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ACLU
Michigan

If Michigan were a country, it would incarcerate more people per capita than every country on the planet except one—the United States.

Michigan's per capita incarceration rate of 641 out of every 100,000 residents far exceeds that of Cuba (510), Russia (413), Iran (284), and China (118).¹ Of even greater significance is the racial disproportionality that exists in prison populations.

Racialized mass incarceration is systemic, and it affects the criminal justice system at every level. Even the police, who are essentially gatekeepers to the criminal justice system, can play a considerable role in the size and composition of prison populations. Racial profiling and racially targeted patrolling can have implications for the racial composition of prison populations.

Arrests, aggressive prosecution, inadequate defense, harsh sentencing, increasingly punitive parole legislation, and an inactive parole board have together expanded Michigan's prison population since the 1970s. This has strained prison resources, reduced rehabilitative programming and contributed to a growing sense of insecurity among those currently serving time in Michigan state prisons.

There are many concerns related to the conditions of prisoners' confinement and the length of prison stays, and important advocacy concerning these issues appropriately focuses on law, legislation and policy. This report will hopefully expand the consideration of these issues into a different dimension by giving primary attention to the personal circumstances and stories of prisoners who have endured the horrors and indignity of solitary confinement and prisoners who are trapped in long-term prison sentences.

This report was made possible by a grant from the Vital Projects Fund. The primary drafters are Eddie B. Allen, Jr.,² a distinguished, veteran journalist based in Detroit, Michigan, and Dr. K. Aaron Van Oosterhout,³ who has held teaching positions at Northwestern University, Hope College, and Michigan State University. The report has been edited by Mark P. Fancher, Staff Attorney for the Racial Justice Project of the ACLU of Michigan.

¹ Peter Wagner and Alison Walsh, "States of Incarceration: The Global Context 2018," Prison Policy Initiative, 2018.

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PART ONE

Hell in “The Hole”: Solitary Confinement in Michigan’s Prisons

When the criminal justice system denies a person liberty, it is considered punishment. When a person is denied the community of others it is more than punishment. It is humiliation, degradation and a violation of the most basic human rights.

There are countless stories about administrative segregation (solitary confinement) in Michigan, and they range from mundane to horrific. Suicide, violence, hostility, and aggression toward staff are commonplace in some administrative segregation units.

Although solitary confinement deprives a prisoner of many of the most basic aspects of independent human existence, the practice has nevertheless been regarded by prison officials as a permissible form of punishment for over a century. Solitary confinement has not however avoided controversy and challenges by those concerned about human rights.

The model for modern-day solitary confinement has been traced to Quaker society and the 1829 opening of Pennsylvania’s Eastern State Penitentiary, where Charles Williams, a farmer convicted of theft, became the first prisoner and also the first to serve in solitude, communicating with guards through a feeding

hole.⁴ Foreshadowing the construction of “super-max” (super-maximum security) facilities more than a century later, Eastern State was designed to house each prisoner in solitude, with a Bible as their sole possession. The practice was grounded in the religious belief that personal reform would result from physical isolation and spiritual introspection.

Initially praised by observers from throughout the world as an innovative correctional model, Eastern State earned an unwavering critic in author Charles Dickens, who visited in 1842 and wrote, “I am persuaded that those who devised this system... do not know what it is they are doing... I hold the slow and daily tampering with the mysteries of the brain to be immeasurably worse than any torture of the body.”⁵

Despite indirect acknowledgement by a Supreme Court justice in 1890, of possible violations of the Eighth Amendment’s prohibition against cruel and unusual punishments at various prisons, the practice of solitary confinement continues.⁶

In Michigan’s prisons there are three types of solitary confinement: “Temporary segregation is used when it is necessary to remove a prisoner from general population (e.g., pending

4 Chai Woodham, “Eastern State Penitentiary: A Prison with a Past,” *Smithsonianmag.com*, September 30, 2008. Another report locates the “first all-solitary-confinement prison” in Auburn, New York, stating that it was closed in 1822 after 18 months, following a governor’s visit during which he found that all 26 inmates at the facility had developed psychosis. Nathaniel Penn, “Buried Alive: Stories from Inside Solitary Confinement,” *GQ Magazine*, March 2017.

5 Woodham, *supra*.

6 *In re Medley*, 134 U.S. 160 (1890). James Medley, a convicted murderer, argued that he was improperly held in solitary confinement while awaiting death by hanging. Justice Samuel Freeman Miller wrote of similarly isolated inmates: “A considerable number of the prisoners 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.” Medley was granted habeas corpus and freed.

a hearing for a [major] misconduct violation... Administrative segregation is the most restrictive level of security classification...A prisoner shall be placed in punitive segregation only to serve a detention sanction for [major] misconduct...”⁷

Of the 39 prison facilities in Michigan, 11 are authorized to use administrative segregation.⁸ There are approximately 39,000 prisoners in Michigan. The overall daily average of prisoners in administrative segregation (internally known as “seg”) 10 years ago hovered around 1,200 and had dropped to about 619 by 2018.⁹

The Michigan Department of Corrections (MDOC) credits a pilot project to reduce the number of seg prisoners at Alger Correctional Facility with relieving the high-tension, unpredictable atmosphere often associated with solitary confinement units, where suicides and aggression are common. Launched in 2012, a mission statement describes the Incentives in Segregation pilot initiative as a model “to motivate prisoners to demonstrate appropriate behavior in segregation by offering short term incentives that encourage positive adjustment.”¹⁰

“Positive adjustment will reduce the overall length of stay in segregation for most prisoners and produce a safer, less restrictive segregation environment,” the Incentives project overview says. “Prisoners engaged in the Incentives in Segregation Program will have a clear understanding of the expectations for successful progression through the program. The program will also guide staff in bringing sound recommendations for release from segregation, while maintaining administrative discretion to ensure safe management of the prison population.”¹¹

Alger’s system of promotion to levels that restore privileges to inmates in seg has reportedly generated phone calls from other state prison administrators, asking how to adopt it.

