From: Holly Welborn
To: Cynthia Keller
Date: 3/10/2017 11:12 AM
Subject: Re: Board of Prison Commissioners meeting (BOP) 3/7/17

Holly Welborn- ACLU of Nevada

Comment on Agenda Items 5 & 6.

Last month, the ACLU of Nevada issued a report entitled Unlocking solitary Confinment: Ending extreme isolation in Nevada prisons.

I've emailed this report to Ms. Keller and to each member of the Commission, therefore, I will only highlight some background on our report and our recommendations.

In 2013 the NV legislature passed SB 107, a bill that substantially limited the use of solitary confinement in juvenile facilities and called on the Advisory Commission on the Administration of Justice to study the use of confinement in the adult system. In short, the data presented by the former NDOC leadership was insufficient for a number of reasons, but primarily that the department denied that confinement, by our definition (the prolonged isolation of a person for more than 15 days), was occurring in their facilities. Therefore, we went directly to those affect - the individuals living in the department of corrections who contact our office, the Nevada Disability advocacy and law center, Solitary watch and other organizations, who shared their stories with us. The data in the report is based on voluntary responses form 281 individuals.

Some statistics to note related to today's agenda items are that 1/3 of respondents reported that they were diagnosed with a mental illness, 19.4% with a traumatic brain injury, and 11% said they have a developmental disability, and 40% reported that they had trouble talking, remembering, learning, or thinking once leaving solitary confinement. And 47% reported that their conditions worsened while in solitary.

We are pleased with today's report from the NDOC. Our first recommendation calls on the department to admit that there is a problem. It is clear from today's testimony and from the testimony of Mr. Tristan before the senate Health and Human Services Committee last month, that the department has finally admitted that there is a problem with extreme isolation in Nevada.

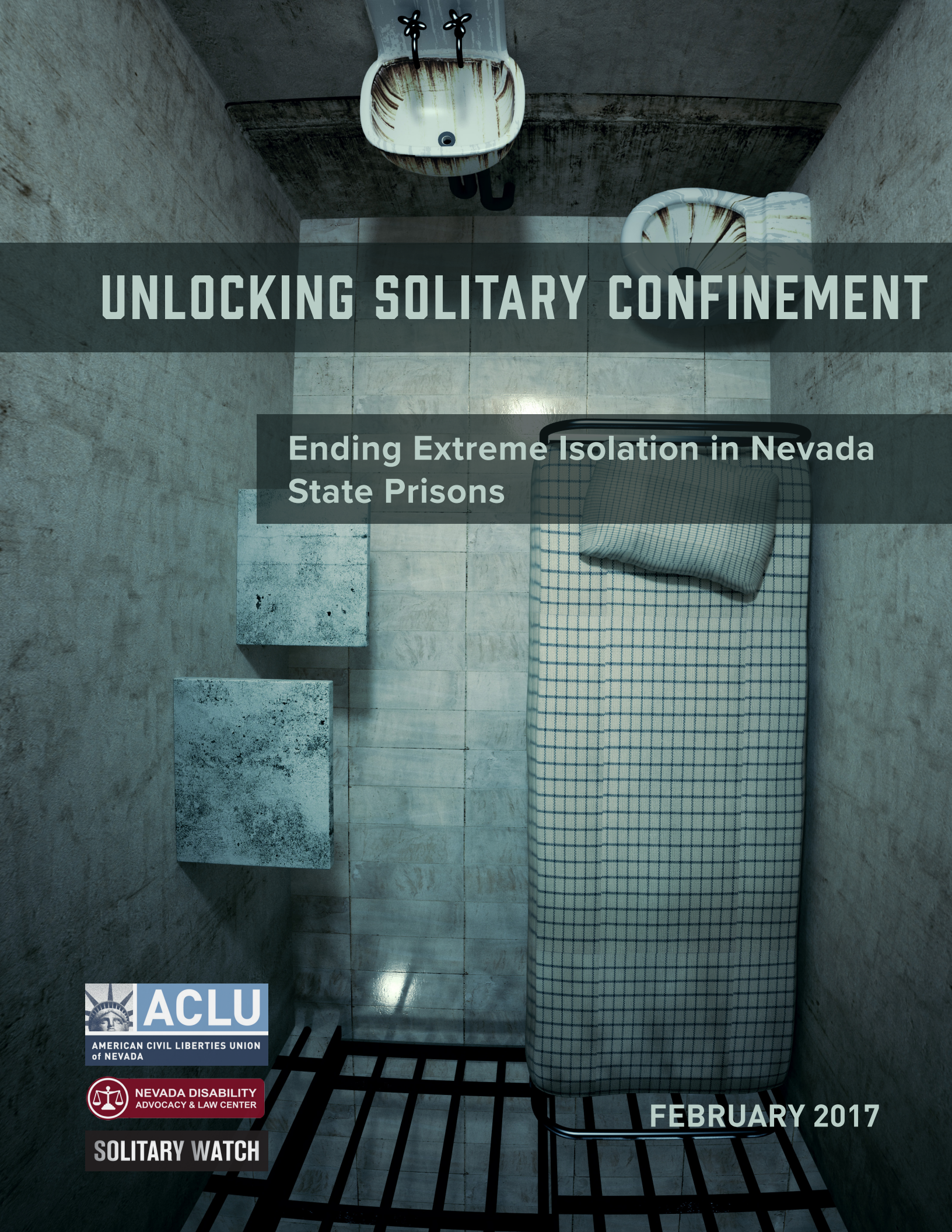
We also call on the NDOC to admit their use of isolation, adopt policies to end the long-term use of isolation, immediately remove those with SMI and DD from isolation, and to improve the overall conditions of solitary confinement.

