FROM CRIES TO WHIMPERS: 
THE EVOLUTION OF MARGINALITY WITHIN 
CONTEMPORARY AMERICAN SUPERMAX PRISONS

A Masters thesis submitted to the Faculty of the Graduate School of Arts and Sciences of Georgetown University in partial fulfillment of the requirements for the degree of Master of Arts in Communication, Culture, and Technology.

By

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ABSTRACT

This thesis is a multidisciplinary study of supermax prisons and solitary confinement that draws on sources such as articles from law journals and newspapers, case law testimonies and court opinions, and the history and anthropology of prisons, in an attempt to explain the consequences of such confinement on both its prisoners and the society to which they soon will return. Specifically, I examine how the technologies of supermax, such as fully automated cells that support “touchless” long-term solitary confinement, video visitation and telemedicine, and even nutritional technologies such as “nutraloaf” (1) contribute to the production of the unique conditions present in contemporary supermax prisons in American; (2) affect the interactions between inmates and staff; and (3) mask the injustices inherent in the very design of supermax prisons.

I conclude that supermax prisons resemble the camp space in the state of exception described by Giorgio Agamben in three major ways: symbolically, they were conceived of as spaces defined in actual states of exception that, over time, have become normalized in practice as the rule; physically, they are located in distant, liminal places within America that effectively remove
their inmates as far as possible from society; and at the structural level of imprisonment, they create and sustain conditions that further marginalize prisoners in ways that are symbolically, physically, and legally more restrictive than ever before seen in American corrections.
DEDICATION

To my parents, my friends, my teachers, and the dogs and cats that love us unconditionally.
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I started thinking critically about supermax prisons in the spring of 2012. It is now the spring of 2014 and a lot has changed over the past two years. While supermaxes are now used as correctional tools in more states than ever before, solitary confinement is increasingly scrutinized by the media and the American public. But while tens of thousands of prisoners went on hunger strikes across the country to protest the inhumane treatment they receive daily while placed in supermax confinement, little has been done to improve the conditions at the very supermax prison at Pelican Bay in California where the protests originated. And while more editorials are written each week about the inhumane conditions of solitary confinement, little has been done about our supermax-like detention camp in Cuba at Guantanamo Bay since President Obama promised to close it down in 2009.

Thus we must look at where we are now and where we have come from with an extra critical eye, one equally skeptical towards the empty promises to curb the suffering in these types of confinement as well as one that is also reluctant to call this an epidemic that is expanding, when so much is being done to reduce the number of prisoners in solitary confinement in the United States.

At a Senate hearing I attended in late February of this year, Senators Durbin, Cruz, Franken, and Hirono received testimonies on the use of solitary confinement before the Judiciary Committee’s Subcommittee on the Constitution, Civil Rights and Human Rights. The Subcommittee last met two years ago in 2012, hearing testimonies from former prisoners, experts on solitary confinement, and a report on current conditions by Charles E. Samuels, Jr.
Director of the Federal Bureau of Prisons. At the February 26, 2014 hearing, a similar group of panelists testified before the Senate and Director Samuels provided updated information about the state of solitary confinement and use of supermax prisons in America.

According to information provided by the Bureau of Prisons, a recent survey of federal-level prisons shows that conditions are improving across the country. Although Samuels could only speak on behalf of changes happening under his watch at the federal level, similar improvements are being made at the state level as well. In response to concern in 2012 about mental health problems suffered by prisoners placed in long-term solitary confinement, the Federal Bureau of Prisons have recently activated a mental health step down unit for those prisoners who are either returning to general population or being released from prison.

We listened to the testimony of the Executive Director of the Colorado Department of Corrections, Rick Raemisch, who testified for the need for more mental health programs and step down units. His predecessor, Tom Clements, was murdered in 2013 by a mentally ill prisoner who was once held in solitary confinement at a supermax unit in Colorado. Raemisch’s call for better reintegration programming was felt deeply by all of those in attendance.

At the hearing, Director Samuels provided the audience with broad statistics that testified to the gradual improvement of conditions. Since the last hearing, the Administrative Maximum Facility (ADX) at Florence Federal Correctional Complex (FCC), the only federal supermax prison and the most notorious of all supermaxes, has taken steps to decrease the use of solitary confinement and to provide better mental health and educational programming. In the past two years, the psychiatric staff has grown; at the last hearing there were two psychiatrists working there and now there are five mental health doctors “devoted to that population” entirely. The use of telepsychiatry has also increased, which I discuss in this thesis, presenting a new conundrum
for prisoners – increased access to health professionals, but with decreased personal interactions with their doctors.

There are currently 413 prisoners in ADX; 47% of them, according to Samuels, have killed another person, either before prison or while in another prison.

By extension, however, 53% of prisoners in long-term solitary confinement in ADX have not killed someone. If these prisoners, deemed the “worst of the worst” are truly the most dangerous inmates in the federal system, posing a threat to both guards and each other, how are we to justify their placement in such confinement? How is the Federal Bureau of Prisons and the state of Colorado able to justify their confinement? In order to answer these questions, we need to understand how this system came to be and the directions its development has followed.
Mr. Moussaoui, when this proceeding is over, everyone else in this room will leave to see the sun... hear the birds... and they can associate with whomever they want. You will spend the rest of your life in a supermax prison. It's absolutely clear who won...You came here to be a martyr in a great big bang of glory, but to paraphrase the poet T.S. Eliot, instead you will die with a whimper. You will never get a chance to speak again and that's an appropriate ending.

- Judge Leonie Brinkema at the 2006 sentencing of Zacarias Moussaoui
INTRODUCTION

Initially conceived of as places of penitence and rehabilitation away from criminal behavior, both inside and outside of the prison, 19\textsuperscript{th} century penitentiaries were soon abandoned as an incarceration strategy in America as they were found to be spaces of oppressive routinized living within desolate, highly-technological cells that enforced extreme loneliness and oftentimes resulted in the development of mental illnesses and even worse subsequent criminal behavior. So why have we recently seen such an exponential increase in the use of long-term solitary confinement, exemplified in its most perfected form yet – the contemporary American supermax prison?

This thesis is a multidisciplinary study of supermax prisons and solitary confinement that draws on sources such as articles from law journals and newspapers, case law testimonies and court opinions, and the history and anthropology of prisons, in an attempt to explain the consequences of such confinement on both its prisoners and the society to which they soon will return. Specifically, I examine how the technologies of supermax, such as fully automated cells that support “touchless” long-term solitary confinement, video visitation and telemedicine, and even nutritional technologies such as “nutraloaf” (1) contribute to the production of the unique conditions present in contemporary supermax prisons in American; (2) affect the interactions between inmates and staff; and (3) mask the injustices inherent in the very design of supermax prisons.
Chapter One traces the early history of solitary confinement in America, starting with its debut in a penitentiary in Pennsylvania. Soon abandoned as it was recognized as torture, solitary confinement reappears in the “world's first supermax” - Alcatraz – in the mid-twentieth century. It is not until the 1980s, however, that the practice of solitary confinement begins to be perfected in the technologically-advanced contemporary American supermax prison. When an outbreak of violence at the prison at Marion, already built to sustain prisoners in long-term solitary confinement, occurred in 1983, these prisons became capable of permanent lockdown.

Chapter Two is an in-depth examination of the kinds of relationships that develop between the inmates and their cells, as well as the interactions that occur between those who work in the prison and the architecture and technology that support its operation. The significance of the physical spaces can only be truly felt when we insert into them the people who inhabit its spaces and work within its walls. Here I will draw from first-hand accounts of personal supermax experiences, often recounted in seminal court decisions such as Madrid v. Gomez and Jones'El v. Berge. This chapter also includes a discussion of the social and emotional effects that supermax confinement may produce in its prisoners.

Chapter Three is a discussion of the legal and political origins of supermax. Using Giorgio Agamben's notion of the “camp” space that develops during a “state of exception” as a lens, I examine how the practice of supermaxmium solitary confinement is a problem that continues to grow today exponentially in America and in our prisons and detention centers maintained off of our national soil. In this chapter I trace the historic presence of the “camp”, from the mid-twentieth century of Agamben's study through its existence in contemporary American penology – at Abu Ghraib, at Guantanamo Bay, and at supermax facilities in our country. We will begin to trace how permanent “camp” spaces like these arise during times of
“exception” and become normalized over time, leaving little open for legal questioning or public debate.

I conclude that supermax prisons resemble the camp space in the state of exception described by Giorgio Agamben in three major ways: symbolically, they were conceived of as spaces defined in actual states of exception that, over time, have become normalized in practice as the rule; physically, they are located in distant, liminal places within America that effectively remove their inmates as far as possible from society; and at the structural level of imprisonment, they create and sustain conditions that further marginalize prisoners in ways that are symbolically, physically, and legally more restrictive than ever before seen in American corrections.
The origin story of the contemporary supermax prison is largely a history of the use of solitary confinement in American corrections. What once falls out of favor with penologists and corrections staffs often returns, albeit in slightly new forms, into practice. The practice of long-term solitary confinement is no exception to the rule. Initially conceived of as places of penitence and rehabilitation away from criminal behavior, both inside and outside of the prison, early versions of prisons that would influence today's supermaxes were eventually observed not to be spaces of rehabilitation, but instead to be spaces of oppressive routinized living, nearly tyrannical control, and desolate, highly-technological cells that enforce extreme loneliness and often result in the development of mental illnesses and even worse subsequent criminal behavior.

Norman Johnston (2009) traces the history of imprisonment as a specific form of punishment, rather than merely a means of temporary detainment of an accused criminal prior to a trial. As the use of capital and corporal punishment in the West declined continuously throughout the 19th century, imprisonment as a form of punishment steadily increased in practice. As a result, prisons started to suffer from overcrowding as the number of new prisoners exceeded their often modestly sized structures.

At this time in America, the Walnut Street Jail in Philadelphia signaled the dawn of a different focus in corrections. Founded in 1773, Walnut Street was designed by Pennsylvanian Quakers to be a place where rehabilitation was not anathema to the process
of incarceration. Considered to be the first ‘penitentiary”, the Walnut Street Jail maintained an ethos of reform and penitence within its walls. Unlike the overcrowded prisons that came before, Walnut Street constructed a unique “Penitentiary House” that contained sixteen solitary cells (Johnston, 2009). In 1790, the Jail was designated as a federal prison and from then on was referred to as Walnut Street Prison.

The solitary cells in the Penitentiary House garnered attention from prison reformers around the world. By providing space for reflection and penitence, while keeping the prisoners separated from each other and the problems that arose from interaction (such as roughhousing and plotting against guards), Walnut Street Prison's Penitentiary House sought to help prisoners atone for their wrongs of their crimes and possibly provide a means towards salvation. Over time, however, the prison also began to suffer from overcrowding and the small wing of solitary cells provided no tangible proof towards its success with which to justify its spread.

Constructed in 1822, Eastern State Penitentiary was “not only one of the largest and most expensive structures in the country at the time”, but was also designed to physically alter the behavior of the prisoners it housed (Johnston, 2004, p. 20S). Those in charge of designing and commissioning the structure sought to address some of the many problems that plagued other large prisons of that time, such as “idleness that led to disorder and violence; overcrowding...poor supervision by sometimes venal and untrained personnel; abysmal health conditions of the inmates; and, of course, the questionable rehabilitative value of such incarceration” (Johnston, 2004, p. 23S).

The founders of Eastern State Penitentiary believed that the “key to true reform was complete isolation of inmates from one another, providing them with the right mix of
solitude for reflection and perhaps reading and some vocational training or useful work” (Johnston, 2004, p.23S). At Eastern State Penitentiary, the very act of solitary confinement was meant to signify an attempt at criminal rehabilitation itself. Here, the novel institution of solitary confinement was the “answer to the evils of congregate imprisonment” that was practiced at most other prisons at the time (Johnston, 2004, p. 23S).

