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Criminal Justice Issues and Prisoners' Rights

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by Victoria Law | July 14, 2014

Johnny Perez was sixteen when he was arrested for weapons possession. New York State automatically charges people ages 16 and over as adults, so the teenager was charged as an adult. Unable to afford the $100,000 bail, he was sent to Rikers Island to await trial. There, he was placed in C-74, the unit for 16 to 18 year olds. A lot of the adolescents can be real territorial, he recalled. At C-74, they tried to control the phones, the bathrooms and all other aspects of life in the jail. Perez got into a fight over using the phone. It was a gang-only phone, but I didnt care, he said. For that fight, the 16-year-old was sent to solitary confinement (known on Rikers as the Bing) for sixty days.

When Perez entered solitary, jail staff took his clothes and issued him a jumpsuit. He was placed in a cell which he described as a concrete slab with a mattress. There was a toilet-sink combo, but nowhere to sit. He sometimes spent days without eating or being able to use the phone. The phone is supposed to be passed cell to cell by another inmate [a suicide prevention aide], he recalled. But on his first day in the Bing, the suicide prevention aide was a member of the gang with whom Perez had fought. Whenever he worked, I didnt get access to the phone or to food, Perez said. He recalled that the first three weeks were the most difficult. I felt isolated, sad, helpless, he recalled. I remember crying a lot.

On Thursday, July 10th, the now-adult Perez testified before the New York State Advisory Committee to the U.S. Commission on Civil Rights. The advisory committee investigates civil rights concerns in the state and reports to the Commission, which can then choose to issue recommendations to the U.S. Department of Justice for further action. Each advisory committee is appointed for two years and chooses which issues to focus on during that two-year tenure. Appointed in July 2013, committee members in New York chose to focus on juvenile justice within the state, looking specifically at education, solitary confinement, and the Prison Rape Elimination Act.

The Advisory Committees all-day briefing at NYU Law School on July 10 concerned juvenile solitary confinement in New York State. Panelists included New York State Department of Corrections and Community Supervision (DOCCS) Commissioner Anthony J. Annucci, New York City Councilmember Daniel Dromm, former judges, mental health professionals, advocates, attorneys, and two men who experienced solitary confinement personallyPerez and Five Mualimm-ak, who spent five years in isolation in New York State prisons.

Ian Kysel, author of a 2012 report on youth in solitary confinement, was one of several witnesses to make note of the lack of national data about the solitary confinement of children in the United States. The lack of data extends to information about race and mental health diagnoses among youth placed in solitarya particular concern of the Advisory Committee, which investigates discriminatory treatment.

Bryanne Hamill, a retired family court judge and current member of the New York City Board of Correction, which monitors conditions in citys jails, noted that adolescents in general are overrepresented in solitary confinement in Rikers Island. Approximately 60 percent have mental health diagnoses, in contrast to 40 percent of the adults in solitary. Last September, the Board of Correction unanimously approved recommendations to commence rulemaking around solitary confinement. However, warned Hamill, the process will be slow.

Queens Councilmember Daniel Dromm, who has introduced two bills regulating the use of solitary in New York City jails, talked about his visit to Rikers Island. What I saw was cruel and inhumane, he testified. Although people in solitary are allowed one hour out of their cells for recreation time, that one hour falls between four and six in the morning and then consists only of being brought to another cell. Dromm recounts that guards boasted that they woke people at four, rather than at five, to offer them rec. Very few people are willing to get up at 4 am for rec, Dromm recounted. During his visit, Dromm asked how many rules could land a person in solitary confinement if broken. Jail staff told him that there are over 100 such rules that. Those arriving at Rikers Island are not given copies of these rules. Dromm reported that he also saw youth awaiting therapy sessions chained to pipes.

