

USA

CRUEL ISOLATION

**AMNESTY INTERNATIONAL'S CONCERNS
ABOUT CONDITIONS IN ARIZONA
MAXIMUM SECURITY PRISONS**

**AMNESTY
INTERNATIONAL**



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INTRODUCTION

This report describes Amnesty International's concerns relating to the conditions under which prisoners are confined in the Special Management Units (SMU) of Arizona State Prison Complex (ASPC)-Eyman and other maximum custody facilities operated by the Arizona Department of Corrections (ADOC).

More than 2,900 prisoners are held in Arizona's highest security maximum custody facilities, the majority in the SMUs at ASPC-Eyman. Most are confined alone in windowless cells for 22 to 24 hours a day in conditions of reduced sensory stimulation, with little access to natural light and no work, educational or rehabilitation programs. Prisoners exercise alone in small, enclosed yards and, apart from a minority who have a cell-mate, have no association with other prisoners. Many prisoners spend years in such conditions; some serve out their sentences in solitary confinement before being released directly into the community. While the Arizona authorities classify maximum security inmates as those posing the highest institutional security risk, Amnesty International's findings suggest that some prisoners are confined to the units who do not fit this criteria. The organization is further concerned that many of those confined to the units suffer from mental illness or disability and are held in conditions likely to exacerbate their illness or disability. This report focuses mainly on conditions in the SMUs, but also includes information on other isolation units, including the Lumley Unit Special Management Area at the women's prison at Perryville, and the maximum custody unit at Rincon Minors, a facility for male youths aged 14 to 17 who have been tried and convicted as adults.

Amnesty International recognizes that it may sometimes be necessary to segregate prisoners for disciplinary or security purposes. However, all measures must be consistent with international standards for humane treatment. Article 10 of the International Covenant on Civil and Political Rights, which the USA has ratified, provides that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person", a standard which the United Nations (UN) Human Rights Committee, the treaty monitoring body, has stressed is a "fundamental and universally applicable rule".¹ As described below, Amnesty International considers that conditions in the above facilities fall short of this standard and that the cumulative effects of the conditions, particularly when imposed for a prolonged or indefinite period, constitutes cruel, inhuman or degrading treatment, in violation of international law.

In recognition of the severe effects of such treatment, international human rights treaty bodies and experts have called on states to limit the use of solitary confinement in prisons so that it is imposed only in exceptional circumstances, for a short period of time. In a recent report on this issue, reviewing the practice internationally, the UN Special Rapporteur on Torture defined solitary confinement as the "physical and social isolation of individuals who are confined to their cells for 22 to 24 hours a day".²

In conducting its research, Amnesty International regrets that its request to tour the SMU units at ASPC-Eyman was denied and that ADOC declined to meet with the organization's delegates when they were in Arizona in July 2011. As a human rights organization which has visited prisons around the world, Amnesty International is concerned that the department was unwilling to allow it to view the facilities first-hand or to discuss its policies and practice. While the organization has thus not been able to obtain the views of the department regarding the issues raised, its concerns are based on a range of sources, including prisoners and prisoner advocates, present and former prison staff members and ADOC's written policies and procedures.

Amnesty International is making a number of recommendations urging the department to take action, including:

- reducing the number of prisoners in isolation;
- improving conditions in the SMU and similar units;
- removing prisoners with serious mental illness from SMU or similar units;
- taking measures to reduce the number of suicides in Arizona's prisons, and
- barring children under 18 from being held in solitary confinement.

The organization is also calling on the state legislature and Governor to address these concerns by ensuring that adequate funding is made available to provide the necessary treatment and rehabilitation programs for inmates, most of whom will eventually return to the community. As described below, some jurisdictions have reduced the high cost of "supermaximum" security confinement by reducing the numbers held in such restricted custody, allowing resources for more effective programs without compromising safety or security. Amnesty International also urges the state government to take action to ensure that children and youthful offenders incarcerated in the adult system receive treatment appropriate to their age and developmental needs.

CONDITIONS IN THE SMUS AT ASPC-EYMAN

Most prisoners assigned Maximum Custody status, who have the highest Internal Risk (IR) score of 5, are confined in Arizona's Special Management Units (SMUs) at ASPC-Eyman: SMU1 and Browning Unit (formerly SMU11), two facilities built exclusively for the long-term isolation of prisoners. As of mid March 2012, more than 1,800 prisoners were held in these two facilities, including 124 on death row.³ Amnesty International is concerned that conditions in the SMUs, both in their design and operation, fall below international standards for humane treatment.

CONDITIONS IN THE CELLS

SMU prisoners are confined, most of them alone, for nearly 24 hours a day in sparsely furnished cells which are designed to reduce visual and environmental stimulation. The cells have no windows to the outside and no direct access to sunlight and look out onto a blank interior. The cell doors are made of heavy gauge perforated metal which significantly impedes vision. Sources have told Amnesty International that it is difficult to see the features of the person inside the cell, even when standing close to the door. The only natural light source comes from a skylight in the area beyond the cell tiers, with little natural light filtering into the cells. The lighting in the cells is controlled by guards, and remains on 24 hours day, although reportedly dimmed at night. It is reported that little fresh air enters the SMU cells or housing pods, which become hot and stuffy in summer when temperatures are regularly above 100 degrees Fahrenheit.⁴

The lack of fresh air and natural light are contrary to the United Nations (UN) Standard Minimum Rules for the Treatment of Prisoners (SMR) which state that

"In all places where prisoners are required to live or work, (a) windows shall be large

enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation.” (Article 11)

Although the SMR do not have the binding force of a treaty, they are internationally agreed minimum standards for the living conditions and treatment of prisoners worldwide. The provisions relating to light and air are fundamental quality of life requirements that apply to all prisoners regardless of their custody status.

Standards set out by the American Correctional Association (ACA) also require that “all inmate rooms/cells provide access to natural light” and that “segregation housing units provide living standards that approximate those of the general population”.⁵

Prisoners in SMU are not allowed to work and, apart from a minority who are double-celled, have no association with other inmates; exercise is solitary and all meals are taken inside the cell. Outside visits, including family and legal visits, take place in a non-contact setting. Human contact within SMU is kept to a minimum: cell doors are remotely controlled and guards wear heavy gloves when handling prisoners, who are strip-searched and shackled with wrist and ankle restraints whenever they leave their cells. Amnesty International has been told that medical and mental health staff visiting prisoners at the cell door also wear face masks and protective vests. While this is done to protect staff from the risk of inmates spitting through the perforated holes in the cell door, the organization is concerned that such barriers can serve to dehumanise prisoners and hinder communication.

