



AMERICAN UNIVERSITY
WASHINGTON, DC

Inter-American Commission on Human Rights

Thematic Hearing on Human Rights and Solitary Confinement in the Americas

Written Statement of the American University International Human Rights Law Clinic

“Solitary Confinement and Mental Illness: An Overview of Conditions at ADX”

Submitted to Emilio Álvarez Icaza, Executive Secretary

Inter-American Commission on Human Rights

March 8, 2013

International Human Rights Law Clinic
American University, Washington College of Law
Benish Anver, Student Attorney
Gal Bruck, Student Attorney
Richard Wilson, Supervising Attorney

I. Introduction¹

The use of solitary confinement has demonstrated the justice system's abandonment of a notion of rehabilitation or basic human rights for prisoners. As United States Senator John McCain, a prisoner of war in Vietnam who experienced solitary confinement, stated, "It's an awful thing, solitary. It crushes your spirit and weakens your resistance more effectively than any other form of mistreatment."² Supermax solitary confinement prisons are no longer temporary tools for discipline using the inhumane method of short-term confinement; they are now long-term facilities where prisoners serve out the remainder of their sentences. This form of imprisonment denies inmates any type of sensory experience, human interaction, and intellectual stimulation, leaving inmates to live with nothing more than their thoughts or, more often, in the throes of their debilitating mental illnesses, within the confines of their cell.

II. Overview of Florence ADX

The Administrative Maximum ("ADX" or "ADX Florence") facility in Florence, Colorado, a federal supermax facility, was originally created in 1994, in response to several security breaches at U.S. federal prisons in the 1980s. It was intended to house the most dangerous criminals and those in need of the tightest control and supervision. Although ADX Florence is the only federal supermax prison in the United States, there are scores of similar state operated supermax facilities located in nearly every state that are fashioned after ADX. ADX was originally meant to be a temporary administrative punishment facility for those who demonstrated a danger to guards and other inmates at prisons throughout the federal system. Since ADX was envisioned as a facility for administrative punishment, most of its inmates are kept in solitary confinement for a minimum of 20-23 hours a day, every day. The unnerving effect of such prolonged isolation is best expressed by a former ADX warden, when he called ADX "a clean version of hell."³

The United States justifies the harsh conditions of confinement because ADX was originally intended to be a punishment for infractions committed in other prisons; a prisoner's stay was supposed to be temporary, with return to better conditions dependent upon the inmate's own good behavior. However, ADX has expanded beyond its original purpose and now houses many prisoners on a long-term basis, subjecting them to prolonged periods of solitary confinement.

¹ The American University International Human Rights Law Clinic represents several inmates in a case before the Inter-American Commission on Human Rights. Precautionary measures were requested in 2008 and a petition was submitted on March 9, 2009. The Clinic also requested a hearing regarding these two submissions on September 8, 2009. As of the date of this submission, the Commission has not acted upon either submission. The International Human Rights Law Clinic also submitted an Urgent Appeal to UN Special Rapporteur on Torture and other Cruel, Inhumane or Degrading Treatment or Punishment in May 2008.

² RICHARD KOZAR, JOHN MCCAIN: OVERCOMING ADVERSITY 53 Chelsea House (2001).

³ 60 Minutes, *Supermax: A Clean Version of Hell*, CBS Television, broadcast on June 19, 2009, available at: <http://www.cbsnews.com/stories/2007/10/11/60minutes/main3357727.shtml> (quoting former ADX Warden Robert Hood).

