

<https://www.gongwer.com/2024-06-03/index.cfm?a=631090101>

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MICHIGAN'S HOME FOR POLICY & POLITICS

Monday, June 3, 2024

MDOC Isolation Policies Questioned By Mental Health Workers, Advocates

Public pressure and a hard look at its own practices have led the Department of Corrections to change its policies on segregating problem inmates, but advocates say those changes haven't gone far enough to curb the mental and physical health tolls segregation can place on inmates and staff.

Gongwer News Service spoke to several sources both on and off record to better understand MDOC's policies on inmate segregation after the death of Jonathan Lancaster, an inmate who died in administrative segregation after his mental health gravely deteriorated and he stopped eating. Lancaster died of starvation while in the department's care, and a lawsuit on the matter ended in \$2.6 million settlement MDOC paid to his family before the case reached the discovery phase.

Attorney General Dana Nessel charged eight involved in the death, though none of the charges stuck and all ended up being dismissed.

Lancaster's death – along with other noted instances of inmates struggling in various forms of segregation shared with Gongwer while reporting this story – have led prison reform advocates to raise alarm bells about segregation practices, the consequences involved and their continued use.

Those charged with investigating abuses shared similar concerns, saying the department poorly implements those practices and fails to meet the spirit of enacted reforms, raising further questions about the efficacy of what used to be known as solitary confinement.

They also said mentally ill inmates with behavior issues end up placed in mental health units that, on paper, are aimed at treatment but ultimately mirror the isolative conditions of administrative segregation, leaving them without access to quality health services.

"It gives the appearance that MDOC is making strides when they're not. So, then the prisoners are kind of like, 'well, now they they've built this to look like it's this thing that is making changes in segregation when it really isn't at all,'" said Jen Baker, an investigator-advocate with Disability Rights Michigan. "We do not believe that people who have a severe mental illness should be in segregation at all, period. ... I think everybody knows this, but isolation and seclusion are unhealthy for anyone."

In interviews and follow up conversations, MDOC officials denied that any inmates with mental illness are being held in segregation settings within Michigan's prisons. Director Heidi Washington and the department's spokesperson, Kyle Kaminski, either rejected or disputed information from instances shared with Gongwer where advocates feel the policies might be failing.

The department further noted changes made since the death of Lancaster, the inmate at the center of that large settlement and pending criminal charges against two corrections officers.

Separate but related actions include two programs implemented over the past decade, START and the Alternatives To Segregation programs, which were created to offer alternatives to isolation, if deemed necessary, and to give inmates a clearer pathway out of solitary confinement, a term the department no longer uses to define the practice of removing an inmate from a general prison population.

"The department's position has been very clear on segregation since I took over and is then made even more clear by making it part of our strategic plan," Washington said. "The department took the step to incorporate the topic of segregation, and safely reducing the reliance on segregation, and making reforms to how segregation is utilized, as part of our strategic plan and one of our strategic initiatives."

Washington said that the inclusion of the topic "says a lot."

"It is an outward statement from this department that this is a topic we take seriously, and that we are invested in making positive changes that still allow us to keep our focus on safety and security, and the protection of our staff, and the protection of those who live as incarcerated individuals inside of our prisons," she said.

ALTERNATIVES TO SEGREGATION: Different views on segregation make the issue hard to tackle here in Michigan. Corrections believes it is making strides even as advocates have begun asking the Legislature to tighten its oversight of MDOC and required reporting on segregated inmates in budget boilerplate.

According to the Brennan Center for Justice, 42 states have made laws restricting or eliminating solitary confinement since 2009. States like New York, Pennsylvania and Louisiana have outright banned the practice for children, those with serious mental health issues, members of the LGBTQ community and pregnant people.

Meanwhile, the Brennan Center states that Connecticut and New Jersey have statutorily capped the amount of time a person can be isolated, mimicking the United Nations Nelson Mandela rules that say a person held for 15 continuous days or longer in solitary confinement constitutes as torture.

