

***Institutionalized Cruelty: Torture at SCI Dallas and
in Prisons Throughout Pennsylvania***

Obviously we are not human beings to them, we are merely a number.

-SCI Dallas prisoner

“Okay motherfucker, game on. I can kill you and won’t nobody care because you ain’t nothing
but a number that’ll be replaced.”

-threat reportedly made by SCI Dallas guard

A Report by the Human Rights Coalition-Fed Up! Chapter

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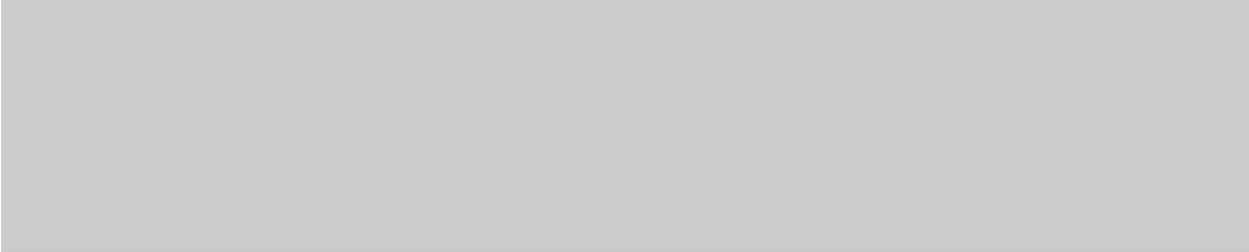


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Dedication

The focus of this report is widespread allegations of criminal human rights violations committed by Pennsylvania Department of Corrections (PA DOC). While we understand that many prisoners commit immoral and horrific acts we do not feel a responsibility to focus on these: prisoners are not subsidized by taxpayers to uphold the law and act as custodians of collective security and social justice. The PA DOC bears that responsibility. Given the secrecy, dishonesty, and cowardice that characterizes the official attitude of the PA DOC to reports of human rights violations committed by its personnel, the only recourse for those who demand accountability and the rule of law in the justice system is to amplify the very voices these prisons try to silence.

This report is dedicated to past victims of torture and today's survivors, those subjected to the starvation, thirst, psychological deterioration, social isolation, beatings, threats, lack of medical care, and racism that constitutes the regime of solitary confinement in Pennsylvania. May we all listen to the cry for justice from those who resist and survive so that the world may know their names and stories and take collective action to abolish torture.

Introduction

These prisons serve no purpose. They're graveyards.
—Wilson Booker, from his solitary confinement cell in SCI Dallas

I think the average tax payer will be mad to know that their money is going [to] warehousing instead of rehabilitating and facilitating inmates with the tools to be productive in society once they are released.
—Alex Melendez, September letter to HRC

A Day in the Life of the Prison-House of Nations

With 51,487¹ people confined in state prisons under the control of the Pennsylvania Department of Corrections (PA DOC), the state of Pennsylvania ranks seventh in the United States in terms of its prisoner population.² From 2007 to 2008 the prison population in Pennsylvania increased by 9.1 percent, the highest in the U.S., far ahead of second place Arizona's 4.9 percent

growth rate.³ This trend represents a continuation of a three-decade long incarceration binge that has seen the PA DOC prisoner population increase by more than 458% since 1980, adding more than 38,000 prisoners.⁴ And there is no end in sight. In remarks to PA General Assembly members in 2008, PA DOC Secretary Jeffrey Beard stated, "the system has grown by 21% from 37,995 in 2001 to 46,028 in 2007. And, this growth is

¹ Pennsylvania Department of Corrections Monthly Population Report as of December 31, 2009.

² Bureau of Justice Statistics Bulletin: Prisoners in 2008, William J. Sabol, Heather C. West and Matthew Cooper, <http://bjs.ojp.usdoj.gov/content/pub/pdf/p08.pdf>.

³ "Pa. prison population shows big growth," Peter Mucha, *Philadelphia Inquirer*, December 10, 2009.

⁴ PA DOC Budget Request FY 2008-2009, remarks by Secretary Jeffrey A. Beard, Ph.D, to the Senate Appropriations Committee on February 28, 2008 and House Appropriations Committee, March 3, 2008.

expected to continue at an average growth rate of 4% each year through year-end 2012, reaching 57,000 state prisoners.”⁵

The PA DOC recently announced plans to ship 2,000 prisoners to other states in an attempt to release the pressure from an overcrowded system.⁶ This is being done despite the state authorizing the construction of three new prisons in Centre, Fayette and Montgomery counties and additional housing units in Crawford, Forest, Indiana and Northumberland counties, which will add nearly 9,000 beds to the system when complete.⁷

Absent from media reports and governmental proposals on PA DOC operations are any discussions of the conditions of confinement in state prisons. The lack of rehabilitative programming, especially vocational training and mental health services, guarantees a persistent recidivism⁸ rate where nearly 1 of every 2 prisoners become re-incarcerated within three

⁵ *ibid.*

⁶ “Pa. will transfer 2,000 inmates to Va., Mich.,” Tom Barnes, Pittsburgh Post-Gazette, December 22, 2009/

⁷ “State Unveils Plans for New Prisons and Housing Units to Address Overcrowding,” Pennsylvania Department of Corrections, Correctional Newsfront Volume XXXV, No. 2, 2009.

⁸ Recidivism refers to the “tendency to relapse into a previous undesirable type of behavior, especially crime.” Official recidivism rates are calculated according to the percentage of prisoners who become re-incarcerated within three years after their release.

years of their release.⁹

This is the context in which this report on human rights violations at the State Correctional Institution (SCI) at Dallas has been written.

In June of 2009, the Human Rights Coalition-Fed Up! chapter (HRC) initiated an investigation into conditions of confinement at SCI Dallas. The findings of this investigation are detailed in the following report, allowing the voices and experiences of the prisoners themselves to take center stage. In the course of our investigation we have reviewed thousands of pages of prisoner letters, institutional paperwork, civil litigation documents, affidavits and declarations, correspondence to and from family members, and conducted hours of interviews with those who have loved ones at SCI Dallas. Most of the material providing the content for the report was accumulated between June and October, although certain reports detailed prior violations. Additional reports come in by the week, and some of this more recent material has been included in the final report.

While certain aspects of conditions reported to HRC are distinct to SCI Dallas, the most disturbing fact of the human rights violations detailed herein is their consistency with reports from other prisons in the PA

⁹ Pennsylvania Department of Corrections, Recidivism in Pennsylvania State Correctional Institutions 1999-2004, Robert Flaherty, December 2006.

DOC. While the intensity and degree of particular violations varies from prison to prison, HRC has amassed an unassailable body of evidence indicating that physical abuse and assault, sexual harassment and violence, overt and malicious racism, psychological torment, medical deprivation, deprivation of food, exposure to dangerously unhygienic conditions, constant intimidation and retaliation, and the subversion of prisoners' due process rights are normative features of prison life in Pennsylvania.

The purpose of this report is to reveal the cruelty, illegality, suffering, racism, violence, and despair that constitute the reality inhabited by inmates at SCI Dallas. In this task we aim to contribute to an enhanced public awareness and outrage over what a day in the life is like for some of the more than 2.4 million men, women and children incarcerated in the United States, the prison-house of nations.

Summary of Findings

"I was confined in the RHU for my mental problem, and I can tell you that the RHU of SCI-Dallas is Hell."

—Roberto Rivera

The major findings of our investigation into SCI Dallas are:

- Frequent usage of racist slurs, threats of violence, verbal and physical abuse by guards;
- Retaliation against prisoners exercising their constitutional rights to file grievances,

- criminal complaints, and civil suits regarding conditions of confinement and guard misconduct/crimes. This practice commonly takes the form of the issuance of fabricated misdeeds and subsequent placement in solitary confinement, as well as the seizure and destruction of legal property;
- Failure to provide adequate, or at times any, physical or mental health care;
- Brown drinking and bathing water, filthy cells, exposure to infectious diseases, and generally substandard environmental conditions;
- Encouragement of prisoner-on-prisoner violence, including incitement to murder and sexual violence;
- Incitement to and encouragement of suicide;
- A defective inmate grievance system that is systematically biased against prisoner claims of staff misconduct and substandard conditions, commonly refusing to permit prisoners to present witnesses or security camera evidence in support of their claims, and thus violating their right to due process. This practice conforms to inmate grievance procedures throughout the PA DOC (see enclosed official inmate grievance statistics, wherein less than 2% of prisoner grievances were upheld between January 2008 and May 31).

The highest concentration of prisoner reports came from those being held in the Restricted Housing Unit (RHU). The RHU is a solitary confinement/control unit¹⁰ where prisoners are held in their cells 23 hours each day during the week and 24 on the weekends. Conditions in the RHU at Dallas were summarized by one prisoner as follows:

“The conditions were very inhumane... hot, no working vents at all... stuffy and humid... My first cell bugs were biting me all over my body, when I said something about it they (medical staff) played like I was crazy then finally after constant complaining they gave me benadryl then moved me and still didn’t clean the cell. They had a light on all day that felt like a rotisserie lamp. It was hard to sleep because of the hot humid cells and constant bugs biting me all day and night... We had no cups to drink the brown colored water that came out of the sinks and toilets. There was constant screaming yelling kicking and banging (with objects on doors to multiply the sound on the doors).”

Along with dangerously substandard conditions comes the psychological deterioration of prolonged isolation. While a vastly higher prevalence of

¹⁰ RHU, solitary confinement, control unit are used interchangeable in this report. Prisoners and popular discourse commonly refer to these units as “the hole.”

psychological instability and disorder already exists amongst the prisoner population than within the population at large¹¹ the rate of mental illness becomes higher yet amongst those confined in control units. Responses to questionnaires sent to large numbers of prisoners led the U.S. Bureau of Justice Statistics to claim in a September 2006 report that as many as 56% of state prisoners likely suffer from a mental health problem,¹² based on the presence of a recent history or symptoms of mental health problems.

The regime of solitary confinement both exacerbates and generates psychological instability, abnormality, and disorder, therefore perpetuating an escalating cycle of mental illness and suffering inside and outside the prisons. The scientific consensus deduced from copious research on the psychological impact of solitary confinement is that the experience generates considerable and sometimes permanent mental suffering

Prisoners at SCI Dallas frequently reported experiencing suicidal tendencies, distortions in thought

¹¹ Terry Kupers, *Prison Madness: The Mental Health Crisis Behind Bars and What We Must Do About It*. Dr. Kupers writes that “The prevalence of mental disorders among prisoners is quite high, at least five times the prevalence rates in the general population,” p. 11.

¹² “Mental Health Problems of Prison and Jail Inmates,” Doris J. James and Lauren E. Glaze, *Bureau of Justice Statistics Special Report*, September 2006.

processes, hallucinations, rage, inability to concentrate, and helplessness. During the course of our investigation one prisoner, Matthew Bullock, committed suicide by hanging. In the days and weeks that followed HRC obtained 8 statements from other prisoners testifying that: (1) Mr. Bullock was severely depressed as a consequence of conditions in the RHU, where he was being held in violation of a judge's sentencing order that he serve his time in a secure mental health institution; (2) Mr. Bullock made staff aware of his urge to commit suicide; (3) guards ignored his plea for help and even encouraged him to kill himself; (4) guards moved him from a cell with a camera to a cell without a camera after Mr. Bullock threatened to kill himself; (5) staff then failed to make rounds for at least four hours providing Mr. Bullock the opportunity to kill himself.

HRC has received several such reports of guards encouraging prisoners to kill themselves. Mental health care is virtually non-existent, especially for those in solitary confinement. These reports are consistent with countless others received from prisoners in the PA DOC.

The lack of mental health treatment fits within a more extensive problem of medical neglect. The provision of medical services in SCI Dallas, and throughout the PA DOC, has been contracted to Prison Health Services, Inc. (PHS), a Tennessee-based for-profit corporation that has left a trail

of corpses and lawsuits in its wake around the country (see section 3.3). Prisoners frequently report being denied medications, surgery, hospitalization, and other necessary care. The compelling and obvious motive behind these restrictions on access to medical services is the lowering of costs, which for a private corporation means the increase of profits.

According to official PA DOC statistics 13 prisoners died at SCI Dallas in 2009. Aside from the Bullock suicide 11 were listed as "natural" while the death of 25 year-old Howard Kelley was undetermined.¹³ Newspaper reports subsequently reported that Mr. Kelley died as the result of complications from H1N1, aka "Swine flu", although family of Mr. Kelley report being told conflicting information. HRC has received several reports that Mr. Kelley had attempted to seek medical care for his illness prior to his death but was refused. By the time he was given attention it was too late.

Another lethal example of medical neglect and cruelty in the RHU was reported to HRC in late November by Andre Jacobs (see case study in section 2.2). Mr. Jacobs reports that he informed both C/O Rayburn and Nurse Dawn Williams that prisoner Bernard Carr was coughing and throwing up in his cell. Nurse Williams replied, "Mind your business. He can sign up for sick

¹³ Pennsylvania Department of Corrections Inmate Deaths System data, obtained via PA Right to Know request; on file.

call.” Sick call was not until tomorrow. At approximately 6:00 am on the morning of 11/25 C/O Wilk found Mr. Carr dead in his cell. When Sgt. Ransom arrived on the block that morning, it was reported that he loudly stated, “Another dead nigger. Jacobs’ next.” Mr. Carr’s death was confirmed by the official PA DOC inmate deaths list.

Guards at SCI Dallas routinely engage in racist harassment and intimidation, targeting black and Latino prisoners with fabricated misconducts, physical abuse and assault, and deprivation of food, water, and other rights. One example amongst many came from Randolph Creighton when he sent HRC a copy of a private criminal complaint he submitted to the DA of Luzerne County regarding Sgt. Henry, stating that “Dec. 2, 2009, roughly after 3:00pm, Sgt. Henry ordered myself and other compound workers to pick up all the rocks that were left around the edge of the dug up hole. As I proceeded to do so, Sgt. Henry stated the following comments “you black guys sure are fucking lazy (stated twice); If those were crack you guys would kill each other trying to pick them up! You black guys should all be fired. I’m going to see if you all can be fired. You’re nothing but punks and drug dealers.” The complaint also stated that on December 9th Sgt. Henry refused to sign paperwork of Mr. Creighton’s, stating, “I’m not signing your pass. I’m leaving Friday for good so take that pass and shove it up your black nigger unemployed ass you black bitch.”

Prisoners who attempt to resolve problems of substandard conditions and staff misconduct through non-violent, constitutionally-protected means such as filing grievances or lawsuits are singled out for retaliation. Along with racist intimidation and threats of violence, commonly reported tactics of retaliation include issuing false misconduct reports that provide a pretext for holding prisoners in prolonged, sometimes indefinite, solitary confinement. Once in the RHU these prisoners are routinely subjected to deprivation of food, running water, yard, showers, personal property, access to the law library; their mail is opened, delayed, confiscated, or destroyed. Prison misconduct hearings are virtually always formalities that rule against prisoners after refusing them the right to call witnesses or access security camera footage for purposes of evidence.

Those who file grievances do so with the knowledge that these too are virtually always decided against prisoners. Official PA DOC grievance statistics reveal that between January 1, 2008 and April 28, 2009 less than 2% of prisoner grievances were upheld throughout the state.¹⁴ Yet because of the provisions of the Prison Litigation Reform Act (see section 3.5.1) those who want to challenge violations of their rights in court are forced to file grievances, despite the serious risk to their health and safety, lest the

¹⁴ PA DOC Inmate Grievance Tracking System Summary Totals, on file.

claim be dismissed on a procedural technicality.

In sum, conditions of confinement at SCI Dallas fail to meet minimal standards of decency, competency, morality, or legality. Substandard conditions expose prisoners to infectious diseases and ill-health (see section 3.3) and medical staff routinely refuse adequate or any treatment; mental health services are grossly deficient when they are available at all; solitary confinement is being used as a warehouse for the mentally ill and as a tool of retaliation; and flagrant racism of a distinctly white-supremacist nature governs the entire operation of the prison. In all of the above SCI Dallas falls squarely within the mainstream of the PA DOC.

The Supreme Law of the Land: Note on the Legal Framework

Torture seeks to annihilate the victim's personality and denies the inherent dignity of the human being. The United Nations has condemned torture from the outset as one of the vilest acts perpetrated by human beings on their fellow creatures.¹⁵

International human rights law provides the general framework for the legal analysis contained in sections 3 and 4 of this report. The three primary documents in this regard are the Convention against

¹⁵ *Human Rights Fact Sheet* series No. 4, *Methods of Combating Torture*, published by the Office of the United Nations High Commissioner for Human Rights, United Nations Office at Geneva.

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Covenant on Civil and Political Rights; and the Universal Declaration of Human Rights. Other guidelines for interpreting and implementing human rights principles that have been adopted by the United Nations are also included in order to provide analytical support and as useful tools for addressing violations of prisoners' rights.

We have chosen not to focus on U.S. domestic law for this particular report, although the conditions alleged herein violate numerous aspects of such, because it is our contention that international law (which is also constitutional law, see below) must be the legal standard which government actions are measured by if human rights and the rule of law are to be respected.

The treaties, resolutions, and other guidelines presented herein represent the customary understanding of international law acknowledged by the world community. For this reason HRC recognizes international human rights law as binding upon the United States under article 6 of the U.S. constitution, which states that "all treaties made . . . under the authority of the United States, shall be the supreme law of the land."¹⁶

This report does not probe the U.S. record on ratifying, recognizing, or abiding by international conventions

¹⁶ The Constitution of the United States of America, Article VI

and customs. Nor does it seek to distinguish with finality which violations amount to torture and which fall into other categories of ill-treatment. This latter concern can only be adequately achieved by officially authorized criminal investigations conducted in accord with international standards.

Instead, this framework is advanced in order to further the development of the human rights culture and movement in the U.S. Rather than engage in discussions of official U.S. interpretation and application of international law, we find it more direct to expose severe violations and utilize the human rights framework as a tool for understanding and action.

Ultimately, ratification, recognition, and adherence to the conventions and customs of international human rights law is not the responsibility of the government *per se*, but the responsibility of the people.

Program for Accountability, Access, Oversight and Transformation

The contents of this report describe an unsustainable and appalling culture of criminal conduct within the PA DOC. To date, no effective action has been taken by those in positions of power to address the human rights crisis inside the prison system. The inaction and indifference from DOC and state officials when presented with substantial documentation of crimes

of the state can only be understood to represent a position of tacit approval at worst or a decision of political expedience at best.

We offer the following recommendations (see section 4) to our allies in civil society as a framework for sustained, principled, committed political struggle. These recommendations are in no way comprehensive and demand further elaboration and integration into a broader movement for the enforcement of human rights law and a corresponding restructuring of the political, economic, and social relationships and institutions that govern our communities and shape our collective future.

As an organization comprised of prisoners, their families and support people, and human rights defenders, we expect these constituents to be most receptive to the following recommendations.

- I. **Investigate and prosecute crimes of torture and other cruel, inhuman or degrading treatment or punishment.**
- II. **Restructure the criminal legal system according to international law, bringing conditions of confinement into accord with the United Nations Standard Minimum Rules for the Treatment of Prisoners.**
- III. **Encourage prisoners to form associations for the defense of human rights.**

- IV. Abolish solitary confinement.**
- V. Create a culture of human rights defenders.**
- VI. Enforce the Universal Declaration of Human Rights and make prisons obsolete.**

These recommendations, which are explained more fully in section 4, provide a framework through which the human rights movement can pursue varied and mutually supportive initiatives for accountability for state crimes, access to prisoners, monitoring of conditions, and system-wide transformation. Anything less will guarantee that the abuses of power described below will persist.

Human Rights Violations at SCI Dallas: Prisoners' Voices

“So many things is going on in this prison like nothing I’ve experienced in 26 years of incarceration and I’ve been under some physically rough conditions.”

– Eric Rambert (AM-9223), 2/3/2009

“I recently had the misfortune to be shipped into SCI Dallas where every complaint you have from here is only the tip of the iceberg.”

– Steven Mable (CW-1531), 8/3/09

“The Christian in me says it's wrong, but the corrections officer in me says, ‘I love to make a grown man piss himself.’”

—Charles Graner, Abu Ghraib guard and former Correctional Officer at SCI-Greene in Pennsylvania¹⁷

For this section of the report we reviewed all the letters, reports, criminal complaints and other documents we received from Dallas throughout 2009 in order to provide an overview of the dominant patterns of human rights violations in the voices of those on the target end. Due to space constraints, we can present only a fraction of these stories. The reports are grouped by type of abuse: physical, sexual, medical, etc. Listening to these voices is a harrowing experience.

¹⁷ “Punishment and Amusement,” Scott Higham and Joe Stephens, *Washington Post*, May, 22, 2004.

The conditions reported herein, coupled with comparable reports

from throughout the PA DOC and new reports of assault, starvation, retaliation, death threats, and abuse of the mentally ill give the definite sense that things are getting worse.

Case Study: Matthew Bullock—Murder by Other Means

Matthew Bullock committed suicide on August 24, 2009. Days after his death, we received the first report from a prisoner that guards had tormented him until he killed himself. In the coming days and weeks no less than eight eyewitness reports were sent to HRC/Fed Up! describing guard encouragement and facilitation of this suicide. As David Sierra (DV-0642) wrote on 9/12/09, “Hopefully something could be done before more people die.”

Carrington Keys (EF-4010) wrote on 9/17/09:

“I Carrington-Alan Keys hereby declare, swear and affirm under penalty of perjury, true, correct, complete, and not misleading that during the month of August and the days

following up to August 24th 2009 that several officers including Officer Bath, Corbett, McCoy, Pudlowsky, Rasburn and Matello encouraged prisoner Matthew Bullock to kill himself, called him child molester, kicked on his door, and deprive him of protection against suicidal tendencies. Specifically I recall on 8-26-09 and 8-27-09 Officer McCoy was bragging that it was him (McCoy) that made Bullock commit suicide and that he would like to see other inmates kill themselves. On 8-27-09 C/O McCoy stated that he is going to make the baby raper '[name withheld]' kill himself too. The days following up to the date that prisoner Matthew Bullock committed suicide Mr. Bullock was complaining about being unable to breathe in hot cell with the bright light shining in his face 24 hours a day. Prisoner Bullock was in a camera cell and told the officers that he would kill himself. The RHU officers moved inmate Bullock to a cell without camera and provided him the means to kill himself. No officers made any rounds to check on Bullock on the 2-10 shift. Therefore Mr. Bullock being under the pressure of solitary confinement and being treated less than a dog committed suicide."¹⁸

¹⁸ Affidavit of Carrington-Alan Keys, executed on 9-17-09, on file.

