

# **The Future Trend of Supermax Confinement in Taiwan: A Reflection From the American Supermax Perspective\***

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## **ABSTRACT**

The value of supermax prisons in the United States is still in debate. Those who support supermax prisons argue that by segregating the violent, disruptive, and assaultive inmates from others, it makes prison a safer place. Other people, however, criticize that supermax prisons can cause more trouble than merits. One of the most often cited problems is the inclusion of mentally ill inmates in the supermax prisons. For those inmates who are diagnosed as having mental health problems, the isolated imprisonment may worsen their syndromes. Until now, the debates are still on going and have not been solved yet, despite the accumulation of research on this topic.

Facing the increasing number of extremely violent and uncontrollable inmates in prisons, the Justice Department of Taiwan also considers the feasibility of implementing supermax prisons. Due to the differences in culture and correctional systems between Taiwan and the United States, we cannot just replicate the system from the United States. Therefore, it is necessary to re-examine the nature and the operation of the American supermax prisons from the perspective of Taiwanese correctional system before we rush into the actual implementation of supermax prisons in Taiwan.

The supermax prison, it has been over sixty years since the first one appeared in American history. Although the supermax prison went through many changes and transformations, it is still a hot topic in corrections academic and practical fields in the U.S. On the other side of the Pacific Ocean, Taiwan's first supermax prison—Taiwan

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\* 本文發表於 2012 年美國犯罪學學會年會報告。

Green Island Prison—located at a small island, southeast of Taiwan, was open in 1971.

At that time, Taiwan society was still controlled by martial laws; the authoritarian government sent most political prisoners to Green Island and confined them in prisons there for a long time. It has been a painful memory in the mind of Taiwanese people.

Now Taiwan is a democratic society, and the political prisoner has been a historical noun. Taiwan Green Island Prison no longer houses political prisoners, and now it is used for housing uncontrollable, escape-prone, extremely violent inmates transferred from other prisons. But due to its historical totem of cruelty and inhumanity, the new government ruled by the Democratic Progressive Party declared in 2002 to close this old supermax prison within three years, and decided to design a new supermax prison one in the east region of Taiwan to replace the old one.

Facing the new development of Taiwanese supermax confinement, it is a pity that local research regarding supermax prisons provides little insight to the policy decision, and experiences become the only sources for directing the future supermax policy. On the contrary, the American supermax prisons are keeping to adjust themselves when a huge amount of relevant research appears on the debate of supermax prisons. From the past and current developments of American supermax prisons, valuable insights we received can be applied to the future Taiwanese supermax confinement policy.

### ***The appearance of Supermax prison***

The early famous supermax prison might trace back to the Alcatraz in 1934, which was used to be an old army prison on an island outside the San Francisco Bay. In 1934, the Federal Bureau of Prison (FBP) started to open the Alcatraz as a small, high-maximum security prison to house the most troublesome federal inmates. But it was closed in the 1960s due to the expensive expenditure of maintenance for only 270 inmates. Then a new prison at Marion, Illinois was built by the FBP, and served as a substitute prison for the Alcatraz. The prison at Marion, Illinois was the first one formally called the supermax prison. In 1999, by various counts and various definitions, between thirty and thirty-four states had supermax prisons or units, with more building apace (Kurk & Morris, 2001).

### ***The definition of supermax prison***

Until now, there is no clearly recognized definition of supermax prison adopted by different states in the U.S. Due to the differences between states and states on the operation of supermax prisons, each state's supermax prison might have its own unique construction design, inmate admission and releasing procedure, inmate's access to recreation or communication, and vocational or treatment program. But it is

certain that supermax prison is the last place for housing those dangerous and uncontrollable inmates that the normal prisons cannot handle. According to the first nationwide survey about supermax conducted by National Institution of Corrections (NIC) in 1997, the supermax prison is initially defined as follows: A free-standing facility, or distinct unit within a facility, that provides for the management and secure control of inmates who have been officially designated as exhibiting violent or seriously disruptive behavior while incarcerated. Such inmates have been determined to be a threat to safety and security in traditional high-security facilities, and their behavior can be controlled by separation, restricted movement, and limited access to staff and other inmates. (NIC, p. 9)

From the definition made by the NIC, it has at least three obvious characteristics for describing the supermax prison.

