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Criminal Justice Issues and Prisoners' Rights

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by [Jean Casella](#) | December 18, 2015

The settlement announced Wednesday by the New York Civil Liberties Union in the *Peoples v Fischer* case brings broad, deep, and meaningful change to the way New York utilizes solitary confinement in its state prisons. It is a significant and hard-won victory for the plaintiffs, their attorneys, and the hundreds of advocates who have long been battling the widespread use of solitary in the state.

Media hailed the changes as an [overhaul](#) of solitary confinement in New York. Governor Andrew Cuomo's chief counsel, Alphonso David, called the agreement radical and groundbreaking, and told the *New York Times* that the governor saw the lawsuit as an opportunity to make New York prisons a model for the country.

Everything in the settlement of the four-year lawsuit indeed represents major progress, and the limits and alternatives it prescribes will bring relief to perhaps thousands of individuals suffering in solitary in New York. If there is a downside, it is that the largely celebratory tone of the announcements and press coverage may lead all of the people in long-term solitary to mistakenly expect that their ordeals will soon be over, and the public to believe that the struggle to end prolonged prison isolation in New York has now been won.

In fact, even amidst the hard-won celebrations, there is acknowledgement that the changes the settlement brings are incremental changes. While the agreement begins to address the underlying paradigm of punishment and control through isolation that has been liberally practiced in New York for decades, it does not destroy or replace it. And even when all its provisions are implemented, thousands of people are likely to remain in solitary, some for years or decades.

The [79-page settlement](#) details numerous, concrete ways in which the use and impact of solitary confinement will be limited. At the front end, the agreement will lower the number of people placed in solitary to begin with. As summarized by the NYCLU, the reforms in this area focus on reducing the types of disciplinary violations that are punishable by solitary.

[The settlement] restricts the circumstances that solitary can be imposed as punishment. Nearly half (42) of the 87 rule violations punishable by solitary including drug use and drug possession no longer allow solitary sentences for one-time violations. Petty violations 23 out of the 87 violations are no longer eligible for solitary confinement sanctions at all.

[The settlement also] imposes a maximum sentence for solitary confinement of three months for all but a handful of first-time violations such as assault and escape, and a maximum sentence of 30 days for almost all first-time non-violent violations.

The precise disciplinary guidelines are yet to be released pending approval of the settlement by the court, but this is surely a significant change in a state known for [throwing people in the hole](#) for long periods for minor, nonviolent infractions.

At the back end, a portion of those currently in solitary will be removed and placed in alternative forms of housing. According to the NYCLU:

[The settlement] removes more than 1,100 people from traditional solitary conditions and either moves them into rehabilitative units with common spaces and group programming or moves them to into other less isolating disciplinary units. These changes are designed to impact people trapped in solitary with the longest sentences, people with developmental disabilities, people in need of drug therapy or more comprehensive behavioral therapy, juveniles, and people who would otherwise be released directly from solitary to the street.

The settlement agreement outlines the types of alternative housing planned, including units where people will be released from their cells for two hours a day for programming and treatment, and two hours a day of recreation, four days a week. The provisions are fairly typical of the step-down programs used in other states, and will meaningfully mitigate the isolation and sensory deprivation faced by those in solitary.

At present, however, there are more than 4,000 people in solitary in New York State prisons. This number comprises about 8 percent of the prison population nearly double the [national average of 4.4 percent](#) in all state and federal prisons, and far above states that have

instituted more sweeping reforms, such as Colorado and Washington.

Until more details and data are released and the changes are fully implemented (with some scheduled to take as long as two years), it is not possible to know how much the settlement provisions will lower the overall number of people in solitary. It seems safe to say, however, that thousands rather than hundreds will be left behind.

Among those who will not be released from solitary are individuals in Administrative Segregation, as opposed to Disciplinary Segregation. The 20-30 people in Ad Seg have been placed in solitary based on an assessment of risk, rather than any particular disciplinary infraction. They include a handful of men who have served the longest solitary sentences in New York State, some stretching [two to three decades](#).

