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A Sweeping Reform Bill and a Handwritten Legal Complaint Offer Hope to Men Trapped in Isolation for Decades

by [Joshua Manson](#) | June 3, 2019

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On the eve of Election Day 1994, Patrick Proctor and three other men escaped from the close supervision unit at Shawangunk Correctional Facility in upstate New York. It was the first escape in the prisons eight-year history.

They did not get far. State police initiated a manhunt spanning 25 miles in every direction and deployed 140 law enforcement officials, two helicopters, and seven police dogs to find the four men. They found Proctor after just a few hours, badly injured and limping along a local highway. They recaptured the rest of the men, also injured, by that afternoon.

Corrections officials punished Proctor for the escape, giving him 10 years in disciplinary segregation—23-hour-a-day solitary confinement. Proctor, who was serving 32 and a half years to life for second-degree murder, did his stretch in solitary, earning time off for good behavior, and expected to rejoin the general population on Dec. 8, 2003.

Instead, prison officials handed Proctor a notice informing him that he would remain in isolation, pending a formal hearing. This time, he would be in administrative segregation, or ad seg—solitary confinement used to isolate people whom corrections departments consider risks to the [safety and security](#) of the facility.

In the hearing 11 days later, officials pointed to Proctor's now years-old attempted escape and early misbehavior in disciplinary segregation (which he disputed vigorously). Then they affirmed Proctor's placement in administrative segregation, where he would remain indefinitely.

### Trapped in isolation

Administrative segregation is the least regulated and least visible form of isolation in New York prisons. Unlike their peers in disciplinary segregation, those in administrative segregation have no defined end to their time in solitary. Their fate is entirely up to the corrections department.

According to the New York Department of Corrections and Community Supervision (DOCCS), there are currently 18 people in administrative segregation, along with more than 2,300 in disciplinary segregation. The actual number may be somewhat higher, since individuals have reported having their segregation classifications flipped from administrative to disciplinary and back again, without them ever leaving isolation.

Even at a time of reform, Proctor and his peers in administrative segregation are being left behind. [Recent solitary restrictions](#) in New York cap disciplinary segregation for most first-time rule violations at three months, and reduce longer solitary stints, but they entirely exclude people held in administrative segregation.

Yet there are signs of hope in New York for those in indefinite solitary confinement. Proctor and others have challenged some corrections department policies and procedures that keep them trapped in isolation, and have so far seen varying degrees of success. And a sweeping reform bill, which is close to passage in both houses of the state legislature, would mandate a path back to general population for everyone in solitary—including the long-forgotten long-termers in administrative segregation.

### A solitary challenge

Proctor's lawsuit began with a complaint he drafted and filed himself from his solitary cell in 2009. He argued that his indefinite isolation violated his 14th Amendment right to due process, which requires prisons to conduct regular reviews when placing or keeping someone in solitary. But according to Proctor, his reviews were so biased that they should not even count as such. Instead, he argued, they were sham, perfunctory, and not meaningful.

In October 2015, a federal district court [dismissed Proctors claim](#). But when the Second Circuit Court of Appeals [reviewed the lower courts decision](#) in 2017, it found that Proctor had a case to answer.

Proctors legal team deposed corrections officials and used internal corrections documents to show that his placement in administrative segregation was based on his past actions, and not as the alleged [purpose](#) of such segregation on his current or potential future behavior. One official told Proctors lawyers that his current behavior plays no role in the decision whether or not to maintain him in ad seg, and that his isolation was justified by his criminal history alone. Prison paperwork showed that officials interpreted Proctors positive behavior toward staff as an effort to mask his resistance to authority, an assertion the court called bizarre and unsupported. Asked to explain these and other circular justifications, a member of the review panel gave a frank response: That's a little weird, isn't it I can't explain that.

The court found that Proctors reviews may not have been meaningful enough to constitute due process. It was the first federal ruling to declare that, in administrative segregation reviews, simply going through the motions is not enough. The court then outlined a set of minimum standards for any acceptable review, stipulating that reviewers must consider new relevant evidence as it becomes available and must ensure that Ad Seg is used as neither a form of punishment nor a pretext for indefinite confinement. Timothy Gilman, one of Proctors attorneys, said the requirements reaffirmed that reviews must be meaningful, and that rubber-stamp formalities are not enough to keep a person confined in solitary for years or decades.

In January, facing the prospect of a trial, the corrections department agreed to settle the case. Gilman wrote in an email that he and Proctor hope the agreement, which is not yet final, will meaningfully change Proctors conditions in the short term, as well as provide him a good path forward and out of administrative segregation. They also hope that the appeals courts ruling in the case will help ensure that due process is satisfied for others going forward, or that at least relief will be available where that process is lacking.