EXERCISE

SMU inmates are allowed out of their cells no more than three times a week for up to two hours at a time to exercise and shower. The exercise areas attached to each pod are small concrete yards with partially meshed roofs and 20 foot high walls giving no view to the outside, apart from a section of sky. It is reported that only those prisoners exercising at midday get direct sunlight into the yard. There is no equipment, apart from a handball which prisoners may be given at the discretion of the guards. Amnesty International is deeply concerned by the inadequacy of the exercise facilities. Due to their enclosed nature and attachment to the pods, it is only by the broadest definition that these could be described as “outdoor” facilities, as stated in the prison manual.

Amnesty International is also concerned by reports that, in practice, many prisoners receive less than six hours of exercise a week. The organization was told that some prisoners decline to go to the yard, preferring to take time to shower instead, and that yard time is sometimes cancelled altogether due to staff shortages, or if the unit is locked down due to an incident. Disturbingly, a former senior staff member of SMU11/Browning reported that it would be impossible to provide every SMU prisoner with six hours of exercise in the period allowed, and that staff were thus content to allow prisoners the choice of going to the yard or showering. Given the paucity of the exercise facilities, there appears little incentive for prisoners to go to the yard despite the debilitating effects that lack of exercise can cause.

The provision of exercise in SMU falls short of the UN SMR which state that “every prisoner not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits” (Rule 21 (1)). These are minimum standards applying to all prisoners without exception.

The opportunity to exercise is particularly important where prisoners are confined to cells for prolonged periods, given the adverse physical and mental impact of such confinement.⁶ The

lack of adequate exercise provision in Arizona's SMU units is especially disturbing given reports that a significant proportion of the population are youthful offenders aged 18 to 21, where the benefit of regular and structured exercise is well recognized. The SMR state specifically that "Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end, space, installations and equipment should be provided" (Rule 21 (2)).

FOOD AND HYGIENE

In addition to the above concerns, conditions in some of the SMU housing pods (units) are reported to have become increasingly unsanitary in recent years, with food, urine and faeces stuck onto walls. Prisoners have alleged that they are not provided with adequate cleaning materials for their cells. It is alleged that steam-cleaning is no longer regularly done and that there are many isolated cases of staph infection in the units.⁷ Amnesty International is concerned at the health risks to inmates of these conditions, including health concerns about inmates having to eat meals in their cells, given the enclosed cellular environment, the close proximity of the toilet and sink and reports that food ports are covered with dirt, grease and blood.

There have also been serious complaints that prisoners in SMU do not always get enough to eat. One prisoner with mental health problems, who had repeatedly cut himself while in SMU, told Amnesty International that guards were hostile towards him and often served him deliberately small portions of food, or food portions were missing from his plate. The organization is deeply concerned by claims in a recent class action lawsuit that ADOC "have a policy and practice of denying prisoners in isolation adequate nutrition" which, the lawsuit states, "Defendants justify on the basis that, because these prisoners receive virtually no exercise, they burn fewer calories and therefore need less food".⁸ According to the lawsuit, a number of prisoners in isolation receive only two meals a day and some had lost significant weight as a result.

Amnesty International urges the authorities to address all the concerns raised above and ensure that prisoners have adequate out of cell time, exercise and food and that they are not subjected to health risks through lack of attention to hygiene.

IN-CELL ACTIVITIES AND PROGRAMMING

According to ADOC policies, prisoners in Maximum custody have access to a limited number of books and magazines and may purchase regulation TVs, radios and basic stationary items; those who are discipline-free for six months are allowed to make paper origami models in their cells. The latter is reportedly the only hobby-craft available to SMU inmates and is denied to prisoners on death row. While these items may mitigate some of the effects of isolation, they cannot compensate for the harsh conditions of near 24 hour cellular confinement and lack of human interaction. It has also been reported that some prisoners cannot afford to purchase TVs or radios, and many are illiterate or have only very limited educational skills; these prisoners have nothing to occupy them and spend most of their time completely idle, sleeping or pacing their cells.

Unlike some other US jurisdictions, it appears that no in-cell programming is systematically provided to SMU inmates. Amnesty International has been told that CCTV is available to those who have access to TVs, which contains some religious and other programs, which SMU prisoners may access but that these are not structured programs for SMU inmates.

ADOC regulations provide that Maximum custody and death sentenced prisoners are not

eligible for enrolment in any education or training program, except inmates who are identified as requiring Special Education Services under the Individuals with Disabilities Education Act (IDEA) – a federal law which entitles youths with disabilities who are under 22 to receive special education. The ADOC manual for educational services states that all inmates who do not have a high school diploma may qualify for this service, based on the observations of institutional teaching staff (Department Order 910 1.3). Amnesty International was unable to obtain figures to date, but was told that very few young prisoners in SMU are provided with special education, and that there is only space for six prisoners at a time to use the individual cells situated in the prison library for this purpose. Maximum custody prisoners are also reportedly not allowed to enrol in correspondence courses; although some prisoners who can afford to order books may engage in self-study, they have little or no support. The organization sought further information and clarification from ADOC about whether prisoners in SMU and other Maximum Custody facilities are able to enrol in General Educational Development (GED) classes under the department's literacy program, but had not received a response at the time of writing.

Amnesty International is concerned by the lack of educational or rehabilitation programmes in SMU, particularly in view of the fact that prisoners may spend years in the SMU, some for persistent behavioural problems.⁹ Apart from a small step-down program for former Security Threat Group (STG) members, there is no level system in SMU where prisoners can earn their way into a progressively less restrictive environment through their behaviour; Amnesty International was told that most prisoners are kept in same harsh conditions from day one until the day they are released from the unit.

Maximum custody inmates have their status reviewed at six-monthly or annual intervals where decisions are taken on whether to retain them in SMU or move them to a lower custody level. While final approvals for removal from maximum custody are made at ADOC Central Office, prison staff, including the “warden or designee”, have a key role in making the recommendations for any change in status.¹⁰ In the absence of programs or opportunities for prisoners to engage with others, even in small groups, the organization is concerned that custody officials have few effective or objective means of measuring behaviour to assess whether an inmate can be transferred out of SMU. It has been told that (apart from requiring gang members to “debrief”, referred to below) there are no clear criteria for what most prisoners can do to move to a lower custody setting.

Failure to provide adequate educational or other programs to SMU prisoners is also contrary to the USA's obligation under the International Covenant on Civil and Political Rights (ICCPR) which states that rehabilitation should be an essential aim of any penitentiary system (Article 10(3)).¹¹ In its General Comment on Article 10, the Human Rights Committee (the treaty monitoring body) observes that “No penitentiary system should be only retributory; it should essentially seek the reformation and social rehabilitation of the prisoner”.¹² Other relevant standards also emphasise that prisoners should be given access to social, educational and other programs to prepare individuals for their eventual return to society.¹³

Prisoner advocates expressed concern to Amnesty International's delegates about the lack of pre-release programmes for inmates who complete their sentence while in the SMU. According to figures provided by former ADOC Director Dora Schriro, 750 prisoners were released directly from the SMU to the street in fiscal year 2007.¹⁴

Studies have shown that prolonged isolation and lack of external stimuli can have severe negative psychological and physical effects, including depression, anxiety, cognitive impairment and social withdrawal, some of which may continue long after release from

isolation. Such conditions can make it particularly difficult for individuals to reintegrate into the wider society on their release from prison. Given that the ADOC has identified SMU prisoners as being at the highest risk to the public and staff, Amnesty International sees no justified purpose in confining them in such a highly restricted environment until their release without providing rehabilitation programs and step-down opportunities.

