

## **Restrictive Housing Unit: New Name, Same Flower**

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In 2015, the Wisconsin Department of Corrections changed its administrative rules concerning segregation and discipline. The new policies came at a peak of public concern for the effects of long-term isolation on incarcerated persons. Although these policies seemingly correct issues with long-term isolation, the practice remains largely the same and the small changes that have made came at the expense of the few remaining civil liberties that the incarcerated retain.

Although I do not always succeed, I do my best to follow prison rules. I recently spent time in the “Restrictive Housing Unit” (RHU) at New Lisbon Correctional Institution on “Temporary” Lock-Up” (TLU) pending investigation because staff suspected I *might* have been involved with institutional security concerns. They released me after four days having decided I was not involved. In 2009, I spent thirty-seven days in RHU, then known as Segregation, for a minor disturbance in general population. Anyone (except incarcerated persons) can make an open records request with the Wisconsin Department of Corrections (DOC) to learn more details of these events.

The cells consist of four brick walls with poured concrete floors and ceilings, a stainless-steel sink and toilet combination unit, a showerhead flush to the wall and a raised cement surface to hold a thin flame-retardant mattress. The thick steel door has a shuttered window (usually left open) allowing the occupant to see the windows of four cells across the hall. There is another large window located on the back wall that is positioned at an unreachable height and extends to the ceiling opening on to a utility hallway. The occupant is barely capable of separating day from night or sunshine from overcast through the frosted skylight. This is an example of the so-called more humane isolation units in the Wisconsin DOC.

Most people who experience RHU suffer for weeks and months at a time. Although this is better than the months and years awarded in segregation by practice over the past two decades, it does not correct the systemic problems associated with isolation. The RHU causes mental distress. The mentally ill and emotionally disturbed still spend more time in RHU than the average incarcerated person. Policies facilitating placement in segregation also continue. The Department has attempted to superficially address the issue. Changes are evident in three ways: the amount of time given as disciplinary separation in practice, the removal of many due process protections, and the property permitted while on TLU in RHU.

On my first trip to the RHU, I found a brown paper lunch bag containing a rule book, two sheets of paper, two flexible pens the length of golf pencils, a toothbrush and toothpaste, two slivers of soap, a four ounce plastic cup, a roll of toilet paper and several DOC forms. I waited two days to receive the basic hygiene permitted in RHU that I had owned in general population, as well as functional footwear (rubber sandals) and my glasses to correct severe near-sightedness. On my most recent excursion, I found two waiting-room style magazines in addition to the brown paper lunch bag. In the supposedly less torturous segregation, persons on TLU are permitted six personal books, as well as the previous hygiene limits. Reading material does grant some stimulation in a place of sensory deprivation, but it is just a band-aid for a gash that needs hundreds of stitches.

However, what a prison permits for property while in RHU is trivial compared to the isolation and the process by which prisoners are brought in there and kept. The disciplinary policy previously allotted minimum and maximum time requirements for each step down in levels. The minimums and some procedural steps have disappeared. Although the removal of due process protections does lessen time spent in isolation by speeding along the hearing process, I would prefer to have those protections especially when I am not guilty of an infraction.

Since the 1950s, courts have determined that prisoners retain the right to due process (Stagner, 1996). Penal authorities cannot make arbitrary decisions; they must provide a process that leaves a record explaining the reasons for a decision and gives an incarcerated person the opportunity for their voice to be heard. Unfortunately, however, this does not mean anyone will listen. DOC officials hold a hearing in order to cross their t's and dot their i's, and do what they do. Courts generally defer to the "expertise" of DOC officials and most incarcerated people lack even a rudimentary understanding of the legal system anyway.

The new Wisconsin Administrative Code chapter 303 (disciplinary rules) does not call for a reduced use of isolated segregation. It is simply the current and common practice of the DOC. Furthermore, the practices still greatly exceed the thirty day maximum that global human rights organizations recommend. The new policies actually increase maximum punishments and strip many prisoners of due process and other legal protections previously afforded.

Prisoners disliked by correctional staff or deemed problematic frequently enter RHU and remain for long stretches, months or years. One of my peers

recently relayed an anecdote about spending over a year in segregation under the previous policies because he continued disruptive behaviour after arrival. During my latest stay, one gentleman had more isolation time added for further disciplinary infractions. These examples show that there is no change to these policies.

Once the DOC creates evidence of a behavioural pattern, they will place a prisoner in administrative confinement, which is non-punitive segregation – at least by name. Continued isolation is reviewed twice a year because the DOC meets due process requirements by giving a hearing. Therefore, one sits mostly alone potentially for years. I know of at least one man who has lived in this manner since the early 1990s. Incarcerated persons enter prison with damaged psyches. Imagine the further harm caused by years of rarely seeing another person other than one’s jailer.

The negative connotations associated with prison permit the DOC to act in a heavy-handed manner and prevent positive lasting improvements. As noted, changes to segregation and unit organization are rhetorical. We are not in prison to receive further punishment for breaking the law – prison is the punishment. We are sons and daughters, brothers and sisters, and we deserve better. The department should work to make tangible corrections, instead of just creating flowery titles for foul things.

## REFERENCES

Stagner, Deborah R. (1995) “Sandin v. Conner: Redefining State Prisoners’ Liberty Interest and Due Process Rights”, *North Carolina Law Review*, 74: 1761-1782.

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