

# Op-Ed How to fix solitary confinement in American prisons



An empty solitary confinement cell at the Barry J. Nidorf Juvenile Hall in Sylmar on June 9, 2015. Earlier this year, Los Angeles County approved sweeping restrictions on the use of solitary confinement for juvenile detainees. (Los Angeles Times)

By **Keramet Reiter**

OCTOBER 17, 2016, 4:00 AM

**H**undreds of prisoners live in solitary confinement in Los Angeles County jails. On average, they spend at least one year in a cell the size of a wheelchair-accessible bathroom stall, leaving only a few times a week, one at a time, for showers or exercise. Meals arrive through a slot in the cell door. Between the long hours in isolation and the steel doors, a prisoner might go days, or longer, without looking another person in the eye.

Solitary confinement costs taxpayers 2 to 3 times more per prisoner than less restrictive forms of incarceration. California officials estimated they would save \$28 million this year by reducing the state's solitary confinement population by even a few hundred prisoners. But solitary is even more expensive in social terms. It can cause serious psychological damage — anxiety, paranoia and hallucinations that may continue long after prisoners return to our neighborhoods.

The U.S. Supreme Court attempted to abandon solitary confinement in the late 19th century, calling the practice barbaric. Almost 100 years later, in the 1970s, courts in California and across the United States were still chastising prison officials for keeping prisoners locked in their cells for months at a time, with little access to running water, lighting or human contact.

In 1995, U.S. District Court Judge Thelton Henderson found that conditions in the isolation unit at California's Pelican Bay State Prison, "hover[ed] on the edge of what is humanly tolerable." Fifteen years and few reforms later, prisoners there began a hunger strike to prove the truth of Henderson's assertion. Thirty thousand prisoners in and out of isolation joined the protest, which ultimately curtailed the practice of indefinite solitary confinement in the state. The hunger strikes are a reminder that legal oversight is just one mechanism of reform; public attention is crucial, too.

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**Top-down rule changes ... have never been enough to fix solitary confinement. The guards who staff isolation units must be enlisted.**

A series of isolation-related tragedies across the United States have revealed just how debilitating solitary confinement can be, and how dangerous its outcomes. This, in turn, has maintained the pressure for reform.

Last year, 22-year-old Kalief Browder committed suicide. He had been arrested on a robbery charge when he was 16 and incarcerated for three years in New York's Rikers Island jail, including two years in solitary confinement. The charges against him were dropped. In custody and after his release, Browder attempted suicide multiple times, until he finally hung himself. "Prior to going to jail," he told CNN in 2013, "I never had any mental illness."

Prisoners are not the only ones who experience the harm of isolation. In 2013, a prisoner released directly from long-term "administrative segregation" killed Tom Clements, the head of the Colorado Department of Corrections. Clements' successor would later write of the killer, Evan Ebel, "Whatever solitary confinement did to [him], it was not for the better." Before Ebel killed Clements, few Americans knew that prisoners were being released directly from solitary confinement back into our communities.

Now, Colorado, New York, California and even Los Angeles County are among the jurisdictions working to reform solitary confinement. But top-down rule changes, imposed by judges or heads of corrections systems, have never been enough to fix solitary confinement. The guards who staff isolation units must be enlisted. They decide which prisoners go into isolation, for how long, and under what conditions. They see the effects of solitary confinement, and they are in a position to know how a bad situation could be improved. Too often their perspective has been excluded from policy debates.

In the state of Washington, it was current and former prison guards who designed a new classroom chair for their isolation units. The chair keeps prisoners restrained but still permits face-to-face contact; it replaces steel,

phone-booth-sized “Hannibal Lecter” cages that forced prisoners to stand and look straight ahead through a fenced window during any kind of group activity. The chairs’ restraints are harsh, but any increase in face-to-face contact protects prisoners from further psychological disintegration.

Staff working in solitary confinement units need more resources to deal with prisoners perceived as dangerous or troubled. They need expert help with educational efforts and mental health treatment. And the units themselves need to be reconfigured, so that prisoners have access to natural light and sensory input other than cell walls and bars.

Most importantly, isolation cannot become a permanent condition. There must be limits, and opportunities to move prisoners out of solitary confinement into dedicated mental health treatment, or into the general population with rehabilitative programming. In Maine, Colorado and Washington, prison officials have experimented with moving prisoners from isolation units into mental health treatment units, resulting in healthier prisoners and safer prisons.

In all these efforts, transparency is important. Taxpayers fund solitary confinement, and live alongside its survivors, but we know too little about what goes on inside prisons. States must collect data, and make it available for independent analysis: Who is isolated in solitary confinement, for how long, why and with what result?

Reform efforts to date have still left U.S. prisons hovering at “the edge of what is humanly tolerable.” We can do better — by keeping track of the human beings locked in solitary confinement, identifying ways to transition them out of isolation and dealing more directly with the overworked and often under-resourced prison officials managing these difficult populations.

*Keramet Reiter is an assistant professor of criminology and law at UC Irvine and the author of “23/7: Pelican Bay Prison and the Rise of Long Term Solitary.”*

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# **Pelican Bay Prison and the Rise of Long-Term Solitary Confinement**

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**KERAMET REITER**

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23/7

PELICAN BAY PRISON  
AND THE RISE OF LONG-TERM  
SOLITARY CONFINEMENT

Yale

UNIVERSITY PRESS

NEW HAVEN & LONDON

Published with assistance from the foundation established in memory of  
Amasa Stone Mather of the Class of 1907, Yale College.

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Set in Scala and Scala Sans types by Integrated Publishing Solutions.  
Printed in the United States of America.

ISBN 978-0-300-21146-7  
Library of Congress Control Number: 2016939153

A catalogue record for this book is available from the British Library.

This paper meets the requirements of ANSI/NISO Z39.48-1992  
(Permanence of Paper).

10 9 8 7 6 5 4 3 2 1



To anyone who has lived or worked  
inside an American prison

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## ABBREVIATIONS

AB	Aryan Brotherhood
AC	Adjustment Center (at San Quentin Prison)
ACLU	American Civil Liberties Union
ADX	Administrative Maximum (a federal prison in Florence, Colorado)
ATF	Bureau of Alcohol, Tobacco, and Firearms
BGF	Black Guerrilla Family
CCPOA	California Correctional Peace Officers Association
CCR	Center for Constitutional Rights
CDC	California Department of Corrections (until 2005)
CDCR	California Department of Corrections and Rehabilitation (after 2005)
DSL	determinate sentencing law
ICC	Internal Classification Committee
IGI	internal gang investigator
JLCPCO	Joint Legislative Committee on Prison Construction and Operations
La Eme	Mexican Mafia
LWOP	life without the possibility of parole
NF	Nuestra Familia
PLO	Prison Law Office



SHU	Security Housing Unit
SMU	Special Management Unit
USP	United States Penitentiary
YACA	Youth and Adult Correctional Authority

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## The Most Dangerous Prisoner

ALTHOUGH I HAVE BEEN INSIDE THE Pelican Bay SHU only once, in 2012, I have walked across the prison yard at San Quentin State Prison, in Marin County, California, hundreds of times. San Quentin is history, in vivo. It is California's oldest prison, opened in July 1852. In those early days, the "prison" was actually a boat docked off Point San Quentin, which juts into the northern end of San Francisco Bay. Prisoners slept on the boat, named the *Waban*, at night, and went ashore to build the prison during the day.<sup>1</sup>

Approached from the highway, San Quentin looks like a medieval castle, complete with turrets. Up close, it looks just as timeless. The guards carry key rings with three-inch-long tarnished brass skeleton keys. A yellow stucco wall surrounds the prison, and a wrought-iron gate with gold-tipped posts greets visitors at the main entrance. From the prison gates, looking out over the surrounding water on a clear afternoon, you can see both the bright red Golden Gate Bridge leading into San Francisco and the now-empty Alcatraz fortress in the middle of the bay. Although stories from Alcatraz dominate prison lore, it operated as a prison for just three decades (1934–63), one-fifth of San Quentin's fifteen-and-counting decades.

Inside the prison gates, on the path to the prison yard, an American flag perpetually flies at half-staff to commemorate August 21, 1971, the deadliest day in California prison history, when three guards and three prisoners died inside San Quentin. Guards blamed George Jackson, one of the dead prisoners, for causing the carnage in a failed escape attempt; Jackson's sup-

porters blamed guards for setting up the incident in order to justify shooting him in the back. More than forty years later, the debate about exactly what happened persists, and the reverberating memory of the August 21, 1971, carnage at San Quentin has rhetorically justified abuses of prisoners such as the scalding, hog-tying, and gladiator fights that took place in the California SHUs in the 1980s and 1990s, and the now-standard practice of imposing decades in isolation on prisoners like Todd Ashker.

The prison yard I know so well is hard to reconcile with the chaotic San Quentin represented by that flag flying at half-staff. For five years I visited the prison at least once a week to teach math and English in an associate's degree program. I watched twenty-year-old white men and sixty-year-old black men struggling together to learn algebra and Aristotle.<sup>2</sup> I carried a "Brown Card," which gave me permission to shepherd other volunteers across the central prison yard, a vast space made up of baseball fields and basketball courts and surrounded by a wide track of packed dirt. My Brown Card also allowed me to walk alone across the open yard, among hundreds of men dressed in "prison blues"—usually jeans and a white T-shirt—jogging, doing push-ups, sitting around picnic tables, chatting, picking up clean laundry, or negotiating with officers for some privilege or other. As more and more of them took my classes over time, crossing the yard became a reunion of sorts. Guys would wave, stand up, step aside, smile, and say good evening.

I repeatedly confronted the dissonance between the men I came to know through my classes and the dangerous characters whom society imagines congregating on the San Quentin yard. According to my mother and everyone else who expressed concern for my safety, my respectful college students in their prison blues, with their everyday health and work problems and their persistence in the face of educational challenges, were a naive illusion. Mama, I am pretty sure, imagined a prison full of George Jacksons, along with one or two Hannibal Lecters.<sup>3</sup> The fact that San Quentin is home to California's 746 death row prisoners—housed in a separate structure from the general prison population—enhances its image as a home to tiers full of unpredictably violent men. But there has been just one murder at San Quentin in the last ten years, giving the prison a murder rate significantly lower than that of the surrounding, affluent Marin County.<sup>4</sup>

In the 1960s and 1970s, however, San Quentin housed more of California's highest-security prisoners and was a more violent place. For nearly ten years (1962–68 and 1970–71), it was home to George Jackson, called by some the most singularly dangerous prisoner ever housed in California (and by others the most inspiring). Every time I walked along the path from the yellow prison wall to the San Quentin inner yard, past that flag at half-staff, I was reminded that Jackson had died right there.