III. Solitary Confinement Conditions at ADX

There is very little known about the details of life inside of ADX, other than what has been released to the public by the Bureau of Prisons, through media investigations, and through the work of attorneys who have filed lawsuits on behalf of prisoners regarding their treatment. The ADX facility houses between 400 and 500 prisoners at any given time.⁴ It is comprised of nine different housing units, which are divided into five security levels: the Control Unit, where inmates have been sentenced to long term segregation are held, the disciplinary Special Housing Unit (also known as the “Zulu” Unit, “SHU,” or “The Hole”), which also contains a so-called “Range 13” unit, “an ultra secure and isolated four-cell wing... in which the BOP [Bureau of Prisons] houses prisoners it thinks require confinement with virtually no human contact;” the Special Security Unit, four General Population Units (“Delta,” “Echo,” “Fox,” and “Golf” Units), and two Intermediate/Transitional Units that house prisoners who are a part of the “Step-Down Program.”⁵ Individual cells measure approximately 12 feet by 7 feet, and include a concrete bed, shower, commode, and sink.⁶ Each cell also contains a desk and a stool made of poured concrete.⁷ Each cell also has a single window, measuring approximately 42 inches tall and 4 inches wide, letting in some natural light, but no ability to see anything other than the building and the sky outside.⁸ The only luxury available in the facility is a remotely controlled radio or television that “offers religious and educational programming” and is available in many cells.⁹ This luxury, however, is not available to prisoners who are housed in the disciplinary Special Housing Unit, and is often taken away from prisoners as punishment.¹⁰ The solid walls of the cells prevent inmates from interacting with other prisoners and each cell has a solid door that has a small slot through which they are given food.¹¹ These conditions force prisoners to eat

⁴ *Vega v. Davis* (2012), Complaint and Jury Demand at 3, ¶ 8, available at: <http://www.clearinghouse.net/chDocs/public/PC-CO-0020-0001.pdf>.

⁵ *Id.*; *Bacote, et al. v. Federal Bureau of Prisons* (2012), Complaint at 9, ¶ 21, available at: <http://www.supermaxlawsuit.com/Complaint-and-Exhibits-Bacote-v-Federal-Bureau-of-Prisons.pdf>.

⁶ *Id.* See also, Chris Francescani, Emily Unger and Kasi Carson, *An Inside Look at the Nation’s Toughest Lockup, Which Makes Its Home in a Picturesque Rocky Mountain Town*, ABC NEWS August 2, 2007, <http://abcnews.go.com/TheLaw/story?id=3435989&page=1>. See also artist’s rendering of ADX cell depicting a cell that is typically found in most wings of ADX, except the Special Housing Unit, *infra* page 9.

⁷ *Vega* Complaint, *supra* note 4, at 3, ¶ 9.

⁸ *Id.* at 4, ¶ 10. See also Francescani, et al., *supra* note 5 (“Deep in the recesses of the Florence facility, inmates tick away hours in solitude, with little sunlight, spending 22-plus hours a day in their cells and no access to the bucolic world just outside the prison walls”).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Bacote* Complaint, *supra* note 5, at 9-10, ¶ 22. Compare *Reassessing Solitary Confinement: The Human Rights, Fiscal and Public Safety Consequences, Before the Subcomm. on the Constitution, Civil Rights and Human Rights of the S. Comm. on the Judiciary*, 112th Cong. (June 19, 2012) (statement of Charles E. Samuels, Jr., Director of the Federal Bureau of Prisons) (testifying that “[h]owever, inmates are not housed in extreme ‘isolation’ or ‘solitary

their meals a mere few feet away from the toilets in their cells. Although the Director of the Bureau of Prisons has stated that these prisoners are not kept in “extreme ‘isolation’ or ‘solitary confinement’”¹² because they have interaction with ADX staff and other inmates in a restricted manner compared to other prison facilities, the conditions of ADX argue otherwise. Spending 20 to 23 hours in a cell with a small window and a solid steel door provides no opportunity for any meaningful interaction with anyone. A guard slipping food through the slot and prisoners yelling through cell walls, toilets, or vents at each other can hardly be described as interaction. Simply stating that conditions do not constitute solitary confinement does not make it so.

