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July 31, 2018

BY U.S. MAIL

The Honorable Jerry Willis
Chairman
Georgia Board of Corrections
300 Patrol Road
Forsyth, GA 31029

The Honorable Alton Russell
Vice-Chairman
Georgia Board of Corrections
300 Patrol Road
Forsyth, GA 31029

The Honorable Gregory Dozier
Commissioner
Georgia Department of Corrections
300 Patrol Road
Forsyth, GA 31029

Dr. Javel Jackson, Psy.D.
Statewide Mental Health Director
Georgia Department of Corrections
300 Patrol Road
Forsyth, GA

Re: Solitary Confinement in Georgia Prisons

Dear Chairman Willis, Vice-Chairman Russell, Commissioner Dozier, and Dr. Jackson:

We write to call attention to two harmful practices warranting prompt remedial action by the Department of Corrections and the Board of Corrections. First, a significant number of prisoners are being held in Georgia's most extreme form of solitary confinement until the end of their sentences, when they are discharged from state custody and suddenly thrust from near-constant isolation into free society.

Second, a large number of prisoners are being held in solitary confinement units—especially the so-called “Tier II” and “Tier III” programs—despite being seriously mentally ill and, in some cases, actively psychotic or suicidal. Because these practices not only harm prisoners but also represent a failure of the Department of Corrections to fulfill its most basic duties to both the public and the people in its custody, we respectfully ask that you investigate and remedy these practices. As you may not be familiar with the current solitary confinement conditions in Georgia's most restrictive prison, we enclose with this letter a photo-illustrated report by Dr. Craig Haney, a nationally recognized professor and expert in the use of segregated confinement, describing his findings during a recent tour of the Special Management Unit (SMU) at Georgia Diagnostic & Classification Prison.

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A. Numerous Georgia Prisoners Are Being Released Directly from Solitary Confinement to the Community.

In 2016, a federal court appointed our office to represent Timothy Gumm, a prisoner challenging his long-term solitary confinement in the Special Management Unit (SMU) at Georgia Diagnostic & Classification Prison. The SMU, a 192-bed isolation facility, is Georgia's most extreme form of solitary confinement. Prisoners there are denied nearly all human contact. For between 23 and 24 hours per day, inmates in the SMU are confined to one-man cells with metal shields on the exterior and cell-door windows to prevent prisoners from seeing outside. Most SMU prisoners are allowed two "yard" periods per week, alone in a small cage, for up to two and a half hours each time. Out-of-cell showers are provided three times per week to prisoners in certain wings—inside a small, locked shower stall—but people in the more restrictive wings must shower inside their cells. Visits and telephone calls are highly restricted. The most frequent duration of SMU confinement is between three and four years, but nearly twenty percent of current SMU prisoners have been kept there for six or more years.

The isolation and conditions are such that Dr. Haney characterized the SMU as **"one of the harshest and most draconian . . . facilities I have seen in operation anywhere in the country,"** and its prisoners as **"among the most psychologically traumatized persons I have ever assessed in this context."**¹

Dr. Haney's report captures many of the problems with the SMU, and our litigation with respect to conditions there is ongoing. However, one issue not addressed in the lawsuit stands out as uniquely problematic. As Dr. Haney notes in his report, between 2010 and 2016 more than one-quarter of the prisoners released from the extremely isolating SMU (34 of 119 prisoners) were discharged due to sentence completion.² In most cases, these prisoners were released directly from the SMU to free society. Though we do not have complete numbers for more recent SMU discharges, prisoners continue to be held in the SMU until completion of their sentences. In 2017 and 2018, at least 15 prisoners have finished their prison terms while held in the SMU.³ More are released directly into the free world from similarly isolating conditions in Tier II housing units.

¹ Expert Report and Decl. of Prof. Craig Haney ¶¶ 19, 21 (hereinafter "Haney Report").

² *Id.* ¶¶ 43-45.

³ Those 15 prisoners are Antwaun Ashmore (GDC No. 1268941), Michael Bell (GDC No. 1000478459), Vodie Bell (GDC No. 1242654), Brandon Betts (GDC No. 1304535), Ernesto Castillo (GDC No. 1291603), Benjamin Clay (GDC No. 1308418), Dustin Cowart (GDC No. 1231848), Randall Engrisch (GDC No. 1230682), Demetrius Hill (GDC No. 1242437), Malichi Jenkins (GDC No. 725779), Antavius

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Numerous prisoners currently isolated in the SMU are approaching the end of their sentences. One of them is Daniel Barfield (GDC No. 1014120), whose maximum release date is November 11, 2018. Mr. Barfield has been incarcerated since age 13 under a 20-year sentence. Though he has a significant disciplinary history, most of his disciplinary reports are for failure to follow instructions, insubordination, and similar infractions. His most serious disciplinary infractions were for two incidents, in 2009 and 2010, during which he struck officers. He has been held in the SMU for nearly eight years for those infractions.