The events leading up to Jackson's death, and the many conflicting stories re-creating those events, made a supermax prison like Pelican Bay, with cells like Todd Ashker's, seem like a good idea to prison officials. Pelican Bay institutionalized the policies that prison guards developed in direct response to the threat that Jackson and his alleged co-conspirators posed to the prison order. Today, prison officials frequently refer to Jackson's legacy as a dangerous revolutionary in their rationales for the supermax.

### George Jackson Politicized

George Jackson's family moved from Chicago to California in 1956. Jackson was fifteen. He was arrested for the first time a year later, for petty theft; he spent seven months locked up in the California Youth Authority. In 1960, at the age of eighteen, he was arrested and charged with second-degree armed robbery. He pleaded guilty to stealing \$70 (roughly equivalent to \$560 in 2015, adjusted for inflation) from a gas station in Los Angeles.<sup>5</sup> In letters to his family and friends, Jackson repeatedly insisted that he was innocent of this crime.<sup>6</sup> But he pleaded guilty in exchange for the promise of "a short county jail term."<sup>7</sup> The sentencing judge, taking note of his previous convictions, instead sent Jackson to state prison for "one year to life."

Under this indeterminate sentence, Jackson would be eligible for release after one year of incarceration, provided he received good behavioral assessments from prison guards and the Board of Prison Terms (parole officials).<sup>8</sup> At first, Jackson could have reasonably expected to be released within a year or two. After all, his crime was relatively petty; no one had died, and the amount of property taken was small. In his early prison letters, Jackson wrote hopefully about getting out; he said he wanted better shoes so that he could take care of his sore feet before he was released, and he asked his fa-

ther, a postal worker, to help him to find a job.<sup>9</sup> He even avoided participating in work stoppages, in order to maintain his record of good behavior.<sup>10</sup> But the Board of Prison Terms repeatedly denied him a parole date. In January 1967, after he had already served five years beyond his minimum sentence, and after the Board of Prison Terms had denied his parole for another “14-to-18” months, Jackson acknowledged: “Of course I could do the rest of my life here.”<sup>11</sup> His statement was prescient.

Every time he went before the Board of Prison Terms, Jackson experienced the vagaries of the indeterminate sentence, which left the actual length of prison sentences up to guards, who could place favorable or unfavorable disciplinary reviews in a prisoner’s file, and parole boards, which decided whether to grant or deny a prisoner’s petition for release. Jackson argued that whatever he did, prison guards construed his behavior as revolutionary. If he refused to participate in work stoppages, he was strategically concealing his leadership of those very strikes.<sup>12</sup> He was helpless to dispute the guards’ assessments. Because he had pleaded guilty to the original robbery charge against him, he had no right to an appeal of his initial sentence. He also had no right to legal representation at his parole hearings.

Jackson’s growing frustration is evident in his letters. He wrote that the prison guards were “pigs,” that his sentence was unjust, and that he was being oppressed. He talked increasingly of escape.<sup>13</sup> And he proclaimed his status as a “revolutionary.”

Jackson first began studying radical political theorists, including Karl Marx and Frantz Fanon, in 1962, under the supervision of another African American prisoner, W. L. Nolen, who ran a reading group for prisoners. Nolen, Jackson, and other members of the reading group were ultimately affiliated with the Black Guerrilla Family (BGF), which was founded sometime between 1966 and 1971. According to its followers, the BGF is a revolutionary political organization; according to prison officials, it is a prison gang.<sup>14</sup> Many BGF affiliates maintained ties with the revolutionary organization of the Black Panther Party, founded in 1966. Jackson, along with revolutionaries such as Eldridge Cleaver and Huey Newton, who were also imprisoned in California in the 1960s, advocated becoming conscious of racial discrimination, paying close attention to revolutionary theorists, and



engaging in violent political activity. As Jackson wrote in one of his letters: “The concept of nonviolence is a false ideal.” And later: “Politics is violence.”<sup>15</sup> Words would soon become reality.

### A Radical and Violent Context

The 1970s were the most violent years in the history of California (and U.S.) prisons. Between 1970 and 1974, there were seventy-one prisoner and eleven guard homicides in California state prisons. Twice as many guards died in the first four years of the 1970s as in the subsequent forty years, and the rate of violent deaths of prisoners between 1970 and 1974 was at least four times as high as in any year since 1974.<sup>16</sup>

This violence followed years of prisoner-initiated work stoppages and guard-initiated lockdowns. Prisoners in the late 1960s, like civil rights activists outside prison, organized to demand certain rights: to be heard in the courts, to freedom of speech and association, and to more just everyday treatment.<sup>17</sup> Many of these demands brought substantive changes in prisoners’ lives, especially as federal courts became increasingly open to hearing prisoner-initiated challenges to the conditions of their confinement.<sup>18</sup> By 1975, courts across the United States had found unconstitutional conditions of confinement or operational policies in more than thirty state prison facilities (and had declared the totality of some state prison systems, like Arkansas’s, to be unconstitutional).<sup>19</sup>

Sentencing policies faced scrutiny, too. In 1971, the American Friends Service Committee, a progressive Quaker organization, published a provocative report titled *Struggle for Justice*, arguing that indeterminate sentences consistently produced racially biased outcomes and amounted to an extreme form of discrimination. Jackson experienced exactly the kind of discrimination highlighted in the report: he was an African American man who expected to spend one year in prison on a relatively minor robbery conviction, but instead found himself facing a de facto life sentence, at least in part because of his race-based association with the BGF. The California Legislature abolished indeterminate sentencing in 1976, a few years after the publication of *Struggle for Justice*, but the movement against the practice

had hardly coalesced in the 1960s, when Jackson was being repeatedly denied parole.

Although legal rights for minorities and disadvantaged populations expanded throughout the 1960s, Jackson's list of perceived injustices kept expanding, too. It was not a trivial list. In addition to his parole denials, the injustices included segregated prison facilities, censorship, rancid food, and pervasive racial animus; then, murdered friends and, later, being charged with murder himself. In this political and social environment, Jackson became an increasingly radical, and increasingly vocal, advocate of violent resistance.

Much of the prisoner organizing in this period took place along racial lines. The Muslim Brotherhood, for instance, which originated in New York and organized a significant and successful movement for prisoners' religious freedom, consisted mainly of African American prisoners.<sup>20</sup> The line between being a radical political organization or a race-based prison gang, however, was often blurry, in administrative perception even if not in practice. The BGF, the Aryan Brotherhood, the Mexican Mafia, and Nuestra Familia, which all trace their origins to the mid-1960s, are officially monitored as prison gangs and are often blamed for violence in and out of prison.<sup>21</sup> Even among these groupings, however, prisoners like Jackson expressed solidarity across racial boundaries. The BGF and Black Panther Party aligned themselves with the communist parties in China, Cuba, and North Vietnam, for instance, and these groups had a stated goal of multi-racial unity among prisoners.<sup>22</sup>

These race-based prison affiliations coalesced as the racial composition of American prisons, especially those in California, changed drastically. In 1970, whites accounted for 80 percent of California's prison population. But throughout the 1970s and 1980s, the percentage of whites being admitted to state prison fell to under 30 percent, so that by the 1990s, they made up less than half of the state's prison population.<sup>23</sup> Today, the proportion of black and Latino prisoners throughout U.S. prisons is grossly disproportionate to their presence in the general population. African Americans make up 38 percent of all U.S. prisoners, but only 13 percent of the national population; Latinos account for 19 percent of all U.S. prisoners,

but only 15 percent of the national population.<sup>24</sup> In the 1970s, overt racial tensions in prison increased along with these increases in minority incarceration rates.<sup>25</sup>

Carl Larson, who worked as a prison guard and then as a warden during this period, described how the civil rights and social justice movements outside prison aligned with a different, frequently more violent and racially divided rights revolution inside prison: “We had this ‘revolution,’ and it manifested itself with a lot of rhetoric—in colleges and jails. The manifestation in colleges was mainly peaceful—a lot of rhetoric and thought. [But] in the prisons, it manifested in a lot of violence . . . The Black Guerrilla Family and the Black Panthers, they had a political side . . . but they were mostly gangs, mafia.”<sup>26</sup> For Larson, any political radical behind a prison wall (especially a black radical) was a potentially violent criminal, part of an organized gang. Prison officials describe responding as best they could to the increasingly organized populations filling their prisons—identifying cliques of newly established gangs in one facility and dispersing them throughout the prison system.<sup>27</sup> Prison scholars, however, have long argued that prisoners and guards jointly construct the social order of prisons, and that guards reinforce and exploit racial tensions in order to maintain a fragile equilibrium between themselves and the volatile prisoners, who outnumber them.<sup>28</sup> In California in the late 1960s, this equilibrium shattered.

The strategy of dispersing young gang members seemed only to expand their power. Prisoner-on-prisoner assaults increased, as did prisoner-guard altercations. Guards increasingly resorted to lockdowns as a tool of control.<sup>29</sup> During a lockdown, prisoners spent every hour of every day locked in their cells, meals (usually cold) were delivered to the cells, and prisoners were denied any opportunity to congregate in common areas. Lockdowns just escalated the tensions. Reports of confinement in dank hundred-year-old cellblocks, with no hot water or warm food for days, then weeks, and eventually months at a time, fueled the growing prisoners’ rights movement. Jackson, the BGF, and their advocates outside prison argued for more public oversight and judicially mandated reform, as well as for revolutionary overthrow. The ongoing lockdowns bolstered their claims.

Jackson thought of himself as a fiercely independent revolutionary, but his radicalism was also the product of complex institutional interactions:

the oppressiveness of the indeterminate prison sentence, the politics of the Black Power movement, the hope of the civil rights movement, and the violence and racism pervading the California prison system.