The states of Washington and Maryland have given powers to independent oversight bodies to see if implementation of laws reforming long-term isolation meet muster.

Federal prisons are banned from holding young people in solitary confinement unless they pose immediate physical risk to others' safety per the First Step Act passed by Congress in 2018. The End Solitary Confinement Act was also introduced in the U.S. House and the U.S. Senate, attempting to restrict segregation practices in federal prisons, and urge state prisons and local jails to do the same.

In Michigan, MDOC still segregates prisoners for various reasons and in different settings, even though it has moved away from calling it solitary confinement. Those settings include temporary segregation, administrative segregation and punitive segregation.

Washington, who has served as Corrections director for nine years and is a former prison warden, said the department has also eliminated the housing of anyone with a serious mental illness in segregation, which is a point that prison reform advocates dispute.

The director added that she believed the department was doing a good job making "a conscious effort to do this, and we're going to keep doing it."

"It's not a standalone strategy," she said. "You need to look at what's going on across the entire department and put this in the context of that. This department is more invested than ever before in training, education, post-secondary education, vocational education, peer recovery coaches and substance use treatment. All of the evidence-based programs we have and are adding are to help people at whatever part of their incarceration they're at. So that while they are here, they can be

focused on the positive and stay away from behaviors and activities that will land them in jail or segregation."

Kaminski told Gongwer there are roughly 400 inmates currently classified to administrative segregation at any given time. Numbers for the punitive segregation population were harder to differentiate, he said, as many facilities utilize the same cells for both temporary segregation (investigation of protection requests, awaiting hearings on major misconducts, etc.) and subsequent punitive segregation placement for a guilty finding on a Class I misconduct.

Manuals obtained by Gongwer show the MDOC has implemented at least two newer programs in the last decade to create alternatives to segregation, and another that offers an incentives-based approach to exiting segregation that differs from the alternative approach.

The first is known as START, which aims to provide a secure general population alternative to administrative segregation. That includes structured and unstructured out-of-cell activities based on positive adjustment, all with the goal of reintegration into the general population setting.

Washington said START was established as a proactive approach to determine who was being housed in segregation, for how long, if they have mental health challenges and what other programs or tools can be used to incentivize positive behavior medication – or "internal change," as the director put it.

"Internal change so that, hopefully, this is your last trip to segregation," she said. "Those are really incentive based. People move through the stages, and I think it's been effective."

The Incentives in Segregation Program uses incentives to encourage positive behavior adjustment through six stages of expectations and what can be acquired by the inmate in the process.

The program is for those in administrative segregation. All requirements of the program must be satisfied to reach the point where inmates can leave administrative segregation.

Not all the prisons have a START unit, Washington said, but all incarcerated people, no matter where they are housed in the department, could be referred to another facility that has one.

Some of the barriers to having them in every facility include physical plant space, the layout of the facilities, having adequate specialized staff and having enough of those people present to focus on that type of unit, along with the regular caseloads those staff have.

"I think we need to be strategic about it. And we are not letting our foot off the gas on this topic," Washington said. "This is an ongoing topic of conversation. When you just look at the overall numbers of people that are classified desegregation, or classified to START, whatever the case may be, those numbers continue to come down."

Kaminski noted that there are currently 415 inmates in START, and that those in the incentives program make up the roughly 400-inmate administrative segregation population because that is their formal classification. Three facilities run the program for prisoners as a management tool to incentivize positive behavior and a return to general population, Kaminski said. The other facilities have opted to use techniques like reintegration units with additional privileges to address the same issues.

SEGREGATION BY ANY ANOTHER NAME: Still, advocates said the department's changes haven't gone far enough.

Those who actively investigate complaints, like Disability Rights Michigan, say the changes are at least commendable, even if the day-to-day implementation of these programs and policies doesn't meet the spirit of their design.

The organization is the state's arm of the Protection Advocacy Network with the larger National Disability Rights Network, appointed by the governor as the state's protection and advocacy agency for people with disabilities across Michigan. It has federal access authority to investigate instances where disabled or mentally ill inmates' needs go unmet.