Four basic requirements must be met before Alger prisoners can begin to advance in status through Incentives in Segregation:¹²

- refraining from threats toward staff or other prisoners
- refraining from yelling, using profanity or exposing themselves to staff
- showering three times weekly
- regularly keeping cells clean

Good behavior, as assessed and reported by custody staff, nurses and others responsible for monitoring prisoners, gets them “bumped up” to new levels of privilege, like television access and telephone calls, while reducing Alger facility repair costs and lessening the frequency of cell extractions related to violent, uncooperative behavior.¹³

Generally, MDOC’s seg practices include serving men and women meals on trays pushed through the slots of steel doors, while the prisoners are denied privileges afforded those in general population, such as visits from family members. Violations, ranging from possessing contraband to fighting or disobeying direct orders (“d.o.d.”) issued by custody staff, can result in “tickets” that send prisoners to “the hole,” as it’s colloquially known, for punishments varying in duration between weeks and years.

MDOC’s policy states: “Segregation cells are designated cells used to physically separate prisoners with special management needs from the general population and limit that prisoner’s movement inside the institution.”¹⁴

7 Michigan Department of Corrections Policy Directive 04.05.120 (Segregation Standards, eff. 06/01/2019).

8 Correctional Facilities authorized to maintain administrative segregation cells include: Alger; Baraga; Bellamy Creek; Chippewa; Detroit Reentry Center; Ionia; Kinross; Marquette Branch Prison; Oaks; St. Louis; and Women’s Huron Valley Correctional Facility.

9 Michigan Department of Corrections, Report to the Legislature: Administrative Segregation Report, 2019.

10 Incentives in Segregation Pilot Project (2012). See also Maurice Chammah, “How to Get Out of Solitary—One Step at a Time,” The Marshall Project, January 7, 2016.

11 *Id.*

12 *Id.*

13 Chris Gautz (Michigan Department of Corrections spokesperson), interview with the author, 2016.

14 Michigan Department of Corrections Policy Directive 04.05.120, *supra*.

Mental Health

In 2010, the University of Michigan found that more than 20 percent of MDOC's 45,000 prisoners (20% of the males and 25% of the females) had severe psychiatric symptoms, and that 65 percent had received no treatment between May 1, 2008 and September 30, 2009.¹⁵ MDOC disputed the university's finding about the prisoners' lack of treatment. Nonetheless, even professional observers who understand the prison system's primary obligation to house those convicted of serious crimes, and who recognize its limited resources to provide mental health care, suggest there is room for improvement in seg policies. As award-winning journalist and prison reform advocate Jeff Gerritt commented:

Too often, the Department of Corrections punishes instead of treats mental illness. Michigan's 32 prisons hold thousands of mentally ill inmates, including as many as 200 isolated in segregation cells, where they are locked up for 23 hours a day, or longer, unable to participate in treatment programs, and sometimes cut off from the medications prescribed to help manage their illnesses.

It's an insidious cycle: Mentally ill inmates act out and exhibit unstable or destructive behavior. Prison officials respond by further restricting their movements and their opportunities to get treatment.

Privately, MDOC officials acknowledge that many mentally ill inmates don't belong in prison, where security demands trump treatment needs.¹⁶

Race

Racial disparity is also a flaw frequently cited in criticism of isolation of prisoners. "Aiming to Reduce Time-in-Cell," a 2016 report of the Association of State Correctional Administrators and Yale Law School's Arthur Liman Program, discusses some of the most current national data available about the use of solitary confinement. Defining "restrictive housing" as holding men and women in cells for 22 hours or more daily, for 15 or more consecutive days, the study documents efforts to reduce the number of prisoners in solitary. Based on survey responses from reporting jurisdictions, the report suggests a disproportionate representation of Michigan's prisoners of color in restricted units. While comprising 54 percent of the total of men in custody in Michigan, black men represented 69 percent of those housed in segregation.¹⁷ While comprising 40 percent of the total of women in custody in Michigan, black women represented 44 percent of those housed in segregation.¹⁸

"Among the 43 total jurisdictions reporting on men, Black prisoners comprised 45% of the restricted housing population, as compared to comprising 40% of the total of all of the male custodial population in those jurisdictions. In 31 of the 43 reporting jurisdictions, the male restricted housing population contained a greater percentage of Black prisoners than did the total male custodial population in each of those jurisdictions. Hispanic prisoners comprised 21 percent of the restricted housing population, as compared to 20 percent of all the total custodial population. In 22 of 43 reporting jurisdictions, the male restricted housing population contained a greater percentage of Hispanic prisoners than did the total male custodial population in each of those jurisdictions."¹⁹

¹⁵ University of Michigan press release, "Majority of mentally ill inmates don't get treatment," April 12, 2010.

¹⁶ Jeff Gerritt, "Mentally ill get punishment instead of treatment," Detroit Free Press, February 5, 2012.

¹⁷ Association of State Correctional Administrators and The Arthur Liman Program (Yale Law School), *Aiming to Reduce Time-in-Cell*, 2016, p. 38.

¹⁸ *Id.* at 41.

¹⁹ *Id.* at 35.

Racism in solitary confinement's application appears to reflect the general makeup of prison systems, which tend to incarcerate proportionately more black and Latino men and women than whites. There is no racial demographic classification recorded by MDOC concerning inmates in administrative segregation, but it "needs better stats," says journalist Gerritt. "It needs to know how many mentally ill people go to seg, just as it needs to know how many African Americans, whites, Latinos and Asians go there. You can't fight a problem without knowing its scope."²⁰

The Prisoners

Harold Smith²¹

"Harold Smith" recalls suffering from mental illness as a child. By the time he reached his teens he had been convicted of Wayne County weapons-related charges and receiving stolen property. "Harold Smith" recalls suffering from mental illness as a child. By the time he reached his teens he had been convicted of Wayne County weapons-related charges and receiving stolen property. In 1986 a charge of assault with intent to do great bodily harm less than murder resulted in a life sentence. In 2016 Smith alleged he was serving a long-term stint in segregation, and that he was being "mistreated, humiliated, punished, verbally abused, discriminated, retaliated and conspired against, deprived of life's necessities, written false misconducts, set up, politicized and, last, but not least, placed on several restrictions."²² Smith alleges that he was tormented by the staff at Ionia Correctional Facility because he claims he killed

a corrections officer in self-defense in the late 1980's. He alleges he has been housed in long-term segregation for 30 years and he further alleges that his requests to be moved to general population have been "repeatedly denied."²³ Smith expressed his belief that his mental illness – intermittent explosive disorder, adjustment disorder with depressed mood, and antisocial personality – is used as justification to keep him isolated.²⁴ He alleges that he received treatment from 1983, after being imprisoned, until 1987 when the medication was abruptly discontinued without explanation, and he claims denial of further treatment has caused him to experience distress, anxiety, distraction, and memory loss.²⁵

John Jones²⁶

"John Jones" claims he was a challenging kindergartner. He was diagnosed with attention deficit disorder, attention deficit hyperactivity disorder, and oppositional defiant disorder when he was a child.