The policies introduced today, and the Vera Institute study are encouraging and will likely help the department avoid future legal challenges. Who hope to make those changes statutory in the future.

Please let me know if you have any questions about the report.

I appreciate your time today.

https://www.aclunv.org/sites/default/files/aclunv_unlocking_solitary_confinement_report.pdf
This report begins on the next page.



UNLOCKING SOLITARY CONFINEMENT

Ending Extreme Isolation in Nevada State Prisons

ACLU
AMERICAN CIVIL LIBERTIES UNION of NEVADA

NEVADA DISABILITY ADVOCACY & LAW CENTER

SOLITARY WATCH

FEBRUARY 2017

Unlocking Solitary Confinement

Ending Extreme Isolation in Nevada State Prisons

A Report by

The ACLU of Nevada
Solitary Watch
Nevada Disability Advocacy & Law Center

February 2017

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NEVADA DISABILITY ADVOCACY & LAW CENTER

ACLU AMERICAN CIVIL LIBERTIES UNION of NEVADA

SOLITARY WATCH

DEDICATION

Unlocking Solitary Confinement is dedicated to the incarcerated men and women who bravely entrusted us with their stories. This report is a result of their willingness to share their experiences. We will continue to work tirelessly to end the inhumane and cruel practice of extreme isolation and bring justice to their circumstances.

Acknowledgements:

This report would not have been possible without the contributions of each sponsoring organizations, their staff, and the dozens of volunteers committed to this cause.

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We are deeply grateful for this support.

PREFACE

By Holly Welborn, Policy Director, ACLU of Nevada

You are about to enter the world of solitary confinement, as told by the individuals who lived, or are living, the horrors of extreme isolation in Nevada prisons. Efforts to end the use of solitary confinement in the state began after the ACLU of Nevada and partner prisoners' rights organizations received disturbingly high numbers of complaints from incarcerated individuals claiming to be in extreme isolation for extended periods of time. We made great strides in nearly ending the practice in juvenile facilities in 2013, but our efforts in adult facilities were halted by Nevada Department of Corrections' (NDOC) leadership at that time. The NDOCs' poor data tracking and refusal to share adequate information, prompted us to survey the prisoners themselves and issue this report. However, as this report goes to publication we find ourselves under promising new leadership within the NDOC and expect to see substantial positive policy changes that will limit the use of extreme isolation in Nevada prisons.

The NDOC has a history of trying to limit both public and inmate access to department records and data. For example, during the 2015 legislative session, the department, unsuccessfully, attempted to introduce a bill that would have limited an offender's access to NDOC records deemed public under Nevada's public records law. This bill would have hindered an incarcerated individual's ability to investigate abuse or wrongdoing that they are personally suffering. Thus, it was no surprise that the NDOC failed to present adequate data on the use of isolation required by S.B. 107.[1]
S.B. 107 substantially limited the use of solitary confinement in facilities for the detention of children and directed the Advisory Commission on the Administration of Justice (ACAJ) to conduct a study on the use of isolation in adult facilities. The study required that the ACAJ evaluate 19 indicators regarding the use of segregation in the state. The asssistant director at the time, E.K. McDaniel, began his testimony on SB 107 by stating, "they do not have solitary confinement in the Nevada Department of Corrections."[2] His testimony revealed that little information was tracked concerning those in segregated housing and failed to answer the questions in their entirety.[3] The ACAJ concluded that the information provided was sufficient for meeting the requirements of SB 107, and no further steps were taken to propose legislative solutions for the use of solitary confinement in adult facilities.[4]

We made several attempts to acquire the information through public records requests, but the outcome was the same. The department had little desire to work with us on analyzing the use of solitary confinement in Nevada and insisted that it was not a problem in the state. It was time for our coalition to take bold action to reveal the NDOC's overuse of extreme isolation. Therefore, we surveyed hundreds of men and women incarcerated in the NDOC, experiencing the damaging consequence of solitary confinement and created this report. Our goal is that this perspective will resonate with NDOC leadership and lawmakers and finally end the practice in our state.