In a similar vein, Isaac Sanchez (GY-8440) wrote on 8/24/09:

"That on the date of 8/24/09 around 6:15pm I did witness with my eyes and hear with my ears officers Mattelo, Babs [sp] and first shift and second shift passionately and aggressively state such foul energy comments towards Matthew Bullock. Stating such things as child molester, snitch, pedophile and many other disrespectful names. They also told Matthew Bullock that they don't take his suicide threats seriously and that if he wanted or needed a helping hand to assist his suicide task/threat... The officers here at Dallas definitely caused this inmate to kill himself by agitated him in various ways and by totally ignoring his health problem/conditions."¹⁹

David Sierra (DV-0642) submitted an affidavit written on 9/17/09, swearing the following:

"On 8-24-09 at 6:16pm a Lieutenant in the RHU contacted the medical department claiming that an inmate hung himself. This inmate, a 'Matthew Bullock', was in KA-50 cell where a camera is placed in front of cell for observation, then abruptly moved to KA-48 cell. During the move to a different

¹⁹ Affidavit of Isaac Sanchez, executed on 8-24-09, on file.

cell C/O Wilks (who was drunk and comes to work like that daily) taunted him (Bullock) and antagonized him by calling Bullock a child molester, and rapist. C/O Colbert, C/O McCoy, on the 6-2 shift, and C/O Bath, C/O Matello, and C/O Sromovski on the 2-10 shift antagonized Bullock for days, telling him to kill himself. This was an ongoing process until he did what they forced him to do.”²⁰

In an undated letter that also addressed the inhumane conditions of solitary confinement, Lawyer Lanier (GU-5777) wrote:

“They also murdered a man on approximately August 22. A man named Mathew Pollock [sic] died in K-A-48 cell of Dallas RHU. Officer Bath worked along with Officer Montello. Officer Bath was instigator. He was making comments of how we’ll ‘all get your day’ and ‘we’re just saving tax dollars, it’s a depression.’ When inmates screamed man dying get him help. They lounged around making comments of obscene nature to which I can’t repeat in detail. No one knew his family to tell them real story and be able to offer affidavits and testimony so they can get justice. Surely they were given a trumped up version of their

loved one’s death. May God Bless his soul!”

Abdus-Shahid Ali (HU-5599) reported a final indignity to us in a letter from 10/8/09 that said, “The next day they moved someone in without cleaning the cell.”

Matthew Bullock was serving a 20-60 year sentence for the murder of his pregnant wife in November 2003. He was found guilty but mentally ill by a jury and ordered to serve his sentence in a secure mental health facility by Judge Joseph Augello. Despite this sentencing instruction, Mr. Bullock spent only a small portion of his time in the PA DOC in a “secure mental health facility,” SCI Waymart. He was sent to SCI Dallas on July 15, 2009. According to one of his trial attorneys, Al Flora, Mr. Bullock’s family reported that he had attempted suicide six times while in the PA DOC.²¹ It has also come to the attention of HRC/Fed Up! that psychiatric personnel re-established Mr. Bullock’s prescription level to a “baseline zero”, which means they terminated all his current medications.

As a result of our ongoing investigation several articles related to the Bullock suicide, human rights violations and control unit torture were published in the Wilkes-Barre Times Leader, which is the local area newspaper for SCI Dallas, and another in the state capitol’s

²⁰ Affidavit of David Sierra, executed on 9-17-09, on file.

²¹ “Lawsuit in inmate suicide possible,” Steve Mocarisky, *Wilkes-Barre Times Leader*, September 29, 2009.

Harrisburg Patriot.²² Both PA DOC spokeswoman Sue Bensinger and PA DOC Office of Professional Responsibility (OPR) Director James Barnacle alleged that the PA DOC would investigate any credible claims regarding this or other related matters of prisoner abuse. In the weeks following the suicide, HRC/Fed Up! submitted 7 eyewitness accounts and over 100 additional complaints regarding comparable human rights violations—including guard incitement to suicide, abuse of the mentally ill, death threats, and unbearable living conditions in the solitary confinement units—to OPR, PA DOC Secretary Beard, state Attorney General Corbett, and Governor Rendell, requesting transparent investigations and the enforcement of the rule of law in SCI Dallas and throughout the PA DOC. To date no investigation has been forthcoming.

Unsurprisingly, several inmates fear that they will meet the same fate as Bullock. As John Paolino (GN-5925) wrote on 11/05/09, “Since I got to this prison I’ve been in the RHU more time than in general population. I need someone to help me because I should have been Matt

²² “State to investigate allegations about Dallas prison guards,” Steve Mocarsky, *Wilkes-Barre Times Leader*, September 11, 2009; “Prisoner rights group wants probe of state prison,” Steve Mocarsky, *Wilkes-Barre Times Leader*, September 27, 2009; “Lawsuit in inmate suicide possible,” Steve Mocarsky, *Wilkes-Barre Times Leader*, September 29, 2009; “Suicide raises questions about prison treatment,” Pete Shellem, *Harrisburg Patriot*, September 19, 2009.

Bullock. I hung myself Nov. 12, '08 and all these people did was lock me in a room naked for 18 days and take every medication that had helped me. I wouldn't have hung myself if they would've listen to me. If they wouldn't have continually messed with all my medications.”

And Frederick Collins (GZ-8313) wrote on 10/05/09 that he “was subjected to mental abuse, and was not fed by CO Bath. [I] was told to kill [my]self, this is a regular form of abuse used by CO Bath and other officers in the ‘hole’. While [I] was in the RHU inmate Matthew Bullock committed suicide, he was subjected to the same abuse as [me], so much so he committed suicide, due to cruel and unusual punishment.”

Case Study: Andre Jacobs and the Ethic of Resistance

Andre Jacobs entered the criminal legal system at the age of 15 and has been incarcerated ever since, subjected to assaults, constant racism, and convicted on allegedly false criminal charges on multiple occasions. He has spent the last nine years and counting in solitary confinement in retaliation for filing lawsuits against violations of his rights by prison guards and DOC officials.

An affidavit submitted to HRC/Fed Up! in November, 2009 stated:

“I only know Andre Jacobs from being transferred to SCI Dallas in May 2009. A week prior to his coming there I

heard prison guards Robo, McCoy and Sgt. Buck propositioning prisoners to attack Mr. Jacobs verbally and physically because 'he is a snitch'.

"I also witnessed that on 10-10-09 [Mr. Jacobs received a visit] and while Jacobs was on the visit Sgt. Buck specifically sent guards Provo and Harrison to search and destroy legal documents in Jacobs' cell to which we all were hollering that the search is illegal, and the toilet kept flushing everything paper was crumbled, which later was discovered by Jacobs. They were in his legal box and documents are missing.

"It is no mystery that the guards are highly retaliatory against Jacobs for winning his lawsuit because everyday they are making remarks about it, and I found out about it listening to Robo, McCoy and Sgt. Buck talk about it before Jacobs got there, they were mad."²³

These acts of retaliation and others, including death threats and physical assault, were corroborated by other prisoners and Mr. Jacobs himself in a Motion for Temporary Restraining Order and/or Preliminary Injunction filed pursuant to civil action no. 04-1366 with Judge Conti in the U.S. District Court for the Western

²³ Declaration of Eric X. Rambert #AM9223, November 2, 2009, on file.

District of Pennsylvania.²⁴ The motion was denied.

Andre has brought four lawsuits to jury trial against DOC defendants. After the first trial resulted in an unfavorable verdict for him, U.S. Marshals reportedly dragged Andre onto an elevator and beat him unconscious. In multiple interviews with Mr. Jacobs and his grandmother, who witnessed the assault, it was recalled how Andre had called out to his grandmother that he loved her. The U.S. Marshals, who had displayed a hostility toward Andre during the entirety of the proceedings in the federal court in Pittsburgh, told him he was not to say a word, and subsequently dragged him on the elevator and assaulted him.²⁵

Despite being handcuffed and shackled with his arms full of legal documents at the time, charges were brought against Andre for assaulting the officers. Mr. Jacobs was found guilty in a trial in which he claims that he was provided ineffective counsel and that U.S. marshals perjured themselves regarding the events of that day. He was sentenced to 17 years under federal law.

²⁴ Motion for Temporary Restraining Order and/or Preliminary Injunction, *Jacobs v. DOC et al.* Civil Action 04-1366, October 10, 2009, copy on file.

²⁵ Based on several interviews with Mr. Jacobs and Elizabeth Springer, along with a federal habeas corpus petition filed by Andre Jacobs this fall, a copy of which is on file.

Another lawsuit brought by Andre that is ongoing describes abuse and torture at the hands of psych staff at SCI Fayette. The complaint reads, in part:

“On June 19, 2004, defendant Saavedra ordered that I be placed in four-point restraints after I set the water sprinkler off in my cell.

“Defendant Saavedra forced me to remain in restraints until June 22, 04 without ever talking to or observing me.

“While already restrained, defendant Saavedra then ordered that I be involuntarily injected with anti-psychotic drugs (unknown to me at the time) at the suggestion of non-medical LTSU [Long-Term Segregation Unit] staff. Prison guards physically held me down while a female nurse forcibly pulled down my underwear and injected me in the buttocks with a needle.

“I was injected with Haldol at defendant Saavedra’s direction, with full knowledge that this drug is known to cause restlessness and muscle spasms in patients. Due to me being restrained and unable to stretch, defendant did this as torture.

“While in these restraints, I urinated and defecated on myself several times and was

made to live in it for several days. [...]

“When I asked defendant Saavedra why he was denying me placement in a treatment unit and singling me out, he stated that I shouldn’t ‘complain so much’ and that I’m ‘nothing but a lab rat’.”²⁶

Despite a traumatic childhood, which saw him prescribed anti-depression and anti-psychotic drugs at age six and involuntarily committed to mental health facilities on two occasions, Andre has become a proficient jailhouse lawyer at the age of 27. In November 2008, a jury in a civil rights lawsuit against the PA DOC awarded Andre \$185,000. In November of 2009, Andre wrote an article in response to Judge Conti’s efforts to diminish his victory by nullifying decisions made by the jury. That article is republished in Appendix II of this report.²⁷

Andre is being subjected to daily threats, acts of brutality, fabricated misconducts, obstruction of his access to the courts, deprivation of food and water, and mail tampering. Whether or not this continues is dependent on how many outside the prison walls recognize and act

²⁶ Amended Complaint in *Jacobs v. Saavedra and Kolli*, civil action #07-514, in the U.S. District Court for the Western District of Pennsylvania, copy on file.

²⁷ Originally published online by the San Francisco Bay View, <http://www.sfbayview.com/2009/what-good-is-a-jury/>

according to the credo of resistance he articulated in an article he wrote in December 2008, shortly after his victory:

“Hopefully, the DOC heard me also and will consider addressing prisoners’ complaints more honestly in the future instead of attempting to bury our claims by falsely characterizing us as liars, or, as I suspect, they can continue oppressing and persecuting me for exercising my rights. But I will never stop resisting because I live and die on principles. It is who I am.”

—Andre Jacobs
12-6-08

On December 7, 2009 HRC/Fed Up! received a manila envelope from Andre Jacobs containing two declarations and a dead mouse wrapped in newspaper. The Declaration pertaining to the mouse read as follows: “On 11-30-09, Sgt. Konycki and John Doe delivered me my religious kosher bag at dinner time. Upon pulling the brown bag in my cell, I immediately noticed something moving in it. I slammed the bag down and out ran a mouse which I was able to kill, its blood on my floor, my food, jelly, and cottage cheese splattered all over my legal work. When Sgt. Konycki came to my cell to collect trash he kept making a ‘squeak squeak’ noise all the way down the tier and when he reached my cell, he stated ‘the mouse was from Sgt. Ransom was it

good?’ I gather that the mouse had to have come from outside of this unit since I have been here since May 13, 09 and haven’t saw a single mouse; nor have I heard any prisoner complain about them being here. I note that my kosher bag has been smashed, contaminated with disinfect and trash, feces and now a mouse, which I am sending to HRC as proof of my claim and I showed it to Lt. Martin.”

Two sworn affidavits submitted to HRC/Fed Up! state that on January 7, 2010, Andre Jacobs was assaulted by at least 6 guards in the solitary confinement unit at SCI Dallas. Carrington Keys reported hearing “KB-25 cell door opened and heard officers MCoy, Wiles, Chalker, Wilk, and Walters making racial remarks while repeatedly striking prisoner Jacobs with loud strikes of blows repeatedly,” for several minutes. Lt. Mosier was present during the assault. During this time Keys heard McCoy and Chalker state “We told you we were going to get your black ass nigger.” The affidavit of Anthony Kelly states that he heard C/O Chalker say “Told you we would get your nigger ass.” Andre Jacobs reportedly suffered a busted lip and head, with cuts at the side of his face and legs. After the assault both Keys and Kelly overheard the guards conspiring to fabricate a pretext for the attack. Kelly reported hearing McCoy say “We got to get our stories together,” to which C/O Chalker responded “We got to get them tapes.” Lt. Mosier assured them that “The cameras aren’t working.” Chalker then reportedly suggested

that they claim Mr. Jacobs “slipped his cuffs,” before McCoy replied that “No, we’re going to say he was attempting to hang himself and that gives us all the power we need to enter his cell.” This version of events was corroborated by both affidavits. Andre Jacobs and another prisoner confirmed this version of events in communications received later.

Criminal complaints were sent by an HRC investigator to the District Attorney of Luzerne County and the Civil Rights Division of the U.S. Department of Justice on Mr. Jacobs’ behalf during the third week of January.

Solitary Confinement: Torture Disguised

In a New Yorker article by Atul Gawande dated 3/30/2009, Sen. John McCain (R-AZ) is quoted on the effects of solitary confinement: “It’s an awful thing, solitary. It crushes your spirit and weakens your resistance more effectively than any other form of mistreatment.”²⁸ McCain regularly suffered more traditional types of torture including physical abuse, but found solitary confinement a more effective and fearsome torture. Gawande concludes that solitary confinement is indeed a form of torture because, he writes, “simply to exist as a normal human being requires interaction with other people.”

²⁸ See http://www.newyorker.com/reporting/2009/03/30/090330fa_fact_gawande (accessed November 7, 2009).

Humans are social creatures on an elemental level, so denying someone interactions with other humans is inhumane. “How,” he asks, “did we end up with a prison system that may subject more of our own citizens to it than any other country in history has?”

Wilson Booker noted that being in the hole (RHU, or Restricted Housing Unit) involves deprivations other than those inherent in solitary confinement. Residents of the hole are deprived of the programs enjoyed by other prisoners. Booker writes, “Being in the hole, ‘RHU’ I’m being deprived of education, vocational and academic, and various other programs.”

Abdus-Shahid Ali wrote on 8/20/09 of his suicidal tendencies. “My blood pressure is up and I constantly have headaches. I have bug bites all over my body which I was giving benadryl for and never seen a doctor, then moved from my cell to another cell with the same results. I fear for my life and sanity everyday I live. I often think and have suicidal thoughts from the abuse I am suffering from back here.” In a later letter from 10/08/09, he wrote,

“The conditions were very inhumane... hot, no working vents at all... stuffy and humid... My first cell bugs were biting me all over my body, when I said something about it they (medical staff) played like I was crazy then finally after constant complaining they gave me

benadryl then moved me and still didn't clean the cell. They had a light on all day that felt like a rotisserie lamp. It was hard to sleep because of the hot humid cells and constant bugs biting me all day and night... We had no cups to drink the brown colored water that came out of the sinks and toilets. There was constant screaming yelling kicking and banging (with objects on doors to multiply the sound on the doors)."

Eric Rambert on 7/16/09 discusses his and Ali's detention in solitary confinement as follows:

"Suffering under 24 hours a day lights on in the cells, a spit shield fixed on the cell door without violating a spit policy that make the cell on a 80 degree day feel like 110 in our cells cause there is no ventilation in the cell, the vent doesn't blow air out or take air in, they refuse to put the fans on the tier, obstruct and tamper with our food, showers and exercise yard, have us housed in close proximity with mental health [patients] who they agitate and have . . . banging on doors, metal desk, sinks and toilets and screaming all night for days at a time causing sleep deprivation."

Entry into RHU can be triggered by misconduct, but given the ease with which guards are able to fabricate a

misconduct, there is a danger of a prisoner being placed in RHU for insufficient reasons. Victor Yarbrough (GQ-4316) wrote on 8/24/09, "The guards/staff planted a weapon inside my footlocker during a search without my presence. I was given 90 days D/C time." Sometimes prisoners are involved in fights, giving license to guards to divide them along racial and supposed "gang" lines. Cooperating with guards' investigations can lead to RHU time, as one prisoner related in his letter of 7/16/09: "I was assaulted up here, 2 other inmates, but I didn't want to tell. But the Lt. Miller told me don't worry, nothing will happen, so I told. He stated I would be transferred within 30 days but he lied. The [deputy] superintendent Mr. Mooney stated I would have to stay on AC status and not be transferred. Now I'm stuck in the RHU... it's not right, I didn't do nothing wrong to be in the RHU."

Lawyer Lanier (GU-5777) gave a generous response to our questionnaire on solitary confinement. Here are some excerpts from his undated letter:

"The cells are the size of a small bathroom. In fact, they remind you of a bathroom minus bathtub with bunk bed in place. The water smells like steel and it is always brown. We are not allowed paper cups so it is difficult to drink. It has a desk only big enough for a child. The door has plexiglass covering window, on top of

bars and gates. That plus the added block at bottom allows no room for air to come in. We only come out for 1 hr recreation in dog cage Monday-Friday. They will take away a yard if they feel like it although it's against state law. We also get 10 min. for a shower, three times a week. Showers are dirty, filthy and the water gives people rashes. We are due law library but they may skip on that also. We only have mail as outside outlet. Yet, the mail may be delayed or may never show. The mail has come with pieces missing or open, and the outgoing mail may not leave jail for 1 week to a month. The light in cell is blinding. It reminds me of old war torture tactics. It hurts your eyes and gives you migraines. I've seen medical for migraines and am due to receive glasses for damage to retina. Only noises we hear are the screams of the mental patients of which there are many.

The hole has affected my attention span significantly. I often wander in thought as of habit, being only left to do so for such periods of time.

[On anxiety:] The CO's are liable to do any level of indignifying acts to you at any given time. It's constant worry and unease. It makes one feel so helpless and vulnerable and you never know what

tragedy may affront you today.

At first I slept too much, now I rarely sleep. The loud screams and banging and kicking on doors make it difficult. Plus I'm always attentive to C/O keys and the possibility that they're coming for me. I mainly steal away naps here and there and that's how I sleep.

My perception has changed but I know not as badly as those who have suffered longer. I believe it will take time to adjust to reality again."

Another writer who has greatly increased our understanding of the psychological effects of solitary confinement will remain anonymous for his own security. His undated letter is below.

"One thing I want to point out first is although this is a level 5 segregated housing unit (RHU), a lot of us, myself included, are forced to have cellmates back here (at least at SCI Dallas). That means 23 and 1 five days a week and 24 hour lockdown the other two with a cellmate not of our choice I think that in itself is pretty inhumane especially being as though this is so-called 'solitary confinement.'

I, for one, was physically assaulted by a previous

cellmate and some people are even sexually assaulted by cellmates. The CO's do nothing to prevent or stop this from happening.

The conditions are horrible. The cell was disgustingly filthy when I first entered it. There were stains on the walls and the bunk that looked like boogers/snot and dried blood. Hair and dirt was everywhere and it smelled very bad. Also, the cells have no windows and very minimal air circulation. Plexi-glass "spit shields" prevent air from flowing in cells. The water that comes out of the sink and the showers is a dark "rust" color and tastes like chemicals. It even stains my white boxer shorts that I wear in the shower.

We are let out for one hour a day, Monday through Friday, for recreation which consists of being cuffed and led by a "dog leash" attached to the cuffs to an outdoor area where there are a whole bunch of cages similar in size to our cell. We are placed one person per cage and left out there with nothing for one hour. This is where some inmates smuggle containers filled with feces, urine and other bodily fluids and fling it on each other. Some inmates actually undress, squat down and defecate into their hand and throw it like that. We also

come out 3 times a week for shower which lasts anywhere from 5 to 15 minutes usually. Occasionally I've been left locked in the shower stall for close to an hour or more, obviously forgotten about. This is another area where inmates can throw feces, etc. because they put 2 inmates per shower stall, next to each other only separated by a fence-like partition.

Other than special circumstances, these are the only times we come out of our cells. Also I'd like to point out the fact that to sign up for these activities (recreation, shower) we must be standing at our cell door early in the morning when a CO will come around with a list. Often the CO will not announce that he is coming around or he will speed by so fast that we are not prepared. If this happens we are "burnt." In other words, no rec, no shower. Other times COs will just skip over us at random when it's time to come out.

...Often I've suspected that my mail was being "lost" or tampered with, both incoming and outgoing. But obviously this is extremely difficult to prove. We also are allowed one non-contact visit per month for one hour. During such visits, C/Os sit in the room and eavesdrop on the conversation and make it hard

for a person to speak frankly especially concerning any abuse or conditions in here. Any time we speak out, we must fear retaliation in all imaginable forms...

The noises I hear are mostly constant banging from inmates near and far in the RHU. And I'm talking about 24/7. Some inmates bang on tables, bunks, doors, sinks, etc. and it seems like it never ceases. Other than that I hear guards yelling and cursing at people. Often I hear them use racial slurs and other derogatory terms towards inmates. The COs tell inmates to "kill themselves" and sometimes kick doors or clang keys to disturb our sleep. Also, I hear inmates constantly screaming.

My ability to focus has definitely changed. When I try to read I cannot focus on what I am reading even on rare occasions when it is relatively quiet. I'll find myself reading the same page of a book for like 20 minutes or half an hour at a time because I can't concentrate enough to comprehend what I am reading. My mind constantly wanders and I sometimes find it difficult to talk to people because of this as well.

Thankfully, I've never had an impulse to hurt myself, or at least a serious one I should

say. This place definitely makes you think about it though. I feel sorry for weak-minded or mentally unstable inmates, though, because I can see how they would have such impulses. In fact, at least one inmate committed suicide by hanging himself in his cell while I've been in this RHU. (The C/Os harassed him into hanging himself.) It was a few weeks ago, I don't recall the date. But the jail swept that incident under the rug and put a new inmate in that cell the very next day.

My sleeping patterns are different while in RHU. I must try and doze off during the rare times that it is quiet. But my sleep is often interrupted by banging, clanging, C/Os yelling, inmates screaming etc. Also the light makes it almost impossible to sleep during the day. My sleep is very disturbed and I'm sure the pattern is unhealthy. I have frequent nightmares. I have daydreams and fantasies very often in RHU. Mostly they are about being somewhere else, what I would be doing or like to be doing if I was home, planning for my future when I get out or just imagining that things were different. I sometimes reminisce about my childhood or past experiences.

My perception of reality is usually OK. I have noticed

slight visual hallucinations in my peripheral vision and also if I focus on an object for extended time. Now that I think about it, my perception of reality maybe isn't as good as I'd like to think it is. I must admit, my thoughts are often irrational in relation to reality and often violent. Sometimes my perception of time is off. I sometimes get paranoid and think my cellmate is watching me or paying too much attention to my business. We get absolutely zero privacy. I often get paranoid and wonder if he is a homosexual. Sometimes I have urges to hurt him, but I try to control myself. I try to remind myself that it is not his fault we are forced to be in this situation.

The banging noises and screaming voices often seem unbearable. Sometimes the toilet flushing sound even becomes unbearable as well. Also, I sometimes get very claustrophobic and feel like I am having a panic attack. My heart beats very fast, I sweat and have shortness of breath.

