

Statement to the Prison Reform Committee  
Illinois House of Representatives  
**Hearings on Tamms Correctional Center**  
**28 April 2008**

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**“After Ten Years, Does Illinois Need Its Own Guantanamo Prison?”**

Chairman Washington and Members of the House of Representatives: Thank you for the invitation to speak with you today about Illinois’ “Supermax” Prison at Tamms. I appreciate this opportunity to share my perspective on this prison.<sup>1</sup>

From its first day, Tamms Correctional Center has been a concern to the John Howard Association of Illinois. The Association visited Tamms Correctional Center and issued fairly detailed reports twice in the early years of its operation.<sup>2</sup> Since that time the Association has received letters and information from inmates and their families. Association staff have listened to former Tamms inmates in public and private meetings. We have read pleadings filed in federal civil rights litigation and news articles and reports about Tamms. Individual Board of Directors have visited Tamms, of whom perhaps the most diligent is Ms. Cynthia Kobel who may appear before you today. Association staff members have visited Tamms as well. I did so for the first time on 15 December 2006. The statement which follows is based in part on information from my visit and these other sources.<sup>3</sup>

I would begin by saying that, although the existence of “Supermax” prisons has been found to be constitutional, the operation of “Supermax” prisons such as Tamms Correctional Center straddles, and often crosses the constitutional line.

More important than the constitutional line, the existence of a Supermax prison such as Tamms Correctional Center crosses a moral a line.

The St. Louis Post-Dispatch described this moral line January 1999:

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<sup>1</sup> This statement is a portion of information that will be provided the Board of Directors of the John Howard Association of Illinois in advance of its next scheduled meeting on 10 May 2008, and does not necessarily reflect the opinions or recommendations which have been or may be developed or adopted by the Board of Directors at any future time.

<sup>2</sup> “A Report on the Tamms Correctional Center Illinois Department of Corrections” John Howard Association (April 7, 1999) and “Tamms Revisited: Super-Max Confinement in Illinois: A Report on the Tamms Correctional Center Illinois Department of Corrections” John Howard Association (April 2, 2001).

<sup>3</sup> It needs be noted that my remarks are not based on any negative judgment or conclusions about the manner in which Illinois Department of Corrections staff have carried out their responsibilities at Tamms Correctional Center. In many respects which I will elaborate upon in my testimony, the Correctional Officers and other professionals at Tamms are dealing with a stressful professional situation rather well. I have spoken to inmates who criticized and complimented staff at Tamms. For the purposes of today, I am neither crediting nor discounting news reports, allegations in court pleadings, inmate statements to myself or others, or what this Committee may hear today, about any less than professional conduct by Illinois Department of Corrections staff persons at Tamms Correctional Center. The observations and recommendations in this statement are premised on the assumption that Tamms Correctional Center is being operated at a high level of professionalism, as well or reasonably as well as any such institution like it might possibly be run. I make this assumption in order to go directly to what I believe are important questions for the legislature: is Tamms the right kind of correctional facility for Illinois? Should it be doing what it is doing, even if it is doing that very well? Are there not more tolerable alternatives perhaps involving far fewer inmates and more humane conditions for them?

*It is hard to imagine that even for the most violent prisoners, round-the-clock isolation -- including 23 hours each day in an 8-by-10 feet cell --- is anything but extreme psychological cruelty. The dedication of an entire facility to such extreme isolation is deeply troubling. \* \* \* \**

*That such a place as Tamms could exist is evidence of the appalling poverty of our moral imagination. It is evidence of the degeneration of our social conscience and a capitulation to cruelty.<sup>4</sup>*

It is not clear that in 1999 anyone envisioned that Tamms Correctional Center today would be housing inmates in “extreme isolation” for 6, 8 and even 10 years.

As a state and a nation, we must ultimately bear the moral consequences of operating a facility whose purpose is to drain the humanity from prisoners in such a place, for often-unexplained reasons and for undetermined, prolonged durations.

Tamms Correctional Center is a misnomer. As a former Assistant Warden said: “Tamms is not about rehabilitation. It’s about punishment.”<sup>5</sup>

Very little real state-sponsored “corrections” worthy of the ideals of corrections professionals in our own Illinois Department of Corrections occur there. It is a tomb --- has become a tomb for the long years it has held many of its inmates. It may or may not be a constitutionally sanctioned tomb. But Tamms Correctional Center has become, in many respects, Illinois’ own Guantanamo Bay prison.

The John Howard Association of Illinois does not at this time take the position that a Tamms-type facility may not be necessary. But by all means, it does seem reasonable that after ten years the operation, prisoner placement practices, and the existence of Tamms should be subjected to review of its constitutionality, of its correctional necessity, and of its status as a representative of an “appalling poverty of our moral imagination” in the way we treat our fellow human beings. To this ends, the John Howard Association of Illinois commends these hearings.

