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Criminal Justice Issues and Prisoners' Rights

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by [Elisa Mosler](#) | July 6, 2011

The most locked-down state in the nation is how Robert Perkinson, author of the book [Texas Tough](#), describes the Lone Star state. Texas, he writes, has led the way in criminal justice severity in everything from executions to trying juvenile as adults and solitary confinement is no exception. In 2010, Texas held [8,701 of its 154,795 inmates](#) in what it calls administrative segregation the second highest number in the country after California. And Texas was one of the few states that last year saw its number of inmates in segregation increase while its overall prison population decreased.

Texas administrative segregation units deprive prisoners of all human contact. [Bartlett Whitaker](#), in solitary confinement on death row, writes: I am not even sure that a man who has completely disconnected from the world should still be called human to be honest with you. For 23 hours every day, inmates stay in tiny and often windowless cells; most are permitted one hour of solitary recreation time. Texas segregation units forbid contact visits for inmates, while telephone use is severely limited and sometimes prohibited altogether. Inmates do not have access to rehabilitative or educational programs. Prisoners placed in solitary [remain there](#), on average, for more than four years, though some have been in isolation for up to 25 years. Former inmates say that once placed in isolation, it is extremely difficult to be allowed to re-join populated prison units and many prisoners finish their sentences in solitary cells.

The [Texas Department of Criminal Justice \(TDCJ\) states](#) that administrative segregation is intended for inmates who pose a risk to the physical safety of others or who present a threat to the security of the facility. Administrative segregation units in Texas prisons are filled with members of prison gangs, which [authorities call](#) Security Threat Groups, who are deemed likely to physically attack fellow inmates or guards.

In addition to this, however, segregation is also handed out as an internal prison sanction to punish inmates for non-physical offences. Although the TDCJ states that administrative segregation is non-punitive, it is constantly used as punishment for internal disciplinary infractions. These offences can range from drug possession to verbally insulting a prison guard, and anything in between. Former inmates say that punitive time in administrative segregation is dished out easily and for prolonged periods of time.

One inmate incarcerated for drug offences in Texas, Terrence Hazel, used his existing legal training to offer fellow inmates pro bono legal assistance while doing his time. When prison staff noticed his activity, Hazel explained in an interview, they became alarmed and falsely accused Hazel of illegally starting his own enterprise, placing him in segregation. Though TDCJ [rules state](#) that inmates will be placed in solitary confinement for no longer than thirty consecutive days (unless they are on death row), Hazel was once placed in isolation for six full months, in Bill Clements Unit in Amarillo. Hazel would periodically refuse to eat in order to be taken to the medical facilities a popular method used by inmates to get out of segregation temporarily and receive some human contact.

After 20 years in a number of Texas prisons, constantly in and out of administrative segregation, Hazel stopped offering legal help to inmates. He was almost immediately removed from segregation and within a year was given parole. Segregation is ultimately designed to isolate and punish, and has formed the backbone of internal prison order in Texas. Hazel's case is just one of many that demonstrates how segregation allows prison staff to punish unruly inmates and anyone else they perceive to be a threat.

In addition to being used as an internal prison sanction, administrative segregation units in Texas, as elsewhere, are used as holding cells for the large numbers of inmates with serious mental illness. After visiting the segregation units of several Texas prisons on behalf of a federal court in 1999, psychologist Craig Haney painted a [disturbing picture](#) of a place rife with mentally ill prisoners:

I'm talking about forms of behavior that are easily recognizable and that are stark in nature when you see them, when you look at them, when you're exposed to them. In a number of instances, there were people who had smeared themselves with feces. In other instances, there were people who had urinated in their cells, and the urine was on the floor. There were many people who were incoherent when I attempted to talk to them, babbling, sometimes shrieking, other people who appeared to be full of fury and anger and rage and were, in some instances, banging their hands on the side of the wall and yelling and screaming, other people who appeared to be simply disheveled, withdrawn and out of contact with the circumstances or surroundings. Some of them would be huddled in the back corner of the cell and appeared incommunicative when I attempted to speak with them. Again, these were not subtle diagnostic issues. These were people who appeared to be in profound states of distress and pain.