A designated staff member is supposed to provide prisoners with assistance in finding housing and a job some six months before release but reportedly this is often not done due to lack of resources. During its visit to Arizona in July 2011, Amnesty International's delegates were informed that the psychologist at SMU1/Browning was also the release planner but that this was no longer a full-time position so there were fewer resources for this: in practice prisoners were being taken from near 24 hour cellular confinement to be released into the community with \$50 and an ID card.

CRITERIA FOR PLACEMENT IN SMU/MAXIMUM CUSTODY

Maximum custody prisoners are defined by ADOC as inmates who represent the highest risk to the public and staff. The criteria for placement includes physically or sexually assaultive behaviour resulting in, or attempting to cause, serious physical injury or death; incitement to riot; major contraband offences; weapons offences; escape attempts.¹⁵ Another criteria is that the inmate "through repetitive and/or seriously disruptive behaviour has demonstrated a chronic inability to function in a lower custody level as evidenced by repeated major rule violations".¹⁶

While it is reported that the majority of individuals in SMU units have entered prison on conviction of serious crimes, not everyone is placed in SMU based on their behaviour in custody. Some inmates are assigned to SMU based solely on their committal offence; these include prisoners sentenced to life imprisonment who on committal to prison are automatically sent to SMU or Florence Central Unit (another Maximum custody facility) where Amnesty International has been told they will usually spend a minimum of two years.

Given that the public is already protected from offenders incarcerated in a closed prison environment, there appears to be no valid reason for assigning all life sentenced prisoners to prolonged isolation in SMU conditions without regard to their individual institutional behaviour. This is contrary to international standards which provide that prison systems should not impose hardships beyond those inherent in the deprivation of liberty.¹⁷ Prisoners sentenced to death are also assigned automatically to SMU/Browning and have no way of alleviating their harsh conditions through their behaviour, even though they may remain on death row for many years while undergoing appeals. While prisoners sentenced to death have been convicted of serious crimes, they have been found generally not to present particular behavioural problems in prison; some will eventually return to the general population after appeals.

According to ADOC statistics, 35 per cent of the Maximum custody population have committal sentences for non-violent crimes such as drugs offences, theft and burglary. This does not mean that they may not have gone on to commit serious crimes inside prison. However, sources have reported that prisoners may be assigned to SMU for accumulated, relatively minor, rule violations or persistent disruptive but non-violent behaviour, often because they have mental health or behavioural problems.¹⁸ Assignment to SMU in such cases may be done on an "administrative override", in which prisoners who have a custody score below 5 can have their classification upgraded. Amnesty International is concerned that prisoners who do not present a serious threat are held in isolation and that inmates with

mental health problems may be confined in SMU and effectively punished for behaviour they are unable to control, in conditions that could have a further negative impact on their health.

Prisoners may be also assigned to SMU on the basis of being validated as a Security Threat Group (STG) member: Amnesty International's delegates were told that there were around 260 validated STG members in SMU at the time of our visit to Arizona in July 2011, with others held in SMU while being investigated. Validated STG members are individuals who have been identified as members of a prison gang which is "actively involved in violent or disruptive behaviour".¹⁹ Suspected STG members are validated according to a 10-point system, which can include evidence of names of associates as well as activities, and an administrative hearing is held before a prisoner is validated. The organization is not in a position to assess the fairness of the validation process. However, it is alleged that the system allows staff considerable discretion in when to initiate the validation process and that not all STG members in SMU are gang leaders or individuals who have engaged in major gang-related activities. Amnesty International has been told that many validated gang members have an internal risk score below 5 but are upgraded to Maximum custody under an "administrative override".

Once validated, STG members must remain in SMU unless they debrief²⁰ or are eligible for a step-down unit which reportedly has recently been upgraded to accommodate 30 prisoners (up from 10) who must complete a two-year program. According to ADOC policy, those eligible to be considered for the step-down program must have a minimum of two years of gang-free activity. While this is a reduction from four years (which was described by one prison source as being too harsh), the organization is concerned that relatively few prisoners can be accommodated in the program and that two years is still a long minimum time to spend in the harsh conditions described above. Some inmates refuse to debrief because they do not want to "snitch" on (inform on) other inmates or because they fear retaliation. There are reportedly no tools available for these prisoners to reduce their custody level, and they will thus serve their whole sentence – which could be a life sentence - in SMU regardless of their behaviour or whether they are a continuing risk. Those who debrief (a process Amnesty International is told lasts a minimum of 18 months) are assigned to the protective custody section of SMU where they may be double celled but are otherwise held in the same restrictive conditions as before, unless they are sent to a close-custody facility.²¹

Amnesty International recognizes the danger and disruption that can be caused by prison gangs or others whose behaviour poses a threat to the security or order of the institution. However, all prisoners without exception are entitled to humane conditions of confinement. The organization believes that holding any individual in long-term isolation absent a severe, continuing threat that cannot be contained by alternative means, is disproportionately harsh. International and regional human rights organizations and experts have called on states to limit the use of solitary confinement and impose it only in exceptional circumstances, for as short a time as possible.²² The American Bar Association (ABA) in its standards on the treatment of prisoners²³ has stated that segregation for more than one year should be imposed only if the prisoner poses a "continuing, serious threat" (23-2.7), and that all prisoners in segregated housing should be provided with "meaningful forms of mental, physical and social stimulation", including, where possible, more out-of-cell time and opportunities to exercise in the presence of other prisoners (23-3.8). The ABA standards also state that segregation in "protective custody" should take place "in the least restrictive setting possible (23-5.5).

