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Criminal Justice Issues and Prisoners' Rights

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by [Solitary Confinement Reporting Project](#) | October 14, 2020

By Jeremiah Bourgeois

During his 27 years incarcerated in Washington State prisons, Jeremiah Bourgeois published several articles covering prison life and criminal justice reform, as a regular contributor to the Crime Report. For nearly a decade of his life, he was isolated in solitary confinement. Bourgeois was originally sentenced to life in prison for a crime he committed at the age of fourteen, but on October 28, 2019, he was granted parole and released. Bourgeois has since published a [book](#) entitled The Extraordinary Ordinary Prisoner: Essays From Inside America's Carceral State, and is currently working towards his J.D. at Gonzaga University School of Law.

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Prisons in this country are dehumanizing as a rule. Still, most prisoners in general population can participate in rehabilitation programs, have contact visits with loved ones, spend hours exercising in the gymnasium or outside on the yard, and socialize in the dayroom.

In contrast, solitary confinement is the prison within the prison, as a jail is to city residents.

Once there, men and women spend 23 hours a day alone languishing in a cell often without a book, radio or television to occupy their minds and distract from the sense of loneliness. Often it is a nightmarish kaleidoscope of prisoners constantly yelling as others rhythmically beat on their desks, while others struggle to sleep as someone kicks their door all night and into the morning. Throughout my 27 years of imprisonment in the Washington Department of Corrections (WDOC) I spent years in solitary confinement enduring what [I describe](#) as this cacophony of madness and misery.

All too often, the punishment was imposed over petty incidents rather than for serious misbehavior or acts of violence. These experiences lend themselves to understanding the control model of prison management and the mindset it engenders in prison staff.

Prisoners are commonly perceived to be little more than law breakers and rule violators whose misdeeds stem from their refusal to accept authority and the mores of society. Therefore, ratcheting up misery is believed to be the most effective deterrent available in a prison setting. Under this rubric, coercing prisoners to comply by threatening to remove them from general population to solitary confinement amounts to a best practice.

Micromanaging the lives of prisoners through endless rulemaking thus becomes the means for instilling appropriate behavior under this control model. Even benign activities are prohibited because every past cause for a violent incident is deemed a security threat. For instance, a public embrace between lovers leads to an assault by a jealous rival; so displays of affection are prohibited thereafter.

This approach produces a plethora of needless disciplinary rules, that in turn result in legions of prisoners being marched to and from solitary confinement for seemingly innocuous behavior that, arguably, does not jeopardize institutional order and security.

Anyone confined in the U.S. can suffer this fate. I experienced it firsthand and witnessed it for nearly three decades.

Simply review a typical day in the life of a model prisoner under the custody of the Washington Department of Corrections to perceive how easily one can be deemed a disciplinary problem and sent off to spend time in solitary confinement.

A Day in The Life of a Troublemaker

6:30 in the morning: John awakens. While waiting for count to clear he plugs his headphones into his sleeping cellmates MP3 player to listen to a new song. When the door opens for breakfast and they exit the cell, John spots a friend who was just transferred from another facility, embraces him momentarily, and promises to give him some hygiene products to tide him over until he receives his property from the other facility.

On the recreation yard that afternoon, John exercises with four friends, doing pushups and jumping jacks then running laps in formation. Hours later, he shares a meal with the same quartet, each contributing various ingredients. Appreciative, John gives some of his portion to the one who did the cooking.

Returning to his cell with food in hand, he finds that the letter he was writing to his wife recalling their honeymoon exploits was confiscated by officers during a cell search because it was deemed to be obscene. Reading the search report makes him so frustrated that he takes one of his cellmates Ibuprofen to forestall the headache that is forthcoming.

The day is over. In less than 18 hours John has committed half-a-dozen disciplinary violations in WDOC, each of which can land him in solitary confinement:

555 Possession of Another Prisoners Property (for plugging his headphones into his cellmates MP3).

714 Giving Anything of Value Over \$10 (for giving his friend the hygiene products).

708 Participating in an Unauthorized Group Activity (for exercising in a group with over four people and for joining them later to contribute to a shared meal).

