned stimulus (UCS) and the dog's salivation is the unconditioned response (UCR). The bell is a neutral stimulus until the dog learns to associate the bell with food. Then the bell becomes a conditioned stimulus (CS) which produces the conditioned response (CR) of salivation after repeated pairings between the bell and food.



John B. Watson: Early Classical Conditioning with Humans

John B. Watson further extended Pavlov's work and applied it to human beings. In 1921, Watson studied Albert, an 11 month old infant child. The goal of the study was to condition Albert to become afraid of a white rat by pairing the white rat with a very loud, jarring noise (UCS). At first, Albert showed no sign of fear when he was presented with rats, but once the rat was repeatedly paired with the loud noise (UCS), Albert developed a fear of rats. It could be said that the loud noise (UCS) induced fear (UCR). The implications of Watson's experiment suggested that classical conditioning could cause some phobias in humans.

For more information, see:

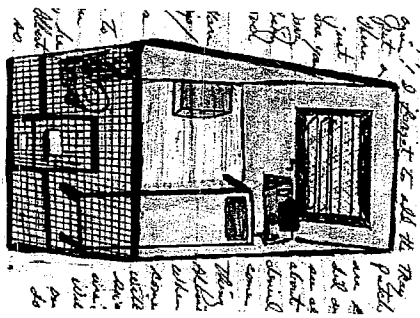
- Pavlov, I. P. (1927). *Conditioned Reflexes: An Investigation of the Physiological Activity of the Cerebral Cortex*. Translated and Edited by G. V. Anrep. London: Oxford University Press. [Full text available online](#)

Karen Franklin, PhD

Clinical and Forensic Psychologist, Northern California

Segregation psychosis

The exponential growth in super-maximum security prisons and Security Housing Units (SHU's) has led to a concurrent rise in psychotic symptoms among prisoners. These symptoms may mimic those of schizophrenia, but with the crucial distinction that they are rapidly reversible. Unfortunately, prisoners suffering from segregation-induced psychosis may be misdiagnosed as suffering from a more chronic mental illness, rather than from a temporary, environmentally induced condition.



Psychotic symptoms among individuals subjected to solitary confinement has been observed as far back as the early 1800s. Between 1854 and 1909, dozens of articles appeared in German journals that described a constellation of segregation-induced psychotic symptoms including hallucinations, paranoid thinking, and persecutory delusions. Indeed, by 1890 the U.S. Supreme Court had condemned solitary confinement on psychiatric grounds, stating that it caused "a considerable number of prisoners" to become "violently insane."

Stuart Grassian, MD, of Harvard University has studied the effects of Security Housing Units on prisoners in Massachusetts. He describes strikingly consistent symptoms that mimic those produced by other sensory-deprivation experiences. These symptoms include:

- Perceptual distortions and hallucinations
- Massive free-floating anxiety
- Impaired concentration and memory
- Acute confusional states, at times associated with dissociation, mutism, and partial amnesia
- Persecutory thoughts, at times reaching delusional proportions
- Impulsive behavior, for example sudden self-mutilation or violence
- Rapid subsiding of symptoms once isolation is terminated

This constellation of symptoms can be induced among individuals with no preexisting psychiatric problems. Not surprisingly, however, the problem is worse for prisoners with preexisting mental disorders. Such individuals almost invariably experience a dramatic worsening of their psychotic symptoms.

