Testimony of Professor Craig Haney
Before the Senate Judiciary Subcommittee

Hearing on "Legacy of Harm:
Eliminating the Abuse of Solitary Confinement"
April 16, 2024

Senator Durbin and members of the Senate Judiciary Committee,

On June 19, 2012, I had the honor of testifying before Senator Durbin's Subcommittee on the Constitution, Civil Rights, and Human Rights, in a historic hearing—the first time ever that the United States Senate considered the nature and consequences of the use of solitary confinement in our nation's prisons. I welcome this opportunity to update you and the members of Senate Judiciary Committee on what is, from my perspective, the current status of this pressing national issue.[1] There are four points I would like to make in this regard.

The first point that would like to bring to the Committee's attention is that, despite some progress made in some parts of the country in reducing the use of solitary confinement, the dire situation that I described in 2012 persists. As I testified to the Senate Sub-Committee 12 years ago, the use of solitary confinement represents a major humanitarian crisis in American corrections. In many parts of the country that crisis continues unabated. Notwithstanding several federal court decisions declaring the use of solitary confinement in entire state prison systems or individual facilities unconstitutional, including in several in which I testified as an expert witness,[2] and several states (including Colorado, Connecticut, New Jersey, New York, North Dakota, and Orgeon) having adopted more humane alternative approaches to the practice, solitary confinement continues to be grossly overused in many jurisdictions in the United States. Especially problematic is the fact that this includes the increasingly frequent use of solitary confinement by the federal Bureau of Prisons.

The second point I would like to make is that, since I testified to your Committee in 2012, the scientific research documenting the harmfulness of solitary confinement has continued to grow at an accelerating pace. Indeed, there have been well over a hundred publications in books and scientific journals corroborating the testimony that I gave to your Committee on this issue. The existing body of research is now vast, robust, and consistent. With remarkably few exceptions, researchers from many different parts

[1] My qualifications remain much the same as they were when I testified to Senator Durbin's Sub-Committee in 2012. I am a Distinguished Professor of Psychology, at the University of California, Santa Cruz, with a Ph.D., and J.D. from Stanford University. I have published over 100 scholarly articles and book chapters as well as three books. Since the 2012 Senate hearing, I have spent a considerable amount of additional time continuing to document—through extensive in-person inspections and interviews, scholarly writing, and judicial and legislative testimony—the harmful effects of solitary confinement, as it continues to be practiced in many jurisdictions across the United States.

[2] *Braggs v. Dunn*, 257 F. Supp. 3d 1171 (M.D. Ala. 2017) (conditions of confinement and treatment of prisoners in the Alabama Department of Corrections, including those in solitary confinement); *Jensen v. Shinn*, 609 F.Supp.3d 789 (D. Arizona 2022) (conditions of confinement and treatment of prisoners in solitary confinement/restrictive housing units in the Arizona Department of Corrections); *Tellis v. LeBlanc*, WL 67572 (WD Louisiana 2022) (conditions of confinement and treatment of prisoners in solitary confinement at David Wade Correctional Center, Louisiana).

of the world, trained in distinct scientific disciplines, using a variety of research methods, have reached the same conclusion: solitary confinement is harmful to the physical and mental health of persons exposed to it.

The harmful effects are many and varied and they are often serious and disabling. In addition, these negative effects are often long-lasting, even permanent, and they can be fatal. These effects include anxiety attacks, cognitive impairment, depression, hypersensitivity to stimuli, paranoia, sleeplessness, social withdrawal, uncontrollable anger, and self-harm and suicidality. As painful, damaging, and potentially disabling as these individual solitary confinement-related specific symptoms are, they are only part of the story. Many persons subjected to solitary confinement become destabilized and disoriented by the experience; denied the opportunity to ground their identity through social contact with others, they lose their grasp on reality. Others succumb to various "social pathologies" in which, having been forced to live in a world without meaningful social contact with others, they find themselves unable to function normally in social settings and, as a result, self-isolate. In extreme cases, long-term solitary confinement can result in what can be termed "social death"—a person's profoundly dispiriting realization that they have permanently lost the capacity to function as social beings. There also is growing evidence that solitary confinement has adverse neuro-psychological effects,[3] negatively changing the brain structure and function of persons exposed to it, and also research suggesting that even brief exposure to solitary confinement shortens a person's lifespan.[4]

