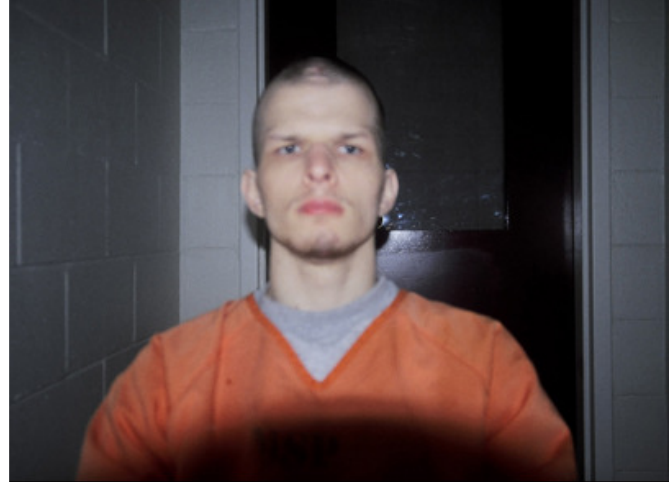

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The Worst of the Worst: Supermax Torture in America

Lance Tapley

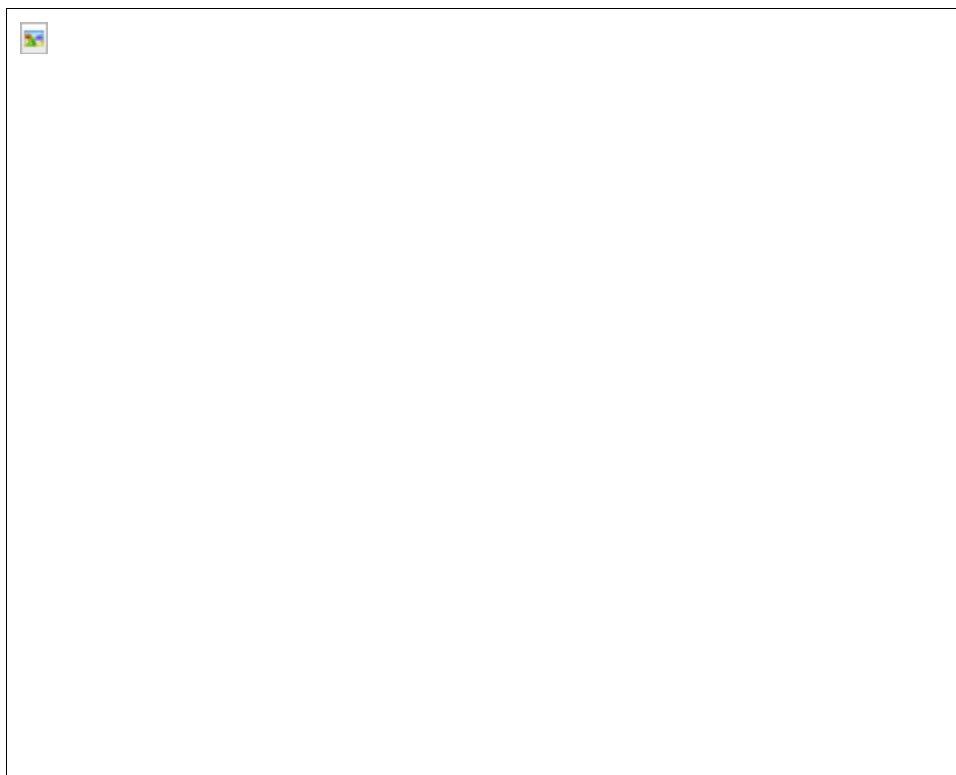
“They beat the shit out of you,” Mike James said, hunched near the smeared plexiglass separating us. He was talking about the cell “extractions” he’d endured at the hands of the supermax-unit guards at the Maine State Prison.

“They push you, knee you, poke you,” he said, his voice faint but ardent through the speaker. “They slam your head against the wall and drop you on the floor while you’re cuffed.” He lifted his manacled hands to a scar on his chin. “They split it wide open. They’re yelling ‘Stop resisting! Stop resisting!’ when you’re not even moving.”



Mike James, photographed by Lance Tapley.