Extended periods of solitary confinement is a hallmark practice in ADX. Prisoners spend at least 20, and as much as 24 hours of isolation in their cells, depending on the Unit in which they are housed.¹³ Two Units are known for the severe isolation that its prisoners are subjected to: the Control Unit and the Special Housing Unit (“SHU”). The Control Unit houses inmates who are considered to be “the most disruptive individuals within the Federal prison system”¹⁴ and is the “most secure and isolated unit currently in use at ADX.”¹⁵ Prisoners housed in the Control Unit are isolated from the rest of the ADX population at all times and face extended periods of solitary confinement.¹⁶ In addition to the physical isolation, prisoners housed in the Control Unit are also prohibited by a Bureau of Prisons’ policy from being administered psychotropic drugs, or psychiatric medicines, regardless of whether those medicines or drugs are necessary to the well-being of the inmate.¹⁷ Prisoners in the Control Unit are evaluated on a monthly basis and are given “credit” for serving that month without any incident.¹⁸ Although the Director of the Bureau of Prisons testified that “inmates currently suffering from active mental disorders or major physical disabilities are not referred to the Control Unit,”¹⁹ cases indicating the contrary are well documented by the media and attorneys representing prisoners who are housed in the Control Unit and, in fact, suffer from debilitating mental illness.²⁰ Due to a lack of access to essential psychiatric medications, inmates suffer from behavioral problems, causing them to act out while in the Control Unit and, thus, perpetuating their stay in the Unit for long

confinement,’ but continue to interact with staff and other inmates on a more restricted basis.”).

See also picture depicting cell doors in ADX, *infra* page 10.

¹² Samuels Statement, *supra* note 11, at 8.

¹³ *Bacote* Complaint, *supra* note 5, at 10, ¶ 22.

¹⁴ Samuels Statement, *supra* note 11, at 8.

¹⁵ *Bacote* Complaint, *supra* note 5, at 10, ¶ 23.

¹⁶ *Id.* (“Prisoners in the Control Unit are isolated from the other prisoners at all times, even during recreation, for extended terms often lasting six years or more”). *See also* Samuels Statement, *supra* note 11, at 8 (“The period of time an inmate is assigned to the Control Unit is determined based on the severity of the misconduct that caused his placement in the unit”).

¹⁷ Andrew Cohen, *Does America’s Highest-Security Prison Mistreat Mentally Ill Inmates?*” The National Journal, January 4, 2013, <http://www.nationaljournal.com/domesticpolicy/does-america-s-highest-security-prison-mistreat-mentally-ill-inmates-20130104>

¹⁸ *Bacote* Complaint, *supra* note 5, at 10-11, ¶ 23. *See also* Samuels Statement, *supra* note 11, at 8.

¹⁹ Samuels Statement, *supra* note 11, at 8.

²⁰ *See* discussion of mentally ill inmates in the Control Unit, *Infra* Section IV.

periods of time.²¹ In addition to a lack of access to necessary medication, there are only two psychologists present in ADX, responsible for the medical care of over 450 inmates, making it inevitable that they are not receiving adequate mental health care.²²

The Special Housing Unit places prisoners in isolating conditions similar to the Control Unit, keeping prisoners from completely separate from each other, even during recreational activities.²³ They are not given access to televisions or radios and are generally kept in cells with nothing but a mattress and minimal clothing.²⁴ Prisoners who are housed in the four General Population units are isolated as well, spending at least 22 hours per day alone in their cells, five days a week.²⁵ For the other two days of the week, they are confined to their cells for 24 hours.²⁶ They are afforded limited recreation periods and are confined to outdoor cages, that measure 10 x 10 feet, or to individual recreation rooms, that usually only contain a pull up bar, for a few hours at a time.²⁷ Again, interaction with other prisoners is rare; prisoners resort to shouting through the thick walls of their cells or attempt contact by yelling through the toilets, slots in the doors, or the vents in their cells.²⁸ When prisoners are actually allowed outside of their cells, they are subjected to extensive strip-searches, have their wrists shackled, and then are moved.²⁹ When they are returned to their cells, they are subjected to intensive strip-searches again.³⁰ This constant humiliation has prompted at least one inmate to refuse leaving his cell, further perpetuating his isolation.³¹

²¹ *Bacote* Complaint, *supra* note 5, at 10-11, ¶ 23. See also Andrew Cohen, *An American Gulag: Descending into Madness at Supermax*, The Atlantic, June 18, 2012, <http://www.theatlantic.com/national/archive/2012/06/an-american-gulag-descending-into-madness-at-supermax/258323/>.

²² Andrew Cohen, *Finally, Justice at Supermax? If Anyone Can Make the Right Call, It's This Judge*, The Atlantic, January 3, 2013, available at: <http://www.theatlantic.com/national/archive/2013/01/finally-justice-at-supermax-if-anyone-can-make-the-right-call-its-this-judge/266722/>.

