

Solitary Confinement and Prison Activism

Solitary confinement is a method of prison control where people are held in cells about the size of a parking space, with little to no human contact, for up to 24 hours a day for weeks, months, years, or decades.¹ *Calculating Torture*, a report by Solitary Watch and Unlock the Box, found over 122,000 people in U.S. prisons and jails are being held in solitary confinement.² Solitary has been shown to have deeply damaging effects on mental and physical health, and has been denounced by the United Nations as a form of torture.³

Solitary confinement is frequently used as a way of deterring people in prison from stepping out of line, and punishing them when they do. Prisons often interpret organizing as a threat to institutional power and control, and do everything they can to prevent people from advocating for their civil rights or for better treatment.

Solitary Confinement for Filing Grievances

“I’ve been put in [solitary confinement] one time...because I filed grievances. When I inquired about it, the classification deputy specifically told me, ‘You were complaining too much.’”

—Tim Phillips, jailhouse lawyer in Nevada⁴

In most prisons and many jails, incarcerated people can file “grievances” to express complaints about treatment and conditions. There are exceptions: Alabama, for example, has no prison grievance procedure in place whatsoever.⁵ Even in the states where grievance procedures do exist, they are often grounds for retaliation. Sometimes an individual has to submit grievances directly to the corrections officers that caused the problem.

In 2022, the Rhode Island Center for Justice and the ACLU of Rhode Island filed a lawsuit on behalf of Joseph Shepard, a man who was put in solitary confinement in retaliation for filing a packet of grievances. After he sent this packet to the Rhode Island Department of Corrections, he was placed in solitary for two weeks before being informed that the grievances contained “mutinous” documents. He was held in Rhode Island’s maximum security facility for two months before a reclassification hearing placed him back in medium security.⁶

Incarcerated people have no choice but to operate within these problematic grievance systems. Since 1996, a federal law called the Prison Litigation Reform Act (PLRA) has made it extremely difficult for people in prison to win or even file lawsuits challenging their conditions. One of the law’s provisions, called the Exhaustion Rule, requires people to “exhaust” their prison’s grievance process before bringing a complaint to court. Facilities, in turn, often stall or dismiss grievances. Prisons can also attempt to silence individuals with solitary confinement or a loss of privileges before a case can be tried.⁷

David Fathi, Director of the ACLU National Prison Project, points out that “the extraordinary thing about the PLRA is it sets up a separate and unequal legal system that applies only to incarcerated people.”⁸ This makes the United States the only country in the world that has a different set of legal requirements for people behind bars. Furthermore, even the limited protections offered by the law are often undermined by unofficial retaliation and poor oversight.

Solitary Confinement for COVID-19 Protests

“We lived in the infirmary—not figuratively, literally. Often we worked 24 hours a day as COVID raged through the facility. While men were dying, we kept going...For this work, we earned \$1.75 a day.”

—Abraham Santiago, incarcerated Certified Nursing Assistant in Connecticut⁹

The COVID-19 pandemic severely worsened conditions in most prisons and jails, and elicited widespread protests by incarcerated people seeking better protections against and medical treatment for the virus. Amidst calls from public health experts and activists to decarcerate medically vulnerable individuals, facilities around the country placed people in solitary as a response to COVID-19.¹⁰ In many prisons, entire populations were placed on lockdown for months or years.

According to Perilous, a prison protest documentation project, over 90 actions directed at COVID-19 conditions took place in correctional facilities across the U.S. and Canada between March and August of 2020.¹¹ Many protests called for better personal protection, asking for equipment and more regular testing. Others demanded that court dates resume, as hundreds were left in long-term isolation in jails as they awaited trial or sentencing.¹²

One strategy that prisons employ to quash dissent or undermine a protest is to mass transfer any participating individuals to different parts of the facility, or to different facilities altogether. In April of 2020, about 200 people in a North Carolina prison staged a protest in the recreation yard, insisting that they would not return to their cells unless officials put safer measures in place. Instead of addressing this problem, the facility transferred 36 protesters, 19 of whom carried COVID-19, to another prison. An outbreak in the new institution began shortly after they arrived. In this case and others, the prison system prioritized silencing resistance over health and safety.¹³