More than 2,900 prisoners were reported to be housed in Maximum custody facilities in Arizona as of March 2012. These figures include SMU and other facilities, such as Florence Central Unit and Lumley Unit, the women's Special Management unit, where prisoners are

confined in similar conditions (but they do not include shorter term disciplinary detention units within the prison system). This represents more than seven per cent of the Arizona prison population of 40,000: a higher proportion of prisoners housed in “super-maximum” security than in many other states, and considerably higher than the federal prison system which is the largest in the USA.²⁴

A number of states have reduced their super-maximum security populations, or closed down long-term isolation units altogether, following court orders to improve conditions and criteria for placement, or in order to reduce the high cost of such confinement. Such measures have been taken without compromising safety or security. They include Mississippi where in 2007 the corrections department tightened its criteria for assigning prisoners to its long-term isolation facility, leading to an 80% reduction of prisoners held in solitary confinement. The facility (Unit 32 at the Mississippi State Penitentiary at Parchman) was converted in stages to provide group recreational activities and congregate dining and educational classes for prisoners who were formerly confined to cells for 23 hours a day, allowing their eventual reintegration into general population facilities; gang leaders who remained in segregation were also given opportunities to interact so that their behaviour could be assessed. The changes led to significant improvements in prisoner behaviour and reduction in violence and the use of force; in 2010 the unit was closed altogether, reportedly saving the state more than \$5m.²⁵ In 2011 Maine, whose SMU housed many prisoners who repeatedly cut themselves and had chronic behavioural or mental health problems, reduced the numbers in isolation by about 60% without compromising security. Other states, including Colorado and Illinois, are also working to reduce the numbers in solitary confinement.

Amnesty International urges the Arizona authorities to take measures to reduce the number of prisoners held in SMU by narrowing the criteria so that only inmates who pose a severe, continuing threat that cannot be contained through less restrictive measures are held in isolation. Prisoners in SMU and similar facilities should be afforded a clear route out of segregation by incentive programs. Resources should be focused on providing effective treatment and rehabilitation programs rather than measures designed solely for incapacitation and security purposes.

MENTAL HEALTH CONCERNS

There is a significant body of evidence, both in the USA and elsewhere, that isolation in conditions of reduced environmental stimulation, even for relatively short periods of time, can cause serious psychological harm, including anxiety and depression, perceptual distortions and psychosis.²⁶ As US courts have recognized, such conditions can have negative effects on individuals with no pre-existing illness and can be particularly harmful in the case of those who already suffer from mental illness. A growing number of US states have moved to exclude the seriously mentally ill from being held in maximum security isolation units, as a result of litigation or through policy or legislative changes.²⁷

Amnesty International is concerned that ADOC has no formal policy to exclude the seriously mentally ill from SMU. It understands that an informal policy initiated by the previous administration of removing Maximum custody prisoners with the highest mental health score of MH5 (inmates who are psychotic with an acute need for intensive treatment) to a secure prison psychiatric unit in Phoenix has continued to some extent. However, the organization has been told that mentally ill prisoners remain in SMU and that serious mental illness is often undiagnosed due to a lack of adequate screening and monitoring and a severe shortage of mental health staff, including clinicians. As of October 2011, there was reportedly no psychiatrist on the staff of the entire Eyman complex of some 5,000 inmates, something of

particular concern given the number of prisoners classed as needing mental health treatment. Amnesty International is not in a position to assess in detail the provision of mental health care within the Arizona prison system. However the following concerns were raised with the organization during its visit to Arizona in July 2011.

While all inmates are screened at Intake after first arriving in prison, and are given a mental health score ranging from 1-5, the initial assessments by a psychological associate are not always adequate to identify all an inmate's health needs. When individuals are transferred to their allocated institution, there is a file review to see what medication or treatment is prescribed. However, the organization was told there is no additional mandatory mental health screening before prisoners are transferred to SMU, unless they have already been identified as at risk.

According to ADOC statistics, as of March 2011, 387 inmates (36%) at SMU1 were receiving mental health treatment and 43 (3.9%) were designated as seriously mentally ill; 194 inmates (24%) in SMU11/Browning were receiving mental health treatment, with 27 (3.3%) categorised as seriously mentally ill.²⁸ Amnesty International finds these figures in themselves to be deeply disturbing given the evidence of psychological harm that such a harsh and isolated environment can engender in individuals who are mentally ill, or at risk of mental illness.

The organization is further concerned that these figures may under-represent the number of seriously mentally ill being held at SMU. It appears that most of the inmates listed as receiving mental health treatment in SMU have a mental health score of MH3, which in practice means they are considered "stabilised" on psychotropic medication and receive very little other treatment.²⁹ However, the organization has been told by several sources, including a source close to the prison's mental health service, that there is serious under-reporting of mental illness in SMU, with particular concern about under-diagnosis of prisoners within the Serious Mental Illness (SMI) range of MH4. It was alleged that there are many prisoners in SMU who have a "high need" for mental health services (MH4) but have been given a lower score of MH3 and are thus not receiving the specialised treatment they require. Amnesty International was also told that MH5 prisoners treated at Phoenix may be placed in SMU once they have been "stabilised" and may move between the two units during their incarceration; some are reportedly held in SMU because of a lack of space in the mental health unit.

It was reported that mental health staff do not have designated weekly rounds at SMU, but rely on referrals by custody staff or "triggers" such as an individual going into crisis. This is of concern as custody officers are not fully trained to recognize symptoms of mental illness before a crisis occurs and prisoners may be reluctant or unable to self-refer. Amnesty International was told that disturbed behaviour resulting from mental or behavioural disabilities was often not seen as a symptom of illness but as disruptive or manipulative behaviour warranting disciplinary action rather than treatment.³⁰

A prison mental health source reported that file reviews in 2011 had shown that SMU inmates who were MH3 or above had not been seen by mental health professionals within a timely period; some prisoners in the moderate to serious mental illness range had waited more than a year to see the psychologist with an average wait, in the cases reviewed, of six to eight months.³¹ There is reportedly no monitoring of SMU inmates with a MH score of 1-2 who are only seen by mental health staff if a specific request is made, even though prisoners with a MH score of 2 have some history of mental illness.

Amnesty International is further concerned by reports that mental health consultations in

SMU usually take place at the cell front, not in a designated room. This is not a suitable environment for consultations or therapy, as there is no confidentiality and prisoners may be reluctant to speak of their problems in hearing range of other inmates. As noted above, health professionals conducting consultations reportedly wear face masks and protective vests, presenting a further barrier to communication. Earlier this year, the organization received a letter from a prisoner in SMU who was classified as SMI and had engaged in frequent acts of self-mutilation; he had been in SMU since 2009 and claimed that he had never received private counselling with a psychologist and was only seen at the cell front where he did not feel able to discuss his problems.

The ADC has established a Behavioural Management Unit (BMU) in SMU11/Browning for inmates who are seriously disturbed and engage in chronic acts of self-harm. The unit reportedly has space for some 20 inmates. According to the ADC mental health manual, each inmate in BMU has an initial face to face interview with mental health staff and is provided with an individualized behavioural plan which is reviewed quarterly.³² However, concern was expressed that no meaningful therapy or structured activities were provided and that the unit was little more than a “holding pen” for highly disturbed inmates who were monitored by security staff. Inmates in BMU are reportedly held in the same conditions as other SMU inmates and the organization was told that the only behavioural incentives were “negative reinforcement” such as having commissary items withheld for failure to improve behaviour. Communication between BMU prisoners and mental health staff was said to be particularly difficult due to a shield being placed against the front of the cells to protect staff from inmates throwing waste matter or spitting, in addition to the face masks and vests worn by health staff.