Necessary to sustain this new form of imprisonment were technological advances previously unseen in other prisons and buildings of that time. Thus Eastern State Penitentiary, from its very inception, was a state-of-the-art facility. Since this was the first time a prison had to be designed to support 24-hour solitary confinement of its inmates, the commissioners and engineers had to conceive of new ways to house the prisoners, resulting in the inclusion of what many deemed extravagant technologies:

Eschewing the use of a toilet bucket, common in almost every prison, some into the mid-20th century, Haviland [the architect] provided a cell flush toilet years before they were available in the White House and central heating before the U.S. Capitol...had it. Showers, apparently the first in the country (and where the inmates were taken individually about every 2 or 3 weeks), were in place before those installed shortly thereafter in a first-class Boston hotel...Because the inmate was not to leave his or her cell, it also had to serve as a workshop. This resulted in large cells, even by 21st century standards, that were 8 feet wide and from 12 to 16 feet long, most with an attached exercise yard. (Johnston, 2004, p.25S)

Thus the physical architecture of the prison, including its technological infrastructure, enabled the building to support, or at least attempt to support, large numbers of prisoners who were sentenced to a single cell with an attached yard space for the entire day alone in
isolation. An interesting consequence of this advanced infrastructure at Eastern State, however, also enabled an environment that was comparatively more healthy than other prisons of the time. Individual showers, baths and water taps facilitated a healthier environment that prisoners in congregate prisons were deprived of (Johnston, 2004).

Overall, however, Eastern State Penitentiary's success laid mainly in its design, rather than its promise of criminal rehabilitation, with its central “experience of enforced isolation” functioning as a promising deterrent of future crimes, and the very architecture itself serving to help perpetuate a “coherent philosophy of treatment that influenced prisons around the world into the early 20th century and beyond” (Johnston, 2004, p. 39S).

It is interesting to note that some of the very amenities and technologies that enabled prisoners in the nineteenth century to live out their sentences more hospitably in Eastern State are the same amenities and technologies that both facilitate and justify the inhumane structure of supermax prisons today. At its inception, the super-maximum prison facility was essentially a response to the substantial rise in crime in the 1970s and early 1980s. Previous to this period, prison reform was geared mainly towards rehabilitation of prisoners, with campaigns headed mostly by reform-minded sociologists working in the 1950s and 1960s (Rhodes, 2001). This outlook resulted in the creation of many experimental rehabilitation programs and other attempts at prison reform.

As both the country's population and the number of its incarcerated grew over the late nineteenth century and into the twentieth century, new types of prisons were constructed in order to accommodate demand. Michigan State Prison in Jackson, Michigan became the largest walled prison in the world at the time of its opening in 1926. The prison at Jackson consisted of “enormous cellblocks with 5,700 individual cells on five tiers in very long,
barrier-free corridors” (Johnston, 2009, p. 28S).

Similar prison structures arose in other areas of the country and in Europe. The bigger-is-better trend, however, was short-lived in much of American corrections in the twentieth century as large prisons populations presented too many problems to corrections staff. By the mid-twentieth century, prisons were being designed with a focus on better techniques of management in order to accommodate the growing populations of inmates.

Eschewing the general population style of large-capacity prisons, mid-twentieth century prisons in America were typically designed manage multiple types of inmates, thus helping to institute new kinds of prisoner classifications. As more and more prisons were designed with several small-capacity housing units, rather than one large unwieldy structure, prisoners were sorted into various living situations based on different factors:

Hand in hand with the expansion of prison systems went more highly differentiated institutions in terms of security level, age, gender, and mental status. This also resulted in the development of classification procedures at the prison of entry. By the mid-20th century, less populous states would have one state prison for adult felons, usually but not always a single separate facility for adult women, a reformatory for boys, and one for girls. More populous states would develop more facilities, including usually one for prisoners requiring psychiatric care. Later psychologists, social case workers, and, in at least one state, sociologists were added to classification centers and other prisons in the system. (Johnston, 2009, p. 29S)

These elaborate systems based on constant reclassifying and rehabilitation often proved too expensive for modest state budgets to sustain over the long term. Overcrowding, too, once again plagued American prisons, especially as housing units became more stratified and
specialized.

Efforts towards rehabilitation also met with derision from the American public as crime numbers rose in the 1970s and early 1980s. Following several violent prison uprisings, including the famous riot at Attica in 1971, corrections officers demanded safer environments to work in, and prison architects and planners responded to the constant threat of inmate uprisings by building institutions that could support a more isolating, yet 'safer', environment for both the guards and the inmates themselves.

THE WICKED EXPERIMENT RETURNS: ALCATRAZ, AMERICA'S FIRST SUPERMAX PRISON

Considered to be the “world's first supermax”, the federal prison at Alcatraz marked the American justice system's first attempt at a means of concentrating its most problematic prisoners in one location. Initially used as a military base in the nineteenth century, the buildings on top of Alcatraz Island gradually evolved in their purposes over time. Once it was no longer needed as strictly a defense base against an attack on San Francisco, Alcatraz began to house military prisoners by the late 1850s (“BOP: Alcatraz”). In 1933 the Department of Justice took over the use of the island, razed most of the standing building and built a new structure to house the new population of federal prisoners, famously including John Dillinger, “Machine Gun” Kelly, “Pretty Boy” Floyd, and Al Capone (Ward & Werdlich, 2003).

In response to the rise in crime in the 1920s and 1930s, the federal government “decided to open a maximum-security, minimum-privilege penitentiary to deal with the most
incorrigible inmates in Federal prisons”, and thus the legend of Alcatraz – with its cells full of ruthless gangsters – was born (“BOP: Alcatraz”). Like we saw earlier with Eastern State Penitentiary and other early attempts at building a prison that can sustain long-term solitary confinement, and like we will see with future supermax prisons, conditions at Alcatraz were largely favorable to prisoners, despite the isolation.

The guarantee of living by oneself, and not crammed in a cell with two or more prisoners, promised a possibly better housing situation than the one in which the prisoner previously found himself, with “several inmates actually request[ing] a transfer to Alcatraz”. Once incarcerated at Alcatraz, the prisoners, a contemporary assortment of the 'worst of the worst' at the time, were housed individually in single-capacity cells – inmates who were previously unable to “conform to the rules and regulations at other Federal institutions, who were considered violent and dangerous, or who were considered escape risks” (“BOP: Alcatraz”).

Considered “the prison system's prison”, Alcatraz provided the template for future attempts at concentration models of imprisonment, places where strict routines and austere conditions defined the carceral landscape. Both structurally and symbolically Alcatraz was “primarily intended to represent a powerful symbol of the consequences for serious criminal conduct, not to control prison troublemakers” (Ward & Werdlich, 2003, p. 55). In practice, however, the prison did control its inmates, from causing harm both within the prison and in the outside world.

Strict routines and grim solitary living conditions defined Alcatraz's operating philosophy, one that lives on today in supermax prisons throughout the United States:
At Alcatraz, a prisoner had four rights: food, clothing, shelter, and medical care. Everything else was a privilege that had to be earned. Some privileges a prisoner could earn included working, corresponding with and having visits from family members, access to the prison library, and recreational activities such as painting and music. ("BOP: Alcatraz")

But rarely were these privileges earned by the inmates at Alcatraz, nor were other amenities often found in prisons provided to prisoners. With a staff that contained “no teachers, vocational instructors, social workers, or psychologists”, Alcatraz was unable, and unwilling, to provide mental health assessments, therapy, and education to those it imprisoned (Ward & Werlich, 2003, p. 55).

Furthermore, like supermax prisons of today, interaction with the world outside the prison was “almost entirely eliminated” as an option for inmates who were placed in the country's first “Control Unit”:

Censored letters to and from wives and blood relatives were limited to two handwritten pages two times a week. Visits with the few family members and attorneys who could travel across the country to San Francisco were conducted through a thick window with guards standing by listening to every word. (Ward & Werlich, 2003, p. 55)

By 1963, however, USP Alcatraz closed, largely due to rising maintenance costs. The island setting, which resulted in costly importing of goods and supplies, as well as the technological developments needed to support such a large prison that housed so few prisoners, proved fatal to the ongoing operation of the prison.
MARION ON PERMANENT LOCKDOWN: 
EXCEPTION BECOMES THE NORM

At the same time that Alcatraz was losing support as a means for imprisoning the “worst of the worst”, all concentrated in one location, a prison in Marion, Illinois was being built to accept the prisoners transferred over from California. If Alcatraz was “regarded as a relic of penal philosophy that had been discredited”, the prison at Marion was the federal government's attempt to reform its image (Ward & Werlich, 2003, p. 56). The construction of Marion, however, was not finished by the time Alcatraz closed, and thus forced the prison to transfer its remaining inmates to other facilities. Interestingly this experiment in 'dispersal' of prisoners throughout the system, a return to older methods of imprisonment before Alcatraz, initially succeeded. But within a few years, however, the experiment went sour, and the rate of violent assaults on both inmates and on staff increased to disturbing levels. The prison at Marion, already built to sustain prisoners in long-term solitary confinement, proved to be the ideal solution to reinstating a “concentration” method of imprisonment.

Built in 1972, the “H unit” at Marion was a unit specifically “designed to separate offenders whose behavior seriously disrupted the orderly operation of the institution from the general prison population” (Pizarro & Stenius, 2004, p. 250). Like the modern supermax, initially this prison setup was thought to help “reform” the prisoners: “it was designed to assist individuals in changing their attitudes and behaviors to facilitate their return to the general prison population” (Pizarro & Stenius, 2004, p. 250).

Over time, however, the harsh tactics proved harmful to “reforming” the behavior of the
prisoners. Violence at Marion increased exponentially in early 1980s until even more severe measures were implemented to attempt to curb assaults and murders:

Violence at Marion escalated during the early 1980s. From 1980 to 1983, there were 14 escape attempts, 10 group disturbances, 54 serious assaults on inmates, 28 assaults on staff members, and eight prisoners and two corrections officers killed by inmates in its supermax unit (King, 1999). These incidents led to a complete lockdown of Marion during the fall of 1983. The warden and correctional officers at Marion claimed that this act reduced assaults and made the environment safer in the prison (Fellner & Mariner, 1997).

(Pizarro & Stenius, 2004, 251)

What soon became accepted practice at Marion would become the unwritten standards of supermax prisons being constructed all around America.

**TECHNOLOGY AND THE MODERN PRISON**

In their book *Splintering Urbanism: Networked Infrastructures, Technological Mobilities and the Urban Condition*, Stephen Graham and Simon Marvin (2001) argue that technology, “despite the modern rhetoric of universality” (p. 189), often functions as an exclusionary device that marginalizes many and privileges few. Today more than ever technological systems are used to rationalize decisions and to normalize change; they also “always support unevenness in inclusion and exclusion, differentiation, and presence and absence” (p. 189). The technological systems that define supermax prisons facilitate and support large-scale and long-term solitary confinement of prisoners that is characteristic of these types of institutions. Through its very architectural design, the supermax prison effectively isolates
prisoners from each other, from the staff, and from the outside world.

How do objects supported by technology within the prisons, such as mechanical restraints, closed-circuit TVs, video visitation and even supermax architecture itself, come to be within these contexts and how do their uses change over time? If, as Graham and Marvin assert, one's right to exercise power “derives very strongly from the degree to which they can mediate their lives with infrastructure and...extend their influence over space” (p.195), how do supermax prisons use technology to encourage or restrict such mediation from happening?

I argue that technology within supermax prisons serves to facilitate and expand the marginalization of prisoners within its walls, supporting the creation of splintered subclasses of criminals – those already punished who are punished once more, and as a result, moved to the farthest margins of exclusion within society. Those within these margins face discrimination and conditions not faced by other prisoners in America's history – conditions that are often overlooked or even ignored by the American public, resulting in a troublesome system of imprisonment that may find itself more deeply entrenched in contemporary penal practices than any other form to have preceded it.