656 Giving Anything of Value for Unauthorized Favors or Services (for giving a portion of his meal to the friend who prepared it).

728 Possession of Sexually Explicit Material (for the letter to his wife).

716 Using Over-the-Counter Medication Without Authorization (for the Ibuprofen).

For each of these disciplinary violations, John can spend up to 30 days in solitary confinement [according](#) to the Washington Administrative Code (WAC).

This is a prototypical prisoner in a Minimum and Medium Custody facility. I was one of them.

There were hundreds of Johns around me. We bore no resemblance to the stereotypical malcontents in prisons where violence and gang activity is endemic. But nevertheless, countless prisoners like John are in solitary confinement throughout the nation for conduct such as this on the putative basis that they pose a threat to correctional management.

The piling on of disciplinary violations from these types of incidents ultimately results in prisoners being sanctioned to ever lengthier stays in solitary confinement because, as the WAC [notes](#), the prisoners disciplinary record, prior conduct, and facility adjustment are commonly used to determine the duration of confinement imposed for subsequent sanctions.

In time, these collateral consequences result in many prisoners being locked away on a status called administrative segregation on the basis that they pose a continuing threat to the orderly operation of the correctional facility the months and years spent in solitary confinement equate to increased dosages meant to eradicate a diagnosis of obstinacy.

It is astonishing what Ibuprofen and shared meals can lead to in prison.

There Are Alternatives to Solitary

Maintaining order in prisons is admittedly challenging. Capturing the mindset of many correctional officials, the Supreme Court [observed](#):

Prisons, by definition, are places of involuntary confinement of persons who have a demonstrated proclivity for anti-social criminal, and often violent, conduct.

Inmates have necessarily shown a lapse in ability to control and conform their behavior to the legitimate standards of society by the normal impulses of self-restraint; they have shown an inability to regulate their conduct in a way that reflects either a respect for law or an appreciation for the rights of others.

Yet despite the inherent difficulties in maintaining order and security with such a population, there are ways to accomplish this without reflexively sending prisoners to solitary confinement for their misdeeds.

Working in conjunction with the Vera Institute, WDOC has halved its population of prisoners in solitary confinement, establishing transition pods to reintegrate prisoners from long-term solitary confinement and creating cognitive behavior therapy programs to help them better adjust when they return to the general prison population.

In recent remarks about this effort to curtail the use of solitary confinement, WDOC Secretary Steve Sinclair [stated](#) on a local public access program, This is important. We can make change here. He envisions that within a decade solitary confinement in Washington prisons will be reserved for a pretty small group of dangerous individuals.

As laudable as this effort is, the use of solitary confinement is being curtailed under the same control model. Todd Olmsted-Frederickson, who heads the Disciplinary Department at Washington State Reformatory, illustrates WDOCs effort to ratchet up misery without resorting to solitary confinement as a deterrent.

When prisoners arrive at Washington State Reformatory and undergo their orientation session, the taciturn Lt. Fredrickson walks in and outlines what he has in store for those who face him for violating the facilitys disciplinary rules.

Hell confine them to their cells for weeks and only allow them to leave to go to work, school, shower, or eat.

Hell ban them from lifting weights, going to yard, entering the day room, ordering commissary, or a combination thereof.

Hell confiscate their televisions, MP3 players, or all of their property.

Hell even prohibit them from using the telephone or receiving visits from friends and family.

But he does not send prisoners to solitary confinement except in cases of serious disciplinary misconduct. The retributive effect of these sanctions undoubtedly produces sufficient suffering. I witnessed countless prisoners return from their disciplinary hearings, heaping invective on the agent of their misery, infuriated as they contemplate the temporary loss of such privileges.

Having spent over seven years cumulatively in solitary confinement, I am utterly convinced that it is better to endure temporary misery from lost privileges in general population than risk permanent damage to ones psyche from too much time in isolation.