Mr. Barfield reports, and his records show, that he has expressed concerns about his impending release to counselors and administrators, requesting that they place him in—or transfer him to a facility where he could enroll in—reentry programs that might allow him to reacclimate to other people and build skills for a productive post-release adjustment. His requests have been all but ignored.⁴

To give another, recent example, four months before he was released from prison, A ██████ A ██████ (GDC No. ██████) was placed in the SMU despite a long and well-documented history of schizoaffective disorder, mental health-related hospitalizations, and suicide attempts. Before entering the SMU, he had spent two years in solitary confinement in the Tier II program at Georgia State Prison. On the day of Dr. Haney's visit to the SMU, ██████ was exhibiting symptoms of psychosis; among other things, he had cut himself and blood covered the floor and door of his SMU cell. Just weeks later, ██████ was released directly from the SMU and into the community, without his prescribed mental health medications, and without any efforts whatsoever to aid his transition into society.

The anomaly of holding prisoners in solitary confinement when their release is imminent has important public-safety implications. Dr. Haney describes the practice as “extremely problematic,” placing prisoners “at a greater risk of failure” post-release.⁵ Part of the problem is that the social deprivation imposed by solitary confinement actually creates maladaptive behaviors.⁶ In other words, faced with long term, isolated confinement, people involuntarily “adapt in socially pathological

Pitts (GDC No. 978133), Demetrius Smith (GDC No. 100004864), Charles Thomas (GDC No. 745362), Marquis Williams (GDC No. 1297081), and Jerome Wilson (GDC No. 1212730).

⁴ In response to one of Mr. Barfield's requests, a counselor gave Mr. Barfield a reentry handout to study in his SMU isolation cell.

⁵ Haney Report ¶¶ 44-45 & n.8.

⁶ *Id.* ¶ 99.

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ways. Over time, they gradually change their patterns of thinking, acting and feeling to cope with the profoundly asocial world in which they are forced to live.”⁷ Those pathological adaptations threaten former prisoners and their communities alike. **As Rick Raemisch, the Executive Director for the Colorado Department of Corrections, has explained, “Releasing offenders directly from Administrative Segregation into the community is a recipe for disaster.”**⁸ Among other things, people released directly from solitary confinement have significantly higher-than-average rates of recidivism⁹ and have a difficult time maintaining relationships and employment.¹⁰

There is a growing national consensus that releasing prisoners directly from solitary confinement to the streets is bad public policy. In 2014, the American Legislative Exchange Council (ALEC) passed a resolution addressing the “failed practice” of releasing inmates directly from solitary confinement, and recommending that “prisons should step down inmates to a lower level of custody prior to their release.”¹¹

Other states’ departments of correction have reduced or eliminated the practice of releasing prisoners directly from solitary confinement to the free world. The Colorado Department of Corrections (CDOC), for example, fully eliminated the practice after the former corrections commissioner was killed by a man who had been released directly from isolation.¹² As early as 2012, CDOC policy required corrections officials to “make every attempt to ensure offenders will not release

⁷ *Id.*

⁸ *Reassessing Solitary Confinement II: Hearing Before the Subcomm. on the Constitution, Civil Rights, and Human Rights of the S. Comm. on the Judiciary*, 113th Cong. (2014).

⁹ See, e.g., Daniel Mears & William Bales, *Supermax Incarceration and Recidivism*, 47 *Criminology* 1131, 1150-51 (2009); Shira Gordon, *Solitary Confinement, Public Safety, and Recidivism*, 47 *U. Mich. J. L. Reform* 495, 517-22 (2014).

¹⁰ See, e.g., Joseph Shapiro, *From Solitary to the Streets: Released Inmates Get Little Help*, Nat’l Pub. Radio, June 11, 2015 (“Prisoners come out of solitary emotionally damaged. They can’t work. They behave in ways that test and fray the few important relationships they have with friends and family.”), available at <https://www.npr.org/2015/06/11/413208055/from-solitary-to-the-streets-released-inmates-get-little-help>.

¹¹ ALEC, Resolution on the Release of Inmates Directly From Solitary Confinement, July 1, 2014, available at <https://www.alec.org/model-policy/resolution-release-inmates-directly-solitary-confinement>.

¹² Rick Raemisch, “Why We Ended Long-Term Solitary Confinement in Colorado,” *NY Times*, Oct. 12, 2017, available at <https://www.nytimes.com/2017/10/12/opinion/solitary-confinement-colorado-prison.html>.