As I say, the body of scientific research that documents the harmfulness of solitary confinement is now truly substantial and beyond dispute. In addition to my own writing summarizing and synthesizing much of this scientific literature,[5] I draw the Committee's attention to a recent meta-analysis that analyzed the results of a number of studies (concluding that solitary confinement "was related to deleterious effects with regards to mood symptoms, PTSD-related outcomes, psychotic experiences, hostility, self-injurious behavior, and mortality")[6] and to the conclusions of a National Academy of Sciences committee of which I was a member, to the effect that there were "sound theoretical bases" to explain the adverse psychological effects of prison isolation, and that "[a]n extensive empirical literature indicates that long-term isolation or solitary

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[3] Brinkley-Rubinstein, L., Sivaraman, J., Rosen, D., et al., Association of Restrictive Housing During Incarceration With Morality After Release, *JAMA Network Open, 2(10),* e1912516 (2019). doi:10.1001/jamanetworkopen.2019.12516

[4] For example, *see*: Lobel, J., & Akil, H., Law & Neuroscience: The Case of Solitary Confinement, *Daedalus, 147,* 61-75 (2018); and Heng, V., Haney, C., & Smeyne, R., The Impact of Isolation on Brain Health, in M. Zigmond, L. Rowland, & J. Coyle (Eds.), *The Neurobiology of Brain Disorders: Biological Basis of Neurological and Psychiatric Disorders* (pp. 963-975). Second Edition. Elsevier Academic Press. https://doi.org/10.1016/B978-0-323-85654-6.00024-1

[5] Haney, C., Restricting the Use of Solitary Confinement, *Annual Review of Criminology, 1,* 285- (2018). Craig Haney, The Science of Solitary: Expanding the Harmfulness Narrative, *Northwestern University Law Review, 115,* 211-256 (2020),

[6] Luigi, M., Dellazizzo, L., Giguere, C., Goulet, M., & Dumais, A., Shedding Light on "the Hole": A Systematic Review and Meta-Analysis on Adverse Psychological Effects and Mortality in Correctional Settings, *Frontiers in Psychiatry, 11*, 840 1-11 (2020)., at p. 6. doi: 10.3389/fpsyt.2020.00840

confinement in prison settings can inflict emotional damage."[7] Thus, the scientific (and human rights) consensus to the effect that solitary confinement is harmful and dangerous practice that must be drastically limited and eventually eliminated is overwhelming.

The third issue that I believe is critically important for the Committee to understand is that solitary confinement serves *no demonstrable penological purpose*. Numerous studies have been done over the last decade or more that consistently demonstrate the futility of placing persons in solitary confinement. Indeed, the practice appears to be not only ineffective but actually *counterproductive*. Specifically, the bulk of the empirical evidence now clearly shows that the use of solitary confinement does little or nothing to consistently reduce disciplinary infractions in the larger prison systems that employ it,[8] it has no impact in reducing subsequent disciplinary infractions within the prisons where it is used (i.e., it has *no* deterrent effect inside prison),[9] and its use does not reduce post-prison re-offending.

In fact, if anything, solitary confinement is criminogenic—that is, it increases rather than decreases the likelihood that persons who have been exposed to it will be returned to prison.[10] For example, as one recent meta-analysis summarizing the results of prior research that included over 200,000 participants put it, "both crime and antisocial behaviors (violence, rearrest, and reincarceration) are *increased* following exposure to [solitary confinement]. Moreover, longer and more recent exposure to [solitary confinement] upon release to communities are associated with increased

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[7] National Research Council, *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. Washington, DC: National Academies Press (2014), at p. 186.