Further resources:

Stuart Grassian, MD (1983). Psychopathological effects of solitary confinement. *American Journal of Psychiatry* 140 (11), pp. 1450-1454

Terry A. Kupers (1999). *Prison madness: The mental health crisis behind bars and what we must do about it*. Jossey-Bass Publishers

Bruce Porter (1998). Is solitary confinement driving Charlie Chase crazy? *New York Times Magazine*, November 8, 1998, pp. 52-58

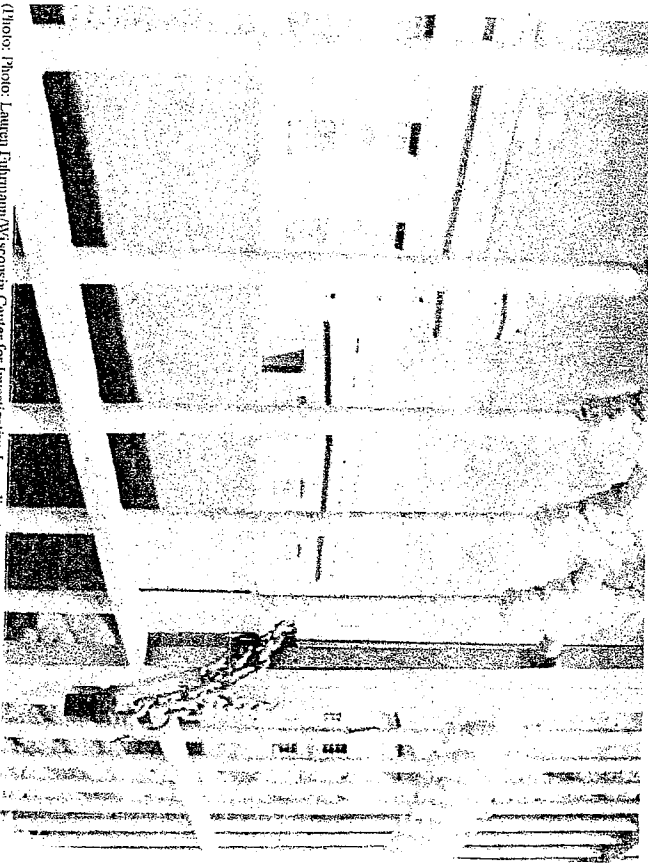
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["Supermax: Hell on earth or not as bad as we thought?"](#)

Drawing: Sketch by SHU prisoner Herman Williams, Louisiana State Penitentiary, Angola

Faith-based state group seeks Waupun prison abuse probe

Bill Lucchesi 636 a.m. CDT July 31, 2014



(Photo: Lauren Fahrenman/Wisconsin Center for Investigative Journalism.)
CONNECTED/IVEL/INKEN/INCON/AMEN/TAI/MORE

A state-wide advocacy group on Tuesday asked Wisconsin Gov. Scott Walker to investigate allegations that guards at Waupun Correctional Institution have abused inmates in the prison's segregation unit dozens of times since 2011. "It is now clear that the Wisconsin Department of Corrections, as a matter of policy, routinely engages in torture," said the letter from Wisconsin, a faith-based group with chapters around the state. "As governor, you have the authority and responsibility to end the torture now."

Walker spokeswoman Laurel Patrick declined comment, referring questions to the state Department of Corrections. DOC spokeswoman Joy Shab declined to comment on Wisconsin's letter but issued a statement. "Every allegation of abuse at Waupun Correctional Institution is brought to the attention of staff it investigate. The Dodge County Sheriff's Department routinely investigates allegations. During the past several years there have been no substantiated allegations of staff on inmate abuse at Waupun Correctional Institution."

Wisconsin's letter was prompted by a series of articles released last week by the Wisconsin Center for Investigative Journalism and published or cited by 29 news organizations around the state. The Center identified 40 allegations of

physical or psychological staff-on-inmate abuse involving 33 inmates in the prison's solitary confinement unit over the past three years.

The letter from Wisconsin president Sandra Mitchell said Wisconsin's use of solitary confinement, in which prisoners spend months if not years with little human contact, "is by definition torture." She cited the Center's series in saying that the problem is "particularly acute at Waupun."

"The exhaustive five-month investigation by the independent Center for Investigative Journalism found that many of the inmates in solitary confinement are mentally ill and subject to alleged routine abuse by guards and indifference by staff," she wrote.

