

Written Submission on Principles, Provisions and Pathways to Reparatory Justice for Africans and People of African Descent (35th session: 2-6 December 2024)

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I. Introduction

“People have to see solitary for what it is, morally reprehensible. Solitary confinement is immoral.”¹
- Albert Woodfox

The United States currently holds tens of thousands of detained people across the country in small, concrete, windowless cells in a state of near absolute solitude between 22 and 24 hours a day. The average solitary confinement cell is six by eight feet. Often the only “recreation” or social exposure individuals have is when they are escorted in handcuffs to the shower or when a guard slips a food tray through the slot in their cell door. Solitary confinement—also referred to as “lockdown,” “segregation,” or “Special Housing Units” (SHU)—is inherently abusive and defies basic human dignity and international standards of human rights.

The United States weaponizes solitary confinement against Afro-descendent people in a wide range of detention settings, from municipal jails to state and federal prisons to immigration detention centers, and even within care settings for foster youth. Afro-descendant people, who are disproportionately harmed by U.S. carceral systems, face devastating mental, physical, and emotional harm from solitary confinement. People subjected to solitary confinement face devastating mental, physical, and emotional harm. More than a third (33%) of people held in solitary confinement become psychotic and/or suicidal within the first 15 days,² and people who have been subjected to solitary confinement are 78% more likely to commit suicide within a year of being released from prison.³ An overwhelming body of evidence now shows that extended use of solitary confinement produces profound and often permanent psychological,⁴ neurological,⁵ and physical⁶ damage to segregated individuals. Symptoms commonly associated with solitary confinement include: hyperresponsivity to external stimuli; perceptual distortions, illusions, and hallucinations; panic attacks; difficulties in concentration and memory; intrusive obsessional thoughts; overt paranoia; and violence and self-harm.⁷ Various studies have concluded that suicide rates are at least five times higher in solitary than

¹ Albert Woodfox, *Solitary: My Story of Transformation and Hope* 410 (2019).

² Craig Haney, *Mental Health Issues in Long-Term Solitary and “Supermax” Confinement*, 49 *Crime and Delinquency* 124 (2003).

³ Lauren Brinkley-Rubinsten, Josie Sivaraman & David L. Rosen, *Association of Restrictive Housing During Incarceration with Mortality After Release*, *JAMA Network Open* (2019); Physicians for Human Rights, *Buried Alive: Solitary Confinement in the U.S. Detention System* (April 2013). Available at: https://s3.amazonaws.com/PHR_Reports/Solitary-Confinement-April-2013-full.pdf; see also *Madrid v. Gomez*, 889 F. Supp. 1146, 1230-32 (N.D. Cal. 1995) (concluding that studies in the United States have found that detainees in extended periods of segregation may suffer from long-term effects, including but not limited to, overt paranoia, dissociative tendencies, aimless violence, and delusions, and that solitary confinement precipitated the psychosis).

⁴ Craig Haney, PhD, “The Psychological Effects of Solitary Confinement: A Systematic Critique,” *Crime and Justice* 47 (2018), 365-416; and “Restricting the Use of Solitary Confinement,” *Annual Review of Criminology* 1:1 (2018), 285-310.

⁵ Dana G. Smith, “Neuroscientists Make a Case Against Solitary Confinement,” *Scientific American*, November 9, 2018.

⁶ Brie A. Williams, “Older Prisoners and the Physical Health Effects of Solitary Confinement,” *American Journal of Public Health* 106:12 (December 2016), 2126–2127; and Brie A. Williams, et al., “The Cardiovascular Health Burdens of Solitary Confinement,” *Journal of General Internal Medicine* 34 (2019), 1977-1980.

⁷ See Stuart Grassian, *Psychiatric Effects of Solitary Confinement*, 22 *Wash.U. J. L. & Pol’y* 325, 328 (2006).

in general populations.⁸ Recent research has found that these effects, including increased risks of suicide, drug overdoses, heart attacks, and stroke continue even after an individual has been released back into the community.”⁹

The extended use of solitary confinement is widely regarded as torture.¹⁰ Torture is defined as:

“An act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession, punishing him for an act he/she or a third person has committed or is suspect of having committed, or intimidating or coercing him/her 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.”¹¹