The evolution of the maximum-security prison into the supermaximum facility is one that often mirrors the very evolution of technological developments within the historical period itself. As we saw earlier in the history of types of prisons, a tremendous shift in penology occurred in United States during the 1980s. And so, too, did the thinking about what kinds of architecture and structural support could enable the construction of a much more secure type of prison. Kurki & Morris (2001) trace the rise and abrupt decline of “regular” maximum-security prisons in the 1980s. Prisons such as Oak Park Heights in
Minnesota “represented the highest in prison design and technology” at its opening in 1982, becoming the “international model for prison security and management” at the time:

Prisoners were expected to participate in work, education, or treatment programs for seven hours per day and they were able to spend up to fifteen hours per day outside their cells. They could have visitors for sixteen hours per month and keep radios and televisions in their cells. Over one-third of the inmates made phone calls every day. At any time, two correctional officers were in the common areas with prisoners and direct contact between the staff and prisoners was encouraged. King (1991) reports that good and respectful relations between the staff and prisoners seemed genuine and could not have been falsely maintained for the length of his visit. (Kurki & Morris, 2001, p. 390)

By combining the reform-oriented penal theories of the 1960s and 70s with the technological innovations of the 1980s, prisons like Oak Park Heights ushered in a new era in American corrections. However, any success enjoyed by the new system was soon terminated by the burgeoning “War on Drugs” movement, which resulted in increasingly overcrowded prisons spread out all across the country. Beginning with President Nixon's 1971 order to increase the size and scope of federal drug control agencies, the “War on Drugs” was responsible for increasing both the severity of penalties levied and the length of the sentences given to those convicted. Throughout the 1970s and 1980s, the prison population boomed, largely as a result of marijuana becoming a Schedule One drug under Nixon's term. By the time President Reagan's administration brought the drug war to new levels of hysteria, more people were incarcerated, and for longer periods, than ever before, resulting in overcrowded prisons that could find no ways of allaying the problem.
As corrections officers soon discovered, regardless of who constitutes the population of a prison, violent or non-violent inmates alike, overcrowded prisons tend to produce tension and violent confrontations at rates higher than ever before. In his interviews with former and current corrections officers, Riveland (1999) traces the effects of an incarceration rate that doubled between 1979 and 1989. The responses he gathered from the administrators and wardens all supported the same hypotheses: that existing prison structures were not able to support such enormous growth in inmate populations. Overcrowding created “unsafe situations for staff and inmates alike”, while also contributing to the “erosion” of infrastructural resources and creating the “perception among corrections staff that things are worse than in the 1970s – even if they aren't” (Riveland, 1999, p.180).

As discussed earlier, the federal penitentiary in Marion, Illinois evolved from a maximum security prison to a supermaximum facility after a series of violent outbursts in 1979, and immediately following the murder of two staff members in 1983. Realizing that the “type” of inmates confined at Marion during its maximum-security phase “could not be managed in the same manner as typical penitentiary inmates”, the Federal Bureau of Prisons chose to “convert the institution into a long-term, highly controlled operation – a 'supermax' facility” (Hershberger, 1998, p.56).
THE TECHNOLOGY OF SUPERMAX

Bauman (2000) and Chantraine (2006) describe the contemporary emergence of a “postcorrectional carceral era”, one that coincides with the rise of supermax facilities in America. The “utopian” prison, which was once the megalithic and institutional panopticon model – defined by its “visibility, transparency, and surveillance” - had evolved into the archetypal model for the supermax facility at Pelican Bay State Prison in California (Chantraine, 2006, p.56).

At Pelican Bay, like at most supermax institutions or special housing units (SHUs), the prison is “almost completely automated, designed to, as much as possible, limit interprisoner contact and prisoner contact with the outside, without activity or distraction; a pure instrument of incapacitation” (Chantraine, 2006, p.56). Technological developments are now carceral tools in and of themselves, instituted in such ways as to completely “incapacitate” human interaction. In supermax units, surveillance no longer remains in the domain of wardens, watchtowers, and unambiguous cell bars, but instead now exists in the continuum of closed-circuit televisions, cameras, brightly-lit cells and the inherent isolation that accompanies the design of supermax infrastructure.

Thus today's problems of incarceration, after the physical body of the criminal is isolated and kept under constant watch, become problems of management– management of staff, of inmates, and of the technology and spaces that constrain them. By examining the growth of the supermax movement we can begin to see how this form of incarceration is from its inception an extensive form of prisoner management, since supermax populations are culled from inmates already placed in medium- and maximum-security prisons, who, due to actual
or perceived threats against other inmates or guards or against themselves, will become part
of a new concentration system, resulting in the creation of more focused and thus more
easily managed supermax prisons:

The staff can be specially trained to deal with disruptive inmates, and
operational procedures can be refined to meet the specific needs of such a
population. Additionally, inmates and staff at lower security institutions could see
enhanced safety when the most dangerous inmates are removed. It is with these
economic and operational advantages in mind that prison agencies have embraced
concentrating dangerous inmates at a single supermax facility. (DeMaio, 2001, p.215)

Moreover, the supermax staff-to-inmate ratio is higher than anywhere else, despite being
counter-intuitive to the idea of enforced isolation. Because of the very techniques of
isolation themselves, “more staff is needed due to multiple-officer escorts, increased
supervision and searches, and individualized services at cell doors” such as meals and health
services (O'Keefe, 2008, p. 125).

The American prison system has supported solitary confinement in various forms
throughout its history, but as Lorna Rhodes (2005) argues, confinement within the
supermax is a new form of architectural and institutional punishment:

Supermax units, in contrast, are a new technology involving intensive forms of
administration: practices including tight feeding and exercise schedules, programs
for behavior change, and elaborate computer systems for tracking and surveilling
inmates. At first glance these places appear bright, clean, orderly – and curiously
empty. The densely walled cells with their steel doors, arranged in rows on tiers
and separated by concrete and Plexiglas walls into “pods,” seem completely
inimical to any kind of social interaction. (Rhodes, 2005, p. 390)

A physical infrastructure such as the one described above constructs new ideas of what it means to be a prisoner in a contemporary prison in America today. Unlike their nineteenth century counterparts in prisons like Eastern State, “contemporary supermax prisoners...are the raw material of a different project, one that expects no realization of future citizenship...he is...regarded as purely responsible for himself” (Rhodes, 2005, p.403).

The carceral technologies that create and support such extreme forms of isolation recall the technologies that enforce splintered urban inequalities described in Marvin and Graham (2001). Whereas modern technologies sustain levels of self-sufficiency in communities previously unseen, similar technological apparatuses help maintain the opposite of what Marvin and Graham call super-inclusion. What for some is novel and beneficial, such as the “intensive use of information technology and other networks to access far-off places”, emerge for others as techniques to support their marginalization (p. 196). Closed-circuit televisions and video surveillance devices, for those in power, are technologies that “work to secure cocooned, fortified, urban (often now walled) enclosures”. For the incarcerated, however, these same technologies wall the outside world out of their experience. This section will discuss some of these new technologies and examine how their institution contributed to the extreme marginalization of supermax prisoners and their position of “super”-exclusion within American society.

Technologically advanced and almost always isolated geographically, supermax facilities recall the “off-line” or “lag-time places”, where “time and space remain profoundly real, perhaps increasing, constraints on social life” (Marvin & Graham, 2001, p. 196). The physical and technological infrastructures of supermaxes also “tend to ‘warp’, ‘stretch’ and

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‘compress’ the natural and social spaces and times” of prison life, resulting in a power distribution that is “therefore necessarily very uneven and partial”. Resting in the hands of those who work in the facility, rather than those who live there, power eludes the grasp of the excluded prisoner entirely, who now “because of their position with respect to accessing new infrastructures may become even more marginal” within these structures and society.

According to Pettigrew (2002), it is this “advanced” technological infrastructure which “distinguishes supermax prisons from their conventional counterparts and allows for the isolation of prisoners through technology that was previously impossible” (p. 194). Solitary confinement takes on new forms when it can be sustained for longer periods of time, and “consequently, incarceration in a supermax facility is, technologically speaking, unlike other prison experiences”. The very architecture of supermax facilities is designed inside and out to limit the interactions of prisoners with other inmates, staff, and visitors. While it is difficult to argue against the safety benefits that arise from such a situation, particularly for corrections staff, “with this new technology comes unintended consequences, which threaten the Eighth Amendment rights of many Supermax inhabitants” (Pettigrew, 2002, p. 195).

In his examination of the Supermax Correctional Institution in Boscobel, Wisconsin, Pettigrew (2002) observes the dangers and “unintended consequences” that can oppress those incarcerated within the prison:

This award winning facility is indicative of Supermax construction and philosophy. Unlike traditional prisons, it is keyless in areas accessible by prisoners and laden with security cameras. Each cell measures six feet by twelve feet, and audio and video technology permits the cells and the inmates to be monitored at all times. In fact, all movement by a prisoner can be, and frequently
is, conducted in isolation. Wisconsin’s Capital Times notes: 'Inmates are kept in solitary confinement without windows to the outside for at least 23 hours a day, with prison officials monitoring them via cameras in the cells. They may spend up to four hours a week in an exercise area, a windowless concrete cell with little or no exercise equipment...Many inmates can have phone calls lasting only 6 minutes a week; face-to-face visits with family members and friends are prohibited, but some are allowed contact via closed circuit TV'. (p. 196)

At Boscobel, the technology of incarceration is so advanced as to sustain life while containing it wholly behind cement walls and steel doors. Expertly designed to minimize as much interaction between staff and inmate as possible, the door itself is “solid except for a shutter and a trap door that opens into the dead space of a vestibule through which a guard may transfer items to the inmate without interacting with him” (Pettigrew, 2002, p. 208).

Whether designed solely for the safety of inmates and staff or devised for punitive retribution, it is often difficult to discern the intentions behind these techniques of isolation. It could be argued that for every cruel and unusual technique there is an equal and opposite correctional justification. Supermax prison staff might consider constantly illuminated cells a necessary safety precaution; supermax inmates, however, might only understand this through a more punitive lens of “us” versus “them”. Ward & Werlich (2003) argue that these “new policies and practices” - aggressive techniques often aimed at preventing tensions instead of subduing and controlling them – are essentially a means to “establish control over the prisoners”:  

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Officers were issued riot batons and orders were given that before any inmate left his cell, he was to place his hands behind his back at the food-tray slot in the barred cell door so that handcuffs could be placed on his wrists and leg chains attached to his ankles. Even under these restraints, no inmate was to be moved from his cell for any reason without a supervisor and several officers to escort him.

Further problematic is the unique sense of punishment found by the mentally ill or at risk for illness inmates confined in supermax prisons. In addition to arguing against the housing of mentally ill patients in solitary confinement, Toch (2001) reveals another consequence of the techniques of isolation – that technology itself can produce or evoke symptoms of mental illness in inmates who are otherwise considered healthy:

- It does not help matters that supermax routines contain features serendipitously designed to evoke symptoms of mental illness or to play into such symptoms....Supermaxes may differ to some degree, but all are repositories of an anti-humanistic technology. The prisoners in supermax are dealt with by machines orchestrated via computerized consoles. They are communicated with by muffled voices through impermeable partitions, and they are intrusively surveilled. Supermax residents tend to sleep a great deal (especially when no activities are afforded them), but restful regenerative sleep is never attainable. Prison night merges into day (lights never go out in one's cell), and anticipated interruptions are a constant...During rare respites from isolation, supermax residents are loaded down with hardware that circumscribes movement. Refusal
to come out of one's cell – which is a common symptom when someone is mentally ill – brings a phalanx of intruders in spacesuits with gigantic (and sometimes electrified) shields. Such invaders charge in wedge formation and press their targets against the wall or floor with irresistible force. (p. 379)

Marvin and Graham's (2001) assertion that technology can “warp” our conceptions of time and space, as well as alter our phenomenological interactions with the world around us, is echoed in the confined environments experienced by supermax prisoners.
CHAPTER TWO

LIVING IN SUPERMAX:
WITHIN A 'CLEAN, WELL-LIGHTED PLACE'

Just over five years old, Pelican Bay was activated on December 1, 1989. Considered a 'prison of the future', the buildings are modern in design, and employ cutting-edge technology and security devices. This, then, is not a case about inadequate or deteriorating physical conditions. There are no rat-infested cells, antiquated buildings, or unsanitary supplies. Rather, plaintiffs contend that behind the newly-minted walls and shiny equipment lies a prison that is coldly indifferent to the limited, but basic and elemental, rights that incarcerated persons – including 'the worst of the worst' – retain under the First, Eighth, and Fourteenth amendments of our United States Constitution.


In the previous chapter we saw how the physical spaces of supermax prisons have evolved to their current state. Next it is essential to understand how these spaces then affect and alter the behavior of prisoners and staff within their walls. In this chapter we will look at the relationships that develop between the inmates and their cells, as well as begin to examine the interactions that occur between those who work in the prison and the architecture and technology
that supports its operation. The significance of the physical spaces can only be truly felt when we insert into them the people who inhabit its spaces and work within its walls.

For this part of my analysis I will draw from first-hand accounts of personal supermax experiences. Some come from testimonies of inmates held before congressional hearings; others are transcribed reports of alleged violations that have occurred within the walls of supermax prisons – these accounts come from inmates, staff, wardens, in-house medical staff, and prison experts brought in to observe the conditions. Within these accounts we will see vividly some of the conditions that are experienced daily by supermax prisoners and staff, as well as hear of many of the psychical, emotional, and social effects such confinement has on them.

