

Solitary Watch

Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2010/08/03/inmates-due-process-rights-routinely-suppressed-in-california-prisons/>

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by [Jean Casella and James Ridgeway](#) | August 3, 2010

In a pair of articles in the *Sacramento Bee*, Charles Pillar writes of an important but little-discussed issue: What passes for due process inside America's prisons.

Every day, thousands of inmates in prisons and jails across the country are punished for breaches of prison discipline. That punishment often consists of placement in solitary confinement, denial of parole, or effective extension of their prison terms. Even for individuals who are already in prison, this represents an additional deprivation of freedom.

Yet in most states, as [Pillar points out](#), the system leaves it to the officers who guard and manage inmates to pass judgment over alleged rule violations. In California, according to Pillar, Prisoners and some officers called the process in this state so flawed that it dramatically undermines the trust needed to reduce conflict.

Although prisoners are entitled to hearings, prison officials serve as prosecutors, judges, and juries. As an example, Pillar [cites one recent case](#) in which prisoners were effectively convicted before they were even tried:

The prison official assured his warden in an e-mail that everything was set: A group of 77 inmates accused of interfering with officers would be found guilty, no matter what.

Disciplinary hearings required proceedings where inmates can defend themselves with witnesses and evidence had not yet taken place at North Kern State Prison.

Yet, in the April e-mail obtained by *The Bee*, acting Associate Warden Steven Ojeda promised to provide the hearing officers lieutenants he supervised with direction prior to the hearings and ensure they understand to hold all of these inmates accountable.

Leaving nothing to chance, Ojeda prescribed punishments, too: loss of good-behavior credit and visiting privileges, threat of a term in one of the prison systems security housing units called the hole by prisoners and other serious penalties.

By acting as judge and jury, Ojeda fit a pattern, a *Bee* investigation has found, that suggests widespread suppression of inmates' rights to contest allegations by guards or pursue claims of mistreatment.

Current and retired officers, prisoners and parolees allege that correctional officers and their superiors routinely file bogus or misleading reports, destroy or falsify documentation of abuses, and intimidate colleagues or inmates who push back.

Prisoners who file complaints or grievances against prison officials also contend with a closed system:

Daniel Johnson, a recently retired state prison research analyst, was assigned in 2008 and 2009 to record information into a database from about 10,000 employee-misconduct appeals filed by prisoners over more than five years. He told *The Bee* that virtually every complaint filed against a correctional officer was rejected by officials, including hundreds of appeals alleging physical abuse even when medical records supported the complaint.

Of course, prisoners lie about mistreatment; Johnson said many complaints he reviewed appeared unwarranted. But there were many clear instances, he said, of manipulation by officials in what I would say is a criminal manner.

Pillar writes that the problem is pervasive, and even if the allegations are valid for a fraction of cases, thousands of prison terms could have been extended improperly at vast cost to taxpayers. In one recent 12-month period, for example, California prison officers reported issuing nearly 100,000 rule-violation charges against inmates. They also logged more than 280,000 grievances by prisoners alleging inhumane living conditions or misbehavior by guards and others.

A comparison of several state prison systems found that in states where charges against prisoners are adjudicated by prison staff, prisoners are found guilty more than 90 percent of the time. But in Pennsylvania, which uses independent hearing officers to judge

charges against prisoners, they are found guilty just 65 percent of the time. Pennsylvania also has a far lower rate of prisoner grievances. But Scott Kernan, the undersecretary for California prison operations, told Pillar that independent hearing officers would be costly and unnecessary because the current system ensures inmates are getting a fair hearing and a reasonable outcome.'

VIOLATIONS AND GRIEVANCES

Prisons are filled with gripes, from guards and prisoners alike. The volume of grievances and how large prison systems deal with them vary from state to state. All figures here are for the most recent 12-month period for which data were available, usually 2009.

	California	Pennsylvania	Texas	Michigan	New York
Charges against prisoners	98,033	63,523	131,389	96,157	73,472
Charges per 1,000 prisoners	583	1,242	844	1,866	104
Guilty or equivalent outcome per year	N/A	41,305	119,893	86,442	69,307
Percent of prisoners ruled guilty	N/A	65%	91%	90%	94%
Prisoner grievances or appeals	280,932 *	44,309	215,594	N/A	37,557
Grievances per 1,000 prisoners	1,508	866	1,386	N/A	641
Prisoner population (2009)	168,286	51,149	155,583	46,319	58,609

Sources: Corrections departments for California, New York state, Texas, Michigan, Pennsylvania

*About 37 percent of all prisoner grievances in California are "screened out" by prison officials as inappropriate.

Bee research by Charles Pillar

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The articles, which contain many other examples, need to be read in full, [here](#) and [here](#).



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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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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At what point are we simply going to acknowledge the obvious that those people on whose incarceration the increasingly lucrative prison industrial complex is based are slaves, 13th amendment be damned. Of course the powers that be are going to invent ways to keep them incarcerated!

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