In February 2014, the New York State DOCCS entered a settlement agreement with the New York Civil Liberties Union in Peoples v. Fisher, with DOCCS agreeing to prohibit the use of Special Housing Units for minors, pregnant women, and people with developmental disabilities. Instead, it will utilize in-cell confinement for youth that does not exceed 19 hours per day on weekdays. Four hours will be spent on out-of-cell programming and one hour on recreation. DOCCS has 18 months in which to implement changes. In the meantime,

Commissioner Annucci acknowledged that DOCCS is not yet keeping statistics on the number of 16 and 17 year olds placed in disciplinary segregation, and that he did not know if there were disparities in the use of solitary based on race or mental health.

At any given time, Annucci testified, DOCCS has approximately 120 15 and 17 year olds in its prison system. Under the Prison Rape Elimination Act, those under age 18 must be separated from adults by both sight and sound. DOCCS currently houses teenage boys in one of three prisonsCoxsackie Correctional Facility, Woodbourne Correctional Facility, and Greene Correctional Facility. While Coxsackie and Woodbourne will employ in-cell confinement for 19 hours each day to replace SHU treatment for youth, Greene includes a special eight-bed unit for youth sent to disciplinary segregation. We are crafting a prison within a prison and programs that meet their needs, Annuci stated before the Committee. Only one to three teenage girls are in adult prisons at any given time. Its been a challenge to keep them separate, he told *Solitary Watch.* If youre [a] 17-year-old [girl], youre going to be kept by yourself.

Although details of the *Peoples v Fisher* settlement agreement remain undisclosed because of a confidentiality clause, Karen Murtagh of Prisoners Legal Services of New York points out that the new conditions will not only have to wait eighteen months for implementation, but are also contingent upon DOCCS ability to secure funding. She also noted that the 19-hour limit on in-cell confinement is only limited to weekdays. On weekends, youth can still spend up to 23 hours per day in their cells. Lets not use isolation as the norm and pat ourselves on the back that were now only confining them for 19 rather than 23 hours, she argued. Moreover, the agreement will apply only to New York State prisons, not local jails such as Rikers Island.

Several advocates point to other racial demographics around policing, imprisonment, and even school discipline to extrapolate similar patterns. Alexander A. Reinhart, professor at the Cardozo School of Law, noted that the use of discipline in schools disproportionately impacts students of color two to five times more than it does white students. We can expect to see similar outcomes in jails and prisons, he stated.

Scott Paltrowitz, of the Correctional Association of New York, pointed to the racial disparities in policing, prosecution, imprisonment, and the use of solitary confinement in New York State and across the country. Even if isolated confinement itself was evenly inflicted on people across races, he said in his testimony, young people of color would already be disproportionately subjected to it because they are disproportionately impacted at every previous stage of the processes that ultimately result in isolated confinement: from arrest, to prosecution, to sentencing. Moreover, isolated confinement itself is disproportionately issued to people of color. He noted that while eighteen percent of the entire states population is Black, Black people make up 50 percent of the New York State prison population, and 60 percent of the people in New Yorks SHUs. Of those 21 and under in New Yorks major, longer term isolated confinement units, Black children make up 66 percent.

Advocates also noted the necessity of not limiting the investigation only to the effects of solitary confinement on minors. Murtagh strongly recommended that the Committee extend its focus to people who were sentenced to solitary confinement between the ages of 16 and 18 but who are now age 23, 34, and 25. She points to one client, Raymond, who is currently facing more than three years in solitary because he received 23 rules violations tickets in 29 days. If Raymond wanted to appeal, he would have to file 23 separate appeals, one for each ticket. In the meantime, his solitary sentences will be run consecutively. Raymond turned eighteen on May 27th and currently falls out of the Committees scope of examination.

Paltrowitz echoed that recommendation. Someone who is 17 will turn 18, 20, 21, etc., so dont draw the line at 17, he urged.He recalled a recent visit to one of New York States prisons. There, he met two men in the SHU who had entered DOCCS at age 17. One was now 20 and was so devastatingly affected by the SHU that he recently attempted suicide. The other was 34 and had spent much of his time in prison in disciplinary confinement because of failures to address his mental health needs and repeatedly receiving disciplinary tickets. Paltrowitz emphasized that this mans experience is not an anomaly. We repeatedly hear that people get ticket after ticket while in the SHU, which extends their SHU sentence, he stated.