²³ *Bacote* Complaint, *supra* note 5, at 11, ¶ 24.

²⁴ *Id.*

²⁵ *Id.* at 11, ¶ 25. See also Laura Rovner and Jeanne Theoharis, *Preferring Order to Justice*, 61 Am. U. L. Rev. 1331, 1404 (June 2012) (citing *Rezaq v. Nalley*, Nos. 11-1069, 11-1072, 2012 WL 1372151 (10th Cir. April 20, 2012)).

²⁶ See Rovner, *supra* note 24, at 1404 (citing *Rezaq*, 2012 WL 1372151 at *1-2).

²⁷ *Id.* at 1404-05.

²⁸ *Id.* at 1405.

²⁹ See *A Clean Version of Hell*, *supra* note 3. See also United States Penitentiary Administrative Maximum Facility, Institution Supplement FLM 5321.06G(1), *General Population and Step-Down Unit Operations*, Oct. 13, 2006, Sec. D § 4(A).

³⁰ See *A Clean Version of Hell*, *supra* note 3.

³¹ *Id.* (citing inmate Ramzi Yousef, who has not left his cell for nine years since arriving at ADX).

IV. Effects of Conditions

The inmates of ADX suffer from grave mental health effects due to their placement in solitary confinement. It has long been recognized in the United States that the practice of solitary confinement has tremendously harmful effects on prisoners, yet ADX continues to place individuals under these debilitating conditions.³²

The negative effects of solitary confinement are so common that psychiatrists associate a syndrome with prolonged solitary confinement, known as Reduced Environmental Stimulation (“RES”) Syndrome.³³ Individuals suffering from this malady (or syndrome) often have perceptual distortions, hallucinations, panic attacks, difficulties talking, and paranoia, among other symptoms.³⁴ According to Dr. Craig Haney, a professor of psychology who has been studying the psychological effects of solitary confinement for over 30 years, many prisoners placed in supermax confinement begin to suffer from apathy, lethargy, and despair.³⁵ The lack of medical treatment of mental illness is concerning due to the fact that prisoners who already suffer from this vulnerability find their conditions aggravated by solitary confinement; factors include: confinement that is seen as threatening or punitive; confinement that is protracted or of indefinite duration; and confinement when the inmate already suffers from a subtle neurological, attention deficit disorder, or some other mental or emotional vulnerability.³⁶

Studies have shown that the long term damaging effects range in severity and include clinically significant symptoms, such as hypertension, uncontrollable anger, hallucinations, emotional breakdowns, chronic depression, and suicidal thoughts and behavior.³⁷ This makes it extremely difficult for adjustment when the prisoner is reintroduced to the general population when transferred to a different facility. In a 2003 article, Dr. Craig Haney, stated “[T]here is not

³² See *In re Medley*, 134 U.S. 160, 168 (1890) (“A considerable number of the prisoners (in solitary confinement) fell, after even a short confinement, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others still, committed suicide, while those who stood the ordeal better were not generally reformed and in most cases did not recover sufficient mental activity to be of any subsequent service to the community.”)

³³ See Kathryn D. Demarco, *Disabled by Solitude: The Convention on the Rights of Persons with Disabilities and Its Impact on the Use of Supermax Solitary Confinement*, 66 U. Miami L. Rev. 523, 542 (2012). See also Elizabeth Vasiliades, *Solitary Confinement and International Human Rights: Why the U.S. Prison System Fails Global Standards*, 71 AM. U. INT’L L. REV. 77-78 (2005).

³⁴ See Demarco, *supra* note 32 at 542.

³⁵ *Id.* at 544.

³⁶ *Psychiatric Effects of Solitary Confinement*, Stuart Grassian, *Journal of Law and Policy*, Volume 22, 325, 335-336 (2006). (Dr. Grassian also found that solitary confinement can cause a unique psychiatric syndrome, manifesting symptoms that include: hyper-responsivity to external stimuli; perceptual distortions, illusions and hallucination; panic attacks; difficulty with thinking, concentrating and memory; intrusive obsessional thoughts; overt paranoia; and impulse control).