1. The supermax prison is a special type of maximum-security prison which its security strategy and operation are stricter than another maximum-security prisons.
2. The supermax prison is for inmates who have been shown obvious threats to the order and operation of the normal prisons or maximum-security prisons.
3. The inmates housed in supermax prisons are under totally control and surveillance.

### *The operation and challenge of supermax prison*

The rising use of supermax prisons is across all the U.S. in the last decade of the 20-century. The corrections administrations in various states began to build supermax prisons in order to house the violent, troublesome, or uncontrollable inmates. Among these states, California has become the leader in the construction of supermax prisons. It has built four new maxi-maxi prisons with a total capacity of 12,000(Austin & Irwin, 2001). One of the four supermax prisons attracting many attentions of criminologists and criminal justice practitioners is the Pelican Bay Facility (PBF), because it itself is the most expression of the spirit of supermax prisons. Like California's former governor George Deukmejian, dedicating the new prison in June 14, 1990, stated, "California now possesses a state-of-the-art prison that will serve as a model for the rest of the country.... Pelican Bay symbolizes our philosophy that the best way to reduce crime is to put convicted criminals behind bars"(Austin & Irwin, 2001, p. 128). The governor's statement exactly reflected the social attitude on inmates at that time. Punishment and incapacitation instead of rehabilitation would be the function of prison. Within the PBF, there is a most secure prison facility: the high-tech Security Housing Unit (SHU). The design of the SHU became the classical cornerstone in the development of supermax prisons. Through examining the representative supermax prison, the later debatable issue derived from supermax

prisons will be understood.

**Location.** The SHU is located at Crescent City, the remote northern area of California, which is 900 miles away from the Los Angeles without air transportation. The geographical isolation of the prison has multiple meanings. It not only keeps inmates from escaping, but also decreases their contacts with outside world because most inmates come from the area of Los Angeles.

**Design.** The cells for housing inmates are placed in the pods (i.e., cell blocks). There are eight individual cells in each pod. The pods are arranged in a semi-circle, like spokes of a wheel, with a centralized control room as the hub. The control room officer has a clear view of all six pods. The officer operates each door, controls the entrances and exits to each pod, and monitors movement in the exercise yards via closed circuit television (Wagner, 2001, p. 17).

**Routine activity.** Most inmates are housed in single cells, and most of their activities are in process in their own cell in order to minimize the physical contacts between inmates. Staff instead of inmates does the works of delivering food, mail, canteen supplies, or medication. Inmates are provided religion service in their separate cells, and they can exercise in the yard at least 10 hours a week. There is little chance for inmate walking alone without escort in the pod, like going to the shower or to the

exercise yard. But only one inmate can walk in the pod at one time. When inmates need to go out of the pod at any time, they should be escorted by two correctional officers.

*Eligibility.* The SHU is design for inmates who are difficult management cases, prison gang members and violent maximum custody inmates. It is worth noticing that known gang members and affiliates— especially those responsible for violence or intimidation within the prison— also can be assigned to SHU (Wagner, 2001). An administrative review committee will decide the eligible status of inmates by checking the document and listening to the opinions of correctional officers and inmates. If inmates are sent to SHU, they should stay in it from a few months to five years.

