

Solitary confinement is a form of extreme isolation where people are locked in their cells for 22 to 24 hours a day. According to recent estimates, over 122,000 individuals are held in solitary confinement in the United States on any given day.<sup>1</sup> Even as evidence mounts showing that it causes mental illness and psychological and neurological damage,<sup>2</sup> many correctional officials maintain that solitary confinement is essential to operating a prison or jail.

Efforts to reform solitary confinement have made it clear that prisons are notoriously resistant to change. In recent years, a number of states have passed legislation to end long-term solitary confinement or ban the use of solitary for vulnerable populations. Other states have placed limits on solitary through court settlements. However, corrections agencies in these states have often circumvented the letter or intent of the reforms.

**To ensure the effective implementation of solitary confinement reforms, and to monitor prison conditions more generally, a small but increasing number of states have established prison oversight bodies that operate independently of corrections agencies. While independent oversight bodies vary in structure and effectiveness, and come with challenges and limitations of their own, many advocates believe that oversight will play a key role in the success of efforts to end solitary confinement.**

## Departments of Corrections Are Circumventing Legislation and Court Orders

*“They changed the names of the units and implemented the bare minimum of the new reforms, but the culture of torture and punishment continues.”*

— Cassandra Bensahih, campaign coordinator for Massachusetts Against Solitary Confinement<sup>3</sup>

Prison agencies across the country have routinely sidestepped efforts to limit solitary confinement, holding people in solitary beyond the maximum number of days allowed by legislation and moving them to new housing units that are virtually indistinguishable from solitary.

One example is California, where a landmark class action settlement in 2015 ended indefinite isolation and banned solitary confinement based on gang affiliation. Three years later, a court ruled that prison officials were violating the terms of the settlement by moving individuals held in solitary confinement to “Level IV” units in the general population, where they were forced to spend even more time in their cells than before. Half of these individuals were put on “walk alone status,” where they were denied nearly all social interaction.<sup>4</sup>

In some instances, corrections agencies have created new housing categories to circumvent the letter of the law. In Massachusetts, in response to the 2018 Criminal Justice Reform Act (which required placement reviews and certain basic services for individuals held in solitary confinement),<sup>5</sup> prison officials created “Secure Adjustment Units,” where individuals were locked in their cells for 21 hours a day—just one hour less than the threshold for “restrictive housing” specified in the bill.<sup>6</sup>

Similarly, in New Jersey, prison officials created so-called Restorative Housing Units (RHUs) to fulfill the requirements of the 2019 Isolated Confinement Restriction Act. However, advocates say that the RHUs

are no less restrictive than solitary confinement, and that, in some cases, they are former solitary confinement units under a different name.<sup>7</sup>

More recently, in New York, prisons have failed to adhere to the HALT Solitary Confinement Act, which went into effect in March 2022. As of September 2022, more than half the individuals in solitary were found to have been held in isolation for more than 15 consecutive days, in direct violation of HALT. Individuals in residential rehabilitation units, a housing designation created by HALT as an alternative to solitary, reported being subject to solitary-like conditions and being confined in small concrete enclosures during recreation.<sup>8</sup>

Prison officials’ history of circumventing reforms have led advocates to consider robust prison oversight an essential part of any legislation to limit or end solitary confinement. The PROTECT Act, which was passed in Connecticut in 2022 and ends prolonged solitary confinement in state prisons and jails, is one example of legislation that includes provisions for independent oversight. As Stop Solitary CT lead organizer Barbara Fair told Solitary Watch, it would have been “wasteful to even put together a bill without oversight.”<sup>9</sup>

## Types of Oversight

*“[Oversight bodies] can provide a window into these dark places and deny elected officials the option of remaining purposefully ignorant about correctional conditions... They can break down some imagined barrier between the inside and outside worlds, and question the way things ‘have always been done.’”*

— Michele Deitch, correctional oversight expert and senior lecturer at the University of Texas at Austin<sup>10</sup>

In the United States, there are about 18 statutory oversight bodies overseeing state prisons, and a number

of others overseeing local jails. Legislative efforts to create oversight bodies are underway in several other states.