³⁷ *Mental Health Issues in Long-Term Solitary and "Supermax" Confinement*, Craig Haney, *CRIME & DELINQUENCY*, Vol. 49 No. 1, January 2003, 124-156, 132. Sage Publications, 2003,

a single published study of solitary or supermax-like confinement in which *non-voluntary confinement lasting for longer than 10 days, where participants were unable to terminate their isolation at will*, that failed to result in negative psychological effects.”³⁸ This finding is particularly concerning because most inmates at ADX remain in non-voluntary solitary confinement for prolonged periods of time, far surpassing ten days.

U.N. Special Rapporteur on Torture and other Cruel, Inhumane or Degrading Treatment or Punishment, Juan Mendez, submitted a report in August 2011 highlighting the growing problem of solitary confinement and the detrimental effects it has on inmates.³⁹ Professor Mendez first included the use of supermax detention within the very definition of solitary confinement. He then noted that health repercussions of solitary confinement can happen within just a few days and the risks grow with each continuing day.⁴⁰ Due to the severe health effects of solitary confinement and the lack of justification for such cruelty, the Special Rapporteur asserted that, “any imposition of solitary confinement beyond 15 days constitutes torture or cruel, inhuman or degrading treatment or punishment”⁴¹ Additionally, he noted that use of solitary confinement of individuals suffering from diminished mental capacity always amounts to cruel, inhuman, or degrading treatment, no matter the duration.⁴²

On June 19, 2012, the United States Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights held a hearing on solitary confinement.⁴³ Chairman of the Committee, Senator Dick Durbin, proclaimed that United States must “look in the mirror and consider our own human rights record,” by holding the first ever Congressional hearing on solitary confinement.⁴⁴ Dr. Craig Haney directly addressed the effects that solitary confinement has on inmates in his testimony at the hearing. In his studies of these effects, Dr. Haney toured and inspected ADX, and he noted that many studies demonstrate that a third of prisoners in solitary confinement suffer from mental illness, and that 50% of all prison suicides occur in solitary confinement units.⁴⁵ According to Dr. Haney, prisoners who were placed in long-term isolation, such as the prisoners at ADX, developed social pathologies due to their lack of social exposure.⁴⁶ Dr. Haney goes on to describe how one particular ADX prisoner, with no pre-existing mental disorder prior to entering solitary confinement, has suffered from mental illness for several years as a result of his isolation and has performed many acts of self-mutilation, stating that “he has amputated one of his pinkie fingers and chewed off the other, removed one of

³⁸ *Id.*

³⁹ Juan Mendez, U.N. Special Rapporteur of the Human Rights Council, *Interim Report of the Special Rapporteur of the Human Rights Council on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, U.N. Doc. A/66/268 (August 5, 2011).

⁴⁰ *Id.* at 17, ¶ 62.

⁴¹ *Id.* at 21, ¶ 76.

⁴² *Id.* at 21, ¶ 78.

⁴³ See Senate Hearing, *supra* note 11.

⁴⁴ See Senate Hearing, *supra* note 11, Opening Statement of Senator Dick Durbin at 1.

⁴⁵ See Senate Hearing, *supra* note 11, Testimony of Dr. Craig Haney at 8.

⁴⁶ *Id.* at 11 (“The unprecedented totality of control in these units occurs to such an exaggerated degree that many prisoners gradually lose the ability to initiate or to control their own behavior, or to organize their personal lives.”)

his testicles and scrotum, sliced off his ear lobes, and severed his Achilles tendon with a sharp piece of metal.”⁴⁷ Despite this prisoner’s deteriorating condition, he remains in solitary confinement to this day, rather than in a psychiatric facility.

These figures and story are particularly salient due to the recent wrongful death suit filed by Raymond Vega on behalf of his deceased brother Jose Martin Vega in May 2012, shortly before the United States Senate hearing.⁴⁸ Jose Martin Vega (“Mr. Vega”) was a prisoner of ADX Florence at the time of his death in May 2010. Mr. Vega suffered from severe mental illness during his stay at ADX and received no treatment for his devastating condition. Mr. Vega’s death was determined to be a suicide and the suit asserts that Mr. Vega’s death could have been prevented.