The [2006 report](#) by the Commission on Safety and Abuse in American Prisons found some segregation units to constitute torturous conditions that are proven to cause mental deterioration. In 2010, the [TDCJ claimed](#) that 6.08% of its inmates suffered from mental health issues, including schizophrenia, bipolar disorder, and major depression. In reality, the proportion of inmates in need of psychological treatment is probably much higher, not least because the official figure includes only the most extreme mental disorders.

Perhaps the grimmest conditions of all are found on [death row](#) in the infamous Polunsky Unit, where [312 prisoners](#) currently reside. Unsurprisingly, Texas is also one of the states with the harshest death row conditions in the country. All are kept in solitary confinement in cells that measure 60 square feet and are locked by a solid steel door. Texas is one of two states that do not allow death row inmates to watch television, and one of a handful not to allow contact visits. The [average time](#) spent on death row before execution is 10.6 years, though the longest time is 31 years.

Death row inmates with disciplinary infractions can be sent to Level 3, where they are deprived of all privileges, including radios, fans, and toothpaste. As Alvin Kelly, who was executed in 2008, [described it](#): The atmosphere down here is filled with animosity. The people back here are denied anything beyond the meager necessities to survive in any sort of dignity or humanity. It is an evil and vile place. The atmosphere is filled with cussing, beating and banging and floods, fires, feces and urine being chunked on people, gas being sprayed in peoples cells or the day room where everyone has to breathe it in.

The constitutionality of the Texas prison system and its use of administrative segregation have been called into question, most notoriously in the 1974 Ruiz v. Estelle case. Federal oversight led to some changes in Texas treatment of prisoners, but when the case again went to trial in the 1990s (as Ruiz v. Johnson), investigations revealed that Texas segregation units still held inmates in shocking conditions, and also knowingly isolated many with serious mental illness. According to Federal District Judge William Wayne Justice's [1999 ruling](#):

It is found that inmates in administrative segregation are deprived of even the most basic psychological needs. More than mere deprivation, however, these inmates suffer actual psychological harm from their almost total deprivation of human contact, mental stimulus, personal property and human dignity. Furthermore, plaintiffs submitted credible evidence of a pattern in TDCJ of housing mentally ill inmates in administrative segregation. As to mentally ill inmates in TDCJ-ID, the severe and psychologically harmful deprivations of its administrative segregation units are, by our evolving and maturing society's standards of humanity and decency, found to be cruel and unusual punishment.

Despite the courts' damning findings, then-Governor of Texas George W. Bush paid little attention to the ruling. The governor's idea of prison reform was to build new prisons and tighten their hold, writes Perkinson in *Texas Tough*, and there was little that an isolated district court judge could do about it. The case was appealed to the federal Fifth Circuit, which ordered it terminated in 2002, without it having the reforming impact Judge Justice intended.

Texas continues to have the second highest prison population in the country (after the much larger California) and its second highest incarceration rate (after neighboring Louisiana). It also has the second highest level of corrections spending, and has been forced to seek ways to slash its corrections budget. In 2007, the Lone Star state did adopt a criminal justice [reform package](#) known as the reinvestment movement, that shifted state funds from prisons to rehabilitative programs such as drug and alcohol treatment, as well as probation and parole plans. For the first time in Texas history, the last two years saw prison numbers decrease slightly, no doubt partly due to these reforms.

These small steps towards a less criminalized state, however, do not seem to extend to the use of solitary confinement. Though there have been several prison reforms ameliorating medical facilities and cell conditions over the decades, they seem to have bypassed administrative segregation. After a [slight drop](#) in previous years, the number of inmates in segregation in Texas actually increased last year from 8,639 to 8,701.