On April 4, 2016, the NDOC experienced a change in leadership which led to a dramatic shift in department policies. Some encouraging developments include changes to use of force policies, moving mentally ill individuals from max security to facilities more suitable for their treatment needs, and urging the Nevada legislature to change HIV disclosure requirements that violate the individual's right to medical privacy.[5] We are further encouraged by the fact that the NDOC was one of only five state prison systems selected by the Vera Institute of Justice to participate in a project to reduce the department's use of solitary confinement.[6]

We approach this new era within the Nevada Department of Corrections with cautious optimism. Our presence will be known, our attendance at the Board of Prison Meetings will be seen, and our concerns heard to ensure the future well-being of those individuals in solitary, who will one day by released back into our communities.

19 Indicators Required by SB 107 Study:

The study must include, without limitation, an evaluation of:

1. Procedures regarding placement in, and release from, protective segregation, administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction and solitary confinement [hereinafter, "segregated housing"];
2. Security threat group identification, including, without limitation, any information relating to gang activity;
3. Notification of release and release procedures;
4. Access provided to [individuals] in [segregated housing] to: (a) Mental health services; (b) Audio and visual media for appropriate mental stimulation; (c) Daily contact with staff; (d) Health care services; (e) Substance abuse programs and services; (f) Reentry resources and transitional programs and services; (g) Programs and services for offenders and prisoners who are veterans; (h) Educational programming; and (i) Other programs and services that are available to the general population;
5. The amount of specialized training provided to staff who interact with [individuals] who are confined in [segregated housing];
6. The number of [individuals] confined in [segregated housing] who were referred to mental health professionals;
7. The number of [individuals] in the general population who were referred to mental health professionals;
8. The number of [individuals] confined in [segregated housing] who have a mental health diagnosis;
9. The number of [individuals] in the general population who have a mental health diagnosis;
10. The number of suicides and suicide attempts during the years of 2010, 2011 and 2012 among [individuals] who are confined in [segregated housing];
11. The number of suicides and suicide attempts during the years of 2010, 2011 and 2012 among [individuals] in the general population;
12. The number of reviews conducted by facilities concerning the placement of [individuals] confined in [segregated housing] that resulted in the [individual] being transferred to the general population;
13. The average length of time [individuals] confined in [segregated housing],categorized by age, race, sexual orientation, gender identity or expression and classification of the offense;
14. The longest and shortest length of time an [individuals] continuously confined in [segregated housing], categorized by age, race, sexual orientation, gender identity or expression and classification of the offense;
15. A summary of the reasons for which [individuals] were confined in [segregated housing];
16. The rate of recidivism among [individuals] who were confined in [segregated housing] at any time before release or discharge;
17. The rate of recidivism among [individuals] who were confined in [segregated housing];
18. The number of [individuals] who were confined in [segregated housing] immediately before being discharged from detention, including those discharged to parole or mandatory supervision; and
19. A calculation of the cost per day of confining an [individual] in [segregated housing].

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EXECUTIVE SUMMARY

5 Recommendations to End Solitary Confinement in Nevada

Recommendation One: Admit There is a Problem
Change institutional attitudes toward solitary confinement by first recognizing that the practice occurs in Nevada prisons.

Recommendation Two: Audit the use of Isolation in the NDOC
Complete a thorough, independent audit of the current population in extreme isolation, with the goal of removing as many individuals as possible.

Recommendation Three: Adopt Policies and Practices Designed to End Use of Long-Term Solitary Confinement
NDOC must adopt policies and procedures to ensure that solitary confinement is utilized only when an individual poses a legitimate safety or security risk and for the briefest period possible.

Recommendation Four: Immediately Remove Individuals with Serious Mental Illness and Developmental Disabilities from Solitary Confinement
The state's most vulnerable inmates, those with serious mental illness and developmental disabilities, face further deterioration when confined to a segregated unit. Providing these populations with appropriate treatment before leaving prison is necessary for the health and well being of the formerly incarcerated individual and for the safety of the community.

Recommendation Five: Improve Overall Conditions in Solitary Confinement
In the exceptional case where solitary confinement is necessary, the individual is entitled to basic human needs. Again, most individuals in the Nevada prison system will be released to the street. Access to medical care, family visitation, reading materials, and educational programming must be made available.

Across the United States, tens of thousands of people are confined to cells without any meaningful human interaction for weeks, years, and even decades at a time. Solitary confinement, the prolonged isolation of a person for more than 15 days, is considered cruel, inhumane, and degrading treatment--and often torture--by the United Nations, and has been shown to cause permanent psychological and neurological damage. It is also notoriously difficult to count or measure.