Specifically, the United Nations Revised Standard Minimum Rules for the Treatment of Incarcerated People, known as the “[Mandela Rules](#),” identify the use of solitary confinement beyond 15 days as a form of cruel, inhumane, and degrading treatment that rises to the level of torture.¹² Thus, when solitary confinement is used as a punitive measure by way of segregating and targeting particular individuals, due to their identity, their challenge of authority, or other arbitrary reason, in violation of the domestic minimum standards, then that State-sponsored conduct may rise to the level of torture.¹³ According to the United Nations Special Rapporteur on Torture, “Solitary confinement, when used for the purpose of punishment, cannot be justified for any reason, precisely because it imposes severe mental pain and suffering beyond any reasonable retribution for criminal behaviour.”¹⁴

Disturbingly, the use of solitary confinement in the United States is on the rise. On May 25, 2022, President Biden [issued an executive order](#) directing federal prisons to reduce solitary

⁸ Kevin Johnson, “Inmate Suicides Linked to Solitary,” USA Today, December 27, 2006; American Civil Liberties Union of Texas and Texas Civil Rights Project-Houston, *A Solitary Failure: The Waste, Cost and Harm of Solitary Confinement in Texas* (Houston: ACLU of TX, 2015); Bruce Way et al., “Inmate Suicide and Time Spent in Special Disciplinary Housing in New York State Prison,” *Psychiatric Services* 58, no.4 (2007): 558-560.

⁹ Christopher Wildeman and Lars H Andersen, “Solitary Confinement Placement and Post-release Mortality Risk Among Formerly Incarcerated Individuals: A Population-based Study,” *The Lancet Public Health* 5:2 (February 2020).

¹⁰ Two Special Rapporteurs on torture and other cruel, inhuman, or degrading treatment or punishment have issued reports stating that “the prolonged isolation of detainees, may amount to torture.” See Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, U.N. Doc. A/66/268 (Aug. 5, 2011) (by Juan E. Mendez) (noting that “physical conditions and the prison regime of solitary confinement causes severe mental and physical pain or suffering, when used as a punishment, during pre-trial detention, indefinitely, prolonged, on juveniles or persons with mental disabilities, it can amount to cruel, inhuman or degrading treatment or punishment and even torture.”).

¹¹ Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, G.A. Res. 39/46, art. 1, para. 1, U.N. GAOR, 39th Sess., Supp. No. 51, U.N. Doc. A/39/51 (June 26, 1987).

¹² United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), adopted by the General Assembly on 17 December 2015.

¹³ UN General Assembly, *Universal Declaration of Human Rights*, Article 5 (1948)(“No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.”); UN General Assembly, *Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*, Article 16 (1984)(“Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1, when such acts are committed by or at the acquiescence of a public official or other person acting in an official capacity.”).

¹⁴ U.N.G.A., 66th Sess., Interim Report of the Special Rapporteur of the Human Rights Council on Torture and Other Cruel, Inhuman or Degrading Punishment, ¶ 81, U.N. Doc. A/66/268 (Aug. 5, 2011), <https://undocs.org/A/66/268>.

confinement in their facilities.¹⁵ However, solitary confinement [has increased 7%](#) since Biden’s order went into effect.¹⁶ The United States has the [highest incarceration](#) rate in the world,¹⁷ imprisoning [close to 2 million people](#) in jails, prisons, and detention centers.¹⁸ Nearly [80,000](#) people are currently held in solitary confinement.¹⁹ Within that number at least 6,000 have been subjected to this form of torture for a year a longer—in some cases, [even for decades](#).²⁰ Some states have either opted to enact state laws that ban or limit solitary confinement for groups like pregnant people and minors or to limit solitary confinement to 15 days, in accordance with the United Nation’s Mandela Rules.²¹ Despite incremental progress on the state level to ban or restrict solitary confinement, no U.S. state has fully ended solitary confinement for all people, and limits on solitary confinement remain unenforced in most jurisdictions, leaving people to anguish under tortuous conditions.

II. North Carolina’s Brutality Towards Incarcerated Black People in Solitary Confinement

In North Carolina prisons, around 3,000 people are held in solitary confinement at any given time.²² A 2016 assessment found that 44 out of 56 prisons in North Carolina held people in restrictive housing, defined as units where incarcerated people were held away from the general population and had “greater restrictions on out-of-cell time, congregate activity, and access to programming than in regular population.”²³ People in restrictive housing spent 23 hours a day minimum within their cells with no meaningful contact with other people, little to no opportunity for programming, and out-of-cell time entailed recreation in a small enclosed space one hour a day, five days a week.²⁴

Black people in North Carolina are disproportionately affected by solitary confinement. In 2021, amongst incarcerated individuals aged 18-21, 70% of those placed in solitary confinement were Black.²⁵ Although Black people only make up 51% of North Carolina’s prisons, Black people made up 64% of those placed in the most restrictive solitary confinement units.²⁶

¹⁵ Shannon Pettypiece, *Biden Signs Police Reform Executive Order on Anniversary of George Floyd’s Death*, NBC News (May 25, 2022), <https://www.nbcnews.com/politics/white-house/biden-signs-police-reform-executive-order-anniversary-george-floyds-de-rcna30548>.

