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Accountability Project**

*A Project of the National
Lawyers Guild*

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Re: NPAP Letter in Support of The End Solitary Confinement Act

The National Police Accountability Project (“NPAP”) is a nonprofit organization dedicated to ending police and correctional officer violence by holding law enforcement accountable to constitutional and professional standards. Solitary confinement is an abuse as harmful as any other form of state violence perpetrated in American jails and prisons. Moreover, the practice is imposed disproportionately against Black, Brown and Indigenous people and rarely passes constitutional muster. Accordingly, NPAP strongly supports the End Solitary Confinement Act—a groundbreaking bill that will bring much needed limitations to the use of solitary confinement in federal jails, prisons, and detention centers.

Solitary confinement, also referred to as solitary isolation in some facilities, involves the placement of a person, alone in a locked room or cell, for 22 to 24 hours per day “without meaningful human contact.”¹ It can be imposed during pretrial or post-conviction detention, and even people detained for civil immigration matters can be placed in solitary confinement.² Individuals in solitary confinement have limited or no access to exercise and family visitation. This description of solitary confinement, though depressing, does not begin to convey the horror and harm of the abusive practice.³

The severity of solitary confinement is not limited to people who have committed grave offenses—people are placed in solitary confinement for a panoply of reasons. In fact, nearly 20% of people in jail and prison spent time in solitary confinement at some point during their incarceration.⁴ Across facilities, people of color are placed in solitary confinement at alarmingly disproportionate rates as a result of

¹ G.A. Res. 70/175, The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) at Rule 43-44 (Dec. 17, 2015) (defining solitary confinement), available at https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf.

² Tyler Wornell, *Groups allege misuse of solitary confinement at ICE facility*, NEWSNATION (July 14, 2023), <https://www.newsnationnow.com/us-news/immigration/advocacy-groups-dhs-complaint-ice-misuse-solitary-confinement/>.

³ There have been attempts to simulate the experience of solitary confinement, but even these simulations cannot capture the full atrocity. See 6x9: *A Virtual Experience of Solitary Confinement*, The Guardian (April 27, 2016), <https://www.theguardian.com/world/ng-interactive/2016/apr/27/6x9-a-virtual-experience-of-solitary-confinement>.

⁴ Allen J. Beck, *Use of Restrictive Housing in U.S. Prisons and Jails, 2011-12*, Bureau of Justice Statistics (Oct. 23, 2015), available at <https://bjs.ojp.gov/content/pub/pdf/urhuspj1112.pdf>.

systemic discriminatory policies and the same implicit bias that fuels their overrepresentation in the carceral system in the first place.⁵

Solitary confinement is used for everything from punishment for small infractions to protective measures for people with identities or conditions that would make them vulnerable to harm in the general population.⁶ An estimated 85% of solitary confinement assignments are for violations of minor jail or prison rules.⁷ Many facilities also use solitary confinement as their default form of protective custody for LGBTQIA people and people with mental illness.⁸ These practices mean that the people most vulnerable to the harms of solitary confinement are the ones most often exposed to them.

Solitary confinement has immense detrimental effects on the mental and physical health of people who are placed in it⁹—even several days in solitary confinement has been shown to have severe and lasting impacts.¹⁰ Longer stays in solitary confinement have resulted in increased risks of suicide and self-harm.¹¹ People with preexisting mental health conditions, who are disproportionately placed in solitary confinement, are particularly vulnerable to lasting damage to their mental health.¹²

In addition to being harmful, solitary confinement is rarely constitutional despite its prevalent use. Long-term solitary confinement violates the Eighth Amendment.¹³ Further, every federal court to consider the question has ruled that placing people with mental illness in such conditions is cruel and unusual punishment in violation of the U.S. Constitution,¹⁴ “and the United States Department of Justice has found that the practice violates both the federal Constitution and federal statutory law.”¹⁵

For all of the harm caused by solitary confinement, and the legal liability it poses, the practice does not reduce facility violence¹⁶ and it is incredibly expensive.¹⁷

The End Solitary Confinement Act will prevent many of these abuses of health and constitutional violations from happening in federal jails, prisons, and detention centers. Under the Act, federal facilities will no longer be able to place vulnerable people in solitary confinement or restrict people to an isolated cell for more than ten hours a day absent an emergency. The bill will also require facilities to provide people with more due process rights before they are segregated from the general population. The Act’s impact will not be limited to federal facilities; it also includes provisions that provide incentives for states to limit, or even end, solitary confinement in their jails and prisons.

NPAP strongly supports the passage of the End Solitary Confinement Act and encourages all elected officials to vote in favor of ending this indefensible abuse in our jails, prisons, and detention centers.

⁵ Kayla James & Elena Vanko, *The Impacts of Solitary Confinement*, VERA Institute (April 2021), <https://www.vera.org/downloads/publications/the-impacts-of-solitary-confinement.pdf>.

⁶ Diana D’Abruzzo, *One Cell: A Lifetime of Pain: Waking to the Truth of Solitary Confinement*, Arnold Ventures (May 19, 2021), <https://www.arnoldventures.org/stories/one-cell-a-lifetime-of-pain-waking-to-the-truth-of-solitary-confinement>.

⁷ *Id.*

⁸ James & Vanko, *supra* note 5, at 8.

⁹ Marney A. White, PhD, MS & Jane Leonard, *What are the effects of solitary confinement on health?*, Medical News Today (Feb. 16, 2023), <https://www.medicalnewstoday.com/articles/solitary-confinement-effects>.

¹⁰ Mariposa McCall, MD, *Health and Solitary Confinement: Issues and Impact*, Psychiatric Times (Mar. 16, 2022), <https://www.psychiatristimes.com/view/health-and-solitary-confinement-issues-and-impact>.

¹¹ *Id.*

¹² James & Vanko, *supra* note 5, at 2.

¹³ See, e.g., *Porter v. Pennsylvania Department of Corrections*, 974 F.3d 431 (3d Cir. 2020); *Porter v. Clarke*, 923 F.3d 348, 364 (4th Cir. 2019); *Walker v. Shanksy*, 28 F.3d 666, 673 (7th Cir. 1994); *Sheley v. Dugger*, 833 F.2d 1420, 1429 (11th Cir. 1987); *Mukmuk v. Comm’r of Dep’t of Corr. Servs.*, 529 F.2d 272, 276 (2d Cir. 1976).

¹⁴ *The Dangerous Overuse of Solitary Confinement in the United States*, ACLU (Aug 2014), https://www.aclu.org/sites/default/files/field_document/stop_solitary_briefing_paper_updated_august_2014.pdf.

¹⁵ *Id.*

¹⁶ James & Vanko, *supra* note 5, at 5.

¹⁷ Keramet Reiter, *The Root of America’s Over-Use of Solitary Confinements in Prison-And How Reform Can Happen*, Scholars (Nov. 2, 2018), <https://scholars.org/brief/root-americas-over-use-solitary-confinements-prison-and-how-reform-can-happen#:~:text=Solitary%20confinement%20is%20not%20only,cost%20of%20public%20university%20tuition>.