In light of these allegations, Amnesty International is seeking more information about the present operating procedures of the BMU, including what therapies are provided and in what settings, and information on how many inmates have undergone the program and how this is evaluated.

Amnesty International's concerns are heightened given the class action lawsuit filed earlier this month, which describes severe failings in the provision of basic medical and mental health care in Arizona's prisons.³³ The lawsuit claims, among other things, that prisoners in isolation do not receive regular contact with psychiatrists or mental health clinicians or the limited group therapy sometimes provided to prisoners elsewhere in the system. One prisoner diagnosed with SMI spent two years in SMU without once seeing a psychiatrist despite his repeated requests and referrals by staff. When consultations do take place they usually last only a few minutes at the cell door. The lawsuit also describes how prisoners on antipsychotic medication known to have severe side effects are not monitored, and raises concern about the practice of low level staff making treatment decisions without inmates being examined by clinicians. The substandard care is said to be responsible for a high number of suicides (see below).

During its visit to Arizona, Amnesty International was also told that prisoners in isolation experienced delays and deficiencies in access to medical care, with prisoners waiting weeks or months to see a doctor. A consultation room in one SMU unit was reportedly no longer used due to shortage of health staff; also the security procedures, in which prisoners in SMU had to be strip-searched, shackled and escorted by two guards whenever they left their cells, were time and staff-intensive meaning that prisoners were often not taken to the prison's medical centre; instead, many consultations were done by phone.

The above-mentioned lawsuit included detailed accounts of prisoners being denied adequate

medical or dental care, with unqualified staff carrying out medical procedures or making decisions on when to refer inmates to the doctor or nursing staff.

STANDARDS ON HEALTH CARE AND MONITORING PRISONERS IN SEGREGATION

International and US professional standards provide that all prisoners should have access to care to meet their serious medical or mental health needs, and that prisoners who are mentally ill should be treated in appropriate mental health facilities. In recognition of the serious psychological harm that isolation can have on people with mental illness or disabilities US courts have increasingly found that housing prisoners with SMI in high security isolation units is cruel and unusual punishment in violation of the Eighth Amendment. International treaty bodies and human rights experts have called for a complete ban on housing people with mental disabilities in solitary confinement, finding such conditions to constitute cruel, inhuman or degrading treatment and contrary to the goals of rehabilitation.

International standards, and those set by US professional organizations, also recognize that all prisoners in isolation require careful monitoring due to the health risks of such confinement. The UN SMR require daily monitoring of prisoners placed in “close confinement” (isolated cellular confinement) as punishment, as with any other punishment that “may be prejudicial to the physical or mental health of the prisoner” (Rule 32). The (US) National Commission for Correctional Health Care (NCCHC) has observed that conditions in super-maximum security isolation facilities “Even for the most stable individuals ... may precipitate mental health or health difficulties” and that “daily contact by medical staff and at least weekly contact with mental health staff is required”, noting that “Health monitoring contacts must be meaningful and allow sufficient interaction for such assessments to take place”.³⁴ The NCCHC standards (designated “essential”) require prisoners held in “extreme isolation” to be monitored daily by health staff and at least weekly by mental health staff; segregated inmates with “limited contact with staff or other inmates” require monitoring by health or mental health staff three days a week; and inmates who are separated from the general population but have social contact among themselves require weekly checks by health or mental health staff (NCCHC Standard P-E-09).

ASPC-Eyman is the only state prison in Arizona which is not NCCHC accredited and is thus not bound by the above-cited standards. This is of concern, given that ASPC-Eyman houses the state's largest segregated population. As well as ensuring treatment for the mentally ill in an appropriate setting, Amnesty International urges the institution to apply the NCCHC standards on monitoring inmates in isolation.

SUICIDES

The severe negative psychological consequences of isolation are reflected in studies and data from various jurisdictions³⁵ indicating that suicides occur more frequently in segregation units than in the prison population at large. At least 43 suicides are listed as having taken place in Arizona's adult prisons in the five and a half years from October 2005 to April 2011, with several more cases to June 2011 still under investigation.³⁶ Of 37 cases where Amnesty International obtained information on the units where the suicides took place, 22 (60%) took place in Maximum custody isolation facilities: SMU1/11 (14 suicides); Florence Central Unit (4); and Lumley Unit (4), which is the special management unit of the women's prison at Perryville. SMU1/11, which houses 4% of the total state prison population, accounted for more than a third of the 37 suicides. The proportion of suicides in high security isolation units could be higher as most of the remaining six cases also occurred in the same three prison complexes.

Reports on cases seen by Amnesty International indicate that several prisoners who committed suicide in isolation units had histories of mental health problems and some reports also indicate the rage and anxiety issues experienced by prisoners in isolation. One prisoner had reportedly completed a seven-day mental health treatment program, after which he was returned to isolation in SMU where he hanged himself the following day. Another prisoner found hanged in his cell in SMU11 had been on suicide watch several times; the ADOC investigative report notes that a handwritten notebook found in his cell “seems to depict a person in turmoil within himself over rage issues.”, and notes the last entry in the book, made on the day of his death, in which “he describes his attempts to control his rage”.³⁷

The organization is concerned by the disproportionately high rate of suicides in Arizona's maximum custody isolation units, suggesting that the conditions and lack of adequate mental health care may have pushed already vulnerable individuals over the edge. Suicides have reportedly increased in Arizona's prisons in recent years. The 10 suicides recorded in FY 2010 and 13 in FY 2011 were reportedly the highest seen for a number of years, and significantly above the national average.³⁸ Concern has been expressed that the rise is due to a failure of the screening process, cuts to the prison health budget, the shortage of mental health staff and cuts in treatment programs. The class action lawsuit cited above expresses concern about failure by the department to adequately treat or monitor prisoners who are a suicide risk and about conditions in the state's suicide watch cells. The lawsuit claims that prisoners have been held for long periods in isolation in suicide watch cells with no treatment; the cells are reported to be cold and often filthy, with prisoners deprived of clothing and bedding. The lawsuit also claims that prisoners on suicide watch are subjected to “gratuitously harsh, degrading and damaging conditions of confinement”, including being deprived of adequate food, sleep and denied the opportunity to leave their cells to brush their teeth or take showers.³⁹ A prisoner who had been on suicide watch in SMU wrote to Amnesty International in March 2012 claiming that prisoners in the suicide watch cells were held without mattresses to sleep on, and that guards often used pepper spray “excessively” on inmates under suicide watch. Similar claims regarding misuse of pepper spray have also been made with regard to women under suicide watch at Lumley Unit (see below).