Oversight bodies vary widely in structure and responsibilities from state to state. Some states, such as Minnesota, Washington, and Iowa, have ombudsman's offices, while others, such as New York, Illinois, and Pennsylvania, have citizen-led nonprofits with the statutory authority to enter prisons. (Unlike nonprofits, ombudsman's offices operate as part of the government, but are typically outside the purview of corrections agencies.) Still others, like Hawaii and Massachusetts, have civilian commissions with members appointed by government officials.<sup>11</sup> Following the passage of the PROTECT Act, Connecticut has both a civilian advisory committee and an ombudsman.<sup>12</sup>

While there is currently no independent oversight over the federal prison system, this could change with legislation. In 2022, Senators Dick Durbin (D-IL), Jon Ossoff (D-GA), and Mike Braun (R-IN) introduced the Federal Prison Oversight Act, which would require the Office of the Inspector General to conduct periodic inspections of federal prisons and create an ombudsman to investigate complaints.<sup>13</sup> In its 2021 "Blueprint for Ending Solitary Confinement by the Federal Government," the Federal Anti-Solitary Task Force lists independent oversight and enforcement mechanisms as one of four key requirements the federal government must meet.<sup>14</sup>

Michele Deitch, University of Texas lecturer and expert on correctional oversight, has suggested that a "gold standard" for oversight can be found in Great Britain, which has a three-part structure consisting of an Inspectorate, a Prisons and Probation Ombudsman (PPO), and Independent Monitoring Boards (IMBs).<sup>15</sup>

While the Inspectorate and PPO are professionally staffed, the IMBs consist of volunteers chosen from local applicants, who are given physical keys to the prison and can conduct inspections at any time.<sup>16</sup>

Though other countries including South Africa and Australia have modeled oversight mechanisms after the British system, it has yet to be adopted anywhere in the United States.<sup>17</sup>