¹⁶ Erik Ortiz, *Biden Pledged to End Solitary Confinement. Federal Prisons Are Increasing Its Use*, NBC News (Sept. 30, 2022), <https://www.nbcnews.com/politics/justice-department/biden-pledged-end-solitary-confinement-federal-prisons-are-increasing-rcna49980>.

¹⁷ *Incarceration Rates by Country 2023*, World Population Review, <https://worldpopulationreview.com/country-rankings/incarceration-rates-by-country> (last visited Feb. 22, 2023).

¹⁸ *Growth in Mass Incarceration*, The Sentencing Project, <https://www.sentencingproject.org/research/> (last visited Feb. 22, 2023).

¹⁹ The Liman Center at Yale Law School, *Time-in-Cell 2019: A Snapshot of Restrictive Housing* (2020), <https://cl.memberclicks.net/cla-liman-rh-report> (hereinafter “The Liman Study”). The Liman Study reports up to 62,000 people in solitary confinement. However, these figures do not include people held for less than 15 days in isolation.

²⁰ Ed Pilkington, *Nearly 50,000 People Held in Solitary Confinement in US, Report Says*, The Guardian (Aug. 24, 2022), <https://www.theguardian.com/us-news/2022/aug/24/us-solitary-confinement-prisons#:~:text=In%20a%20new%20report%20spearheaded,for%20at%20least%2015%20days>.

²¹ *Unlock the Box, Banning Torture: Legislative Trends and Policy Solutions for Restricting and Ending Solitary Confinement throughout the United States* (January 2023), <https://unlocktheboxcampaign.org/wp-content/uploads/2023/01/UTB-BanningTorture-TrendReport-January2023.pdf>.

²² Disability Rights North Carolina, *Help Stop Torture in NC Prisons* (Sept. 21, 2022), <https://disabilityrightsncc.org/current-campaigns/help-stop-torture/>.

²³ Jessa Wilcox, et al., *The Safe Alternatives to Segregation Initiative: Findings and Recommendations for the North Carolina Department of Public Safety*. Vera Institute of Justice, Dec. 2016, at 3, 4.

²⁴ *Id.* at 4.

²⁵ Susan Pollitt, *Young Adults in Solitary Confinement*, Disability Rights North Carolina (June 23, 2021), <https://disabilityrightsncc.org/news/drnc-newsfeed/young-adults-in-solitary-confinement/#:~:text=In%20the%20most%20restrictive%20use,white%20and%2051%20percent%20Black>.

Reform of this abusive system remains elusive. Since the 2016 study, North Carolina prisons banned restrictive housing for minors under age 18 and created Therapeutic Diversion Units as an alternative to restrictive housing for those suffering with mental disabilities.²⁷ Additionally, in December 2020, Governor Roy Cooper’s Task Force for Racial Equity in Criminal Justice (TREC) made a list of recommendations that included a number of changes to solitary confinement. However, accounts from people still trapped within North Carolina prisons paint a more ominous picture. In May 2022, human rights advocates in North Carolina launched the EndSolitaryNC, detailing accounts of abusive solitary confinement practices within the prisons. Michael, age 42, noted that he’s been in solitary for years: “I’ve been on lock-up going on three years. We are always on lock up. We get rec [recreational opportunities] only three times a week. We get strip searched everytime we come out of our cells. They give us 180 more days if we catch one infraction, no matter how small.”²⁸ Thomas, age 30, recounted, “I’ve been placed on lock-up for over 15 months straight since April 1st, 2019. I begged to be let off lock-up and out of segregation. . . . I’ve tried to starve myself to death because of stress and not being able to contact my family and also being fed child-like portions on food trays. I’ve been called a “retarded monkey” by staff.”²⁹ Worse yet, incarcerated people have been met with physical violence when trying to access mental health treatment as a result of the damage from solitary confinement. Bill, age 29, recalled, “I had been asking to see [the] psychologist or anyone that could help all day. I became suicidal and told the officers. I put my hand on the trap and started screaming to get some help. Officers came in my room and tazed me and put me in full restraints. . . . They tazed me multiple, multiple times. Joked at me about this and I was in full restraints for some of those stuns.”³⁰

As survivors’ stories show, North Carolina’s paper reforms and symbolic recommendations are of little use in protecting human rights where a historical culture of abusive solitary confinement exists. Attention to these human rights abuses, and committed resources for oversight, are needed to bring reforms to life.