When you meet Mike James you notice first his deep-set eyes and the many scars on his shaved head, including a deep, horizontal gash. He got that by scraping his head on the cell door slot, which guards use to pass in food trays.



WARNING: This video may disturb some viewers.

This video, leaked to Lance Tapley, shows a cell extraction at the super-maximum security unit of the Maine State Prison in Warren. Each such extraction is videotaped by guards to prove that mistreatment does not occur. The mentally ill prisoner is maced while he is forcibly moved from his cell, denuded, and placed in a restraint chair.

“They were messing with me,” he explained, referring to the guards who taunted him. “I couldn’t stand it no more.” He added, “I’ve knocked myself out by running full force into the wall.”

James, who is in his twenties, has been beaten all his life, first by family members: “I was punched, kicked, slapped, bitten, thrown against the wall.” He began seeing mental-health workers at four and taking psychiatric medication at seven. He said he was bipolar and had many other disorders. When a doctor took him off his meds at age eighteen, he got into “selling drugs, robbing people, fighting, burglaries.” He received a twelve-year sentence for robbery. Of the four years James had been in prison when I met him, he had spent all but five months in solitary confinement. The isolation is “mental torture, even for people who are able to control themselves,” he said. It included periods alone in a cell “with no blankets, no clothes, butt-naked, mace covering me.” Everything James told me was confirmed by other inmates and prison employees.

James’s story illustrates an irony in the negative reaction of many Americans to the mistreatment of “war on terrorism” prisoners at Guantánamo. To little public outcry, tens of thousands of American citizens are being held in equivalent or worse conditions in this country’s super-harsh, super-maximum security, solitary-confinement prisons, or in comparable units of traditional prisons. The Obama administration— somewhat unsteadily—plans to shut down the Guantánamo detention center

and ship its inmates to one or more supermaxes in the United States, as though this would mark a substantive change. In the supermaxes inmates suffer weeks, months, years, or even decades of mind-destroying isolation, usually without meaningful recourse to challenge the conditions of their captivity. Prisoners may be regularly beaten in cell extractions, and they receive meager health services. The isolation frequently leads to insane behavior including self-injury and suicide attempts.

In 2004, state-run supermaxes in 44 states held about 25,000 people, according to Daniel Mears, a Florida State University criminologist who has done the most careful count. Mears told me his number was conservative. In addition the federal system has a big supermax in Colorado, ADX Florence, and a total of about 11,000 inmates in solitary in all its lockups, according to the Bureau of Prisons. Some researchers peg the state and federal supermax total as high as a hundred thousand; their studies sometimes include more broadly defined “control units”—for example, those in which men spend all day in a cell with another prisoner. (Nationally, 91 percent of prison and jail inmates are men, so overwhelmingly men fill the supermaxes. Women also are kept in supermax conditions, but apparently no one has estimated how many.) Then there are the county and city jails, the most sizable of which have large solitary-confinement sections. Although the roughness in what prisoners call “the hole” varies from prison to prison and jail to jail, isolation is the overwhelming, defining punishment in this vast network of what critics have begun to call mass torture.

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James experienced frequent cell extractions—on one occasion, five of them in a single day. In this procedure, five hollering guards wearing helmets and body armor charge into the cell. The point man smashes a big shield into the prisoner. The others spray mace into his face, push him onto the bed, and twist his arms behind his back to handcuff him, connecting the cuffs by a chain to leg irons. As they continue to mace him, the guards carry him screaming to an observation room, where they bind him to a special chair. He remains there for hours.

A scene such as this might have taken place at supposedly aberrant Abu Ghraib, where American soldiers tormented captured Iraqis. But as described by prisoners and guards and vividly revealed in a leaked video (the Maine prison records these events to ensure that inmates are not mistreated), an extraction is the supermax’s normal, zero-tolerance reaction to prisoner disobedience, which may be as minor as protesting bad food by covering the cell door’s tiny window with a piece of paper. Such extractions occur all the time, not just in Maine but throughout the country. The principle applied is total control of a prisoner’s actions. Even if the inmate has no history of violence, when he leaves the cell he’s in handcuffs and ankle shackles, with a guard on either side.

Despite a judge’s order, officials refused to send Mike James to the hospital, arguing he had to serve his full sentence first.