The above quote from the Madrid v. Gomez decision articulates just how confounding a supermax's physical austerity is in the context of allegations of inhumane treatment and abuse. As we learned in the previous chapter, these extremely technologically-advanced structures do not reflect what we might consider to be the standard, more “popular” versions of inhuman incarceration: “there are no rat-infested cells antiquated buildings, or unsanitary supplies”. Instead it is precisely the presence and use of these “newly-minted walls and shiny equipment” that support the oppressive conditions that many allege violate the Eighth Amendment’s protection against cruel and unusual punishment.

So what does a prisoner newly confined in supermax first expect when he enters his new home? What uniform experiences can inmates tend to expect when they are classified as security threats and placed in solitary confinement within these clean, technologically-advanced facilities? And how exactly do these spaces, as many will claim, dehumanize the inmates in order to make them easier to process in their new system?
When an inmate is classified or re-classified to be housed in solitary confinement, whether for a defined or indeterminate amount of time, his first interactions with the facility upon entering are completely impersonal – whether or not they are designed deliberately to function as such. King et al. (2008) articulates just how the technologies built into the prison (here, Pelican Bay) are designed to minimize human contact as much as possible:

The officer controls all entrances and exits from the pods by electronically operated doors. A network of secure corridors throughout the SHU connects the entire complex. These corridors have two levels. Inmates and their guards travel on the lower level. The floor of the upper level is made of heavy metal mesh. A correctional officer walking on the mesh provides added security by tracking each inmate’s movement with a rifle. The SHU at Pelican Bay is entirely automated, thus eliminating the need for officers to routinely interact with inmates. Except for occasional movement through the SHU and to the exercise area, inmates have no face-to-face contact with staff or other inmates. They eat in their cells from trays passed through food slots in the door. Once a day for 90 min, inmates are taken to a 26- by 10-ft exercise yard surrounded by a 20-ft cement wall. They are given no recreation equipment. An officer with less lethal and lethal weapons monitors the yard from a secure enclosure above the exercise area. Inmates exercise in isolation, except for those housed two to a cell, who exercise together. Inmates are strip-searched before and after exercising.” (p. 148)

Two themes emerge here: one, the carefully-enforced distance between the guards and inmates, and two, the almost permanent state of surveillance experienced by the supermax prisoners. Gone are the days of panoptic surveillance and prisoners self-correcting their own behavior;
within the walls of the supermax every inmate's behavior is meant to be monitored constantly, yet at a touchless distance.

While there still remains a guard located in a central location, his purpose is now less of an observer but more of a controller, or manager. His position is in a control room, “behind thick Plexiglas”, as he “speaks through a microphone to the inmates within” (King et al., 2008, p.149). The commanding officers now manage those under their care, equipped with technology to do so seamlessly, minimizing almost all human contact down to perhaps a graze of the inmate’s hand when his food is passed through the door’s slot into the cell.

Every part of supermax life is designed to separate the guards from the inmates – physically and symbolically, resulting in what is often termed an “us vs them” mentality in both the minds of the guards and of the prisoners. At Pelican Bay, for example, when prisoners do interact with staff, the inmates are handcuffed by the guards through the food slot in their cell. Once out of the cell, the solitary prisoners, clothed only in “boxer shorts, T-shirts, socks, and shower shoes”, are met by two officers wearing “heavy Kevlar, puncture-proof vests, carry[ing] OC (oleoresin capsicum) spray, handcuffs, and batons” (King et al., 2008, p.148).

Founded in 1989, Pelican Bay State Prison contains one of the most notorious supermax prisons within its complex of three separate facilities that house inmates of different security levels. Most famously, Pelican Bay is home to the “SHU”, or Secure (sometimes “Security”) Housing Unit, where about a third of the prison's four thousand prisoners are kept in strict isolation from one another and from the outside world. In its lifespan, Pelican Bay has garnered more news coverage than any other state-operated supermax facility, mostly due to the Madrid v. Gomez decision in 1995.
Pelicano Bay State Prison and Madrid v. Gomez, 1995:

A watershed decision for prisoners placed in solitary confinement throughout the United States, Madrid v. Gomez ruled in favor of the plaintiffs' claims of long-term, systemic abuse. In this section I will examine the details of the plaintiffs' claims brought against the staff of Pelican Bay in order to establish a baseline of what type of occurrences have been found to constitute Eighth Amendment violations within a supermax facility.

The Madrid v. Gomez decision contains a poignant description of the physical isolation felt daily by the inmates. While the interaction of volatile behavior of the inmates and the often aggressive responses of the staff add to the sense of “us versus them”, the isolating effects of the prison itself only heightens these tensions further:

Adding to this volatile mix is the fact that the prison setting, and particularly the SHU, is far removed from the usual sights and sounds of everyday life. From the outside, the SHU resembles a massive concrete bunker; from the inside it is a windowless labyrinth of cells and halls, sealed off from the outside world by walls, gates, and guards. The physical environment thus reinforces a sense of isolation and detachment from the outside world, and helps create a palpable distance from ordinary compunctions, inhibitions and community norms. (Madrid v. Gomez, 1995)

The Madrid v. Gomez decision cautions against such extreme isolation, both for its negative psychological effects on inmates and for the sense of “palpable distance from ordinary compunctions, inhibitions and community norms” it can instill in the behavior of the guards.
In the first example of abuse described in the Madrid v. Gomez opinion, we learn of the story of Arturo Castillo, a prisoner in the Pelican Bay SHU, who on January 31, 1991 was beaten by guards after refusing to return his food tray through the cell door:

...Castillo retreated to the back and covered himself with his mattress for protection, in anticipation of a cell extraction. It is undisputed that Castillo, who is small in stature, made no verbal threats or aggressive gestures. Nor did he possess, or pretend to possess, any kind of weapon. Shortly thereafter, Sergeant Avila warned Castillo that if he did not give up his food tray, it was going to be very painful. Castillo refused to hand Avila the tray, stating that if they wanted the tray, they would have to come and get it. The supervising lieutenant then authorized his sergeants to forcibly remove Castillo from the cell... To accomplish this removal, two rounds from a 38 millimeter gas gun were fired into the cell. A taser gun was also fired, striking Castillo in the chest and stomach. Then, without attempting to retrieve the tray (which remained near the front of the cell), some number of officers entered the cell, walked past the tray, and advanced toward Castillo. Castillo testified that one of the officers then hit him on the top of his head with the butt of the gas gun, knocking him unconscious. When he regained consciousness, he was on the floor with his face down. An officer was stepping on his hands and hitting him on his calves with a baton, at which point Castillo passed out a second time. When he regained consciousness again, he was dragged out of the cell face down; his head was bleeding, and a piece of his scalp had been detached or peeled back.
While violence towards prisoners is not considered an outright violation of the Eighth Amendment (it almost never is), what was so problematic in this instance was the disproportionate nature of the guards' response to the inmate – the record indicating that there is “no evidence that would support the conclusion that striking Castillo on the head with a gun, with enough force to render him unconscious, was needed to retrieve the food tray, restore order, or otherwise protect the integrity of the institutional mission” (Madrid v. Gomez, 1995). In this account, the officer “walked past the tray” in his pursuit of Castillo, thus revealing the highly punitive nature of the extraction, which “reflects a pattern of using the maximum, rather than the minimum, amount of force necessary to accomplish a goal”.

In another account of disproportionate use of violence by the staff at Pelican Bay, the Madrid v. Gomez decision recounts the story of Inmate Cooper, who was beaten while “offering no resistance”. When he started to resist being moved, two officers subdued him; however, once “two other officers both observed that Cooper was under control and unable to kick...Officer Plumlee nonetheless proceeded to punch Cooper twice in the face with a closed fist”; a subsequent investigation into this assault corroborated this story. The court found that “punching Cooper at a time when he was restrained and under control constituted a gratuitous and unnecessary use of force that was imposed not for any security related purpose but for the purpose of inflicting pain”, and thus constituted a violation of the inmate's Eighth Amendment rights.

In what is perhaps the most disturbing account of abuse recounted in the Madrid v. Gomez hearings is the story of Vaughn Dortch, a mentally ill prisoner who “suffered second- and third-degree burns over one-third of his body when he was given a bath in scalding water in the prison infirmary”. The assault was seen as retaliation by the guards for two
earlier incidents in which Dortch bit an officer and “created a nuisance by smearing himself and his cell with his own fecal matter.” Despite Dortch's proximity to a shower, “which would have provided a more efficient method of cleaning Dortch than a bath (even assuming Dortch was uncooperative)”, the inmate was instead brought to a bathtub in the SHU infirmary, “essentially nude, except for his restraints and part of a blue isolation gown that was wrapped around his upper torso”, and placed in a scalding hot tub of water that resulted in such severe burns.

A testimony from the nurse on duty, Barbara Kuroda, reveals the malicious nature of the attack on Dortch, which from the beginning appeared premeditated in its goal of intentionally harming the inmate:

Five or six correctional officers then arrived with Dortch. Although a nurse would normally run the water for a therapeutic bath, Dortch's bath was managed solely by correctional staff. Kuroda later observed, from her nurse's station, that Dortch was in the bathtub with his hands cuffed behind his back, with an officer pushing down on his shoulder and holding his arms in place. Subsequently, another officer came into the nurse's station and made a call. Kuroda's unrebutted testimony is that she overheard the officer say about Dortch, who is African-American, that it "looks like we're going to have a white boy before this is through, that his skin is so dirty and so rotten, it's all fallen off." Tr. 1-154. Concerned by this remark, Kuroda walked over toward the tub, and saw Dortch standing with his back to her. She testified that, from just below the buttocks down, his skin had peeled off and was hanging in large clumps around his legs, which had turned white with some redness. Even then, in a shocking
show of indifference, the officers made no effort to seek any medical assistance or advice. Instead, it appeared to Kuroda that the officers were simply dressing Dortch to return him to his cell. (Madrid v. Gomez, 1995)

The nurse also noted that although the tub contained a device to prevent the bathwater from becoming so hot, it had been apparently been disabled by the guards earlier, further indicating premeditation.

In the previous chapter we saw how the technologies that support the operation of supermax prison facilities contribute to the separation of guards and inmates. However corporal technologies also often serve this same purpose. This is not an argument against their use – there will always be times when volatile inmates must be restrained, whether in their cells or while in transport. But there still exist opportunities for purely punitive corporal technologies to be used against supermax inmates.

The use of fetal restraints, or "restraint control status" and "hog-tying," appears multiple times in the testimonies of the plaintiffs of Madrid v. Gomez. The process of hog-tying an inmate consists of “handcuffing an inmate's hands at the front of his body, placing him in leg irons, and then drawing a chain between the handcuffs and legs until only a few inches separate the bound wrists and ankles” (Madrid v. Gomez, 1995). Both medical experts and penology experts testified during the trial against the use of fetal restraints, arguing that not only is there no use to such restrictive apparatuses but also that they are explicitly harmful to the inmates' health and dehumanizing to them as well. Inmates were even sometimes hog-tied to a stationary object in their cell, such as a toilet, further disabling them from being able to feed or clean themselves.
Again, the plaintiffs invoked the argument of excessive and disproportionate force to condemn these actions, especially since much more humane ways of restraining volatile inmates were known to the prison staff: “Thus, unlike four- or five-point restraints, which completely prevent any disruptive movement without imposing pain or health risks, fetal restraints can inflict significant pain and yet not fully secure the inmate” (Madrid v. Gomez, 1995). According to the experts called in the Madrid v. Gomez case, there was absolutely no reason for such excessive force to be used against inmates, and in such a disproportionate fashion.

So what purpose do these practices end up serving? If more humane and more effective means of restraining inmates in solitary confinement exist, then why do these methods that border on torture continue to be practiced within supermax prisons? It is easy to see how these punitive measures can be viewed by the inmates as “painful, repugnant, [and] humiliating”, especially while “altogether lacking in any legitimate penological value” (Madrid v. Gomez).

Equally important to ask is, if these practices are endemic and not even officially sanctioned, then why is there no one to speak out against the practices within the prison? Where are the guards who speak out? Questions on the 'banality of evil' naturally arise when one reads through the testimonies present in these class action suits. When questioned at trial about Pelican Bay's use of hog-tying, Warden Rippetoe eerily and honestly replied with “because we can do it” (Madrid v. Gomez, 1995). Similar responses are common throughout many of the defendants' testimonies, attesting to the dangerousness of removing incarceration practices so far from public view.