[8] Briggs C, Sundt J, Castellano, T., The Effect of Supermax Security Prisons on Aggregate Levels of Institutional Violence. *Criminology, 41,* 1341–76 (2003) (no evidence that solitary confinement consistently reduced systemwide violence against staff or other prisoners).

[9] For example, *see*: Morris, R., Exploring the Effect of Exposure to Short-Term Solitary Confinement among Violent Prison inmates. *Journal of Quantitative Criminology*, *32,* 1–22 (2016) ("[E]xposure to short-term solitary confinement… does not appear to play a role in increasing or decreasing the probability, timing, or development [of] future misconduct."); Lucas, J. & Jones, M., An Analysis of the Deterrent Effects of Disciplinary Segregation on Institutional Rule Violation Rates, *Criminal Justice Policy Review*, *30,* 765–87 (2017). ("The findings indicate… that the experience of disciplinary segregation does not reduce subsequent inmate misconduct and therefore suggest that it may not be an effective institutional practice."); Medrano, J., Ozkan, T., & Morris, R., Solitary Confinement Exposure and Capital Inmate Misconduct, *American Journal of Criminal Justice, 42(4),* (2017) ("The main finding of the current research is that SC is no deterrent on inmate misconduct. There is good reason to suspect that it makes the situation worse…"); and Shalev, S., *Supermax: Controlling Risk through Solitary Confinement*. Cullompton, UK: Willan Publishing (2009) (acknowledging that "studies suggest that solitary confinement is not an effective tool for managing those defined as 'problem' or 'difficult' prisoners and may even be counterproductive").

[10] For example, *see*: Zgoba, K., Pizarro, J., & Salerno, L., Assessing the Impact of Restrictive Housing on Inmates Post-Release Criminal Behavior, *American Journal of Criminal Justice, 45*, 102-125 (2020) (persons "placed in restrictive housing had elevated levels of recidivism and proportionally more new commitments for all crime types than those not placed in restructure housing. Restrictive housing subjects also displayed shorter time to rearrest than no-RH individuals").

recidivism," including post-release violent behavior.[11] It is not difficult to understand why. There is no psychological theory of which I am aware that suggests placing a person alone in a small, barren cell, depriving them of property, access to programming and, most importantly, eliminating all meaningful contact with others, is likely to improve their behavior, state of mind, or ability to relate better to others in the future. Correctional officials who defend solitary confinement by arguing that the practice is necessary to maintain institutional order and safety are thus ignoring substantial evidence to the contrary. Ironically—and indefensibly in my opinion—the pains, harms, and dangers of solitary confinement are being incurred by prisoners without any tangible benefit accruing to the correctional systems that inflict them.

Fourth, and finally, I want to emphasize that there *are* alternatives to the use of solitary confinement that are both more effective and more humane. Minor disciplinary infractions—even numerous such infractions—should *never* result in the imposition of the painful, damaging, and dangerous sanction of solitary confinement. More serious infractions—including those that involve violence or the threat of violence—should be managed through de-escalation followed by the provision of *more not less* therapeutic and educational programming. When appropriate, this enhanced care can and should include intense violence-reduction counseling (such as the Resolve to Stop the Violence Project or "RSVP" program that was implemented years ago in the San Francisco County Jails).[12] As I am sure you know, the nation's prisons tragically hold a disproportionate number of persons suffering from pre-existing mental illness. This necessarily means that a disproportionate number of the disciplinary infractions that occur in correctional settings—and that result in the inappropriate and extremely dangerous placement of mentally ill persons in solitary confinement—are precipitated by psychiatric crises, not willful violations of prison rules. Persons who are in the throes of a mental health crisis require *enhanced* access to mental health care, not placement solitary confinement (where they are likely to received markedly less care, if they get any all). Hence, a significant number of the persons who currently are being placed in solitary confinement units need instead to be immediately stabilized and then transferred to facilities that can provide them with appropriate levels of care.