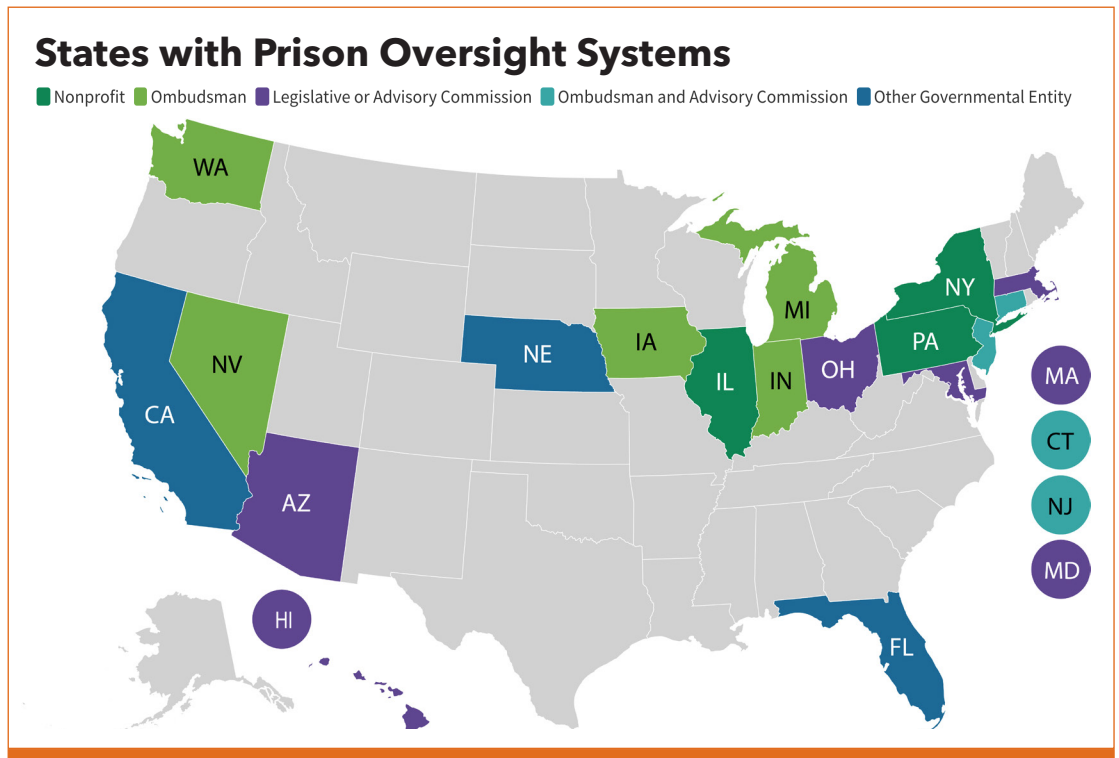
## Criteria for Robustness

*"While the inner workings and conditions of correctional and detention facilities largely are insulated from the public eye, they need not be... The operations of correctional and detention facilities can be transparent and accountable to the public they serve."*

— American Bar Association, 2008 Resolution on Correctional Oversight<sup>18</sup>

Regardless of its structure, an oversight body must meet key requirements in order to carry out its monitoring effectively. A list of 20 criteria for robust oversight are outlined in a 2008 American Bar Association (ABA) resolution. Among others, these criteria include:

- Complete independence from corrections agencies, to ensure its monitoring remains free from DOC influence;
- Adequate funding and staffing, including mechanisms to protect against budgetary reductions;
- Confidential procedures to allow administrators, staff, and incarcerated people to transmit information to the oversight body without risk of retaliation;



- Prompt cooperation from facility staff and government officials, to bolster the efficiency and effectiveness of oversight;
- Unrestricted access to facilities and the ability to inspect any and all records related to facility operations;
- Required annual reports on its findings, which should be made publicly available and require a response from corrections agencies;
- The authority to make surprise visits and conduct confidential interviews with incarcerated people and staff.<sup>19</sup>

Families Against Mandatory Minimums (FAMM) has introduced model legislation to create an ombudsman and oversight committee for states that do not yet have oversight bodies. The legislation emphasizes the need for broad access, confidentiality, and investigative authority, and includes many of the ABA criteria in its bill language.<sup>20</sup> A national poll published by FAMM alongside the legislation found that 82% of respondents were in favor of prison oversight, and that 90% believed that oversight bodies should have full access to facilities and records.<sup>21</sup>

As the FAMM legislation states, any oversight committee should reserve a number of positions for formerly incarcerated people and advocates, and limit the number of positions for people who have worked in corrections. Arizona's Independent Prison Oversight Commission, created in 2023 after conditions in Arizona prisons were found unconstitutional by a federal judge, designates two seats for formerly incarcerated people and a third for a family member of a recently incarcerated person.<sup>22</sup>

### Oversight Bodies Must Be Outside the Authority and Sway of Corrections

A major challenge for oversight is the tendency of corrections agencies to undermine the power and authority of statutory oversight bodies, just as they have often undermined the intent of reforms.

Among other solitary confinement reforms discussed earlier, Massachusetts' 2018 Criminal Justice Reform Act created an oversight body called the Restrictive Housing Oversight Committee (RHOC). But just months after the legislation went into effect, prison officials issued an "emergency" regulation, defanging the RHOC by banning its members from speaking freely to the press or making surprise visits to prisons and jails.<sup>23</sup> Officials lifted the press ban after pushback from advocates and legislators, but surprise visits have remained banned.<sup>24</sup>

In yet another example of compromised oversight, Republican legislators in Connecticut added two positions to the advisory committee created by the PROTECT Act by covertly amending a separate bill. The legislative maneuver allowed legislators to appoint a former and a current DOC staff member to the committee; one of the new appointees had publicly testified against the PROTECT Act.<sup>25</sup>

Even oversight that appears robust on paper has not always served the interests of incarcerated people. The New York City Board of Correction, which has broad oversight and regulatory power over the city's jails, failed to issue notices of violation during the pandemic,<sup>26</sup> and in fact approved a plan for "lock-out cages" that would have kept people in caged-in extensions of their cells for 23 hours a day.<sup>27</sup>