### Eighteen Deaths in Eighteen Months, 1970–71

The first three of the seventy-one prisoner homicides recorded between 1970 and 1974 in California prisons took place in January 1970. Soledad State Prison's O-Wing had been locked down on and off for months. According to prison officials, O-Wing housed some of the biggest security risks in the state, including George Jackson and his mentor, W. L. Nolen. Steve Nolen, the younger brother of W.L., remembered visiting Soledad in those days. Steve was in college at Chico State, so he would drive "two, three hours" to get to Soledad. (Probably longer, in fact: Soledad is about 280 miles south of Chico.) He remembered: "Half the time you get there and they're saying you can't see him" because of the lockdowns.<sup>30</sup>

But sometimes, both W.L. and George Jackson would "try to fix it so they got out at the same time." Steve remembered George Jackson as both "more direct" and bigger than his brother W.L., "by about 30, 35 pounds." Steve knew that W.L. was "George's mentor" and "tried to keep George straight." Steve remembered W.L. as calm and smart: "just the mellowest thing" and "infinitely brighter than I am . . . a really, really sharp guy." The oldest Nolen brother, Cornel, was also in prison at the time, at San Quentin, although Cornel was less politicized. "W.L. and Cornel and the time that they spent—they had nerves of steel. Nerves of steel," Steve said.<sup>31</sup>

On January 13, 1970, guards released the prisoners from Soledad's locked-down O-Wing onto the prison yard. Steve said his brother W.L. "knew that they were setting up something, but he didn't know the moment or the circumstances, how it was going to break out."<sup>32</sup> Nolen had recently circulated a petition among the Soledad prison population, seeking to initiate a lawsuit against prison officials for harassment, abuse, and endangerment of black prisoners.<sup>33</sup> He was not keeping a low profile. On that January day, according to everyone whom Steve asked, W.L. could have chosen not to go out to the exercise yard. "I found that out from everybody I talked to," Steve said.<sup>34</sup> But W.L. had those "nerves of steel," and he went out onto the yard.

There were fifteen prisoners on the yard that day, each “defined as racist by the prison”: seven were black nationalists, and the rest were anti-black nationalists (or white racists). All had been locked down, on and off, for months at a time.<sup>35</sup> A fight quickly broke out between white and black prisoners. Officer Opie Miller, watching from a guard tower, shot into the melee with his rifle, hitting three of the black prisoners: Cleveland Edwards, Alvin Miller, and W. L. Nolen.<sup>36</sup> Steve remembered hearing, after the fact, how a fistfight had begun: “So the first guy came, and W.L. knocked him down. Knocked down the second, and the next thing you know, they raised the rifle and they shot him. And then they shot—I know those two guys [Edwards and Miller]—I know their mothers . . . And they killed them, successively . . . it was a grisly day.”

Steve said that at first, prison officials told the Nolen family only that W.L. had been shot, but added, “It’s not that bad.” Steve remembered asking: “I’m saying, ‘How is he shot? How did that happen?’” Prison officials responded: “Well, we can’t give any explanations right now.” Steve said, “You know how that works.” The hours dragged on, and then at 3 p.m., “They finally delivered what it was. He’s dead. And I just broke down. It was one of the rainiest times ever.”<sup>37</sup>

Forty years later, Steve dwelled on the memory: “It was just a terrible, terrible period . . . Shooting W.L. through the heart first and then shooting others. Left his body out for him to bleed out.” Steve said the last time he saw his brother was “at [the] funeral home.” The experience added to the trauma: “My mother insisted on an open casket. Which is the worst thing she could have possibly done. It was like pieces of parts sewn together.”<sup>38</sup>

Soledad prisoners called for murder charges to be brought against Officer Miller, who was white. But three days later, the district attorney in Monterey County, where Soledad prison is located, announced on the local evening news that he considered the deaths “justifiable homicide.” Miller had simply fulfilled his duty to keep the prison and the community safe, the prosecutor said.<sup>39</sup> The targeting of W. L. Nolen, and the fact that a sharpshooter in a guard tower had killed three black prisoners (while only injuring one white prisoner), raised questions about Miller’s motives and those of the prison administration and prosecutor.<sup>40</sup> Jackson had already declared,



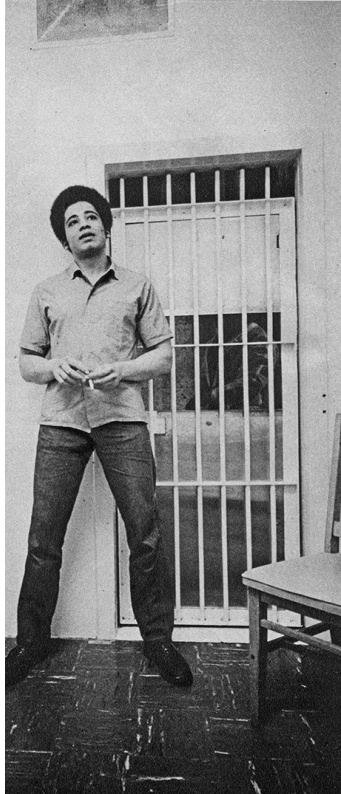
nearly two years earlier, that “nonviolence is a false ideal,” and his politics were well known to prisoners and officials alike.<sup>41</sup>

On the night that the district attorney indicated he was unlikely to pursue murder charges against Office Miller, Officer John Vincent Mills, another white guard, plummeted off the third tier of Soledad’s general population Y-Wing. Witnesses described an explosion of applause among the prisoners as Mills landed on the cement floor.<sup>42</sup> The week’s death toll increased to four. A two-week investigation began. Who was responsible for the officer’s death? The prison administration fingered George Jackson, along with John Clutchette and Fleeta Drumgo, for the murder. The Soledad Brothers were born.

Jackson was twenty-eight years old. His one-year-to-life sentence was looking more like a death sentence. He was transferred to the Adjustment Center (AC) at San Quentin to await trial for Mills’s murder. Prosecutors intended to seek the death penalty. The AC, which had opened in 1960, was a state-of-the-art high-security facility, three stories high with barred windows and doors.<sup>43</sup> Jackson, like the other AC prisoners, was locked into his cell twenty-three hours or more a day with no human contact other than shouting through the bars of his cell to the twenty-seven other prisoners on his tier. Whenever he left the cell, he was handcuffed, his cuffed hands were chained to his waist, and he was leg-cuffed, too. Whenever he returned, he was strip-searched.

The violence continued despite Jackson’s near-total isolation. Black prisoners argued that they had avenged only one of the three January deaths.<sup>44</sup> But then another black prisoner died. On February 25, 1970, Fred Billingslea, housed near Jackson in the AC, died in his cell. Prisoner witnesses said he was beaten and teargassed to death; prison officials said Billingslea set a fire in his cell and died of asphyxiation.<sup>45</sup> In March, a white guard at San Quentin sustained stab wounds but survived; James McClain, a black prisoner, was charged. In July, Officer William Schull (a white man) died on duty at Soledad prison, and the local prosecutor indicted seven more black prisoners for his murder. Total prisoner deaths: four. Total officer deaths: two. Total indictments: eleven—all black prisoners.

On August 7, 1970, guards transported James McClain from San Quentin



George Jackson, San Quentin, circa 1970  
(From the Freedom Archives collection,  
photographer unknown)

to the Marin County courthouse for the first day of his trial. He was the first of the black prisoners to stand trial for charges associated with the recent violence against white officers.

McClain was first part of the growing in-prison movement led by Jackson (and W. L. Nolen before that) and then got swept up in the national wave of support for the Soledad Brothers. Angela Davis, a young assistant professor at the University of California, Los Angeles, and an established member of the Communist Party and the Black Panther Party, together with George Jackson's seventeen-year-old younger brother, Jonathan Jackson, had already drawn national attention by proclaiming the Soledad Brothers' innocence. At least some Californians were watching the McClain trial closely to see how the white guards' accusations against the black prisoner would be resolved.

Shortly after the first witness took the stand, Jonathan Jackson barged into the courtroom, brandishing at least one pistol and a carbine rifle. The guns were later traced to Angela Davis; she had legally purchased them over

the past two years.<sup>46</sup> Jonathan Jackson, with the help of McClain and two other prisoners serving as witnesses at his trial, William Christmas and Ruchell Magee, took the judge, the district attorney, and three jurors hostage, demanding safe passage and the release of the Soledad Brothers. The younger Jackson herded the five hostages into a rented van in the courthouse parking lot and began driving out.

Within minutes, the Marin County police arrived on the scene, joining San Quentin guards. They emptied a flurry of bullets into the rented van. When the shooting was over, Jackson, McClain, Christmas, and the judge were all dead. The district attorney was permanently paralyzed. The jurors and Ruchell Magee survived.<sup>47</sup> (A sign over the entry gates of the San Quentin prison yard still proudly asserts the policy that prevailed on August 7, 1970: the prison, like the Marin County police in 1970, maintains a “no hostage policy,” meaning that prison staff will not bargain with prisoners who take hostages.) Angela Davis became a fugitive, was caught in October of 1970, jailed, and stood trial in 1972 for the kidnapping and murder of the judge. An all-white jury acquitted her.<sup>48</sup>

As of August 7, 1970, total deaths in and out of prison: ten.

Meanwhile, George Jackson remained in San Quentin’s Adjustment Center, awaiting trial. His first book, *Soledad Brother*, dedicated to his deceased younger brother, Jonathan, came out that fall. It consisted of letters that Jackson had written between 1964 and 1970 to his mother, father, siblings, and lawyers. The book received immediate critical acclaim, and comparisons were made to the best-selling *Autobiography of Malcolm X* and *Soul on Ice*, written by Eldridge Cleaver, another black California prisoner and prominent member of the Black Panther Party.

The book’s final letter, dated August 9, 1970, is addressed to Joan, a friend and member of the Soledad defense committee. Jackson mourns the death of his little brother: “I can’t go any further, it would just be a love story about the baddest brother this world has had the privilege to meet, and it’s just not popular or safe—to say I love him.”<sup>49</sup> In one sentence, he evokes the tragedy of losing his brother, the politics of mourning a revolutionary, and his own proximity to deadly violence. Tragedy, politics, and violence together encapsulate the ambivalence that the Jackson brothers evoked. On one hand, George Jackson had suffered an extremely harsh punishment for

his initial crime of robbery; his writings demonstrate his intelligence and thoughtfulness; he was part of the sweeping 1960s civil rights movement, fighting racism and discrimination. On the other hand, he may have killed a prison guard, he advocated revolutionary violence, and the brother he was so proud of had kidnapped a judge and a prosecutor at gunpoint.