Yet, order and discipline can be maintained in prison through positive incentives rather than simply using alternative forms of punishment.

Promises Work Better Than Threats

North Dakotas prison system is a case in point. In 2010, [Leanne Bertsch](#), until recently director of the North Dakota Department of Corrections, overhauled her agency by instituting a program that offers positive reinforcements to prisoners, and trained 800 staff members to see this effort through, according to the National Consortium on Racial and Ethnic Fairness in the Courts.

Her effort was redoubled after she and other DOC officials visited a maximum-security facility in Norway that is modeled to make the prison environment reflect life on the outside.

Dr. Lisa Peterson, Clinical Director of North Dakotas DOC, highlights why overhauling the system of solitary confinement was necessary. The idea that somebody is just going to sit there and think about what they did and magically know how to handle a situation differently in the future is not accurate. So we have to be pro-active in helping people know how to change, Peterson [explained](#) to NPR.

The key component adopted from Norway is to connect the goal of maintaining order to establishing bonds with the prison population as a means for enhancing security.

WDOC is taking small, measured steps in this direction. Washington One, the agencys new risk management system, is built around collaboration between prisoners and their counselors to identify areas of need, and utilizes behavioral observations, that staff members note and counselors convey to prisoners both verbally and in writing, as a means to reinforce positive behavior.

Washington State Reformatory is also in the early stages of implementing an incentives program, where prisoners who have remained disciplinary infraction free for over a year can receive extra privileges.

Jeremy Hakeem King, who has been confined since 1998, is somewhat skeptical about these efforts, remarking, If it works the way its supposed to, it will be good. But if it just turns into another experiment, it will be a disaster.

King, who is the former head of the Improvement Team at Clallam Bay Corrections Center (CBCC), emphasizes that incentive programs are only successful when prisoners are invested, and the CBCC Improvement Team was unique in this respect. It was by us, for us. We had complete control, he recalls.

The incentives at this high security facility included an ice cream shack, where prisoners could buy everything from steak-and-cheese burritos, pies, and hamburgers. Baked goods could be purchased through the culinary arts program at the facility. Every quarter, prisoners could even spend up to \$100 to order food from Schwans. There were concerts every quarter, too, and father-daughter day on the prison yard, King recalls fondly.

Despite the success, his efforts to establish a similar incentive program at other WDOC facilities have been rebuffed by administrators. The resistance is perplexing to King, who points out, Clallam Bay is a high security prison, and they did it. There aint no reason to deny it at facilities that are supposed to be less restrictive.

His frustration is echoed by Josh Goldman, a member of Washington State Reformatorys newly founded Incentive Committee, whose members work in collaboration with the facilitys Captain, Paula Chandler.

While he hopes the Incentive Committee can transform the institution, Goldman, confined at age 16, admits that he has difficulty envisioning being confined in a place where administrators utilize incentives instead of coercion in order to gain compliance. It would be great if DOC did it, he mused. But given the difficulty of even getting more time out of the cells at this place, I cant see anything like that ever happening throughout the system.

Whether WDOC is sincere in its effort to transform into a system that uses the least amount of control to maintain security and gives prisoners greater autonomy and opportunities to act responsibly, remains to be seen. But the question is neither a small nor a simple one. If we are to break the stranglehold that solitary confinement has on American prisons, we need alternatives that bring real change, and are not just palliatives to the existing system.

The Solitary Confinement Reporting Project awarded grants to journalists on both sides of prison walls to report on solitary confinement.

Accurate information and authentic storytelling can serve as powerful antidotes to ignorance and injustice. We have helped generate public awareness, mainstream media attention, and informed policymaking on what was once an invisible domestic human rights crisis.

Only with your support can we continue this groundbreaking work, shining light into the darkest corners of the U.S. criminal punishment system.

by [Solitary Confinement Reporting Project](#)

February 24, 2022

by [Solitary Confinement Reporting Project](#)

February 8, 2021

by [Solitary Confinement Reporting Project](#)

January 28, 2021

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