"I had to go to a lot of counseling to learn how to deal with him, because they're full of energy and they never stop," his mother said.²⁷ In 2009, at 18, he was convicted of second degree home invasion and accessory after the fact to a felony in Macomb County.

His mother alleges that Jones has already been in prison longer than his original maximum sentence largely because treatment for his conditions was based on feedback from medically unqualified counselors at Baraga Maximum Correctional Facility. She alleges that these

20 Jeff Gerritt, interview with the author, 2012.

21 "Harold Smith" is an alias assigned to this prisoner to protect his privacy.

22 Correspondence with the author, 2016.

23 *Id.*

24 *Id.*

25 *Id.* MDOC Bureau of Health Care Services records dating from November 2016 to March 2017 reflect nine staff assessments, in response to Smith's requests and concerns, ranging from lack of sleep to weight loss. A December 8, 2016 case management report states that Smith complained of "hearing voices," restlessness and depression. The report supports Smith's claim of diagnosed mental illness and states plans to explore best "options to treat this prisoner's unique mental health and custody needs."

26 "John Jones" is an alias assigned to this prisoner to protect his privacy.

27 *Id.*

counselors say Jones suffers from no mental illness.²⁸ Jones has been denied parole three times, due to excessive tickets, and he claims he has been restricted from visits since 2010. Jones alleges that other episodes and challenges he has experienced include:²⁹

- He spent a year in the hole for trying to incite a riot. (Letters from other prisoners suggest he was actually trying to prevent a gang fight.)
- He was promised visits if he served six months “ticket-free,” but then he was told he must serve another six months without a violation.
- He has been threatened with continuous solitary confinement if he doesn’t withdraw grievances written against guards or staff.
- He has had personal property damaged and broken, such as eyeglasses and a television.
- Jones, who is black, and other inmates of color have experienced discrimination and been attacked with racial slurs by officers.

As of February 2017, Jones alleged he was serving his fourth month in the hole for his most recent ticket.³⁰

Donald Harper³¹

While he cites no mental health issues, “Donald Harper’s” mother speculates that he might suffer from an undiagnosed or untreated disorder related to impulse behavior and anger.³² Harper alleges he has spent significant time in the hole since he was sentenced to three years at Alger Correctional Facility in 2015, charged with carrying a concealed weapon and related parole violations. Harper’s take on MDOC’s celebrated Incentives in Segregation program stands in stark contrast with that of both administrative

staff and prisoners who praise it: “The ridiculous ‘hole’ program is set up where, it doesn’t matter whatever you come to the hole for. You go through levels and it takes months on top of months to get out. You basically have to wait on others in GP [general population] to start coming to the hole in droves to get out. If they don’t, you’re stuck.”³³

He alleged that blatant racism from guards and provocation of prisoners is commonplace, describing a 2017 confrontation in which he claims he “blanked out” on a corrections officer and cursed her “badly,” after the guard used racist language and characterized prisoners as “pieces of shit.”³⁴ Harper alleged that the officer retaliated by writing him a ticket and revoking his telephone privileges for two weeks, though phone access is limited to twice monthly.

Harper alleged that black and Latino inmates are targeted for abuse by custody staff. He alleges that a black prisoner and a white prisoner who were in seg with him³⁵ were scheduled to meet with the parole board for consideration on the same day. He claims the white prisoner had been in general population and because of conflicts with his cell mate, announced to a corrections officer that he needed to be removed before he harmed the other man. Harper alleges the white prisoner was ticketed for “threatening behavior” and sent to seg. Harper said that the black prisoner reported to a sergeant that an officer was harassing him and he was concerned about a confrontation reducing his chance of parole. Harper alleges the black prisoner was written a “fake” threatening behavior ticket and sent to the hole where he received more trumped-up tickets.

28 *Id.*

29 *Id.*

30 *Id.*

31 “Donald Harper” is an alias assigned to this prisoner to protect his privacy.

32 Interview with the author, 2017. Harper’s mother believes Harper suffers hereditary mental illness from his father, who died when Harper was a child.

33 Correspondence with the author, 2017.

34 *Id.*

35 *Id.*

Harper alleges the white prisoner was released into general population after two weeks and later paroled. Harper says the black prisoner was refused his scheduled meeting with the board. Instead, Harper alleges that a corrections officer gave the man a “flop,” or notice of parole denial, by sliding it under the seg cell’s door, then announcing the denial throughout the wing.

Samuel Taylor³⁶

From “Samuel Taylor’s” perspective, the dispensation, duration and difficulty of seg time can relate less to prisoner behavior than to the attitudes of custody staff and other personnel. The former east side Detroiter is at Carson City Correctional Facility, serving a life sentence for murder and related robbery charges. Taylor says lockups like Chippewa, Gus Harrison, and St. Louis Correctional have reputations for racism that are known to prisoners – who often find themselves “set up” to serve in the hole:³⁷ “I’ve witnessed many instances where other inmates were sent to the hole because of racial discrimination. The last time was Adrian in 2014. A young cat went into the unit and the base was closed for shift change. The officer asked the guy, ‘What the fuck are you doing?’ The guy said, ‘You don’t have to talk to me like that,’ and then the counselor came out and called the young brother a nigger. The brother said, ‘Fuck you!’ and they took him to the hole.”

Taylor says his time in seg has been “warranted,” based on violations he admits committing, but he has often witnessed “threatening behavior,” which can include general profanity, as a sort of catch-all violation used by guards against prisoners of color.³⁸ “When I was in the hole I didn’t go crazy, but I’ve seen guys lose it in there,” Taylor says. “I was never in there too long, but after about a week in there, your mind starts getting bored

and you start having one-sided conversations with yourself. That’s why I call it the ‘torture chamber.’