The Bureau of Prisons (“BOP”), a division of the U.S. Department of Justice, has itself determined in its procedures that “inmates currently diagnosed as suffering from serious mental illnesses should not be referred for placement at . . . ADX.”⁴⁹ Mr. Vega was transferred to ADX on April 5, 2004 and, in December of that year, Dr. Marie Bailey, a psychologist at ADX, diagnosed him with paranoid schizophrenia.⁵⁰ Although Mr. Vega was temporarily transferred to the U.S. Medical Center for Federal Prisoners, he was eventually returned to ADX, in violation of the BOP procedural rules.⁵¹

Furthermore, on June 18, 2012, a group of ADX prisoners who suffer from mental illnesses filed a class action suit against the BOP.⁵² The prisoners asserted that the BOP regularly places individuals who suffer from mental illnesses in ADX and fails to provide an adequate program to diagnose prisoners who continue to remain in ADX.⁵³ The BOP officials ignore the evident signs of mental illness that affect many prisoners at ADX.⁵⁴ For example, one of the prisoners named in the case, Harold Cunningham, has requested treatment of his mental health issues on eight separate occasions during his eleven years in ADX and has received very minimal attention.⁵⁵

In response to these two federal suits, the Director of the BOP, Charles E. Samuels issued a memorandum to all bureau inmates regarding suicide prevention.⁵⁶ The memo is dated July 20, 2012, only a month after the class action lawsuit was filed, and was written to address the

⁴⁷ *Id.* at 10.

⁴⁸ *Vega Complaint*, *supra* note 4.

⁴⁹ See Bureau of Prisons Statement 5100.08, “*Inmate Security Designation and Custody Clarification*,” Chapter 7, p. 18.

⁵⁰ *Vega Complaint*, *supra* note 4, at 6-7, ¶¶ 23-25.

⁵¹ *Id.* at 7, ¶¶ 26-30.

⁵² *Bacote Complaint*, *supra* note 5, at 8, ¶ 14

⁵³ *Id.* at 19, ¶ 43.

⁵⁴ *Id.* at 35, ¶ 76 (asserting that seriously mentally ill prisoners “scream, howl, mutilate themselves, smear their waste, and beg for help.”)

⁵⁵ See Cohen, *supra* note 17 (“[H]e was given a telepsychiatry session in his cell, surrounded by guards, before he was handcuffed from behind with shackles on his legs”).

⁵⁶ Andrew Cohen, *Prison Chief’s Unnerving Suicide Prevention Memo: ‘I Want You to Succeed’*, The Atlantic, August 3, 2012.

prisoner's state of mind and the desire of the BOP to contribute to prisoner rehabilitation.⁵⁷ Director Samuels acknowledges, "I know your road ahead is not an easy one. Be willing to request help from those around you."⁵⁸ However, as is made clear by the class action suit, many prisoners ask for help without any response from anyone who has the power to take action.⁵⁹

V. Conclusion

Based on the minimal, yet significant, information made available about prisoners housed at the ADX facility, the American University International Human Rights Law Clinic submits the following recommendations. Inmates with a history of mental illness, or those who are determined to exhibit signs of mental illness when in custody, should not be held in solitary confinement for any period of time exceeding 10-15 days, as recommended by the UN Special Rapporteur on Torture and other Cruel, Inhumane or Degrading Treatment or Punishment, Juan Mendez, and other experts who have studied the effects of solitary confinement on prisoners. Inmates should be given proper and timely medical care, including access to an adequate number of medical professionals and access to the proper psychiatric medicines necessary to treat their conditions. Inmates should be offered access to work and educational opportunities while in prison. They should also be allowed some free time to exercise and make phone calls such that they have some contact with others and are not completely isolated.