In his published letters, Jackson says more than once that he thought the killing of Officer Mills was justified. But he never admitted to killing him, and no clear evidence linking him to the murder was ever presented in court. The polarized interpretations of Jonathan Jackson's acts at the Marin County courthouse, and George Jackson's role in the events, echoed in the conflicting narratives about what happened next.

In August 1971, as the first anniversary of his brother's death approached, Jackson prepared to face trial for Officer Mills's death. He had completed a second book of letters and essays, *Blood in My Eye*, which would be published early in 1972, to further critical acclaim.<sup>50</sup> By now, Jackson had a substantial team of legal representatives, more than he ever could have hoped for in the early 1960s, when he was an unknown black kid facing a de facto life sentence for robbery. Now, at twenty-nine, as one of the nationally recognized Soledad Brothers, he faced a potential death sentence for murder.

George Jackson's legal team was working hard.<sup>51</sup> In April 1971, they filed a complaint alleging multiple instances of prison officials' interference in preparing Jackson's defense: hiding and paroling prisoner witnesses favorable to Jackson, and abusing and coercing others into testifying against him.<sup>52</sup> Many prisoners filed declarations and depositions about these tactics. But much of the evidence was never formally presented in a court of law because Jackson never got his day in court.

On Saturday, August 21, Stephen Bingham, one of Jackson's lawyers, came into San Quentin for a scheduled attorney-client visit. Bingham, who came from a wealthy Connecticut family, was exactly Jackson's age: twenty-nine. A graduate of Boalt Hall Law School at the University of California, Berkeley, he had participated in the 1964 Freedom Summer in Mississippi, had recently returned from the Peace Corps, and was an avowed member of the New Left, with communist leanings.<sup>53</sup> With him was Vanita Anderson, a defense-team investigator. On that afternoon at the San Quentin prison

gate, the two consented to a search of Bingham's papers and Anderson's cassette recorder. A few days later the *Washington Post* reported that Bingham had passed through a metal detector and that a guard inspected the tape recorder's battery case.<sup>54</sup>

Anderson, who had already visited Jackson once that week, was denied entry (because of new rules the prison had instituted in response to the popularity of prisoners like Jackson). According to Bingham, however, the guard on duty encouraged him to take Anderson's tape recorder into the prison, along with the galleys (typeset pages) of Jackson's new book. The guards had already taken the recorder apart to confirm that there was nothing inside it, and Bingham entered the prison without Anderson.<sup>55</sup> In another account of what happened, Daniel P. Scarborough, a guard who was responsible for processing prison visitors that afternoon, said that Bingham also brought in a batch of legal papers, stapled together, carried inside an accordion file folder.<sup>56</sup>

Carl Larson, who was then working as a correctional counselor at the state prison in Chino, in Southern California, remembered talking over the day's events with his friend James Park, the associate warden of San Quentin, who happened to be the administrative officer on duty that afternoon. According to Larson, Park took the call from a lieutenant who wanted to know whether to let Bingham and his tape recorder into the prison: "When Bingham came into the prison, he had a tape recorder, he was going to visit with George Jackson, and the officer at the gate wanted to take the tape recorder apart. The lawyer argued, got offended, resisted, asked for a supervisor. The officer calls a lieutenant, says, 'You can't come in with that.' The officer calls Jim Park, and Jim Park approved it, said, 'Let it go in.'" <sup>57</sup> A day earlier, Park had been less accommodating, issuing a new policy limiting reporter interviewers of prisoners in "lockups" like the Adjustment Center to once every three months.<sup>58</sup> But Bingham was a lawyer, not a reporter, so he entered the prison, allegedly with Park's personal approval. Bingham began his visit with George Jackson, who had just hours to live.

Bingham and Jackson most likely met in the same visiting rooms used for AC and death row prisoners today. In the last twenty-four hours of a death-sentenced prisoner's life, friends and lawyers often maintain a vigil, or a "deathwatch." (Visiting rules for the condemned are traditionally re-

laxed right before an execution, so multiple visitors can spend up to a full day with the prisoner.) Did Bingham and Jackson know they were keeping a deathwatch, counting the hours until Jackson's death?

Only Bingham can say. He was acquitted in 1986 of all charges relating to the day's events. At the end of the visit, not long before three, he left the prison, tape recorder and briefcase in hand. A guard escorted Jackson back to his cell in the Adjustment Center.

What happened next is another mystery. The historian Eric Cummins says, "According to most versions of the legend . . . Jackson drew a gun on his escorting officer."<sup>59</sup> Johnny Spain, another prisoner, said simply: "There was a gun introduced into the Adjustment Center."<sup>60</sup> At any rate, all the AC prisoners on the first tier, including Spain and Jackson, somehow managed to get out of their cells. Many later testified that Jackson shouted: "The dragon has come!"—a reference to a poem by the North Vietnamese leader Ho Chi Minh about the power of imprisonment to generate revolutionary fervor.

Jackson then dashed from the AC, running toward the middle of the prison yard. Spain followed but ducked under a bush just as gunshots rang out.

Jackson fell down, alone in the open space of the prison yard, dead.

There was a gunshot wound in his back and one in his head.<sup>61</sup> Some autopsy reports said a single bullet had ricocheted from an entry point in his back, up his spine, and out through his head. Others said the bullet traveled in the opposite direction. John Clutchette, one of the other Soledad Brothers, claimed that Jackson was shot in the back by a guard in a gun tower overlooking the yard and was then surrounded by guards from within the prison yard and shot again in the head.<sup>62</sup> However many bullets actually entered his body, he died quickly.

When the prison guards reentered the Adjustment Center, they found more carnage: three guards and two prisoners (all white) stabbed to death, their bodies piled into what had been Jackson's cell. The historian Dan Berger describes the retaliatory violence that followed: guards stripped, handcuffed, and hog-tied twenty-six prisoners from the AC and left them naked in the San Quentin prison yard, where Jackson lay dead, too. That evening, the AC prisoners were systematically interrogated and beaten.<sup>63</sup>



### “We Are Investigating”

Within hours, Park, the associate warden, was on-site at the prison, preparing to host a press conference. In an audio recording of that event, a reporter breathlessly describes watching at the prison gates as “an ambulance carrying two bodies, a panel truck carrying two, and that was a station wagon carrying one body” leave the prison in succession. The same reporter describes watching as “reporters and news technicians are given a full-body search.”<sup>64</sup>

Park’s account of what had just happened was matter-of-fact:

At 3 p.m., there was an attempted break from our Adjustment Center, which is our maximum-security facility. Apparently a gun was smuggled in . . . in the possession of George Jackson. They captured the officers. They murdered three officers. They murdered white inmates that were tier tenders, who were working in the Adjustment Center. George Jackson was killed as he broke and ran outside of the Adjustment Center. These are the bare facts. We are investigating . . . This apparently was a carefully planned attempt to break out of the institution, a foolish attempt I believe, but an attempt that showed again complete disregard for the lives of officers who did not deserve to die and three inmates who did not deserve to die.<sup>65</sup>

At the end of this statement, a clamor of reporters can be heard, and the questions begin. The first is why the warden mentioned that the dead “tier tender” prisoners were white.

Later in the press conference, Park said: “We can’t say who killed who at this point. We’re investigating. It’ll be a big snarl to unravel.”<sup>66</sup> The snarl was never quite unraveled. Even the initial, basic facts that Park presented have been disputed.

Jackson wrote and spoke frequently about his desire to escape. Some claim, however, that he was not trying to escape on August 21, but was set up for assassination by the Criminal Conspiracy Section of the Los Angeles Police Department, which had infiltrated the Black Panther Party in both Los Angeles and the Bay Area in an attempt to track and control the revolutionaries.<sup>67</sup> Others argue that the prison guards set Jackson up, first as a troublemaker, then as the murderer of Officer Mills, and finally as an attempted escapee.<sup>68</sup>

Regarding the causes of death, Park said: "I don't know whether there were any gunshot deaths, other than George Jackson, who was killed from an armed post."<sup>69</sup> Only one other gunshot wound (of one of the guards) was ever established; the five other casualties died of stab wounds.<sup>70</sup> In a pamphlet published in France in November 1971, Michel Foucault, a prominent philosopher of punishment, argued that the news around Jackson's death was plagued with "impossibilities and contradictions," and he called the killing a "masked assassination" in a revolutionary war.<sup>71</sup> So the conspiracy-to-assassinate theory even had international proponents.

A journalist who covered the civil unrest of these years explained that law enforcement officials had "good reason" to fear that the legal system would never sanction or silence Jackson's revolutionary rabble-rousing. Several Black Panther radicals across the United States had been acquitted of conspiracy and murder charges in the two years immediately preceding Jackson's scheduled trial. A jury first convicted Huey Newton, tried for murdering an Oakland police officer, of a reduced charge of manslaughter, and then the conviction was overturned. Charges against Bobby Seale for inciting a riot in Chicago, and later for murder in New Haven, were dismissed, and the related convictions of his codefendants were overturned. And a jury acquitted the Panther 21 defendants, accused of plotting to blow up a New York department store. Karen Wald sums up: "It is no wonder, then, that by the summer of 1971 law enforcement agents—from cops on the beat to guards in prison—had little faith in the reliability of the legal system. If they wanted revolutionary leaders disposed of, they would have to do it themselves, as revelations about the FBI's 'Cointelpro' program have recently revealed. Murder was on the agenda."<sup>72</sup>

Rational justifications aside, prison officials spun a different conspiracy theory. In the days following the six deaths, prison administrators repeatedly retold the conspiracy-to-escape story, claiming that Bingham had smuggled an Astra M-600 nine-millimeter semiautomatic pistol and a wig (in which Jackson could conceal the gun) into the prison inside his tape recorder. As Foucault pointed out in his "masked assassination" pamphlet, the make and model of the gun seemed to change with every telling of the story.<sup>73</sup> Inconsistencies about the kind of gun that Jackson had suggests further ambiguity about what happened on August 21, 1971.



