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Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2014/03/17/may-emerging-national-trend-court-rules-automatic-placement-solitary-confinement-sentenced-execution/>

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by [Aviva Stahl](#) | March 17, 2014

The Supreme Court has ruled that the death penalty itself does not constitute cruel and unusual punishment. Yet the treatment of the condemned is nonetheless subject to Eighth Amendment protections, as well as Fourteenth Amendment guarantees of due process.

In the past few years, this ironic legal reality has been the subject of a renewed national debate centering on execution methods. The European drug companies that U.S. states have historically relied on to provide the materials for lethal injections have refused to replenish supplies. As a result, states have developed new drug protocols, often implementing them without testing or research. Last month, [Dennis McGuire](#) struggled and gasped for well over ten minutes before he finally died.

But at a recent Senate Judiciary Subcommittee hearing, [exoneree Damon Thibodeaux](#) called attention to a different, rarely-discussed aspect of death row that he believes also constitutes torture, pure and simple the conditions of confinement that people endure prior to execution:

I spent my years at Angola, while my lawyers fought to prove my innocence, in a cell that measured about 8 feet by 10 feet. It had three solid walls all painted white, a cell door, a sink, a toilet, a desk and seat attached to a wall, and an iron bunk with a thin mattress. These four walls are your life. Being in that environment for 23 hours a day will slowly kill you. Mentally, you have to find some way to live as if you were not there. If you cannot do that, you will die a slow mental death and may actually wish for your physical death, so that you do not have to continue that existence. More than anything, solitary confinement is an existence without hope.

Thibodeaux was exonerated after spending fifteen years on death row at Angola State Penitentiary in Louisiana. While his story may be unusual, his experience of extreme isolation is standard for people facing execution.

A recent ruling, however, suggests that the federal courts may soon mandate higher due process protections for individuals sentenced to death. Last November, U.S. District Court Judge Leonie Brinkema found in [Prieto v. Clark](#) that the state of Virginia had violated the Constitution by automatically placing individuals on death row in indefinite isolation. In January, she [rejected a request](#) from state attorneys to delay the implementation of her ruling.

In her determination, Judge Brinkema describes what people on death row in Virginia must bear from the time of their sentencing to the time of their execution:

Plaintiffs conditions of confinement on death row are undeniably extreme and atypical of conditions in the general population units at [the prison]. He must remain alone in his cell for nearly 23 hours per day The lights never go out in his cell, although they are scaled back during the overnight hours Plaintiff is allowed just five hours of outdoor recreation per week and that time is spent in another cell at best slightly larger than his living quarters He otherwise has no ability to catch a glimpse of the sky because the window in his cell is a window in name only Nor can he pass the time in the company of other inmates; plaintiff is deprived of most forms of human contact His only real break from the monotony owes to a television and compact disc player in his cell and limited interactions with prison officials

As the judge outlines, those on death row are automatically and permanently placed in solitary confinement forced to withstand particularly buy xanax houston severe conditions purely as a consequence of their sentence. This placement is functionally indefinite since it can take years, or even decades, before individuals exhaust their appeals and finally face execution. (According to the Bureau of Justice Statistics, those executed in 2010 had spent an average of 14.8 years on death row). By contrast, all others incarcerated in Virginia are assigned an initial security classification based on eight factors, including several unrelated to their sentences: their history of institutional violence, escape history, current age, etc.

The Courts finding in *Prieto v. Clark* is that the automatic placement of death row prisoners in solitary confinement violates their Fourteenth Amendment rights, since they endure uniquely severe conditions without any kind of procedural protections or stopgap measures.

Judge Brinkema concludes that the Virginia prison authorities have two options: either providing an individualized classification procedure for each person sentenced to execution, or altering conditions on death row such that confinement there would no longer impose an atypical and significant hardship.

The court's ruling comes several months after the publication of an [American Civil Liberties Union \(ACLU\) report](#) that examined the conditions of confinement endured by those on death row. As the ACLU notes, this extreme isolation constitutes a punishment on top of punishment:

At the Senate hearing on solitary confinement last month, Thibodeaux told the Senate Judiciary Subcommittee that he had contemplated ending the appeals process despite his innocence in order to escape his extreme isolation:

Fairly early during my confinement at Angola, I very seriously considered giving up my legal rights and letting the State execute me. I was at the point where I did not want to live like an animal in a cage for years on end, only to lose my case and then have the State kill me anyway. I thought it would be better to end my life as soon as I could and avoid the agony of life in solitary. Fortunately, my lawyer and friend, Denise LeBoeuf, convinced me that I would be exonerated and released someday, and she gave me hope to keep fighting and living.

According to the NAACP's [most recent quarterly report](#) on the death penalty, published last week, since the death penalty was reinstated 140 individuals about 10% of those placed on death row were executed after giving up their appeals. (See the Death Penalty Information Center for [a complete list](#) of these individuals and more comprehensive information about volunteers.)

Judge Brinkema's ruling is significant since it accords at least minimal due process protections to those placed in solitary confinement, even the so-called worst of the worst. But calls to change the blanket use of isolation on death row have also emerged from outside the courts and the Senate subcommittee hearing. Last month, Texas' largest correctional officers union [called for](#) low-risk individuals on death row to be housed with others, and recommended that state prison officials introduce privileges to those on death row, including work assignments and streaming television.

Aviva Stahl is a Brooklyn-based reporter who writes about science/health at the intersection of mass incarceration, national security, and trans rights. She's written for the New York Times, Wired, BuzzFeed News, Solitary Watch, and other outlets. Find her [@stahlidarity](#) and at [stahlidarity.com](#).