Those who testified, including Commissioner Annucci, repeatedly pointed to studies showing that the teenage brain is still developing and that impulse control has not yet fully formed. Dr. Bandy Lee, an assistant clinical professor of psychiatry at the Yale School of Medicine who co-wrote a report condemning solitary confinement practices at Rikers Island, agreed, testifying that the brain is not fully developed until age twenty-five.

Alexandra Korry, the attorney who chairs the New York Advisory Committee, cant say whether the federal government will intervene in the issue. But after hearing nearly seven hours of testimony, she said, Weve heard an overwhelming amount of evidence that something needs to change. Im sure well have a lot of recommendations. Those recommendations will go to the national Commission on Civil Rights, which can in turn urge the Justice Department to act. In May, U.S. Attorney General Eric Holder issued a circumscribed statement on juvenile solitary confinement, saying that unnecessary or excessive seclusion of youth with disabilities should be ended.

Johnny Perez, who has been home for nine months and now works as a Safe Reentry Advocate at the Urban Justice Center, is hoping for complete systemic change. Prison itself, not just solitary confinement, is an attack on your soul, he told Solitary Watch on the day after the hearing. Both his time in solitary and behind bars affected his self-esteem and his emotions. When I was 16, I couldnt identify these emotions a lot of times. My default emotion was anger, which led to aggressive behavior like lashing out, overcompensating, and violence. He also stresses that laws and rules have been constructed by people who have no direct experience with the prison system. The voice of those people is critical to any type of reform or change. Those most directly affected by these rules and laws need to be heard*and involved*in making these changes.

Victoria Law is a freelance journalist and author focused on incarceration. Her books include Resistance Behind Bars, Prison By Any Other Name, and "Prisons Make Us Safer" and 20 Other Myths About Mass Incarceration. She tweets @LVikkiml.

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

by Juan Moreno Haines

October 25, 2022

by Solitary Watch Guest Author

October 13, 2022

by Vaidya Gullapalli

September 29, 2022

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A model non-violent prisoner who is locked in solitary and sentenced to die there. The story of Richard Wershe Jr., aka the infamous White Boy Rick, is convoluted to say the least. But the facts of the case that remain true are that he has been in jail since 1988 for a nonviolent drug offense committed while he was still a juvenile. Convicted under Michigans 650 Lifer Law, which has since been repealed, he is the only person still imprisoned under the old law. And everyone keeps asking: Why is this man still in prison when murderers, rapists, drug kingpins and even the corrupt cops and drug dealers that he helped to put away are out?
http://www.thefix.com/content/white-boy-rick-Richard-Wershe-Michigan-650-Lifer-Law-seth-ferranti0515

No prison cell is as dark as the medical officers heart (N.N.)

The most important officer in every jail is the medical officer. He or she is responsible for every person there, be it the wardens and their education, be it the inmates and their health conditions. Nothing happens in any jail without permission by the medical officers, their open acceptance or their tacit consent. They know about their people, they know about the severe conditions, they know exactly whats going on. In front of a medical officer EVERYONE, even the prison director or a governor, is a patient and nothing else, this is the core of the doctor-patient-relationship (some use the term Doctatorship to describe this appropriately).

Being so, and in reading about the violent felonies, their arises the question: What can any inmate and outmates, too! do to change his or her situation, overcoming the fear, clearing his mind and leaving this kind of passivation, this medical spell?
A lot of people all over the world, even in the darkest prisons or whitest mental hospitals, startet with reading. They read the following report about fighting back in jail, even under the conditions of solitary confinement, making a stand, maintaining ones ground as a human being. This is new and this is important:
http://spkpfh.de/Solitary_confinement.htm

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