The introduction of [House Bill 3764](#) in the Texas legislature earlier this year, designed to move a portion of inmates out of administrative segregation, offers a glimmer of hope to the thousands of inmates kept in isolation. Introduced by Rep. Marisa Marquez in March 2011, the bill would not only attempt to reduce numbers of inmates in segregation but would also set up programs to gently help segregated inmates integrate into the free world on their release. The bill would also, significantly, lead to increased transparency in the prison system by pushing the TDCJ to report on the mental and physical effects of segregation and provide information on reasons why inmates are placed there. But HB 3764 failed to make it to the House floor before the legislative session ended.

Ad seg issues keep being thrown under the bus, says Scott Henson, who writes the [Grits for Breakfast](#) blog on the Texas criminal justice system. Henson argues that the reason for this and the failure of the bill is that there is no strong constituency in Texas pushing for segregation reform. Unlike in other areas of prison reform, segregation inmates tend not to have paid attorneys on the outside or anyone with an economic interest in representing them. And though much advocacy work has been done to ameliorate segregation conditions, organizations do not necessarily have the resources to finance a full-blown campaign for a bill.

In this period of budget cuts, one way the state of Texas could be convinced of the merits of HB 3764 is by being shown the savings it would incur. [The bill passing] is much more likely on economic reasons than on the principle. There is room for budgetary arguments to make a lot of hay there, Henson says. If an economic study calculating the savings incurred of moving thousands of inmates from segregation to populated units were presented along with a positive risk assessment of reclassified segregation inmates, the bill could have a chance of passing. Henson says this is how Texas probation reforms were passed in 2005.

The passage of HB 3764 could produce data which would support the above cost-benefit analysis of administrative segregation. If the absence of an adequate constituency willing to make segregation reform a priority continues, however, change will stay out of reach. And while the Lone Star state makes baby steps towards a less draconian criminal justice system, administrative segregation will remain alive and well and continue to play an integral role in the state's prison system.

Elisa Mosler was a research and reporting intern for Solitary Watch and is now a research and data officer at the International Office on Migration in Berlin.

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

Solitary Watch encourages comments and welcomes a range of ideas, opinions, debates, and respectful disagreement. We do not allow name-calling, bullying, cursing, or personal attacks of any kind. Any embedded links should be to information relevant to the conversation. Comments that violate these guidelines will be removed, and repeat offenders will be blocked. Thank you for your cooperation.

Its funny to read these comments. Inmates that usually end up in solitary also tend add to their time while still there. A lot of men that end up there will do their time and you never see them again. Most though, make solitary a habit by constantly comprising security. You have to try and remember that people that work in prisons have families as well and that security in a prison is more complex then security anywhere else. There are men and women incarcerated who will do their time and learn their lesson that will never get in trouble with the law again but the fact is that there are tens of thousands career criminals that prisons keep out of our streets. So when youre surrounded by men that have to worry about looking weak so that way they dont get strong armed by other inmates you have to be careful about the smallest of details. So is it worth it to overlook an extra razor in a cell or an extra toothbrush? Absolutely. .. that razorback could slit the neck of someones loves one. (In or outside the fences) That toothbrush could kill an officer with 4 kids just for an initiation into a prison gang There are so many things that people outside dont know. I guess its easier to believe what a loved one or a friend is writing and says is happening when theyre somewhere theyre most likely ashamed to be. Most people that end up in solitary would be embarrassed to tell you what they do while in prison. I dont blame them either for the most part. Prison is a whole different world and being there isnt something you can understand by watching on T.V. Even the good people that made bad choices can get pushed into doing things they would never otherwise do. Personally I think that everything that happens in prisons should be public knowledge. Hell we pay for them to run and as long as there are no names involved then theres nothing else to hide.