The three-part series was based on prisoner lawsuits, complaints, interviews and letters. Much of the alleged physical abuse involved inmates who said they were handcuffed and not resisting.

Incident reports provided by Waupun officials confirmed that inmates were subjected to the use of force, including lasers, pepper spray, knee strikes and takedowns, and in some cases sustained injuries. But the reports portrayed the prisoners as instigators, saying staff used only necessary force.

Two-thirds of those allegations involved a single correctional officer, Joseph Beahn, who has worked in Waupun's segregation unit since 2006. Top corrections officials denied the allegations, accusing the inmates of lying. Beahn has never been disciplined for any inmate-related infraction.

Late last week, the DOC declined a request from the Center to interview Secretary Ed Wall about the allegations documented in the series.

Wall, in April, released a memo saying the state was reviewing its use of solitary confinement, which "may really just be helping to create a worse behavior problem and habitual threat."

Segregation cells feature concrete and steel furnishings, one small window and a steel trap door through which food and medication are passed. A regular segregation cell measures 6 feet 2 inches by 12 feet.

The letter called on Walker to take a series of steps in response to the series, including:

- Request an independent investigation by the U.S. Department of Justice, saying the state DOC "cannot be asked to investigate itself."

• Transfer the officer named in the majority of the complaints to other duties until the investigation is completed, and ensure that no prisoners experience retribution for cooperating with investigators.

• Order the state Department of Corrections to implement changes including rotating correctional officers in segregation units to other duties every three months, improving training for dealing with difficult inmates and creating an independent complaint system for inmates.

"We really feel that it's time that the governor step in and investigate what's going on in the Department of Corrections," said David Liners, executive director of Wisconsin.

—The Wisconsin Center for Investigative Journalism collaborates with Wisconsin Public Radio, Wisconsin Public Television, other news media and the UW-Madison School of Journalism and Mass Communication.

CRUEL AND UNUSUAL? Waupun guard named repeatedly in abuse complaints

July 21, 2014

State officials defend officers, say inmates are lying in claims of mistreatment

By **BILL LUEDERS**

p-3

Part 2 of 3

At his sentencing hearing on Feb. 28, Wisconsin prison inmate Leighton Lindsey admitted <http://www.wisconsinwatch.org/2014/07/waupun-guard-named-repeatedly-in-house-complaints/> in court that he bit a correctional officer in the segregation unit at the state's Waupun Correctional Institution.

He said he did so because the officer, Jesse Jones, was restraining him while another officer, Joseph Beahm, assaulted him.

"I was being held up so that Beahm could punch me, kick me, knee me, all that stuff," he told the judge, saying he acted in self-defense. "I had no choice."

Name: **BEAHM, JOSEPH D**



Beahm's report <http://www.wisconsinwatch.org/2014/07/waupun-guard-named-repeatedly-in-house-complaints/> on the Dec. 23, 2011, incident said Lindsey spat at officers and was actively resisting Jones, then began biting him. The two officers subdued Lindsey, "using strong side knee hits and strong side forearm strikes," the report says. Jones sustained a bite mark <http://www.wisconsinwatch.org/2014/07/waupun-guard-named-repeatedly-in-house-complaints/> on his side and a sore knee. Photos show Lindsey with a bloody ear <http://www.wisconsinwatch.org/2014/07/waupun-guard-named-repeatedly-in-house-complaints/> across his forehead.



The case is among the 40 allegations of staff-on-inmate abuse since 2011 identified by the Wisconsin Center for Investigative Journalism in Waupun's segregation unit, commonly known as solitary confinement. Most involve indications that inmates received post-incident physical or mental health attention. The allegations were made in lawsuits, internal inmate complaints, interviews, and letters to state officials and an inmate-rights activist.

Of the 40 allegations, officer Beahm is named in 21. A dozen inmate lawsuits since 2011 accuse Beahm of physical or psychological abuse; six have been dismissed and six are pending.

