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Criminal Justice Issues and Prisoners' Rights

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by [Keri Blakinger](#) | March 4, 2016

Sometimes overshadowed by the anti-solitary movement in neighboring New York, activists in New Jersey have been fighting a battle of their own against the use of extreme isolation in state prisons and county jails. Earlier this year, they had some success when Governor Chris Christie signed into law a major juvenile justice bill that, among other things, limits the use of solitary confinement. While they've enjoyed that victory, they still see much work on the horizon.

As is the case across the country, there are many shades of solitary in the Garden State, and many names for the practice that isolates individuals for 22 to 24 hours a day in small cells.

Most obviously, there's punitive isolation both in the form of administrative segregation and the slightly more restrictive disciplinary detention used to house those who have broken the prison rules, however arbitrary they may be. In theory, disciplinary detention is short-term while ad seg is longer term.

Jean Ross, an activist and former lawyer, said that solitary sentences are often excessively long for trivial violations. New Jersey has been among the states that have had very long sanction periods in my opinion, she told Solitary Watch. For not very major offenses people are put in solitary for six months or ten years. According to information provided by the state, the maximum sanction is one year per violation. But since sentences in solitary run consecutively, they can add up to many years.

While ad seg and disciplinary detention are intended to be punitive, other types of isolation including the management control unit and protective custody are not considered punishment. When solitary is used for punishment, there's a finite sentence, but in both the control unit and protective custody, there's no specific end date.

Long-time activist Bonnie Kerness said that, although prisoners may have more privileges on the control unit, in some ways it's still worse than the overtly punitive ad seg unit. It's a unit where there is no procedure to get into it. It's not like ad seg which is a punishment unit. This is, I've heard prisoners call it, a personal dungeon, she said.

According to information provided by the New Jersey Department of Corrections, prisoners with congregated status in the management control unit as well as prisoners held in congregated protective custody are permitted meals, rec, and programming in group settings.

Kerness said that, at one point, New Jersey had every kind of isolation unit that there was. Now, at least one notorious solitary unit has closed. In 2010, the [Associated Press](#) reported that the state was shuttering the 240-bed gang unit at Northern State Prison in Newark in a bid to save money. The unit was typically only about half-full and its closure saved an estimated \$5 million.

The Size of the Problem

According to data provided by the New Jersey Department of Corrections, there were 1,537 people held in some type of restrictive housing as of Jan. 1, 2015. That represented a slight decrease from the previous year, when 1,604 people were held in isolation at the start of the year.

That might not sound like a lot, but as compared to the more frequently covered prison systems in California and New York the Garden State's prison population is small, with around [21,000](#) men and women in state custody. That means that New Jersey holds more than 7 percent of its prisoners in isolation, significantly above the national average of about 4 percent.

Although many of those in isolation are in single-bed solitary confinement, New Jersey also makes use of double-bunked restrictive housing. Management control and non-congregated protective custody units are entirely comprised of single-bed cells, but a portion of the disciplinary detention and administrative segregation units are double-bunked.

Even double-bunked, solitary is hell, according to those who've survived it. Terrell Blount served 90 days in solitary when he did time for an armed robbery charge in his early twenties, according to the [Philadelphia Inquirer](#). I was going crazy in there, he said. I had very little human interaction outside of my cellmate.

The Situation in County Jails

Although the state can provide population data for the number of isolated prisoners in the state system, its a little bit harder to get a handle on the number of isolated men and women in county jails. What it is not difficult to get a handle on is how terrible the conditions of confinement are.

In addition to the use of widespread of solitary in prisons theres widespread misuse in county jails, Alex Shalom of the New Jersey Civil Liberties Union explained. Right now, that misuse has spawned two lawsuits, both involving the Middlesex County Jail. One, a federal class action lawsuit, challenges the conditions of the jails isolation unit, known as C-Pod. Shalom said that C-Pod houses about 50 people, including those in protective custody, administrative segregation, and disciplinary segregation.