Behind the thick concrete walls of supermax prisons, the facilities themselves dozens or hundreds of miles away from cities, the dehumanization of inmates seems to occur at alarming
rates. At Pelican Bay, another practice that is purely punitive – caging – still takes places to this day in 2013, despite receiving condemnation as early as 1995. In the Madrid v. Gomez suit, plaintiffs testified about the practice caging, in which “naked or partially dressed inmates” are placed in “outdoor holding cages during inclement weather”:

These cages, approximately the size of a telephone booth, and constructed of weave mesh metal, are designed to provide a temporary holding place for an inmate, and are positioned at various locations around the prison. Inmates confined in the cages are exposed to the elements as well as public view... Violet Baker, a former educational program supervisor at Pelican Bay, gave a frank and credible account of one such incident. She testified that one day in late January or early February, she was walking from her office toward another facility. It was very cold (she was wearing gloves and a heavy jacket), and it was pouring rain. She observed two African-American inmates being held naked in two cages. When she passed by again one hour later, one inmate was still there, and she observed that he was covered with goose bumps. He said he was freezing, and asked her to request a pair of shorts and a T-shirt. She then saw an officer coming in her direction. When she looked at him, he looked back and just shrugged his shoulders, saying it was "Lieutenant's order." (Madrid v. Gomez, 1995)

When Ms. Baker realized that the lieutenant giving the “order” to his subordinates was a notoriously difficult guard to deal with, she dropped her objection to avoid her own possible reprimanding as a member of the staff.

In another shocking example of routine indifference, an inmate named Johnny Barnes was caged while naked in bad weather, left in full display of anyone who passed by:
Although he was bleeding from his nose and mouth after a physical altercation with several correctional officers, Barnes was held in the outdoor cage for an hour and a half without receiving medical attention. In public view of whoever passed by, Barnes recalled that he felt like he was "just an animal or something."...

[echoing that] providing substitute clothes is not only a matter of health and safety in inclement weather, but a matter of common dignity, given the public placement of the cages and the routine presence of female staff. (Madrid v. Gomez, 1995)

In case there is any doubt that these displays of cruel indifference occurred simply because of their hidden nature, plaintiffs and staff testified that these cagings were often “visible from the main administrative offices for the yard (including the Lieutenant's office), and are in full view of anyone who crosses the yard” – thus raising questions that these “naked cagings would be known to, and thus implicitly, if not explicitly, condoned by supervisory staff” (Madrid v. Gomez, 1995).

The effects of such treatment on inmates is manifold. The Madrid v. Gomez decision warned against such inhuman conditions – ones that continue to this day:

Leaving inmates in outdoor cages for any significant period – as if animals in a zoo – offends even the most elementary notions of common decency and dignity. It also fails to serve any legitimate penological purpose in any kind of weather, much less cold and rainy weather. The fact that it occurred at all exhibits a callous and malicious intent to inflict gratuitous humiliation and punishment. (Madrid v. Gomez, 1995)

In a 2006 report for NPR, Laura Sullivan reported on the continued use of these cages at Pelican Bay. This time, however, they served a 'purpose' – to keep the mentally ill inmates
restrained while receiving 'group therapy'.

In the psychiatric wing of the SHU, staff continue to treat patients collectively, as the inmates are placed in cages that form a semicircle around the “therapy”:

Depending on what the group is, they'll either listen to music, watch movies, play games, have art, current events — a lot of different types of groups,” [Psychiatric SHU Lt.] Woods says. There are no therapists in group therapy. Woods says the idea is to help inmates socialize with each other and behavior normally again. "Normal" for these prisoners means they don't smear feces on themselves or throw urine at the officers. They shower when able, eat when told and keep their cells tidy. For the most part, when prisoners do achieve this, the reward is a return to the regular SHU. (Sullivan, 2006)

Prisoners receiving therapy often find themselves “placed in an individual holding unit (like a large telephone booth)”, in which they are able to “talk directly to the group leader and each other without having physical access to anyone in the group” (Collins, 2004, p. 7). These inmates, removed from society, then removed from the prison general population, and then further removed from others in the SHU, are once more isolated within the space of “therapy” itself – individually caged and restrained, with no one to listen regularly to their plight.

On June 19, 2012, Pat Nolan, president of Justice Fellowship, the reform arm of Prison Fellowship Ministries, testified before the Senate Committee on the Judiciary about the egregious violations of human dignity that were happening at supermax facilities around the country. Speaking before the Subcommittee on the Constitution, Civil Rights and Human Rights, Nolan recounted stories that members of his organization had relayed to him over the years, while calling for the abolition of such harmful practices that appeared so widespread. Drawing on the observations of Chuck Colson, founder of Prison Fellowship Ministries, Nolan
described the injustices Colson witnessed while working with inmates at Washington State Penitentiary, also known as Walla Walla Prison:

The prison had been locked down for over 9 months in retaliation for the murder of a correctional officer. During those long months, the prisoners were confined to their cells, forced to brush their teeth and drink water from their toilet bowls. During those 9 months they were allowed out of their cells only once every 14 to 20 days to "shower". However, it was not like any shower any of us have experienced. Officers shouted instructions to strip, and the cell doors were opened. The lieutenant shouted instructions that they were to run to the shower room, through the running showers and back to their cells without stopping. They were forced to run between phalanxes of officers who rained blows on the running inmates with their batons. One inmate slipped on the wet floor and was viciously beaten by multiple officers until he could struggle back to his feet on his own. He told them about the conditions inside the prison and said, "You can't treat inmates like animals and then expect them to live decent lives after they are released." (Nolan, 2012)

Similar experiences were observed to be happening at Pelican Bay as well, revealing how little changed in the decades since Madrid v. Gomez ruled in favor of the inmates in 1995:

The men are held in their cells for at least 22 1/2 hours a day, with only a blank wall to stare at out their cell doors. David [a journalist visiting the prison] explained, "Exercise is 90 minutes of pacing like a grief-stricken dog around the bottom of a concrete well 20 feet by 10 feet by 20 feet high with a wire grating over the top." An inmate told us that in the recreation area he had once seen a
After living in such isolating conditions for months or even years, the inmates were observed to avoid eye contact with both the guards and the visitors, perhaps “unsure how to react to a 'free person’”.

**THE CASE OF JONES'EL V. BERGE, 2001:**  
**MENTAL HEALTH CIVIL ACTION SUIT AT SCI BOSCOBEL**

In 2001, inmates at the Supermax Correctional Institution in Boscobel, Wisconsin filed an ultimately successful class action suit against the administration of the prison. In an attempt to remove all mentally ill prisoners from long-term solitary confinement at Boscobel, the plaintiffs called upon the services of psychiatrists who are experts in the effects of solitary confinement on mental health, having them visit the prisons over a period of days to examine the conditions and interview dozen of the men who have been confined there for a substantial amount of time. Although the case was successful for the plaintiffs and caused the transfer of many mentally ill inmates out of solitary confinement, the allegations of abuse and torturous conditions in the prison are disconcerting when you consider that they took place in the six years following the decision of Madrid v. Gomez.

Inmates who are placed in Level One at Boscobel encounter the most severe forms of confinement at the prison. Once again, the prisoners in supermax spend “all but four hours a week confined to a cell” that is reminiscent of the ones in Pelican Bay. Once again, the cells used for solitary confinement have lights that stay on permanently; the doors separating the inmates
from the hallways are “boxcar” style, allowing for another touchless “dead space of a vestibule through which a guard may transfer items to the inmate without interacting with him” (Jones'El v. Berge, 2001).

Questions of supermax confinement being used as a purely punitive situation rather than one designed exclusively for security purposes arise when we learn of the strict, often disorienting conditions prescribed to the inmates. Personal possessions are limited to “one religious text, one box of legal materials and 25 personal letters”; inmates are “permitted no clocks, radios, watches, cassette players or televisions”. Furthermore, their canteen privileges are severely restricted and no library books are allowed in their cells (Jones'El v. Berge, 2001).

In his testimony at the 2014 hearing before the Judiciary Committee’s Subcommittee on the Constitution, Civil Rights and Human Rights, Rick Reimisch, executive director of the Colorado Department of Corrections, asked about the seemingly random and perhaps mostly punitive rules and restrictions supermax prisons tend to apply en masse. Asking rhetorically about the now standard notion of supermax confinement being defined by twenty hours a day of isolation: “Why is 23 the magic number? How about 20; how about 18; how about 15; how about we start at 23 and they behave for a couple days then it's 22?”, Reimisch could have similarly inquired about the seemingly subjective decision to allow a supermax inmate the right to possess twenty-five personal letters instead of, say, forty personal letters.

The disorienting nature of technology employed in SCI Boscobel also brings up questions of punitiveness being the driving force in the structure of supermax confinement:

Inmates are not allowed to wear watches or have clocks and it is not easy for them to gauge time from the restricted view they have of the sky. Cells remain illuminated 24 hours a day. Inmates may change the lighting in the cells from high
to low but they cannot turn it off altogether. The low setting is bright enough to read by; many inmates state that it is so bright that it disturbs their sleep. At night, inmates are required to sleep in such a way as to allow guards to see skin when they perform hourly checks of the inmates... For seriously mentally ill inmates, the constant illumination disrupts their diurnal rhythm and adds to the sense of disorientation, especially when they do not know the time of day. The constant lighting creates a sense of lack of control and passivity in seriously mentally ill inmates and contributes to sleep problems and headaches that exacerbate the symptoms of mental illness. (Jones'El v. Berge, 2001)

Inmates possess almost no autonomy over any conditions in their cell, unable to turn off and on or dim their lights. They have no ability to regulate the temperature in their cells, which often vacillates towards extreme highs in the summer and extreme lows in the winter, which, according to the judge, poses unique problems to the inmates, especially those who are mentally ill: “On August 9, 2001, Daniel Feldt, an industrial hygienist, monitored the temperature and humidity at Supermax when the outdoor temperature was 91 degrees...the average cell temperature at bed height was 91.75 degrees and the average relative humidity was 59.4%”, producing a “heat index in excess of 100 degrees”.

The very construction of the cells themselves prohibit any temperature regulation. The solid steel doors prevent air from circulating, and the absence of any real windows leaves the cells in stifling conditions during warmer months. Furthermore, arbitrary institutional rules, such as allowing the prisoners to shower only three times a week, prevent inmates from cooling off with the few amenities present in their cells.
In the rare opportunity that the inmate is allowed to leave his cell, meaningful contact with other people is extremely rare:

Inmates are not allowed face-to-face visits, other than with their lawyers. The institution provides only video visitation. Inmates remain in their cell block and visitors at the front of the institution. Inmates and their visitors see each other on small video screens that are located across the room from the inmate. The audio quality is poor...The poor quality of the visits has led some mentally ill inmates to believe that the images on the video screens are manipulated and to refuse visitors. During the video visits, inmates remain handcuffed, shackled and belly chained. (Jones'El v. Berge, 2001)

Despite the extensive evidence that visitation improves prisoner behavior, both in jail and once released in society – often reducing recidivism rates (Bales & Mears, 2008; Duwe & Clark, 2013; Mears et al., 2012), supermax prisons forbid almost all contact visits, perhaps causing irreparable harm in the lives of inmates. Even mental health professionals must visit with inmates at a considerable distance, with “cell front” interviews “provid[ing] little privacy to inmates” and making it “difficult for mental health staff to develop a relationship of trust with inmates and to gain full insight into the inmate's mental condition” (Jones'El v. Berge, 2001).

The effects of such conditions of solitary confinement on mentally ill inmates is perhaps no better documented than in the case of Jones'El v. Berge. The plaintiffs called several expert witnesses to speak on their behalf, including Terry Kupers, M.D., a psychiatrist who has spent much of his career studying the effects of solitary confinement on prisoners. Believing that “no amount of staffing could compensate for the isolation that inmates on [Level One of SCI
Boscobel experience”, Kupers implored that mentally ill inmates be immediately transferred out of solitary confinement.

While the conditions of solitary confinement described above would perhaps cause serious emotional and social harm on the lives of all inmates, mentally ill inmates suffer the effects of supermax confinement in unique and troublesome ways:

According to Kupers, isolated confinement intensifies symptoms for those prone to mental illness. The almost total isolation and inactivity deprives seriously mentally ill inmates of reality checks; they receive no feedback to keep their psychosis in check. Seriously mentally ill inmates in isolated conditions lose total control of their lives. They feel incapable of being an active agent in their lives; this feeling exacerbates depressive tendencies. Without interaction and without diurnal rhythms provided by light, seriously mentally ill inmates lose their sense of time and of the future, leading to great despair and hopelessness. This sense of doom is compounded when seriously mentally ill inmates are not capable of following the rules necessary to earn their way out of the most restrictive status.