Amnesty International urges ADOC as well as the state legislature to take immediate action to ensure that prisoners who are a suicide risk are held in humane conditions and provided with appropriate treatment. Effective steps should be taken to reduce the number of suicides in Arizona's prisons by providing humane conditions for all prisoners and effective treatment for prisoners who are at risk of mental illness or depression. There should be adequate training programs for custody and mental health staff aimed at reducing suicides and monitoring inmates at risk.

OTHER MAXIMUM CUSTODY FACILITIES

The Arizona State Prison Complex (ASPC) at Florence also houses Maximum custody inmates. According to ADOC's daily count sheet, 1052 Maximum custody prisoners were held in the prison's Central Unit on 16 March 2012. Most Maximum custody prisoners are reportedly held in similar conditions to those in SMU: confined to cells for nearly 24 hours a day, with up to six hours weekly exercise and no group activities, work, educational or rehabilitation programs. A staff source has told Amnesty International that Maximum custody IR level five inmates are held in Central Unit cell blocks 5 and 7, a large unit which he described as the most isolated he has seen in the system; prisoners are reportedly confined to single cells with solid doors, preventing any communication with the person in an adjacent

cell. All the cells, which have small windows in the doors, face a blank wall. Amnesty International is concerned about the impact of the conditions in this unit, as well as in SMU; as noted above, a number of suicides are reported to have taken place in Central Unit.

According to ADOC's website, there were 110 women assigned Maximum custody status and held in Lumley Special Management Area (SMA) in the women's prison at ASPC-Perryville. Women in Lumley SMA are reportedly confined in similar conditions to the male Max custody population: held in single or double cells for at least 22 hours a day, with no work or educational programs. Amnesty International was told by prison advocacy sources that it is not uncommon for women in the SMA at Lumley to be locked down in single-cells for one or two years; one woman has reportedly spent over 15 years in the unit. The class action lawsuit cited above describes several cases of mentally ill prisoners in SMA suffering inhumane conditions of isolation and a lack of therapeutic treatment. As noted above, a number of suicides have taken place in Lumley Unit. The lawsuit raises particular concern about the cruel conditions in "suicide watch" cells in the unit: one woman had allegedly been left in a bare cell with the light on 24 hours and was subjected to sleep deprivation and repeatedly pepper-sprayed by staff despite suffering from asthma. The lawsuit expresses concern about "ongoing use of pepper spray by correctional staff on the women housed in the SMU and on suicide watch".⁴⁰

INCARCERATED CHILDREN

Males aged 14 to 17, tried and convicted as adults and incarcerated in the state prison system, are held at Rincon Minor's Unit in ASPC-Tuscon. According to the ADOC website, 74 juveniles were assigned to the unit on 16 March 2012, of whom 14 were classified as Maximum custody. According to Amnesty International's information, children held in the Maximum custody section of the unit are confined for 22-24 hours a day to single cells which have solid metal doors with narrow windows and a slot for passing food; they have no group association or recreational activities and exercise alone in small cages with no equipment. Although the organization understands that minors in Maximum custody have access by state law to some GED programming, materials are provided to them inside their cells rather than in a classroom setting. Amnesty International has been told that visitors are made to wear masks and protective vests when walking through the corridor where the juvenile segregation cells are situated.

The organization has also been informed that children are assigned Maximum custody status for disciplinary or behavioural reasons or because they are serving a life sentence and are thus automatically assigned Maximum custody status for at least the first two years of their imprisonment.⁴¹ The same rules apply in this respect as in the adult system. Amnesty International is concerned that, unlike in some other states, there is no provision for juveniles aged 18 or over who are tried and convicted as adults to remain in youth custody facilities until they are 21. Individuals who turn 18 while in Rincon Minors are removed from the facility at midnight on their 18th birthday and taken to an adult prison to serve out their sentence: if in maximum custody, this could mean that they are taken straight to SMU or another adult isolation facility.

The imposition of solitary confinement, including confinement to enclosed, single cells as described above, can be particularly damaging in the case of children and adolescents, who are not yet fully developed physically and emotionally and are less equipped to tolerate the effects of isolation. This is recognized under international standards which prohibit the use of "closed or solitary confinement" as a disciplinary measure for juveniles deprived of liberty.⁴² Human rights experts and treaty bodies have consistently recommended that children under 18 should not be subjected to solitary confinement on the ground that this

constitutes cruel, inhuman or degrading treatment or punishment. In his report in 2011, noting that “given their physical and mental immaturity, juveniles need special safeguards and care”, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment said that “the imposition of solitary confinement, of any duration, on juveniles is cruel, inhuman and degrading treatment and violates article 7 of the International Covenant on Civil and Political Rights and article 16 of the Convention against Torture”.⁴³

Such conditions are also incompatible with international standards emphasizing that in all actions concerning children, a primary consideration should be the child's best interests, and that rehabilitation should be a primary objective of the criminal justice system when dealing with youthful offenders.

Amnesty International notes that the lowest custody level for children convicted as adults and incarcerated in Arizona prisons is “close custody”. This applies to males under 18 held in Rincon Minors and girls held in the minors unit of the women's prison at ASPC-Perryville. Three girls were held in Perryville minor's unit in January 2012. Amnesty International understands that prisoners in close custody are confined to their cells for much of the day, although they usually have a cell mate and access to some group activities and educational programs.

Amnesty International urges that no one under 18 years old be held in solitary confinement or Maximum custody isolated confinement and that all youthful offenders receive treatment appropriate to their age and developmental needs and with the primary goal of rehabilitation. Amnesty International believes that the Arizona authorities and legislature should consider expanding minors' units to accommodate youthful offenders over the age of 18. All children and youthful offenders should have as much out-of-cell time as possible.

OVERVIEW OF US OBLIGATIONS UNDER INTERNATIONAL STANDARDS

In raising the above concerns, Amnesty International does not seek to minimize the challenges faced by prison personnel when called upon to deal with disruptive, dangerous or disturbed individuals. However, all security and disciplinary measures must be consistent with states' obligation under international law to treat all prisoners humanely.

Amnesty International considers that the conditions in SMU and other Maximum custody isolation facilities – including confinement to enclosed or windowless cells, lack of access to natural light and fresh air, lack of exercise, lack of educational and rehabilitation programs, and social isolation – are contrary to international standards for humane treatment; the cumulative effects of such conditions, particularly when imposed for a prolonged or indefinite period, constitute cruel, inhuman or degrading treatment or punishment in violation of international law.

The USA has ratified the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture, both of which prohibit torture or other cruel, inhuman or degrading treatment or punishment. Article 10 of the ICCPR further requires that “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”. The UN Human Rights Committee, the ICCPR treaty monitoring body, has further emphasized that the absolute prohibition of torture or cruel, inhuman or degrading treatment under international law “... relates not only to acts that cause physical pain but also to acts that cause mental suffering ...” and that prolonged

solitary confinement may amount to torture or other ill-treatment.⁴⁴ Both the Human Rights Committee and the UN Committee against Torture (the monitoring body of the Convention against Torture) have criticized the excessively harsh conditions of isolation in several US high security facilities as incompatible with humane treatment.