The actual conditions of confinement within C-Pod are particularly harrowing because, for example, theres no outdoor rec for the people in C-Pod. Theyre allowed out of their cells for one hour a five days a week and when they do get out they go to a secure rec closure which is a 10 by 10 by 10 chain link cage in the middle of the pod, he said.

They eat in their cells and cant have visits. Worst of all, Shalom pointed out, the people living on C-Pod arent necessarily guilty of any crime; like most people in county jails nationwide, theyre mostly pre-trial detainees.

The other suit is on behalf of a single, unnamed pretrial detainee who was held in C-Pod despite known mental health issues. Given his existing mental health problems, the suit alleges that such isolation represents an unconstitutional risk of long-term damage.

Aside from the lawsuits, other hope for change exists in Middlesex County, as the county is participating in the Vera Institutes [Safe Alternatives to Segregation Initiative](#), a technical assistance program to help select municipalities reduce their use of solitary confinement. The two-year initiative began in 2015, after five corrections departments were selected through a competitive bidding process.

Coalitions of the Willing

Activism in New Jersey is spread across the state, with different groups taking the lead in different areas. Kerness, for instance, is affiliated with the American Friends Service Committee thats based in the Newark area. Together with Ojore Lutalo, a formerly incarcerated individual turned activist and collage artist, she travels across the state for awareness-raising speaking events and art showings.

Chris McNabb, a pastor in South River and a student at Princeton Seminary, is interning with the National Religious Campaign Against Torture and helping lead their south Jersey efforts. Im the New Jersey organizer so basically I work with all types of faith communities to illuminate the reality of solitary confinement and mass incarceration in general and encourage and inspire faith-based organizing and action to put pressure on politicians, he said. To achieve that goal, McNabb has collaborated with the Campaign to End the New Jim Crow to bring a sample solitary confinement cell to events across the state.

Jean Ross said that there are other loosely affiliated groups across the state, including the New Jersey Campaign for Alternatives to Isolated Confinement, the ACLU-NJ, and the Integrated Justice Alliance.

Change on the Horizon

The Isolated Confinement Restriction Act, [S-2588/A-4510](#), seeks to change the nature of solitary confinement in New Jersey.

Rev. Charles Boyer, a member of the National Religious Campaign Against Torture, said that New Jersey NRCAT members have been involved in drafting and advocating for the bill, sponsored by Sen. Raymond Lesniak (D-Union) and Sen. Peter Barnes, III (D-Middlesex). We have been at the table with [Lesniak] and originally he had the bill crafted and NRCAT got involved and helped to build a coalition of leaders and the ACLU and kind of got on the ground, Boyer said.

The result is a pretty solid piece of legislation. It is trying to reduce the use of solitary except under the most extreme circumstances, he explained. Its also trying to eliminate the use of solitary confinement for the most vulnerable populations pregnant women, youth, folks with mental disabilities, folks with mental health issues and overall trying to reduce it and increase the amount of human contact that people can have.

Specifically, that means that individuals under 21 and over 55 could not be placed in solitary but it also means that those with developmental disabilities, major medical conditions, serious auditory or visual impairment, and a history of mental illness would be exempt from solitary.

Although nationwide there are accounts of people being placed in solitary in response to suicide attempts and self-harm, the New Jersey bill would specifically define those with a history of self-mutilation as an exempt vulnerable population.

Also the bill would limit the length of time a person can be kept in solitary to 15 days and it would limit the causes for which someone can be placed in solitary. The bills specifies: An inmate shall not be placed in isolated confinement unless there is reasonable cause to believe that the inmate would create a substantial risk of immediate serious harm to himself or another, and a less restrictive intervention would be insufficient to reduce this risk.

Currently the measure only applies to state correctional facilities; county jails wouldnt be subject to the proposed changes. The legislation was introduced in December 2014, but since it hasnt come to a vote yet itll have to be reintroduced in 2016, at the start of the next two-year legislative session.