I do not feel that the prison administration was justified in placing me in the RHU. I was placed back here for what I perceive to be relatively minor infractions both times. Also, the hearing examiner is completely biased when it comes to his findings. According to him, a C/O or

prison official is incapable of lying. In cases where it is our word against a staff, he always sides with the staff. And often we are found guilty based on no other evidence but a C/O's word. The hearing examiner refuses to call any witnesses of ours.

Often times, I for one, as well as other inmates I've spoken to, will plead guilty to charges that we are not guilty of simply because we know the sanction will be much worse if we plead not guilty...

I think that the whole idea of solitary confinement is insane. We are already in prison. This is just a form of inhumane punishment and torture. I think that most of the C/Os that work in this RHU in particular are sick individuals that get off on torturing us. The administration is obviously indifferent and could care less about the long term affects that this type of confinement has on us as human beings. Obviously we are not human beings to them, we are merely a number. Most of the inmates in solitary confinement need mental help but are not receiving it.

If they were to use solitary confinement in prisons, it should be limited to extreme cases where it is a last resort. As it stands now it is a first

resort. Inmates can come to RHU for something as petty as sleeping through count. It's totally ridiculous. My first time back here was for using a curse word ("abusive language")...

Lastly, there are so many guards and staff who perpetrate human rights violations, it would be impossible to name all, but I will try my best to list as many as I can. Some spellings may be incorrect.

-Hearing Examiner McKeown. The hearing examiner is the #1 perpetrator. He is totally bias[ed] against inmates and he has way too much power and discretion when it comes to sanctioning inmates. He should be investigated and fired.

-Lt. Bleich. He calls people "niggers and spics" and tells people to kill themselves.

-Lt. Mosier. He basically allows all of this to occur and also engages in racial slurs.

-Sgt. Ontko. He spits in inmates trays and burns inmates for rec and showers often. Also racial slurs.

-Sgt. Ransom. He also uses racial slurs and tells inmates to hang themselves with a sheet.

-C/O Wisinski. Tells inmates to "suck his dick" and calls us "faggots", also burns us for yard, shower, etc.

-C/O Bath. He burns inmates

for meals and kicks doors calling inmates child molesters, rapists, snitches, etc.

-C/O Wilk. He prevents people from utilizing the grievance drop box, also uses sexual slurs often telling inmates to "suck my dick", etc.

-C/O Matello. He often burns inmates for meals etc.

-C/O Elmore. He threatens inmates with violence and uses derogatory terms etc.

...I have also been denied access to the grievance "drop box" that we are supposed to be able to utilize on the way to showers. This box is the only way we can be sure that RHU officers can't tamper with or read our grievances.

Lastly, I want to address the fact that I for one have seen C/Os spit in people's food. I am not aware of the officer's name to identify him. Some C/Os don't even wear name tags. I believe this is on purpose, so we can't identify them."

Walberto Maldonado (FN-3537) also wrote to us about conditions in the SCI Dallas solitary confinement units on 9/17/09:

"The cells are terrible. You can't hardly breathe, ain't no type of circulations, the bed have no pillow, the doors are cover-up with a plastic glass...The only time I was let

out was for yard, but most of the [time] they would not let me out, they would lie and say that I did not sign up, so I had to stay in my cell all day, they would not take me to medical when I sign up. I was not allow to communicate with no one outside of this prison and when I try to send my family a letter they would not receive it and when I was put on administrative custody I would ask for a phone call because you're allow one phone call a week when you're in AC. When I ask they would deny it talking about I don't deserve anything because I'm a piece of shit...I hear all type of noises, people crying, people screaming and yelling all day and night. My ability to focus is not the same anymore. It seem like every time I try to think or focus all I think about is everything that go on in the solitary confinement... Yes I try to hurt myself because the officers will always tell me to kill myself, calling me all type of names and encouraging me to do so because they say the world would be a better place without me and it came to point where I started believing them. I can't sleep at night because I'm always thinking that the officers were going to come in my cell and attack me. I'm always having dreams whenever I get a chance to sleep. I've dreams about the officers trying to kills me or trying to poison my food. I

wake up shaking where I can't control my nerve. I be hallucinating that everybody that I look at always laughing at me and I'm always hallucinating that every officers I see is wearing a shirt that said 'kill yourself.'"

Shawn Sharp (BQ-8429) elaborates on the intimidation that Mr. Maldonado and several others touch upon. He wrote in an undated letter, "I personally heard the Sgt. of the RHU tell an inmate that they were going to grind him up until he killed himself. This is a mental health inmate! What is worse is that this stuff goes on with the sanction of the supervisory staff of this prison." Such intimidation is thought to be what killed Matthew Bullock and what threatens to kill many of the other mentally unstable inmates as well.

Solitary confinement can cause lethargy, as observed in the testimonies above. Another common and predictable psychological by-product is anger. Obviously, this is not an ideal emotional problem to have in prison. Carrington-Alan Keys (EF-4010) wrote on 8/20/09:

"My ability to focus has been severely hindered. I have short term memory as a result of long term isolation, my attention span has been hindered. I was not able to watch TV, read newspapers, or magazines. I was not allowed to hear radio and I was denied

all contact to the outside world for years at a time. This caused me to have a short attention span and short term memory loss, blackouts in the middle of a conversation my mind goes blank. No exaggeration...

While in solitary confinement I lost control over my psychological and verbal reactions causing me to act out in ways that hurt myself. While being in a state of temporary insanity from the long term continuing deprivation.

I daydreamed so much while in solitary confinement that when I was finally returned to population I walk around spaced out much of the day, unable to focus my mind on goals due to the lack of being able to focus without drifting off into a far away thought.

My thinking became altered while in solitary confinement, accelerated heartbeat, chest pains, paranoia, panic attacks, post traumatic stress, and a feeling that all the state officers were against me . . .

An anonymous prisoner adds:

Solitary confinement has altered my psychological [health] by making me uncontrollably angry, and more violent than when I entered solitary confinement,

from having no outlet for years upon years and feeling trapped, oppressed, suppressed and depressed, subject to constant racial slurs, inadequate food portions, deprived of yard, shower and all human contact for months at a time. I have short term memory lost, and I daydream most of the day. I'm shell shocked, and I have trouble communicating in large groups, because I'm used to being confined by myself. I cannot be in a cell with another man due to my sudden outbursts and blackouts, violent mood swings, and post traumatic stress syndrome. I often roam by myself because not too many others understand the after effects of long term isolation.

I do not believe that inmates should be denied magazines, newspapers, television and or radio, because this gives them a lost of touch with reality and causes a abnormal psychosis. If the same treatment were given to dogs, the animal rights people would have a fit."

Finally, Walberto Maldonado FN3537) wrote on 9/17/09 about the inevitability of re-offending once a prisoner is released from solitary confinement. In his words, "[Solitary confinement] should be abolished, because it has become a chamber of cruel and unusual punishment all

over, a torture camp so to speak... It resemble a cattle ranch where people are tortured to death then released back to society without a chance in the world due to being treated like animals. It's inevitable for people to return back. It's more money in their pockets." Maldonado also wrote, "I hope my answers [to the solitary questionnaire] can help in the pursuit of your set goal of trying to terminate the concentration camps they call RHU." As Roberto Rivera (AS-2743) wrote on 10/12/09, "I was confined in the RHU for my mental problem, and I can tell you that the RHU of SCI-Dallas is Hell."

Environmental Conditions: Water to Waste

Most if not all of the unsafe sanitary conditions can be traced to overcrowding. With far more inmates than jails were designed for, the sewage and water systems are strained, leading to health and safety problems. One of the most common complaints the Human Rights Coalition receives from SCI-Dallas is that the water is brown in color, dangerous to drink, and a cause of skin irritation. Devin Alexander wrote on 8/17/09 that he was forced throughout his period of incarceration to drink brown water that stained white cloth and put him (and other inmates) at risk of illness. Raymond Caliman (AY-7131) wrote on 9/17/09, "At times the water comes out of the sink (basin) brown, as if it were tea. Also I have received a skin infection from the shower which I had to receive

medical attention for. At times this infection does flare up and I receive irritation and bumps." Joseph Schloder (GX-8481) wrote on 7/14/09,

"Since I have been at Dallas I have been concerned about the drinking water here. The water here is discolored all the time. What I mean is it comes out rusty. I brought the attention to medical staff, and they brushed me off about the problem... The water is so discolored that you can for instance put a brand new white rag where water comes out and you will see a rust stain; it actually will make stains in your whites... when I am done showering I will see what it looks like is rust stains on my boxer shorts... it is not normal to drink discolored water..."

Schloder added on 8/19/09 that "this water has been discolored for years. People put grievances in about the water for years now, still nothing happen, nobody took action. And the water is discolored all throughout the jail." Victor Yarbrough (GQ-4316), on 8/24/09, wrote, "The water here is constantly brown, dark brown, and it's not safe to use or drink. The water is like this throughout the facility. My skin gets irritated and itches all the time and the water gives me really bad pains in my stomach and through my body every time I drink it." And Jason Stine (HT-1582) wrote on 7/16/09, "The water up here [in RHU] is

brown, they don't care."

Anthony Kelly (GX-0834) wrote to HRC on 11/4/09 with a harrowing story of inadequate water supply. "From 10/14/09-10/24/09 I was denied water for my cell. All plumbing for my cell was shut off. I had to wash up with the water that was in my toilet and drink the water that was in my toilet. I was forced to urinate and defecate then let it sit in my toilet for 3 to 5 days. Numerous days at a time I was forced to sleep with that in my toilet."

Jim Lippart (CQ-2549) wrote on 10/17/09 about the unsanitary conditions that arise from non-handicap-accessible conditions:

"I am Mr. Jim Lippart, ADA qualified handicap inmate. On Sept. 28, 2009 transferred from a fully handicap accessible facility Mahanoy to Dallas facility on a fully handicap accessible transport vehicle... RHU in Dallas is non-handicap accessible with no handicap accessible cells so Dallas staff provided placement in the Dallas facility hospital on RHU status... in RHU I can't have containers. So they took my urinal and bedpan. I am urinating and defecating all over myself, bed, floor, etc. due to staff's actions. They have no handicap shower for me either... I have urine/feces on my hands, which I am unable to wash due to non-handicap

accessible sink. I must eat in this manner."

Air quality is another common complaint. Abdus-Shahid Ali wrote on 8/20/09 that the fans serve only to blow around the dusty air, not to provide relief from the extreme heat brought upon by the spit guards. When the inmate already suffers from asthma and breathing problems, lack of circulation can lead to serious health problems. Thomas Nicholson is one such inmate. He wrote in a grievance dated 7/5/09:

"I am in the RHU and I have asthma. I am having problems with breathing, and the reason being is because there is a shield blocking any air that is able to make its way in my cell. Now I understand that it's for people who spit, but I have never spit on anyone. So I am asking that this shield be taken down. I am a asthmatic person who is having problems breathing."

Similarly, Walberto Maldonado (FN-3537) wrote on 9/17/09, "You can't hardly breathe, ain't no type of circulations, the bed have no pillow, the doors are cover-up with a plastic glass... The lights are on 24 hours a day not letting me sleep at all. It's come to a point now where my eyes hurt all the time and I get headaches. I never use to get any type of headaches." Eric Rambert (AM-9223) had the same concerns on 7/7/09, when he wrote,

"I am writing this complaint due to the serious hazard and safety code violation to my health and similar situated prisoners. We are currently in SCI Dallas RHU under 24 hours a day lights with a spit shield/plexiglass on our cell doors with no ventilation from the vent that doesn't blow any air out nor such any stale air in, if its 90 degrees outside its 120 in the cells, the light draw heat because its constantly on 24 hours, we can't turn it off because they are controlled by guards."

Another potentially deadly air pollutant is asbestos. David Crews (DC-0924) wrote to HRC on 6/2/09 and included a sample of material that was alleged to be asbestos. He notes that there is:

"the possibility of inmates including myself here in the RHU at SCI Dallas being exposed to asbestos that is known to cause or that is the cause of mesothelioma cancer. There is a high level of dust in the air and in these cells. The cells stay dusty even after you clean them the dust comes back within minutes. As you may know I just was transferred to SCI Dallas in March 2009 but other inmates who have been here reported cases where several blocks except J block and K block which is the RHU have been evacuated because of the high level of asbestos

and also said there has been a high rate of inmates dying from cancer who didn't even smoke."

Gregory McCrae (DP-2860) wrote on 9/12/09 that he had been moved to the hole after an altercation with C/O Salsmon and was placed in #50 K/A, where Bullock had been held prior to being moved out of camera sight on the day of his suicide. McCrae reports that "I'm now being housed in the Restricted Housing Unit (RHU), where I'm being denied food and water. I'm also being housed in a cell that can be the equivalent to a dungeon, #50 K/A block. It's suppose to be an observation cell, but water pours through the ceiling as if I'm under a sewer line." If the water that is seeping through the ceiling in his cell is indeed sewage, it represents a huge potential health hazard. On the subject of sewage, Alex Melendez (EX-5417) wrote on 9/10/09 that "the sewage system is from primitive times, the water we drink is often dirty. The showers are germ incubators for staph infection, fungus, and so on." Similarly, Gary Green (AS-2652) wrote on 6/28/09:

"I been here at SCI Dallas for 20 years. During my 20 years at this Institution it's gotten worse. The water is rust (reddish brown), the showers are overcrowded, which is due to the increasing population, and out of 28 shower heads, probably 22 of them work. The drainage is always clogged. The waste from the

cell next to you comes in your toilet. Poor ventilation in the cells especially in the RHU – they have a glass covering the doors... All the cells are inadequate and far below ACA [American Correctional Association] standards.”

H. Lewis Jefferis (AF-9517) summed up the issues of overcrowding succinctly on 6/27/09:

“SCI-Dallas recently added c. 150 beds by installing these beds in cells that already had one bed, and this, even though the prison is already well over capacity... Many of the men being affected by this double-celling are aging men with health problems, most with 30+ years served. Some are this country’s war vets. The cells are small (c. 6’ by 9’) and do not meet space standards for two men set by the American Correctional Association. Their size does not even meet size requirements for dogs in PA kennels. Both men can’t even be out of bed at the same time and have room to move... The water and sewer system is inadequate for this population. Frequently throughout the year there are water problems when men go without water to flush toilets for periods of 36 hours and more... They also often have to go without showers and hot meals (no steam), because the water has been shut off for

several days at a time... There are also long waits for medical services. Men wait for 3 months or more for medical procedures, and up to 6 months for glasses, and the same goes for dental procedures. The building structures were not designed and built for double capacity. There are many cracks in concrete and bricks throughout... Vocational, education, drug and alcohol, and other rehabilitative programs are over-burdened, hindering the rehabilitation process, creating higher recidivism rates.”

Overcrowding is the root cause of many of the situational abuses detailed above. Now that overcrowding is being recognized as a harbinger of cruel and unusual punishment, it must be addressed by implementing sentencing policy reforms and introducing safe, effective, and cost-wise alternatives to incarceration. Doing so will ensure that those who do get sent to prison do not suffer such egregious abuses of their constitutional rights.

Medical Neglect

The PA DOC does not permit prisoners to access their own medical records and efforts to secure documentation of medical and psychological diagnoses and histories are often refused without cause and are prohibitively expensive when granted. All of these restrictions on access to

information create substantial obstacles for human rights organizations, citizen and media watchdog groups, and families of the incarcerated from being able to verify reports of medical neglect such as those below. Thus, because of the various restrictions, it is very hard to verify wrongful deaths. The quotes below are simply some of the stories we get.

Some cases of medical neglect can be traced to the problems of overcrowding outlined in the previous section. Alex Melendez (EX-5417) wrote on 9/10/09, "They only got one psychiatrist for over 2000 people." And it is probably because of overcrowding that several mentally ill inmates' Z-codes were taken away, because there is not enough space to keep Z-code inmates in separate cells. Thus Fernando Camilo lost his Z-code status after twenty years. As he wrote on 7/2/09,

"I was assigned a z-code, which is a status to remain in a single occupancy cell. Now, almost twenty years later, they (prison staff) disregarding my prior problems and difficulties with a cell-mate, removed my z-code and later ordered me to share a cell. This was and still is devastating to me and so, on the day prison officials ordered me to leave my single cell, I attempted suicide. Prison officials still punished me by putting me in a so-called "observation room" with no bed, but a hard stump to

sleep on and in the nude with just a make-shift robe and blanket and the room is disgusting. I'm sure that if you see this room you will agree that it's inhumane just as the psychological cruel and unusual punishment I am enduring at the present time."

But not all medical neglect is due to overcrowding; some inmates write to HRC with medical problems that continue to go untreated due to negligence. One prisoner wrote, "I also need medical treatment for HCV, Prostate and Inguinal Hernia which causes pain." It seems that often, when inmates report pain or a suspected medical problem, they are not treated for various reasons. Such was the case with Duane Bartholomew Peters, who wrote on 6/8/09 that he signed up for a sick call. He says,

"[Medical personnel] came to my cell door and blamed me for causing trouble and then said I was talking to him fine so he does not see no symptoms of any illness... The medical staff have a scam system going on here that if you sign up for sick call they blame you for having a problem with the guards, and walk away from your cell like it's a joke and take your money²⁹ - denying you even

²⁹ This is in reference to PA DOC policy DC-ADM 820 "Co-Payment for Medical Services," which requires a \$5 charge to a prisoner who requests any "non-emergency" medical attention and some emergency procedures in certain

an opportunity to even be heard.”

Similarly, Walberto Maldonado (FN-3537) adds on 9/17/09, “They would not take me to medical when I sign up.” Another inmate speaking on condition of anonymity (for fear of retribution) wrote in early 2009, “I am contacting you from solitary confinement. I am 65-plus years of age, and I am in failing health... I am also... being denied access to specialists for several different serious health problems, including a heart attack. I am currently being charged unwarranted medical co-pay fees.”

Ronald Collazo (AM-8569) was diagnosed with cataracts in April 2008, one in his right eye and another one starting in his left eye. Outside referrals recommended removal of the cataract in the right eye, but the DOC has turned down the operation because it is an “elective surgery.” The DOC has a “one good eye” policy, whereby an inmate is allowed to go blind in one eye provided the other eye is functional. Thanks to this policy Collazo is going blind, as in fact both of his eyes have problems, though the DOC ignores that he has vision troubles in more than one of his eyes. On 6/28/09, he wrote,

circumstances. This policy contravenes Principle 24 of the UN Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, which declares that “medical care and treatment shall be provided whenever necessary” and that this care “shall be provided free of charge.”

“The DOC, through their inaction, is basically taking my right eye from me for no other reason but to save a dollar. I did nothing wrong. I am 54 years of age and my eye simply developed a cataract. I am being punished by them taking my eye away from me. Now my other eye has to do the work of two eyes, I have no depth perception, and bright lights cause me pain. I don’t even enjoy reading anymore. A pastime I have enjoyed over the years being incarcerated.”

And he adds, “Notwithstanding the fact that my left eye is not ‘normal,’ any policy that would allow for a human being to lose his sight to save money can only be said to be inhumane and would amount to cruel and unusual punishment.”

Jason Milisits’ case is so bad that he could not write to tell us about it. Instead, William Davidson (EG-0745) wrote about his case on 8/28/09, and explained, “I am writing this letter on behalf of my friend Jason Milisits. Jason has a severe case of the shingles that he contracted from a chicken pox outbreak in 2006. To this date the medical dept. refuses to treat or do a culture for this condition. Recently his condition has gotten worse. Jason is in a lot of pain; he cannot sleep because of his pain.”

Susano Pagan’s case is another that was so bad, the inmate could not write to HRC himself. Alex Melendez

(EX-5417) wrote for him on 9/10/09,

“I am writing you in behalf of Susano Pagan AM-7039... Sir, Susano was hospitalized for 2 weeks then he was led back out to population. I arranged to see him in the yard a day after. He wasn't looking good. We had agreed to meet the next morning in the yard so he could give me all his family info so that I could help him put a letter together for you. I went to meet him the following morning, and I found out by someone in his unit that, for 6:20AM count the CO found him in the cell unconscious and unresponsive...someone said that a guard had said that he passed away. I don't know how true that is, I'm worry, Susano is like a uncle figure to me, always gave me good advice so when I make parole I don't come back... This medical system here is corrupted. Just last week a guy had a stroke in the gym. It took the medical staff ½ hour to walk from the infirmary which is only a half a hallway away to help him, this man died in front of everyone who was in the gym. Susano had health issues but his depression status is really what was deteriorating his health... Susano was in a single cell for 28 years... the administration put pressure on [the new psychiatrist] to clear people for double cell...”

Pagan's case illustrates the causal link between overcrowding and medical neglect. Although the specifics of Mr. Pagan's situation cannot be discerned without access to comprehensive medical records, we have received additional reports of prisoners throughout the PA DOC having their medically-mandated single-cell status terminated despite no alteration in the condition originally prompting such a classification.

Susano contacted HRC/Fed Up! in early November about his deteriorating condition. Mr. Pagan had been given less than 6 months to live and wanted to seek compassionate release or commutation so he could be with his family in New York or Puerto Rico. We contacted the prison and his family in Puerto Rico in an attempt to offer support, but it was too late. Susano Pagan died on November 20, 2009.

Mr. Pagan and Matthew Bullock are not the only instances of deaths reported to HRC/Fed Up! during the course of our investigation. Roberto C. Rivera (AS-2743) on 9/11/09 wrote indirectly of Bullock and another wrongful death that took place in the gym, most likely the same one that Melendez mentions in his letter on Pagan:

“People beginning to die in here because of neglect on the part of the staff. A man just died in the gym area here and it took a nurse 23

minutes just to get the man out of the gym area. No CPR was administered by staff and people just stood by watching the man die while they took their good old time about even moving him.

About a month ago, another inmate who was supposed to be under observation in a hard cell on camera on suicide watch status did kill himself. This man was to be under psychological treatment..."

Recent reports have indicated that a number of prisoners have died as the result of negligent medical care. Multiple prisoner reports regarding the death of Howard Kelley, a 25 year-old lifer from Pittsburgh, claim that he had been seeking medical attention for days for flu-like symptoms. Some of these reports speculated that his death may have been caused by H1N1 (aka "swine" flu), and that others have died under similar circumstances. The coroner informed the local newspaper that an investigation into Mr. Kelley's death determined that H1N1 was in fact the cause of death.³⁰

Another prisoner reporting on condition of anonymity claims that five prisoners died in the last week, after many more deaths in the preceding weeks. He continues: "I stopped counting at 14, I don't even know the count now!" The official

PA DOC list of inmate deaths actually lists 13 who had died at SCI Dallas in 2009.³¹

Some medical problems stem from the conditions of the RHU, where constant light can lead to psychological problems, headaches, dizziness, and anger. As Andre Williams (GF-5169) wrote on 9/13/09, "These people are hurting me with my psychological problems and with my meds. I'm stuck in the RHU. This light is triggering my psychological problems."