“All of the ‘What if’s?’ and ‘If I would have...’ thoughts pop up, and that plays with your mind. Then you’re locked down and can’t talk or vent to anyone that cares for you. You can request to see someone [on staff], but they don’t really care about you.”³⁹

Timothy Joe Souders (deceased)

Journalist Jeff Gerritt reported that in 2006 Souders, a mentally ill, 21-year-old, convicted of shoplifting two paintball guns and resisting arrest, died of heat exhaustion and dehydration after spending four days strapped to a segregation cell’s concrete slab. With a documented history of severe depression, bipolar disorder, and manic episodes, Timothy Joe Souders was prescribed medication known to increase urination and contribute to dehydration, without proper monitoring of the resulting chemical reactions. He’d spent just four months at the Southern Michigan Correctional Facility before he was moved to a seg unit where flooding his sink reportedly led to his shackling within the cell. Souders’ family was awarded \$3.25 million in a lawsuit later filed against the MDOC, which led the department to initiate new treatment and mental health care measures, including more thorough screening, employee training, and weekly clinical reviews of mentally ill prisoners in seg.⁴⁰

36 “Samuel Taylor” is an alias assigned to this prisoner to protect his privacy.

37 Interview and correspondence with the author, 2016-2017.

38 *Id.*

39 *Id.*

40 Gerritt, “Mentally ill get punishment instead of treatment,” *supra*.

The Experience of Women in Solitary

The experience of women in solitary has been particularly disturbing. An ACLU report explains:

Despite the popular misconception that solitary confinement is used to house only “the worst of the worst,” this is not true. In fact, solitary is often used on the most vulnerable: pregnant women, individuals with mental illness, transgender women, and in a particularly disturbing trend, victims of sexual assault by prison guards. The reality is that, depending on discretionary prison policies, prisoners can be placed in solitary confinement for any number of infractions, such as possessing “contraband” like postage stamps or banned reading material, refusing meals, or “mouthing off” at an officer or another prisoner. Mental illness can contribute to these kinds of behavioral infractions; untreated drug addiction can also lead to placement in solitary when addicts gain access to narcotics in prison. And because many cases come down to the word of a prisoner against the word of a corrections officer, a guard’s bad day can easily turn into a solitary confinement sentence for a prisoner for retaliatory reasons, such as a prisoner’s filing a grievance.⁴¹

In 2014, ACLU of Michigan’s then Executive Director Kary L. Moss complained to the Michigan Department of Corrections (MDOC) about the treatment of prisoners lodged at Huron Valley Correctional Facility, the state’s only prison for women. In a letter, Moss wrote: “Witnesses have reported seeing mentally ill prisoners denied water and food, ‘hog tied’ naked for many hours, left to stand, sit, or lie naked in their own feces and urine, denied showers for days, and tasered.”⁴²

Compounding these horrific problems was the use of solitary confinement. Moss said: “According to [MDOC’s] own report, MDOC routinely imposes administrative segregation on inmates with serious mental illness (SMI) or developmental disorders (DD). In 2012-13 a daily average of 44 prisoners with SMI or DD were held in administrative segregation.”⁴³

Tragic evidence of Moss’s concern is seen in the case of Sabrie Alexander. Alexander was convicted of robbing a store while unarmed, concealing her hand in a pocket as if it were a pistol. Having experienced depression, she also suffered from a condition that caused her to endure seizures. At least one seizure episode was misread as a behavior violation, resulting in solitary confinement. While segregated in 2014, Alexander suffered another episode, but died before medical help could be provided.⁴⁴ Critics cite flawed policies in her death.

MDOC Employees and Journalists

Apart from the critical feedback of prisoners, the views of prison staff and independent investigators, including scholars, attorneys, and media, shed light on the challenges and shortcomings of MDOC’s use of administrative segregation. Some policy observers and former enforcers of solitary confinement cite powerful, external influences on its execution and impact.

Doug Green’s Experience

Doug Green is a retired MDOC corrections officer who served for almost 30 years. His role included interpretation of rules governing violations that warrant solitary confinement. “Everyone interprets the rules differently, even though they read the same,” says Green. “But it depends on your comprehension level, your

41 American Civil Liberties Union, “Worse Than Second Class: Solitary Confinement of Women in the United States,” 2014, pp. 4-5.
42 Letter from Kary L. Moss, American Civil Liberties Union of Michigan, to Daniel H. Heyns, Michigan Department of Corrections, July 29, 2014.

43 *Id.*

44 Approved b-roll footage, untitled ACLU Michigan short film.

cultural level, your values system.”⁴⁵

Green scored perfectly on his officer’s examination and finished training in the top five of his class but he was nearly fired his first day on the job in 1986. A Chicago native raised in “the ‘hood” of Grand Rapids, Michigan, Green had planned to become a computer programmer, but when he reported for duty at Michigan Reformatory he recognized the faces of numerous prisoners.

“I step in the dorm and I see about 20 or 30 of my homeboys, straight from the block,” Green says. “And we’re like, ‘Oh! Oh!’

“The next day I was called into the warden’s office and was shown the policy about not showing affection or making physical contact with inmates.”⁴⁶

Green says he personally observed – and often intervened against – racism and retaliation by fellow officers, who were largely ignorant of, or hostile toward, black and Hispanic cultures. When Green was assigned to work in the hole, where officers observe solitary cells at regular intervals, he learned to defuse potentially volatile encounters with inmates, using the proper temperament and sensibility: “When you’re in that cell all day you just want somebody to listen. You just want to be heard.”⁴⁷

At the same time, Green witnessed self-mutilation, scatological aggression, suicide and suicide attempts, such as an incident when he had to leave a man in solitary who had sliced an artery to rescue another prisoner hanging from a noose. By the time Green returned to the man who had sliced his artery, blood had begun to flow under the prisoner’s door, and his face was pressed against the glass.

“Damn, Green,” the prisoner said, weakened, but relieved. “I didn’t think you was coming back.”⁴⁸

Tom Scheidt on Prisoner Affiliations

Tom Scheidt retired after 28 years of splitting his time between serving as an athletic director at Michigan Reformatory and serving as a school teacher at Bellamy Creek Correctional Facility. He estimates that of the prisoners he worked with, 85 percent were black, 10 percent were white and five percent were Latino.