The state Department of Corrections has denied these allegations and accused the inmates making them of lying. But the nature and volume of the complaints has drawn the notice of state Sen. Lewan Taylor, D-Milwaukee, and former state prison chief Walter Dickey, who has called for an investigation in response to the Center's findings.

Beahm, a nine-year department employee, did not respond to written requests for an interview or offers to go over the allegations in detail.

A 'rogue guard'

Beahm, a state prison guard since 2005, has worked since October 2006 in Waupun's segregation unit, where inmates are often sent for disciplinary reasons. He is well-known to inmates at the prison, 55 miles northeast of Madison.

"He talks like a tough man, he talks like a bully," said Travis Akbar, a former Waupun inmate released last October after serving 20 years for two counts of sexual assault. "When something happens, he's the first one there, because he wants to down somebody."

In September 2012, Akbar said he watched from his cell as Beahm pushed a handcuffed inmate face-first to the floor, then pummeled on his back. "Beahm's knee was in his back, and the head was pulled backwards," Akbar said the inmate "didn't weigh 150 pounds soaking wet. He was hurt."

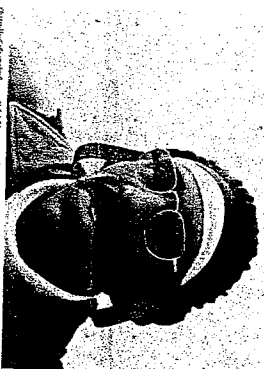
Akbar wrote a letter.

<http://www.wisconsinwatch.org/2014/07/waupun-guard-named-repeatedly-in-house-complaints/>

Waupun Warden William Pollard, reporting what he had seen, adding that Beahm "has a habit of this type of abuse." The letter drew a reply from Waupun security director Tony Meli, saying the incident "will be reviewed by law enforcement."

The records identify the inmate as Holden Rodriguez, who the prison says weighs 155 pounds. The incident reports say Rodriguez refused, threatened and spat at officers, and was directed to the ground with the least amount of force necessary. The incident led to Rodriguez being convicted of "prisoner-the-wrongful bodily assault," a felony, and sentenced to an additional six months.

Former inmate Faith Akbar reported witnessing physical abuse of another prisoner to the Waupun warden, alleging the guard, Joseph Beahm, "has a habit of this kind of abuse."



Kate Gaden/Wisconsin Center for Investigative Journalism

Former inmate Faith Akbar reported witnessing physical abuse of another prisoner to the Waupun warden, alleging the guard, Joseph Beahm, "has a habit of this kind of abuse."

According to other records released to the Center, Beahm has been the subject of only one disciplinary investigation during his time at Waupun. That was a 2011 incident in which he allegedly fell asleep at a desk. Beahm denied it, and complained about being "written up," which he said had never happened

p-4



James Schwedert, the DOC's assistant administrator of adult institutions, told Swan in a letter dated 1/24/2013.

Advocate Swan, a retired nurse's aide who lives in rural Richland County, wrote the DOC early this year asking that Bealm be removed from duty pending an investigation into the complaints against him.

James Schwedert, the DOC's assistant administrator of adult institutions, told Swan in a letter dated 1/24/2013. James.Schwedert@doj.wisconsin.gov James.Schwedert@doj.wisconsin.gov dated Feb. 18 that this would not happen.

These complaints have been looked into by either internal or external investigators," Schwedert wrote. "Based on our findings, they appear to be fabricated to the point that the inmates place themselves at risk of being subject to discipline for making false allegations about staff."

Lt. Jesse Schneider, Wisconsin Department of Corrections

"Based on our findings, (the complaints) appear to be fabricated to the point that the inmates place themselves at risk of being subject to discipline." — State prison official

But Dickey believes the large number of complaints merits further inquiry.

"Even if everything they say in that letter is true, I'm not sure why you want to keep the guy in seg," Dickey said. "There's obviously something going on."