For individuals who remain in solitary, the settlement does have provisions for modest changes to conditions of confinement. It provides for basic human needs for people in solitary, including access to telephone calls, reading materials and a shower curtain in shared cells, and abolishes the use of serving inedible food (the loaf) as a form of starvation punishment, the NYCLU states.

Other provisions of the settlement address what promises to be the biggest uphill battle to effective implementation of even these incremental reforms: the culture of corrections staff in New York State, where disciplinary tickets carrying solitary confinement sentences have been handed out liberally by corrections officers who clearly value their unrestricted power to do so.

The day the settlement was announced, the New York State Correctional Officers & Police Benevolent Association (NYSCOPBA) [issued a statement](#) in which its president, Michael Powers, said, Our states disciplinary confinement policies have evolved over decades of experience, and it is simply wrong to unilaterally take the tools away from law enforcement officers who face dangerous situations on a daily basis. Placing limits on solitary, the statement says, will likely lead to increased assaults on staff.

The settlement, to which the union was not a party, requires de-escalation training of over 20,000 Department of Corrections and Community Supervision personnel on how to diffuse situations before solitary becomes a consideration.

All of these provisions represent major concessions on the part of Governor Andrew Cuomo and the leadership of the Department of Corrections and Community Supervision (DOCCS), which has to deal with what promises to be a largely hostile rank-and-file prison staff. So does the price tag on the changes: \$62 million for implementing the terms of the settlement, including the conversion of traditional solitary blocks into more rehabilitative spaces with group dayrooms and outdoor space.

Significantly, the agreement also establishes a robust monitoring regime to ensure compliance with the terms of the settlement, including quarterly reporting to the public. Massive culture change is a challenge, NYCLU Executive Director Donna Lieberman [told the press](#). We need to be monitoring like a hawk, and we will be monitoring like a hawk to ensure that the reforms are actually carried out.

While the NYCLU oversees the reforms, which must remain in place for the five-year span of the settlement, other advocates and lawmakers are working to bring a full and permanent end to the use of solitary in New York.

The [Humane Alternatives to Long-Term Solitary Confinement Act](#), introduced in January 2014 in both houses of the New York State Legislature, would all but eliminate the use of solitary beyond 15 days the limit recommended by UN Special Rapporteur on Torture Juan E. Mndez, and codified in the UNs new [Mandela Rules](#), which set minimum standards for the treatment of people in prison. The legislation would establish Residential Rehabilitation Units for individuals who need to be separated from the general population for longer periods of up to one year, with a minimum of seven hours out-of-cell time daily.

To date, the HALT Solitary Confinement Act is the most comprehensive and progressive piece of legislation yet to be introduced in the United States. With 55 co-sponsors in the Assembly and Senate, it is gaining momentum, but has a long road ahead and likely some revisions ahead before it sees passage.

The NYCLUs Taylor Pendergrass lead counsel in the *Peoples* case, [told the New York Times](#) that he hopes the new settlement is a seismic shift that will make way for further change. This is the end hopefully of an era where people are just thrown into the box for an unlimited amount of time on the whim of a corrections officer, he said. This will not be the end of the road for solitary confinement reform, but we really think its a watershed moment.

Jean Casella is the director of Solitary Watch. She has also published work in The Guardian, The Nation, and Mother Jones, and is co-editor of the book *Hell Is a Very Small Place: Voices from Solitary Confinement*. She has received a Soros Justice Media Fellowship and an Alicia Patterson Fellowship. She tweets [@solitarywatch](#).

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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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THIS is not sufficient reform. We don't need reform. we need TRANSFORM. This is saying we'll decrease the amount of torture how about no more torture? Solitary is only torture the way they do it. THAT is what needs to change. MY remedy will transform the whole system.

Remedy for Rikers

<http://www.1prophetspeaks7.blogspot.com/2015/06/remedy-for-rikers.html>

Faith based programs are the only ones that really transform people. God through Jesus changes people. Hence we need to change the prisons into schools of ministry.