While he saw “hundreds” of prisoners come and go, he witnessed no clear patterns among those who received time in administrative segregation. One segment of the prisoner population, however, was “less likely to get the benefit of the doubt on anything,” Scheidt recalls: Members of organized religious groups could easily be sent to solitary confinement based on a “notice of intent” to violate rules.⁴⁹ Among prisoners who openly affiliated themselves, Scheidt observed racial implications of some segregation policies.

“If you joined any religious group in the prison – from the administrative standpoint, all they are is gangs.”⁵⁰ Gang affiliation, presumably, resembles MDOC’s “threat to the good order of the facility” segregation policy item. Because such prison religious organizations as the Nation of Islam and the Moorish Americans are comprised of black inmates, Scheidt’s observation suggests a greater likelihood that members risk facing segregation based solely on their affiliation.⁵¹

Anthony White on Race

Anthony White worked as a corrections officer at Huron Valley and Western Wayne Correctional Facilities between 1981 and 2000, and he recalls confrontations with white colleagues. He and

45 Doug Green, interview with the author, 2016.

46 *Id.*

47 *Id.*

48 *Id.*

49 Tom Scheidt, interview with the author, 2016.

50 *Id.*

51 *Id.*

other black guards argued that unwarranted tickets issued to black prisoners created a more hostile prison population, both in and out of seg.⁵²

During the years White worked at Huron Valley, then a men’s prison, the custody staff ratio was approximately 60 percent white, 40 percent black.⁵³ At Western Wayne, formerly Detroit House of Corrections, or “DeHoCo,” White says he and other black corrections officers were about 70 percent of the officer staff – a rare majority.⁵⁴ Reduced racial tension between guards and prisoners increased fairness in issuing tickets, he says.⁵⁵

It wasn’t uncommon to see the officers transfer to prisons in more white-populated areas like Muskegon, “where they could do what they wanted,” White adds.⁵⁶

Jeff Gerritt: A Journalist’s Perspective

Despite terrifying cases like those of Sabrie Alexander and Timothy Souders, Jeff Gerritt says MDOC’s solitary confinement structure and guidelines are, generally, no more egregious than those of other states.⁵⁷ Gerritt has reported and commented on Michigan carceral policies for 20 years, including a nationally televised guest appearance on the CBS news show “60 Minutes,” which spotlighted Souders’ death.

While Gerritt draws a link between the state’s past two decades of reduced spending on in-patient treatment and sentences of mentally ill offenders to jail and prison terms, Michigan has maintained approximately the same two percent of inmates in segregation as have other states. He is encouraged that MDOC began “taking small steps,” like Incentives in

Segregation, to reduce the number of men and women in solitary confinement at approximately the same time other states initiated similar efforts.⁵⁸

“Part of this might be due to outside pressure. Human rights groups almost unanimously consider segregation torture, which it is,” Gerritt says. “It’s psychological torture, stemming from extreme sensory deprivation. I’ve talked to prisoners who have spent years in ‘the box,’ as inmates call it, which would drive anyone crazy. But the biggest driver for change is probably economic. Single-cell inmates in segregation cost the department, at least, double Michigan’s \$35,000-a-year average cost per inmate.⁵⁹

“Abolishing segregation should be the goal. That said, one can’t blame the department entirely for the problem. A large share of inmates in segregation are mentally ill – exactly the people who shouldn’t be there. Segregation aggravates their disorders. But prisons are not built for treatment, even in the most enlightened states. The problem of mentally ill people in jails and prisons is a larger social problem caused by the lack of mental health treatment in the community.”⁶⁰

Final Thought on Solitary Confinement

Solitary confinement is not an idea that has outlived its usefulness. It has never been useful. All available evidence indicates that it has negatively impacted mental health, racial equity, the challenges confronting women, and it has otherwise contributed to a host of problems both within and without prison facilities. It is a practice that should be abandoned without delay and all needed remedial services should be provided to those who have been victimized.

52 Anthony White, interview with the author, 2017.
 53 *Id.*
 54 *Id.*
 55 *Id.*
 56 *Id.*
 57 Jeff Gerritt, interview with the author, 2016.
 58 *Id.*
 59 *Id.*
 60 *Id.*

PART TWO

Locked Away Too Long: Long-Term Incarceration

On average, Michigan prisoners serve the longest sentences in the United States.⁶¹ At one end of the sentence range, some 45 percent of prisoners are serving minimum sentences of five years or fewer. But nearly 30 percent—11,991 prisoners — are serving life or minimum sentences longer than 15 years. And fully 12 percent of Michigan prisoners —5,257 prisoners— are serving life sentences. Furthermore, the racial disparities in the general prison population are exaggerated among prisoners serving these sentences. One study found that roughly 65% of lifers are black.⁶²

The vast majority of Michigan prisoners are not serving time for drug offenses. Of the total prisoner population, the majority—71 percent—are serving sentences for assaultive offenses, such as homicide, armed robbery, assault, and rape. Twenty-one percent of inmates are serving time for non-assaultive offenses, and eight percent for drug offenses.⁶³

This reality creates a challenge for those who advocate the release of long-term prisoners. Because most Michigan prisoners were convicted of serious crimes, many on the outside of prison walls fear the re-entry of these persons into the broader society. One antidote for this fear is information about the particular life circumstances of even those prisoners who have committed the most heinous crimes. We consider here the lives of a few such individuals.

The Prisoners

Harold Mason

At age 80, “Harold Mason” suffers from afflictions common to the elderly: high blood pressure, problems with his prostate, and knee pain. Even though health care workers attend to his needs as a “chronic care patient,” Mason explained that “[y]ou’re pretty much on your own and it’s scary. The health services provided appear to be focused only on cost savings which does not include extending the life of an aging man who has become very costly due to normal medical problems associated with aging.”

