



PORTLAND LAW FIRM CHALLENGES CONSTITUTIONALITY OF SOLITARY CONFINEMENT IN OREGON PRISONS

The Oregon Justice Resource Center is asking the Oregon Court of Appeals to end the practice of using solitary as discipline.

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PORTLAND, Ore. – The Portland-based nonprofit law firm the Oregon Justice Resource Center (OJRC) is mounting a legal challenge to the use of disciplinary segregation in the Oregon Department of Corrections (ODOC). The disciplinary segregation unit (DSU) is a form of solitary confinement used as a punishment when incarcerated Oregonians break prison rules. People can be sent to DSU for up to 180 days, much longer than is sanctioned by national and international standards and the practices of all neighboring states.

OJRC has filed a case challenging the constitutionality of disciplinary segregation in Oregon prisons with the Oregon Court of Appeals. The challenge is on the grounds that ODOC's rules on the use of solitary confinement violate the Oregon Constitution's ban on "unnecessary rigor," or excessively harsh punishment, on people in its prisons. OJRC also argues that ODOC's use of solitary breaches other constitutional provisions and exceeds the authority granted to ODOC by the Legislature to use appropriate discipline. The law firm is also seeking a temporary restraining order, asking the Court of Appeals to direct ODOC to immediately cease using DSU for punishment longer than 15 days pending the outcome of the case.

Life in disciplinary segregation in Oregon prisons is harsh. People are confined to a cell for up to 24 hours a day but typically at least 23 hours a day. They are allowed 40 minutes, five days per week for exercise outside the cell. If they want to shower or shave, they can only do so within their exercise time. Other than the exercise periods, the only times a person will leave their cell are for medical care, very limited visits, meetings with their attorney, or a court hearing. Contact with other people is severely curtailed and there is little activity or stimulation.

Extensive research over several decades has clearly and consistently shown that solitary confinement is profoundly harmful. The effects can include many mental, emotional, and behavioral changes or worsening of existing symptoms such as anger, paranoia, anxiety, depression, hallucinations, loss of impulse control, PTSD, self-harm, and suicide. The changes in brain function and activity that have been observed in people in solitary can be permanent and can make it more difficult for people to successfully transition back into the general prison population or into the community outside prison afterward.

"Disciplinary solitary confinement is not only harmful to people's mental and physical health," said Ben Haile, Senior Counsel, Civil Rights Project, OJRC, "it is not even effective in achieving the goals that ODOC has for it. It

does not lead to behavioral reform or deter future rule breaking. It increases violence, rule breaking, and recidivism. It blocks reform, rehabilitation, job training, taking personal responsibility, and being accountable for one's actions. There is no opportunity for developing healthy relationships while subjected to the harms of extended isolation from one's community."

Haile adds, "The hazards extend far beyond the solitary confinement units. Prison staff are also hurt by it. In the prison systems of states that have abolished long-term disciplinary solitary confinement, workers compensation claims and sick leave dropped dramatically. Diseases that are aggravated by stress, including obesity, diabetes, and heart disease, also dropped."

"Solitary confinement has a devastating impact on the mind and body," said Dr. Lisa Guenther, Queen's National Scholar in Political Philosophy and Critical Prison Studies at Queen's University in Ontario, Canada. "It undermines a person's ability to connect with others in a meaningful way, to the point where some prisoners describe their experience in solitary as a 'living death.' Without relationships with others, people are at risk of losing connection to the fundamentals of what it means to be human, to have a sense of selfhood and purpose, and an ability to communicate and collaborate with others.

While OJRC's challenge is limited to disciplinary segregation specifically, the organization believes ODOC should cease using solitary confinement altogether. People in prison are also put in solitary under programs that too often are simply pretexts for extending the period of solitary confinement. More humane and effective alternatives are available instead of the highly damaging practice of putting people in solitary.

"ODOC is making a choice to use solitary confinement, a punishment that is based on junk or false science," said Bobbin Singh, Executive Director of OJRC. "Overwhelmingly, the scientific research concludes that solitary confinement inflicts severe physical and mental pain. A punishment for the mere purpose of inflicting pain and suffering is torture. Let's be clear, on its own authority and at any time, ODOC can choose to stop using solitary confinement."

No legislation is needed to end the practice of using solitary confinement in Oregon prisons. ODOC has the power to make this change at any time. Neighboring states such as Washington have ended disciplinary solitary confinement altogether. California limits its usage to 10 days and Idaho to 15. In 2015, the UN General Assembly unanimously adopted the Nelson Mandela Rules, which state that solitary confinement shall only be used in exceptional cases and as a last resort, for as little time as possible, and never for longer than 15 consecutive days.

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