Today, I urge the legislature toward two conclusions:

First, that no prisoner be transferred to Tamms without a hearing providing reasonable due process protections and in which the burden is on the Illinois Department of Corrections to justify placement at Tamms over any other response, including mental health treatment outside of Tamms; and

Second, that no prisoner should remain at Tamms for a “prolonged period” for any one act or accusation. I recognize that under current Illinois Department of Corrections regulations an inmate may for commission of a serious violation be placed on “indefinite segregation.”<sup>6</sup> But being in Tamms is not like being in other institutional segregation. It is to normal disciplinary segregation as the death penalty is to a sentence to prison in the first place. Like the death penalty, placement at Tamms “is different.” Like the death penalty, then, it makes sense that

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<sup>4</sup> “Prisons: Cruel and unusual,” St. Louis Post-Dispatch editorial, (6 January 1999) p. B6.

<sup>5</sup> Then Assistant Warden Charles Hinsley, quoted in the St. Louis Post-Dispatch editorial, op. cit.

<sup>6</sup> The John Howard Association of Illinois would also urge that the Illinois Department of Corrections and the Illinois legislature review the Department’s disciplinary policies allowing long, indeterminate periods in segregation.

placement at Tamms require greater protections, and more stringent independent review, than regular disciplinary segregation.

The remainder of my remarks is in two parts. Part One describes Tamms Correctional Center. Part Two describes the process by which an inmate is placed at Tamms.

## **PART I: Tamms Correctional Center**

As you may know, Tamms is located at the southern tip of Illinois in the town of Tamms and opened on March 9, 1998. The Illinois General Assembly approved and funded the construction of Tamms to manage and control violent and disruptive prisoners.

It is a 500-bed closed maximum-security facility. Supermax prisons are designed for the dangerous prisoners, and therefore, the Illinois Department of Corrections imposes suffocating strict living conditions.

The underlying premise of Tamms is that “control and punishment are imposed through extreme social isolation, severely restricted movement, and an environment that virtually eliminates all external stimuli.”<sup>7</sup>

The structure of the cells at Tamms ensures that the inmates are permanently isolated from physical contact and normal stimuli, like sunlight, wind or rain. Prisoners are locked into small, 70 square feet, concrete cells for 23 to 24 hours a day. There are no group activities, no contact visits, and little or no personal privacy. Their cells have windows that are a couple of feet wide but about 9 or 10 inches top to bottom and located toward the ceiling so that most prisoners can see only a sliver of sky from their cell, and only a little more if they stand on their bed to peer over the window frame; lights are controlled by the guards; and the inmate’s movements are monitored by video camera. Prisoners stay in their cells to eat meals that are passed through a small hole in the cell door referred to as a chuck hole.

Inmates are subject to strip and full body cavity searches any time they leave their cell except for exercise and showers. Prisoners exercise or shower one to four times a week depending on how long they have been at Tamms without disciplinary actions against them. For most inmates, exercise out of their cell is limited to what they can obtain in a walled concrete space about 15 by 30 feet in diameter for a maximum of one hour each day. Many inmates go without access to the exercise yard due to avoid hot or cold weather. Aside from a legal or personal visit, or a medical procedure, an inmate that does not use his hour of exercise spends 24 hours a day in his cell.

Legal visits are infrequent because they are costly and cumbersome for attorneys and because many inmates have no legal issues pending. One hardship of visiting the facility is the distance between inmates and their families; Tamms is located 370 miles from Cook County, which is where most of the prisoner’s families reside. Social visits are expensive and short, and each visit must be arranged weeks in advance, or so, at least, most family members seem to find to be the case. All visits are “non-contact” visits; the inmate separated from his family, his children, by thick glass, cuffed to the floor of a sealed room.

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<sup>7</sup> Amended Complaint, *Westefer v. Snyder*, No. 00-162-GPM (Southern District of IL)

Tamms has learned from the legal problems of other Supermax prisons, such as Pelican Bay in California. Still, it perpetuates practices that are possibly unconstitutionally including: 1) the provision of mental health care; 2) medical services; and 3) placement issues.