Mason also claimed he is innocent of the murder of his former father- and mother-in-law, which has made his deterioration over the years—along with his alienation from his children—all the more galling. After a mistrial, a second jury convicted him of two counts of first-degree murder in 1978. This crime carries the automatic sentence of life without parole. “My children were convinced that I did these crimes and that I am a bad man,” Mason said. “[A]s I near the end of my life I realize that I may never see or hear from them again and I just wish that I could show them that I am a good man, that I have always loved them and missed them [...] This has been the most painful experience that one could endure in their lifetime and I have went from happy and healthy to sad and aging.”

61 Pew Center on the States, “Time Served: The High Cost, Low Return of Longer Prison Terms,” 2012, pp. 13, 16, 18, 20. Among prisoners released in 2009 from 35 states that voluntarily reported their data, Michigan had the longest average time served (4.3 years), the longest for violent offenses (7.6 years), the third-longest for property crimes (2.9 years), and the second-longest for drug crimes (2.9 years).

62 Ashley Nellis, “Life Goes On: The Historic Rise in Life Sentences in America,” The Sentencing Project, 2013, p. 9.

63 “2014 Statistical Report,” C – 39–63. These categories reflect only the largest minimum term for those prisoners who have been convicted of multiple offenses. For example, someone may be convicted of a manslaughter charge that carries a minimum sentence of five years, and a weapons charge that carries a minimum of two, but only the manslaughter charge will be noted in the Statistical Report.

Melody Carter

“Really soon, they’re going to have to build another prison for us lifers.”

— Melody Carter, incarcerated since 1990⁶⁴

It was in 1988 or ’89 that “Melody Carter” realized that she “would never be free.” Her husband, Jim, arrived home one day unusually giddy, according to Carter, and announced that he had finally discovered a way to murder his ex-wife. Jim had been snooping around his ex-wife’s home and learned that she had a habit of sitting in front of a large picture window in her living room every evening—making an easy target for a rifle shot. As Carter listened in horror as her husband shared the details of his plan, she not only thought of his ex-wife’s safety, but her own future, as well. His ex-wife had divorced Jim a decade before, and even after all that time he was clearly still obsessed with revenge. If Carter ever managed to escape her own abusive relationship with Jim, would she, too, be targeted?⁶⁵

According to Carter, Jim’s abuse was monstrous. He was only verbally abusive at first, but he began beating her after she became pregnant with their daughter. “I never fought back,” said Carter, who, even at age 60, was only 5’ 3” and hovered around the 100-pound mark. “I just curled up in a ball.” She cycled in and out of the hospital as Jim’s abuse continued. And, in order to control her further, Jim isolated Carter at times by pulling the wires from their home phone and disabling her car.⁶⁶

Finally, on November 30, 1989, Carter left her husband and moved out of her home. A

week later, Jim abducted their young daughter from elementary school and dropped her off with his mother, with whom Carter did not get along. Carter called the police, and her daughter was returned to her.⁶⁷ Jim’s threats continued nonetheless. “He told me he would kill my daughter and my parents and siblings unless I ‘did what he told me to do’.”⁶⁸ Then, on December 14 of that year, Carter hired a deliveryman for the health food store she owned, to help with the holiday rush. She spoke with him about Jim, and he was sympathetic. Furthermore, he claimed he had a friend who could help. “I just wasn’t in my right mind,” Carter later explained. “I was put into a bad situation, and I reacted horribly. I had my husband killed.”⁶⁹

The deliveryman suggested he and his friend kill Jim, and Carter agreed to split Jim’s life-insurance settlement with them.⁷⁰ Carter told the two men where to find her husband, and they purchased a shotgun with Carter’s money. They murdered Jim the night of January 18, 1990.

After he was apprehended, the shooter accepted a plea bargain for second-degree murder, and is currently serving life with the possibility of parole. In return, he testified against Carter and his accomplice. (He has since claimed that his testimony was coerced.⁷¹) Carter was arrested in May 1990 and was not offered a negotiated plea. She wrote, “[i]n my case, no prior history was allowed in, no hospital reports, eye-witness encounters, affidavits from employees, police reports, or [Jim’s] prison record.” Her attorney, meanwhile, was in serious legal trouble of his own. Unbeknownst to Carter, he had recently been convicted of tax evasion and was out on

64 “Melody Carter” (prisoner at Women’s Huron Valley Correctional Facility), interview with the author, April 21, 2017. “Melody Carter” is not this prisoner’s real name; she asked not to be identified in this report. All other names in this case have also been changed.

65 *Id.*

66 *Id.*

67 *Id.*

68 Carter, correspondence with the author, April 13, 2017.

69 Carter, interview with the author, April 21, 2017.

70 Information obtained from court records related to this case.

71 In addition to alleging his testimony was coerced, the deliveryman also wrote to the Battered Women’s Clemency Project, who was working to obtain a commutation on Carter’s behalf: “There are certainly many details I do not know, but I know one thing: [Melody] was terrified during this time, and lived in daily fear of her life, and more so for the safety and well-being of her 7-year-old daughter”; information and quote obtained from news coverage 13 years after Carter’s conviction.

appeal bond while conducting her trial—his law license would be suspended six months after she was sentenced. During her proceedings, Carter’s attorney “offered zero rebuttal to the prosecutor’s charges, brought forth zero witnesses and rarely spoke. The jury had no choice but to convict me.”⁷² Carter was convicted of premeditated murder and conspiracy, and is currently serving two life sentences without any possibility of parole. While the shooter, who physically aided in Jim’s murder, retains the possibility of freedom at some point, Carter will never leave prison alive unless the governor commutes her sentence. She has currently served 27 years.

Bob Dodd

As a 14-year-old, “Bobb Dodd” became enamored with the criminal lifestyle he watched on TV shows like “Miami Vice.” “I knew the difference between real and fiction but I was lured to the glamour, money, fancy cars, and girls,” he explained. “I already had an older close relative in the game who was a major player. I considered this the American dream and I wanted my piece of the pie.”

But as Dodd was pulled closer into the orbit of his drug-dealing relative, he rotated in and out of prison. He attempted to break out of this cycle at age 22, after serving a four-and-a-half-year stint in prison. But after two years driving a forklift in a warehouse, Dodd was laid off and eventually “found myself back in the drug game.” He was finally caught in a sting operation in 1996. When he refused to “play ball” and serve as an informant, the county prosecutor pursued a sentence enhancement under the habitual offender statute.