In this regard, as another example of the kind of alternative approaches that can help to reduce or eliminate the use of solitary confinement, my University of California colleagues and I have been involved in state-level correctional reform programs that implement a more humane services-oriented and person-centered correctional philosophy (based on principles developed by the Norwegian Correctional Service).[13] These correctional culture changes have resulted in dramatic reductions in one prison

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[11] Luigi, M., Dellazizzo, L., Giguere, C., Goulet, M., Potvin, S., & Dumais, A., Solitary Confinement of Inmates Associated with Relapse into Any Recidivism Including Violent Crime: A Systematic Review and Meta-Analysis, *Trauma, Violence & Abuse, 23(3),* 444-456 (2022), at p. 451 (emphasis added).

[12] Gilligan, J., & Lee, B., The Resolve to Stop the Violence Project: Reducing Violence through a Jail-Based Initiative. *Journal of Public Health, 27(2),* 143-148 (2005)

[13] This project—Amend at UCSF—was developed and continues to be directed by Professor Brie Williams, and is based at her home campus, the University of California, San Francisco School of Medicine.

system's reliance on solitary confinement[14] and, in an another, replacing a conventional punishment-first regime with a radically different approach that addresses the needs of the residents.[15] These reforms were accompanied by significant reductions in institutional violence and staff uses of force, and dramatic improvements in the self-reported well-being of staff members and residents alike. Of course, these reforms do not go nearly far enough. But they do demonstrate that it is possible to significantly reduce the use of solitary confinement and to radically modify the ways these kinds of units are operated, actually making prisons safer and at the same time enhancing the psychological and physical health of correctional staff and incarcerated persons who work and live there.

In 2018, my colleagues and I convened an international summit on solitary confinement and health that included renowned experts in medicine, mental health, law, human rights, and corrections, to articulate a set of best practices.[16] The Consensus Statement that resulted from the summit included a set of "guiding principles" and steps be taken to drastically reduce and eventually eliminate the use of solitary confinement. We agreed that solitary confinement should be used *only* in exceptional or exigent circumstances, when absolutely necessary, in the absence of any available, less onerous placement. In those exceedingly rare instances in which the use of solitary confinement is deemed absolutely necessary, it should only be used for the *shortest amount of time possible*—that is, only as long as it takes for correctional officials to address the exigent circumstance and to find more suitable and less harmful alternative placements. We recommended further that solitary confinement should *never* be imposed on certain vulnerable persons—the young, elderly, mentally ill, physically infirm, and pregnant women. I urge the members of this Committee also to abide those principles, in taking decisive steps to drastically limit the amount and duration of solitary confinement in the United States, toward its eventual elimination.

From my reading of the proposed End Solitary Confinement Act [S3409/HR4972], it appears to embody precisely these principles and, for that reason, I also urge this Committee to pass it, and at the same time to ensure that the federal Bureau of Prisons is provided with adequate resources and a clear mandate to establish and properly operate the contemplated alternatives to solitary confinement as well as the greatly enhanced services and programming the law contemplates.

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[14] Cloud, D., Augustine, D., Ahalt, C., Haney, C., Peterson, L., Braun, L., & Williams, B., "We Just Needed to Open the Door": A Case Study of the Quest to End Solitary Confinement in North Dakota*, Health and Justice, 9*:28 1-25 (2021) https://doi.org/10.1186/s40352-021-00155-5.

[15] Cloud, D., Haney, C., Augustine, D., Ahalt, C., & Williams, B., The Resource Team: A Case Study of a Solitary Confinement Reform in Oregon. *PLoS ONE, 18(7),* e0288187. https://doi.org/10.1371/journal.pone.0288187.

[16] *See*: Haney, C., Williams, B., & Ahalt, C., Consensus Statement from the Santa Cruz Summit on Solitary Confinement and Health, *Northwestern University Law Review, 115(1),* 335-360.