But he doesn’t often leave the cell. In Maine’s supermax, which is typical, an inmate spends 23 hours a day alone in a 6.5-by-14-foot space. When the weather is good, he’ll spend an hour a day, five days a week, usually alone, in a small dog run outdoors. Radios and TVs are forbidden. Cell lights are on night and day. When the cold food is shoved through the door slot, prisoners fear it is contaminated by the feces, urine, and blood splattered on the cell door and corridor surfaces by the many mentally ill or enraged inmates. The prisoner is not allowed a toothbrush but is provided a plastic nub to use on

a fingertip. Mental-health care usually amounts to a five-minute, through-the-steel-door conversation with a social worker once or twice a week. The prisoner gets a shower a few times a week, a brief telephone call every week or two, and occasional “no-contact” access to a visitor. Variations in these conditions exist: for example, in some states TVs or radios are allowed.

When supermaxes were built across the country in the 1980s and 1990s, they were theoretically for “the worst of the worst,” the most violent prisoners. But an inmate may be put in one for possession of contraband such as marijuana, if accused by another inmate of being a gang member, for hesitating to follow a guard’s order, and even for protection from other inmates. Several prisoners are in the Maine supermax because they got themselves tattooed. By many accounts mental illness is the most common denominator; mentally ill inmates have a hard time following prison rules. A Wisconsin study found that three-quarters of the prisoners in one solitary-confinement unit were mentally ill. In Maine, over half of supermax inmates are classified as having a serious mental illness.

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Prison officials have extraordinary discretion in extending the stay of supermax inmates. Their decisions hit the mentally ill the hardest. Administrators can add time as a disciplinary measure, and often they will charge prisoners with criminal offenses that can add years to their sentences.

In 2007 James was tried on ten assault charges for biting and kicking guards and throwing feces at them. Most were felony charges, and if convicted he could have served decades more in prison. Inmates almost never beat such charges, but James’s court-appointed lawyer, Joseph Steinberger, a scrappy ex-New Yorker, succeeded with a defense rare in cases of Maine prisoners accused of crimes: he convinced a jury in Rockland, the nearby county seat, to find James “not criminally responsible” by reason of insanity. Steinberger thought the verdict was a landmark because it called into question the state’s standard practice of keeping mentally ill individuals in isolation and then punishing them with yet more isolation when their conditions worsen. After the verdict, as the law required, the judge committed James to a state mental hospital.

But prison officials and the state attorney general’s office saw the verdict as another kind of landmark: never before in Maine had a convict been committed to the mental hospital after being tried for assault on guards. In the view of the corrections establishment, James would be escaping his deserved punishment, and this would send the wrong signal to prisoners. Officials refused to send him to the hospital, arguing he first had to serve the remaining nine years of his sentence.

Steinberger wrote to Maine’s governor—John Baldacci, a Democrat—begging him to intervene and send James to the hospital:

He continually slits open his arms and legs with chips of paint and concrete, smears himself and his cell with feces, strangles himself to unconsciousness with his clothing. . . . He also bites, hits, kicks, spits at, and throws urine and feces on his guards.

This behavior was never in dispute, but the governor declined to intervene.

After a year of court battles, Steinberger finally succeeded in getting James into the hospital, though the judge conceded to the Department of Corrections that his time there would not count against his sentence. So James faces nine years in prison after however long it takes to bring him to a sane mental state.

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Can supermax treatment legitimately be called torture? The most widely accepted legal definition of torture is in the

United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment—a treaty to which the United States is party, and is therefore U.S. law. In this definition, torture is treatment that causes “severe pain or suffering, whether physical or mental,” when it is inflicted by officials for purposes of punishment or coercion.