"It's a psychological warfare environment," said former Waupun inmate Matthew Smith, who spent the majority of his seven years at the prison in segregation. "They know which inmates are weak. They know which inmates they can prey upon."

Smith, whose alleged case of abuse did not involve Bealm, said he's heard Bealm state that he will remain in segregation. "He's not going anywhere. He's said that because he knows he's free to make inmates' life a living hell."

Waupun leads in lawsuits

Currently, inmates alleging abuse have few options besides filing their own lawsuits. The American Civil Liberties Union of Wisconsin (www.acluwi.org) is monitoring conditions at the Milwaukee County Jail and Psychiatric state women's prison, both the subject of past litigation, but has no other active cases concerning prison conditions.

The Legal Assistance to Institutionalized Persons Project (<http://www.law.wisc.edu/ilaip/>), run through the University of Wisconsin Law School, does not take such cases. And Legal Action of Wisconsin (<http://www.lawaction.org/>), a federally funded nonprofit agency, is barred by law from doing so.

"There's a big void because Congress doesn't want to help inmates," said John Abbott, Legal Action's former executive director. Lawsuits by inmates in federal court are not uncommon. Matthew Frank, who served as DOC secretary from 2003 to 2007, said the position brings "the dubious distinction of being the most-sued person in state government."

Poland, the warden at Waupun, has been sued hundreds of times, but only a small number of suits proceed far enough to require the state to present a defense. During the three-year period from 2011 through 2013, the state Department of Justice represented state prison officials on 49 inmate lawsuits alleging excessive use of force, according to a tally provided by department spokeswoman Dana Brueck.

Of these, 13 suits are from inmates at Waupun, more than for any other state prison. Several of the suits have been dismissed, others are pending.

Brueck declined to comment on whether the large number of lawsuits alleging the use of excessive force at Waupun might indicate a systemic problem. "That is a question for the DOC," she wrote in an email. She said her office's role is to "defend the state and pursue remedies in the best interest of the state."

The DOJ's list, prepared in March, omits at least four additional inmates filed by Waupun segregation Childs, an inmate in segregation. Childs alleged James.Schwedert@doj.wisconsin.gov denied him access to a blanket that a psychologist had delayed. That case was dismissed in March 2013 because Childs failed to submit a required filing. Childs missed the filing because he hung himself in his cell on Feb. 21, 2013.

The Waupun Center for Inmate's Health Care (www.waupuncenterforinmatehealthcare.org) collaborates with Wisconsin Public Radio, Wisconsin Public Television, other news outlets and the University of Wisconsin School of Journalism and Mass Communication. All work created, published, posted or disseminated by the Center is not necessarily representative of UW-Madison or any of its affiliates.