The central concept of the operation of supermax prison is that minimizing the physical contacts between inmates is the best way to decrease the disturbances in the prison. Without communication and information exchange among inmates, there is no way for inmates to develop collective action or violent group aimed to counter the control forces of prison administration. The situation correctional officers have to face in supermax prison is not a group of inmates joining together, but separate inmate one by one. Although the focus of supermax prison on extreme isolation brings obvious

benefit to the practical correctional management, it also faces the mountainous criticisms from academic scholars. The long-term isolation confinement is criticized as causing serious psychological harms and emotional damage to inmates. Evidence of these negative psychological effects comes from personal accounts, descriptive studies, and systematic research on solitary and supermax-type confinement, conducted over a period of four decades, by researchers from several different continents who had diverse backgrounds and a wide range of professional expertise (Haney, 2003). Not only does research verify that inmates are suffering from mental problems, but also correctional staff working in supermax prisons is observed some similar adverse symptoms, such as appetite and sleep disturbances, anxiety, panic, rage, loss of control, paranoia, hallucinations, and self-mutilations (e.g., Jackson, 1983; Porporino, 1986; Rundle, 1973; Scott, 1969; Slater, 1986). The issue of mental health in supermax confinement arouses many criticisms and attacks outside the high wall. The isolation confinement is even despised as “the mental equivalent of putting an asthmatic in a place with little air to breathe.”(Toch, 2001). Except the debate rising from the academic study, court also began to supervise and investigate the operation of supermax prisons because inmates file lawsuits against supermax administration and allege it as unconstitutional punishment violating the Eighth Amendment that prohibits cruel and unusual punishment. For example, in 2002, the



US District Court issued a preliminary injunction against prison officials at Wisconsin “supermax” prison requiring them to immediately transfer out seven specified mentally ill prisoners and to implement a rigorous mental health evaluation of all other high-risk prisoners within 36 days (Dannenberg, 2002). The strength of outside supervision and check-up push the supermax administration to adjust its control strategies and adopt treatment activities to lessen the side effects of isolation confinement. The supermax prisons around the U.S. are no longer the replicated ones of the original model of Alcatraz in 1934.

### **Where can we go? The future of the Taiwanese supermax prison**

The U.S. supermax prisons experiences many transformations in the past several years. Until now, its value is still unclear according to different viewpoints of people. The only thing we can be certain is that the supermax prisons will continue existing in our society because the thought of punishing criminals is still prevalent among people. Similarly, keeping criminals away from free society is exactly the main penal policy in Taiwan. The harsh attitude on criminals is not easy to change in a short time. Decreasing the negative effects of supermax prisons and promote their positive function on corrections practice will become the first considerations. Before the construction of the first modern supermax prisons in Taiwan, the over sixty –years

history of supermax prisons in America can provide valuable insights for Taiwanese future supermax confinement policy.

### ***The location of supermax prison***

The population in Taiwan is concentrated on big cities or counties around a big city. Based on people's aversion and terror toward criminals, especially on dangerous or uncontrollable criminals, the place of countryside would be the priority choice to build supermax prisons. But it is worth noting that the long distance between supermax prisons and inmates' inhabitant regions will more isolate inmates from their family connections. Like the only high security prison in Taiwan—Taiwan Green Island Prison—is located on the Green Island in the Pacific Ocean, southeast of Taiwan. Few inmates' families or relatives would like to visit them due to its remote location and transportation inconvenience. Therefore, when choosing the location of the supermax prison in different countryside, the convenient transportation provided for inmates' families to reach it should be one of the important considerations.

### ***Supermax prison's architecture design***

Although supermax prisons have different design in the U.S., the common point between them is that many solitary cells used to accommodate inmates transferred

from other normal prisons. In the eyes of correctional officers, the solitary cells are viewed as useful tool to control and deter inmates' misbehaviors, but academic researchers considered them as the root of deteriorating inmates' mental function. Bridging the gap between corrections practitioners and academic researchers, the design of supermax prison should not equivalent to the accumulation of solitary cells, but it need to include another non-solitary cells within a specific block for inmates withdrawn from the solitary cells. These non-solitary cells are for 3-4 inmates to live together, and they are located a specific block which is separated from the solitary cells within the other block. That inmates are moving from the solitary cells to the non-solitary symbolizes returning to the less restrictive, free-communication, and normal prison lifestyle. It is a positive goal that inmates in solitary cells would like to pursue, and it also can decrease inmates' emotional harms and depression.