Problems with medications deserve special mention, three cases in particular. First, Eric Rambert (AM-9223) wrote on 9/12/09 that his insomnia had not abated:

"As far as my sleep deprivation situation, no, Dr. Jesse who administered Benadryl to regulate my sleep due to my not being able to sleep because of the 24 hour day of constant illumination having lights on in the cell, I received 3 misconducts for covering them so I could get some sleep because Dr. Jesse only gave me a week's worth of sleep meds and to this day never examined me to determine [if] any further treatment [was] needed... no I'm still not getting much sleep if any, I'm still suffering the headaches and vision impairment and Dr. Jesse

³⁰ "Inmate died from swine flu," Steve Mocarisky, *Wilkes Barre Times Leader*, January 8, 2010.

³¹ Pennsylvania Department of Corrections Inmate Deaths System data, obtained via PA Right to Know request; on file.

refuses to even acknowledge a request slip.”

Rambert is not alone in his problems with medication. Andre Williams (GF-5169), in the same letter from 9/13/09 quoted above, told HRC the following story:

“On 2/12/08 [the urine test] came back positive for amphetamines from a pill called Zantac, which has Ranitidine. They lock me up in the RHU for 17 days then they let me out. The PA who prescribed this medication was PA O’Brien but his boss is Dr. Bohinski. He lied and told the guards that I wasn’t on any medication that would give me a positive urine. And I was. PA O’Brien showed me a piece of paper that shows all the medications that would result in a positive urine and Dr. Bohinski never gave it to the officers of shift commander. So every month until they got it straight I was getting a misconduct report about this matter. On 2/22/08 I saw parole and they asked me what’s going on, and I explained to them, because I was still in the RHU. They didn’t care about what I was saying so they gave me a 21 month hit behind all this that this man Dr. Bohinski put me through... Even though I got found not guilty of all charges they didn’t care. So this Dr. Bohinski ruined my life. Now my daughter’s mom is taking

my parental rights. My life is over. At the same time they disrespecting me with my psychological illness. I never been through so much torture in my life.”

Finally, Eliot Lopez (HL-6561) wrote on 9/25/09 about how he had received the wrong injection, and because of this mistake, suffered intense internal pain.

“On 9-9-09 between the hours of 3:30-4:00pm, while the institution (SCI Dallas) was under a “Lock Down Situation”, health care providers were assigned the task of going to each block to administer vital medications to inmates. Ms. Irene Benzdziecki, was assigned to O-Blk. Since I am a diabetic Ms. Benzdziecki was to provide/administer my insulin shot to help maintain my diabetes. On the above listed date and time, Ms. Benzdziecki administered by way of injection the wrong medicine into my body. At the time of this incident I was unaware of any change to my medical status that would allow Ms. Benzdziecki to inject me with anything other than insulin. The full effects of this act is unknown to me at this time, the night of this incident I was place in the hospital due to severe shakes and intense internal pain that I could not describe. But my reaction to this medication was so serious that I was removed from my

housing area and placed in the hospital while the entire institution was in lockdown mode. While in the hospital I was informed that Ms. Benzdziecki had not given me insulin and that I had been injected with Pegylated Interferon. . . . On 9-10-09 Dr. Bohinski informed me that I was in fact feeling the effects of the Peg-Intron shot. Then released me without conducting any type of test.”

Retaliation

Retaliation is forbidden by DOC policy³², yet HRC/Fed Up! receives frequent reports that guards take action against prisoners who use staff request forms or the grievance system in good faith.

The Prison Litigation Reform Act (PLRA) of 1995, which was supposed to limit unwarranted prisoner lawsuits by forcing inmates to exhaust all internal remedies before filing a lawsuit, has served instead to restrict prisoners’ rights to access the court. However, it is now clear that the PLRA has only hurt the grievance system by creating incentive for prison personnel to obstruct the grievance system in order to have inmate claims dismissed on procedural grounds. Less than 2% of grievances filed in the PA DOC between January 1,

³² DOC Policy DC-ADM 804, Inmate Grievance System, Section 6(A)(12) states that “[n]o inmate shall be punished, retaliated against, or otherwise harmed for good faith use of this grievance system.”

2008 and April 28, 2009 have been decided in favor of the inmate³³, which is statistically improbable, and the PLRA discourages rape and sexual abuse victims from seeking remedy from the courts, as cases claiming sexual assault have been thrown out under the provision in the PLRA that requires prisoners to demonstrate that s/he has suffered a physical injury in order to have a valid claim.³⁴ (see section 3.5.1 for further discussion of the PLRA)

Thomas Barndt (CT7510) told HRC on 7/29/09 that the guards work together to retaliate against a prisoner. After Mr. Barndt had filed a lawsuit against one guard’s friend, the guard did not tell him that he had a visitor. Mr. Barndt explains: “my family had to wait an hour in the visiting room before a different guard finally told me that I had a visit.” Fernando Camilo says the fear of retaliation is enough to keep prisoners from expressing their grievances. On 7/2/09, he wrote, “There are men here (prisoners) that have been and are going through similar circumstances whom like myself fear retaliation and that’s why most of us don’t complain.” Similarly, Wilson Booker (AF-7672) wrote on 9/12/09 that “There’s many inmates here at SCI Dallas that been a part of being violated, but many of them fear to speak because of retaliation or transfer, or

³³ Inmate Grievance Tracking System Summary Totals, official PA DOC figures, obtained via a Right to Know Request.

³⁴ *No Equal Justice: The Prison Litigation Reform Act in the United States*, Human Rights Watch, May 2009.

misconducts.” Thomas Nicholson told HRC on 7/5/09 that he was accused of being uncooperative, because he did not know who had thrown an object at his neck during a fight between several other inmates. He was placed in Administrative Custody in the RHU:

“I wasn’t involved in what was going on and whatever hit me on my neck caused it to bleed which is why the officer locked me up. I had nothing to do with any of that. I wasn’t assaulted so I cannot tell what I don’t know. On 7/23/09 I seen PRC and Deputy Mooney started saying about I’m not telling him everything that I should ask inmate Sanchez how he feels about uncooperative inmates that he’ll keep me locked in the RHU for a long time. I found out that Sanchez is a inmate who came from another prison for a separation from inmates who alleged to cut him with a razor and because he won’t give them up he’s been illegally and unlawfully detained in the hole for 18 months... Plus they are going to transfer me all the way out western Pennsylvania so that I would not be able to see my family. Because they ask me how old were my Mom and Dad. Not understanding the question really, I told them that they were getting old. So Lieutenant Miller told me that if I didn’t tell those more of what they need to know I am

no[t] going to see my family for a very long time. And he said trust me I have did it before, and I can do it again.”

Not only the guards within each prison, but also guards in other prisons in Pennsylvania’s DOC seem to work together to retaliate against individuals who report abuse. Thus, transferring an inmate from one SCI to another does not eliminate the risk of retaliation for speaking out against abuse. One individual who spoke out about SCI Dallas was transferred to SCI Fayette where the guards retaliated against him. Another inmate wrote to us on 7/1/09 about this case, but wrote on condition of anonymity, for fear of being on the receiving end of retaliation himself:

“On several occasions prison guards have come to Mr. Singleton’s cell and asked him, ‘you ain’t hang it up yet? Just go and kill yourself. If you need some help or a rope to put around your neck, that would end all your problem nigger!’ I spoke with Mr. Singleton who has explained to me that he thinks about killing himself because he can not sleep due to inmates...who bang their toilets and doors all night long so loudly that noise is stressing him out, and the fact that he was housed on this block in the past and witnessed another inmate kill himself, and as a result it has caused him mental torment

and trauma which is extremely shocking to his mental state and every time he falls the sleep he is haunted by the act of witnessing... Furthermore, one officer told Mr. Singleton that we know about the full investigation that was launched against the officials at Dallas S.C.I. However we will make sure that this time you never get to testify ever again against Correctional Staff and we're going to finish off what [we] started... You will not get that chance against because we're going to do it the Green County Prison, the way it should have been done before!"

Israel Torres wrote on 4/14/09 with a similar story of retaliation following an inmate around the DOC. Before being transferred to SCI Dallas, Torres had filed grievances against staff at SCI Somerset. Torres explains: "I arrived to S.C.I. Dallas on 3-31-09. On 4-1-09 I was set up and accused of threatening staff. I DID NOT DO IT!... I really feel that I am being retaliated on. Because of this misconduct, my chances of going home is zero!... Because of this I can not complete any of my prescriptive programs, trades or any other rehabilitative programs."

Duane Bartholomew Peters wrote on 6/8/09 about how medical neglect can be used as a retaliation tactic. In retaliation for filing a lawsuit against Sgt. Buck and his wife, both of whom work at SCI Dallas, Sgt. Buck tampered with Peters' mail and

refused to let him be treated for sever chest pains.

"I am recovering from serious back pains and chest and heart pains and an attempt on my life by one SGT. Buck in retaliation for me filing a lawsuit against him and his wife who both work here at SCI Dallas because he was obtaining my mail from his wife who used to work in the mail room, then he would come on the tier with my personal and legal mail, read it out loud to the tier as the 'daily report from Peter' and then tear it up in front of my cell door and leave the confetti on the range as an intimidation tactic. In his latest attack he and his guards deliberately refused me medical attention when I asked them to call medical because my back and ribs were pressing in on my lungs making it hard for me to breathe causing me severe chest pains, to cover up the fact that they told the nurse who came to the RHU to leave me unattended, their C.O. Corbett issued a fabricated misconduct that (although I was paralyzed in the cell by the pain) I was kicking the door and he told me to stop! An event which never took place which never transpired not even on their cameras, and which . . . Mr. Eric Rambert can verify, because as my neighbor, he was the

one who called 'man down' for me."

Duane Peter wrote in an undated letter from 2009 that guards have stolen mail and money in retaliation for trying to file a suit. In addition, they have kept him from visiting the law library, thus obstructing his right to access the courts.

"On 5/22/07, the Security searched my cell (only my box of papers) and took, specifically, my evidence in support of my claim of fraud and structural alteration of the court's docket in my case, my criminal complaints and my defaults. . . . The RHU Sgt's make sure I do not get into the law library by throwing away my request slips or refusing to let me use the law library. Lately the guards in the RHU have taken to giving my mail to inmates on the bottom tier instead of giving it to me. I am being forced to stay at an indigent status, and my regular money orders sent to me by my family is either being returned or not recorded. Currently I have at least 2 \$500 money orders which cannot be accounted for, and my family have the receipts and the Western Union claims the jail received the money."

Carrington Keys (EF-4010) is another inmate who is being punished for attempting to pursue legal redress. As he wrote on 7/13/09, "The

superintendent knows that I have an appeal on Habeas Corpus against him. However he allowed his officers to steal my copies of the court record as contraband... I'm being punished for my legal filings." Keys also wrote on 10/14/09 about how inmates are punished for contacting HRC. In an affidavit, he states:

"That on the date of 10-14-09 upon returning from yard, I was approached by Officer Angelove who stated to me, 'You shouldn't be filing complaints with Human Rights Coalition. I advise you to mind your business because it is only making you a target and that there are some serious allegations being made that is going to cause you trouble if you don't sign off on your complaints.' Upon returning from shower I was handcuffed by Officer Elmore who pushed me up against the wall and began punching me about the arms, sides and ribs. Officer Elmore stated: 'You better sign off on that prison investigation with Human Rights Coalition or next time I'm going to punch your teeth down your throat.'"

Isaac Sanchez on 3/19/09 confirmed that when inmates reach out to the HRC, they risk retaliation from the staff. Sanchez writes, "Exactly a day after I have received your offices letter I received a write up for no apparent reason." And on 8/7/09 he wrote, "the law library is not sending anything back to me. In fact they

stated that they are not even receiving any of my paperwork... what I'm hearing is that this facility is trying to put a stop to your incoming and outgoing mail because they feel that you are a threat that can lead this jail to a total destruction."

Isaac Sanchez (GY-8440) wrote again on 10/22/09 with a similar story:

"The other day I was threatened that if I didn't stop writing HRC that they were going to set me up with frivolous misconducts and start throwing my mail away. Which they did... I mean for example they stopped feeding me and even when they do feed me they poke holes in my sandwiches and they spit and piss on it. Also, they have assaulted me numerous times as well which is all on camera... I have been placed on all type of restrictions for falsified accusations and my mail isn't coming to me because they are throwing it away... My water/toilet is never on, and I'm not even allowed to take a shower or even have my hours of rec."

Sanchez had suffered an attack at SCI Coal Township, where he was held before being transferred to Dallas. The attack came from behind and he did not see his assailant. Yet until he fabricates names, as he wrote in his letter on 1/25/09, he will be held in RHU in retaliation for not cooperating, according to staff:

"On 9/30/07 while at SCI-Coal Township I was attacked from behind by unknown assailant(s) in which I was cut on my face and back... since being here [in Dallas] I've been held in Administrative Custody [because] Deputy Mooney, Capt. Zakaraukis and the Program Review Committee staff and Michael D. Klopotosky [refuse] to release me based on my not being able to identify my assailant(s) from the SCI-Coal Township incident. NOTE: Deputy Mooney was also the Deputy at SCI-Coal Township when the attack happened. He has stated on numerous occasions that until I identify those assailant(s) that I will remain in his RHU even if they have to max me out 2014. He said until then I will never be allowed to hold my 2 small children. I've been in this RHU 11 months in RETALIATION for my not being able to identify who attacked me... I'm being denied my required prescriptive programs so that I can make parole and have been told until I identify someone I will remain in the RHU... I don't know who attacked me from behind."

And later, on 9/14/09, Sanchez wrote to tell HRC about an assault that took place in August, not long after Matthew Bullock's death. The assault was retaliation for filing grievances. As he wrote:

"I have been assaulted by a CO named Elmore on the date of 8/27/09 around shower time. I was dragged all the way up the tear and smacked while inside the shower by officer Elmore. This is all on camera and I have witnesses that would like to make themselves known... This officer has threatened me in various ways, such as telling me that he could abuse me and fuck me up every time an opening had occurred. He called me names from spic, a disgrace to his country, etc. This problem started because I wouldn't sign off on any of the grievances that I have wrote up against his boss Deputy Vincent Mooney...this same officer is being allowed to continue his verbal and physical abuse...smacking me and threatening me... We as inmates should not have to live with fear and torture. I mean one painful death already occurred around me behind these acts of domination. How much more shall happen before it is too late?"

Retaliation comes in many forms. John Taylor-Bey wrote on 3/11/09 that "a select few who do not play nor joke-around, who stand up for their Basic Human Rights we are retaliated against with falsified misconducts, deprived of access to law libraries, property, our legal papers, and our mail both legal and

personal incoming and outgoing is suppressed." The retaliation can also come in the form of a death threat, as happened to Eric Rambert (AM-9223), who wrote to HRC on 8/13/09 about the retaliation he received after filing a criminal complaint. Rambert says that C/O McCoy told him, "Okay motherfucker, game on. I can kill you and won't nobody care because you ain't nothing but a number that'll be replaced." Rambert goes on to state "this is the second time C/O McCoy threatened to kill me in violation of PA.C.S.A. 4702³⁵ in retaliation under 18 PA C.S.A. 4953³⁶ for my filing a criminal complaint."

Sometimes prison staff warn prisoners against filing grievances as an intimidation tactic. Shawn Sharp (BQ-8429) wrote in an undated letter: "I myself attempted to file grievances against a Sergeant and when interviewed for the complaint I was told to withdraw the complaint or I'd be retaliated against by the Sergeant. I refused... I personally saw and heard the Sergeant I originally grieved telling officers to 'bang' me."

³⁵ The citation is in reference to a Pennsylvania criminal statute, 4702 "Threats and other improper influence in official and political matters." See

<http://law.onecle.com/pennsylvania/crimes-and-offenses/00.047.002.000.html>.

³⁶ 18 PA 4953, "Retaliation against witness, victim or party." See

<http://law.onecle.com/pennsylvania/crimes-and-offenses/00.049.053.000.html>

Deprivation of food and water is another routine tactic of retaliation in the RHU at SCI Dallas, and HRC gets frequent complaints about both kinds of abuse as well as food tampering, when staff place foreign objects or bodily fluids on food trays.

Gregory McCrae (DP-2860), who wrote to us on 9/12/09, reported that he had been deprived food for an unknown number of days. Staff involved in this food deprivation include “C/Os Morelli, Corbett, Pudloski, McCoy, Angelovic, Bath, Sgt. Buck, Lt. Mosher.” Another long-term food deprivation case is that of Duane Peter, who wrote on 5/15/09 and said, “the authorized RHU guards [kept] me in my cell for months on end [with] no shower or exercise yard, and no food trays during the first shift. This went on for all of the first 2 years (05-07).” Charles Oliver was offered food on the condition that he would perform a sexually explicit act; when he refused, he was denied food. As he wrote on 4/12/09, “On 3-26-09... C.O. Wilke was passing out the A.M. and on 3-27-09 P.M. meals and said if the complainant wanted to be fed he would have to perform a sexually explicit act, ie; expose himself, get nude and repeat demanding/demeaning comments, when I refused... Wilke closed my door slot, denied the complainant his meal.”

Racism: A Systemic Crisis

So many of the letters HRC receives report guards frequent use of racist

language that it is hard to separate racism from the other abuses that go on in SCI Dallas. Dallas, Pennsylvania has a population of 8,179 people, 98.4% of whom are of white/Euroamerican ethnicity according to figures from the 2000 census.³⁷ Luzerne, County, where Dallas is located, has a population that is 96.6% white.³⁸ The demography of the prisoner population at SCI Dallas is as follows: 33.7% white; 55% black; 10.9% Hispanic; 0.4% other.³⁹

The prevailing culture of arbitrary control and repression within the PA DOC coupled with the demographic realities of the prisoner population are fertile soil for racism. While only a few examples follow, race is a dominant factor determining who is singled out for placement in solitary

³⁷ U.S. Census Bureau website, http://factfinder.census.gov/servlet/SAFFFacts?_event=ChangeGeoContext&geo_id=06000US4207918056&_geoContext=01000US%7C04000US42%7C05000US42079&_street=&_county=Dallas&_cityTown=Dallas&_state=04000US42&_zip=&_lang=en&_sse=on&ActiveGeoDiv=geoSelect&_useEV=&pctxt=fph&pgsl=010&_submenuId=factsheet_1&ds_name=DEC_2000_SAFF&_ci_nbr=null&qr_name=null®=null%3Anull&_keyword=&_industry=.

³⁸ U.S. Census Bureau website, http://factfinder.census.gov/servlet/SAFFFacts?_event=&geo_id=05000US42079&_geoContext=01000US%7C04000US42%7C05000US42079&_street=&_county=Luzerne&_cityTown=Luzerne&_state=04000US42&_zip=&_lang=en&_sse=on&ActiveGeoDiv=&_useEV=&pctxt=fph&pgsl=050&_submenuId=factsheet_1&ds_name=ACS_2008_3YR_SAFF&_ci_nbr=null&qr_name=null®=null%3Anull&_keyword=&_industry=.

³⁹ PA DOC Monthly Institutional Profile as of November 30, 2009, linked from <http://www.cor.state.pa.us/>.

confinement or subjected to the most intense human rights violations, and should therefore be understood as an underlying factor in both the policies of mass incarceration that generate overcrowding and the subsequent violations detailed in this report.

Gregory McCrae (DP-2860) reports on 9/12/09 that CO Salsmon referred to him as “darkie,” “nigga,” “coon,” and “black faggot.” Salsmon also told McCrae in one incident to “get the fuck out of here, you’re going to be late for nigga service.” Wilson Booker wrote on 3/16/09 that as a prisoner in the RHU, he is a constant witness to racism. “This is a very racist jail, despite [the DOC] adding diversity to the chain of command. Some things just don’t change... I ask that [the DOC] transfer me from this very racist jail, where a man’s skin is his sin.” Thomas Barndt’s letter from 4/16/08 shows one instance of how religious repression and racism can go hand-in-hand. He writes, “I believe my being transferred had something to do with me giving National Geographic magazines and candy to an old handicapped black Muslim... I also gave chess magazines to another Muslim.”

Anthony Kelly (GX-0834) on 11/4/09 reported to HRC that “Even to this day they continue to verbally abuse me. Calling me nigger, coon, monkey, say they’re gonna kill me because of my religion which is the Nation of Islam. They go into homosexual verbal abuse telling me I have a fat ass and that they would

stick their dicks in my ass telling the tier I suck dick and all types of other things.” The abuse leveled at Kelly is not unusual in its combination of homophobic and racist rhetoric.

Physical Assault and Violence

Physical abuse, both threatened and actual, is a common theme in the letters HRC receives. The stories include incidents of staff-on-prisoner, prisoner-on-prisoner, and prisoner-on-staff violence and threats of violence.

Juston Boyle (HC-1235) wrote on 9/13/09 about an incident that took place two days earlier in the security office, where there are no cameras.

“On 9-11-09 I was taken up to the security office to talk to the Superintendent Klopotoski while I was waiting for Mr. Klopotoski the Security Captain Joseph Zakaraukas placed a metal bar across my neck saying that if I don’t drop my civil suit he will snap my skinny fucking neck and toss me down the steps saying I fell cause there is no cameras in the security offices. And that if I try to report this he will have me killed. I am in fear for my life and I want to be seen by the police asap... On Monday July 13, 2009 R.J. Bath and J. Matello came to my cell door and hit my door saying I am a deadman and R.J. Bath made a gun with his hand and said bang-bang and stayed for 5

minutes making more threats and sexually harassing me.”

No one denies that inmates fight among themselves. Mental health problems, often exacerbated by solitary confinement and the generally inhuman conditions in prison, can lead prisoners to anger management problems. But this does not excuse staff from provoking such fights. Shawn Sharp (BQ-8429) notes this problem: “I’ve seen inmates put into a cell with a mentally ill inmate who was supposed to be single cell just so that the other officers could watch the 2 inmates fight and take bets. This happened on 2 occasions while I was confined in the RHU.”

One inmate speaking on condition of anonymity experienced for himself the “spectacle sport” of condoning and watching inmates fight. Staff told other inmates that he was a child molester, with full understanding that this would endanger him. Then, after he was attacked, he was warned against pursuing a complaint.

“When I entered and place my boxes on the desk 3 inmates, one being a lifer, entered 30 cell and started to assault me hitting me numerous times in the head and about my body with master locks [for] which I received stitches in my head... my case has nothing to do with being a child molester/pedophile... they said I raped a 14 year old girl, then they said I raped a 16

year old boy. Which isn’t true. The only way the inmates could have even got that impression was from one of the officers. I was also informed that after the assault officer Macausky stated to another inmate in a loud voice that the assault was a necessary evil... I am always looking around and behind me. I have a hard time sleeping at night sometimes and I have dreams of the assault... Since the assault I’ve been having headaches and sometimes blurred vision... I am worried about retaliation from the officers and other inmates from pursuing this which I have seen many times since I’ve been here from the officers. I have already been confronted about pressing charges already. Someone stated that what happened to me ‘it is what it is’ and I shouldn’t press charges.”