As noted above, the UN Special Rapporteur on Torture, reviewing the findings of UN treaty bodies, regional human rights organizations and other human rights experts, as well as studies on the severe negative psychological and physical effects of solitary confinement, has called on states to limit their use of solitary confinement, applying it “only in exceptional circumstances and for the shortest possible period of time”. He has also called for the absolute prohibition of solitary confinement in the case of children under 18 and persons with mental disabilities, on the ground that its imposition in such cases, for any duration, is cruel, inhuman or degrading treatment.

AMNESTY INTERNATIONAL'S RECOMMENDATIONS

Amnesty International recommends that the Arizona authorities

- Reduce the number of prisoners in isolation under SMU or similar maximum custody conditions to ensure that only prisoners who are a serious and continuing threat are held in maximum custody isolation facilities.
- Provide a route out of segregation through incentive or step-down programs so that prisoners are not held long-term or indefinitely in isolation.
- Improve conditions for prisoners in SMU or other maximum custody facilities so that they are not confined in windowless cells or denied access to natural light; have more out of cell time and better exercise facilities with appropriate equipment.
- Provide meaningful programs, including education and rehabilitation programs, for all prisoners in SMU and maximum custody confinement.
- Introduce measures that allow some group interaction and association for prisoners at all stages of SMU or other maximum custody confinement, both to benefit their mental health and wellbeing and to provide incentives and allow their behaviour to be measured. Prisoners under sentence of death should be included in such measures.
- Remove all prisoners who are SMI or at risk of SMI from SMU or other isolated confinement and introduce a policy to prohibit such persons from being confined to SMU or under similar conditions.
- Ensure that all prisoners receive adequate medical and mental health care.
- Improve systems for monitoring prisoners' mental health while in segregated confinement and provide structured therapeutic programs in group settings as well as private consultations.
- Take action to reduce the number of suicides in Arizona's prisons. Such measures should include increased training; adequate therapeutic treatment of prisoners who are a suicide risk, and humane conditions in suicide watch cells.

- Introduce a policy to prohibit solitary confinement in the case of prisoners under 18 and ensure that all youthful offenders are provided with appropriate educational, recreational and rehabilitation programs as required under international standards.
- Investigate allegations regarding the abusive use of pepper spray in special management units, including SMA Lumley, and ensure that all force is employed only when strictly necessary and in a manner designed to minimize damage or injury, in accordance with international standards.

¹ Human Rights Committee General Comment 21 on Article 10 (concerning humane treatment of persons deprived of liberty).

² Interim Report by the Special Rapporteur on Torture Juan Méndez, 5 August 2011, United Nations General Assembly A/66/268, <http://solitaryconfinement.org/uploads/SpecRapTortureAug2011.pdf>

³ ADC Institutional Committed Population statistics, 16 March 2012

⁴ Amnesty International was told that the staff and control areas are air-conditioned but that the cells are cooled by an evaporator system (“swamp coolers”) which is only partially effective and did not resolve the problem of poor air circulation and cooling in the summer.

⁵ Standards for Adult Correctional Facilities, 4th Edition (4-4147-148, 4-4140). The ACA standards appear to allow for a natural light source within 20 feet of a cell rather than directly into the cell itself. As Amnesty International has noted elsewhere, this standard may have been acceptable for old-style facilities with open barred cells but is not an adequate standard for modern, closed-cell units where little light enters the cells.

⁶ Amnesty International has received reports and individual testimony about the damaging physical effects on prisoners of prolonged confinement to an enclosed space, including impaired eyesight, weight loss, muscle damage, joint problems, memory impairment and stress related conditions such as hypertension, as well as psychological effects which have been well documented in studies and court testimony.

⁷ Caused by bacteria *S. aureus*, which can lead to a range of infections, including skin infections, food poisoning and blood infections, some of which can be life-threatening.

⁸ *Gamez v. Ryan et al – Final Complaint*, No. CV-10-2-70-PHX-JWS (MEA), March 2012, a federal class action lawsuit filed by the ACLU Foundation of Arizona and the Prison Law Office, together with the Arizona Center for Disability Law and law firms Perkins Coie LLP and Jones Day

⁹ *Buried Alive*, 2007, a report by the American Friends Service Committee (AFSC)–Arizona, noted that, of 68 prisoners from whom AFSC received testimony, the average time spent in solitary confinement at SMU was just over five years. During its visit to Arizona in 2011 Amnesty International was told of one prisoner who had spent 10 years in SMU. In early February 2012, Amnesty International sought information from ADOC on the average length of time inmates had spent in SMU and on how many had spent five or more years in the unit, but no information had been provided as of 1 April 2012.

¹⁰ Department Order 801, October 2010, 1.4.1-1.4.4

¹¹ The USA ratified the International Covenant on Civil and Political Rights in 1992

¹² Human Rights Committee General Comment 21, 1992

¹³ SMR 66(1), 77, 78, 80.

¹⁴ Information provided to Amnesty International by AFSC, July 2011.

¹⁵ Inmate Classification, Department Order 801.11.

¹⁶ *Ibid*, 1.1.12

¹⁷ For example, “Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. Therefore the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation” (Article 57 of the UN SMR).

¹⁸ Amnesty International was told by an advocacy organization that had worked on prison issues for many years that a violation for three, even minor, rules within a 90-day period can result in a major write-up which could lead to a prisoner being sent to the SMU. The organization viewed the record in one case that showed a prisoner had his custody level raised from level 3 to level 5, resulting in SMU assignment, for offences which included throwing liquid on another inmate (causing no injury), feigning a seizure and refusing to come to the cell door to be restrained.

¹⁹ Department Order 801.11, 1.1.8.

²⁰ This is a process in which the individual renounces his or her gang membership; the process commonly involves a requirement to provide information on gang activities and other members.

²¹ Arizona prisoners in close custody, who are often double-celled, are reportedly allowed out of their cells for four to five hours a day, have contact visits, communal dining and work opportunities.

²² This was reiterated by the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment in his report to the UN General Assembly in October 2011 (*supra* at note 2), which referred to the consistent recommendations of international and regional human rights treaty bodies, organizations and experts over the years. The Special Rapporteur defined solitary confinement as the “physical and social isolation of individuals who are confined to their cells for 22 to 24 hours a day”.

²³ ABA Criminal Justice Standards on Treatment of Prisoners, approved by the ABA House of Delegates, February 2010.