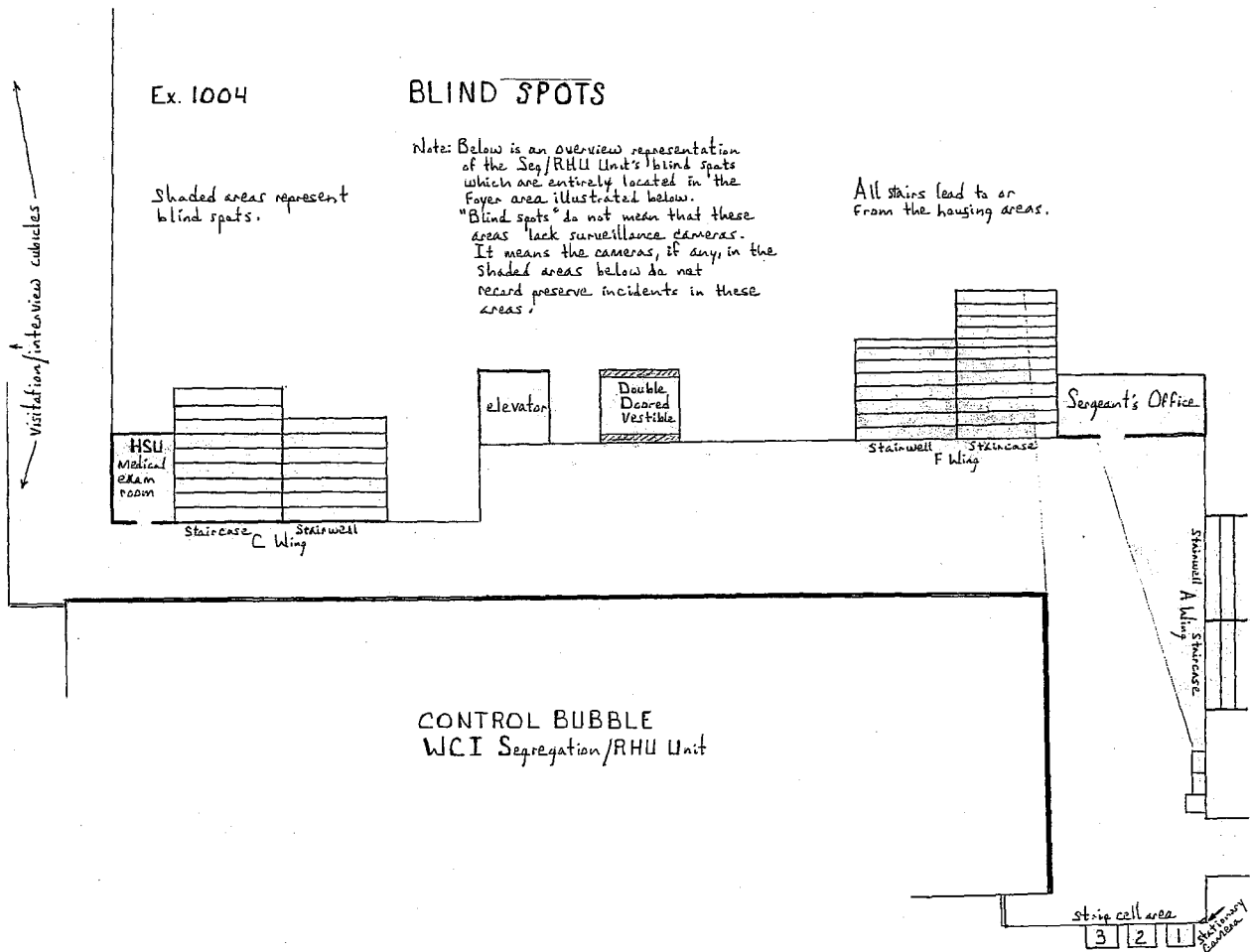
Ex. 1004

BLIND SPOTS

Shaded areas represent blind spots.

Note: Below is an overview representation of the Seg/RHU Unit's blind spots which are entirely located in the Foyer area illustrated below. "Blind spots" do not mean that these areas lack surveillance cameras. It means the cameras, if any, in the shaded areas below do not record preserve incidents in these areas.

All stairs lead to or from the housing areas.



visitation/interview cubicles

HSU Medical Exam Room

Staircase C Wing

elevator

Double Doored Vestibule

Stairwell F Wing

Sergeant's Office

Stairwell A Wing, Staircase

CONTROL BUBBLE
WCI Segregation/RHU Unit

strip cell area
3 2 1 Restroom

EX-1005 p. 1 of 2

TO: Warden Pollard

Dr. Ingres
Dr. Ludigson
Toml Meil

HSC Director
WIDOC health director

RE: Longterm Seg./AC Programs
WCI (Common Grounds)

Marden Pollard, et al:

Please find enclosed the CG (Common Grounds) longterm seg/AC program resolution that FFUP's "think tank" has put together and donated to Waupun to try to address the longterm seg/AC problems that exist there.

We believe a fresh look at the AC/longterm seg. problem is needed, and we believe common grounds can be part of that solution.

Thank you for your attention to this matter.