But rather than discount the value of oversight, advocates have worked to strengthen oversight and center the voices and leadership of formerly incarcerated people. The NYC-based Jails Action Coalition urged its members to testify at Board of Correction hearings against the lock-out cages,<sup>28</sup> while Stop Solitary CT is advocating for the removal of the DOC affiliates from the advisory committee.<sup>29</sup> Massachusetts Against Solitary Confinement coalition is pushing for legislation that would expand the role of the RHOC and restore its ability to make surprise visits to prisons and jails.<sup>30</sup>

### Correctional Systems Cannot Be Relied Upon to Reform Themselves

*"When the structure is based on oppression it will not change from within... outside oversight [is] the only thing that can break this structure and cycle of mistreatment"*

— Letter to Solitary Watch from a man incarcerated in Connecticut<sup>31</sup>

As Michele Deitch writes in an essay for the Brennan Center for Justice, robust independent oversight is essential for any prison system. While Deitch rightly notes that oversight bodies are "by no means a panacea"—they typically lack the authority to enforce legislation, for example—they nevertheless perform the crucial task of uncovering issues which can then be addressed by corrections agencies and elected officials.<sup>32</sup>

Oversight can identify problems and patterns of noncompliance at an early stage and make recommendations for change. Moreover, its monitoring can act as a form of "informal social control" over prison staff.<sup>33</sup> In a system that wields nearly absolute power over incarcerated individuals and has proven to be unwilling to regulate itself, independent prison oversight is direly needed to end cycles of mistreatment and abuse.

### Resources

"Assessing the Early Months of Implementation of the HALT Solitary Confinement Law in New York State Prisons." Correctional Association of New York, March 2023. [https://static1.squarespace.com/static/62f1552c1dd65741c53bbcf8/t/641a1aa0c4f82202db41fcf0/1679432372691/2023\\_ImplementationofHALT.pdf](https://static1.squarespace.com/static/62f1552c1dd65741c53bbcf8/t/641a1aa0c4f82202db41fcf0/1679432372691/2023_ImplementationofHALT.pdf).

Deitch, Michele. "Independent Oversight is Essential for a Safe and Healthy Prison System." Brennan Center for Justice, November 3, 2021. <https://www.brennancenter.org/our-work/analysis-opinion/independent-oversight-essential-safe-and-healthy-prison-system>.

Eisen, Lauren-Brooke and Alia Nahra. "The Landscape of Recent State and County Correctional Oversight Efforts." Brennan Center for Justice, March 15, 2022. <https://www.brennancenter.org/our-work/research-reports/landscape-recent-state-and-county-correctional-oversight-efforts>.

"FAMM Model Legislation: The Office of the Department of Corrections Ombudsman Act." Families Against Mandatory Minimums, August 12, 2022. <https://famm.org/wp-content/uploads/FAMM-Model-State-Prison-Oversight-Bill.pdf>.

"Key Requirements for the Effective Monitoring of Correctional and Detention Facilities." American Bar Association, August 2008. <http://www.ongov.net/jcoc/documents/ABAResolutionandOversight104b.Final.2008.pdf>.

Wykstra, Stephanie. "Solitary by Another Name." *The Progressive*. The Progressive Inc., October 7, 2021. <https://progressive.org/magazine/solitary-by-another-name-wykstra/>.