(Jones'El v. Berge, 2001)

The physical conditions of the supermax, while intimidating to anyone placed in its cells, have a more substantial deleterious effect on mentally ill inmates. The lack of autonomy is felt even more by them, and “lacking physical and social points of reference to ground them in reality, seriously mentally ill inmates run a high risk of breaking down and attempting suicide”. Moreover, since the only “programming” options for inmates in Level One are occasional exercising in isolation or reading in the library, most of the mentally ill inmates are often left
idle, unable to exercise because of punitive infractions and unable to study since many are illiterate (Jones'El v. Berge, 2001).

Vincent Nathan, an independent prison monitor, also testified to the abusive conditions found at SCI Boscobel. After several visits to the prison, Nathan supported the notion that many of the rules and restrictions of supermax serve no penological function. The conditions at Boscobel, he argued, “border on barbarism”, “as though the Department of Corrections has taken steps to make life as miserable as possible for inmates at Supermax” (Jones'El v. Berge, 2001). Specifically he mentions the seemingly purely punitive nature of limiting inmates to only three showers a week when the showers are located within the supermax cell, as well as noting the unnecessary restraints placed on inmates as they do things such as read legal materials in the library or engage in video visitation in a high security area of the prison.

Despite the screening process designed to evaluate incoming prisoners to supermax, Kupers found that an alarming amount of inmates in Boscobel were severely mentally ill – many showing symptoms before they were even placed in solitary confinement. A prisoner identified as “Prisoner 1” was assigned to solitary confinement in Level One of Boscobel despite being diagnosed with several mental illnesses, including paranoid schizophrenia before entering supermax. According to the testimony of Kupers, once at Boscobel, Prisoner 1 “hears voices constantly that command him to kill himself or hurt others” and cannot sleep because he ”'sees things', including 'demons moving around on the floor and climbing up [his] bed' all night”. He frequently worries that the “guards are out to get him” (Jones'El v. Berge, 2001).

Another mentally ill inmate, “Prisoner 2”, told Kupers that he has previously been diagnosed “at various times as schizoaffective, bipolar, obsessive-compulsive disorder, borderline character disorder, antisocial personality disorder and histrionic personality disorder”
and has attempted suicide multiples times. The constant illumination of the cell prevents him from sleeping and worsens the effects of the illnesses from which he suffers. Like Prisoner 1, he is “always terrified that the doors will open and he will be attacked by officers”; he worries that he “would never be able to work his way out of Supermax because of his psychiatric disability” and continues to contemplate suicide while in solitary confinement. “Prisoner 3” hides his mental illnesses and suicidal ideations because he fears that the staff “will not spend time talking with him but will place him in a strip cell” (Jones'El v. Berge, 2001). “Prisoner 6” experiences anxiety and paranoia more acutely than before he entered supermax, even refusing video visitations with his family because he is paranoid that his family “could be faking the images”.

“Prisoner 4” speaks of the feeling of being caught in a “never-ending cycle” of supermax confinement, “in which his anxiety and lack of control cause him to misbehave, he suffers cell extractions and becomes even angrier and he is never released from the unbearable situation that causes him to misbehave” (Jones'El v. Berge, 2001). The conditions of supermax are “so severe and restrictive that they exacerbate the symptoms that mentally ill inmates exhibit” and because there is no programming, almost no human contact, and very little mental health support (with no strictly private support), inmates find it nearly impossible to progress out of Level One of Boscobel, a situation echoed in many other high-level supermax prisons across the country.

Psychiatrist Stuart Grassian (2006) posited that the effects of solitary confinement often produce a “discreet syndrome” known as SHU (Special Housing Unit) Syndrome, “a constellation of symptoms occurring together and with a characteristic course over time, thus suggestive of a discreet illness” (p. 337). In his work with supermax prisoners, Grassian discovered that inmates placed in long-term solitary confinement exhibited two “abnormalities” -
“the inability to focus, and the inability to shift attention” (p. 331), which manifest in a prisoner's “tunnel vision”:

I have examined countless individuals in solitary confinement who have become obsessively preoccupied with some minor, almost imperceptible bodily sensation, a sensation which grows over time into a worry, and finally into an all-consuming, life-threatening illness...Individuals experiencing such environmental restriction find it difficult to maintain a normal pattern of daytime alertness and nighttime sleep. They often find themselves incapable of resisting their bed during the day—incapable of resisting the paralyzing effect of their stupor—and yet incapable of any restful sleep at night. The lack of meaningful activity is further compounded by the effect of continual exposure to artificial light and diminished opportunity to experience natural daylight. (p. 332)

According to Grassian the effects of solitary confinement can continue to manifest themselves in the behavior of prisoners long after they are released back into society. Although many acute symptoms will fade with time, many prisoners, he argues, will continue to “suffer permanent harm as a result of such confinement” (p.332), experiencing “a continued intolerance of social interaction” that may “prevents the inmate from successfully readjusting to the broader social environment of general population in prison and...often severely impairs the inmate’s capacity to reintegrate into the broader community upon release from imprisonment” (p. 333). Grassian concludes his analysis by interrogating the purpose of supermax confinement itself, as it is “quite clearly not 'punishment'”, since there are oftentimes no specific “targeted behaviors” they may be punished for: “For any behavior modification scheme to work then, there must always be an
exquisitely close relationship between behavior and response. Indeterminate or prolonged sentencing to solitary simply has nothing to do with aversive conditioning” (p. 379).
Chapter Three

Theory and Implications

Engaging with materials on the supermax system in America frequently proves frustrating to the researcher. When there is hard data it is typically incomplete or dated. There is no centralized database of supermax statistics, leading the researcher on a wild goose chase to find and track down technologically-advanced solitary confinement in its myriad names: “supermax” prisons, “Specialized Housing Units, or SHUs”, “administrative maximum” confinement, and the list goes on. However, a supermax prison by any other name is still fundamentally similar to all other technologically-advanced solitary confinement facilities.

To begin thinking about the roots of supermax, it is helpful to understand its legal and political origins. Giorgio Agamben's notion of the “camp” space that develops during a “state of exception” is critical to understanding why supermaxes were originally conceived, but more importantly can be used to explain why the practice of supermaxium solitary confinement is a problem that continues to grow today exponentially in America and in our prisons and detention centers maintained off of our national soil.

The purpose of this section is to examine the historic presence of the “camp”, traced from the mid-twentieth century of Agamben's study through its existence in contemporary American penology – at Abu Ghraib, at Guantanamo Bay, and at supermax facilities in our country. We will begin to trace how permanent “camp” spaces like these arise during times of “exception” and become normalized over time, leaving little open for legal questioning or public debate.
In his book, *Homo Sacer: Sovereign Power and Bare Life* (1998), Giorgio Agamben, the Italian professor of philosophy, builds on Carl Schmitt's notion of the “state of exception” in order to reveal how contemporary neoliberal democracies produce liminal subjects similar to those produced by mid-century European fascist governments.

For Foucault, Schmitt, and eventually Agamben, the question of what constitutes the political subject is central to their notions of what constitutes man himself. Agamben cites Foucault's interpretation of Aristotle, that “for millennia...man remained what he was for Aristotle: a living animal with the additional capacity for political existence; modern man is an animal whose politics calls his existence as a living being into question” (Agamben, 1998, p.10).

For Agamben, this shift is crucial to his theory of “bare life” and *homo sacer*: “the fundamental categorial pair of Western politics is not that of friend/enemy but that of bare life/political existence, zoë/bios, exclusion/inclusion” (p. 12). Zoe and bare life, the non-political subject who through his absence/exclusion from the polis results in his loss of ability to speak for himself (“language”, here), are what constitutes the camp subject, from the literal camps of the Nazi Germany to the liminal spaces of Guantanamo and Abu Ghraib to the dubiously legal spaces of supermax confinement.

Language is that which separates the “living animal with the additional capacity for political existence” from the camp prisoner, who is the “animal whose politics calls his existence as a living being into question”. This “prisoner” is, according to Agamben, *homo sacer*, or sacred man – the subject “who may be killed and yet not sacrificed”; he is the subject through which sovereign power asserts itself through the separation of homo sacer from the political subject (p.
“An obscure figure of archaic Roman law”, *homo sacer* exists within the political order only so that he maybe simultaneously excluded from it – in essence he exists, or is kept alive, in order to delineate between the citizen and the politically banished subject: “Bare life remains included in politics in the form of the exception, that is, as something that is included solely through an exclusion” (p. 13).

Agamben traces how the concept of life, or living, has evolved from a singular meaning in classical Greece, “Homer-Greek does not even know a term to designate the living body” (p. 42), to its modern equivalent, in which “life” is separated into the living body and into the political subject, the body that possesses a voice. *Homo sacer*, then, according to Agamben, is “a paradoxical being, who, while seeming to lead a normal life, in fact exists on a threshold that belongs neither to the world of the living nor to the world of the dead: he is a living dead man” (p. 60). The medieval bandit, too, existed in a liminal sphere, where he was “considered as dead” after his banishment, forced to live outside of the city: “Germanic and Anglo-Saxon sources underline the bandit’s liminal status by defining him as a wolf-man (wargus, werewolf, the Latin garulphus, from which the French loup garou, “werewolf,” is derived)...and the laws of Edward the Confessor (1030-35) define the bandit as a wulfesheud (a wolf’s head) and assimilate him to the werewolf” (p. 63).

Thus, the bandit lived “in the collective unconscious as a monstrous hybrid of human and animal, divided between the forest and the city”:

The life of the bandit, like that of the sacred man, is not a piece of animal nature without any relation to law and the city. It is, rather, a threshold of indistinction and of passage between animal and man, physis and nomos, exclusion and inclusion: the life of the bandit is the life of the loup garou, the
werewolf, who is precisely neither man nor beast, and who dwells paradoxically within both while belonging to neither. (p. 63)

Today this situation appears in the form of the camp, a liminal space that exists between the “forest” and the “city”, that houses neither men nor animals. In his discussion of the Holocaust, Agamben describes how the Jews of Nazi Germany were effectively dehumanized enough in order to be “exterminated not in a mad and giant holocaust but exactly as Hitler had announced, 'as lice,' which is to say, as bare life. The dimension in which the extermination took place is neither religion nor law, but biopolitics” (p. 68).

Agamben extends this line of thinking into contemporary times, writing that if our age of neoliberal democracies are so defined by biopolitics, we are then now “all virtually homines sacri” (p. 68); our bodies are subject to infinite calculations and regulations as the liminal camp space extends into more spheres than ever. He points to horrifying medical experiments performed by Americans on Americans, similar to those performed by Nazis on Jews, and asks: “how could experiments that were, in a certain sense, analogous have been conducted in a democratic country?” (p. 91). Agamben suggests that perhaps the fates of victims of both experiences are tied to the moment in which they are excluded from the political community:

Precisely because they were lacking almost all the rights and expectations that we customarily attribute to human existence, and yet were still biologically alive, they came to be situated in a limit zone between life and death, inside and outside, in which they were no longer anything but bare life. Those who are sentenced to death and those who dwelt in the camps are thus in some way unconsciously assimilated to homines sacres, to a life that may be killed without the commission of homicide. Like the fence of the camp,
the interval between death sentence and execution delimits an extratemporal and extraterritorial threshold in which the human body is separated from its normal political status and abandoned, in a state of exception, to the most extreme misfortunes...

(p. 91)

In the contemporary biopolitical paradigm, it is no longer just the sovereign who can proclaim a state of exception but anyone in a position of control within a total institution.

Also novel is the notion that a state of exception no longer refers only to an “external and provisional state of factual danger”, but now “comes to be confused with juridical rule itself”:

The camp is the space that is opened when the state of exception begins to become the rule. In the camp, the state of exception, which was essentially a temporary suspension of the rule of law on the basis of a factual state of danger, is now given a permanent spatial arrangement, which as such nevertheless remains outside the normal order...the camp’s absolute independence from every judicial control and every reference to the normal juridical order was constantly reaffirmed...Because of this – that is, insofar as the camps were located in such a peculiar space of exception – Diels, the head of the Gestapo, could declare, 'Neither an order nor an instruction exists for the origin of the camps: they were not instituted; one day they were there [sie waren nicht gegründet, sie waren eines Tages da]'...