In many facilities, incarcerated people’s attempts to contact the media about the response to COVID-19 were met with retaliation. Smaller infractions were sometimes used to justify this retaliation against whistleblowers and to avoid the appearance of violating people’s First Amendment rights. When more than 100 people contracted and seven died from COVID at a facility in California, the *San Diego Union-Tribune*

ran a photo of three men in the jail holding a bedsheet out their windows that read “We don’t deserve 2 die.” Just days after the story ran, two of the men featured in the photo were sent to solitary confinement for “breaking facility rules, including misusing a bed sheet.”¹⁴



Window at Chicago’s Cook County Jail during the Covid-19 pandemic in April 2020.

Solitary Confinement for Contacting the Media

“The consequences of the lies told at Attica and the consequences of this story being reported as it was are...catastrophic. It soured a generation on the idea that people serving time are human beings.”

—Heather Ann Thompson, author of *Blood in the Water*.¹⁵

Media attention can boost the effectiveness of a prison protest, encouraging pressure from the community outside and inside facilities. But incarcerated people have long faced significant challenges when contacting the media. In 1987, the Supreme Court ruled in *Turner v. Safley* that their constitutional right to free speech is protected, as long as it does not offer “legitimate penological concerns.” This ruling has given prison officials the flexibility to classify and punish any communication with the media that is critical of the prison system as a threat to prison safety and security.¹⁶

During the 1971 Attica uprising, organizers were intentional about reaching out to the media, bringing reporters and cameras into the yard to inform the public about the abysmal conditions in the facility. Despite their impassioned speeches to TV crews, misinformation began to spread and fully false stories emerged, including rumors that hostages had all had their throats slit.¹⁷ These stories were used to help justify the state-initiated bloodbath that followed.

Today, people can be put in solitary confinement for any kind of communication with the outside world that does not fit prison standards. Cell phones are contraband items in all prisons. In some states, even having a social media presence maintained by family members is a punishable offense. In 2014, several people incarcerated in South Carolina were put in solitary confinement after publishing a YouTube video entitled “1st Ever Music Video in Prison!”¹⁸

Solitary Confinement and Hunger Strikes

“Thus we are presently out of alternative options for achieving the long overdue reform to this system and, specifically, an end to state-sanctioned torture, and now we have to put our lives on the line via indefinite hunger strike to force CDCR to do what’s right.”

—Pelican Bay Hunger Strike leaders¹⁹

There are few ways for people in prison to get the attention of wardens or state officials, and even fewer ways to build any kind of leverage to improve quality of life inside facilities. Hunger strikes can be an effective strategy because prisons and jails are legally responsible for the health of incarcerated people. The deteriorating health of one individual may be ignored, but the deteriorating health of hundreds or thousands is a crisis for which a facility or prison system can be held liable.²⁰

In 2013, the largest hunger strike in U.S. history was started in California’s Pelican Bay State Prison by men who had been held in solitary confinement there for years or decades. From their cells, they coordinated a letter-writing campaign to activist groups, friends, and family, urging as many incarcerated people in California as possible to participate. By July, 30,000 people were refusing their meals. The strike lasted for 43 days, with hundreds persisting and many collapsing and requiring medical care. Eventually, after a promise from California lawmakers to hold hearings on solitary, the hunger strike was suspended.²¹ However, the strike received widespread media coverage and public support, and, in 2015, a landmark legal settlement was achieved banning indefinite solitary confinement in the state.

Organizing a hunger strike can be reason enough for a facility to put people in solitary confinement. In 2021, a county jail in Pennsylvania placed five people in solitary for organizing others to refuse meals in protest of their immigration detention. The jail claimed to have merely restricted “movement privileges.”²² However, the advocacy group Juntos insisted that the facility had sent officials with guns and tasers to intimidate the strikers and deprived them of phone privileges to block contact with the outside world.²³

As the ACLU’s David Fathi points out, in no other section of society would someone’s personal decision to not eat be met with violence. For people on the outside, refusing food or water until you die is a function of personal autonomy, “but for incarcerated people, the courts have accepted the arguments of prison officials that allowing incarcerated people to go on hunger strike is a security risk.”²⁴

Solitary Confinement to Suppress Labor Strikes

“We hope to end prison slavery by making it impossible, by refusing to be slaves any longer.”