### ***The admitting procedure of inmates***

One of the significant criticisms on supermax prisons is that the prison administration lacks detailed screen procedure before sending inmates into supermax prisons. Many uncontrollable or fraction-prone inmates qualified for supermax prisons are found having mental illnesses. After admitting into supermax prisons, solitary confinement will destroy the chance of recovery. The places they are sent to

are mental hospitals, not supermax prisons. In order to avoid misunderstanding the inmates' mental problem as order-disruptive behavior, the prison administration should establish clear, detailed, and multidimensional screen procedure, especially including the screen of inmates' physical and mental state by medical doctors.

Meanwhile, when the prison decides to transfer inmates to a supermax prison, inmates should have the right to express their opinions on the initial decision. The supervising agency will review both of the initial decision and inmates' opinions, and then make a final decision about whether to send the inmates to supermax prisons. The two-level check procedure will make sure that the human right of inmates will not be easily violated by prison officials, and minimize the number of lawsuits filed by inmates.

### ***The access to medical resources***

The biggest problem existing in supermax prisons is whether the prison administration could offer enough health care to inmates or not. Due to the supermax prisons are located at remote countryside, and the local medical level are lower than city, sometimes it is hard to periodically invite medical doctors (e.g., psychiatrist) to provide enough health care for inmates. Even the supermax prison does not arrange routine psychological assessment for inmates during the period of solitary

confinement. The front-line officers are asked to be professional observers and recorders except their security mission. It will result in inaccurate assessment and disruption of a fair system. Therefore, before selecting the location of a supermax prison, the easy access to local medical institutions (e.g., hospital) should be an important consideration except the supermax prison could be equipped with necessary medical staff and resources. In addition, the inmates' request for medical service should be taken into account seriously. Correctional officers cannot reject inmates' requests without any attention on their state or need.

### ***The relationship of correctional officers and inmates***

In prison, the relationship between correctional officers and inmates is defined as authoritative upper-to-lower relationship. Inmates should respect for correctional officers and completely obey their orders. This rigid interaction will be more intensified in supermax prisons, which emphasize the importance of control regime. Gradually, the correctional officers will treat inmates as dangerous targets instead of live people with real feeling and thinking; the inmates will regard correctional officers as authoritative figures who put unnecessary obligations on them. That will accumulate misunderstanding between them, and probably drive a trivial trouble into an uncontrollable conflict. Therefore, Except for keeping formal relationship,

correctional officers and inmates can develop a reliable relationship in order to relieve the tenuous atmosphere in supermax prisons. Without communication with other inmates, correctional officers are the only people inmates can contact with in most of their daily time. Reliable and concerned interaction will help both of them being free from the harmful emotion, such as disassociation, alienation, or depression.

### ***The leadership of supermax prison***

The inmates housed in supermax prisons are called “the worst of the worst”; the supermax prisons are also regarded as “the prison of the prison”. The future challenges faced by the leader of the supermax prison are to keep a balance between deterrent effect and human right. Until now, in the eyes of correctional practitioners, no other control strategies are more effective than solitary confinement. But the order of prisons should not be kept at the price of basic human right. In the U.S., noting that the Eighth Amendment's cruel and unusual punishment clause protects the mental health of prisoners no less than their physical health and observing mistreatment of seriously mentally ill prisoners "bordering on barbaric" (Dannenberg, 2002).

The leadership of the warden plays a crucial role in keeping a delicate balance between the two polar issues. A qualified warder of a supermax prison should possess these traits of experiences, responsibility, caring, and respectability. For supervising

administration, it is worth paying more attention to the selection of a supermax prison warden.

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