This report was initiated in response to the Nevada Department of Corrections' (NDOC) claims that the state does not use solitary confinement. However, inmate complaints to the ACLU of Nevada (ACLUNV), Solitary Watch, the Nevada Disability Advocacy & Law Center (NDALC), and other prisoner's rights organizations painted a very different picture. Hundreds of individuals residing in NDOC contacted these agencies complaining of long-term cell confinement and isolation.

In this report, ACLUNV, Solitary Watch, and NDALC sought to measure the extent to which solitary confinement is used in Nevada as well as collect reports from the men and women actually experiencing prolonged isolation. We submitted an official public records request to the NDOC and sent a comprehensive survey to 749 people incarcerated across the state.

We found that solitary confinement is, in fact, widely used in the state of Nevada, often for prolonged periods of time, and that many of the people held there are denied basic human needs like daily exercise and sufficient medical care.

Throughout this report you will read stories as told by men and women incarcerated in Nevada state prisons. Their names and identifying information have been changed to protect their safety and privacy.

RATIONALE AND METHODOLOGY

In several states, including Colorado, New Mexico, New York, and Texas, advocates have released comprehensive reports on state use of solitary confinement. These reports enable advocates and lawmakers to better understand and reform the often hidden practice of solitary confinement. In Colorado, for example, a report contributed to the ban on isolation among juveniles as well as reforms that drastically decreased the use of solitary confinement on adults.

For several years, the ACLU of Nevada (ACLUNV) and other advocates worked with lawmakers to end the use of isolation in Nevada. In 2013, Nevada lawmakers passed Senate Bill (SB) 107, a reform bill that limited the segregation of children and mandated a legislative study of its use on adults. The ACLUNV brought in leading forensic psychiatrist and solitary confinement expert Dr. Terry Kupers to offer the state some guidance on the issue. However, the resulting study was incomplete, due to the NDOC's data-keeping practices.

In 2015, the ACLUNV, Solitary Watch, and the Nevada Disability Advocacy & Law Center reached out directly to those who could speak most intimately on the use of solitary in Nevada—the incarcerated themselves. We mailed surveys to 749 people in prison and received 281 complete responses from individuals currently serving a sentence in a correctional facility or conservation camp in Nevada. Over 40 percent of the completed surveys were from men held in Ely State Prison (ESP). Those held in Northern Nevada Correctional Center (NNCC) and Lovelock Correctional Center (LCC) each constituted 11 percent of the surveys, and 15 percent of the surveys came from High Desert State Prison (HDSP).

The vast majority of respondents were male, with responses from just twenty incarcerated women. On average, respondents were 42 years old, ranging in age from 21 to 72. Over half (55 percent) indicated that they were currently in segregation and almost all others had once been in segregation. On average, respondents reported that they spent 2.6 years in segregation and 47.7 percent reported that they had been in segregation three or more times during their current prison stay. The majority reported that their segregation was administrative (68.2 percent) or disciplinary (66.2 percent) and the majority were in maximum custody (47 percent).

Twenty-nine percent of respondents indicated they had some type of disability. Of those who did indicate a disability, 27 percent did not specify a type of disability, 21 percent specified a type of mental health disability, 12 percent indicated they had a mental health disability but did not specify what type, one individual indicated a neurological disability (epilepsy), almost 30 percent indicated a physical disability, and 8.5 percent indicated that they had both a physical and mental disability.

PART I: INTRODUCTION TO SOLITARY CONFINEMENT

Chip has been subjected to segregation multiple times during his incarceration in Nevada's Ely State Prison.

Chip says he and other prisoners have faced retaliation by guards for filing grievances about their unsanitary conditions. They have withheld food for up to three days at a time and turned off the water in his cell, leaving him unable to flush the toilet. On another occasion, guards stripped Chip of his clothing, forcing him to spend an entire night completely naked. Eventually, Chip became so desperate that he broke the fire sprinkler and flooded his cell. The responding officer punched him in the face.

Chip says that while he was in segregation, yard time and showers were limited. To discourage prisoners from requesting more yard or shower time, guards would trash their cells while they were gone. Chip came back to his cell to find his blankets ripped off his bunk, his letters pulled out of their envelopes, and his photographs on the floor.

Chip has a mental illness, and says that he requested counseling but received no treatment while in segregation. He says solitary "had a very negative effect on my mental health."

"Every time I hear a door open, or the sound of keys, I immediately jump up and run to my cell door in defense mode because I don't trust the prison guards or inmates," he wrote. "I always feel like they might attack me or kill me…so I keep my shoes on at all times and I am up very early so that I am not attacked in my sleep."