III. Conclusion and Recommendations

Despite decades of documentation and research indicating that solitary confinement is inhumane and abusive, the United States continues to use solitary in jails and prisons. The United States’ obligations under international human rights instruments, including the American Declaration, the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, and the Convention Against Torture, demand that the U.S. government seriously re-examine the use of solitary confinement, and bring our practices in line with standards and norms recognized by the international community.³¹

²⁷ Jessa Wilcox, et al., *The Safe Alternatives to Segregation Initiative: Findings and Recommendations for the North Carolina Department of Public Safety*. Vera Institute of Justice, Dec. 2016, at 3.

²⁸ Disability Rights North Carolina, *Voices from Solitary*, YouTube (Jul. 23, 2021), https://www.youtube.com/watch?v=9FqSx_PO8EM.

²⁹ *Id.*

³⁰ Disability Rights North Carolina, *Voices from Solitary*, YouTube (Jul. 23, 2021), https://www.youtube.com/watch?v=9FqSx_PO8EM.

³¹ The UDHR, ICCPR, and CAT all prohibit torture, inhuman or degrading treatment or punishment. UDHR, art. 5; ICCPR, art. 7; Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, G.A. Res. 39/46, art. 1, para. 1, U.N. GAOR, 39th Sess., Supp. No. 51, U.N. Doc. A/39/51 (June 26, 1987); *see also* American Convention on Human Rights art. 5, Nov. 22, 1969, 1144 U.N.T.S. 123.

RECOMMENDATIONS

1. Advocate for the End Solitary Confinement Act (S. 3409/H.R. 4972):

This federal bill proposes humane reforms to solitary confinement practices by:

- a. **Banning Solitary Confinement** in federal prisons, jails, and detention centers, with limited exceptions (e.g., a maximum of 4 hours for emergency de-escalation).
- b. **Ensuring Meaningful Out-of-Cell Time:** Establishes the right to out-of-cell time and group programming, even for those separated from the general population.
- c. **Providing Due Process Protections:** Requires due process measures, including access to legal representation and neutral decision-makers for individuals placed in separation.
- d. **Creating Oversight and Accountability:** Implements robust oversight through mandatory reporting, private causes of action, independent community monitoring, and enhanced media access.
- e. **Incentivizing State and Local Reform:** Encourages states and municipalities to adopt similar prohibitions on solitary confinement practices.

2. Declare Solitary Confinement as Torture

Call on the federal government to formally recognize solitary confinement as a form of torture when:

- a. Used for over 15 days
- b. Employed as punishment
- c. Applied to vulnerable populations (e.g., youth, pregnant persons, individuals with mental or physical disabilities)

3. Offer Free and Accessible Mental Health Services

Provide mental health services to survivors of solitary confinement, addressing the long-term psychological effects of such practices.

4. Memorialize Victims and Survivors of Solitary Confinement

Honor survivors and victims through:

- a. Incorporating education about the harms of solitary confinement into school and community curriculums
- b. Establishing memorials or events to commemorate those affected

[Robert F. Kennedy Human Rights](#) (“RFK Human Rights”) is a nonpartisan, not-for-profit organization that has worked to realize Robert F. Kennedy’s dream of a more just and peaceful world since 1968. In partnership with local activists, RFK Human Rights advocates for key human rights issues, championing change makers and pursuing strategic litigation at home and around the world. And to ensure change that lasts, we foster a social-good approach to business and investment and educate millions of students about human rights and social justice. The U.S. Advocacy and Litigation Program at RFK Human Rights partners with grassroots community organizations to seek accountability for human rights abuses in the U.S. criminal legal and immigration systems and to promote fairness, equity, and dignity for all people whose lives are touched by those systems.

Dr. [Craig Waleed](#), is the Project Manager for the North Carolina *Unlock the Box (UTB)* campaign, also known as *End Solitary NC*. Unlock the Box and the End Solitary NC campaign is committed to ending solitary confinement and protecting the rights and well-being of incarcerated individuals with psychological, physical, and emotional disabilities in North Carolina prisons.