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directly to the community while on administrative segregation status.”¹³ Robust procedural safeguards were put in place to transition those nearing “imminent release” (defined as within 180 days of sentence expiration).¹⁴ By 2015, zero Colorado prisoners were released directly from that state’s restrictive housing units to the community.¹⁵ More recently, Colorado eliminated long-term solitary confinement altogether.¹⁶

In light of the foregoing, we recommend that the Department revise its policy to make clear that: (1) releases from solitary confinement directly to the community are to be avoided whenever possible; (2) such releases without intermediate transition should only be allowed when extraordinary circumstances exist; (3) such circumstances should be documented in writing; and (4) such releases should be signed off on by a person or persons at the highest level of GDC management. We further recommend that the Department seek technical assistance with respect to this issue from experts such as Commissioner Raemisch and the VERA Institute of Justice’s Safe Alternatives to Segregation Initiative.

B. Numerous Georgia Prisoners with Serious Mental Illness Are Being Held in Solitary Confinement.

In our work with prisoners at the SMU and elsewhere, we have found that Georgia’s solitary-confinement units contain persons with serious and acute mental illness. For example, Dr. Haney found that around 39 percent of prisoners in the SMU are on the mental health caseload, meaning that they receive outpatient treatment for mental illness.¹⁷ In the SMU’s most restrictive housing area—known as E-Wing—fully 86 percent of the prisoners held in the unit between July and October 2017

¹³ Colorado Dep’t of Corrections Ad. Reg. 650-03 at 15, *available at* <https://www.law.umich.edu/special/policyclearinghouse/Documents/CO%20650-03.pdf>.

¹⁴ *See id.* For example, should facility classification officials wish to keep a person in restrictive housing within 180 days of sentence expiration, they must send a request with supporting documentation for central office review. *See id.* Any such person remaining in segregation receives a comprehensive transition plan to prepare him for release. *See id.*

¹⁵ Rick Raemisch, Colorado Dep’t of Corrections, Budget Hearing, Jan. 6, 2015 at 21, *available at* https://leg.colorado.gov/sites/default/files/corhrg_1.pdf (“[T]here have been no offenders released directly to the community from Restrictive Housing – Maximum Security Status since May 2014, as compared to 49 releases directly to the community between May 1, 2013 through April 30, 2014.”).

¹⁶ Rick Raemisch, Colorado Dep’t of Corrections, Budget Hearing, Jan. 3, 2018 at 8, *available at* https://leg.colorado.gov/sites/default/files/fy2018-19_corhrg.pdf (“Administrative Segregation and Extended Restrictive Housing no longer exist in the Colorado Department of Corrections.”).

¹⁷ Haney Report ¶ 47.

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had been diagnosed with mental illness at some point during their incarceration.¹⁸ Moreover, these figures understate the true number of prisoners with mental illnesses, as some prisoners with extensive, pre-incarceration mental health histories are never identified by prison mental health staff. The latter point is dramatically illustrated by two SMU prisoners who committed suicide in 2017, neither of whom had received a formal diagnosis of mental illness in the Georgia prison system despite reporting pre-incarceration psychiatric care and symptoms such as recent suicide attempts and auditory hallucinations.¹⁹

The consequences of keeping mentally ill prisoners in the SMU were on display when we toured the facility with Dr. Haney last October. Dr. Haney's report describes the chaotic conditions in the more restrictive areas of the facility, and the large population of mentally ill prisoners housed there. Our interviews with many SMU prisoners in the months since further confirm that a disturbingly high number of mentally ill prisoners are held in the SMU, that these prisoners suffer psychological decline as a result of their isolation, that mentally ill prisoners have a very difficult time progressing through the SMU's "phases," and that the mental health treatment offered to SMU prisoners is grossly inadequate.

We do not have figures showing the number of mentally ill prisoners in solitary confinement statewide, but we are familiar with a sufficient number of individual cases to believe that Dr. Haney's findings with respect to the SMU reflect a much broader problem. For example, two of our most seriously mentally ill clients are currently being held in solitary confinement. [REDACTED] (GDC No. [REDACTED]), who has a long history of psychotic symptoms and was under an involuntary-medication order just last year, was recently placed in the SMU after lengthy stints in solitary confinement at Georgia State Prison and Valdosta State Prison.²⁰ Similarly, [REDACTED] (GDC No. [REDACTED]) a wheelchair-bound and seriously mentally ill prisoner at Johnson State Prison, has been held in an isolation cell for most of this year. During our recent visits with Mr. [REDACTED] we have seen his mental status decline noticeably as his solitary confinement has continued. At a recent meeting, Mr. [REDACTED] appeared disheveled and unkempt, wearing a uniform and jacket covered in filth. As of July 18, he had reportedly gone

¹⁸ *Id.* ¶ 60.

¹⁹ *Id.* ¶¶ 48-57.