"I don't trust anyone anymore…not even my own family members. I am always feeling sad, depressed, lonely, in danger, and I am very irritable…I can't function well. I can't sit…I don't laugh and socialize with others that well no more and I don't have a good sense of humor anymore. I am a very good person, I don't want to harm anyone…But after spending all those years at Ely maximum security prison I've become mentally, spiritually, and emotionally damaged/scarred!"

"I will be haunted by these terrible experiences until the day that I die and will take these memories and experiences and the effects of it all with me to my grave!!! The way people are being treated behind these prison walls in Nevada is wrong."

***

Brent responded to our survey from solitary confinement in High Desert State Prison (HDSP). He spent a total of five-and-a-half years in solitary, including two stints in ESP. This time around, he was placed in solitary confinement for talking with a prisoner who was not on his tier.

Brent says he "was put in a cell so filthy and dirty that I caught fungus." He was not given supplies to clean the cell so he used his state-issued towel and socks. His food portions were smaller than what he received in general population, and he was always hungry. Brent was diagnosed with a mental illness before receiving a sentence of 20 years to life for second degree murder. His cell in solitary had just enough space for him to pace four steps in each direction. He had just two ways of communicating with others: Yelling out his cell door or talking to a neighboring prisoner through an outlet under the desk.

At ESP, he said, prisoners in solitary are only allowed to go outside for recreation in the early morning hours. "You don't go outside for nine months out of the year because it is like an ice box in the cages," said Brent. "A lot of guys just go crazy."

"Something like a song in your head can drive you crazy and last for weeks," he said. He contemplated suicide daily until he was able to get a radio in his cell, which was "the only thing that saved me."

While in solitary, Brent experienced anxiety, panic attacks, depression, feelings of paranoia, difficulty sleeping, difficulty interacting with other people, oral or physical outbursts, and suicidal ideation. He did not receive any medical or mental health treatment for these symptoms.

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Solitary Confinement in U.S. Prison

The type of isolation endured by Chip and Brent is classified as cruel, inhumane, and degrading treatment, often rising to the level of torture, by the United Nation's former Special Rapporteur on Torture, Juan E. Méndez. Because prolonged isolation is shown to cause permanent psychological and neurological damage, Méndez recommended a ban on the use of solitary confinement beyond 15 days. He also called for a total ban on solitary for children, people with mental illness, and other vulnerable individuals.[7]

Ironically, solitary confinement was first introduced in the United States by a Quaker group in the late 1770s in an effort to improve overcrowded prison conditions and encourage reflection and rehabilitation. A number of U.S. prisons briefly experimented with solitary confinement in the early 1800s including Auburn Prison in Upstate New York and Eastern State Penitentiary in Philadelphia. However, the prisons soon discovered that prolonged isolation led to mental breakdown and suicide, and in 1890, the Supreme Court acknowledged that solitary confinement had devastating psychological effects on inmates.[8] By the early 1900s, extreme isolation had fallen out of favor in American jails and prisons.[9]

Solitary confinement reemerged on October 22, 1983, when two corrections officers were killed in unrelated attacks by men incarcerated at United States Penitentiary (USP) in Marion, Ill., a federal prison. The warden declared a state of emergency and placed USP Marion on lockdown status.

Although the perpetrators were identified, USP Marion never lifted its lockdown status. For the next 23 years, until the facility was downgraded to medium-security in 2006, all prisoners were confined to their cells for 23 hours a day.

Many states followed suit, devoting entire facilities to extreme isolation. This trend coincided with a drastic rise in incarceration, as the U.S. prison population increased by more than 700 percent in 40 years (from roughly 204,000 in 1973 to 909,000 in 1993[10] to more than 1.5 million in 2013[11]. By 1991, 36 states had modeled facilities after USP Marion[12], and by 2006, there were supermax facilities in at least 44 states, housing approximately 25,000 prisoners—including 430 in Nevada.[13]

Today, the use of solitary confinement is widespread across the United States. Shortcomings in data gathering, differing state policies, various definitions of solitary confinement, and secrecy among departments of correction make precise numbers notoriously difficult. The most recent count, a November 2016 report from the Association of State Correctional Administrators and the Arthur Liman Public Interest Program covering 45 state prisons systems and the federal Bureau of Prisons, found that 67,442 people were held in cells for 22 hours or more for 15 continuous days or more in the fall of 2015.[14] The total number of individuals held in solitary on any given day in all U.S. prisons, jails, juvenile facilities, and immigrant detention centers likely exceeds 100,000.

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The Effects of Solitary Confinement

Unlike prison sentences, time in solitary confinement is not doled out by judges or juries in a court of law. Instead, prisoners are classified or sent to solitary confinement by prison officials, with little regulation or oversight. In this way, solitary confinement functions as a hidden prison within a prison.