One of the worst cases of staff provoking or condoning inmate fights reported to us involved two individuals whose names have been changed to protect their identity. Murphy assaulted Thompson, a mentally ill inmate, so badly that Thompson’s arm was dislocated and he could barely talk. HRC asked Murphy to explain the incident in his own words, which he did in a letter dated 9/11/09/

“I did not want to be in the cell with the dude, he stinks, his breath stinks, and he does

things to little kids. Note: I got kids and I did not want to be there. To get me out before I do something that I will regret later did no good. They kept coming by our cell banging on the door yelling at [him] telling me that I should kick his ass and not feed him. The whole time they were taking me to yard telling me that if I don't do this stuff to my celly I would be buried in the RHU not eating, telling they would do things to me so bad that I would want to hang myself and all that. I was scared that if I didn't do these things that they would be doing them to me. So after a while he started getting on my nerves and I really wanted out of that cell so I started beating him up, stopped him from eating. I pulled him out of his bed and he did not eat for seven days. I was doing this because they were telling me it could happen to me so figuring them telling me that if I did do these crazy things that my hole time would disappear and I would be alright... Things here in Dallas are so bad, not too long ago a dude killed his self here in the RHU... I have thought about killing myself a whole lot."

HRC also heard about the incident from Eric Rambert, who wrote on 6/25/09 to say that C/Os who were aware of each inmates' mental health status placed two inmates together in the RHU. They called the

first inmate (Thompson) a baby rapist and child molester, refused to separate the two inmates, and told the second inmate (Murphy) to kill and rape the first one (Thompson). Then they "threatened Thompson if he let Murphy eat anything that they will give him more RHU time." The guards failed to tour that cell range one day and "caused inmate Murphy on April 19, 2009 to torture Thompson by dislocating his shoulder, pulling his toe nails out and pouring salt over it, abrasions and hematomas, right thigh and tortured his penis by slamming it between a book and the cell desk, threatened to rape and kill Thompson and his mother and sister while they watched." The prison "gave Thompson a higher dosage of medication to make him incoherent put him back in population and brought him right back to the RHU for failure to stand for count. The kid can't even tell you his name let alone stand for count... the staff using him [Murphy] as their hired weapon to cause the harm that was caused to Thompson."

Yet another inmate who wrote to us about Thompson spoke on condition of anonymity. He wrote on 6/22/09,

"I personally was next door to [Thompson], my previous stay in RHU Oct/Nov 2008; guards placed him in with an inmate they encouraged to take his trays and abuse him. The inmate . . . did not act as they suggested. He left the cell and the following inmate was also instructed to abuse

Thompson. Now I found out this year the same practice being repeated resulted in Thompson being raped and tortured in cell terribly. The torture is so unbelievable I have a difficult time repeating it. Mr. Thompson was/is single cell status and never should've been in cell with anyone, especially the known psychotic person they stuck him with. Thompson is a very little man, heavily medicated to the point of lacking basic comprehension."

Finally, Thompson's mother emailed HRC in July with concerns about her son's safety because "he hears voices and sees things . . . and it makes him really lethargic. The correction officers threaten [him] all the time and drop his food tray and call him a child molester to the other inmates to get him attacked." According to her, Thompson has been put on haladol, thorazine, depakene, and other antidepressants. She then wrote,

"Thompson was placed in another cell in the RHU with another prisoner. [He] knew this prisoner and asked him you are not going to beat me up are you? The other prisoner said no. Well the other prisoner who is known as a psycho beat [him] up, raped him repeatedly and dislocated his shoulder for a couple hours I guess Thompson called the guard over that night said he was

hurting they took pictures of his injuries he was black and blue even in his private parts. They took him to Wilkes general hospital. Thompson spoke to the state police and put a complaint on the other prisoner."

At the time of writing Thompson's future remains unclear, he is still being given heavy medication instead of mental health treatment, and the man who assaulted him is still at SCI Dallas.

Sexual Violence

Like Anderson's case above, sexual violence is often combined with physical violence and many cases fall under both categories. The National Prison Rape Elimination Commission recently reported that 2.9% of inmates reported sexual abuse by staff, and 2% reported rape by fellow inmates.

An anonymous letter received on 4/12/09 reported the following:

On 3/20/09 CO Wilkes did grabbed the Complainant by his penis and held on to it in a massaging manner asking what's this as if he was searching for something which took or lasted five seconds too long for a search. I pulled away and he then slammed me into the wall and was laughing. On 3/26/09 the suspect CO Wilke was passing out the A.M. and on 3/27/09 P.M. meals and said if the

Complainant wanted to be fed he would have to perform a sexually explicit act i.e. expose himself, get nude and repeat demanding/demeaning comments. When I refused the suspect Wilke closed my door slot and denied the Complainant his meal. He also slammed the Complainant's hand in the door slot which is still swollen and told the Physician's Assistant I refuse to see her on sick call for my swollen hand he injured... On 4-10-09 suspect Wilkes came to work and was passing out the breakfast meal, stating that I the suspect is a fucking "snitching bitch" and "just wait motherfucker you put your foot in your own ass buddy." Later during showers the suspect denied his shower and yard exercise, this was in retaliation for the Complainant filing a grievance against C.O. Wilke the suspect... The Complainant later tried speaking to Lt. Bliche who was making his rounds, when the suspect begin to yell 'I Don't want to fucking hear it, you getting out of control homes, you better wise up and do it real fast if you know what's good for you.'"

Charles Stark (BX-4196), in an undated letter, wrote about the aftermath of such sexual abuse, particularly the lack of resources available for the victim of the assault.

"Sir, during the earlier part of my incarceration, I encountered an incident where I was sexually attacked. Later, while residing at SCI-Pittsburgh there was another sexual attack in which, in this case a CO, intervened and I was written-up for fighting. . . . The written report was believed in favor of the reporting officer, that there was only a fight. Although, a psychiatrist and psychologist determined through their own investigations for the DOC's evaluation that it was more than best that I receive a Z-code status, i.e., single cell status, which was due to said attacks, my history of nervous break downs, stress, anxiety, and mental anguish. They recommended me for placement on psychotropic medications. My condition and my taking of the psych-meds, have not changed since 1993. I have never received nor have been informed before arriving at SCI-Dallas that my program code had been changed... Yet, now I am being told...that I have never been nor had a Z-code status and therefore that I do not have a need to be Z-code while housed here at SCI-Dallas... I never received any type of counseling after the attacks . . . There is no type of psychological programs or counseling for victims of sexual attacks, or assaults in the PA.DOC . . . The only

resolve of my mental anguish and physical suffering from the attacks was to be placed on Z-code status and psych-meds... The officers and staff of the PA DOC has systematically repressed my grievances and fabricated misconduct reports against me for seeking help.”

These two cases showcase the variety of issues associated with sexual assault in prison, both inmate-on-inmate and staff-on-inmate, as well as the residual psychological after-effects.

A final problem is abusive language, particularly the rhetoric of homophobia that is directed against homosexual inmates or those perceived to be feminine or weak. Like racist speech, such language occurs in many other places in this report. Two more examples come from Gregory McCrae (DP-2860), called a “black faggot” by CO Salsmon (letter dated 9/12/09) and Anthony Singleton (CW-8923), who says, “Upon arrival here nearly a year and a half ago, I was told by staff that they did not like my kind here. (This referring to my sexual orientation and my race.) I was repeatedly harassed by staff, called faggot and threatened” (letter dated 3/04/09).

Denial of Due Process: Grievances, Misconducts, Legal Property, and Access to the Courts

HRC receives countless letters from inmates who are denied access to

the law library, or who have been involved in cases where evidence disappears or is not allowed to come to light.

Shawn Sharp (BQ-8429) told a typical story in his undated letter:

“I myself have attempted to file grievances that are issued numbers and never issued an initial response to appeal from. Documents are falsified and back dated in the grievance process. You go to a misconduct hearing and the same guard that wrote you up is escorting you to the hearing, sitting at the table with the hearing examiner, and practically running the hearing with all of the other RHU officers even though the hearing examiner has an officer assigned to him and you are locked in a cage with handcuffs on over 10 ft. away from the hearing examiner. Not to mention that this person was never called as a witness. All of these things were brought to Supt. Klopotoski and PRC’s attention. Mr. Klopotoski told me personally, ‘So what, I’m not going against my officers and you can’t prove it!’ So we are faced with no real means of redress.”

Thomas Barndt’s letter (7/29/09) echoes Sharp’s concerns about the grievance system. He suggests that the grievance system does not proceed quickly enough for inmates

to report their grievances effectively. "I filed [a grievance] and it was signed by Grievance Coordinator, Ms. Robin Lucas on June 12, 2009. I still have not received an initial response for that." His story is not unique. Duane Bartholomew Peters wrote on 6/8/2009 about how he was denied the opportunity to appeal a grievance denial because officers refused to take him to the hearing:

"I am enclosing a copy of my latest grievance concerning the incident I described above which is pending. I don't expect anything other than a boilerplate denial, and concerning the write-up - I was denied a hearing and one of the Officers, Wilk, who is a witness on the write-up executed a Hearing refusal form stating that I refused to attend the hearing, which the RHU officers purposefully refused to take me to - whereby according to DOC policy an inmate cannot file an appeal [for a] hearing he refused to attend."

Later in the letter, Peters says that staff's response to complaints is, "when they come along and hear complaints they tell the person complaining 'Well you still alive right! Then keep it moving.'"

The sexual abuse case of Charles Stark, discussed above, is also reportedly a case of fabricated misconducts and denied grievances; as he wrote in his undated letter,

"the officers and staff of the PA DOC have systematically repressed my grievances and fabricated misconduct reports against me for seeking help." Eric Rambert wrote to HRC about Abdus-Shahid Ali on 7/16/09 with concerns about Ali, who was placed in administrative custody (AC) on prehearing status based on a falsified misconduct report that was dismissed for failure to comply with established policy. A new misconduct was not issued for three days, and Mr. Ali was kept in AC during that period despite staff having no reason for keeping him there. "Mr. Ali was in the process of making parole, now he's in the RHU for 90 days with a possible criminal charge over his head."

Anthony Singleton (CW-8923) noted on 3/4/09 that inmates are left with few options when abused. In a letter to Governor Rendell, he wrote, "As such, we are left with no means of recourse that is anywhere near meaningful. I can only hope that in my documenting this behavior, you will take some action to [put] justice back in the system rather than allowing injustice during your governorship."

The systematic bias against prisoners extends to such things as mandated programs, work opportunities, and education, all things that have been proven to reduce recidivism and create a safer prison environment for everyone. Alex Melendez (EX-5417), on 9/10/09, wrote of the due process denied to many "warehoused" inmates:

“They are warehousing us, there’s not enough job for those who want to work, the school system is also over crowded often. Big waiting list for people to do their parole prescribed programs. I think the average tax payer will be mad to know that their money is going [to] warehousing instead of rehabilitating and facilitating inmates with the tools to be productive in society once they are released.”

Seeking Accountability: SCI Dallas, Prior Notice and Official Indifference

In early July 2009 a letter was sent to every member of the PA General Assembly’s House and Senate Judiciary Committees, the General Assembly Black Caucus, Governor Rendell, and PA DOC Secretary Beard. This communication demonstrated inconsistencies in PA DOC testimony during a recent meeting in front of the PA House Judiciary Committee, and included documentation of reported human rights violations from SCI Dallas. The letter reiterated demands made by HRC in March:

We are again formally requesting a series of public hearings in front of the Pennsylvania Legislature to investigate the policies and practices of the PA DOC. This review will include unresolved inmate grievances, testimony by incarcerated individuals and their families,

and an inquiry into the use, implementation and effects of solitary confinement. These hearings will be the initial step in a process aimed at the creation, passing and adherence to comprehensive legislation based on international human rights agreements.⁴⁰

Despite submitting documentation of a pattern of human rights violations at SCI Dallas, no action was taken. In fact, each recipient completely ignored the documentation and the modest request for hearings.

Throughout the summer and into the fall HRC/Fed Up! and supporters sent several letters and made repeated phone calls to SCI Dallas and PA DOC officials regarding particular complaints we received, often emphasizing that individual reports of human rights violations were part of a systemic pattern. No letters were ever responded to by Superintendent Michael Klopotoski, Secretary Beard, or Office of Professional Responsibility (OPR) Director Barnacle. Prisoner reports of severe human rights violations, amounting to torture in many instances, continued to reach us almost everyday.

On September 15, 2009 a letter requesting accountability via the mechanism of transparent and legitimate investigations was sent to Governor Rendell, Attorney General Corbett, Secretary Beard, Director

⁴⁰ Human Rights Coalition-Accountability Council, letter of July 3, 2009, on file.

Barnacle, Superintendent Klopotoski, and several members of the General Assembly. The package contained summary documentation of more than 100 reports of human rights violations and the letter noted the dominant patterns therein:

- frequent usage of racist slurs, threats of violence, verbal and physical abuse by guards;
- retaliation against prisoners exercising their constitutional rights to file grievances, criminal complaints, and civil suits regarding conditions of confinement and guard misconduct/crimes. This practice commonly takes the form of the issuance of fabricated misconducts and subsequent placement in solitary confinement, as well as the seizure and destruction of legal property;
- failure to provide adequate, or at times any, physical or mental health care;
- brown drinking and bathing water, filthy cells, exposure to infectious diseases, and generally substandard environmental conditions;
- encouragement of prisoner-on-prisoner violence, including incitement to murder and sexual violence;
- incitement to and encouragement of suicide;
- a defective inmate grievance system that is systematically biased against prisoner claims of staff misconduct and substandard conditions, commonly refusing to permit prisoners to present witnesses or security camera evidence in support of their claims, and thus violating their right to due

process. This practice conforms to inmate grievance procedures throughout the PA DOC (see enclosed official inmate grievance statistics, wherein less than 2% of prisoner grievances were upheld between January 2008 and May 31);

The letter emphasized that “[a] crime is still a crime, whether or not it is perpetrated by employees or officials of the government.” It went on to outline what the basic requirements for conducting a transparent and legitimate investigation consist of:

- Conducting a comprehensive investigation into each and every incident described herein;
- Interviewing all parties named herein—both prisoners and DOC personnel—along with additional witnesses discovered in the course of investigation. These interviews should be extensive, provide the basis for reviewing the documentary and security camera record, and seek as much detail about general patterns and practices as possible;
- Obtaining signed witness statements and audio recordings from those willing to cooperate with either mode of evidence-gathering;
- Reviewing all security camera footage relevant to the claims herein and permitting prisoners to view this evidence;
- Releasing the contents of the investigation, including dispositions for each incident herein and others uncovered during the process, witness statements, audio transcripts, and security camera footage into the public domain;

- Providing for the safety of prisoner victims and witnesses to be free of retaliation by securing necessary transfers, suspension of staff alleged to be serial abusers pending investigation results, and rotating guards as appropriate;

HRC/Fed Up! informed recipients that this communication was being sent to create evidence that state officials at the highest levels were given prior notice of conditions of confinement at SCI Dallas and that failure to act would be recognized as deliberate indifference. If this came to pass we informed recipients that a formal criminal complaint would be submitted to the Civil Rights Division of the U.S. Department of Justice.⁴¹

On November 2, 2009 HRC/Fed Up! received a copy of a letter sent by Robert A. Mulle, Chief Deputy Attorney General of the Legal Review Section, to Suzanne N. Hueston, Chief Counsel for the PA DOC. The three-sentence letter reads, in part: “Based on my review of the correspondence, it appears that your office would be best able to respond.” Given that the correspondence in question, partially excerpted above, explicitly stated that the PA DOC has maintained a “posture of official denial, evasion, and secrecy at every level of the . . . chain of command,” and that prisoners have no effective, legitimate recourse to remedy grievances within the institutional

⁴¹ HRC/Fed Up! letter to PA DOC and state officials, September 15, 2009, on file.

operation of the prison, it is difficult to fathom how Robert Mulle can claim he reviewed the correspondence.⁴²

The silence of the Governor, the General Assembly, and the routine evasion of responsibility by the Attorney General’s office⁴³ only reinforce a reality that should be painfully obvious when reading the contents of this report: the PA DOC is a law unto itself.

As a result of the failure to act in accordance with the rule of law and protect constitutional and human rights on the part of PA state officials, HRC/Fed Up! submitted a

⁴² “Referral of Citizen Mail Received From the Human Rights Coalition,” From: Robert A. Mulle, Chief Deputy Attorney General, Legal Review Section, To: Suzanne N. Hueston, Chief Counsel, Department of Corrections, October 29, 2009, on file.

⁴³ A number of other formal criminal complaints and informal requests have been either ignored or returned, in the latter case claiming that the County District Attorney’s office has proper jurisdiction. That the state of Pennsylvania’s Attorney General Office has the power and responsibility to enforce the rule of law anywhere within the state of Pennsylvania, especially in state institutions such as prisons, is not only obvious on its face but is explicitly articulated in the Commonwealth Attorneys Act. The relevant passage reads: “§ 732-205. **Criminal prosecutions**
(a) Prosecutions.--The Attorney General shall have the power to prosecute in any county criminal court the following cases: (1) Criminal charges against State officials or employees affecting the performance of their public duties or the maintenance of the public trust and criminal charges against persons attempting to influence such State officials or employees or benefit from such influence or attempt to influence.”

formal criminal complaint against Secretary Beard, Superintendent Klopotoski, and a number of other PA DOC personnel employed at SCI Dallas to the U.S. District Attorney for the Middle District of PA. Appended to the two-page complaint were more than 100 pages of summary documentation, affidavits, criminal complaints, institutional paperwork, and other relevant documentation.

The complaint read, in part:

The offenses committed by the accused were Conspiracy Against Rights of Citizens and Deprivation of Rights Under Color of Law, enabled by Patterns and Practices prevalent within SCI-Dallas. The offenses committed include assisted suicide; the confinement of men in the Restricted Housing Unit in retaliation for their pursuit of remedial action against the DOC via the constitutionally protected activities of filing grievances against staff and attempting to engage in civil litigation, and subjecting these men to conditions of repeated physical assault; psychological terror of a racist nature constituting hate crimes; mail tampering and destruction of legal documents; deprivation of adequate water; inadequate and/or non-existent medical treatment, especially psychological and psychiatric care for inmates with severe mental health needs; issuance of fabricated misconduct charges and denial of due process within institutional grievance and misconduct procedures; obstruction/denial of access to

courts via the seizure and destruction of legal and other property; deprivation of mandated one hour of recreation outside of cell via staff refusal to comply and the intimidation of inmates so that they refuse to leave their cells out of fear of assault. Correspondences with families repeat the exact same chain of events and current conditions. Actions taken to further Conspiracy Against Rights of Citizens and Deprivation of Rights Under Color of Law are in violation of 18 U.S.C., Sections 241 and 242 respectively.

The complaint requested that criminal charges be brought, meaning that Secretary Beard and the rest should be arrested.⁴⁴

HRC/Fed Up! received notice from a deputy U.S. District Attorney for the Middle District of PA that the complaint had been received. The organization was thanked for bringing the matter to his attention and notified that the complaint had been forwarded to the Federal Bureau of Investigation.⁴⁵ We are unaware as to whether or not an investigation has been or will be initiated.

Reports of medical neglect, food tampering, assault, deprivation of food, and the rest continue to arrive in the mail and over the phone each week.

⁴⁴ *U.S. versus Beard, Klopotoski, Walsh, et. Al*, criminal complaint filed November 2009, on file.

⁴⁵ Correspondence from James T. Clancy, Assistant U.S. Attorney for the Middle District of Pennsylvania, November 24, 2009, on file.

Human Rights Violations throughout the PA DOC

During the last two years HRC/Fed Up! has reviewed thousands upon thousands of pages of prisoner letters/reports, civil actions, institutional paperwork, affidavits, criminal complaints, and additional documentation detailing patterns of widespread, systemic, deliberate human rights violations throughout the PA DOC. The thrust of this documentation has been corroborated via countless hours of conversation and interviews with current and former prisoners and their families conducted by HRC members, allies, supporters, and others working directly and indirectly with HRC, in both their personal and professional capacity.

In this context, the reports from SCI Dallas summarized in section II represent a minor, albeit illustrative, fraction of the human rights violations perpetrated by the PA DOC on a daily basis.

The patterns of violations gravitate around the solitary confinement units, which are the core of control throughout the state just as in SCI Dallas. According to PA DOC official statistics for the month of October 2009, there were 2,846 prisoners in some form of solitary confinement.⁴⁶

⁴⁶ These numbers do not identify prisoners in the Special Management Unit (SMU) or Death Row prisoners, and appear to be incomplete in identifying those confined in a series of Secure Special Needs Units (SSNU) around the state such as those at SCI Pittsburgh, SCI Retreat, and others. Whether these prisoners are included in

Unlike many other states, where high-security prisoners are confined in one or two supermaximum-security prisons, the PA DOC has a decentralized system of high-security solitary confinement/control units (known as Restricted Housing Units, or RHUs) in each of the 26 prisons it operates.⁴⁷ Fifteen of these control units confine over 100 prisoners, with SCIs Graterford (250), Greene (241), Camp Hill (218), Fayette (197), Huntingdon (141), Forest (134), and Dallas (119) possessing the largest. The two women's prisons, SCIs Cambridge Springs (13) and Muncy (117) accounted for 130 of the solitary confinement population at the end of October.⁴⁸

While many of those in the RHU serve a 30-60 day sentence in solitary for an alleged disciplinary infraction, a number of others have been subjected to long-term isolation with no means for improving their confinement status. Several of these prisoners have been confined for 5 years and longer, even more than 25 years in a few instances. As at SCI Dallas, those most heavily targeted for indefinite lockdown are jailhouse lawyers,

the total for RHU classifications or elsewhere, or not included, is not clear.

⁴⁷ The PA DOC actually operates 27 facilities when the Quehanna Boot Camp is included. The boot camp does not have a RHU.

⁴⁸ Figures taken from the PA DOC Monthly Population Report for October 2009, http://www.cor.state.pa.us/portal/lib/portal/monthly_population.pdf.

political activists, the mentally ill, and blacks and Latinos.

The effect of the regime of solitary confinement on the rest of the prisoner population is predictable and undoubtedly intentional: to terrorize prisoners into total submission to the arbitrary power of prison staff and officials regardless

of whether that power is being exercised in accordance with policy and law.

The subsequent capsule descriptions of major human rights violations in the PA DOC situates the conditions at SCI Dallas in a broader context and hence renders them more comprehensible.

Summary Report on Human Rights Violations in the PA DOC

Assault/physical abuse

PA DOC policy stipulates that “When force is used, the least amount of force, reasonably necessary to achieve the authorized purpose is to be used and the use of force will stop once control is achieved.”

There is also a prohibition on the use of force “as a means of punishment or revenge.”⁴⁹ These policy mandates are routinely subordinated when prison personnel find it in their interest to terrorize specific individuals and the rest of the prisoner population by making an example of someone.