By the time I interviewed Carl Larson, though, forty years later, there was some consistency around the claim that the gun had been a nine-millimeter Astra M-600. Larson told me: “In the tape recorder was an afro and a 9 mm . . . Jim Park had to live with that for the rest of his career. He was a real nice guy; he just made a terrible mistake.”<sup>74</sup> Incidentally, an Astra M-600 weighs more than two pounds and is nine inches long (its nickname is the “pipe wrench”), making it difficult to conceal in either a 1970s tape recorder or under a wig, as demonstrated in a simulation by the *San Francisco Chronicle* in 1971 of the alleged events surrounding Jackson’s death.<sup>75</sup> One historian called the scenario described by Larson and other guards “implausible in the extreme.”<sup>76</sup> Scarborough, the guard who wrote a 2011 memoir about working inside San Quentin in August 1971, tried to clarify. He said Bingham concealed the gun between stapled pieces of paper.<sup>77</sup> The story that Bingham smuggled in a gun, one way or another, lives on, seemingly told and retold by every prison guard who has ever worked at San Quentin or anywhere within the California prison system.

Six prisoners were ultimately charged as accomplices in the murders of the five people found in George Jackson’s cell on the day of his alleged escape attempt.<sup>78</sup> One of the six, Fleeta Drumgo, who was also one of the original Soledad Brothers, was acquitted of all the murder charges against him and paroled from prison shortly after the trial. He died in a shootout on the streets of Oakland three years later, in 1979. Luis Talamantez and Willie Tate were acquitted of all charges and paroled in the 1970s. David Johnson was convicted on one count of assault but paroled later in the 1970s. Johnny Spain was convicted on two counts of murder, but the conviction was overturned in 1982, and he was paroled in 1988. Hugo “Yogi” Pinell was convicted on two counts of assault and remained incarcerated—in solitary confinement—for the rest of his life.<sup>79</sup>

In sum, only three of the San Quentin Six were convicted on any of the charges against them, and the single murder conviction was ultimately overturned. We will probably never know the actual circumstances surrounding George Jackson’s death: whether the black prisoners who died at Soledad were killed accidentally or were targeted by guards; whether James Park truly believed he was responsible for allowing a nine-millimeter pistol into San Quentin, precipitating the deaths of six people; whether Jackson

had plotted to escape that day; or how a gun got into the high-security Adjustment Center in the first place. But the very existence of these questions suggests how much discretion prison administrators had, and continue to have, not just over what happens behind prison walls, but also over what stories get told about what happens there.

### A Legacy, Locked Down

Prison officials ultimately controlled the narrative of what happened to George Jackson, and they leveraged this narrative repeatedly to justify harsh, often abusive conditions of confinement.<sup>80</sup> First, they were judicious in collecting—or in failing to collect—evidence surrounding George Jackson’s alleged escape attempt and the other violent prisoner deaths in California prisons in 1970 and 1971. Not a single guard or prison official has faced any criminal charges for the deaths of California prisoners in the early 1970s. Of course, none of the San Quentin Six was ultimately convicted of murder, either. But prison officials maintained them all in solitary confinement for the duration of their sentences—up to forty-five years.

Second, prison officials cultivated the image of Jackson as the archetypally dangerous—both physically and ideologically—prisoner. Joshua Page has argued that George Jackson, and everything he represented, was a major impetus in mobilizing the union of California prison guards to become more politically active; thirteen guards resigned in the wake of the Jackson incident.<sup>81</sup> Carl Larson, who would ultimately take credit for Pelican Bay, told me that “the national revolutionary movement that culminated in George Jackson” was pivotal to understanding why California built a supermax.<sup>82</sup> Likewise, when I asked Steve Cambra, who worked as a prison guard in California and later served as the warden of Pelican Bay State Prison, about the origins of supermax prisons, he described to me how just six months after he started working at San Quentin as a correctional officer, three officers were stabbed. He remembered the exact date and the day of the week: Saturday, August 21, 1971. And he described the stabbings in graphic detail—“officers were cut ear to ear.”<sup>83</sup> Craig Brown, who served as undersecretary of corrections for the state in the 1980s, also cited “officers killed at the hands of inmates . . . in the ’70s” as a justification for the supermax.<sup>84</sup>

None of these prison officials discussed the consistent declines in violence in the California prison system after 1974. (Violence in California prisons has never again risen to pre-1974 levels.)<sup>85</sup> Instead, they spoke of the guards stabbed on the day George Jackson died, nearly forty years before, as if the deaths had taken place last week and as if Jackson's responsibility for them had been conclusively established.

For prison officials, Jackson embodied a genuine fear that they were losing control of the prisons. Carl Larson described to me how officers he was responsible for supervising in the 1970s were threatened, stabbed, or thrown off prison tiers to their deaths. He told me that he felt helpless to protect them, as well as the majority of prisoners—those who wanted only to get through their sentences and had no inclination to murder their cellmates, run gangs, or organize violent resistance. For officials like Larson, the prisons that existed in the 1970s could not control Jackson and his fellow revolutionaries. Permanently isolating George Jackson and his “comrades” seemed like the best possible alternative to revolutionary chaos.

At San Quentin (and also at Folsom, Soledad, and Tehachapi) in the 1970s, guards kept any prisoner who had been active in the Black Guerrilla Family, or who was believed to be associated with George Jackson, in his cell around the clock. These lockdowns were necessary for “management control” of the “race wars” in prison, officials said, based on “an institutional perception” that the prisoners posed “a threat to the safety of other inmates or staff.”<sup>86</sup> Lockdowns were not new in California. Soledad's O-Wing had been locked down intermittently for months before the fight that led to the shooting deaths of W. L. Nolen, Cleveland Edwards, and Alvin Miller in January 1970; San Quentin's B-Block had been frequently locked down, too.<sup>87</sup> But after the carnage at San Quentin, the lockdowns became permanent. Some prisoners, like Johnny Spain and Hugo Pinell, were simply never again released from their cells for any kind of group activity.<sup>88</sup> By the mid-1980s, prison officials in California were making plans to turn permanent lockdowns into a physical feature of the system—by building one of the first supermax prisons.

Today, a prisoner's slightest association with Jackson's legacy justifies everything from executions to permanent solitary confinement. For instance, in December 2005, Stanley “Tookie” Williams, a former gang member turned outspoken advocate for nonviolence, sought clemency from Gover-

nor Arnold Schwarzenegger. Schwarzenegger denied the petition, noting that Williams's inclusion of George Jackson in the dedication of one of his books "defies reason and is a significant indicator that Williams is not reformed."<sup>89</sup> The governor recast both Williams's and Jackson's radicalism as criminal, and then relied on this criminalization to justify an execution.<sup>90</sup> The State of California executed Williams on December 14, 2005.

Again in 2011, prison officials leveraged Jackson's legacy to resist claims from prisoners that they deserved different, better treatment. During the 2011–13 series of prisoner hunger strikes originating in the Pelican Bay SHU, prison officials "revalidated" Ronnie Sitawa Dewberry, who collaborated with Todd Ashker in leading the strikes, as a Black Guerrilla Family member. By revalidating Dewberry, prison officials further extended his indefinite solitary confinement. Three photographs of George Jackson justified this revalidation; the gang "chrono" reaffirming Dewberry's status as a BGF member explained: "BGF members believe Jackson to be a martyr, and utilize pictures that depict Jackson as a symbol of their dedication to the gang."<sup>91</sup> Jackson may inspire awe in the BGF, but he inspires fear in California prison guards.

Jackson's legacy as the archetypally dangerous prisoner even dominates mainstream cultural interpretations. For instance, in a *New Yorker* article in 2014, Jeffrey Toobin, a well-respected legal journalist, described Jackson's "radical politics, misogyny, and criminality" as the inspiration for the brutality enacted by BGF gang members in Baltimore in 2007.<sup>92</sup> Such an analysis elides Jackson's other legacies as a black intellectual, a best-selling author, and a persecuted revolutionary who maintained his innocence regarding both the initial theft charge that landed him in prison and the later murder charge that saw him presumptively sentenced to death.

### Riots Coast to Coast

George Jackson's own guilt might be ambiguous, but his posthumous association with other instances of violence in prison is clear. Just days after he died, on the morning of Thursday, September 9, 1971, a riot broke out at Attica Correctional Facility in upstate New York. Racial tensions were high in the prison; half of the prisoners were black, but all the guards were

white. Within hours, prisoners took over the central control facility in the prison, seized forty-two guards and civilians as hostages, and issued a list of demands. Their tactics were dramatic, but the demands were basic (and echoed ones made by prisoners around the country): better medical treatment, cleaner living conditions, decent food, less physical brutality.<sup>93</sup> Prisoners pointed to George Jackson as the inspiration for their revolt.<sup>94</sup> A few days before the riot, Attica prisoners had held a silent fast in observation of Jackson's death.<sup>95</sup>

During the Attica takeover, prisoners beat one guard, who later died, and executed three fellow inmates for failure to participate in the rebellion. But dozens of guards remained safe, and more than 2,200 prisoners survived. Until day four.

At first, the prisoners negotiated peacefully with a group of high-profile public officials, including Russell Oswald (correctional commissioner), Tom Wicker (*New York Times* editor), John Dunne (state senator), and William Kunstler (noted civil rights lawyer). But seventy-two hours into the stand-off, negotiations broke down, and Commissioner Oswald and Governor Rockefeller ordered state police to retake the prison. State National Guard troops joined the police forces.<sup>96</sup> The assault in the prison ended in thirty-nine deaths—twenty-nine prisoners, seven guards, and three civilians. National Guard fire killed all thirty-nine. According to the state commission that later investigated the riot, Attica was “the bloodiest single encounter, Indian massacres aside, between Americans since the Civil War.”<sup>97</sup> The death toll rivaled the total of prisoner and guard deaths throughout the California prison system during the entire 1970s.

As with Jackson's death, the events at Attica precipitated years of litigation and unresolved debates over responsibility for the carnage.<sup>98</sup> As recently as 2015, Eric Schneiderman, the New York attorney general, sought the disclosure of documents gathered during the investigation of the incident. These documents revealed that contrary to claims that prisoners caused all the violence, police and guards beat and tortured prisoners after they retook the prison.<sup>99</sup>

Nonetheless, as with George Jackson, Attica itself became iconic in correctional mythology, justifying oppression, abuse, and silence. The “ghosts of Attica” haunt officers, who fear prisoner insubordination, and prisoners,

who are still subject to unjustified beatings by unrepentant guards, who face few consequences. A *New York Times* story published on the heels of the riot's fortieth anniversary detailed the near-fatal beating of a black prisoner at Attica by three white guards in 2011. Afterward, the guards falsely charged the victim with possession of a weapon. Each officer ultimately pleaded guilty to a misdemeanor; none served any prison time.<sup>100</sup>

The *Times* explained that the culture of impunity, in which guards beat prisoners, charge the victims with crimes, and face little or no punishment themselves, is directly connected to the ongoing perception among Attica staffers that they must be vigilant against the ever-imminent possibility of a prisoner takeover: "To those who work at the prison, the history of the riot is an everyday reminder of the danger that inmates, who greatly outnumber guards, could take over at any time. Mark Cunningham, an Attica sergeant whose father was killed in the retaking, tells all new recruits about the events of 1971. 'I make sure it gets talked about,' Sergeant Cunningham said."