Nor is solitary reserved as a last resort for the "worst of the worst." People can be placed in solitary for charges as small as possessing contraband, drug use, swearing, or having a gang tattoo.

While the reasons for employing solitary may often be arbitrary or minor, its effects are not. As outlined in a 2014 ACLU briefing paper:

> Research shows that some of the clinical impacts of isolation can be similar to those of physical torture. People subjected to solitary confinement exhibit a variety of negative physiological and psychological reactions, including hypersensitivity to stimuli; perceptual distortions and hallucinations; increased anxiety and nervousness; revenge fantasies; rage, and irrational anger; fears of persecution; lack of impulse control; severe and chronic depression; appetite loss and weight loss; heart palpitations; withdrawal; blunting of affect and apathy; talking to oneself; headaches; problems sleeping; confusing thought processes; nightmares; dizziness; self-mutilation; and lower levels of brain function, including a decline in EEG activity after only seven days in solitary confinement.[15]

Solitary confinement is not only a human rights issue but a public safety issue as well. Solitary confinement is associated with higher recidivism rates, especially when individuals are released directly from solitary into the community.[16] Preliminary data also suggests reducing the use of solitary actually decreases, rather than increases, the incidence of prisoner-on-prisoner and prisoner-on-staff violence.[17]

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The Movement Against Solitary Confinement

Over the past five years, movements have grown at the local, state, and national levels, advocating for the limitation or abolition of long-term solitary confinement. Human rights and criminal justice reform organizations—as well as figures as varied as President Barack Obama, Supreme Court Justice Anthony Kennedy, and Pope Francis—have called for limits on the use of solitary confinement, citing both humanitarian and public safety concerns.[18]

In response to legislation, litigation, or visionary new leadership, a number of states and the federal government have taken steps to reduce their reliance on solitary. Mississippi, Maine, and Ohio were among the first states to dramatically reduce their solitary populations. Colorado reduced the number of people held in solitary from 1,500 to 160, and is considered a leader in solitary reform, as is Washington State, which has developed innovative programs to reintegrate incarcerated individuals back into the general population.[19] As time goes on, more and more state and local departments of corrections are looking for new models and best practices as alternatives to prison isolation.[20]

PART II: SOLITARY CONFINEMENT IN NEVADA

Untracked and Unregulated Solitary in Nevada

In 2015, there were 12,769 prisoners in the state of Nevada[21] housed in eight correctional facilities and ten conservation camps. The state's designated maximum-security facility, Ely State Prison (ESP), which opened in 1986, has the capacity to incarcerate 1,183 people and houses the state's death row.

Measuring the extent of solitary confinement is always difficult, but particularly so in Nevada. The state has no statutes on its books that define, regulate, or limit segregation, isolation, or solitary confinement in adult facilities.[22] Meanwhile, the Nevada Department of Corrections (NDOC) uses a variety of terms and classifications, such as "administrative segregation" and "disciplinary detention," and does not keep records on which prisoners are assigned to disciplinary segregation and for how long.

In senate hearings for Nevada's 2013 solitary reform bill (SB 107), E.K. McDaniel, then-Deputy Director of NDOC Operations, stated that "I have been with the [department] for 20 years, and there are inmates who have been placed in administrative segregation for that same length of time."[23]

That bill severely limited the use of corrective room restrictions in juvenile facilities and tasked the Nevada state legislature with putting together a study on the state's use of solitary confinement, but the Department of Corrections was unable to provide a substantial portion of the requested information due to their internal tracking systems and reporting mechanisms.[24]

The aforementioned 2016 report from the Association of State Correctional Administrators and the Liman Program is one of the most comprehensive reports to date on the use of the solitary confinement in U.S. states, territories, and the federal system. However, Nevada is one of just four states excluded from most of the report. According to the authors, "Nevada provided numbers of people who spent various periods of time in restricted housing, but we did not report these numbers due to inconsistencies in the information provided."[25]

Additionally, in that report, Nevada was:

- 1 of 17 jurisdictions that stated that they "do not regularly track information on length of stay" in segregation.
- 1 of 9 jurisdictions that "provided no data about prisoners with 'serious mental illness' in both their total custodial population and their restricted housing population."
- 1 of 18 jurisdictions that "did not provide information about the number of prisoners in-cell for 16-19 or for 20-21 hours."