—2016 Prison Strike Call to Action²⁵

The 13th Amendment made slavery and involuntary servitude illegal “except as a punishment for crime whereof the party shall have been duly convicted.”²⁶ This constitutionally protected slave labor generates \$1 billion per year, and leaves little legal recourse for incarcerated people who are forced

to work for low or no pay.²⁷ As a result, organized protests are often the only way for incarcerated people to advocate for better working conditions or fairer compensation. Labor strikes can be a particularly effective form of protest because many facilities need incarcerated people to work their jobs in order for the prison to function.

In 2016, on the 45th Anniversary of the Attica prison uprising, tens of thousands of incarcerated people in 24 states across the country abruptly stopped working under a call to end prison slavery.²⁸ The strike, which was organized by the Incarcerated Workers Organizing Committee (IWOC), came with the warning, “They cannot run these facilities without us.”²⁹ However, actions like these often come with a heavy price. By striking, many incarcerated people risk losing their jobs permanently, having their facilities placed on lockdown, being punished with solitary, or having their sentences extended. As incarcerated activist Kevin Rashid Johnson experienced, “prisoners who do not agree to such abject slavery are put in solitary confinement.”³⁰

Solitary Used Against Jailhouse Lawyers

“The main use of solitary confinement is to ‘break’ those the Administration deems ‘too influential’ or ‘too outspoken.’”

—Kinetik Justice, incarcerated activist in Alabama³¹

Individuals known as “jailhouse lawyers” can help provide legal advice to fellow incarcerated people and sometimes aid them in filing lawsuits to challenge conditions of confinement. Some come to prison as lawyers, while others learn about the law during their sentences.

In spite of the limitations set by the PLRA, lawsuits are one of the few accountability mechanisms available to incarcerated people, which means that prisons can be eager to prevent jailhouse lawyers from doing their work. Retaliation against jailhouse lawyers is extremely common. Depending on the state, different rules apply for when an individual is permitted to provide legal advice to another while in prison, and prisons sometimes accuse jailhouse lawyers of providing “unauthorized legal assistance.” In some cases, jailhouse lawyers are simply put in solitary confinement so that they are cut off from their clients and miss court deadlines.³²

Kinetik Justice, a jailhouse lawyer and organizer with the Free Alabama movement, has faced many forms of retaliation for the protests and lawsuits he spearheaded while in prison. He organized hunger strikes, revealed illicit gambling run by prison guards, and exposed to the media horrific practices within the facilities where he was held. As a result, he has spent nearly a decade in solitary confinement.³³

Disproportionate Responses to Prison Activism

“When there is room for discretion in the enforcement, we often see what appears to be uneven or discriminatory enforcement against minority religions, and people of color, and groups and organizations that are Muslim.”

—David Fathi, Director of the ACLU National Prison Project³⁴

As noted in Solitary Watch’s Racism and Solitary Confinement fact sheet, “[incarcerated] people of color are more likely to be perceived as a threat by staff and more likely to face serious punishments in comparison with their white counterparts.”³⁵ Fathi explains that when incarcerated people of color organize for their rights, or even just organize for a religious activity or club, it is far more likely to be perceived as a threat to the institution.

Supporting Prison Activism

Prison activism is essential to increasing transparency and accountability in the carceral system, as well as defending the basic rights and dignity of incarcerated people. Efforts to deter or punish prison activism with the torture of solitary confinement is a violation of incarcerated people’s First Amendment rights to freedom of association, speech, and petition to redress, as well as a violation of their personal dignity.³⁶ It also allows abuse and neglect to continue unchallenged as incarcerated people may fear retaliation for speaking out.

The use of solitary confinement is an ineffective and inappropriate response to peaceful protests largely aimed at reforming conditions inside prisons and jails. When prison activism happens, officials should address the root causes of protests and work to prevent retaliation. Repeal of the Prison Litigation Reform Act would free incarcerated individuals from getting tangled in legal fees or the inadequate grievance systems of their facilities, and allow them access to the courts as recourse for mistreatment or inhumane prison conditions.³⁷ The public and media can support prison activism from the outside by calling attention to the conditions that cause prison protests to occur.

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