(p. 96)

The camp, a once temporary phenomenon, here, in Nazi Germany had become a “permanent reality”, setting the stage for future camp spaces that transcend temporary states of exception in order to become spaces of exception: a “paradigm in which the norm becomes indistinguishable from the exception. The camp is thus the structure in which the state of exception...is realized normally” (pp. 96-97).
CONTEMPORARY CAMP SPACE

So what, then, does the camp produce? What relationships emerge within the space and which emerge as a result outside of the camp? How do group dynamics change with the added presence of bare life, of half-men, half-animals, of liminal subjects, of the voiceless human? For Agamben, the consequences are most troublesome – not in their explicit horrors, like the genocide of millions, but in their immunity from protest or outrage:

The correct question to pose concerning the horrors committed in the camps is, therefore, not the hypocritical one of how crimes of such atrocity could be committed against human beings. It would be more honest and, above all, more useful to investigate carefully the juridical procedures and deployments of power by which human beings could be so completely deprived of their rights and prerogatives that no act committed against them could appear any longer as a crime. (At this point, in fact, everything had truly become possible.)

(p. 97)

In her 2005 article “‘Setting the Conditions’ for Abu Ghraib: The Prison Nation Abroad”, Michelle Brown extends Agamben's notion of the camp space into contemporary American penal justice debates. Through an examination of the wartime conditions of Abu Ghraib Prison in 2003 and 2004, Brown demonstrates just how normalized prisoner abuse within the camp space has become, both in America and abroad:
Culpability is and will be based ultimately upon a legal judgment as to Abu Ghraib’s uniqueness or its typicality, its abnormalcy or its normalcy, when, in reality, it is the combined qualities of normal abnormalcy that make Abu Ghraib possible at all. Nowhere is this more apparent than in the penal contexts at home, which mirror the kinds of technologies, techniques, and discourses found at Abu Ghraib. Prisons have long served as liminal spaces both inside and outside the boundaries of constitutional law, belonging to (in fact, invented by) but not of the United States. (p.974)

However, the prison space is fundamentally more confounding than the function of mere camp space, Brown argues, because:

...the American penitentiary rests upon a crucial cultural contradiction, the removal of liberty in a nation that would seek to preserve it, the use of violence to counter violence...The prison is built upon an interior secret, a union of antithetical ideas and values. Its invocation always risks disclosing the weakness not simply of the sovereign state but of American democracy, founded in distinctly penal terms, including genocide and slavery. Prisons, then, are strategic research sites, from which we may always uncover the contradictions of American power. (p. 975)

Nowhere was this abuse of power more evident than in the exported “American penitentiary” of Abu Ghraib, located twenty miles outside of Baghdad in Iraq. Hinting at a growing trend of “black sites”, camp spaces that are typically prisons operated secretly by a government on foreign soil, the development of Abu Ghraib signified that the offsite camp “colony will become
the norm rather than an anomaly, that homeland security will increasingly depend on proliferating these mobile, ambiguous spaces between the domestic and foreign” (p. 976).

According to Brown, Abu Ghraib, like Agamben's concentration camps, is “the kind of 'unanticipated event,' dramatic, poignant, and ugly all at once, in which the 'normality of the abnormal is shown for what it is'—terror as usual” (p. 976). The normalization of these “hallmarks of American Justice” - “the privileging of retribution, individual responsibility, and cultural denial” - contributed to a reception of Abu Ghraib as just another example of the new normal of hyper-penality (p.981). The public's tacit acceptance of the hyper-penal, Brown argues allows the presence of punishment to flow easily into the “lived spaces and practices of everyday life, well beyond the institutional forms punishment may take” (p. 981).

FROM OVERSEAS TO OVER HERE: SUPERMAX AS DOMESTIC BLACK SITE IN AMERICAN CORRECTIONS

The sites of American corrections, Brown (2005) argues, echo the “architecture and configuration of Abu Ghraib’s 'hard' site”; our own “domestic interior” is rife with similar structures (p.982). Buildings designed to imprison and more importantly to hide, or attempt to hide, what occurs within their walls exist in military black sites abroad like Abu Ghraib and domestically at supermax prisons such as ADX at Florence. The liminal space of the black site abroad is reconstructed in the remote regions where supermax prisons are often built in the United States.

While not technically hidden – we do know where the prisons are – security procedures are so strict that media is rarely allowed inside the prisons walls, in effect hiding conditions from
the outside world. Furthermore, inmates in maximum and supermaximum security prisons, especially at the federal level, can be imprisoned for years in areas thousands of miles away from any family or legal assistance, only “receiving” guests through the mediation of a closed-circuit television screen or by phone call.

Once these prisoners are removed so far from society, they become marginalized subjects twice over. Possessing the few legal rights they still retain as American citizens, their precarious position in these remote steel fortresses resounds even greater now. In her discussion of domestic supermax prisons, Brown draws on sociologist Erving Goffman’s work on total institutions, citing prisons as exemplars of the “social hybrids” that “attempt to manage individuals through the creation of persistent tensions and strategic leverages defined by power differentials (the 'staff/inmate split') and the use of institutional force ('mortification processes')” (Brown, 2005, p.985). The prison as liminal space, both in its physical presence and in its deprivation of the full human rights of prisoners, is a “world, in Goffman’s terms, sociologically defined by abasement, degradation, humiliation, and profanation” (p.985).

This very ordering, one that manages carefully those within its grip while never providing them with substantial agency, is one that, according to Tocqueville exemplifies the “immense and tutelary power” that is “absolute, minute, regular, provident, and mild” (Tocqueville, p. 805). The controlling hand of supermax administrative justice is similar to Tocqueville's description of “the authority of a parent, if, like that authority, its object was to prepare men for manhood; but it seeks on the contrary to keep them in perpetual childhood” (p. 805). The American penitentiary, whether one witnessed by Tocqueville in 1831 on his trip to America or one that exists in California in 2014, is a uniquely American creation:
After having thus successively taken each member of the community in its powerful grasp, and fashioned them at will, the supreme power then extends its arm over the whole community. It covers the surface of society with a net-work of small complicated rules, minute and uniform, through which the most original minds and the most energetic characters cannot penetrate, to rise above the crowd. The will of man is not shattered, but softened, bent, and guided: men are seldom forced by it to act, but they are constantly restrained from acting: such a power does not destroy, but it prevents existence; it does not tyrannize, but it compresses, enervates, extinguishes, and stupefies a people, till each nation is reduced to be nothing better than a flock of timid and industrious animals, of which the government is the shepherd. (Tocqueville, p. 806).

According to Brown, these patterns, found in both the 19th century prison and the 21st century prison, in both the lives of the incarcerated and the free, “culminat[e] in a disciplinary force that expands beyond institutional walls into the very fabric of social life, where abuse and torture are no longer necessarily recognized as such, and, if they are, are perceived as necessary and acceptable” (Brown, 2005, p. 986).

This “logic has reached its zenith”, according to Brown in the contemporary supermax prison, which served as an inspiration for the places of torture located in Abu Ghraib (p. 986). Thus we must consider the injustices documented at Abu Ghraib not in vacuum, not as unique to the site, but as an extension of the injustice that occurs in hundreds of facilities located throughout the interior of the United States. At Abu Ghraib, “most of the human rights violations and detainee abuse at Abu Ghraib took place in a particular wing of the prison, the “hard site,” where, it is argued, the “worst” detainees were being held” (p. 986). The notion of a
concentrating the “worst” prisoners in one physical place, removed from a general population is the exact logic deployed in the development of supermax prisons themselves.

Legally, too, the practices at both supermax prisons and at offshore military sites are similar, often marked by an absence of due process, whether for American citizens or not:

Staff decision making and practices, much like the current administration’s approach to the war on terror, are argued to be unrestricted and often unreviewable, specifically when addressing the provision of services and supermax admission requirements. Classification and disciplinary hearings are argued to base assignment to supermax settings upon suspicions, hearsay, informers, staff, and anonymous tips as well as simply the potentiality of threatening behavior (gang association, for instance) rather than its exhibition. This operational procedure epitomizes the logic of incapacitation and detention in the war on terror, wherein penal policy is set by potential behavior rather than past actions. (Brown, 2005, p. 989)

Supermax prison wardens and military prison leaders operate without almost any judicial oversight. Once a prisoner is assigned to these spaces, very little can be done to appeal the process. Prisoners in Guantanamo have sat dormant for over a decade within the prison, without being charged with a crime; prisoners in supermax facilities who are placed in administrative detention are often confined there without being charged with an infraction, perhaps waiting for their disciplinary hearings to be held for indefinite amounts of time.

In her 2005 essay, “Inclusive Exclusion: Citizenship and the American Prisoner and Prison”, Agnes Czajka begins to tie together the impact of supermax confinement on American citizenship with Agamben's concept of bare life and the camp space. Whereas Agamben
deliberately excluded standard prisons from qualifying as camp spaces, characterized by their privileging of “increasingly valorized prison labour, vestiges of rehabilitative rhetoric, and the retention of citizenship responsibilities in combination with a partial removal of citizenship rights” (Czajka, 2005, p. 130), Czajka claims that supermax prisons DO resemble camps, due to the very fact that their practices are so far removed from the standard notion of the prison. Her argument, which I agree with, follows that “as prisons are always embedded within social and legal structures...camps are located outside of them” (p. 130); the supermax itself emerges from “trends in American imprisonment [that] have produced an environment where two categories of prisons can be identified, one of which is a clear incarnation of camp” (p. 130).

I argue that supermax prisons resemble camps in three major ways: symbolically, they were conceived of as spaces defined in actual states of exception that, over time, have become normalized in practice as the rule; physically, they are located in distant, liminal places within America that effectively remove their inmates as far as possible from society; and at the structural level of imprisonment, they create and sustain conditions that further marginalize prisoners in ways that are symbolically, physically, and legally more restrictive than ever before seen in American corrections.

Czajka (2005) begins her own argument that supermaxes “operate outside of the purview of social scrutiny and judicial review” by pointing out the limits of judicial oversight and the absence of due process in the placement of most prisoners in solitary confinement within supermax prisons. If the inmate is able to appeal his placement, “he or she is not provided with attorney representation and is at best represented by prison staff”, further limiting the legal capabilities of those in supermax confinement (p. 130). Once placed in supermax confinement, the inmate may find himself and his well-being at the mercy of “administrative decisions made
within the supermax environment [that] are rarely scrutinized, and remain the exclusive domain of the prison warden and correctional officers” (p. 124).

The technology of the supermax prison contributes directly to producing an austere environment that supports the “bare life” existence of its prisoners. Czajka (2005) demonstrates just how supermax prisons are, in their very design, support the ideologies towards imprisonment they espouse:

While standard prisons tediously balance necessity and comfort, continually refining the equilibrium between what is required and excessive in freedom, choice, education, wages, and physical and mental stimuli, camp prisons avoid much of this tinkering by simply removing all freedom, all work, all education, and all physical and mental stimuli, confining its prisoners to a bare, solitary cell and locking the door. Thus, unlike standard prisons, camp prisons do not simply restrict or eliminate the element of choice, they actually eradicate everything that could otherwise be chosen from. Why struggle over the size of televisions, the quality and quantity of posters on cell walls, or the elaborateness of prisoners’ hobbies, when they can be altogether eradicated? Camp prisoners are thus effectively removed from the realm of humanity, stripped of all of the trappings of a complex human being — as the environment in which they are housed is gutted — and reduced to subsisting in the zone of indistinction between life and death that is bare life. (p. 131)

The physical restrictiveness of the space combines with legal restrictions placed on the inmates, creating in effect people who are so far removed from the rights guaranteed of the typical American citizen. Even when compared to prisoners in standard facilities, supermax inmates are
granted almost none of the privileges typical of a rehabilitative type of confinement. While in solitary confinement, they are denied the ability to work, to earn money through a trade, to receive educational programming, and so on, all helping to result in a person, who, upon their return to society, is further marginalized in the labor sphere than a prisoner just released from a standard prison in general population.

Through the employment of advanced technology prisoners are able to be managed more effectively than ever, as well as able to be hidden from view more easily than ever as well. The very “mechanisms and processes of exclusion are being expanded and refined” (Czajka, 2005, p. 118), signaling the proliferation of practices that help make already-marginalized prisoners more abject within both the prison space and society – their lives sustained, barely, within supermax walls, their presence necessary to remind lawful citizens of the consequences of deviance.