The most vulnerable group to be affected by the harsh isolated conditions of Tamms is inmates with serious mental illnesses. It is claimed that the extreme social isolation, severely restricted movement, and an environment that severely restricts stimulation contribute to the psychological damage for those suffering mental illnesses.<sup>8</sup> Medical experts have testified that the combination of the structural design as well as the functional program acerbates the psychiatric damage of inmates who are mentally ill.<sup>9</sup> Isolation induces psychosis in prisoners who have serious mental illnesses.<sup>10</sup>

Courts have also ruled that the placement of seriously mentally ill prisoners in Supermax prisons is unconstitutional. “Confinement in a [Supermax] is known to cause severe psychiatric morbidity, disability, suffering and mortality.”<sup>11</sup> While the courts have not defined who falls within the “serious mentally ill” category, mental health professionals say these conditions include Schizophrenia, Delusional Disorder, Schizophreniform Disorder, Schizoaffective Disorder, Brief Psychotic Disorder, Substance Induced Psychotic Disorder<sup>12</sup>, and Psychotic Disorder.<sup>13</sup>

There are unique features of Tamms that make it especially harsh.<sup>14</sup> The isolation within each cell and the punitive nature of crisis care cells make life within Tamms “difficult to bear and greatly enlarge the psychiatric damage... especially [to] those prone to a serious mental illness.”<sup>15</sup>

Tamms has had a written policy against placing mentally ill inmates at Tamms since 1999; however, this policy is only as good as its implementation. While the existence of this policy is a step in the right direction, it is useless, unless there is an adequate screening process. According to the lawsuit filed by several inmates in *Boyd v. Snyder*, mentally ill inmates have been placed at Tamms.<sup>16</sup> Inmates with serious mental illnesses placed at Tamms experienced destructive psychological effects because of the long-term isolated confinement of the facility.<sup>17</sup>

This may well be unconstitutional. It is certainly inhumane.

Inmates who are not seriously mentally ill before they are placed at Tamms are also subject to psychiatric damage. For these inmates, until they are removed from the isolated confinement at Tamms, their mental health will continue to deteriorate.<sup>18</sup>

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<sup>8</sup> Complaint, *Boyd v. Snyder*, No. (Southern District of IL)

<sup>9</sup> Expert Testimony of Terry Kupers, M.D., M.S.P., *Boyd v. Snyder*, , No. (Southern District of IL) available at pg. 6

<sup>10</sup> *Id.*

<sup>11</sup> *Jones 'El v Berge*, 164 F. Supp. 1101, 1102.

<sup>12</sup> Excluding intoxication and withdrawal.

<sup>13</sup> Supermax Prisons and the Constitution “Liability Concerns in the Extended Control Unit” William C. Collins, Esq. U.S. Department of justice November 2004

<sup>14</sup> Expert Testimony of Terry Kupers, M.D., M.S.P., *Boyd v. Snyder*, , No. (Southern District of IL) available at pg. 6

<sup>15</sup> *Id.*

<sup>16</sup> Complaint, *Boyd v. Snyder*, No. (Southern District of IL) available at

<sup>17</sup> *Id.*

<sup>18</sup> Expert Testimony of Terry Kupers, M.D., M.S.P., *Boyd v. Snyder*, , No. (Southern District of IL) available at pg. 4

Thus, there must be active monitoring of inmates who may be in danger of suffering from mental illnesses, and removal from Tamms if signs of mental illnesses are observed, before the affect is permanent.

While the constitutional adequacy of medical care at Tamms Correctional Center is perhaps less in doubt than mental health care, medical issues exist.

Tamms Correctional Center has a higher number of medical staff for the number of inmates at the prison than at other Illinois Department of Corrections facilities. In December 2006, there were nine registered nurses, three full time physicians, and eleven LPNs.<sup>19</sup> Tamms officials states that they have learned from the problems at the Pelican Bay Supermax, and according to Terry Kupers, expert for the plaintiffs in *Boyd v. Snyder*, Tamms tries to ensure that access to medical treatment is not impeded.<sup>20</sup> But we do not believe that this issue is completely resolved and the adequacy of medical care should be reviewed.

## **Part II: Placement at Tamms Correctional Center**

There are major legal and policy implications to placing inmates at Tamms.

Disciplinary segregation is for inmates who have been found guilty of a disciplinary violation and sentence to segregation at another prison before being transferred to Tamms.<sup>21</sup> Inmates transferred to Tamms for disciplinary reasons are required to stay for a minimum, pre-determined length of time, though it is possible for them to transfer from Tamms, but only at the discretion of Prison officials.

Inmates in administrative segregation are not sent to Tamms based on a specific violation but based upon a “generalized determination by the IDOC that the inmate is a danger to the safety and security of staff and other inmates.”<sup>22</sup>

Due process protections apply to the transfer of inmates to Tamms, because the transfer is an atypical deprivation, compared to the ordinary conditions of prison life.<sup>23</sup>

Different review processes apply to each category.