Assaults, physical abuse, and threats of violence from guards occur with systematic frequency, establishing a baseline of terror throughout the prisoner population. Those who file grievances or pursue other avenues for redress such as civil litigation or reporting to outside authorities are regularly targeted for verbal and

physical harassment. General population prisoners who are subject to provocation and assault by staff are virtually always issued fabricated misconduct charges for assaulting staff and sentenced to a term in solitary confinement. Once in solitary these prisoners are often deprived food, personal property, writing materials and grievance forms, access to medical treatment, and otherwise subjected to deprivations and punitive measures designed to reinforce the total helplessness of prisoners and their absolute dependency on staff for their very survival. Prisoners held in solitary confinement who insist on exercising their rights to file grievances and lawsuits, or who otherwise develop an antagonistic relationship with staff are even more vulnerable to physical abuse since they are not permitted to leave their cells without being handcuffed and often shackled. Reports of guards throwing handcuffed prisoners against walls, yanking their handcuffed arms through the tray slot in the door, and punching and kicking defenseless victims are not uncommon. The threat and reality

⁴⁹ PA DOC Policy DC-ADM 201-1, Use of Force, section V(B)(D), http://www.cor.state.pa.us/standards/lib/standards/DC-ADM_201_Use_of_Force.pdf.

of arbitrary and excessive bodily violence is both the psychological and physical lynchpin of control. Such acts violate, *inter alia*⁵⁰, article V of the Universal Declaration of Human Rights (UDHR) prohibiting torture and other ill-treatment, and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.⁵¹

Mental Health and the Psychological Impact of Solitary Confinement

A vastly higher prevalence of psychological instability and disorder exists amongst the prisoner population than within the population at large.⁵² The rate of mental illness becomes higher yet amongst those confined in control units. Responses to questionnaires sent to large numbers of prisoners led the U.S. Bureau of Justice Statistics to claim in a September 2006 report that as many as 56% of state prisoners likely suffer from a mental health problem,⁵³ based on the presence of a recent history or

symptoms of mental health problems.

The Vienna, Virginia-based corporation MHM Correctional Services, Inc. (MHM) signed a new contract with the PA DOC towards the end of 2008 for the provision of mental health care services between January 1, 2009 and August 31, 2013. The contract is worth \$91,000,000.⁵⁴

While MHM claims that it is “successful” in meeting the “unique challenge” posed by prisoners with mental illness⁵⁵, reports of severe psychological deterioration and inadequate, often non-existent, and sometimes abusive treatment are commonplace. Those held in solitary confinement are treated to cursory visits from psych staff and forced to speak with them at their cell door, which has an inhibiting effect on one’s willingness to discuss his symptoms for fear of being overheard by guards and other prisoners. Prisoners prescribed medication to counter suicidal depression have had these prescriptions discontinued with devastating consequences, none more so than the case of Matthew Bullock. In other instances excessive medication is substituted for mental health care.

⁵⁰ a legal term meaning “amongst other things.”

⁵¹ Brownlie and Goodwin-Gill, eds., *Basic Documents on Human Rights, Fifth Edition*, p. 25 and 405-416 respectively.

⁵² Terry Kupers, *Prison Madness: The Mental Health Crisis Behind Bars and What We Must Do About It*. Dr. Kupers writes that “The prevalence of mental disorders among prisoners is quite high, at least five times the prevalence rates in the general population,” p. 11.

⁵³ “Mental Health Problems of Prison and Jail Inmates,” Doris J. James and Lauren E. Glaze, *Bureau of Justice Statistics Special Report*, September 2006.

⁵⁴ Service Purchase Contract between Pennsylvania, Department of Corrections and MHM Correctional Services, Inc., http://www.cor.state.pa.us/boa/lib/boa/MHM_Correctional_Services_Inc.SP_1181000376.pdf.

⁵⁵ <http://www.mhm-services.com/services/correctional-mental-health.html>

The regime of solitary confinement both exacerbates and generates psychological instability, abnormality, and disorder, therefore perpetuating an escalating cycle of mental illness and suffering inside and outside the prisons. The scientific consensus deduced from copious research on the psychological impact of solitary confinement is that the experience generates considerable and sometimes permanent mental suffering. One of the foremost experts on the subject, Dr. Stuart Grassian, reveals that “even a few days of solitary confinement will predictably shift the electroencephalogram (EEG) pattern toward an abnormal pattern characteristic of stupor and delirium,” and outlines the following seven symptoms as being characteristic of an “organic brain delirium” associated with solitary confinement:

- a) hyperresponsivity to external stimuli;
- b) perceptual distortions, illusions, hallucinations;
- c) panic attacks;
- d) difficulties with thinking, concentration, and memory;
- e) intrusive obsessional thoughts: emergence of primitive aggressive ruminations;
- f) overt paranoia;
- g) problems with impulse control.⁵⁶

Questionnaires submitted by HRC/Fed Up! to over 75 prisoners in

⁵⁶ Stuart Grassian, “Psychiatric Effects of Solitary Confinement,”

SCI Dallas and throughout the state confirm the presence of these same symptomatic patterns amongst a disturbingly large number of the solitary confinement population. Incidents of self-harm, including suicide attempts, occur regularly and are certainly under-reported. Prisoners have reported setting their cells on fire, self-mutilation, and attempts to hang themselves. The common response from prison staff in these circumstances is to send guards in riot gear into the cell to “extract” the prisoner, often attacking him with pepper spray first, and then forcibly transporting the cuffed and shackled inmate to a psychiatric observation cell where he is subjected to even more intensive isolation. Several prisoners have reported being kept in such cells without bedding, a mattress, running water, or clothes for days at a time. This brutality exacerbates and multiplies the incidence of mental health problems inside prisons where “a large subgroup develop[] the disturbances that make their lives more miserable only after being incarcerated.”⁵⁷

Other rights to adequate mental health care are violated by structural and procedural deficiencies, including lack of funding, staffing, privacy, inpatient treatment programs, and negligent and abusive practices.

HRC/Fed Up! finds the predictable psychological consequences of these

⁵⁷ Terry Kupers, *Prison Madness: The Mental Health Crisis Behind Bars and What We Must Do About It*, p. 38.

conditions is of such an egregious and apparent nature that it cannot be credibly understood as anything other than the deliberate intention of the PA DOC to inflict severe mental pain on prisoners targeted for prolonged solitary confinement. While the utilization of solitary confinement as a retaliatory measure represents an obvious human rights violation, the application of these techniques of control is invalid—and illegal—if there is no identifiable rehabilitative or penological consequence as well.

Simply put, there is no legitimate rehabilitative pretext that can justify subjecting those found guilty of violating prison rules and regulations to conditions of isolation so extreme as to constitute torture.

The proliferation of solitary confinement units represents the ascendance of a purely punitive approach to incarceration. While the dominant discourse on questions of crime and incarceration validate the debate between a punitive or rehabilitative approach to incarceration, black-letter international law is unambiguous on this matter. The role of solitary confinement in perpetuating an ever-escalating cycle of incarceration in PA and throughout the U.S. subverts article 10(3) of the International Covenant on Civil and Political Rights, which mandates that “The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social

rehabilitation.”⁵⁸ “Tough on crime” punitive approaches that fail to address root social causes of crime and neglect to provide adequate educational, vocational, therapeutic, and counseling services to people sentenced to prison are not only responsible for propagating the cycle of violence and social deterioration—and therefore decidedly not “tough” on crime—but are also in violation of international law.

These conditions also violate, *inter alia*, article V of the UDHR and the Convention against Torture⁵⁹. By exacerbating and generating a greater incidence of mental illness and denying adequate treatment the PA DOC is also violating the United Nations’ Standard Minimum Rules for the Treatment of Prisoners rule 22(1), which states that: “The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality”.

Malign Neglect: Profit over Prisoners

In 1988 the United Nations General Assembly passed Resolution 43/173, the Body of Principles for the Protection of All Persons Under

⁵⁸ Brownlie and Goodwin-Gill, eds., *Basic Documents on Human Rights, Fifth Edition*, p. 362

⁵⁹ Brownlie, p. 25 and 405-416 respectively.

Any Form of Detention or Imprisonment. Principle 24 states:

A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge.⁶⁰

This provision affirming a right to medical care corresponds with the 1978 U.S. Supreme Court ruling in *Estelle v. Gamble*, which found that deliberate indifferences to serious medical needs of prisoners constitutes a violation of 8th amendment rights to be free from cruel and unusual punishment.⁶¹

Summarizing data on infectious diseases in prison populations, a 2007 report found that rates of HIV/AIDS and other sexually transmitted diseases (STDs), tuberculosis (TB), and Hepatitis A, B, and C amongst the incarcerated far exceed occurrences amongst the general public. The rate of HIV/AIDS in prisons has been estimated at five to seven times greater than in the general population. The proportion of prisoners with hepatitis falls within the approximate range of 15 and 30 percent. TB cases in prisons are five times the national average. The report continues:

An analysis conducted for the U.S. Congress, by the National

⁶⁰ Brownlie, p. 93.

⁶¹ *Estelle v. Gamble*, 429 U.S. 97, 103 (1976).

Commission on Correctional Health Care, found that 20 to 26 percent of the U.S. population living with HIV/AIDS, 29 to 32 percent of persons with Hepatitis C, and 38 percent of those with TB were *released* from a correctional facility. Transmitted through unprotected sex, tattooing, sharing syringes, and close living quarters, and fostered by inadequate prison health care, these diseases are ravaging the prison population. Public health experts are beginning to ponder the consequences of this health crisis, as the large majority of these prisoners will one day be released back to society.⁶² [emphasis in original]

Another threat to public health is the rapid spread throughout the nation's prisons and jails of the "superbug", methicillin resistant staphylococcus aureus, or MRSA. Determined to be the "cockroach of bacteria" by the Centers for Disease Control and Prevention, MRSA (pronounced mer-sa) "has the power to disable, disfigure and kill the people who come into contact with it." 19,000 out of the estimated 94,000 U.S. Americans with MRSA died as a result of the "superbug" in 2005 alone. Pennsylvania is amongst a handful of states with

⁶² *Violations of Articles 1, 2 and 5 of the International Convention on the Elimination of all forms of Racial Discrimination in U.S. Prisons: A Response to the Periodic Report of the United States of America*, Prison Working Group, p. 20, October 2007.

particularly virulent outbreaks of MRSA in detention facilities.⁶³

Given that prisons are incubators of disease and that over 90% of prisoners will be released into our communities someday, the imperative for providing adequate health care to the incarcerated population is not only a legally-mandated but pragmatic and commonsense public health policy as well. For this reason it is nothing short of scandalous that the PA DOC has privatized the provision of medical services and contracted this responsibility to Prison Health Services, Inc. (PHS), a Tennessee-based for-profit corporation that has left a trail of corpses and lawsuits in its wake around the country.

In 2005 Paul von Zielbauer published an expose of PHS in the pages of the New York Times based on extensive investigations of PHS practices around the U.S., documenting widespread instances of wrongful death, malpractice, skeletal staffing, denial of medications, and other neglectful and abusive practices. Summarizing his findings Zielbauer wrote, “A yearlong examination of Prison Health by The New York Times reveals repeated instances of medical care that has been flawed and sometimes lethal. The company’s performance around the nation has provoked criticism from judges and sheriffs, lawsuits from inmates’ families and whistle-

⁶³ “Deadly Staph Infection ‘Superbug’ Has a Dangerous Foothold in U.S. Jails,” Silja J.A. Talvi, *Prison Legal News*, May 2008.

blowers, and condemnation by federal, state and local authorities. The company has paid millions of dollars in fines and settlements.”⁶⁴

The PA DOC signed a five-year contract with PHS for the provision of medical care, excluding mental health and pharmacy services, to all facilities under their control that initially went into effect on September 1, 2003.⁶⁵ The contract was worth \$308,254,642. In February 2007 the contract was extended from its initial expiration date of August 31, 2008 to August, 31 2013.⁶⁶

Incentives for denying care are embedded in the contract, in particular the section on the annual aggregate cap, which reads in part:

PHS has budgeted an annual aggregate cap of **twenty million five hundred thousand dollars (\$20,5000,000)** to cover outside medical services in contract Year One. Additionally, PHS proposes a 50/50 sharing between PHS

⁶⁴ Paul von Zielbauer, “Harsh Medicine: As Health Care in Jails Goes Private, 10 Days Can Be a Death Sentence,” *New York Times*, February 27, 2005.

⁶⁵ Medical Services Agreement Between Commonwealth of Pennsylvania, Department of Corrections and Prison Health Services, Inc., signed August 6, 2003, <http://www.cor.state.pa.us/boa/lib/boa/phsSignedContract.pdf>.

⁶⁶ Contract Modification Agreement No. 3 to Medical Services Agreement Between Commonwealth of Pennsylvania, Department of Corrections and Prison Health Services, Inc., signed February 4, 2007, <http://www.cor.state.pa.us/boa/lib/boa/PHSAttachment3.pdf>.

and the DOC of any costs incurred between **\$20,500,000** and **\$22,500,000**. Costs that *exceed* \$22,500,00 in Year One shall be the responsibility of the DOC.⁶⁷

Outside medical services include “medical and psychiatric hospitalization, off-site physicians’ and specialists’ fees, emergency room fees, ambulance transportation expenses, off-site and mobile surgery services, and the cost of any dialysis treatment provided off-site as well as on-site dialysis services at SCI Graterford and SCI Muncy.”⁶⁸

By entrusting the health and lives of PA prisoners to the likes of PHS it is no surprise that reports of medical neglect and abuse are rampant. Examples of poor practices and inadequate treatment include withholding of medications; refusal of outpatient services and necessary surgeries; denial of prisoner requests to view their medical records; failure to follow policy and document injuries when these might indicate staff liability for injuries (i.e. after guards beat or abuse a prisoner); the absence of any mechanisms other than civil litigation for prisoners to seek remedy, which—in the rare cases where claims are upheld—provide redress for wrongs virtually always after the damage has been done.

⁶⁷ Medical Services Agreement Between Commonwealth of Pennsylvania, Department of Corrections and Prison Health Services, Inc., <http://www.cor.state.pa.us/boa/lib/boa/phsSignedContract.pdf>.

⁶⁸ *ibid.*

Skin conditions, hernias, and cataracts have been ignored or given cursory attention. Prisoners concerned about their exposure to infectious diseases, especially those in solitary units who have been placed in cells with blood and bodily waste, have been denied diagnostic tests or had the documented results withheld.

HRC/Fed Up! has accumulated ample testimony to conclude that the business practices detailed in the 2005 New York Times expose of PHS have not been amended in any substantive manner and persist to this day.

White Supremacist Racism

The U.S. criminal legal system is saturated with white supremacist racism at every level, from policing priorities to arrests, convictions to sentencing.

In April 2007, a group of human rights workers concerned with the U.S. prison system issued a shadow report to the United States periodic report to the United Nations regarding compliance with the International Convention on the Elimination of all forms of Racial Discrimination. The shadow report, in which the normalized racism of the prison system is summarized, states the matter with blunt clarity: “Conditions in prisons and jails in the US are horrific. The notion of rehabilitation in most facilities has been forgotten and prisons/jails have become warehouses for many

of the marginalized segments of American society.”⁶⁹

In reviewing the U.S. report the UN Committee on the Elimination of Racial Discrimination (CERD) noted that the “stark racial disparities in the administration and functioning of the criminal justice system, including the disproportionate number of persons belonging to racial, ethnic and national minorities in the prison population, may be regarded as factual indicators of racial discrimination,” and subsequently recommended that “all necessary steps to guarantee the right of everyone to equal treatment before tribunals and all other organs of administering justice” be taken and advocated “the implementation of national strategies or plans of action aimed at the elimination of structural racial discrimination.”⁷⁰

The concerns articulated by the CERD acknowledge, however modestly, that the criminal legal system operates according to the logic of white supremacy. While this structure of domination functions within a complex variety of social

⁶⁹ *Violations of Articles 1, 2 and 5 of the International Convention on the Elimination of all forms of Racial Discrimination in U.S. Prisons: A Response to the Periodic Report of the United States of America*, Prison Working Group, October 2007.

⁷⁰ Committee on the Elimination of Racial Discrimination (CERD), “Consideration of Reports Submitted by State Parties Under Article 9 of the Convention, Concluding observations of the Committee on the Elimination of Racial Discrimination, United States of America,” CERD/C/USA/CO/6, May 8, 2008.

institutions and at varying degrees of psychological awareness, white supremacy is and always has been a reality of life in the United States.

Illustrating some markers of this reality, the Pew Center on the States issued a report in 2009 revealing that “Black adults are four times as likely as whites and nearly 2.5 times as likely as Hispanics to be under correctional control. One in 11 black adults—9.2 percent—was under correctional supervision at year end 2007.”⁷¹

Perhaps even more illuminating is the fact that black males are incarcerated at a rate of 4,919 per 100,000 in the U.S. today, while apartheid South Africa, by comparison, incarcerated black males at a rate of 851 per 100,000 in 1993.⁷²

These same patterns are apparent in Pennsylvania as well, where blacks account for 48.8% of the total state prison population despite only representing 10.8% of the state population. Similarly, while persons of Hispanic or Latino origin represent but 4.8% of the state population they account for 10.8% of the state prison total.⁷³ That all but

⁷¹ “One in 31: The Long Reach of American Corrections,” The Pew Center on the States, 2006.

⁷² Figures on incarceration rates taken from http://www.prisonpolicy.org/articles/not_equal_opportunity.pdf.

⁷³ State prison population figures taken from the Pennsylvania Department of Corrections Monthly Institutional Profile, October 31, 2009, http://www.cor.state.pa.us/portal/lib/portal/monthly_profile.pdf. State population percentages

one of Pennsylvania's state prisons are situated in locales with a predominant—often over 90%—white/euro-American population has helped fuel the racial discrimination and brutality that are defining characteristics of the state prison system. Of the 24 locales in which the PA DOC's 27 institutions are found—including the two women's prisons, the boot camp, and a facility for juvenile offenders—15 of these possess a white population in excess of 95%. 17 out of 24 have an over 90% white population, while a full 22 of 24 have white populations above 80%.⁷⁴

These patterns correspond to national trends to push prison expansion on economically depressed white rural communities as a means of job creation, which generates an incentive for working class whites and political representatives from those communities to develop a vested interest in the warehousing of vast numbers of poor people from communities of color.

While such statistical indicators of racial discrimination can be multiplied at considerable length⁷⁵

can be found at the U.S. Census Bureau website, State and County QuickFacts, <http://quickfacts.census.gov/qfd/states/42000.html>.

⁷⁴ Figures taken from the U.S. Census Bureau website,

<http://factfinder.census.gov/home/saff/main.html?lang=en>

⁷⁵ See *Race to Incarcerate*, Marc Mauer, for information and analysis on racial disparities in policing practices, arrest rates, sentencing practices, and drug enforcement; for evidence on

numbers can never begin to adequately depict the human impact of structural racism. The reports received by HRC/Fed Up! testify to the reality of widespread racism on the part of prison personnel. We have received a number of reports about flagrantly racist guards, some even boasting of their membership in white nationalist organizations such as the Ku Klux Klan. The use of racist slurs to intimidate, humiliate, and terrorize prisoners are commonplace in the control units, which have a higher proportion of people of color than the general population. While there have been reports of guards threatening to lynch prisoners and racist pictures and graffiti being left for intended targets, much of the racism occurs in the context of daily operations. For example, the issuance of fabricated misconducts and placement in solitary confinement, or verbal abuse of a racist type directed at those who file grievances. Other examples of racism include reports from several Latino prisoners that they are being held in solitary confinement on the basis of confidential evidence alleging gang affiliation, and black Muslims being denied Nation of Islam and other related literature.

Structural racism and the manifestations thereof detailed in this report violate Article 2 of the

racial disparities in life sentences see The Sentencing Project's July 2009 report *No Exit: The Expanding Use of Life Sentences in America*; and see *Punishment and Prejudice: Racial Disparities in the War on Drugs*, Human Rights Watch, May 2000.

UDHR⁷⁶ and, articles II and V of the International Convention on the Elimination of all forms of Racial Discrimination. The severe obstacles for prisoners who seek protection and remedy in instances of racial discrimination (see the section on the Denial of Due Process) violate Article VI of the ICERD, which stipulates that “State Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination . . .”⁷⁷

Conditions in PA prisons and SCI Dallas in particular also fit the definition of the crime of apartheid as defined in Article II(a)(ii) of the International Convention On the Suppression and Punishment of the Crime of Apartheid. The relevant sections stipulate that apartheid is present when there is a “Denial to a member or members of a racial group or groups of the right to life and liberty of person” via “the infliction upon the members of a racial group or groups of serious bodily or mental harm, by the infringement of their freedom or dignity, or by subjecting them to torture or to cruel, inhuman or

⁷⁶ Brownlie and Goodwin-Gill, eds., *Basic Documents on Human Rights, Fifth Edition*, p. 24. Article II of the UDHR states “Everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

⁷⁷ *Ibid.* p. 340

degrading treatment or punishment.”⁷⁸

Denial of Due Process: Grievances, Misconducts, and Access to the Courts

Any analysis of the factors that generate, enable, and sustain human rights violations in U.S. prisons has to take into account the role of the courts in monitoring conditions, adjudicating disputes, and enforcing rulings in particular instances. Prisoners’ rights in this respect are enshrined in articles VI and VII of the Universal Declaration of Human Rights, which respectively proclaim that “All are equal before the law and are entitled without any discrimination to equal protection of the law”, and that “Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law”.⁷⁹ Affirming the same principles of due process and equal protection, Amendment XIV of the U.S. Constitution, proclaims that no state shall “deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws”.

Prison Litigation Reform Act

The rights of prisoners to access the courts have been severely restricted as a consequence of the Prison Litigation Reform Act (PLRA), passed into law by the U.S. Congress in

⁷⁸ *Ibid.* p. 383

⁷⁹ *Ibid.* p. 25

1996. Barriers to the exercise of this fundamental constitutional and human right erected by the PLRA relevant to this report include:

- 1) the exhaustion of remedies requirement: Prior to filing a lawsuit prisoners are required to exhaust the prison's administrative grievance procedure;
- 2) the physical injury requirement: mental or emotional injury is insufficient to substantiate a claim that one's right were violated unless it can be demonstrated that there was a prior physical injury;
- 3) restrictions on court oversight of prison conditions: the power of federal courts to enforce orders that provide correctives to unlawful conditions has been hindered;
- 4) limitations on attorney fees: the amount of money attorneys are able to collect from successful cases brought on behalf of prisoners whose rights have been violated has been limited by the PLRA.⁸⁰

Proponents of the legislation alleged that prisoners were prone to filing excessive and frivolous lawsuits, and that the PLRA would eliminate abuse of the courts and weed out unworthy claims. Contrary to these assertions, prisoner lawsuits were about as common as lawsuits brought by non-prisoners, and these

⁸⁰ *No Equal Justice: The Prison Litigation Reform Act in the United States*, Human Rights Watch, May 2009; p. 2

often involved non-frivolous claims similar to the violations detailed in this report.⁸¹ Furthermore, if the actual intent of the legislation were to discourage and hinder the filing of unworthy lawsuits then it follows that prisoners should have begun to win a higher percentage of cases subsequent to the passage of the PLRA. But the PLRA has had precisely the opposite effect as prisoners have filed less lawsuits and won an even smaller proportion of these cases.⁸²

In May 2009, Human Rights Watch (HRW) released a report on the effects and constitutionality of the PLRA, finding that "The effect . . . on prisoners' access to the courts was swift. Between 1995 and 1997, federal civil rights filings by prisoners fell by 33 percent, despite the fact that the number of incarcerated persons had grown by 10 percent in the same period. By 2001 prisoner filings were down 43 percent from their 1995 level, despite a 23 percent increase in the incarcerated population. By 2006 the number of prisoner lawsuits filed per thousand prisoners had fallen 60 percent since 1995."⁸³ The report also found that "the number of states with less than 10 percent of their prison populations under court supervision more than doubled, from 12 to 28."⁸⁴

As a consequence of the PLRA's restrictions on prisoners' rights to

⁸¹ *ibid.* p. 9

⁸² *ibid.* p. 3

⁸³ *ibid.* p. 3

⁸⁴ *ibid.* p. 35

access the courts and its erosion of judicial power to regulate conditions by court order HRW concluded that the PLRA is “fundamentally at odds” with the requirements of international law, specifically article 14 of the International Covenant on Civil and Political Rights, which stipulates that “All persons shall be equal before the courts and tribunals”.⁸⁵ The UN Committee Against Torture also found that the PLRA violated fundamental human rights, noting that the physical injury requirement is a contravention of article 14 of the Convention Against Torture, which requires redress for victims. The Committee accordingly recommended that “The State party should not limit the right of victims to bring civil actions and amend the Prison Litigation Reform Act accordingly”.⁸⁶

It is in this context of an expanding prison population that possesses increasingly diminished access to the courts that the routine reports of anti-prisoner bias in the administration of grievance and misconduct processes are to be understood.