We request feedback as to whether this program will be used or any comments on it.

Sincerely,

FFUP Director and Prison Rights Advocacy Coordinator.

Common Ground (CGS)

Time: Transitioning Prisoners From AC and Longtime Seg.

Aim: Addressing conflict resolutions that prisoners in AC/longtime segregation have with prison staff and/or among themselves, resulting in the hopeful transitioning and release from AC/long time seg.

Purpose of Program: CGS begins with the premise that if a prisoner has been placed and held in AC/long seg. status there has to be an existence of some kind of conflict between either staff or the prisoner and other prisoners that lead to this long time segregation placement.

Key Approach: Instead of placing blame or approaching the conflict from a subjective point of view, CGS is designed to not take a particular position in the conflict, but equalize the concerns voiced by both the prisoners/staff and prisoner/prisoner conflict that led to the AC/long seg. placement, and focus on resolutions without element of blame.

Unique approach is effective because, as in any conflict, resolution and all points of view must be aired and acted as part of the resolution discussion. No problem has ever been solved by one party in a given conflict being aired with blame, while the other takes on a superiority complex.

Objective: The objective is to find common grounds that everyone can respect each other's security and vindication concerns without placing blame and the use of inferiority labels that makes one party feel the need to be

defensive, which is what most prisoners who are held in AC/long seg. feel. This defensiveness has been the main reason no previous administration/ clinical programs have successfully led to the prisoners transitioning and eventual release from AC/long seg.

Designed: This is what makes CGS unique and effective. It was designed specifically with AC/long seg. prisoners in mind. After careful review of complaints, court cases, and other view points of prisoners held in these statuses. The CGS think tank recognized the fault lines that kept the prison officials security claims and goals from registering with the prisoners and the prisoner's views being considered by the prison officials. Both sides took a "my way or the highway" approach. Resulting in the stalemate with the prisoner stuck in AC/long seg. for indefinite years and the prison officials having to pay the cost of these prisoners becoming more defensive and in the more extreme cases, not in anyone's best interest. It is certainly not in the best interests of society, where some, if not most, of the prisoners will be freed to; nor the tax payers, who now have to pay extra to staff special housing units to police segregated mental units that are in fact disciplinary segregation units, which only exacerbate the original conflict.

Workshops: The CGS is organized in six workshop sessions:

Session One: Begins with both the prison official and prisoner reducing to written word what each feels is the contributory problems.

CGS freedom of expression: In order for the workshops to be effective there has to be a certain level of free expression. CGS believes all participants must be allowed to state their views free of punishment. Free expression does not entitle abusive language used to provoke or disrespect the other participants, or create more problems.

Session Two: begins with the prison official recitation of the prisoner's point of view and the prisoner recitation of the prison officials. Or, in case of prisoner/prisoner, each would recite the other's views. The participant must defend each other's view point as if it was their original view to examine and experience the difference in each other's views.

Session Three: begins with each participant putting forth prospective resolutions to the conflict, with discussion.

Session Four: begins with the mediator of CGS - a neutral and independent person - putting forth resolutions that participants should consider. The participants can accept or alter these resolutions and stipulate.

Session Five: begins with the participants pointing out what issues of concern that the other one has. They can agree these are ones to be dealt with and agreements to resolve them.

Session Six: begins with all participants putting forth future resolution commitments to prevent and stop future problems and incidents.

Completion of CGS: Upon completion of CGS, which is a six week session workshop, the prisoner participant should be placed in a transition housing to be phased back to general prison population.

Homework Assignments: After each workshop the participant should take a story of real life conflict (past and present, over the span of the workshops) and write a report stating now both sides to that real life conflict could resolve the matter. Also, what might be the fault line problems preventing the current resolutions. The reports should also point out valid points that each side has that should be taken more serious by the other side.

Final Report: At the completion of CGS, the participant should write a one hundred word essay on how the examination of the report conflicts has impacted their opinion, and if so, made a change in view point.