The summer after Jackson's death and the riot at Attica was particularly violent in prisons across the United States.<sup>101</sup> In April 1972, Brent Miller, a twenty-three-year old white prison guard, was stabbed to death at the infamous Louisiana State Penitentiary in Angola.<sup>102</sup> Albert Woodfox and Herman Wallace, vocal Black Panther members, were charged with the murder. They were placed in solitary confinement immediately, along with a third African American prisoner, Robert King. King remained in isolation for twenty-nine years, Wallace for forty-one years, and Woodfox for forty-three years. Courts overturned all three men's convictions, repeatedly, but Louisiana prosecutors kept appealing every judgment favorable to the "Angola Three." Wallace died of liver cancer three days after he was released from prison, but King and Woodfox have survived to tell their stories.<sup>103</sup>

The pattern was repeated elsewhere in the United States. In June 1972, a prisoner killed a guard at the maximum-security Iowa State Penitentiary. Warner Kelly, the prisoner charged with the murder, was locked down continuously for the next two years (and successfully challenged the conditions of his isolation).<sup>104</sup> In July 1972, in Massachusetts, a prisoner killed a guard, an instructor, and then himself in an escape attempt from the high-security

Norfolk State Prison.<sup>105</sup> In each case, prison officials and prisoners disputed the circumstances of the assaults for decades afterward; meanwhile, prisoners suffered overt abuses and indefinite lockdowns.

This pattern was repeated in federal prisons, too. Between 1972 and the early 1980s, the United States Penitentiary (USP) at Marion, Illinois, saw a series of disturbances. In July 1972, prisoners refused to leave their cells to work. They were protesting conditions such as the CARE (Control and Rehabilitation Effort) program, which subjected prisoners to brainwashing techniques that had been studied and refined by the military in the 1950s and 1960s.<sup>106</sup> The strike continued, on and off, for the next few months. Prisoners were locked down in a newly created “Control Unit” at Marion.<sup>107</sup> A decade later, on October 22, 1983, two prisoners in the USP-Marion Control Unit killed two guards in separate incidents.<sup>108</sup> Following these two deaths, prison officials declared a state of emergency, and all 435 cells at USP-Marion were locked down.<sup>109</sup> Tommy Silverstein, who murdered Officer Merle Clutts at USP-Marion in 1983, remained locked down in 2015, in total isolation, more than thirty years later. Silverstein had been locked down for years before he murdered Clutts, following the 1970s work stoppages at Marion, and he is now one of the longest-isolated prisoners in the United States.<sup>110</sup> He was transferred to the new federal supermax in Florence, Colorado, the Administrative Maximum, when it opened in 1995.

Still, prisoners across the United States continued to organize work stoppages and riots.<sup>111</sup> The Iowa State Penitentiary saw riots in 1981 and 1986.<sup>112</sup> In 1980, 33 prisoners died in a riot at the Penitentiary of New Mexico.<sup>113</sup> One of the most recent incidents took place in Ohio in 1993, when 450 prisoners at Lucasville Penitentiary rioted and took control of the facility for eleven days. Nine prisoners and one officer died; five prisoners were ultimately sentenced to death for their actions.<sup>114</sup> In total, between 1971 and 1986, there were more than three hundred prison riots across the United States.<sup>115</sup>

In each state, the organized and disorganized violence precipitated extended periods of isolation and lockdown. And nearly every state that experienced such riots and lockdowns eventually followed California’s lead, building a supermax prison to institutionalize the lockdowns.<sup>116</sup> Prisoners



had terrified prison officials; in response, prison officials built new institutions to terrorize prisoners.

The flag at half-staff on the San Quentin yard is a marker of a state of permanent exception: after George Jackson and Attica, chaos demanded an extreme response—an archipelago of concrete boxes.<sup>117</sup>

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widely variable laws and definitions of what constitutes solitary confinement in the first place.

81. Beck, *Use of Restrictive Housing*, 1. The *Time-In-Cell* report found that of forty-one state and federal jurisdictions reporting, 32,000 prisoners were in “administrative segregation”—the kind of indefinite isolation for safety and security (rather than disciplinary) reasons that Todd Ashker experiences, and twice as many prisoners were in some form of isolated confinement—administrative, disciplinary, or other.
82. Baumgartel et al., *Time-In-Cell*, 27; Reiter, “Parole, Snitch, or Die,” 548.
83. In *Caught* (165–95), the political scientist Marie Gottschalk elaborates on this point about the wide variety of offenders whom the public and politicians perceive as deserving of the harshest sentences and who are encompassed within the “worst of the worst” categorization; at the other end of the political spectrum of punitiveness lies the highly specified category of nonviolent drug offenders (called “non-non-nons”), who are increasingly perceived as deserving of mercy.

## Chapter 2. The Most Dangerous Prisoner

1. California Department of Corrections and Rehabilitation, “San Quentin State Prison (SQ).”
2. Prisons, especially in California, are notoriously, rigidly segregated by race, so white and black prisoners working together like this is especially unusual; see generally Goodman, “‘It’s Just Black, White, or Hispanic.’” For an analysis of how prison education programs can reshape these racialized prison social norms, see Pass, “Race Relations and the Implications of Education Within Prison.”
3. A fictional psychiatrist and cannibalistic, archetypally monstrous serial killer created by Thomas Harris, Hannibal Lecter is best known as portrayed by Anthony Hopkins in *Silence of the Lambs*.
4. San Quentin’s prison yard serves a general prison population of 2,300 low- to medium-security prisoners, that is, about double the population of the average public high school in California. The main population at San Quentin is composed of prisoners serving relatively short sentences for relatively minor crimes, along with prisoners serving long sentences for more violent crimes who have had such good behavior in prison that they have earned their way into a lower security level. San Quentin also houses the Northern California Reception Center, with room for close to 1,000 prisoners who are new to the California state prison system and awaiting sorting and assignment to more permanent placements. See California Department of Corrections, *Average Daily Prison Population: Fiscal Year 2012/13*; for data about in-prison deaths, see California Department of Corrections, *Inmate Incidents in Institutions, Calendar Year 1988* and *Calendar Year 2006*.
5. Cummins, *The Rise and Fall of California’s Radical Prison Movement*, 155; E. Mann, *Comrade George*, 21. For other sources on Jackson’s life and thought, see Arm-

- strong, *The Dragon Has Come*; Berger, *Captive Nation*; Collier and Horowitz, *Destructive Generation*; Durden-Smith, *Who Killed George Jackson?*; D. Rodriguez, *Forced Passages*; Yee, *The Melancholy History of Soledad Prison*.
6. See, for example, Jackson, *Soledad Brother*, “Letter from George Lester Jackson to Robert Lester Jackson, December, 1964,” 42–44.
  7. See E. Mann, *Comrade George*, 21.
  8. Chapter 3 discusses the history of this sentencing system in greater detail.
  9. Jackson, *Soledad Brother*. The first letters were from 1964, four years into Jackson’s prison bid, when he had already been politicized.
  10. E. Mann, *Comrade George*, 22–24.
  11. Jackson, *Soledad Brother*, “Letter from George Lester Jackson to Georgia Jackson, January 3, 1967,” 98.
  12. See E. Mann, *Comrade George*.
  13. Cummins, *California’s Radical Prison Movement*, 208; Armstrong, *The Dragon Has Come*; E. Mann, *Comrade George*.
  14. See McCarty, “Blood In, Blood Out”; Bloom and Martin, *Black Against Empire*; Berger, *Captive Nation*, 224.
  15. Jackson, *Soledad Brother*, “Letter from George Lester Jackson to Robert Lester Jackson, April 11, 1968,” 167–68, and “Letter from George Lester Jackson to Fay Stender, March 22, 1970,” 214–28. Jackson’s ideas were in conversation with Mao, Fanon, and anti-Vietnam War activists; see D. Rodriguez, *Forced Passages*, 113–44; Gómez, “Resisting Living Death at Marion Federal Penitentiary, 1972,” 64–68.
  16. See Reiter, “Reclaiming the Power to Punish” and “Supermax Administration and the Eighth Amendment” for further discussions of these statistics, which were compiled from a variety of California Department of Corrections statistical reports.
  17. See generally Chase, “We Are Not Slaves”; Cummins, *California’s Radical Prison Movement*; Fitzgerald, *Prisoners in Revolt*; Gómez, “Resisting Living Death”; Losier, “. . . For Strictly Religious Reason[s]”; Reiter, “The Most Restrictive Alternative”; Thompson, “Rethinking Working-Class Struggle Through the Lens of the Carceral State”; Thuma, “Against the ‘Prison/Psychiatric State.’”
  18. Three significant legal changes precipitated and facilitated this steep rise in the number of prisoners’ rights claims brought in federal courts. First, federal courts expanded the habeas corpus right to include challenges to conditions of confinement (as well as challenges to terms of sentences) in *Miller v. Overholer* (1953), a Washington, D.C., district court case, and in *Brown v. Allen* (1953), a U.S. Supreme Court case. Second, the Supreme Court incorporated the Eighth Amendment, which prohibits cruel and unusual punishment, against the states, meaning that individual state citizens could seek to enforce their Eighth Amendment right against state actors, whereas previously they had been able to enforce these rights only against federal actors; see *Robinson v. California* (1962). Third, the Supreme Court held in *Cooper v. Pate* (1963) that the Civil Rights Act permitted