Misconducts

⁸⁵ ⁸⁵ Brownlie and Goodwin-Gill, eds., *Basic Documents on Human Rights, Fifth Edition*, p. 362

⁸⁶ Committee Against Torture (CAT), “Consideration of Reports Submitted by State Parties under Article 19 of the Convention, Conclusions and Recommendations of the Committee against Torture, United States of America,” CAT/C/USA/CO/2, May 18, 2006.

Prisoners alleged to have violated prison rules and regulations are to be issued a misconduct report stating the “facts upon which the charges are based” as written by the staff member making the charges, a contractor employee with personal knowledge of the violation, or by another staff member who has been instructed to do so at the request of a person with personal knowledge of the incident in question.⁸⁷ Aside from lesser offenses, which might be subject to informal resolution, in which no hearing takes place, prisoners charged with a misconduct are granted an appearance before the institution’s hearing examiner. While policy stipulates that prisoners are permitted to call witnesses to testify to their knowledge of the events in question, this aspect of due process is frequently subverted on the grounds that such witnesses are not needed to determine guilt or innocence. Prisoner requests for the presentation of security camera footage regarding the incident at hand are virtually always denied as well.

Such a rationale does make for a consistent kind of logic, as the primary factor in determining guilt or innocence in misconduct cases is apparently not evidence, but rather the fact that one is a prisoner typically determines that he or she is guilty as well. Once found guilty a stint in solitary confinement follows. These can last from 30 days to

⁸⁷ PA DOC Policy DC-ADM 801, Inmate Discipline, Section 1(B), http://www.cor.state.pa.us/standards/lib/standards/801_Inmate_Discipline.pdf.

longer, and can of course be extended without restraint given the rubber-stamp quality of misconduct procedures.

Reports of guards abusing the misconduct system to “bury” somebody in solitary are received from all over the state each week. Most reports of this kind usually begin with a description of how a prisoner felt compelled to file a grievance against an abusive staff member and was subsequently issued a misconduct for an infraction that they did not commit. If the prisoner still feels aggrieved and unwilling to acquiesce silently to the arbitrary machinations of prison staff misconducts can be issued endlessly with little concern that supervisory staff will disapprove let alone discipline staff who abuse their authority in such a manner. Along with SCI Dallas, the prisons at Camp Hill, Fayette, Greene, and other control units have made this a normalized tactic in silencing grievances and intimidating those who file lawsuits.

Grievances

Prisoners in the PA DOC have the option of filing grievances regarding staff misconduct and/or inadequate conditions of confinement. The initial grievance is handled by an institutional grievance officer, appeals go to the Superintendent, and the third and final level of appeal is DOC Central Office in Camp Hill.⁸⁸ While the formal

⁸⁸ PA DOC Policy DC-ADM 804, Inmate Grievance System,

purpose of the grievance system is to provide an avenue for prisoners to resolve problems within the institutional framework of the PA DOC, the operative reality of the grievance system is that it functions to repress claims of abuse and substandard conditions and obstruct access to the courts.

Official PA DOC grievance statistics for the period between January 1, 2008 and April 29, 2009 obtained through a Right-To-Know request reveal the systematic anti-prisoner bias in the system with stark clarity. During this sixteen-month period less than 2% of prisoner grievances were decided in favor of the inmate. For the years 2008 and the first four months of 2009 respectively, approximately 20% and 18% of grievances were unilaterally resolved by the prison administration, which does not mean the inmate is satisfied. The remainder are denied or dismissed on their merits or because of failure on the part of the prisoner to adhere to procedural requirements. To put it another way, over 98% of prisoner grievances are not resolved in a manner that is satisfactory to the inmate.⁸⁹

The systematic refusal to address prisoner grievances in an honest and constructive way discourages many from using the system at all. Those who do learn quickly not to expect fairness. Several prisoners have reported being told explicitly that

http://www.cor.state.pa.us/standards/lib/standards/DC-ADM_804_Inmate_Grievances.pdf.

⁸⁹ PA DOC Inmate Grievance Tracking System Summary Totals, on file.

the testimony of guards will be believed no matter the truth of the matter. Refusal to permit prisoners to call witnesses or present security camera footage in support of their claims is as prevalent in the grievance system as it is in the misconduct process. The frustration, demoralization, and anger engendered by these practices is predictable and of no apparent concern to DOC administrators and personnel.

As evidenced in the preceding pages, prisoners who file grievances almost invariably arouse the ire of staff and consequently find themselves targeted by retaliatory actions. HRC/Fed Up! has received countless reports from people subjected to long-term solitary confinement on the basis of fraudulent misconducts that were issued after the inmate attempted to utilize the grievance system.

Given the conditions of solitary confinement outlined above and the brutality, filth, racism, and psychological disorientation accompanying such conditions, the issuance of fabricated misconducts for retaliatory purposes should be understood as a violation of the Convention Against Torture. The UN Committee Against Torture, in its consideration of a U.S. report regarding its compliance with the convention, noted in regard to conditions in U.S. prisons that “The Committee is concerned about the prolonged isolation periods detainees are subjected to, the effect such treatment has on their

mental health and that its purpose may be retribution, in which case it would constitute cruel, inhuman or degrading treatment or punishment (art. 16).”⁹⁰

Prisoners in solitary confinement are hindered from utilizing the grievance system in other ways as well, including the confiscation and destruction of necessary paperwork for filing grievances and appeals in a timely manner, denial of grievance forms and writing tools, and administrative refusal to respond to claims in a timely manner. These actions not only deter the possibility of prisoners obtaining a fair and satisfactory resolution of their grievances within the prison system, which is not a serious possibility in any event, but serve to frustrate potential legal action as well. Failure to conform to the procedural requirements of the grievance system means that any lawsuit brought regarding the grievance in question has a higher probability of being thrown out on the technical grounds that the inmate did not exhaust administrative remedies as required by the PLRA.

For those who seek justice the PLRA and its requirement that administrative remedies be exhausted prior to bringing a lawsuit necessitate that prisoners continue to file grievances. Despite

⁹⁰ Committee Against Torture (CAT), “Consideration of Reports Submitted by State Parties under Article 19 of the Convention, Conclusions and Recommendations of the Committee against Torture, United States of America,” CAT/C/USA/CO/2, May 18, 2006.

the all but total improbability of a grievance being resolved and the threat and reality of being subjected to control unit torture, perhaps indefinitely, countless members of PA's incarcerated population continue to file grievances so that their claims will not be dismissed on technical/procedural grounds.

Survivors of torture and others struggling against the dehumanizing violations of their rights inside the PA DOC need dedicated and organized support from those of us on the outside if their grievances are to be addressed, their rights and lives respected, and those guilty of perpetrating criminal acts against them held accountable. The concluding section of this report summarizes a series of recommendations to be pursued by a broad coalition of current and former prisoners, their families and support people, human rights defenders, and civil society organizations.

Recommendations—Human Rights and Accountability: Organizing to Enforce the Law

The contents of this report describe an unsustainable and appalling culture of criminal conduct within the PA DOC. To date, no effective action has been taken by those in positions of power to address the human rights crisis inside the prison system. The inaction and indifference from DOC and state officials when presented with substantial documentation of crimes of the state can only be understood as tacit approval at worst or a decision of political expedience at best.

Rather than address our concluding remarks to agents and institutions of a criminal state we offer the following recommendations to our allies in civil society as a framework for sustained, principled, committed political struggle. These recommendations are in no way comprehensive and demand further elaboration and integration into a broader movement for the enforcement of human rights law and a corresponding restructuring of the political, economic, and social relationships and institutions that govern our communities and shape our collective future.

Legislators, law enforcement personnel, state employees, and other government officials and employees are encouraged to review and adopt this framework as well. HRC/Fed Up! believes that it is correct to give those in positions of

power the opportunity to do the right thing, but imperative to prepare for the possibility that they will not. For this task we need a mass movement.

As an organization comprised of prisoners, their families and support people, and human rights defenders, we expect these constituents to be most receptive to the following recommendations. From this basis of understanding it is necessary to build a movement throughout communities targeted by twin policies of mass impoverishment and mass incarceration, reaching out to build principled alliances with other sectors of society concerned with the rule of law, human rights, and social justice.

Recommendations

1. Investigate and prosecute crimes of torture and other cruel, inhuman or degrading treatment or punishment.

On the basis of the elements and guidelines of international law discussed below, prisoners, support people, and individual and organizational human rights defenders must make the investigation and prosecution of the crime of torture a non-negotiable demand.

The filing of criminal complaints at every jurisdictional level, especially with the Civil Rights Division of the U.S. Department of Justice, will assist in compiling and preserving evidence, exposing torture and related human rights violations, and building public and institutional momentum for accountability. State or federal investigative commissions created by legislative acts expressly for the purpose of investigating and prosecuting torture and human rights violations in PA prisons are other potential avenues.

Even if the political realities that dictate how the law is or is not enforced are not significantly altered soon and our efforts to seek justice and accountability are denied for the time being, the preservation of evidence and exposure of conditions inside PA prisons will assist in creating awareness of human rights law, crimes of the state, and the

question of power, thus helping generate the necessary preconditions for widespread social transformation.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) defines the crime of torture as follows:

For the purposes of this Convention, the term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.⁹¹

State officials and employees who organize, sanction, enable, participate in, or otherwise fail to act when presented with evidence of control unit torture and human

⁹¹ *Ibid.* p. 406.

rights violations not amounting to torture but rather constituting cruel, inhuman and degrading treatment bear primary criminal responsibility for the operation of the prison system in the state of Pennsylvania and demand to be investigated and prosecuted.

Article 12 of the CAT mandates that “Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.” Article 13 enshrines the right of those allegedly subjected to torture to a prompt and impartial examination of their claims and protection against retaliation.⁹²

The UN Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides further instruction for individuals and organizations advocating for investigations and prosecutions of torture and other ill-treatment. Principle 1 articulates the objective of the resolution:

1. The purposes of effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment . . . include the following:

- (a) Clarification of the facts and establishment and acknowledgement of individual

⁹² *Ibid.* 409.

- and State responsibility for victims and their families;
- (b) Identification of measures needed to prevent recurrence;
- (c) Facilitation of prosecution and/or, as appropriate, disciplinary sanctions for those indicated by the investigation as being responsible and demonstration of the need for full reparation and redress from the State, including fair and adequate financial compensation and provision of the means for medical care and rehabilitation.⁹³

Aspects of legitimate investigations identified in the document include impartiality, promptness, competence, authority to compel witness testimony and obtain all available evidence, necessary budgetary and technical resources, physical and psychological medical examinations of alleged victims of torture and other ill-treatment, and the production of a public, written report.⁹⁴

Investigations conducted in accordance with internationally accepted standards serve to further the principles articulated in the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human

⁹³ UN Resolution 55/89, see *Annex: Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N00/564/73/PDF/N0056473.pdf?OpenElement>

⁹⁴ *ibid.*

Rights Law and Serious Violations of International Law.⁹⁵ These guidelines specify three core components of accountability constituting the victims' right to remedies:

- (1) **Justice:** Equal and effective access to justice;
- (2) **Reparations:** Adequate, effective and prompt reparation for harm suffered; and
- (3) **Truth:** Access to relevant information concerning violations and reparation mechanisms.⁹⁶

The guidelines provide further insight into appropriate mechanisms for actualizing the above three components. From this framework human rights defenders can create and implement strategies to hold the PA DOC accountable to the rule of law and seek justice for victims of severe human rights violations.

2. Restructure the criminal legal system according to international law.

In order to effectively prevent torture and other human rights violations inside PA prisons it is necessary to restructure the entire criminal legal system so as to ensure that it conforms to international law. While it is beyond the scope of this report to engage in an extended analysis of the issues involved, it is sufficient to note that race and class based policies and practices of

policing, prosecution, and sentencing need to be abolished. Toward that end community oriented strategies involving the expansion and proliferation of educational and vocational programs, along with access to comprehensive and effective substance abuse treatment, counseling, and mental health services need to be at the forefront in the struggle to ensure safe communities and public welfare (see recommendation 6).

Further advocacy efforts relating to conditions of confinement can be found in the UN Standard Minimum Rules for the Treatment of Prisoners (discussed below). Practical measures that can be integrated into the demands and development of a mass movement for implementing human rights standards throughout the criminal legal and broader social, political, and economic systems include the following:

- removal of arbitrary visitation restrictions, especially the limits in number of visits and the policy of non-contact visitation for those in solitary confinement and on Death Row;
- all visits should permit contact and prisoners should never be handcuffed or shackled during a visit; in exceptional circumstances appropriate alternative practices can be adopted to ensure the health and security of prisoners, visitors, and prison personnel while simultaneously

⁹⁵ Brownlie and Goodwin-Gill, 275-282.

⁹⁶ Brownlie and Goodwin-Gill, 279.

- permitting contact and prohibiting the use of handcuffs and shackles;
- permission for visitors to be on more than one prisoners list per institutions so as to remove undue obstruction to prisoners' rights to maintain contact with family and support people and services;
- expansion of the PA official visitor status program, currently mediated through the PA Prison Society, so as to permit all citizens, especially human rights defenders, the opportunity to visit any prisoner willing to receive them with full and un-mediated legal authorization and recognition of such status as a basic human right;
- geographic re-organization of the prisoner population so as to enable more frequent visitation and continuing interaction with a prisoner's family and community;
- immediate moratorium on prison construction and diversion of funds to vocational, educational, counseling, substance abuse treatment, and mental health services and programs;
- creation of associations of human rights defenders inside (see recommendation 4) and outside the prison to monitor, document, and publish reports of alleged human rights violations and procedures being advocated or enacted by prisoners, PA DOC and state officials, and

- citizens, acting on their own or in coordination, to remedy grievances and ensure the realization of human rights law in the operation of the prison system;
- establishment of an independent monitoring agency whose personnel, methods of operation, tactics and strategies for implementing human rights standards, and spokespeople shall be accountable to prisoners, their families, and the populations most impacted by mass incarceration; such an agency must have access to constitutional and human rights lawyers and be granted legal authority to subpoena witnesses and evidence and file criminal complaints requiring a mandatory investigation and prosecution when dictated by available evidence.

Taken individually each of these proposals serves to strengthen the others. Taken collectively these suggestions provide the basis for a restructuring of the prison system along rehabilitative lines and human rights principles.

As noted in section 3 of this report, article 10(3) of the International Covenant on Civil and Political Rights (ICCPR) mandates that "[t]he penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their

reformation.”⁹⁷ The UN Standard Minimum Rules for the Treatment of Prisoners (SMRTP) provides the supporting framework for realization of article 10(3) of the ICCPR.

Articles 58 and 59 of the SMRTP articulate the common sense underlying article 10(3) of the ICCPR:

58. The purpose and justification of a sentence of imprisonment or a similar measure deprivative of liberty is ultimately to protect society against crime. This end can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon his return to society the offender is not only willing but able to lead a law-abiding and self-supporting life.
59. To this end, the institution should utilize all the remedial, educational, moral, spiritual and other forces and forms of assistance which are appropriate and available, and should seek to apply them according to the individual treatment needs of the prisoners.

Some of the minimal standards enumerated in the SMRTP include those relating to:

- clean living conditions;

- adequate access to natural light and recreation;
- healthy and filling food portions;
- medical services “organized in close relationship to the general health administration of the community”;
- impartial and fair disciplinary and grievance procedures;
- prohibitions on use of handcuffs, chains, irons or other instruments of restraint as punishment;
- prohibition on excessive force or violence for the sake of punishment;
- access to educational and religious materials;
- respect, encouragement, and facilitation of contact with family and social service agencies;
- access to work and vocational training and opportunities that develop skills and qualities of self-sufficiency vital to social reintegration;
- observation and treatment of prisoners suffering from mental health needs in “specialized institutions under medical management.”⁹⁸

Rule 55 stipulates that [T]here shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to ensure that these institutions are administered in accordance with

⁹⁷ Brownlie and Goodwin-Gill, 362.

⁹⁸ Ibid. 29-44.

existing laws and regulations and with a view to bringing about the objectives of penal and correctional services.”

3. Encourage prisoners to form associations for the defense of human rights.

The PA DOC currently recognizes prisoners associating in any form and for any reason as a disciplinary infraction of sufficient cause to justify indefinite/permanent placement in solitary confinement.⁹⁹ Such a policy prohibits prisoners from exercising core rights and needs of human personality, which include the right and need to interact and make collective decisions in any given social setting. By depriving prisoners of the ability to adequately associate, rather than say prohibiting organization for harmful or illegal ends, the PA DOC is sabotaging the most elemental features of self-supportive, self-empowered, and socially responsible behavior necessary for social reintegration.

Building on the recommendations above, another element that will enhance these efforts is the creation of associations for the defense of human rights inside the prisons. Based on the rights articulated in the UN Declaration on Human Rights Defenders (see Recommendation 5), prisoners in correspondence with human rights organizations and advocates need to be provided a

⁹⁹ PA DOC Policy DC-ADM 802, Administrative Custody Procedures, section 1(B)(2)(e).

mechanism whereby they can pledge to adhere to the principles outlined in the Universal Declaration of Human Rights, the Declaration on Human Rights Defenders, and other relevant aspects of human rights principles, practices, and law. Human rights defenders inside the prison can further state their intention to work for human rights by exercising their constitutional prerogative to file grievances and/or lawsuits, document and communicate violations to outside agencies, or other peaceful means of seeking resolution.

Such a declaration of intentions and principles by prisoners supportive of and adherent to the protection of human rights and fundamental freedoms contains many positive attributes. Perhaps foremost among these is that in working with prisoners to collectively formulate and develop human rights literature and curricula those incarcerated and non-incarcerated men and women engaged in this process will be encouraged to nurture recognition of and respect for the human rights of all. Prisoners who in the past have engaged in acts of violence and deceit against family and community, prisoners and prison personnel, will have a much greater likelihood of avoiding such personal and socially harmful behaviors in the future.

The potential impact on recidivism is significant and human rights oriented educational and vocational programs should become mandatory aspects of a genuine rehabilitative

and preventive approach to crime. These programs will not be effective, or will be severely diminished in potential, if prisoners are not given a central role in shaping the curricula and practices so as to address their own individual and collective needs and problems.

Prisoners' rights to exercise all necessary rehabilitative ends needs to become another non-negotiable demand that we can initiate immediately. This requires building mass social support for the protection of human rights defenders inside the prison so as to prohibit retaliation and intimidation. There is no need to wait for permission from the state to exercise our basic right to create and implement educational programs and strategies for the defense of human rights in partnership with prisoners.

4. Abolish solitary confinement.

Solitary confinement as currently instituted by the PA DOC constitutes torture, cruel, inhuman and degrading treatment and is strictly prohibited by international law.¹⁰⁰ Ongoing investigations and monitoring of conditions of confinement by HRC/Fed Up! provide an unassailable basis for the conclusion that the solitary

¹⁰⁰ see Rodley and Pollard, *The Treatment of Prisoners Under International Law, Third Edition*, (2009) chapter 2, for discussion of the prohibition of torture as constituting a 'peremptory norm' of international law binding on all states in all circumstances.

confinement units in the PA DOC are never operated in accordance with policy and law. Rather, solitary confinement units by design or default generate severe human rights violations against prisoners and criminal conduct on the part of PA DOC personnel. Physical abuse and assault, sexual harassment and violence, overt and malicious racism, psychological torment, medical deprivation, starvation, exposure to dangerously un-hygienic conditions, constant intimidation and retaliation, and the subversion of prisoners' due process rights are normative features of the regime of solitary confinement operated by the PA DOC.

If the PA DOC wants to honestly address institutional security then they are required not to implement and enable policies and practices of dehumanization that guarantee future antagonisms and violence between prisoners and prisoners, prisoners and prison personnel, and former prisoners and the public once the former are released into the community. Prisoners who engage in disruptive and/or violent behavior can be separated from the general population while still being permitted ample opportunity everyday to engage in supervised congregate activities and provided access to educational and creative stimulation. If an altercation ensues that requires physical intervention on the part of prison staff and the isolation of an individual, the period of segregation needs to be as limited as possible and counseling staff and access to mental

stimulation need to be provided to the disturbed person as soon as possible. Psychotically violent prisoners need greater attention, not severe isolation, primarily in the form of intensive mental health treatment conducted in a secure mental-health institution.

There is no legitimate basis for the state of Pennsylvania to be operating a regime of control unit torture under the color of law. Those in positions of executive authority in the state of Pennsylvania and its Department of Corrections are guilty of perpetrating crimes against humanity.

The abolition of solitary confinement is a necessary prerequisite if the state of Pennsylvania and the U.S. are to adhere to the Convention against Torture and Other Cruel, Inhumane and Degrading Treatment or Punishment.

5. Create a culture of human rights defenders.

Human rights are not and never have been the gift of benevolent authorities, but have been won through decades and centuries of human struggle against cruelty, exploitation, and oppression. For this reason those of us concerned with the rights and lives of prisoners need to deepen our understanding of and participation in movements for social justice.

Any human rights movement has to address the fundamental question of

power: who holds it, how it is defined, to what ends it is used, how are decisions made, who suffers the consequences and who reaps the benefits. Given the controlling power of concentrated wealth and the human rights violations that *always* occur when too few people hold too much power, we must realize that the protection and expansion of human rights depends upon the power of the movement to redistribute and redefine social, economic, and political power.

Providing a basic framework for the protection and expansion of a human rights culture is the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Freedoms.¹⁰¹ Also known as the Declaration on Human Rights Defenders, this document outlines the rights and responsibilities of people in their personal, vocational, and communal roles toward the observance and realization of human rights.