just read my comment wrote 9-2011, and sorry to add, I,ve tried the answer given to me of writing letters,ect. to several people, again. but my sons status as of today 3-2113 in a 3 month seg. cell at McConnell unit. due to many cell checks, hes down to no shoes, no hot pot, no fan, no radio, nor earphones, no instant coffee, tea soups, deoradant. toothpaste, stamps, writing paper, his time sheet is reflecting another year, making 10 past his sentence, no TOTAL REALITY, he killed no one, raped no one, didn,t rob any banks, no violet crime. his account is built up because they won,t let them go to commissary. the johnnies, sack lunches so often, short of officers. a letter ,I got on friday 4th of march stated they havn,t had a hot lunch since 26 of feb. but I plan to send to the parole board , a copy of his (time sheet) and have just 1 question on it, Don,t you think hes server enough time for his (crime)? sad , sad mom c. kobus

Plz get in touch with Ralph Bales, Senetor Whitmire, Linda Manning or Tina Rodriguez and let them know what is going on. If you need their numbers plz call me at 615-670-9034

THE reason Texas has trhe highest or second highest lodged prisoners is because for every prisoner they get paid this leads them to keep prisoners who have actually reformed still in prison just to get that moeny but they still treat them like shit. They are treated like dogs. Prisoners that have not been in trouble in years are denied parole just tso they can hang ont o that money hoping that their families will give up on them If enough of us woyuld investigate what is actually going on the prison systems that their loved ones are in something can be done. DONT let your loved one die thinking you have given up on them. Now is the time to RAISE YOUR VOICE and be heard. Come on America!

This is to inform whoever the reader is that the Michael Unit and its guards (Sgt Divin) amongst others do nothing to help the inmates rehabilitate or give them the simple neccessities of life. I had purchased a pair of boots for my spouse back in August during his lockdownwhen three guards came to do a shakedown and tore the insoles out of his boots. He has not been in any trouble in over two years mind you and is in Ad-Seg. An I-60 was sent to have an investigation done..It has been six months and they are now telling him that an investigation was done in B building and nothing in proper done. He never lived in B building so it is my thoughts that these guards only lie to cover eachothers butts. This is an atrosity. we as family members do OUR best to provide for them..some of us living on very limited income only to have guards destroy property that belongs to our loved ones just because they do not like them. Something should be done! There needs to be a massive reform done in the TEXAS prison system or get someone in there that actually cares about the inmates And not the money going in their pockets!

My Son Bryce has been put into Solitary Confinement 6/2012. I am Very Concerned.
<http://www.brycesbattle.blogspot.com>

Texas prisons..especially the Michael Unit is a bunch of bullsh*t. They lock someone up saying he is a gang member just because a guard does not like him. Then when they ask to get medical treatment they are ignored and treated like crap! They may be prisoners but

they still have rights and it is bs that the guards let their power go to their damn heads. They should be role models for these prisoners instead they are just giving them a reason not to change by treating them like animals. Hell animals get treated better. The they think the are sslickthey are told when they are going to be investigated/inspected (the prison)and they go about fixing things and making the prisoners act like everything is alright there., It just appauls me to know end.

it sounds like everyone is afraid of texas.lol

I have a fiancé in the Michael Unit in Tennessee Colony, Texas who has been fighting since 1999 to prove that he is not in a gang. He has been in safe-keeping for the last 10 years and has had problems with his knee but the nurse refuses him help writing in on his papers that he was the one that refused to be seen. They gave him a knee brace years ago but now it is too big and have yet helped him in getting another. They treat these men like they are sewer rats and pigs they just slop whenever they feel like it and I think it is appalling. Animals get treated better than they do. Also the way these workers and such it seems like they don't believe that inmates can be rehabilitated. As well as some may have been wrongly accused. You have to admit that some of the men have been in there since before some of the new technology. So I think it is owed to these men to make sure that they use this new technology to make sure they have the right person behind bars.