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 [Juan Moreno Haines](#)

October 25, 2022

by [Solitary Watch Guest Author](#)

October 13, 2022

by [Vaidya Gullapalli](#)

September 29, 2022

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The American Reinvestment and Recovery Act and the brain initiative are the worst scams ever perpetrated on the American people. Former U. S. Surgeon General Regina Benjamin Warns: Biochips Hazardous to Your Health: Warning, biochips may cause behavioral changes and high suicide rates. State Attorney Generals are to revoke the licenses of doctors and dentists that implant chips in patients. Chip used illegally for GPS, tracking, organized crime, communication and torture. Virginia state police have been implanting citizens without their knowledge and consent for years and they are dying! Check out William and Mary's site to see the torture enabled by the biochip and the Active Denial System. See Terrorism and Mental Health by Amin Gadit or A Note on Ueberveillance by MG & Katina Michael or Safeguards in a World of Ambient Intelligence by Springer or Mind Control, Microchip Implants and Cybernetics. Check out the audio spotlight by Holosonics.

Former
Defense

Advanced Research Projects Agency (DARPA) director and now Google Executive, Regina E. Dugan, has unveiled a super small,

ingestible microchip that we can all be expected to swallow by 2017. A means of authentication, she calls it, also called an electronic tattoo, which takes NSA spying to whole new levels. She talks of the mechanical mismatch problem between machines and humans, and specifically targets 10 20 year olds in her rant about the wonderful qualities of this new technology that can stretch in the human body and still be functional. Hailed as a critical shift for research and medicine, these biochips would not only allow full access to insurance companies and government agencies to our pharmaceutical med-taking compliancy (or lack thereof), but also a host of other aspects of our lives which are truly none of their business, and certainly an extension of the removal of our freedoms and rights. Google News

The
ARRA authorizes payments to the states in an effort to encourage Medicaid Providers to adopt and use certified EHR technology aka biochips. ARRA will match Medicaid \$5 for every \$1 a state provides. Hospitals are paid \$2 million to create crisis stabilization wards (Gitmos) where state police torture people even unto death. They stopped my heart 90 times in 6 hours. Virginia Beach EMTs were called to the scene.

Mary E. Schloendorff, v. The
Society of New York Hospital 105 N. E. 92, 93 (N. Y. 1914) Justice Cardozo states, every human being of adult years and sound mind has a right to determine what shall be done with his own body; and a surgeon who performs an operation without his patients consent, commits an assault, for which he is liable in damages. (Pratt v Davis, 224 Ill. 300; Mohr v Williams, 95 Minn. 261.)

This case precedent requires police to falsely arrest you or kidnap you and call you a mental health patient in order to force the implant on you. You can also be forced to have a biochip if you have an infectious disease like Eboli or Aids. Coalition of Justice vs the City of Hampton, VA settled a case out of court for \$500,000 and removal of the biochip. Torture is punishable by \$1,000 per day up to \$2 million; Medical battery is worth \$2.05 million.

They told my family it was the brain initiative. This requires informed, knowledgeable consent. Mark Warner told me it was research with the Active Denial System by the College of William and Mary, the USAF, and state and local law enforcement. It is called IBEX and it is excruciating. If you are an organ donor, they volunteer you.

I believe the time between sentencing and execution should be made shorter. Otherwise abolish the death penalty.

I appreciate your intellectual response. I would also appreciate some specific statements of your opinion to justify your disagreement to my statement. This SHUT UP JOE is merely a rude statement and that is not the purpose of this forum.

shut up joe

It appears to me that once a person is sentenced to death they should be given reasonable accommodations to wait for their big day. I dont think it should be the stocks and chains but I dont think it should be a Hilton either. The cell depicted in the photo in all fairness doesnt look in humane. It has a bed, light, plumbing and I believe the prisoners are fed each day. To await execution, this seems extremely humane considering the in humane actions that got them there. I suggest to the readers to take a look at the website CLAIMYOURINNOCENCE and review the cases of these individuals sentenced to death in each of our states. The cases are horrific and to be quite honest, I think we have a pretty good system in handling these cases from beginning to end. I think the system gives many opportunities to ensure people are treated fair. Its not a perfect system but it is damn good for a civilized society which we call ourselves. We dont take people out as soon as they are accused of a crime and lynch them from the closest tree. We dont even do that after they are tried and convicted. As for Ms. Shipstad, in the name of God, Ms. Shipstad executions have been going on in this world since Jesus Christ, remember, it wasnt our Supreme Court that initiated the concept. If our system offends you so much, why dont you try living in a different country. Need I say more.

How in the name of God can the death penalty not be considered cruel and unusual punishment? I wonder how those idiots on the Supreme Court spell the word hypocrite.

I am happy to hear this news also. We call them savages yet we display savageness by torturing them before we kill them. This makes us just as bad as they are. The only difference is we are free savages!!

I will keep all those in prison in my prayers! This ABUSE should be for the worst Evils out there. Not for 1st time offenders and over charged individuals who have no money to fight an unfair biased state like Arizona. (jodi Arias case) someone please HELP HER! Madeline,CT

As a result, states have developed new drug protocols, often implementing them without testing or research. Last month, Dennis McGuire struggled and gasped for well over ten minutes before he finally died.

That was a successful test, the drug worked and I assure you, Dennis has no memory of the experience.

They are sentenced to death, what is wrong enough, but they are not sentenced to torture.

I am very pleased at this news. I was always horrified that a person who has been sentenced to death only is automatically and systematically tortured beforehand I look forward to news of the improvements

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