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Criminal Justice Issues and Prisoners' Rights

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by [Jean Casella and James Ridgeway](#) | April 28, 2011

In Colorado, one of the nations [solitary confinement capitals](#), state legislators recently brought hope to prisoners and their families and advocates by [introducing a bill](#) mean to limit the use of solitary. Now, that bill has been revised in committee, in favor of what the [Associated Press](#) bluntly described as watered-down measures:

Colorado lawmakers have backed away from sweeping new rules on solitary confinement in state prisons.

The Senate Judiciary Committee voted instead Tuesday for a watered-down measure that makes only small changes to how the Colorado Department of Corrections decides to put an inmate in solitary.

The bill would have required state prisons to have a physician evaluate inmates with some mental illnesses before they're placed in solitary confinement.

The revised bill gives the Department of Corrections guidelines on determining whether an inmate a security risk worth putting in solitary. But most of the departments solitary confinement policies are unchanged. The bill now heads for a vote by the full Senate.

In the [Colorado Independent](#), Joseph Boven, provided a more detailed explanation of the pared down bill, and of how the changes came about:

[Senate Bill 176](#), sponsored by Sen. Morgan Carroll, D-Aurora, underwent a significant transformation when it was amended due to concerns from the Colorado Department of Corrections that the bill might interfere with changes already planned. The bill, which would have prevented some mentally ill prisoners from being placed in solitary confinement, will now fund mental health programs in prisons, reduce sentences, and ensure prisoners are placed in solitary confinement based on conduct not associations.

During negotiations on the bill, originally intended to radically change when and why prisoners are placed in solitary confinement, the Department of Corrections raised concerns that the bill might affect their ability to control public safety within institutions and said its prescriptive clauses might interfere with implementing recommendations they expect to receive from a review being conducted by the National Institute of Corrections.

The outcome is not dissimilar to what happened in [Maine](#), where a bill with specific prescriptive demands to limit the use of solitary, particularly for inmates with mental illness, was replaced by a promise to study the issue. Both bills are valuable in placing solitary confinement on the public agenda, but both, in their final form, are largely toothless.

In Colorado, the Department of Corrections will use a grant from the federal National Institute of Corrections to fund an assessment of the Departments classification system used in determining the placement of offenders in prison, according to the *Independent*. That assessment will look at factors such as mental health, crime and institutional behavior, and provide data on whether they are appropriately weighted or should still be used as factors at all.

Senator Carroll said that the DOC had applied for the federal grant since we last met, and said that its intent to review the inmate classification was very encouraging news from the department. From the outside, it looks more like an end run around the legislatures effort.

A more concrete effect of the bill might be what the *Independent* describes as a change from [the DOCs] current use of associations to dictate whether a prisoner should be placed in solitary confinement. The DOC agreed to change its policy to constrain the use of penalties for associations and instead begin using action-based criteria to determine whether an inmate should be placed in administrative segregation. Presumably this demands that an inmate will actually have to do something bad to end up in solitary, rather than just hang out with bad guys, including gang members. But the decision will still be solely the DOCs.

Most importantly, the bill does nothing to immediately address the problem of prisoners with mental illness ending up in solitary. By Colorados own estimates, 37 percent of the inmates in segregation suffer from serious mental illness. They end up in administrative

segregation because of action-based criteria yet these actions are largely the symptoms of untreated mental illness. As the *Independent* reports:

The ACLU of Colorado expressed doubt that concerns for the mentally ill will be addressed. They said the Department of Corrections already has a study with over a decade of data indicating the mentally ill are being kept in solitary confinement. The ACLU said the time for studies was over and it is time to act.

We are still very concerned that the mentally ill are being housed in solitary confinement because there are no other options, Jessie Ulibari, legislative director for the ACLU of Colorado, said. That concern is not really addressed with this amendment and we think that the DOC needs to be pushed and is addressing the moral concerns of housing them in long-term solitary confinement.

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James Ridgeway (1936-2021) was the founder and co-director of Solitary Watch. An investigative journalist for over 60 years, he served as Washington Correspondent for the Village Voice and Mother Jones, reporting domestically on subjects ranging from electoral politics to corporate malfeasance to the rise of the racist far-right, and abroad from Central America, Northern Ireland, Eastern Europe, Haiti, and the former Yugoslavia. Earlier, he wrote for The New Republic and Ramparts, and his work appeared in dozens of other publications. He was the co-director of two films and author of 20 books, including a forthcoming posthumous edition of his groundbreaking 1991 work on the far right, *Blood in the Face*. 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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