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COMMENTARY

Solitary confinement: The latest numbers

Mary Beth Quaranta Morrissey, Daniel Pollack & Kerianne Morrissey | July 12, 2023



In January 1995, the country’s most secure prison—United States Penitentiary, Administrative Maximum Facility (“ADX Florence”)—opened in Florence, Colorado.

Shortly thereafter, author Daniel Pollack had the opportunity to interview Warden Bill Story for an article published in *Corrections Today*, a publication of the American Correctional Association.

As any warden/superintendent would, he emphasized safety: “What are some of the concerns of the correctional officers? The one thing that we continually impress upon staff is that this is a very secure institution. There’s a lot of concrete. There’s a lot of steel. But we continue to emphasize with staff that they have to adhere to procedures. They can’t take shortcuts. They can’t deviate from procedures. It has to be the same every time. The staff are very well aware of the type of inmate that has already come into the institution and the type that will be coming in the future. I think their concern and the administration’s concern is for everyone’s safety.” (Pollack, 2015).

There are ongoing efforts to evaluate both the constitutionality and the effectiveness of the use of solitary confinement as both policy and practice. Critical questions include how solitary confinement affects people, and more specifically, their health, mental health, and human development under carceral conditions. Should solitary confinement policies and practices be used only in the most egregious cases of harm or imminent threat of harm? Would doing so compromise safety by putting other inmates and prison employees at increased risk? Studies of outcomes resulting from such a policy shift would help to support the case for change.

Notwithstanding political considerations and perspectives, the fact is that there are thousands of inmates incarcerated in solitary confinement in the United States.

In a recently released report, “Calculating Torture,” the authors found that “... on a given day in 2019, 80,758 people were in some form of solitary confinement (also known as “restrictive housing”) in federal and

state prisons, making up 6.28 percent of the total prison population.” These data are staggering and call for serious attention.

Federal, State, and Local Data

In the “Calculating Torture” report, authored by Solitary Watch and the Unlock the Box Campaign, a close analysis of the data reported suggests that there are well over 122,000 people in solitary confinement in federal and state prisons and local and federal jails for 22 or more hours per day at any given point in time.

It is noteworthy that the data referenced are self-reported by the correctional system staff and reflect how such systems define and capture what it means to be in a cell for the designated number of hours. Consequently, there may be variations in what data are being reported and perhaps excluded. For example, the report highlights that New York enacted a new law in March 2021 called the Humane Alternatives to Long-Term Solitary Confinement. The authors note that while there have been reductions in the use of solitary confinement since enactment of the New York law, there is also evidence of violations of the law.

It is likely that there is significant underreporting of solitary confinement across all prison and jail systems. Importantly, reported data also do not capture those in detention and youth facilities who are in solitary confinement. However, data from the Office of the Inspector General of the U.S. Department of Homeland Security from FY2015 to FY 2019 documented an average of 8,891 solitary confinements per year in detention facilities.

The Unlock the Box Campaign and Solitary Watch advocate for specific policy changes at all levels of government. We call attention to the following recommendations:

1. End solitary confinement for all people, with limited exceptions for emergencies or de-escalation and close facilities including prison, jails and detention sites dedicated to solitary confinement.
2. Implement alternatives with firm time limits;
3. Prohibit any involuntary lock-in for vulnerable people, especially those who may be at risk in conditions of isolation;
4. Restrict the use of solitary to the most egregious acts that pose imminent risk of physical harm;
5. Ensure due process protections prior to any separation and review of decisions by independent decision makers;
6. Ensure oversight and accountability, a private cause of action, reporting of public data, and independent oversight.

The authors' recommendations both to ensure due process protections for any person subject to any period of separation, and independent oversight of that decision, are of paramount importance. After a conviction, a person may be sentenced to a period of time in prison.

However, solitary confinement exceeds the penal nature of prison and is a form of inhumane physical and psychological torture. Such torture, if permissible at all, should not be permitted at the discretion of a corrections officer. Staff are expected to follow procedures, as Story explains, but the potential harms of separation are too great to leave such a decision to their discretion. Any decision to impose solitary

confinement must be reviewed by an independent authority charged with oversight.

Finally, policies and practices of solitary confinement demand further study. Well-designed research that examines the relationship between forms of solitary confinement and outcomes for those subject to any such periods of separation will help to ensure that the constitutional and civil rights of persons who are incarcerated are honored.

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