Severe pain and suffering as punishment are plainly the norm in supermaxes, and prison officials use isolation to coerce inmates into ratting on each other or confessing to crimes committed in prison. (A Maine prisoner told me about a deputy warden who threw him in the most brutal cellblock of the supermax and repeatedly interrogated him about an escape plot, which he denied any knowledge of.) Even in the careful words of diplomacy, and even when only mental suffering is considered, supermax conditions, especially solitary confinement of American prisoners for extended periods, have increasingly been described by UN agencies and non-governmental human rights organizations as cruel, inhuman, degrading, verging on torture, or outright torture. In 2008 the UN special rapporteur on torture, Manfred Nowak, **recommended** that solitary confinement “be kept to a minimum, used in very exceptional cases, for as short a time as possible, and only as a last resort”—limits that U.S. supermaxes violate in the course of normal operation. The National Religious Campaign Against Torture, which has been active in opposing abuses at Guantánamo, recently began describing supermax conditions as torture. And American judges have recognized solitary confinement of the mentally ill as equivalent to torture. A key case is **the 1995 federal court ruling in *Madrid v. Gomez*** that forbade keeping mentally ill prisoners in the notorious Security Housing Unit of California’s Pelican Bay State Prison.

This American system of administrative punishment has no counterpart in scale or severity.

Solitary confinement is by far the worst torture in the supermax. Human minds fare poorly in isolation, which “often results in severe exacerbation of a previously existing mental condition or in the appearance of a mental illness where none had been observed before,” Stuart Grassian, a Boston psychiatrist and authority on solitary confinement, writes in **a brief for the *Madrid* case**. Grassian believes supermaxes produce a syndrome characterized by “agitation, self-destructive behavior, and overt psychotic disorganization.” He also notes memory lapses, “primitive aggressive fantasies,” paranoia, and hallucinations.

Grassian’s is the consensus view among scholars concerned with solitary confinement. Peter Scharff Smith of the Danish Institute for Human Rights, who has surveyed in depth the literature concerning solitary confinement, writes, “Research on effects of solitary confinement has produced a massive body of data documenting serious adverse health effects.” Those effects may start within a few days,

involve as many as three-quarters of supermax inmates, and often become permanent. Another expert on supermax confinement, psychiatrist Terry Kupers, writes, “being held in isolated confinement for longer than three months causes lasting emotional damage if not full-blown psychosis and functional disability.”

The throwing of feces, urine, and blood at guards; self-injury; and suicide attempts are common. A **2009 investigation of Illinois’s Tamms supermax by the Belleville News-Democrat** depicted Faygie Fields, a schizophrenic imprisoned for killing a man in a drug deal. Fields regularly cut his arms and throat with glass and metal, swallowed glass, and smeared feces all over his cell. The prison reaction to this kind of behavior was predictable:

Prison officials charged him \$5.30 for tearing up a state-owned sheet to make a noose to kill himself. . . . If he hadn’t been charged with crimes in prison, Fields could have been paroled in 2004 after serving 20 years of a 40-year sentence. But Fields must serve all the extra time for throwing food, urine and committing other offenses against guards. That amounts to 34 years, or 54 years total, that he must serve before becoming eligible for parole in 2038, at age 79.



Video still of a cell extraction in progress.

This American system of administrative punishment—except in extremely rare cases, prison staff, not judges, decide who goes into the hole—has no counterpart in scale or severity. There are solitary-confinement cells in other countries’ prisons and the odd, small supermax, such as the Vught prison in the Netherlands, but they are few. When Corey Weinstein, a San Francisco physician, toured prisons in the United Kingdom in 2004 on behalf of the American Public Health Association, he was shown “eight of the forty men out of 75,000 [in England and Wales] considered too dangerous or disruptive to be in any other facility.” Seven of the eight

were out of their cells at exercise or at a computer or with a counselor or teacher. . . .

With embarrassment the host took us to the one cell holding the single individual who had to be continuously locked down.

The British and other Europeans did use solitary confinement starting in the mid-nineteenth century, taking as models the American penitentiaries that had invented mass isolation in the 1820s. But Europe largely gave it up later in the century because, rather than becoming penitent, prisoners went insane. A shocked Charles Dickens, after visiting a Pennsylvania prison in 1842, called solitary confinement “immeasurably worse than any torture of the body.” Americans gave it up, too, in the late 1800s, only to resurrect it a century later.

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Officially called the Special Management Unit or SMU, Maine's supermax opened in 1992, hidden in the woods of the pretty coastal village of Warren. Ten years later the new, maximum-security Maine State Prison was built around it. Literally and metaphorically, the supermax's 132 cells are the core of the stark, low, 925-inmate complex with its radiating "pods." Maine's crime and incarceration rates are among the lowest in the country, but its supermax is as brutal as any. After allegations of beatings by guards and of deliberately withheld medical care, the state police are currently investigating two inmate deaths in the SMU. Grassian has told a legislative committee that Maine's supermax treats its inmates worse than its peers in many states.