Dodd, 45, is roughly two decades into a sentence of life without parole. Unless the governor commutes his sentence, he will die in prison for selling cocaine and possessing a firearm. On one hand, Dodd admitted, “I don’t have a valid excuse why I made the decision to live the life I chose.” Moreover, “[b]eing in prison

has forced me to grow mentally and spiritually. [...] I realize the damage that I caused the community, my family, and myself.” But on the other hand, Dodd asserted, his very identity is now being reconstructed behind bars. “My memories of the past before prison are starting to not exist, my dreams are no longer memories of family or friends, but prison yards and corrections officers. My entire life of past events and existence is stored in my foot locker where I’m allowed to keep my most prize possessions, which is pictures of me with family, confirming I did have a actual life before my incarceration. This process of aging in prison is scary, especially when you face reality. Knowing one day your last breath on earth might be in a cell, a chow hall or on a prison yard. The fate of others I have witnessed throughout the years.” If allowed to return to the outside world, “I will not make the same choices that I did over twenty years ago.”

Sources: “Bob Dodd” (prisoner at Bellamy Creek Correctional Facility), correspondence with the author, Nov. 10 and Dec. 19, 2016.

Claude Hobbs

Under Michigan’s habitual offender guidelines, “Claude Hobbs” was sentenced to life without the possibility of parole for simple possession of cocaine and a firearm in 2001. He had been convicted of a similar drug charge once before, in 1988. He is currently 50 years old. Although Hobbs credited his incarceration with allowing him to “view [his] actions from another perspective,” he pointed out that “too much can ruin that process.” Indeed, added Hobbs, facing life in prison with no hope of release “was the worst nightmare to come true.”

Sources: Correspondence with the author, Dec. 13, 2016.

⁷² Carter, correspondence with the author, April 13, 2017.

Henry Stokes

“Henry Stokes” has been incarcerated since 1971. He is now 64 years old. As a child, Stokes said, he was molested by a young neighbor and subsequently began to abuse drugs and alcohol. At age 17, he killed his former girlfriend after he learned that she was pregnant with his child. A trial judge—who explained that he had no choice in the matter, according to Stokes—sentenced him to life without the possibility of parole. It “[t]ook many years to get my mental abilities back,” explained Stokes, due to his numerous addictions. But in the 45 years since his sentencing, Stokes completed his G.E.D. and obtained numerous trade certifications, such as master automotive mechanic and apprentice electrician. Moreover, he is currently employed as tutor for electrical building trades. Although he expressed disillusionment at “greater and greater oppression by [prison] administration,” and “frustration at having privileges revoked and property confiscated,” Stokes remained upbeat. “In many ways, my continued desire for knowledge, skill, and overall betterment has been extensive due to the help of many good men, (prisoners and supervisors) as well as my own research,” he said. “[O]verall, I am proud of the person I have become.”

Sources: Correspondence with the author, Dec. 8, 2016.

Juan Rojas

“A lot of times, I felt like I was gonna lose my mind.”

— Juan Rojas, incarcerated from 1972 to 2014⁷³

“Juan Rojas”, who was incarcerated for more than four decades, has been a witness to the unprecedented growth of Michigan’s carceral system. When he first arrived in a state prison

in 1973, he became one of 7,874 prisoners. When he was granted parole in 2014, at age 60, he left behind 43,359 fellow prisoners. Multiple changes in legislation and parole policies worked in concert to keep him locked up decades beyond the roughly 20-year sentence that Rojas’ judge likely expected he would serve.

Rojas’ life before prison was unstable. As a child, he worked as a seasonal field laborer in Michigan, living with his grandparents and sending remittances to the rest of his family in Texas to help them make the move north. He moved to Holland, Michigan to live with his mother at age 11; Rojas’ father was alcoholic and abusive, and left home each time his wife would give birth to one of Rojas’ eight siblings. Meanwhile, Rojas was behind in school. Between migrating for work and being expelled by school administrators unsympathetic to a student who could not speak English, he could not yet read by his 18th birthday. By the time of his crime in 1974, he was enrolled in high school during the day, and worked the night shift at a local tool and die shop. At Rojas’ trial, the school psychologist assessed Rojas’ “borderline retarded abilities,” and put his English verbal comprehension at a fifth-grade level.⁷⁴

On October 28, 1972, Rojas and his cousin were drinking at a bar when they saw an intoxicated elderly man pull out a large amount of cash to pay for two six packs of beer to take home.⁷⁵ When the man later asked around the bar for a ride—he was described by other witnesses as “loud and boisterous and profane”—Rojas offered to drive him.

Rojas and his cousin drove the man home, where the latter dropped off his beer and returned to the car. But when they began driving again, the elderly man refused to pay Rojas the two dollars he had promised for the

⁷³ Rojas, interview with the author, Feb. 1, 2017.

⁷⁴ Information obtained from Ottawa County Circuit Court Records, Court File 7681, Preliminary Examination, Dec. 4, 1972, interrogation of Juan Rojas by Det. Lee Posma; *Ibid.*, Walker Hearing transcript, May 2, 1973, testimony of Dr. Eugene Scholten; *Ibid.*, Application for Leave to Appeal, Sept. 27, 1996, summary of trial court proceedings by defense attorney John Vos; and Rojas, interview with the author, Feb. 1, 2017.

⁷⁵ Just a few months before, on Jan. 1, 1972, the Michigan Legislature lowered the drinking age to 18 in the state.

ride. “So we said, ‘we’re going for a ride,’” Rojas later told the police. Once outside the city, Rojas and his cousin robbed the man of \$95, and then they all returned to the car to continue driving, likely back to the bar or to the man’s home. But by this time, Rojas and his cousin were also intoxicated—his cousin, for one, admitted to consuming more than 10 Schlitz beers over the course of the evening—and Rojas drove his car into a ditch.