### **Court challenges continue**

Imhotep Hshaka, a man currently housed at Attica Correctional Facility in Western New York, has already cited Proctors case in [his own lawsuit](#). Hshaka completed a stint in disciplinary segregation in 2010, after allegedly assaulting prison staff. Like Proctor, he was immediately moved to administrative segregation and has remained there since.

In reviewing a motion filed by Hshaka, the Second Circuit cited its own findings in Proctors case, including the tenet that the corrections department may not use Ad Seg as a charade in the name of prison security to mask indefinite punishment for past transgressions. The court made a point of describing the extreme conditions endured by people in administrative segregation in New York's prisons: For the last 22 years, [Hshaka] has been alone in a nine by eleven cell for 23 hours a day, 365 days a year. He goes outside for just one hour a day, where he is put in another nine by eleven cage, this one made of chain fencing. There is nothing in the cage but a concrete floor.

Hshaka, too, has been offered a settlement, where he would be placed in a non-general population secure confinement area theoretically a less-restrictive environment and eventually made eligible for a transition program out of administrative segregation.

Despite the heartening court developments in Proctors and Hshakas cases, individual settlements are unlikely to effect real, systemic change and may actually be designed to block it. Sean Ryan, who escaped with Proctor in 1994 (and from Rikers Island 15 years earlier), has been in administrative segregation for more than 24 years despite his own pro se lawsuit against prison officials. In a letter to Solitary Watch, he said that modest settlements like Proctors and Hshakas are part of DOCCS deliberate Ad. Seg. litigation strategy to make meaningless changes so that it appears to the courts that they have good intentions of letting people out. By settling cases as they arise, the corrections department has so far been able to stave off a class action challenge that could require a broader policy change.

### **A vindictive punishment**

On paper, indefinite isolation is meant to incapacitate those who present an ongoing threat. But prison officials have often wielded their most damaging weapon against those who like Proctor have attempted to escape in the past, regardless of their current status or recent behavior. Amy Fettig, deputy director of the American Civil Liberties Union National Prison Project, [has noted](#) that prisons routinely respond to escapes with humiliation and extreme vengeance, and often hold former escapees in isolation for years or decades no matter what their behavior has been in the interim leaving them with no possible path out of solitary.

William Billy Blake has spent what may be the longest amount of time in continuous isolation in New York. Despite having no violent infractions in more than 15 years, Blake is now in his 32nd year of solitary confinement. He, too, was placed there after a failed escape attempt, in which he shot and killed one Onondaga County sheriff's deputy and wounded another. Although prison officials gave him reason to feel optimistic in September 2017, he remains confined and has been told that he will likely remain [there] for the foreseeable future.

In a widely read essay titled [A Sentence Worse Than Death](#), Blake described feeling boredom and loneliness to such a degree that it seemed to be a physical thing inside, so thick it felt like it was choking me, trying to squeeze the sanity from my mind, the spirit from my soul, and the life from my body.

### **Hope in HALT**

The best hope for Blake, Ryan, HShaka, and others still in administrative segregation lies with the [Humane Alternatives to Long-Term \(HALT\) Solitary Confinement Act](#), a comprehensive reform bill that would effectively end the kind of prolonged and indefinite solitary they have endured in New York.

The bill mandates that anyone separated from the general prison population for more than 15 consecutive days be transferred to a residential rehabilitation unit a high-security setting where they would receive seven hours out of their cells for psychological treatment, programming, and recreation. The bill would also guarantee fairer and more effective periodic reviews.

The bill passed in the New York State Assembly in 2018, but did not have enough votes to pass in the State Senate. This year it does. But

it still faces fierce opposition from the New York State Correctional Officers & Police Benevolent Association, the powerful correctional officers union. Governor Andrew Cuomo has yet to indicate his support, instead proposing a [far weaker set of solitary reforms](#) that, once again, does not apply to individuals in administrative segregation. Lacking support from the governor, legislative leaders have yet to bring the HALT Act to the floor for a vote.

But advocates involved in the [#HALTsolitary campaign](#) are holding out for passage of the legislation in undiluted form and have pointed to the long-termers in administrative segregation as proof of the bills urgency. If the bill fails to pass before the legislative session ends this month, its political momentum may fade, leaving those in administrative segregation to suffer through another year or longer of torture in New York prisons.

Tyrrell Muhammad of the Correctional Association of New York, a campaign leader who himself spent years in solitary confinement, said that for such egregious conditions to end, people have to get involved. People have to become upset. People have to show [that they are] not going to tolerate this under my watch, in my name.

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