The ACLU of Nevada (ACLUNV) and Solitary Watch received a similar lack of specifics from the NDOC in response to our 2016 public record request for information on the use of solitary confinement in Nevada. We were told by the NDOC that: "We do not have 'solitary confinement,' 'isolation,' or any type of segregation that sequesters an inmate from others. All have the ability to communicate with staff and/or other inmates."[26]

NDOC clarified that some prisoners are on "Disciplinary Segregated status." In that instance: the inmate is lacking the luxuries such as access to all their purchased items (hygiene is still provided) and entertainment items such as their television. The amount of time out of cell is monitored depending on the facility, the situation and the inmate themselves. They are offered a MINIMUM of an hour out of their cell each day, and all still have access to showers, the outside, the telephone, visits with family, reading materials, etc., and in some cases, even a cell mate.[27]

Furthermore, the NDOC told us that: "We have no ability to go back and figure out how many inmates were segregated at a given time. Our computer system only shows where a person is housed, but not why they are housed there."[28]

In February 2016, the Reno Gazette-Journal reported that there were 1,442 state prisoners in restrictive housing in Nevada, about 11 percent of the state's 13,278 prisoners.[29] It is important to remember that this number came from the NDOC, which has repeatedly acknowledged its own inability to track segregation.

However, if 11 percent of Nevada's prisoners are confined to restrictive housing, that rate is higher than in most of the country: Across all jurisdictions, the median percentage of the prison population held in restricted housing is 5.1 percent, according to the Association of State Correctional Administrators' report. An 11 percent rate would put Nevada at the same level as Nebraska, and higher than all reported jurisdictions except for Louisiana, Utah, and the Virgin Islands.[30]

Reform Movement in Nevada

Despite the NDOC claim that Nevada has no "'solitary confinement,' 'isolation,' or any type of segregation that sequesters an inmate from others,"[31] it is clear that solitary confinement does in fact exist in the state—and there is a growing reform movement to combat it. Thanks to this movement, the 2013 Nevada state legislature passed its solitary confinement reform bill, SB 107, which limited juvenile segregation and ordered a legislative study of solitary confinement.[32]

Unfortunately, SB 107 was weakened from its original state. As introduced, the bill would have regulated the use of solitary confinement for adults, limiting its use to cases where prisoners present a serious and immediate risk of harm to themselves, others, or the security of the facility —and only after all other less-restrictive options had been exhausted. It would have further stipulated that solitary confinement cannot be used for punishment, can last only as long as the minimum time required to address the safety risk, and must end if the mental or physical health of the prisoner is compromised.[33]

However, the amended version that was signed into law replaced the above provisions with standards strictly limiting the segregation of juveniles, not all adults. While SB 107 was still a positive step in the fight against solitary confinement—children are particularly susceptible to the negative effects of solitary—it left many adults in segregation. The bill also required a legislative study on the use of solitary confinement in the state; however, NDOC's internal tracking system was unable to supply all of the requested information.[34] This series of events is what led us to go directly to the prisoners themselves to tell their stories.

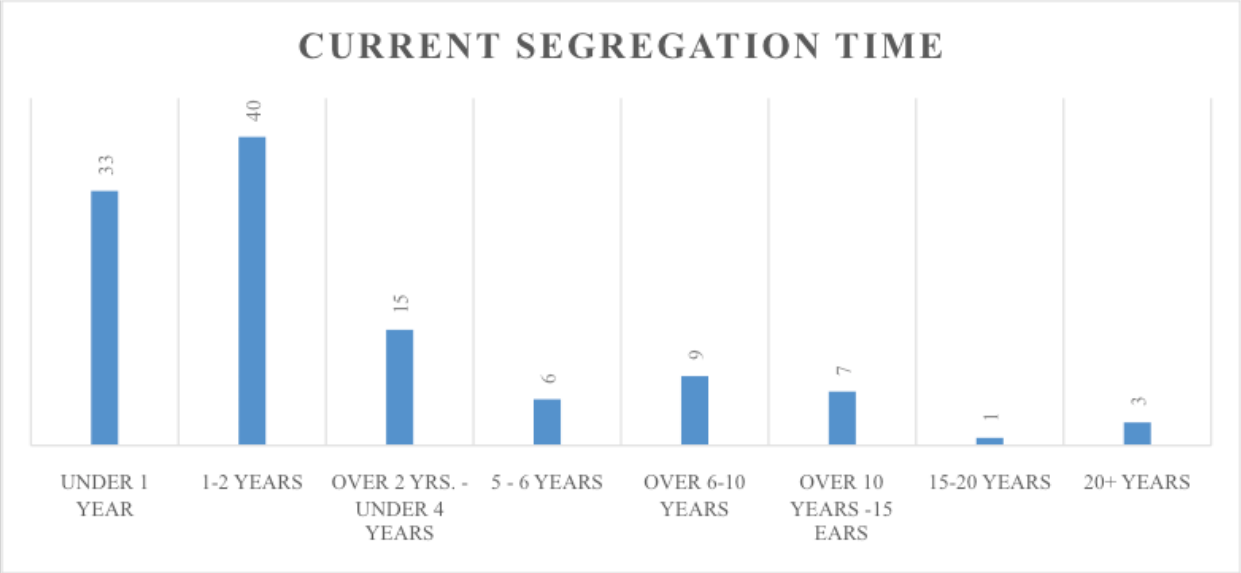
In late 2016 under new leadership, NDOC began to show an increased willingness to reconsider how—and how much—it utilizes solitary confinement. As the year ended, it was announced that Nevada had applied for, and been chosen to participate in, the Vera Institute of Justice's Safe Alternatives to Segregation Project. Over the coming two years, experts from Vera will study Nevada's use of solitary and make recommendations for change based on best practices and on successful reforms in other states.[35]