When a passing motorist finally stopped to help, the elderly man began to curse and yell from the back seat. Rojas’ cousin convinced the motorist that the old man was simply his intoxicated grandfather, and the driver took Rojas’ cousin into town to call a wrecker. But as they began to drive away, the elderly man got out of Rojas’ car and began walking. In a panic, Rojas reached for the nearest tree branch and hit the man until he stopped shouting, and then fled. The elderly man later died of blood loss. A few days later, the police picked up Rojas from his sports practice at the high school. While Rojas was awaiting trial, jail officials found him hanging by a towel in his cell. “When taken down he was not breathing, and it was necessary to use mouth-to-mouth resuscitation to return him to consciousness.”⁷⁶

A jury found Rojas guilty of second-degree murder, and he was sentenced to life in prison with the possibility of parole. Rojas’ judge likely believed he would serve a sentence of 20 years or less. But 12 years into his sentence, Rojas incurred a misconduct charge. Immediately after, a series of high-profile crimes in Michigan and nationwide brought parole policies into the

public spotlight and inspired legislators and other elected officials to “round ‘em up and lock ‘em up.”⁷⁷ These policies created a parole board “less inclined to credit individual efforts at rehabilitation and far more likely to worry about the risk that a parolee would commit a serious offense.”⁷⁸ Ultimately, these policy changes, coupled with a corresponding hardening of public sentiment against felons, made Rojas’ once unfathomable 42-year term seem downright reasonable.

In January 1983, the MDOC scored Rojas’ release guidelines and estimated he would be paroled after 14 years served, in 1987. The next year, the parole board expressed “interest in processing under the ‘lifer law.’”⁷⁹ (At that time, the “lifer law” stipulated that any inmate serving a life sentence for a crime other than first-degree murder could be considered for parole after 10 years.) MDOC officials placed Rojas in a reduced-custody camp to prepare him for release, and the parole board requested a progress report in June 1985. It seems as though that report was never finished. In July of that year, Rojas disappeared one afternoon, and was later found in the forest surrounding the camp. He explained that he was “trying to avoid a urine drop,” not escape. Nevertheless, Rojas was subsequently returned to a medium-security prison, and his release schedule, at least for the moment, was extended.⁸⁰

For Rojas and other prisoners witnessing these changes from inside the system, the mid-1980s proved a watershed moment. As they saw it, “a lot of it had to do with politics.”⁸¹ Their crimes had not changed—only the public’s perception

76 Ottawa County Circuit Court Records, Court File 7681, Preliminary Examination, Dec. 4, 1972, interrogation of Rojas by Det. Lee Posma; *Ibid.*, Walker Hearing transcript, May 2, 1973; *Ibid.*, Presentencing Investigation Report, July 9, 1973, Theodore Bertrand; and Rojas, interview with the author, Feb. 1, 2017.

77 Gov. John Engler, “State of the State Address” (speech, Lansing, Michigan, January 18, 1994), Michigan’s Former Governors, http://www.michigan.gov/formergovernors/0,4584,7-212-31303_31317-1987--,00.html.

78 State Bar of Michigan, Prisons and Corrections Section, “What Should ‘Parolable Life’ Mean?: Judges Respond to the Controversy,” March 2002, p. 10.

79 Ottawa County Circuit Court Records, Court File 7681, Application for Leave to Appeal, Sept. 27, 1996, John Vos.

80 Notably, Rojas was never charged with misconduct for this incident, “due to excessive delay on the part of the MDOC.” Moreover, Rojas was not criminally charged. Nevertheless, as Rojas’s defense attorney pointed out in an appeal a decade later, the parole board cited this incident of misconduct when it later denied parole, despite MDOC regulations expressly prohibiting the citation of dismissed misconduct charges.

81 Rojas, interview with the author, Feb. 1, 2017.

of parolees. Or, as the scholar Marie Gottschalk puts it, “[i]t was about the time, not about the crime.”⁸²

Whereas much of Rojas’ first decade in prison can be broadly described as rehabilitative, the next 30 years saw any pretense of rehabilitation fall away. In those first years, Rojas learned to read and ultimately obtained his G.E.D., belying his high school counselor’s claims of his “borderline retarded abilities.” Then, during the Carter administration, Rojas drew on Pell grants to earn an associate’s degree in arts and sciences from Montcalm Community College in 1979. He later earned an additional 12 credits toward a bachelor’s degree. But, Rojas noted, these programs have since been cut; higher education is still available, but at prices few inmates can afford. Moreover, in order to pay for more beds and personnel, Rojas witnessed a litany of cuts and closings. He watched as gyms were closed to make space for beds, teachers were laid off, library hours reduced. Health care slowed considerably. And programs explicitly designed for rehabilitation have attenuated over the decades. Rojas pointed out that one course—a prerequisite for release on parole—is not even offered at every institution. A prisoner must first apply to transfer to a facility that offers the right course before he is eligible. Furthermore, for all programming, “they take the guys with shorter ‘out dates,’ ” Rojas explained. “Until the parole board has some kind of interest in you,” you are not permitted to enroll in most rehabilitative courses. “They don’t offer the right programs for you guys,” Rojas recalled one counselor explaining to him. “There’s no such thing as rehabilitation.”⁸³

Meanwhile, said Rojas, drug offenders entered and exited the system in higher and higher volumes during the 1990s. “To me,” said Rojas, “it’s just a big business.”⁸⁴ According to a prisoner reentry expert in west Michigan, the

state prison system “turned into an industry.”⁸⁵ If the penal system is an industry, then it is manufacturing its own necessity. With drastically reduced programming, recreation, and education, said Rojas, “there’s really nothing to do. It’s really just a warehouse.” But this warehouse contains people who have committed crimes—the majority violent crimes—and now have precious little to do. As a result, prison “is an angry place,” explained Rojas. “It’s a mad place to live in.” In cyclical fashion, the angrier and more crowded prison is, the more inmates’ lives are restricted. Rojas recalled people “tak[ing] out their frustrations in the yard or the weight room,” and prison officials would consequently restrict outdoor recreation or take away weightlifting equipment. “When you treat a man like a dog,” explained Rojas, “he’s gonna end up like a dog.”⁸⁶

82 Marie Gottschalk, *Caught: The Prison State and the Lockdown of American Politics*, 2014, pp. 258–59.

83 Rojas, interview with the author, Feb. 1, 2017.

84 Rojas, interview with the author, Feb. 1, 2017.

85 Brian Vork (executive director of 70 X 7 Life Recovery), interview with the author, Feb. 1, 2017.

86 Rojas, interview with the author, Feb. 1, 2017.