The changes in the punishment units if this goes through would be huge, Kerness said.

Legislative Odds

Perhaps not surprisingly, the state is opposing the legislation. In her testimony before the state senates Law and Public Safety Committee in [February 2015](#), DOC Deputy Commissioner Mark Farsi called the bill financially prohibitive and said that it would impose arbitrary mandates that would threaten the safe and secure operation of correctional facilities.

Regarding those who pose a threat to that safe and secure operation, Farsi said, The use of restrictive housing for these inmates is a necessary tool for correctional systems to ensure a safe environment.

Furthermore, Farsi said that the state doesnt believe that the problem the bill addresses doesnt really exist. We believe that isolated housing in a traditional sense doesnt exist in New Jersey, he said.

Despite the departments stance, activists are optimistic about the bills chances of passing. My sense is that it isnt as much opposition as it is genuine concerns about logistics, McNabb said.

Ross said that Lesniak has expressed confidence about his ability to see the bill through to approval. Also, she pointed to the Garden States previous track record regarding activist-backed criminal justice legislation.

New Jersey was the first state to legislatively abolish the death penalty [in forty years] and that was done through legislative lobbying and through organizing on the ground in the way that I think we are trying to do with this issue. Things that you might not think are possible in New Jersey are possible.

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September 29, 2022

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Great I experienced the inhumane condition of being isolated 24 hours a day as a juvenile!! Thank God people realize now what their doing to our youth!!

This is such encouraging progress. Nice job to everyone working on creating humane changes in New Jersey! Conditions that create extreme suffering and result in potential long term damage are not acceptable. In the long term, using humane practices is likely to create more peace and safety, both in prisons in our communities. In the short term, inflicting unbearable pain on other people is just not OK. It needs to stop. If it takes more work to create humane solutions as quickly as possible, then we should all do more work.

If there are logistical or financial challenges to providing humane practices, that is a very understandable concern. Logistical challenges need to be thought about and worked through. Creative solutions need to be found. If institutions need more time to achieve their goals in very difficult situations, but are working diligently and creatively to innovate, as was the case in New York, that seems very reasonable. We all need to be able to trust and respect each other. I am heartened to hear that it sounds like opposition to changes in New Jersey is more about logistical issues than true opposition to ideas. This is therefore a great opportunity for people to work together and come up with solutions.

Correctional institutions who have discussed these issues with other stakeholders have developed some of the very best ideas I have heard on this issue. Correctional institutions are part of the solution, not part of the problem. Some of the themes and areas of consensus developed by the group which produced the report *Proceedings of a Colloquium to further a National Consensus on Ending the Over-use of Extreme Isolation in Prisons* are some of the very finest, most logical, most compassionate, and most humane I have seen in all I have read on this issue. This was a collaborative discussion between correctional institution representatives and others. I believe that we all agree on far more than we disagree on. We are all on the same team.

We need to keep moving on this with passion and momentum. This is a question of whether we want to choose to maim peoples minds and spirits, or whether we as a community care about people enough to find ways to solve problems constructively. It may currently be very inconvenient to create humane reforms. That is also absolutely irrelevant to whether humane reforms need to happen. It is in no way the fault of correctional institutions if they do not have sufficient funding to serve people in a humane manner. Correctional institutions cannot fund themselves.

We need to end damaging and unbearable practices. It is time to seriously inconvenience ourselves. We need to speak up and advocate for people who need a voice. It is time to treat all people with respect and dignity.

I am happy to hear that so much progress is being made. I am also very happy to hear that New Jerseys primary objections may be logistical. This is great news, because logistics and financial issues are an issue we can solve. I have lots of respect for the compassionate, innovative and tireless work that correctional officers and institutions do every day. I believe we should fund them at a level that allows them to serve people in a humane manner. We should use humane practices. This is our responsibility as a society. It is time to stop hurting people in prisons in this horrible way.

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