This document proclaims “[e]veryone has the right, individually and in association with others to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.” Also enshrined are the rights to peaceful assembly, formation and participation in non-governmental organizations dedicated to the defense of human

¹⁰¹ Brownlie and Goodwin-Gill, p. 230-236.

rights, and the right to obtain and disseminate information relating to the rights and freedoms of people.¹⁰²

Outlining responsibilities of States, article 15 declares:

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their programs.

Complementing these responsibilities are those accorded to non-state actors in article 16:

Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, *inter alia*, understanding, tolerance, peace and friendly relations among nations and among racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.¹⁰³

One practical application of this document is for civil society organizations, including human and civil rights groups, communities of faith, educational associations, legal service providers, and others, to act in accord with the role described in article 16 in order to compel the observance of article 15 by the State at every level of jurisdiction.

Toward this end the formation and strengthening of human rights alliances, development of curricula and training programs on human rights, and the articulation and implementation of organizational methods for enforcing international human rights law must become our highest priority on individual, community, social, national, and international levels. Our success in this endeavor depends wholly on the degree to which popular political education and organization strengthens and expands a culture based on the recognition and defense of universal human rights for all peoples.

6. Enforce the Universal Declaration of Human Rights and Make Prisons Obsolete

Any set of policies and institutions that generate greater and not less incarceration are clear failures. Existing economic structures exacerbate inequality and force ever larger numbers of the population to engage in occupations—such as prostitution, drug-dealing, burglary—that have been criminalized for their very survival.

¹⁰² *Ibid.* Articles 1,5, and 6.

¹⁰³ *Ibid.* p. 235.

The solution to addressing profound and deliberate inequalities in socio-economic power relationships is to organize mass political movements to redistribute and redefine wealth and power.

More extensive discussion and analysis of the necessity of such a movement is beyond the scope of this document, though it is sufficient to note that the basis for education, organizing, and action in this respect can be found in the Universal Declaration of Human Rights (UDHR) and related conventions and documents of international human rights law.¹⁰⁴

The basis of human rights conventions, customs, practices, and ideology are embodied in articles 1-3 of the UDHR:

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

¹⁰⁴ Ibid. 23-28. See this source for other resolutions, declarations, conventions, and other documents that guide and structure basic international human rights law.

Article 3: Everyone has the right to recognition everywhere as a person before the law.

The remainder of the UDHR and subsequent international treaties and UN resolutions and declarations articulate a body of principles that constitute an international order of legally binding rights and responsibilities and guidelines for their realization. Human rights and responsibilities represent an interdependent cluster of conventions and customs universal in their application. Amongst these are the following categories of human rights:

- Civil Rights – Equality before the law and throughout society is to be enforced by strict observance of due process rights, equal access to impartial and transparent court proceedings, and prohibition on discrimination on any basis, including race, gender, sexual orientation, religion, political affiliation or opinion, and class.
- Political Rights – These include the right for all social groups to equal access to and participation in democratic elections, freedom of speech and assembly, along with the institution of practices and structures for ensuring substantial and self-determining political power for all peoples. Self-determination is the core of international human rights law, as it is a prerequisite for developing liberated,

democratic, and sustainable societies in which individuals and communities have the power to make decisions accorded to the degree in which those decisions impact their lives and communities.

- Social and Economic Rights – One’s choice of labor and right to equitable compensation for their work, the right to form unions, along with rights to social security, food, housing, health care, and education constitute fundamental social and economic rights.
- Cultural Rights – These guarantee cultural integrity to all peoples in the exercise of their religious, linguistic, and other customs and practices integral to their identities and way of life.
- Environmental Rights – These include the rights to clean and ample water, freedom from pollution, clean air, protection against climate destabilization, protection of forests and marine life, respect for the ecological balance necessary to sustain human and non-human life. These rights in combination with rights to equality and life are violated whenever communities – particularly indigenous communities and communities of color the world over – are selected as sites for toxic industrial processes and deposits.
- Sexual Rights – Another vital component toward the

fulfillment of the right of self-determination can be found in sexual rights, which include the right to have or not have children, the right to marry and when, same-sex rights, trans-gender rights, rights to birth control and abortion, the right to sexual pleasure, and the right to define families.¹⁰⁵

When interdependent communities have won the power to organize their own economic and political institutions and activities in harmony with the earth so that basic rights to life, health care, education, food, housing, sexual orientation and practice, due process and equal access to and equality before the law, and an ecologically sustainable environment are universally recognized and realized by and for everybody, prisons will be unnecessary.

Immediate steps toward this end involve the development and implementation of de-carceration strategies geared at localizing the economy along ecological and democratic bases. Alliances with community organizations, small-scale producers, organic and sustainable farmers, teachers, health care workers, communities of faith

¹⁰⁵ Special gratitude to our allies at New Voices Pittsburgh: Women of Color for Reproductive Justice for clarifying and strengthening our conception and understanding of human rights. Also, thank you to Sister Song: Women of Color for Reproductive Justice for producing the 8 Categories of Human Rights worksheet that provided some of the basis for the breakdown of human rights in this section.

and other individuals and groups supportive of basic human rights suggest a way to link diverse movements, social institutions and agencies, and people.

Ultimately, and not too far in the future, the question of power must be effectively confronted by human rights alliances at every jurisdictional level, from community to municipal to county to state to national to international. The human rights movement needs to redefine power and shape the structures that govern social and economic activity so that the Universal Declaration of Human Rights can be fully realized by free

peoples in liberated communities inhabiting a livable planet.

Appendices

Appendix I

Case Study: Anthony Singleton—"I have relapsed. Daily the thought of killing myself is there."

Anthony Singleton first contacted our office while at SCI Dallas. Since that time he has been transferred to SCI Fayette, where years before he witnessed a friend of his commit suicide by hanging. Immediately upon his transfer to Fayette guards began a campaign of harassment against him because of complaints made by Mr. Singleton to the Governor and others about violations of his rights at SCI Dallas. Other staff, remembering Mr. Singleton from his prior time served at Fayette, already had a pre-existing antagonism toward him. The reports presented below regarding the treatment of Mr. Singleton, which has been corroborated by several other prisoners confined in the solitary units at Fayette and Dallas, illustrates how patterns and practices of human rights violations migrate throughout the state's control units.

David F. Kelly Bey (HE-7413) wrote on 7/1/09,

"Anthony Singleton... is intentionally being harassed by the prison guards here at Fayette SCI... on several occasions prison guards have come to Mr. Singleton cell and asked him I quote "You can't hang it up yet?" "Just go and kill yourself" "If you need some help or a rope to put around your neck, that would end all your problem nigger!" I spoke with Mr. Singleton who has explained to me that he think about killing himself because he cannot sleep...[the] noise is stressing him out and the fact that he was housed on this block in the past and witness another inmate killed himself and as a result it has caused him mental torment and trauma...every time he falls the sleep he is haunted by the act of witnessing this inmate physically kill himself on this very same unit... These officials has made threats on several inmates lives that if they ran their mouths they will not be able to tell shit again to no one."

In a Declaration submitted to HRC/Fed Up!, Anthony Singleton wrote about some of his experiences with control unit torture:

I, Anthony Singleton, swear or affirm according to the Law that the below is true to the best of my knowledge.

You ask me for as complete and comprehensive as possible my time spent in the LTSU [Long-Term Segregation Unit] at Fayette—as to the date I went in the LTSU I can't remember, perhaps memory loss.

I was at SCI Pittsburgh around 1998, in population, got in some trouble and went to their RHU [Restricted Housing Unit]. They transferred me to Greene County SMU. I was at Greene SMU . . . from 1999 to 2001, failed the SMU [Special Management Unit], developing mental health problems [such as] not being able to sleep due to the 24 hour banging of other inmates on the doors of the desk over top of me, beside me. This would go on for days and nights, then weeks at a time. Some staff member who disliked me would give inmates extra food trays to harass me, threaten to kill me, throw shit on me in the showers and yard. I was then transferred back to SCI Pittsburgh up on the roof where they housed the LTSU inmates. This had to be like 2002.

As to dates and times I tried to kill myself, I couldn't tell you the many attempts. Some nights I'd have to be driven to the hospital. I once stood in front of the nurse and an officer while waiting on medications, and broke my finger in front of them. At some point we were transferred to SCI Fayette because Pittsburgh was being closed down. The same type of treatment was repeated daily. I had shit thrown on me, I had rocks placed in my food, I was encouraged by staff to kill myself, which I tried again and again. Even the Psychologist Dr. Saaverdra tried to get me to kill myself, which I attempted and left a note as to his action toward me which would be a part of record as I filed a grievance all the way to Camp Hill. I went through hell.

I had a friend whom I became very close to, Juda. He only had three years left before it was time for him to go home. He was with me at Pittsburgh LTSU and when we moved to Fayette's LTSU. At Fayette I would watch and listen to Juda ask Dr. Gary Gallucci, who is now the Head of the psych department, for help. He would inform Dr. Gallucci that it was too much pressure on him and that he couldn't handle any more. He begged, pleaded with Dr. Saavadera, but received no help, would be told "take it one day at a time." Juda and I would stay up late some nights trying to talk over the banging.

One morning they were passing out the meal and his sheet was covering his door. I called over to him 6 or 7 times because if the door is covered you can't eat. I knew something was wrong. I told both officers that his sheet had been up all night and to take it down and check on him. When they pulled it down, Juda was standing partly bent. He didn't look dead but he wouldn't move. Then I saw the string around his neck. Anyway, he was gone. That pushed me over the edge. To this day I cannot sleep with any light completely off. I scream in the dark.

While in Fayette's LTSU I was denied yard, shower, food. The medical/psych staff were paid for nothing. I started hearing Juda's voice, seeing him laying there. He would ask me to do as he did, encouraging me to get it over. One night I broke the glass out my eyeglasses, and cut across my arm and veins in an attempt to kill myself. I received 12 stitches across my arm.

I have been on psych meds for over 9 years. Upon returning to SCI Fayette, which I should not [have], I informed psych Dr. Galluci and Dr. Saavadera that I cannot go through this again. This same staff who antagonized me, who showed such hostility towards me, harassed me, is now doing the same and [they] have housed me on the same L-block where Juda killed himself and I made many attempts to do likewise. It is now an SMU and I should not be

housed on the same unit/block with SMU inmates. I am daily reliving my past, my meds were cut off at SCI Dallas by Dr. Jane Jesse because she lied and said she didn't have my records. However, now I'm receiving prozac and thorazine but no voice meds which [are] much needed.

At night there is Juda sitting on the floor with the rope around his neck, grinning, asking me why didn't I get it over with when he did. When I try to block him out he passes in front of me. Never once was I sent to a Mental Health Unit nor was I sent to Waymart for an evaluation, nor the Secure Special Needs Unit program. I'm being denied the right to go to my property to retrieve whatever grievances, documents, I have of my time spent in the LTSU. I'm being given false misconducts to prevent me from reaching population. I'm being retaliated against for reporting violations done to me at SCI Dallas.

I have relapsed. Daily the thought of killing myself is there.

Here an exhibit of what the psych do to help, which is nothing but come to your door to merely be seen on film as if they were helping you. Here a prescriptive treatment program evaluation which is no more than a joke, something that should have at least taken 30 days, was done in sessions of 1 hour each. It was simply the reading and answering questions from a book. It just shows how little they cared and care. They are trying to force me to kill myself. Now it is a known fact that I suffered from suicidal depression, caused to me by the event at Fayette's LTSU. I should not be exposed to these conditions inside the now SMU at Fayette. Capt. Leggett, Lt. Lear have given orders that I'm not to leave the RHU ever [while] here at SCI Fayette.

Anthony Singleton #CW8923
7/5/09¹⁰⁶

HRC/Fed Up! sent urgent notices to the Superintendent of SCI Fayette, the Director of the PA DOC's Office of Professional Responsibility, James Barnacle, DOC Secretary Jeffrey Beard, and Governor Edward Rendell regarding Mr. Singleton's suicidal condition and his need for immediate and intensive mental health care. The plea was ignored by all. In the coming weeks Mr. Singleton attempted suicide on two occasions: once by hanging in July, and on October 2, 2009 he set his cell and possibly himself on fire. He has consistently been held in a hard cell,¹⁰⁷ deprived property, given additional misconducts, been called racist slurs, and encouraged to kill himself. His current and past conditions of mental illness have been confirmed by visitors, family, and fellow prisoners. He has also been taken off medications he has found helpful for his refusal to take medications he finds detrimental. Despite repeated hunger strikes he is still being denied mental health care.

The deterioration in Mr. Singleton's circumstances is directly related to his treatment by RHU staff and officials at SCI Dallas. As conditions at Dallas worsened Anthony and his family and outside support pressed for the transfer that led him back to Fayette. Recounting his experiences at Dallas, on 3/4/09,

¹⁰⁶ Declaration of Anthony Singleton #CW8923, submitted to HRC/Fed Up!, July 2009, on file.

¹⁰⁷ "Hard cell" refers to a barren cell with no property, linens, and sometimes without a mattress.

Singleton wrote:

“At any rate, I was never given these due process requirements and instead I have been placed in the RHU where I am repeatedly taunted by officers who smell strongly of alcohol, being called faggot, dick eater, sodomite, etc. I have seen inmates and had my water turned off for days where I couldn’t flush my toilet, couldn’t wash, or get water. I’ve had my trays denied to me and seen it done to other inmates. I’ve had officers threaten to run into my cell and beat me down and am aware that it has been done during my time down here where an officer had an inmates’ door opened and entered his cell by himself in a L-5 housing unit to assault another inmate. Staff destroy inmate’s property, leave the yard door open during showers and while we are in our cells to freeze out inmates in the hole. I have seen inmates put in cells with mental health single cells inmates so that they fight each other while the officers make bets. I have had officers tell me and another mental health inmate that they would make me kill myself by grinding me up while knowing I have a mental health history. I have filed grievances that are not responded to, falsified, or outright fabricated in an effort to deny due process. The officers threaten inmates with retaliation in the form of falsified misconducts (usually threatening), or denial of food, water & showers. They flood cells to soak our property and legal work etc. Allow officers to sit in on disciplinary hearings and participate without being part of the hearing tribunal, and destroy or ignore all appeals.”

Singleton later (4/12/09) noted that he is receiving politically motivated treatment because of complaints he submitted to the governor and other attempts to file grievances. Prisoners sometimes report that those who are incarcerated at SCI Dallas are treated worse if they do not have outside support. Singleton wrote, “where they see you have no OUT side support they turn up their grind.”

Appendix II—What good is a jury? by Andre Jacobs

In November 2008 I acted as my own attorney in a civil action against the Pennsylvania Department of Corrections (D.O.C.), which involved the unlawful seizure and destruction of my legal materials by prison officials in retaliation for exercising my First Amendment right under the United States Constitution to seek redress of my grievances. On November 24, 2008, an eight (8) member jury exonerated ten (10) D.O.C. employees after three days of deliberation and entered verdicts in my favor against Carol A. Scire, Gregory Giddens, and Thomas McConnell on claims of conspiracy, retaliation, obstruction of access to courts, and defamation of my character. I was awarded \$185,000 in compensatory and punitive damages, property damage, and harm to my reputation.

On September 21, 2009, on a post-verdict motion filed by Attorney Scott A. Bradley, Federal District Court Judge Joy Flowers Conti ran afoul of my 7th Amendment right under the U.S. Constitution to a trial by jury and overrode the jury's conclusion that defendants Scire, McConnell, and Giddens conspired to violate my federal rights and that, despite clear evidence that defendants seized and destroyed my legal property and fabricated official state documents in an attempt to conceal it, no violation of my right to access the courts occurred. This resulted in a \$70,000 reduction on the jury's award, stripping me of my due process rights and a verdict won fair and square.

Although I am the first prisoner to win a verdict this big in the history of litigation against the PA DOC, none of the newspapers are reporting to the public these silent and catastrophic attacks on this verdict for all concerned with prisoners' rights and the jury's right to not have their factual determinations re-examined by any court. What good is a jury if a dissatisfied judge can alter their decision and replace it with her own?

Within days of the verdict spreading like wildfire, prison guards began a campaign of harassment against me and buried me in solitary confinement with their false disciplinary reports against me. Then, by order of the Commissioner of Corrections himself, Jeffrey A. Beard, I was officially placed on Restricted Release, which means I'll remain in solitary confinement until I'm released from prison or I die. This decision was made with full awareness of the known adverse side-effects of solitary confinement, my diagnoses of dystmia and post traumatic stress disorder, and the August 24, 2009 suicide of Matthew Bullock in SCI Dallas' Solitary Confinement unit where I am also housed. Mr. Bullock was mentally ill and was being subjected to psychological torture by corrupt prison guards who are serial offenders but are never punished. These same guards routinely starve me of food, have twice assaulted me on video and have threatened me with more attacks and eventual death.

As recently as October 1, 2009, the same attorney I defeated at trial, Scott A. Bradley, of the Pennsylvania Attorney General's Office, has ridden on the momentum of sabotaging my victory by asking that the Court reduce the remaining \$115,000 to as little as \$500. If this perversion of justice and the jury's verdict is to continue, I call on every organization, attorney, and member of society to assist me in educating the world in what goes on behind the jury's back in America.

"Though the heavens fall, let justice be done"

Appendix III—Seeking Accountability

Efforts to advocate on behalf of prisoners, expose reports of human rights

violations and torture to the public and state officials, and seek accountability have been ongoing since the initiation of HRC/Fed Up!'s investigation into conditions of confinement at SCI Dallas. These measures have built upon and coincided with other ongoing efforts to generate exposure and demand accountability for criminal violations of prisoners' human rights throughout the PA DOC. To date the PA DOC, Luzerne County DA Musto, PA Attorney General Corbett, Governor Rendell, and the PA General Assembly have failed to launch legitimate investigations.

The Other Inauguration Celebration

An April letter sent to each member of the PA legislature along with the Governor requested the convening of public hearings that would serve as the initiation of a process to investigate and overhaul a system rooted in brutality and damaging to public security and welfare. The communication began with a description of multiple assaults of a retaliatory and racist nature orchestrated to coincide with the inauguration of Barack Obama:

On January 20, 2009, the same day that Barack Obama was being inaugurated as the first Black President of the United States, white guards under the command of Unit Manager Christopher Chambers engaged in a series of beatings against six black men confined in the Special Management Unit in the State Correctional Institution at Camp Hill (SCI Camp Hill). Under the pretext of conducting cell searches Correctional Officers (C/O) Liddick, Brant, Zeigler, Sergeant Maxwell, and Lieutenant Kuzar, along with others, removed Gary Tucker, David Smith, Damont Hagan, Ronald Jackson, Willie Robinson, and Jamar Perry from their cells, attacking them with mace and electro-shock weapons, stripping them naked, and subsequently holding them in bare and filthy cells without any property or clothing for 6 full days. Most of them remained covered in mace, several were bleeding, and all were denied medical attention.

Over half a dozen witness Declarations signed pursuant to the penalty of perjury, along with additional informational reports, testify to the grim details.

The reasons behind these assaults were best articulated by C/O Liddick when, according to several eyewitnesses, he approached Gary Tucker's cell prior to the attack and stated, "Since this guy likes filing grievances [against staff], let's make an example out of him." Lt. Kuzar provided further evidence of racist motivations when he stated over the unit loudspeaker on January 20th, "He [Obama] may have won, in my eyes he's still a nigger. . . . There will be no showers or yard today. We are going to show you niggers who run this SMU."¹⁰⁸

This was followed by a trip to the state capitol in Harrisburg by a coalition of 25 family members of PA's incarcerated population and human rights defenders. The offices of 100 representatives were visited and each was presented with

¹⁰⁸ HRC-Accountability Council in Defense of Prisoners' Rights and Lives, letter to PA General Assembly, April 9, 2009, on file.

documentation of human rights violations, a letter outlining immediate steps for addressing the crisis, information on solitary confinement, and information to aid legislators and staff members in conducting tours of prisons and interviews with prisoners.

Of the 253 representatives and senators in the PA General Assembly who received the letter, and the 100 who received substantial additional information when we went to their offices, only one notified us of their making an inquiry into the matter. In a letter sent to PA DOC Secretary, Jeffrey Beard, Philadelphia Representative Babette Josephs noted: "If [HRC's reports of inhumane treatment of inmates are] true, this alleged poisonous behavior amounts to human rights violations that are more commonly identified in the prison systems of authoritarian or totalitarian states, not to those in our nation."¹⁰⁹ She went on to call on Beard to "provide assistance in investigating these matters fully."

The only forthcoming action was initiated by House Judiciary Chairman Thomas Caltigirone, who convened an "Informal Informational Roundtable" involving 9 of the 28 House Judiciary Committee members, a handful of other representatives, senators, and aides, PA DOC Legislative Liaison John Coyne, and James Barnacle, Director of the Office of Professional Responsibility (OPR) for the PA DOC.¹¹⁰ The public, including HRC, was prohibited from attending.

According to the Roundtable meeting minutes, the discussion revolved around descriptions of OPR's procedures for investigating reports of prisoner abuse and the incident on January 20th. Director Barnacle stated that reports of abuse were investigated when in fact the prisoners subjected to the attacks have consistently denied ever having been interviewed by OPR.¹¹¹

In a notarized affidavit from June 15, 2009 submitted to HRC/Fed Up!, Gary Tucker wrote: "Throughout the course of this ongoing investigation I was never interviewed and to date I still haven't been interviewed. Nor was a statement taken from me or any of the other victims who were extracted on 1.20.09." The affidavit also notes that he sent letters regarding his claim of excessive force to Secretary Beard, Regional Deputy Secretary Shirley Moore-Smeal, and OPR Deputy Director David Novitsky. Mr. Tucker then claims that James Barnacle wrote him on March 6, 2009, acknowledging receipt of his letter and informing him that he would be notified of the results of the investigation upon its completion.¹¹²

Not until six months after the incident, and subsequent to Director Barnacle's assertions at the Roundtable meeting, on July 22, 2009 was Gary Tucker

¹⁰⁹ Letter to Secretary Jeffrey Beard from Representative Babette Josephs, April 28, 2009, on file.

¹¹⁰ The Office of Professional Responsibility is the internal investigative agency of the PA DOC.

¹¹¹ PA General Assembly House Judiciary Committee Minutes, May 18, 2009, on file.

¹¹² Affidavit of Gary Tucker, June 15, 2009, on file.

interviewed by OPR. Mr. Tucker says he was visited by Mr. Ellis, who had in his possession the affidavit cited in the above paragraph, which had been sent to approximately 70 state legislators at the beginning of July. On the same day he was finally interviewed by OPR he received notification that his grievance in this matter had *already been denied three weeks earlier*.¹¹³

How can James Barnacle discredit prisoner reports of abuse in front of the House Judiciary without having interviewed those reporting the abuse and their witnesses? Why would OPR bother to interview Mr. Tucker *after* a formal decision regarding his grievance had been determined?

Investigations lack legitimacy when they fail to interview prisoners and their witnesses, withhold security camera footage from prisoners, legislators, and the public, and refuse to produce documentation as to the contents of the alleged investigation for public scrutiny.

¹¹³ Correspondence from Gary Tucker, July 31, 2009, on file.