The organization is now working closely with MDOC to advocate for prisoners without having to resort to litigation and acknowledged Washington was interested in continued segregation reform.

"We're pretty glad to see that it's going in that direction. Very slowly, though," Baker said. "And I think something that are put on paper, in practice, don't line up sometimes."

Most of the prisoners Baker works with in segregation have severe mental illness. Under the state's Mental Health Code, there are specific parameters for the use of restraints and seclusion, which Baker said was inconsistent with MDOC's policies.

"The big policy that that I don't have any problem going publicly and saying that it's not working is prisoners with severe mental illness and segregation," she said. "The (MDOC) language is very subjective. The word 'should' is used, (as in) 'prisoners with severe mental illness should not be housed in segregation ... unless they cannot be housed outside of segregation or to maintain the safety of prisoners, staff and the institution.'"

The subjectivity of that language is a concern, Baker said, because custody staff don't have the training to understand the ramifications of putting someone with severe mental illness in segregation.

She also pointed to the department's use of the START program or Kelly Calhoun Acute Mental Health Unit at the Women's Huron Valley facility to segregate patients with mental illness without calling it segregation.

"It looks exactly like a segregation unit. They just slapped another name on it because obviously segregating people with severe mental illness ... a lot of attention has been drawn to it. The spotlight is on it. The START program is really just like segregation," Baker said. "They would probably call it a step-down, but the step-down is abused by custody staff, where the person is locked down."

She described a situation where inmates will progress in the program but are knocked down in progress because of a minor infraction. Baker said those inmates express hopelessness when they are asked about MDOC's alternatives to segregation programs, and DRM shares that opinion.

DRM was asked if they were aware if MDOC has mental health crisis intervention specialists on staff to screen these types of patients, before they are referred to an acute mental health unit or the START program, to determine if poor behavior is a result of an emergent medical crisis or if it is a non-mental health related pattern of acting out.

Baker said a qualified mental health professional is tasked with filling out a responsibility form when inmates act in a way that could land them in segregation. She said the form is a way to determine if the person was able to fully understand that what they were doing was wrong.

The department's policies appear to reflect the same processes and procedures.

Baker added that during her career, she has rarely seen a responsibility form that favors a prisoner's mental health crisis, and one of the biggest problems is that the forms rarely excuse or explain the behavior as a mental health problem.

Simon Zagata, DRM's director of Community and Institutional Rights Advocacy, said that even if the qualified mental health professional does note the behavior was spurred by an emergent or ongoing mental illness, the attitude of MDOC is indifferent about what happened and whether it was a legitimate misconduct incident.

That said, as far as treatment goes, Baker and Zagata said it is inadequate in MDOC's acute mental health setting, which they feel is akin to other forms of segregation.

Baker said one of her areas of investigation examines what the department labels as unexpected deaths, either from homicides, suicides or some kind of suspected abuse or alleged neglect.

"When you see something like that, I can see a video and see for an hour that an officer repeatedly walks by when an emergency medical situation is taking place, a psychiatric or medical emergency, and there's no urgency and response," she said. "That's not all the time, but when it benefits MDOC, they pay attention. Sometimes it doesn't happen, then MDOC creates a policy in (a reactive) response to (those incidents)."

Zagata said the same is true, in his opinion, of therapy checks in those instances.

"A therapist will walk around the cells in that unit, kind of stops at the door and says, 'hey, do you need to talk?' That's through the door and that's the visit," Zagata said. "If you or I went to see a therapist or psychiatrist or an emergency room visit for a psychiatric situation, it's not like that. In the acute mental unit, (the door checks) is all they get. It happens once a day, maybe twice."

Baker said social workers and case managers are so understaffed that unless an inmate in the acute mental health setting can get access to a writing utensil and paper to be asked to be seen, those workers might not make it over to them.