²⁴ Some 500 (0.25%) federal prisoners are held at ADX, Florence, the Bureau of Prison’s highest security isolation facility where prisoners are held in long-term solitary confinement; around 1,500 prisoners are also reportedly confined to SMUs in four other federal prisons, bringing the total to around 1% of the prison population. A 1997 National Institute of Justice survey found that more than a third of prisons surveyed held less than 1% of their prison population in “supermax” confinement, with a quarter housing between 5-8%; other states held 3% in supermax conditions. Some states included in the survey have since reduced their “supermax” populations.

²⁵ The changes were initiated as a result of a lawsuit filed by the ACLU challenging inhumane conditions and inadequate medical and mental health care in Unit 32 and were taken on board by Mississippi Corrections Commissioner Christopher Epps who set in place a series of reforms. See also, Emmitt Sparkman, Mississippi Department of Corrections Deputy Commissioner, on *Reducing the use of segregation in prisons*, posted on 31 October 2011, on the Vera Institute of Justice website, <http://www.vera.org/project/segregation-reduction-project>; *Prisons Rethink Isolation, Saving Money, Lives and Sanity*, Erica Goode, New York Times, 10 March 2012.

²⁶ Findings of studies published in numerous articles, e.g. Stuart Grassian, “Psychiatric Effects of Solitary Confinement”, *Journal of Law and Policy*, and in court rulings and testimony.

²⁷ They include California, Connecticut, Illinois, Maine, Mississippi, New York, Ohio and Wisconsin. In

Madrid v. Gomez, commenting on the Security Housing Unit (SHU) in Pelican Bay Prison, California, which was modelled on Arizona's SMU, the court noted that "Many, if not most, inmates in the SHU experience some degree of psychological trauma in reaction to their extreme social isolation and the severely restricted environmental stimulation in the SHU", *Madrid v. Gomez*, 889 F. Supp.1146 (N.D. Cal. 1995), p. 1235. A federal court found conditions existing in Wisconsin's then supermax prison were "known to cause severe psychiatric morbidity, disability, suffering and mortality [even among those] who have no history of serious mental illness and are not prone to psychiatric decompensation (breakdown)", *Jones 'el Berg*, 164 F. Supp 2d 1096 (W.D. WI 2001).

²⁸ Letter to SMI Commission Members from Dr Ben Shaw, ADC Mental Health Program Manager and Charles Flanagan, ADC Deputy Director, 18 March 2011.

²⁹ According to the classification manual, MH3 are designated as having a "moderate" to "moderate to high" need, requiring full time psychological and psychiatric staffing and services with need for treatment and/or supervision.

³⁰ This appears to be graphically illustrated in a case where, according to prison documentation viewed by Amnesty International, a prisoner was disciplined for a series of behaviours, including complaining about being threatened by other prisoners and non-injurious assault, and, despite having spent time in a prison mental health unit, was sent to the SMU where he set fire to his cell, sustaining serious burns; after being treated in hospital for his injuries, he was returned to the SMU and was ordered to pay substantial restitution for damage to prison property.

³¹ Amnesty International was told by a mental health professional that all MH3 prisoners should have a face to face meeting with the psychologist at least every 90 days but that this rarely happened. According to the ADC Mental Health Technical Manual, Revised 08/15/11, all MH3 inmates transferred to segregated housing should be seen by a mental health clinician within 24 hours and a minimum of 30 days thereafter, although the manual also states that if adequate staffing resources are not available to meet this standard mental health staff shall triage cases based on clinical need (Appendix G of the Manual, 1.1.28, 1.1.2.9).

³² ADC Mental Health Technical Manual – Revised 08/15/11 – Appendix G Chapter 3, Section 4.

³³ *Gamez v Ryan*, *supra* at note 8.

³⁴ <http://www.ncchc.org/resources/spotlight/17-3.html>. In this article on the standards, the NCHC refers to conditions of "extreme isolation" which appear similar to those existing in Arizona's SMU: individuals who are seen by staff or other inmates fewer than three times a day, are confined to single cells, frequently do not talk with officers who deliver meals, who recreate alone and must be restrained when they leave their cells.

³⁵ E.g. White T. Schimmel D, Frickey R: *A comprehensive analysis of suicide in federal prisons: a fifteen year review*. *Correctional Health Care* 9:321-23, 2002; *Confronting Confinement. A Report of The Commission on Safety and Abuse in America's Prisons*, Gibbons J. de B. Katzenbach N, 2006, cites a study showing 70% of suicides in California prisons in 2005 occurred in segregation units (Thompson 2006) and a national study finding two-thirds of suicides in US jails took place in a control unit (Hayes and Rowan 1988). Data from various US states in recent years, including Oregon and Ohio, have shown suicide rates occurred disproportionately in segregation units.

³⁶ Source: Statistics from the Office of Inspector General, ADOC, Financial Year (FY) 2006-2011 (In ADC the financial year runs from 1 July the previous year to 30 June the following year). There is some discrepancy with these statistics: the count is given as 48 but 45 cases are listed, two of which appear to be listed twice.

³⁷ ADOC Inspections & Investigations Division, investigative reports into inmate deaths, information

provided to Amnesty International by a prison advocate source.

³⁸ In *Gamez v. Ryan* (*supra* at note 8) it was noted that Arizona's rate of 38 suicides per 100,000 prisoners a year, was more than double the national average suicide rate in state prisons.

³⁹ *Gamez v Ryan*, *ibid*, pages 48-50.

⁴⁰ *Gamez v Ryan*, page 50

⁴¹ Amnesty International does not know how many juveniles in Rincon Minors are serving life sentences; according to data on minors in the unit in December 2009, the majority had been convicted of aggravated assault; the average age of juveniles in the unit at that time was 16 and a half years (letter from ADOC December 2009 to Children's Action Alliance). The average daily population at that time was 148. Since then the number of children incarcerated in the Arizona prison system has declined considerably, reportedly due to fewer discretionary referrals to the adult courts by prosecutors.

⁴² Paragraph 67 of the UN Rules for the Protection of Juveniles Deprived of their Liberty, adopted by the General Assembly in resolution 45/113 of 14 December 1990, states "All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including ... solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned". Article 37 (a) of the Convention on the Rights of the Child (CRC) provides that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. In its General Comment no. 10 (2007), the Committee on the Rights of the Child stated "disciplinary measures in violation of Article 37 of the CRC must be strictly forbidden, including ... closed or solitary confinement or any other punishment that may compromise the physical or mental health or well-being of the child concerned". As a signature to the CRC the USA is bound not to do anything to defeat the object and purpose of the treaty; the protections of Article 37 (a) of the CRC are a component of the right to "such measures of protection as are required" for children under Article 24 (1) of the ICCPR.

⁴³ Interim report of the Special Rapporteur, August 2011, *supra* at note 2, page 21.

⁴⁴ Human Rights Committee General Comment 20 on Article 7 of the ICCPR.