- prisoners to sue prison officials for civil rights violations experienced in prison. For further discussion of these reforms, see Reiter, “Prisoners’ Rights,” 1419.
19. Feeley and Rubin, *Judicial Policy Making and the Modern State*; see also *Hutto v. Finney*, 437 U.S. 678. This litigation history is discussed in further detail in Chapter 3.
  20. Gordon, “Faith as Liberation: The Nation of Islam and Religion in Prison, 1940–75,” in *The Spirit of the Law*, 96–132; see also Losier, “For Strictly Religious Reason[s].”
  21. See Grann, “The Brand.” The Mexican Mafia was allegedly formed inside Deuel Vocational Institution, in Tracy, California, in the late 1950s, gaining strength through the 1960s; Nuestra Familia formed as a rival gang in the mid-1960s; see Blatchford, *The Black Hand*. See also Skarbek, *Social Order of the Underworld*, 47–72.
  22. Bloom and Martin, *Black Against Empire*, 2–3.
  23. Blacks, Hispanics, and Others (the main racial categorizations in CDC, with “others” encompassing people of Asian heritage), as well as people of mixed or ambiguous race, made up the difference, accounting for well over half of new prison admissions by 1980; see Reyes, *A Portrait of Race and Ethnicity in California*, 155.
  24. Nellis, Greene, and Mauer, *Reducing Racial Disparity in the Criminal Justice System*, 6.
  25. This phenomenon has been described as “racialized mass incarceration,” and scholars throughout the social sciences have explored the political, economic, and social underpinnings of the racially disparate, and oppressive, effects of mass incarceration; see especially Bobo and Thompson, “Racialized Mass Incarceration.” See also Alexander, *The New Jim Crow*; Clear, *Imprisoning Communities*; Goodman, “Race in California’s Prison Fire Camps for Men”; Pager, *Marked*; Wacquant, *The Place of the Prison*; Wakefield and Uggen, “Incarceration and Stratification”; Walker, “Race Making in a Penal Institution”; Western, *Punishment and Inequality in America*. Institutions played a significant role in amplifying racial tensions, too, whether through implicitly discriminatory policies like those enacted through indeterminate sentences or through explicit policies of segregating prisoners by race and setting up confrontations between people of different races. See, for example, Goodman, “‘It’s Just Black, White, or Hispanic,’” and Goodman, “Race in California’s Prison Camps.” Angela Davis has made an argument explicitly connecting race, mass incarceration, and supermaxes: Davis, “From the Convict Lease System to the Super-Max Prison.”
  26. Carl Larson, personal interview, Feb. 23, 2010.
  27. U.S. Department of Justice, Office of Legal Policy, Federal Justice Research Program, *Prison Gangs*, by Camp and Camp, 93–94; Skarbek, *Social Order of the Underworld*, 53.
  28. See generally, Clemmer, *The Prison Community*; Sykes, *The Society of Captives*. See also Wald, “The San Quentin Six Case,” 59 (describing “race-baiting” as an ele-

- ment of control integral to the operation of California prisons in the 1960s and 1970s); Goodman, “‘It’s Just Black, White, or Hispanic,’” 740 (revisiting the co-construction of racial categories and prison order in the process of categorizing prisoners by race).
29. Cummins, *California’s Radical Prison Movement*, 123, 202, 232.
  30. Nolen interview.
  31. *Ibid.*; see also E. Mann, *Comrade George*.
  32. Nolen interview.
  33. See E. Mann, *Comrade George*.
  34. Nolen interview.
  35. Yee, *Melancholy History of Soledad Prison*, 57–61; Spiegelman, “Review of *The Melancholy History of Soledad Prison*,” 132; Berger, *Captive Nation*, 102.
  36. See E. Mann, *Comrade George*.
  37. Nolen interview.
  38. *Ibid.*
  39. E. Mann, *Comrade George*, 29–30.
  40. Steve Nolen told me that a few years later, the family sued Officer Miller for wrongful death and won a \$50,000 settlement (Nolen interview).
  41. Jackson, *Soledad Brother*, 168.
  42. E. Mann, *Comrade George*, 29–30.
  43. Mullane, “The Adjustment Center.”
  44. See E. Mann, *Comrade George*.
  45. *Ibid.*, 26.
  46. Houston, “Court-Battle Guns Registered in the Name of Angela Davis.”
  47. E. Mann, *Comrade George*, 41–42.
  48. More recently, scholars have noted that one of the jurors was Latino. For more about Davis’s life and activism, see Berger, *Captive Nation*, 177–222; Davis, *Angela Davis*.
  49. Jackson, *Soledad Brother*, “Letter to Joan, Aug. 9, 1970,” 329.
  50. Berger notes that Jackson intended *Blood in My Eye* to be a manual for guerrilla warfare, in contrast to the more moderate tone of *Soledad Brother* (*Captive Nation*, 158).
  51. The group was substantial relative to Jackson’s earlier legal teams, and relative to what most prisoners could expect, but it remained small and divided; see Berger, *Captive Nation*, 91–138; Durden-Smith, *Who Killed George Jackson?*
  52. E. Mann, *Comrade George*, 47.
  53. *Ibid.*, 68–77.
  54. Yee, “San Quentin Probes Smuggling of Gun.”
  55. Yale University, Class of 1964, “Class News: Stephen Bingham Interviewed by *Marin Magazine*”; Hansen and Stein, “Jury Acquits Bingham in Prison Deaths.”
  56. Scarborough, *Incident at San Quentin*; Marine, “Exit the Dragon.”
  57. Carl Larson, telephone interview, July 22, 2013.
  58. Cummins, *California’s Radical Prison Movement*, 208.

59. Ibid., 209.
60. Ibid. Andrews describes Johnny Spain seeing Jackson with a gun in the Adjustment Center, but provides no reference for this account (Andrews, *Black Power, White Blood*, 158).
61. Cummins, *California's Radical Prison Movement*, 209.
62. E. Mann, *Comrade George*, 85.
63. Berger, *Captive Nation*, 140–41.
64. Park, "Associate Warden's Statement to the Press Concerning the Death of George Jackson."
65. Ibid.
66. Ibid.
67. Schwartz, "The Testimony of Louis E. Tackwood," 6.
68. E. Mann, *Comrade George*; Yee, *Melancholy History of Soledad Prison*.
69. Park, "Associate Warden's Statement."
70. Cummins, *California's Radical Prison Movement*, 209.
71. Foucault, Von Bülow, and Defert, "The Masked Assassination." Four years later, Foucault published the definitive historical and theoretical analysis of modern Western prisons and punishment, later translated as *Discipline and Punish: The Birth of the Prison*.
72. Wald, "San Quentin Six Case," 61–62.
73. In "The Masked Assassination," a November 1971 essay challenging the official account of Jackson's death, Foucault and his coauthors show that national newspapers identified six gun types when describing the model that Jackson pulled from under his wig.
74. Larson telephone interview.
75. *San Francisco Chronicle*, "Pistol and Wig Experiment," Aug. 28, 1971, cited in E. Mann, *Comrade George*. Given the dispute over exactly what kind of gun was used, perhaps a different, smaller gun could have fit in the cassette recorder or in the wig.
76. Cummins, *California's Radical Prison Movement*, 210.
77. Scarborough, *Incident at San Quentin*; Marine, "Exit the Dragon."
78. *Time*, "The Law: The Longest Trial," July 19, 1976.
79. As mentioned in the introduction, Pinell was in isolation for forty-five years in all. At the age of seventy-one, he was released into a general population prison yard and was stabbed a few weeks later, in August 2015. (St. John, "Slain inmate Hugo Pinell").
80. For a discussion of the role of "mythologies, collective representations, and totems" in modern punishment, see especially P. Smith, *Punishment and Culture*, 172. For more general discussions of the role of expression in punishment, see Durkheim, *The Division of Labor in Society*, and Dayan, *The Story of Cruel and Unusual*. In a more concrete sense, prison officials were engaging in what sociological scholars of social movements have called a "contested process" of framing claims—in this case, claims about just punishments and effective prisons—in

response to internal and public challenges; see Benford and Snow, “Framing Processes and Social Movements.”

81. Page, *The Toughest Beat*, 25–26.
82. Larson telephone interview.
83. Cambra interview.
84. Craig Brown, personal interview.
85. Reiter, “Supermax Administration and the Eighth Amendment.”
86. *Toussaint*, 597 F. Supp. 1388, 1393; see also Berger, *Captive Nation*, 102, 141.
87. Berger, *Captive Nation*, 102; *Toussaint*, 597 F. Supp. 1388, 1393.
88. See California Assembly, Select Committee on Prison Reform and Rehabilitation, *Administrative Segregation in California’s Prisons*; *Spain v. Proconier*, 408 F. Supp. 534, 539–40.
89. Berger, “Two Prisoners Named Williams” and “America’s Fortress of Blood.” Williams, sentenced to death in 1979 for his role in four murders committed while he was a leader of the Los Angeles–based Crips gang, ultimately renounced his gang membership in prison. He wrote multiple books advocating nonviolence and became an educator. His scheduled execution produced a public outcry.
90. For a growing body of recent literature examining the relationship between constructions of black criminality and systematically oppressive and repressive state policies, see especially Berger, *Captive Nation*; Muhammad, *The Condemnation of Blackness*; Gottschalk, *Caught*; Murakawa, *The First Civil Right*; Haney-Lopez, *Dog Whistle Politics*; Wacquant, “Deadly Symbiosis.” Nat Turner is probably at the top of the list of black radicals who inspired oppressive backlashes; see Greenberg, *Nat Turner*; Brundage, “Review of *Nat Turner*”; Gates, “What Were the Earliest Rebellions by African Americans?”
91. *Ashker v. Schwarzenegger*, “Exhibit D.”
92. Toobin, “Letter from Baltimore”; also cited in Berger, “America’s Fortress of Blood.”
93. See generally Feeley and Rubin, *Judicial Policymaking*; Berger, *Captive Nation*; Thompson, “Rethinking Working-Class Struggle,” 22–25.
94. Freedom Archives, *Prisons on Fire*. For histories of Attica, see also Thompson, *Blood in the Water*; New York State Commission on Attica, *Attica: The Official Report*; Wicker, *A Time to Die*.
95. Berger, *Captive Nation*, 149.
96. Thompson, “The Lingering Injustice of Attica”; New York State Commission on Attica, *Attica*.
97. Robbins, “A Brutal Beating Wakes Attica’s Ghosts.”
98. See Thompson, “The Lingering Injustice of Attica”; New York State Commission on Attica, *Attica*.
99. Connolly, “Forty Years Later, Report Details Torture of Inmates During Attica Riot.” New York’s attorney general released volumes 2 and 3 of the “Meyer Report,” which had previously been sealed, on May 21, 2015; see Meyer, “Meyer Report,” vols. 2–3.