"There's just no way for them to physically see everyone on their case load every day, so it's usually a couple of times a week, maybe some two or three times a week at most," Baker said. "Somebody just comes by the door, asks how they're doing, and if they are asleep, that (check) doesn't even happen."

SEGREGATION COMPLAINTS IN LAWSUITS, STAFF ACCOUNTS: Other complaints relayed to Gongwer included questions about the essay writing and journaling requirements of the incentives program, with some raising concerns that illiterate inmates would be at an extreme disadvantage trying to work through those stages.

Statistics on prison illiteracy are often unreliable because they run the gamut on the percentage of the population that cannot write or read. Some national statistics say the number is as high as 70 percent, while other studies have said that number is as low as 10 percent.

A lawsuit filed in the U.S. District Court of the Western District of Michigan in 2023 by a severely mentally ill patient challenged to START program and claimed that despite him being mentally ill, he was being kept in a segregation setting.

The lawsuit, *Pruitt v. MDOC* (USWDM Docket No. 23-00357), alleges that the inmate, housed in Oaks Correctional Facility, has a diagnosis that by law should prevent him from being in segregation longer than 10 to 15 days. His complaint states that he was placed in a segregation setting from September 9, 2022, to April 1, 2023.

The complaint goes on to say that MDOC told him he was in the START program without fully explaining what START was and refused to provide him with all the criteria for the program. That includes, the complaint states, by not having regular counseling, refusing to let those in Stage 1 from ordering food and that psychiatrists fail to do regular rounds.

"I'm forced to eat cold trays to take my meds or I starve," the complaint read. "This is dehumanizing and cruel and unusual punishment."

Pruitt was filed in April 2023. A month later, it was dismissed because MDOC as an entity had 11th Amendment immunity from being sued. The case was screened out by a magistrate and never reached the merits of the case. The magistrate did note, however, that any issue raised on appeal would be frivolous without explanation, appending a caption for a piece of federal case law from 1962.

Staffers, who spoke to Gongwer under condition of anonymity to avoid retaliation from the department, said they have seen corrections officers abuse mental health group therapy settings or threaten inmates by telling them they won't go to group therapy on a certain day if they act out.

Those same individuals said that while some facilities do not technically have a segregation unit, they have observed that MDOC has locked up inmates at the various men's facilities in an isolation setting for weeks at a time, with no access to outdoor time.

These inmates are isolated from the population, though it is not done through the normal segregation channels. The justification is security of the facility, sources said. They are either waiting to be transferred or in a holding period as the department plans to transfer them to another facility. From their observations, sources said it was segregation without label.

Baker added there have been cases where an internal investigation found that a staff person or corrections officer was not responsible for any kind of misconduct or deviation from department policies, but when they investigated, there is evidence a staffer was responsible for deviating policy.

Those records are often kept out of public view, and the only reason why DRM has access to them is because of their federal access authority.

MDOC DISPUTES COMPLAINTS: In interviews and follow up conversations, Washington and Kaminski either denied that was the case, or disputed several of the concerns.

On the essay and journaling portion of the incentives program, Kaminski said the goal of those exercises was for introspection rather than an academic exercise "that you're being graded on, or on a grade point average."

"What it's about is getting folks to slow down and think, and then try to express those thoughts. So, we're dealing with folks at all different levels of literacy every day, not just from a journaling perspective, just operationally," he said. "Staff are very experienced with that. I do not think that it would be the case that somebody is going to have a journal somehow returned or rejected because of the quality of their writing, but it could be sent back to them for greater introspection."

Kaminski added that a lot of the inmates in segregation are what the department would call "pre-contemplative," meaning they haven't yet decided or shown a willingness to change their behaviors.

"You'll hear a lot about programming as if, well, if we just do programming people will change. Well, you first have to decide that you're open to change," Kaminski said. "The journaling is really an exercise to get people to reach that openness to change. So, I think that the facilities are very experienced in working with people at all different levels of the educational spectrum. And again, I don't think anybody is being punished because of their literacy or their literary skills."