Inmates who are placed in disciplinary segregation can easily determine why they are placed at Tamms. Inmates placed in administration segregation are often not told why they are being transferred. Some inmates don’t know why they have been placed at the facility and are not being told because of “security” reasons.

Some inmates with whom I spoke were placed at Tamms after having committed a serious, violent act told me that they at least understood why they were there. The same inmates expressed sympathy for those in administrative segregation.

While Tamms was built to house violent prisoners, in reality, according to inmates, Tamms is populated more so by “litigators and alleged gang associates, many of whom have no significant disciplinary history.” Prison administrators acknowledge that some inmates came to

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<sup>19</sup> Interview by Malcolm Young December 15<sup>th</sup> 2006

<sup>20</sup> *Id.*

<sup>21</sup> Amended Complaint, *Westefer v. Snyder*, No. 00-162-GPM (Southern District of IL)

<sup>22</sup> *Id.*

<sup>23</sup> Supermax Prisons and the Constitution “Liability Concerns in the Extended Control Unit” William C. Collins, Esq. U.S. Department of justice November 2004, Pg. 54.

Tamms with no significant disciplinary records. They allege that these inmates order others to commit crimes, including murder, and therefore do not expose themselves to administrative punishment.

The vague, purposefully undefined criterion by which inmates are transferred administratively to Tamms Correctional Center creates a place that drives fear in other inmates within the Illinois prison system. But even as Tamms is designed to be a deterrent to unspecified activities for the entire inmate population, it seems that Tamms has become similar in some ways to the prison housing alleged terrorists whose actual crimes are unspecified at Guantanamo Bay. Some Tamms inmates do not know and are not told why they are in isolated confinement. The general prison population, and for that matter the legislature and the Illinois general public, are even more uninformed of the specific actions and activities that are used to justify placement at Tamms.

A policy for transferring inmates out of Tamms is just as important as the screening process for placing inmates in Tamms. One way for an inmate to be transferred out of Tamms requires that the inmate must renounce any intent to associate with other gang members in the future and provide information regarding the structure and activities of the gang with which he was alleged associated. Until recently, inmates who do not renounce are not eligible for transfer. I am told that policy has changed, but at the time of my visit, inmates were unaware of any change. What is well known is that inmates who seek to “renounce” and whose answers do not satisfy the Illinois Department of Corrections, are denied transfer with little explanation. This has happened to far the large majority of inmates who have sought to “renounce.” The Department’s decision to deny transfer from Tamms is not subject to meaningful review.

Consider the legal “Catch-22” for the inmate. Inmates “who were wrongfully identified as a gang member cannot honestly comply [sic?] with the renunciation policy.”<sup>24</sup> Inmates who have honestly changed or improved, may not understand, nor have counsel to help understand, the basis upon which the Department denies their request for transfer. Ten years ago, we did not know that any inmate could possibly languish at Tamms for 6, 8 or 10 years. Now we know. They do.

## **Conclusion and Recommendations**

Let’s be clear and honest. The Tamms Correctional Center has nothing to do with correcting inmates. It exists, as it was designed and built ten years ago, to punish, isolate -- to suffocate as effectively as would a tomb-- Illinois prisoners. Ten years ago, we did not have Guantanamo Bay as a metaphor for what I urge we should not, in Illinois, tolerate in corrections. Now we do.

As long as the state insists on having its own Guantanamo Bay prison, and as long as both Tamms and Guantanamo Bay remain, arguably, “constitutional,” Illinois should at least adopt a morally mandated policy and limit prisoner incarceration in this facility to those inmates against whom the Illinois Department of Corrections can prove to some reasonable degree of proof the commission of a violation of rules, criminal law, or a real, specific threat to the security and

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<sup>24</sup> *Westefer*, 422 F.3d at 590

safety of the Illinois Department of Corrections staff and other inmates. This determination should be subject to independent review.

And above all, no inmate should, for any one act or based on any one allegation, be placed in Tamms Correctional Center for a prolonged period of time. For want of a better definition, I would offer that two years, sometimes claimed to be the maximum time the Department said it would commit inmates to Tamms, is most certainly “prolonged.” In my personal opinion, as anyone who has spent just one long day within the walls of Tamms, a far shorter period of several months is truly, inhumanely “prolonged.” I hope you will consider this, I urge a visit to Tamms, and that you reach your own judgment about what it means to be entombed in Tamms.

There are other issues which I have mentioned and others will describe in detail: recreation, visiting, strip and body cavity searches to accompany any out of cell movement, lack of meaningful educational opportunities. These are important, but for today I wanted to ask this Committee and the Illinois legislature to consider two basic issues that apply to everyone incarcerated at Tamms: how prisoners are placed at Tamms and how they are kept there.

Respectfully submitted,

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28 April 2008