@ Carol K I understand your frustration reaching those people is difficult It took me almost a year to break the wall of silence and found a few state legislators that would listen to me. Once I got their ear and wrote to them my concerns, I bcc'd others in my email to give them an opportunity to respond or offer an answer to my problem giving me a larger group to express myself in. I had to be careful not to be too contemptuous as this shuts them down instantly. Therefore, draft an email first and never send it when you are mad at the system, a person or a political power. Sometimes we cut off your nose to spite your face.

Also, don't be so sure your words were not heard. Just because you don't get a response doesn't mean someone wasn't reading your concerns or listening to your problems. Be persistent, be polite, be factual and be someone who can reciprocate the dialogue while taking criticism. It's the way it is being done now on the internet and social media.

my request to wardens, ombudsmen, senators, president elects, gov. of Texas appears useless, so how can people on the outside ban together, or begin anything to make a change for a loved one incarcerated? a mother, of a Texas inmate that has done 25 years- flat and good time together. he's been in isolation for such made up things, speaking harshly to a guard, or trying to create a relationship with a guard. truth is most cases have occurred because he's severely hearing impaired. the untrue reasons put on his parole denials, are so untrue, but to get any results of him being treated human, can't be done in Texas. so I thank this Grits blog for listening to me, heartbroken, tired mom of Dale

The article presents an unfortunate reality of what exists, not only in what occurs inside our prison systems but the indifference to such by legislators. What is astounding to me is that while we all know the issues exist, there is a lack of unified organization to attack and correct (or at least attempt to correct) the issues. I have never understood why those on the outside who are involved or connected with someone on the inside do not ban together in one strong voice to demand change across the board. Maybe someday.

other grate new at last ESP has finessed a nuther part of itself for all to see when I die my hope is to be cremated and have my ashes pre-d in the hole of it the spirits there welcome me as one of them at first I thought creepy now I say I am honored

lol sorry ment I have this book not bood

odd thing is I have this bood read it to and just last week went to the prison museum down there in Huntsville the one the stongest shards of the plane of justice on earth stayed near by the four prisons there I mean I was at dinner and we went out and there was over four officers there I mean watching them eating with the little ear piece in their ears as they ate was like well made me feel like I was eating right next to the damn secret serves like wow even the water there tasted like it been running down walls for a long time with a bit of earthy flavor I mean the thing I went to see was on each side a max prison I was on one side Huntsville and on other was nuther one I like damn welcome to sentry of justice central for the state of Texas shirley I loved it but at same time knowing I surrounded by not prison but all those sentrys make my mind stand on ready to throw down mode lol the book gives a grate history of Texas to most the stuff seen I read about Texas just got controll back it self in 2002 like a nuther planet out there may there be light in the darkness of justice

Gosh I'm starting to love Texas more and more! Mr Whitaker at the top of the article has it partially right but he needs to understand since he's on death row he has disconnected himself from the human population by being there in the first place!!! Your hideous and brutal crime is what disconnected you from the human race. not death row solitaire. Get it right people.

This is an article that needed to be written. Thank you.

Very informative article, makes an interesting ethical point that even those individuals sentenced to death deserve basic human amenities, which includes some form of social interaction. Those who might dismiss the rights of such individuals might be persuaded by the economic benefits which Elisa alludes to.

Elsa, great writing. I'll pass the word and the guys on the inside will be overjoyed to see you illuminating Texas Gulags! Keep me posted on your progress.

Administrative Segregation is a common retaliation practice in Michigan as well. It is a form of punishment that the administration denies using yet happens routinely. We are trying to make change with legislators, it is very hard. We hope Texas is successful in change for the better and we will continue to try. Juvenile life without parole (JLWOP) sentences are inhumane sentences that abandon the concept of redemption and ignore the inherent dignity of young people. To see an example about how Michigan imposed a death by incarceration sentence on a juvenile named Efron Paredes, Jr. visit: <http://4Efren.com> and <http://Facebook.com/Free.Efren>

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