Still, supermaxes are more alike than different. As America's prisoner population exploded—the U.S. incarceration rate now is nearly four times what it was in 1980, more than five times the world average, and the highest in the world—overcrowding tossed urban state prisons into turmoil. The federal system provided a model for dealing with the tumult: in 1983 mayhem in the federal penitentiary in Marion, Illinois, resulted in a permanent lockdown and, effectively, the first supermax. "No evidence exists that states undertook any rigorous assessment of need," Mears, the Florida State criminologist, writes of supermax proliferation, but the states still decided they would segregate whomever they deemed the most troublesome inmates. Maine's supermax is a case in point, constructed in the absence of prisoner unrest. George Keiser, a veteran prisons official who works for the Department of Justice's National Institute of Corrections, puts it bluntly: supermaxes became "a fad."

An expensive fad. American supermax buildings are so high-tech and the management of their prisoners is so labor-intensive that the facilities "typically are two to three times more costly to build and operate than other types of prisons," Mears writes. Yet, according to Keiser, tax money poured into supermax construction because these harsh prisons were "the animal of public-policy makers." The beast was fed by politicians capitalizing on public fears of crime incited by increasing news-media sensationalism.

'This place breeds hate,' one inmate said, 'What they're doing obviously isn't working.'

There was no significant opposition to the supermaxes, even when it became clear that the mentally ill would be housed there. Legislatively mandated deinstitutionalization meant patients were thrown onto the streets without enough community care, and eventually many wound up in jails and prisons. Also, "for a time," Keiser said, "there was a thought that nothing worked" to rehabilitate prisoners. With conservative scholars such as James Q. Wilson leading the way in the 1970s, "corrections" was essentially abandoned.

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The supermax experiment has not been a success.

Norman Kehling—small, balding, middle-aged—is serving 40 years in the Maine State Prison for an arson in which, he told me, no one was hurt. When I interviewed him, he was in the supermax for trafficking heroin within the prison. I asked him about the mentally ill men there. "One guy cut his testicle out of his sack," he reported, shaking his head. "They shouldn't be here." He added, "This place breeds hate. What they're doing obviously isn't working."

Wardens continue to justify supermaxes by claiming they decrease prison violence, but a study published in *The Prison Journal* in 2008 finds “no empirical evidence to support the notion that supermax prisons are effective” in meeting this goal. And when enraged and mentally damaged inmates rejoin the general prison population or the outside world, as the vast majority do, the result, according to psychiatrist Kupers, is “a new population of prisoners who, on account of lengthy stints in isolation units, are not well prepared to return to a social milieu.” In the worst cases, supermax alumni—frequently released from solitary confinement directly onto the street—“may be time bombs waiting to explode,” criminologist Hans Toch writes.

The bombs are already going off. In July of 2007 Michael Woodbury, then 31, walked into a New Hampshire store and, in a botched robbery, shot and killed three men. He had just completed a five-year stint at the Maine State Prison for robbery and theft and had done much of his time in the supermax. When he was being taken to court he told reporters, “I reached out and told them I need medication. I reached out and told them I shouldn’t be out in society. I told numerous cops, numerous guards.” While in prison, he said, he had given a four-page “manifesto” to a prison mental-health worker saying he “was going to crack like this.” Woodbury pleaded guilty and received a life sentence. Unsurprisingly, a Washington state study shows a high degree of recidivism among inmates released directly to the community from the supermax.

Summing up the major pragmatic arguments, Sharon Shalev of the London School of Economics and author of a recent prizewinning book, *Supermax: Controlling Risk Through Solitary Confinement*, says, “Supermax prisons are expensive, ineffective, and they drive people mad.”

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So what can be done?