## Notes

- 1 *Calculating Torture: Analysis of Federal, State, and Local Data Showing More Than 122,000 People in Solitary Confinement in U.S. Prisons and Jails*, Solitary Watch and Unlock the Box, May 2023, <https://solitarywatch.org/wp-content/uploads/2023/05/Calculating-Torture-Final-Report-May-2023.pdf>.
- 2 Sara Vogel, “The Psychological Effects of Solitary Confinement,” Solitary Watch, November 2022, <https://solitarywatch.org/wp-content/uploads/2022/11/SW-Fact-Sheet-3-Psychological-Effects-v221115.pdf> and Veronica Riccobene, “Solitary Confinement & The Brain: The Neurological Effects,” Solitary Watch, June 2023, <https://solitarywatch.org/wp-content/uploads/2023/06/SW-Fact-Sheet-5-Neurological-Effects-v230613.pdf>.
- 3 Cassandra Bensahih in discussion with the author, December 2021.
- 4 “Worst Features of Solitary Confinement Persist in California Prisons, Attorneys Argue,” Center for Constitutional Rights, June 3, 2019, <https://ccrjustice.org/home/press-center/press-releases/worst-features-solitary-confinement-persist-california-prisons>.
- 5 An Act Relative to Criminal Justice Reform, S2371, 190<sup>th</sup> (2018), <https://malegislature.gov/Laws/SessionLaws/Acts/2018/Chapter69>.
- 6 Katie Rose Quandt, “Massachusetts Department of Correction Gives a Lesson in How to Get Around Solitary Confinement Reforms,” Solitary Watch, November 20, 2019, <https://solitarywatch.org/2019/11/20/massachusetts-department-of-correction-gives-a-lesson-in-how-to-get-around-solitary-confinement-reforms/>.
- 7 Stacey Barchenger, “Is NJ following law that limits isolated confinement in prisons? Advocates want answers,” *USA Today New Jersey*/northjersey.com, April 8, 2021, <https://www.northjersey.com/story/news/new-jersey/2021/04/08/nj-following-law-limits-isolated-confinement-prisons/7091089002/>.
- 8 Chris Gelardi and Emily Brown, “State Prisons Are Routinely Violating New York’s Landmark Solitary Confinement Law,” *New York Focus*, September 12, 2022, <https://www.nysfocus.com/2022/09/12/halt-solitary-implementation-doccs/>.
- 9 Mirilla Zhu, “In Connecticut, Opponents of Solitary Confinement Renew the Fight for Strong Legislation and Independent Oversight,” Solitary Watch, March 18, 2022, <https://solitarywatch.org/2022/03/18/in-connecticut-opponents-of-solitary-confinement-renew-the-fight-for-strong-legislation-and-independent-oversight/>. See also An Act Concerning the Correction Advisory Committee, the Use of Isolated Confinement and Transparency for Conditions of Incarceration, Pub. Act No. 22-18, <https://www.cga.ct.gov/2022/act/Pa/pdf/2022PA-00018-R00SB-00459-PA.PDF>.
- 10 Michele Deitch, “Independent Oversight Is Essential for a Safe and Healthy Prison System,” Brennan Center for Justice, November 3, 2021, <https://www.brennancenter.org/our-work/analysis-opinion/independent-oversight-essential-safe-and-healthy-prison-system>.
- 11 Lauren-Brooke Eisen and Alia Nahra, “The Landscape of Recent State and County Correctional Oversight Efforts,” Brennan Center for Justice, March 15, 2022, <https://www.brennancenter.org/our-work/research-reports/landscape-recent-state-and-county-correctional-oversight-efforts>.
- 12 Ned Lamont, “Governor Lamont Signs Legislation Limiting the Use of Isolated Confinement,” ct.gov, May 10, 2022, <https://portal.ct.gov/Office-of-the-Governor/News/Press-Releases/2022/05-2022/Governor-Lamont-Signs-Legislation-Limiting-the-Use-of-Isolated-Confinement>.
- 13 “Durbin, Ossoff, Braun Introduce Bipartisan Bill to Overhaul Federal Prison Oversight,” Durbin website, September 28, 2022, <https://www.durbin.senate.gov/newsroom/press-releases/durbin-ossoff-braun-introduce-bipartisan-bill-to-overhaul-federal-prison-oversight>.
- 14 “A Blueprint for Ending Solitary Confinement by the Federal Government,” Federal Anti-Solitary Task Force, June 2021, <https://www.unlocktheboxcampaign.org/s/blueprint-ending-solitary-confinement-federal-governement.pdf>.