Disclaimer: The reports written should be permitted some freedom of expression and not be used to continue

AC/Seg. placement, nor future placement. The reports will be either read at sessions or by the mediator who will return them to the participant.

Rights: CCS was created by FFUP in house pro se legal consult, R. U. and FFUP reserves all rights.

Donation: FFUP waives the rights to WI DOC to use CCS as part of the prisoner AC/long time seg. remedy.

FFUP/R. U.

New post on Solitary Watch

Supreme Court Justice Kennedy Denounces "Human Toll" of Solitary Confinement and Invites Constitutional Challenge

by Solitary Watch Guest Author

Guest Post by Samuel Weiss and Amy Fetting

Samuel Weiss is Ford Foundation Fellow at the ACLU's Center for Justice. Amy Fetting is Senior Staff Counsel at the ACLU's National Prison Project.

In March, Supreme Court Justice Anthony Kennedy was testifying before the House Appropriations Subcommittee when he received a question on prison overcrowding. He responded with a sweeping condemnation of the American prison system. "Total incarceration," he stated, "just isn't working." He reserved his harshest words for the practice of solitary confinement: "Solitary confinement literally drives men mad."

Justice Kennedy's words were powerful but also left an open question: He called the prison system "overlooked" and "misunderstood," lamenting that "We have no interest in corrections." But he is no outside academic, critiquing the inattentiveness of others. He is a member of a Court both able and required to ensure that conditions inside prisons comport with the Constitution. Indeed, he is often the Court's swing justice, casting the deciding vote on what the Constitution requires. His influence in determining constitutional questions has led law professor Noah Feldman to write, "It's Justice Anthony Kennedy's country -- the rest of us just live in it." If solitary confinement were indeed a primary concern for the Justice, when would it make its way to the pages of the Supreme Court's opinions?

Last Thursday, it arrived. In *Davis v. Ayala*, the United States Supreme Court decided an unrelated question on the exclusion of a defense attorney from part of a hearing on jury selection. The defendant, however, had spent much of the past twenty years in solitary confinement, and Justice Kennedy wrote a separate concurrence to address the practice.

Justice Kennedy opened with the long cultural history of the horrors of solitary confinement, citing an 18th century report on prison conditions and a 19th century novel that detail the damage solitary confinement has wrought. He continued to 1890, when a United States Supreme Court case described how even short stints in solitary left people

"violently insane." He connected these trends to the present, citing to the story of Keller Browder, a child who spent years in solitary confinement while being held, though never tried, for allegedly stealing a backpack. Earlier this month, Browder [took his own life](#).

While this long-standing knowledge of the dangerousness of solitary confinement was "too often" and "too easily ignored," Kennedy wrote, a "new and growing awareness" on solitary confinement is emerging. Most significantly, he closed by appearing to invite a case to address these concerns directly. "In a case that presented the issue, the judiciary may be required, within its proper jurisdiction and authority, to determine whether workable alternative systems for long-term confinement exist, and, if so, whether a correctional system should be required to adopt them."

When a Supreme Court Justice talks, the world listens. *The New York Times* dedicated an editorial to the concurrence, writing that Justice Kennedy "raises a constitutional question even if some of his colleagues would rather avoid it." *The Los Angeles Times* wrote of the "rare instance of a Supreme Court Justice virtually... [i]ssuing a constitutional challenge to a prison policy."

State [chided](#) Justice Kennedy for his lack of self-awareness in accusing others of apathy. "Kennedy may have only just discovered the cruelty of solitary confinement, but civil liberties-minded individuals and advocacy groups have fought against the practice for decades." As civil rights lawyers leading the [ACLU's Stop Solitary Campaign](#), we know well that advocates have worked for years to confront the practice, but there is also no question that the Justice's concern reflects a new and growing national movement to end solitary confinement. That movement now has one of the nation's leading moral and legal voices as its center. [Read more of this post](#)