As for the mental health concerns, Kaminski said the MDOC "operates a continuum of treatment options for those with mental illness within our system," ranging from outpatient settings to what he called "secure psychiatric hospitalization."

"For some, a setting in which staff and the prisoner can safely focus on treatment, without risk of assault or self-harm, requires limitations on a prisoner's activities until they can be adequately stabilized, and the risk of injury/self-injury has been reduced," he said. "The goal for everyone placed in one of these mental health settings is for them to step down to settings with additional activity when it is safe to do so, with the help of our mental health staff."

To the allegations raised in this story, Kaminski said they would be thoroughly reviewed, "as the MDOC is committed to continuous process improvement and being a national leader in all facets of corrections." That said, Kaminski said the department objected to "to the generalizations and attacks on our staff in this story from unnamed sources."

"Staff from throughout the department have been involved in the development of our policies, training, and operations because they care deeply about working in an environment that is safe and respectful," he said. "They work every day in these settings, often under difficult circumstances that are rarely acknowledged during this public discussion, and they also deserve to be in a setting in which they are not subject to violence, a risk to their personal safety, or degradation simply because they are doing their jobs."

Some, like Citizens for Prison Reform, another group advocating changes, steadfastly believe that the practice should be abolished. Corrections said that is practically out of the question.

"These alternatives are effective, providing prisoners with access to group and individual privileges that they would not have if housed in administrative segregation and an opportunity for necessary behavior adjustment with the goal of returning to general population and eventually the

community," Kaminski said. "While the goal of the MDOC is to safely reduce the use of restrictive housing, the reality remains that a percentage of the prison population continues to engage in conduct that is dangerous to staff and other incarcerated individuals, so appropriate settings must be available to address their management needs."

The prospect could also be a tough sell for Michigan's correctional facilities, even as they make changes. The prospect is particularly repellant to corrections officers and the union that represents them. They told Gongwer it is a key tool to keep the general prison population safe, as well as those who work inside those facilities.

Byron Olson, president of the MCO-SEIU, the union for corrections officers, reiterated that the practice of separating trouble inmates from the general population is sometimes necessary to maintain order. Olson is not currently a corrections officer due to his union position, but he has worked in a segregation unit in the past and is currently assigned to the Chippewa Correctional Facility in the Upper Peninsula.

"In our communities, when people don't follow the laws, and they're a danger to other people and property, we have laws and sentences that are carried out to remove them from that setting, to protect everyone," Olson said. "The same principle applies, once they're behind the fences of a prison. The prisoners, regardless of what level they are, all have certain rights in their little communities. And we have an element of the population that this is never going to change."

Olson cited widespread gang activity, which is common in all state and federal prisons. He said some of those individuals involved in that activity will continue to be a danger to staff and other prisoners.

"They repeatedly show that in some of these groups that are advocating for the complete removal of segregation, and the discontinuation of it, it's just not practical to even entertain," Olson said. "The prison system has to have a mechanism where they have the ability to remove dangerous people from an already dangerous environment because they are the most dangerous people."

That's contradictory to what some advocates who want segregation abolished would say, Olson said. Advocates, he said, will fixate on one or two noted cases of abuse within the last few years to claim the practice is ineffective or barbaric.

"We recognize (unexpected deaths) are certainly possible. And the department has taken great steps to ensure that doesn't happen ever again. But sometimes, there's unknown medical

conditions with some of these folks that unfortunately resulted in them passing away," Olson said. "That certainly does not outweigh the need to be able to physically remove some of these people from general population to protect staff and other prisoners."

Although he and the MCO union are opposed to ending the practice, he did praise the changes made to segregation practices by MDOC.

"Prisoners do not stay in segregation anywhere near as long as they used to. There's good and bad to that. We're supportive of prisoners who are in segregation, that need to be in segregation. But we understand that you can't just throw away the key and put them in a box, right?" Olson said. "You have to still give them programming, you have to give them increased access to health care because they're in segregation. We're supportive of that. And the department has the ability to do that."

– By Ben Solis