²⁰ Mr. [REDACTED] was placed in the SMU in 2014 but was transferred to a different facility after decompensating to the point that, in the words of prison officials, he "routinely urinat[ed] and defecate[d] on [himself]," "stare[d] into space when addressed," and "refus[ed] to shower." His medical and institutional records clearly document his mental decline during his previous SMU confinement, but he was nonetheless returned to the SMU, where his mental state has predictably declined.

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two weeks without a shower. He appears to have lost a significant amount of weight and reports that he rarely leaves his cell and never goes to yard call.²¹ He does not know why he is being held in these conditions, as he has no recent disciplinary reports. Moreover, his mental vulnerabilities are obvious, longstanding, and well-documented.

For reasons Dr. Haney explains in his report, housing mentally ill prisoners in solitary confinement is “singularly inappropriate.”²² Dr. Haney’s assessment is echoed by Dr. Jeffrey Metzner, a psychiatrist with whom the Department is familiar because it has retained him numerous times to audit its statewide mental health care system. Dr. Metzner has noted that the “adverse effects of solitary confinement are especially significant for persons with serious mental illness” and warned medical professionals that “it is not ethically defensible” for them to acquiesce in isolation of the seriously mentally ill.²³

C. The Board of Corrections and Department of Corrections Should Address These Practices and, More Broadly, Limit Georgia’s Use of Solitary Confinement.

We respectfully ask that the Board of Corrections promulgate regulations, and that the Department of Corrections establish policies and meaningful oversight mechanisms, to ensure that prisoners nearing the completion of their sentences are placed in a step-down program that connects them with reentry assistance and helps them adjust to social interaction, and that prisoners who are mentally ill are kept in solitary confinement only under narrow circumstances, if at all.

More broadly, we ask that the Board and the Department reassess and take meaningful steps to limit the use of solitary confinement in Georgia’s prisons. Forty years ago, the United States District Court for the Middle District of Georgia recognized that conditions similar to those in the present Tier II and Tier III programs violated the Eighth Amendment for a host of reasons, including that

²¹ Mr. ██████ reports a number of other concerning issues about the conditions in which he lives, including that he recently spent several weeks without a working light in his cell (leaving him in darkness) and that an officer acting at the direction of Regional Director Stan Shepard sprayed a large amount of chemical agent in his face last month.

²² Haney Report ¶ 26.

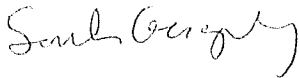
²³ Jeffrey Metzner & Jamie Fellner, *Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics*, 38 J. Am. Acad. Psych. L. 104, 104, 107 (2010). Since at least 2014, Dr. Metzner’s annual audit reports have repeatedly recommended that the Department improve Georgia’s segregation practices with respect to mentally ill prisoners.

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confinement was indefinite in duration and arbitrarily imposed.²⁴ Over thirty years ago, the Eleventh Circuit likewise recognized that long-term solitary confinement may violate the Eighth Amendment.²⁵ And just this year, the Eleventh Circuit held that conditions in Georgia's Tier II program—including denial of "human contact"—could constitute a deprivation of basic human needs in violation of the Eighth Amendment.²⁶

We are hopeful that both the Board and the Department will decide to move in a new direction with respect to these matters. We understand that you are represented by lawyers at the State Department of Law and the Office of Legal Services, and we have copied your counsel on this letter. Please send any response to this letter through counsel. Thank you in advance for your time and attention.

Sincerely,



Sarah Geraghty



Ryan Primerano

encl.

cc: The Honorable Nathan Deal The Honorable Mike Coggins
 The Honorable Tommy Rouse The Honorable Rose Williams
 The Honorable Duke Blackburn The Honorable Larry Haynie
 The Honorable Andrea Shelton The Honorable Rocio Woody
 The Honorable Carl Franklin The Honorable Terry Barnard
 The Honorable Christopher Clark The Honorable Michael Nail
 The Honorable Stacy Jarrard The Honorable Michael Boggs
 The Honorable Mac Collins The Honorable Carey Miller
 The Honorable Roger Garrison Ms. Simone Juhmi
 The Honorable Wayne Dasher Ms. Tina Piper
 The Honorable June Wood Ms. Jennifer Ammons
 The Honorable John Mayes Ms. Susan Teaster
 The Honorable W.D. Strickland Ms. Elizabeth Crowder

²⁴ See *Hardwick v. Ault*, 447 F. Supp. 116, 125-27 (M.D. Ga. 1978).

²⁵ See *Sheley v. Dugger*, 833 F.2d 1420, 1429-30 (11th Cir. 1987).

²⁶ See *Quintanilla v. Bryson*, No. 17-14141. 2018 WL 1640140, at *7 (11th Cir. Apr. 5, 2018).