Give EVERY person in solitary a bible, guitar and kitten Bibles should be a constitutional right in every jail cell everywhere, like a toilet. Guitars are tools to help them learn to worship God which invokes His spirit so they can hear from Him. Kittens would help them maintain their humanity. Many prisoners use cockroaches or rats as pets.

I spent 8 months in solitary. It was torture because I did not have a bible or instrument.

I was already a strong believer an intercessor and lifelong musician. Everyone in jails hears voices. I knew they were God and demons The task was to decide who was who. MOST prisoners think they are hallucinating when they hear voices. And the atheist psych people who talk to them tell them this too. THEN they think they need psych drugs for the alleged hallucinations. They get all distressed cos they can't get the drugs, when the drugs is NOT what they need. They turn people into vegetables. They block all thoughts, not just bad thoughts They cause brain damage I was on them so I know. They HINDER prayer. They are not what people need .People need to be TOLD they are NOT hallucinating that God is there for them and to develop a relationship with HIM by reading a bible and playing music.

I have masters in jazz composition In music school people go into small rooms the size of cells, often, with their instrument, It is not hell like jail it is more like heaven. Hence we can turn solitary into an experience that a person should have had before they ended up in jail. A chance to be in music school. This is a blessing. They will come out of there trained to be a minister to others in jails, in schools, warning kids not to use drugs, join gangs, etc and ministers.

The other important issue is to erase criminal records. THEY are what ruin people's lives because what is written down acts like curses and sends assignments to a person where they get re-accused in all kinds of bizarre situations and ruins their lives. And it also tempts people to re-do sins and criminal behaviors.

Prison should be a time out Solitary does not have to be torture. though it should be used in a way where people have their own cell and come out for communal meals, to compare notes about prayer.

Psych drugs destroy people. They are the problem, not the solution. They cause suicide and homicide. The Governors need to give people an amnesty by executive orders overriding their previous sentence.

Regardless of the previous sentence, it could be that they need to spend no more than a year or two training for ministry reading the bible, learning how to pray.

Their job can include writing a memoir of what happened to them so others can understand it and learn from it. Especially for people on death row.

People make mistakes in life. It is part of life .To punish people for this makes no sense. We should be interested in transforming them and using their previous experience as part of their testimony to what Jesus has healed them from and to warn others about not doing. The worst criminals have the most powerful testimonies. So their mistakes are not wasted. They are valuable testimonies to others of the transformative power of God/Jesus. Someone who was a mass murderer has a more impressive testimony than someone who stole gum. The jail sentence should be seen as a time out for assessment of a person's attitude and behavior and training to change it.

One thing that would be effective would be part of their sentence would be to have the person write 50,000 times Drugs are a bad idea if they used drugs, for example. Doing this will re-program their brain NOT to want to do drugs! Or whatever they did before. Like when kids have to write on the blackboard.

We should use school as a model for what happens in jails. Life is School. Re training rather than punishment should be the objective.

Turning someone from an animal into a caring human being is a more inspiring testimony than just executing people or punishing them. Those who are unwilling to forgive need to be warned it can send a person to hell. That is what solitary is like as a warning that hell is real. Every person near me had been horribly abused and needed to forgive. They were there as a warning to do so or go to hell, which is what jail was a taste of.

Jesus said unless we forgive others, God won't forgive us. Matthew 6

Hell is real. Jails, solitary, psych wards, holocausts and wars all exist as a taste of it on earth, so we WILL believe there IS such a real place. That is their purpose.

but it doesn't need to be for 20 years. Experiencing it for a week is enough to get the message.

David Berkowitz the Son of Sam is one such person. He has been saved 25 years. Gov Cuomo should pardon him and ask him to come to Rikers and help transform the place. He should RUN for office because the PUBLIC needs to hear about the transformative power of Jesus. Especially the Jews. They do not realize this. And he is Jewish. Many Jews who commit crimes end up in psych wards and are not helped that way.

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