Respectfully submitted,

_____\s\

Benish Anver, Student Attorney

_____\s\

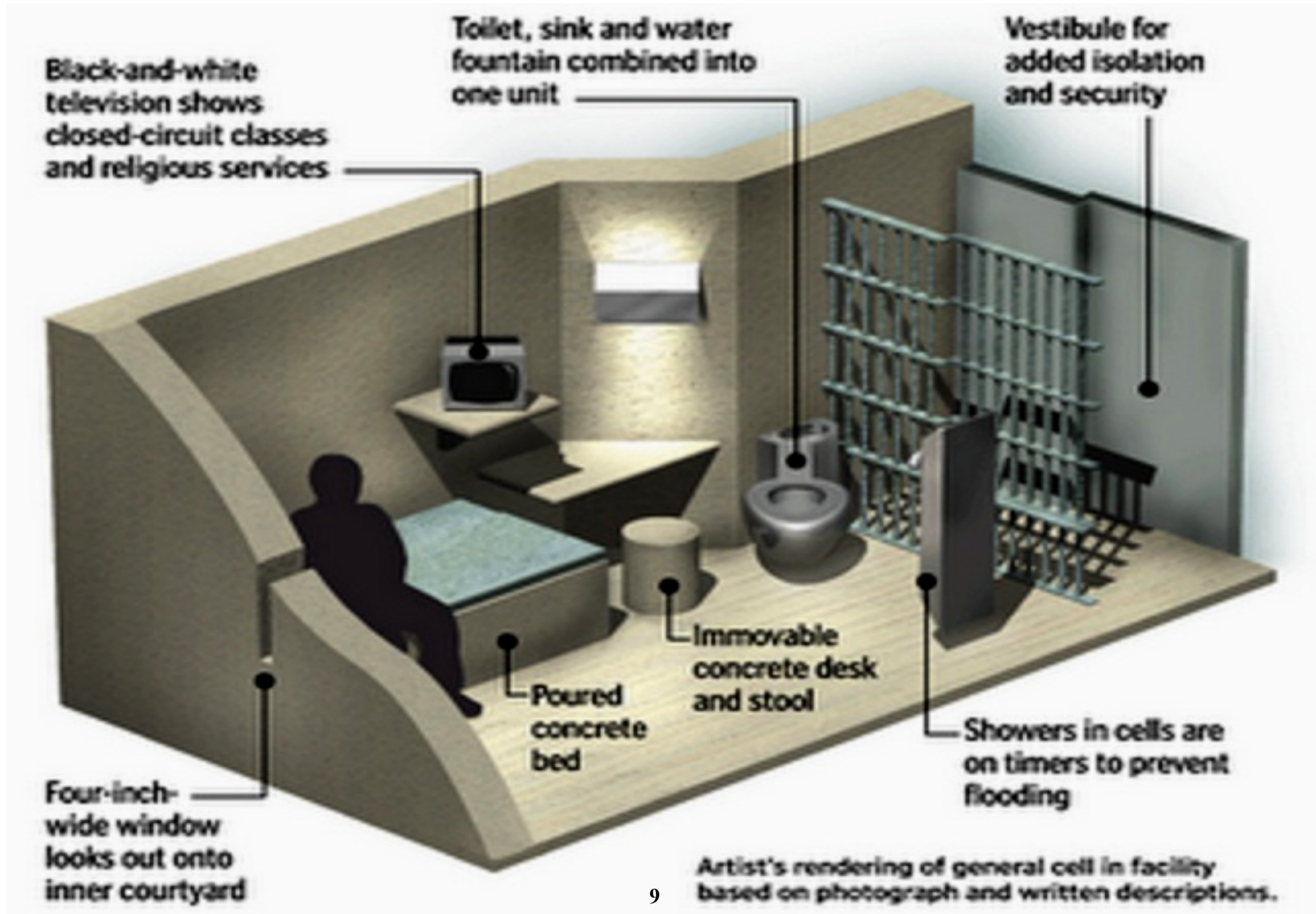
Gal Bruck, Student Attorney

⁵⁷ Charles Samuels, Jr., Director of Federal Bureau of Prisons, Memoranda to All Bureau Inmates, *Suicide Prevention*, July 20, 2012, available at: <http://www.theatlantic.com/national/archive/2012/08/prison-chiefs-unnerving-suicide-prevention-memo-i-want-you-to-succeed/260644/>.

⁵⁸ *Id.*

⁵⁹ *Bacote Complaint*, *supra* note 5, at 35, ¶ 76 ("Many have filed dozens of written requests for mental health intervention, to little or no avail").

ADX – A Cell



ADX – A Corridor