- 15 Michele Deitch, “But Who Oversees the Overseers?: The Status of Prison and Jail Oversight in the United States,” *American Journal of Criminal Law* 47 no. 2 (2020): 224, <https://www.prisonlegalnews.org/media/publications/But-Who-Oversees-the-Overseers-The-Status-of-Prison-and-Jail-Oversight-in-the-United-States-2020.pdf>.
- 16 Jean Casella and James Ridgeway, “Oversight in British Prisons: Lessons for the U.S.?” *The Crime Report*, August 12, 2013, <https://thecrimereport.org/2013/08/12/2013-08-oversight-in-british-prisons-lessons-for-the-us/>.
- 17 Deitch, “But Who Oversees the Overseers?,” 225.
- 18 “Key Requirements for the Effective Monitoring of Correctional and Detention Facilities.” American Bar Association, August 2008, <http://www.ongov.net/jcoc/documents/ABAResolutionandOversight104b.Final.2008.pdf>.
- 19 “Key Requirements for the Effective Monitoring.”
- 20 “FAMM Model Legislation: The Office of the Department of Corrections Ombudsman Act,” Families Against Mandatory Minimums, August 12, 2022, <https://famm.org/wp-content/uploads/FAMM-Model-State-Prison-Oversight-Bill.pdf>.
- 21 “82% of Americans support prison oversight, according to first-ever national poll,” Families Against Mandatory Minimums, August 16, 2022, <https://famm.org/82-of-americans-support-prison-oversight-according-to-first-ever-national-poll/>.
- 22 Stacey Barchenger and Jimmy Jenkins, “Reformers applaud Hobbs’ plans for an oversight commission for troubled Arizona prisons,” *Arizona Republic*/azcentral.com, January 25, 2023, <https://www.azcentral.com/story/news/local/arizona-breaking/2023/01/25/arizona-prison-oversight-commission-created-by-governor-katie-hobbs/69841037007/>.
- 23 Quandt, “Massachusetts Department of Correction Gives a Lesson.”
- 24 Cassandra Bensahih in discussion with the author, December 2021.
- 25 Jaden Edison, “New DOC oversight panel appointments alarm advocates,” *CT Mirror*, February 5, 2023, <https://ctmirror.org/2023/02/05/ct-department-correction-oversight-panel-members-ties-agency-advocates-alarm/>.
- 26 Jonah E. Bromwich and Dana Rubenstein, “As Deaths Rise in N.Y.C. Jails, Oversight Board Fails to Raise Alarm,” *The New York Times*, November 8, 2021, <https://www.nytimes.com/2021/11/08/nyregion/jails-rikers-oversight-correction.html>.
- 27 Erin Durkin, “State lawmakers say city’s solitary confinement overhaul falls short,” *Politico*, August 2, 2022, <https://www.politico.com/states/new-york/city-hall/story/2021/08/02/state-lawmakers-say-citys-solitary-confinement-overhaul-falls-short-1389390>.
- 28 “BOC Rulemaking on Restrictive Housing,” NYC Jails Action Coalition, April 2021, <https://www.nycjac.org>.
- 29 Edison, “New DOC oversight panel appointments alarm advocates.”
- 30 “Provide CJRA Protections to Incarcerated People in Segregated Confinement,” Massachusetts Against Solitary Confinement, 2021, <https://drive.google.com/file/d/11QuoMR2LUBjvalXOa2X0vForj0SSLk82/view>. See also <https://malegislature.gov/Bills/192/S1578>.
- 31 Zhu, “Opponents of Solitary Confinement Renew the Fight.”
- 32 Deitch, “Independent Oversight Is Essential.”
- 33 Deitch, “Independent Oversight Is Essential.”



Fact sheet by Mirilla Zhu. Fact sheet series edited by Katie Rose Quandt.

© 2023 Solitary Watch. Please cite Solitary Watch and the original sources when quoting from this document. To download this or other fact sheets from this new series, visit [solitarywatch.org/fact-sheets](https://solitarywatch.org/fact-sheets).

Solitary Watch is a nonprofit watchdog organization that works to uncover the truth about solitary confinement and other harsh prison conditions with high-quality investigative journalism, information, and storytelling from both sides of prison walls. Our mission is to generate public debate and policy change on an underreported humanitarian crisis by promoting awareness, creating accountability, and shifting narratives.

Solitary Watch, PO Box 11374, Washington, DC 20008  
[solitarywatch.org](https://solitarywatch.org) | [info@solitarywatch.org](mailto:info@solitarywatch.org) | [@solitarywatch](https://twitter.com/solitarywatch)