Legally, solitary confinement is not likely to be considered torture anytime soon. According to legal scholar Jules Lobel, when the Senate ratified the Convention Against Torture, it qualified its approval so much that under the U.S. interpretation “the placement of even mentally ill prisoners in prolonged solitary confinement would not constitute torture even if the mental pain caused thereby drove the prisoner to commit suicide.” And despite the Constitution’s prohibition of “cruel and unusual punishment,” courts have refused to see supermax confinement per se as unconstitutional. Lawsuits on behalf of the mentally ill have had more success. In New York a suit brought about the creation of a residential mental-health unit for prisoners, with another on the way, plus more time out of the cell for the mentally ill. Still, fifteen years after *Madrid v. Gomez*, court-ordered reform has been infrequent and its implementation contested.

Supermax torture wasn’t instituted because of a utilitarian calculation about dollars and cents.

There are other roadblocks to legal action. Thanks to the Prison Litigation Reform Act, a law signed by President Bill Clinton that restricts an inmate’s right to sue corrections officials, an individual prisoner has little ability to mount a court challenge to his placement or prison conditions. For example, before going to court, a prisoner is required to exhaust the prison grievance system—a dilatory process seemingly designed to lose or chew up inmate complaints. And on the rare occasions when prisoners make it to court, they usually have to represent themselves. Unlike at Guantánamo,

lawyers from prosperous Manhattan firms are not lining up to offer services pro bono to penniless supermax inmates.

Activists who see supermaxes as torture chambers are increasingly looking beyond legal action and toward pressure on legislatures and governors. These reformers want states to abolish supermaxes or at least to reduce their reliance on prolonged solitary confinement and provide mental-health care and rehabilitation for disturbed and difficult prisoners. A persistent grass-roots group in Illinois, Tamms Year Ten, has extracted promises from the state to improve conditions at Tamms. The Vera Institute of Justice, a New York-based think tank, has begun working with officials in Illinois and Maryland to reduce the number of prisoners in isolation. Vera is trying to apply lessons from Mississippi, where American Civil Liberties Union (ACLU) lawsuits resulted in perhaps the most significant U.S. supermax reform, shrinking the population of its infamous Parchman penitentiary supermax from one thousand to 150. Mississippi expanded its mental-health, education, and recreation programs for supermax inmates and, as they improved their behavior, moved them to the general prison population.

Early this year a Maine prison-reform coalition, aided by the National Religious Campaign Against Torture and the ACLU, lobbied the state legislature to pass a bill to limit terms of solitary confinement to 45 days and prohibit people with “serious mental illness” from being assigned to the supermax. Although the majority-Democratic leadership supported the bill, it failed. In its place the legislature launched a study of solitary confinement, and activists are hopeful a similar measure will be enacted in the future. At the bill’s legislative hearing, reformers testified that if a conservative state such as Mississippi could make sweeping reforms work, then certainly moderate Maine could.

Some reformers believe the public can be turned against supermaxes on the basis of their high cost. Faced with ever-rising prison expenditures at a time of depressed tax revenues, officeholders are beginning to question draconian sentencing laws and to see probation and parole as attractive alternatives. In Missouri a sentencing commission has begun telling judges, before they sentence prisoners, about the extravagant price of incarceration as compared to measures such as probation. And social scientists are increasingly producing evidence showing that investment in prisoner rehabilitation lowers recidivism and would save taxpayers money in the long run. Currently, two-thirds of ex-convicts return to prison within three years.

Supermaxes, however, grew through several recessions. In the current economic slump, the Colorado state budget has been under great strain, but the state just opened a 300-bed supermax. Although prisoner outcomes make clear that the high-priced supermaxes are counterproductive, it appears unlikely that much will be done immediately about this archipelago of agony. Prison guards in some states have strong unions, which will fight supermax closures that would put their members out of work. Prison bureaucracies are large and self-protective. The supermaxes also are the products of relatively recent investment, so it would be difficult for legislators to back out on them now.

In any case supermax torture wasn’t instituted because of a utilitarian calculation about dollars and cents. “The object of torture is torture,” George Orwell wrote. As long ago as 1975, years before the first supermax, Garry Wills wrote that Americans had become complicit in “the psychic incineration of our fellow citizens.” His evaluation today would be even more devastating.

*This article is adapted from **The United States and Torture: Interrogation, Incarceration, and Abuse**, forthcoming from New York University Press, and based on five years of reporting for the Portland Phoenix.*

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