By maintaining the bare life of these inmates, we allow them to “escape utter superfluity precisely by their removal to the intrastate 'outside' that is the camp prison” (Czajka, 2005, p. 114). Because those prisoners who end up in supermax confinement are typically so far removed from acceptability in society before they are imprisoned, already located on the political, economical, and social margins of American culture, they are essentially kept around to serve as the other which justifies the existence of law-abiding full citizens:

As expulsion beyond state borders is unlikely, they are imprisoned, defranchised, immobilized, and stored away, out of sight, out of mind. Yet, as their exclusion rescues them from the brink of utter superfluity, they never become completely and absolutely undesirable, for they are never wholly politically and economically irrelevant. The supermaximum security prisoner, therefore, is included through exclusion, hovering
between the inside and the outside, the “self” and the “other,” the citizen and the non-
citizen. (Czajka, 2005, p. 114)

“Contemporary society”, here exemplified in the practices of supermax prison, Czajka argues, “is excluding more individuals, more permanently and more efficiently” than ever before (p. 118), while simultaneously solidifying the notion of what it means to be a true American citizen, a hard worker who avoids participating in illegal activities that could land them in jail.

Another salient effect of the creation of these two distinct spheres – the supermax/camp and a reaffirmed, pure society – is the further solidifying of an aggressive us versus them mentality. Whether exhibited by the free population or the imprisoned one, or more vividly between the supermax staff and guards and their inmates, there is a clear delineation between good and bad, pure and polluted, desirable and undesirable, those who deserve second chances and rehabilitation and those who are forever warehoused in the cycle of continuous indefinite solitary confinement.

Looking at increasing rates of imprisonment, Czajka (2005) argues that “an increasing number of individuals are falling into this category as a result of the continual narrowing of the 'acceptable’”, as crime rates themselves concurrently decline (p. 117):

Like the abject, they disrupt its normalcy, challenging its prescriptions of residence, employment, and respectable behaviour. Yet, like the superfluous abject, these dangerous classes are never entirely removed from society, nor (as a potentiality) from within the self. They are the undesirable citizens who cannot be expelled beyond the borders of their state without being welcomed in the neighbouring jurisdiction — an unlikely scenario — yet must be cast out or set aside in the interest of preserving an ever-elusive purity of citizenship. (Czajka, p. 113)
It is important to note that what was once not criminal now is. Gang association (with no direct accusation of violence or disruption) within a prison is punishable by placement in supermax confinement. Legal definitions and the new imprisonment practices contribute to a new direction for society that is “constituted by both material practices and a discursive language whose expansion and intensification need recognize no limits, no borders, no bounds” (Brown, 2005, p. 991).

**Theories of Dehumanization**

As noted earlier, the nebulous definition of “supermax” often finds common ground in two places – that the type of confinement is technologically-advanced and sustains long term periods of isolation and that the type of prisoner who belongs within its walls is one of “the worst of the worst”. The very act of labeling these prisoners produces in the supermax staff preconceived notions of the dangerousness of its inmates; the system begins to delegitimize those it incarcerates before they arrive in the prison.

Bar-Tal (2000) writes of the dehumanizing effects of delegitimizing beliefs and practices, in which “extremely negative characteristics are attributed to another group, with the purpose of excluding it from acceptable human groups and denying it humanity” (pp. 121–122). In the context of supermax imprisonment, delegitimizing beliefs are reflected directly in both language used to describe inmates and the structural design of the type of confinement itself, producing something akin to what Haslam describes as a means to “explaining the conflict, justifying the ingroup’s aggression, and providing it with a sense of superiority” (p. 254).
According to Haslam's paradigm, dehumanization can take two different forms, responding to how the victim is viewed as legitimate or not legitimate, human or not human, animalistic or alien:

Two forms of dehumanization are proposed, involving the denial to others of 2 distinct senses of humanness: characteristics that are uniquely human and those that constitute human nature. Denying uniquely human attributes to others represents them as animal-like, and denying human nature to others represents them as objects or automata. (Haslam, 2006, p. 252)

According to Haslam (2006), Human uniqueness (UH) “refers to characteristics that are believed to distinguish humans from (other) animals, and involve refinement, civility, higher cognition, and other socially learned qualities” (p. 258); in contrast Human nature (HN) “refers to characteristics that are seen as as essential or fundamental to all humans, such as openness, emotionality, vitality, and warmth” (p. 258).

Thus, as Haslam points out, when we separate ourselves from others who we consider beneath us or “subhuman” we tend to describe and portray them as animalistic and as objects of disgust. In the haunting images from Abu Ghraib, we see prisoners who are subject to extreme “degradation and humiliation” as they are “divested of UH characteristics” (p. 258). The bodily humiliation of the prisoners at Abu Ghraib, in effect, makes them “object[s] of disgust and contempt for the perpetrator” as they are “represented as apes with bestial appetites or filthy vermin who contaminate and corrupt...they are often viscerally despised” (p. 258).

The “animalistic” forms of dehumanization belong to what Haslam calls “vertical comparison”, in which “the other is subhuman or infra-human and is debased by humiliating treatment” (p. 258). Now compare this to our mental images of supermax confinement, which
belong more to horizontal scale of comparison. Whereas those who are debased are located “below others on an ordinal scale of development or evolution” (p. 259), those who are imprisoned in technologically-advanced prisons located in places far removed from populated area are separated horizontally:

...the mechanistic form of dehumanization involves a sense of horizontal comparison based on a perceived dissimilarity (Locke, 2005). A person who is denied HN—cognitive openness, warmth, agency, emotion, depth—is seen as nonhuman more than subhuman. Because HN represents what is fundamentally and normatively human, those judged to lack it are seen as distant, alien, or foreign: displaced away rather downward. (Haslam, 2006, p. 259)

The forms of bodily disgust that define animalistic dehumanization becomes here in its mechanistic form, a point of separation from guard and prisoner. In supermax confinement, the prisoner is a much more passive subject, distanced both physically and emotionally from other people, whether they are inmates or staff. The cold technology of supermax echoes Haslam's (2006) description of contemporary medicine, with its “lack of touch and human warmth”, “emphasis on instrumental efficiency and standardization, to the neglect of the patient’s individuality”, “neglect of the patient’s subjective experience in favor of objective, technologically mediated information”, and “emphasis on interventions performed on a passive individual whose agency and autonomy are neglected” (p 253).

Once this relationship between staff and inmate is thoroughly engrained, we can see how Brown (2005) can argue that:

what it means to be human and to be social [can] devolve into arbitrary legal categories concerning the amount of natural light a human should have, the
level of noise that is unbearable to human ears, the kind of punch or slap that
is permissible, the essence of punishment denied. (Brown, 2005, p. 990)

The instrumentality of the prisoner and the use of technology to define what is humane enforces
a vast emotional distance between the inmates and staff, who as a result of mechanistic
dehumanization may begin to view the prisoners “as object- or automaton-like”, perhaps seen
“lacking the sort of autonomous agency that provokes strong emotion and are more likely to be
seen as emotionally inert” (Haslam, 2006, p 258).

The consequences of such interactions between prisoner and staff may lead to “asocial”
and “null” interactions (Fiske, 1991; Haslam, 2006), where there exists “no shared social
framework”, where guards may “see no relatedness to others” (Haslam, 2006, p. 261). Because
of this distance, as Bastian et al, Cehajic, Brown, & Gonzalez (2011), Bandura (1999), and
Castano & Giner-Sorolla (2006) have shown, victims are often subject to reduced empathy. In
supermax prisons, the severely impersonal relationship between guards and inmates can result in
dehumanization that may effect guards to justify their treatment of prisoners. By denying
prisoners the opportunity to exhibit Human nature qualities, supermax staff may perceive
inmates to be “less deserving of moral treatment and rehabilitation and less capable of
proactively contributing to the moral community” (Bastian, 2011, p. 480).
CONCLUSION: WHERE ARE WE NOW AND WHERE WILL WE GO?

We can now see how the largely technological innovation of supermax confinement can be used and misused for different purposes in various situations over time. When thinking about the future of supermax prisons, it is perhaps most troublesome to consider some of the far-reaching implications of their physical infrastructure and architectural design. Recommendations for reform are tinged with a sense of hopelessness in light of the inflexibility of these massive, and massively expensive, facilities.

Essential to theoretical reform of supermaxes is the possibility for structural change. We must alter the ways in which we conceive of imprisonment, but we must also alter the physical environments that imprison. Arguing against the current state of supermax cell design, Arrigo & Bullock (2008) recommend that “prisoners should be housed in cells that are clean, well ventilated, and exposed to natural light” (p. 635). Moreover, prisoners should possess greater agency over their own domain, such as being able to “control the artificial light in their own cells”, as well as having “access to personal belongings, including reading material”. Recreation spaces, too, should no longer be walled-in cement areas where prisoners are once again isolated, but instead should be designed to give “sufficient space for exercise” and contain recreational equipment.

A conversation about supermax reform, however, must not omit the fact that violent criminals can pose serious threats to correctional staff and fellow inmates. Bersot & Arrigo (2011) articulate that every reformative decision must be “mindful” of its “impact for the kept (i.e., prisoners), their keepers (i.e., correctional officers and staff), their managers (i.e.,
While it is beyond the purview of this thesis to recommend public policy, there are several themes that I have watched emerge from my research that call out for reform.

As an alternative to supermax confinement, mentally ill inmates at SCI Boscobel were sent to the Wisconsin Resource Center, which was purposefully designed as a “placement for inmates who were stuck in segregation for one reason or another, including mental health problems that interfered with their ability to follow rules and make rational choices” (Jones'El v. Berge, 2001). Central to its function was a high staff to inmate ratio (3 to 1) with a staff that was expertly trained in both mental health issues and prison security.

Another alternative to the current system is to institute more “step down”, or transition, programs for inmates leaving solitary confinement and returning either back to general population, or in most cases, directly back into society. We saw earlier that a mentally ill inmate murdered the former head of Colorado corrections after receiving no programming upon his release from supermax. Recently, in the Intensive Management Unit, or IMU, at the Monroe Correctional Complex in Washington State, corrections officers organized a new Reintegration and Progression Program that “uses group behavioral modification classes to transition offenders out of solitary confinement and back into general population” (Hansen, 2013). Through group classes, the Reintegration and Progression Program seeks to “give inmates the authority and autonomy to make decisions and changes to their living areas and prepare them for transition to work release”.

penal policymakers and administrators), and their watchers (i.e., society at large)” (p.251). We know that the current state of supermax cannot remain as is if there is any hope for a positive, rehabilitative future.
Also central to improving conditions within supermax is an increase in documentation of what exactly happens within its walls. Rather than become further obscured from scrutiny, supermax prisons need to become more transparent in their practices. In any prison that holds violent, dangerous prisoners there will always be the need for the use of force. But in these cases, in addition to better training and supervision, it is suggested that “videotapes and post-incident medical examinations” be required of most incidents. Collins (2004) warns against a future in which these practices remain opaque: “If use of force is not properly controlled and a pattern of misuse develops—along with a code of silence among staff about incidents of abuse—management has failed” (p. xviii). Furthermore, documentation such as videotaping can also perhaps “deter the inmate who wants to provoke a violent confrontation and the staff member who tends to use excessive force when the opportunity presents itself” (Collins, p. 45).

Increasing privacy for inmates, while at the same increasing their social interactions, is also of tantamount importance. As we learned earlier, prisoners often receive therapy and medical consultations in semi-public forums. In the future, we might hope to see confidential conversations between doctor and patient held in private locations, albeit secure ones for both staff and inmates.

Despite all of these recent improvements in the use of solitary confinement in federal prisons, other groups have actually seen their positions worsen over the past decade. Women are the fastest growing population in the federal prison system. As of the February 2014 hearing, there were 14,008 female prisoners in the federal prison system. While only constituting 1.4% of the female inmate population, 197 of them are in solitary confinement - a smaller figure than the 6.5% average for both men and women placed in federal solitary confinement.
Despite the comparatively low overall percentage of female federal prisoners placed in long-term solitary confinement, studies have shown that the harm caused to women in these imprisonment conditions is exponentially greater than the harm caused by placing men in solitary confinement. In general, women are much more likely to suffer from mental illness in their lives than men, conditions that are greatly exacerbated in solitary confinement (2014 Senate Hearing). Furthermore, female prisoners are often the only caretaker of their children, and once placed in solitary confinement, often lose entirely their right to have contact visits with their family. In the future, we must especially look closely at the emergence of new trends of minorities confined in supermax prisons.

In the end, however, one of the most important changes we can make to the system of supermax is an ideological one. By eliminating vague labels such as “the worst of the worst” and reinserting a greater sense of individuality in our treatment of prisoners, both within supermax and in society, we might be less susceptible to allowing such injustices to occur.


*Crime & Delinquency*, 49(1), 124-156.