100. Robbins and D'Avolio, "No Jail Time for Attica Guards."
101. Useem and Kimball, "A Theory of Prison Riots."
102. Laura Sullivan, "Doubts Arise About 1972 Angola Prison Murder."
103. Ibid.; Maza, "LA Prisoner Released After 43 Years in Solitary Confinement"; *Herman's House*, dir. Angad Bhalla.
104. *Kelly v. Brewer*, 378 F. Supp. 447, 449.
105. Bissonnette et al., *When the Prisoners Ran Walpole*, 80–81.
106. See Guenther, *Solitary Confinement*, chap. 4; Leiderman, "Man Alone"; Mitford, *Kind and Usual Punishment*, 134–35; Schein, "Man Against Man." CARE and the importation of military brainwashing techniques into federal prisons are discussed further in Chapter 7.
107. *Adams v. Carlson*, 352 F. Supp. 882; Fitzgerald, *Control Units and the Shape of Things to Come*; Ward and Breed, *The United States Penitentiary, Marion, Illinois*.
108. U.S. Department of Justice, Federal Bureau of Prisons, "Merle E. Clutts" and "Robert L. Hoffman"; *Silverstein v. Bureau of Prisons*, 704 F. Supp. 2d 1077. Clayton Fountain, who murdered Officer Robert Hoffman, died in prison in 2004.
109. Ward and Werlich, "Alcatraz and Marion," 57–58. For a discussion of how this process was politically reactive in much the way the lockdowns in California were, see Gómez, "Resisting Living Death at Marion."
110. Prendergast, "The Caged Life." In the 2010s, Tommy Silverstein brought a case alleging that spending more than thirty years in solitary confinement constituted cruel and unusual punishment. The federal district court in Colorado ultimately dismissed the case, and the Tenth Circuit Court of Appeals affirmed the dismissal; see *Silverstein v. Federal Bureau of Prisons*, No. 12-1450, D. Ct. No. 1:07-CV-02471-PAB-KMT.
111. Thompson, "Rethinking Working-Class Struggle," 22–25.
112. *Chicago Tribune*, "Riot Squad Quashes Iowa Prison Uprising."
113. KOAT (Albuquerque), "Riot Survivors Tour Old Santa Fe Penitentiary."
114. Associated Press, "Chronology of 1993 Lucasville Prison Riot."
115. Useem and Kimball, *States of Siege*, 3.
116. Critics and scholars disagree about exactly how many supermaxes exist in the United States, but for attempts to define and count the institutions, see Casella and Ridgeway, "How Many Prisoners Are in Solitary Confinement in the United States?"; Naday, Freilich, and Mellow, "Elusive Data on Supermax Confinement"; Baumgartel et al., *Time-In-Cell*; Riveland, *Supermax Prisons*.
117. Giorgio Agamben popularized the idea of a "state of exception," first defined by Carl Schmitt as the "unlimited authority" of a sovereign to suspend "the entire existing order" by declaring a "state of emergency"; see Agamben, *State of Exception*; Schmitt, *Political Theology*, 12. The supermax ultimately represented just such a space of suspended law, justified by the existence of imminently dangerous circumstances. The analogy of a Schmittian state of exception is imprecise, however, in that prison officials did not have the sovereign authority to declare a national state of emergency, nor was such a state ever formally declared.



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## Arthur Johnson's Life in Solitary Confinement

November 3, 2016 |

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*Keramet Reiter*—

Arthur Johnson, sixty-four, has spent thirty-seven years in solitary confinement, locked in a cell no bigger than a wheelchair-accessible bathroom stall. He is living his fourth decade without once having shared a meal—or even a handshake—with another human being. Astonishingly, Johnson has committed only three extraordinarily minor disciplinary violations (rolling up a magazine, possessing a multi-vitamin, and using a sheet to block cold air from blowing on him) in the past twenty-five years. Just a few weeks ago, in September of



2016, a judge ordered (<https://abolitionistlawcenter.files.wordpress.com/2016/09/0-pi-ruling-amended-092116.pdf>) the Pennsylvania Department of Corrections to release Johnson from solitary confinement. Johnson's case may sound extreme—in terms of the years he has spent in isolation, the harshness of the conditions of his confinement, and the judicial attention he has recently received. But his story is disturbingly common.

Arthur Johnson entered the Pennsylvania prison system in 1973. He had received a sentence of life without the possibility of parole ("LWOP") for a homicide stemming from a gang fight. Johnson was eighteen at the time of the crime. Today, almost 50,000 prisoners (<http://projectcensored.org/number-us-prison-inmates-serving-life-sentences-hits-new-record/>) across the United States have LWOP sentences. More than 2,000 (<https://www.hrw.org/news/2005/10/11/united-states-thousands-children-sentenced-life-without-parole>) were under eighteen at the time of their crime, and states have only recently began to reconsider whether human brains are fully developed at seventeen or eighteen, and whether kids of that age should be eligible for such long sentences.

Although Johnson had just turned eighteen when he was charged with murder, he was a grade school dropout, with an IQ between sixty-three and seventy, evidence of serious intellectual disability. In a challenge to his conviction filed in the 1970s, Johnson argued that police coerced him into confessing over a long interrogation, and that he did not fully understand what he had confessed to doing. (Philadelphia police elicited dozens of false confessions (<http://www.thedailybeast.com/articles/2016/09/16/37-years-in-solitary-confinement-and-even-the-state-can-t-explain-why.html>) in this era.) Nonetheless, the Pennsylvania Supreme Court affirmed Johnson's conviction and LWOP sentence in 1976. Perhaps he lost hope at that point.

In December of 1979, Johnson, who had joined a black liberation movement in prison, participated in a violent escape attempt from Pennsylvania's State Correctional Institutional in Pittsburgh. Prisoners bound and gagged one correctional officer and locked him in his cell. Johnson carried two loaded zip guns. (He had a life without parole sentence; what did he have to lose?) Prison officials caught Johnson before he escaped. No one was physically hurt in the whole escapade, but prison officials quickly locked Johnson up in Pennsylvania's "Restricted Housing Unit"—a euphemism for solitary confinement. Johnson was 27.

Just as Johnson's young age and long prison sentence were not unusual, neither was his path into solitary confinement. Many prisoners across the United States ended up "locked up" and "locked down" in solitary confinement over the course of the 1970s. Many, like Arthur Johnson in Pennsylvania, George Jackson in California, and the hundreds of prisoners who revolted at Attica, were accused of radical political organizing, attempting to escape from prison, and otherwise challenging the legitimacy of prison order. Like Johnson, many of these prisoners and their compatriots remained locked up for decades, at the mercy of prison officials who labeled them as dangerous and refused to reconsider their assessments. And like Johnson, many of these prisoners had no hope of ever being released, because of their life without parole sentences. (For instance, in California alone, as of 2015, 130 prisoners (<https://chronicleofsocialchange.org/featured/holding-on-to-humanity/10860>) in long-term solitary confinement had life without parole sentences for crimes they committed as juveniles.)

Since 1979, Johnson has spent no more than one hour of every weekday out of his cell, in a fenced, outdoor cage, alone. He is strip-searched before and after this outdoor exercise. His cell doors are made of solid steel, preventing him from seeing or hearing other prisoners. Any visits have been through partitions, with no human touch. Tens of thousands of prisoners across the United States endure harsh conditions of confinement like this for months, years, and decades on end. No national level data is available about average lengths of stay in these kinds of conditions, but in California alone, 500 prisoners who had been in solitary confinement for more than 10 years recently brought a class action case (<mailto:https://ccrjustice.org/home/what-we-do/our-cases/ashker-v-brown>) to challenge the conditions and durations of their confinement. California prison officials agreed to reconsider their claim that all these prisoners were too dangerous to live in a general prison population and promised to transition all 500 prisoners out of solitary confinement.

In May of 2016, following on the heels of the California lawsuit, Bret Grote, an attorney with the Abolitionist Law Center in Pennsylvania, partnered with the international firm Jones Day to file a complaint (<mailto:https://abolitionistlawcenter.files.wordpress.com/2016/05/complaint.pdf>) on behalf of Arthur Johnson. Bret Grote is thirty-four years old. Arthur Johnson has been in solitary confinement longer than Grote has been alive.

Grote's complaint alleged that Johnson's constitutional rights had been violated. First, Johnson had a right to be free from cruel and unusual punishment (under the Eighth Amendment), and his ongoing harsh conditions of confinement violated this right. In a testimony at an evidentiary hearing (<http://www.thedailybeast.com/articles/2016/09/16/37-years-in-solitary-confinement-and-even-the-state-can-t-explain-why.html>) assessing this complaint, Dr. Craig Haney testified that "Johnson's 'pervasive isolation' has led to cognitive impairment, chronic depression, emotional pain and suffering, and other psychological harms." Second, Johnson had a right to due process (under the Fourteenth Amendment), and prison officials' refusal to provide Johnson with an opportunity to improve or relax his conditions in continuous solitary confinement violated this right. Haney testified about the injustice of this lack of due process, too: "Whatever justification the Pennsylvania DOC may have had for placing Mr. Johnson in isolation in the distant past, his longstanding nonviolent prison record and his increasing age provide ample evidence that those justifications no longer exist."

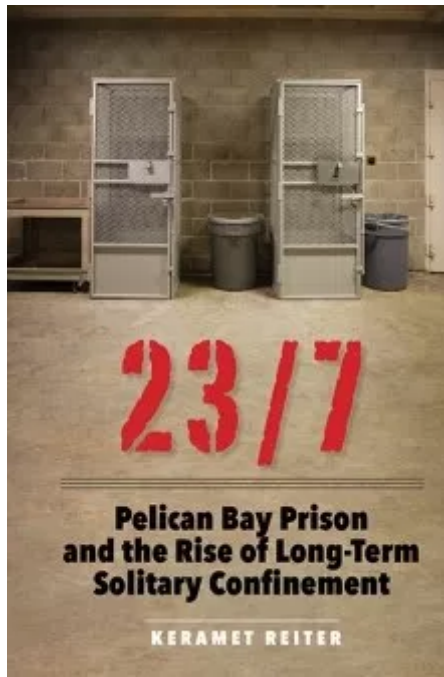
Judge Christopher Conner agreed with Grote and Haney and ordered Johnson released. This, too, follows a pattern repeating across the United States: prison officials, legislators, and judges are reconsidering the practice of long-term solitary confinement. The question is whether these reforms will be sustainable in light of the pervasive and persistent practice of solitary confinement across the United States.

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## Further Reading



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