We are hopeful that this report and the collaboration between the Vera Institute and NDOC will lead to the end of solitary confinement in Nevada.

PART III: GETTING LOCKED DOWN IN NEVADA

We received completed surveys from 281 people housed in Ely State Prison (ESP), High Desert State Prison (HDSP), Northern Nevada Correctional Center (NNCC), and Lovelock Correctional Center (LCC).

Over half (55 percent) of survey respondents indicated they were currently segregated, and 93 percent were either currently segregated or had been in the past. Since we targeted people who we believed were likely to be in segregation, our results do not imply that 55 percent of prisoners in Nevada are segregated. However, the testimonies of these men and women certainly contradict the Nevada Department of Corrections (NDOC) claim that the state does not use solitary confinement.
On average, respondents currently in segregation reported they had been there for 2.6 years. The duration of their current segregation ranged from one month to 25 years.



Nearly half of respondents (47.7 percent) reported they had been placed in segregation three or more times over the course of their incarceration, and an additional 21 percent had been in segregation twice. Most (93 percent) said they had been or currently were in segregation.

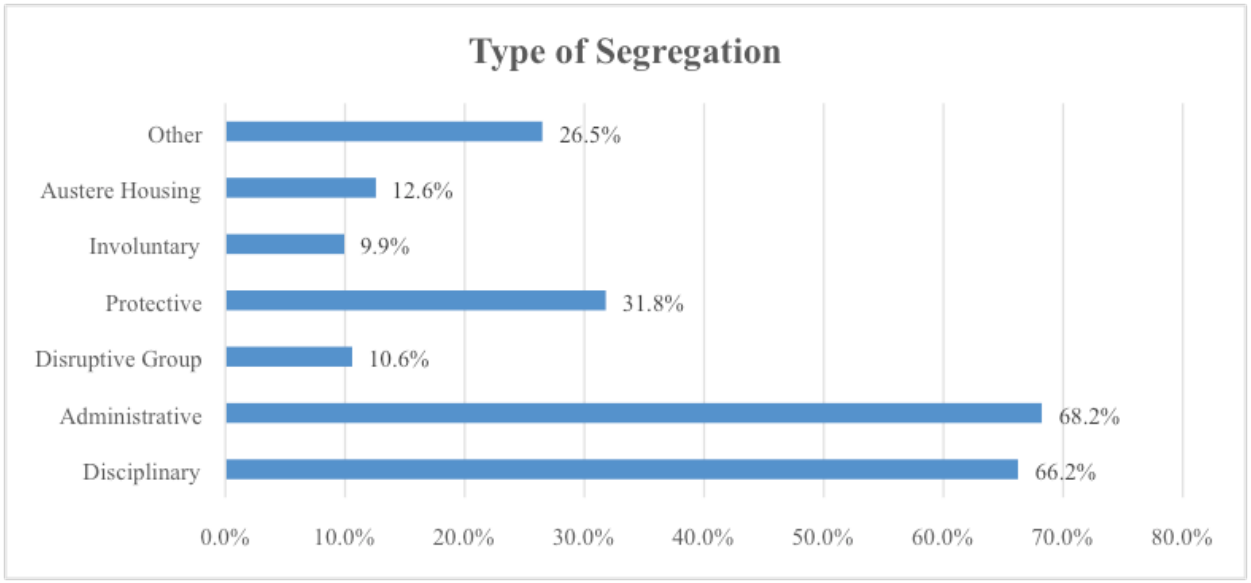
Placement in Solitary

NDOC denies the existence of "segregated housing units" but states that inmates may be placed in segregation, away from the general population for a number of reasons, three of which are provided for under NDOC Administrative Regulations. Per NDOC regulations, one is "placed in administrative segregation to protect the safety of the inmate, other persons, the institution or community or to conduct investigations into violent misconduct" and for other non-disciplinary purposes. [36]

One is placed in disciplinary segregation "only [after] be[ing] assessed through the disciplinary process."[37] Individuals in disciplinary segregation are restricted in their ability to access certain items, receive family visits, make phone calls, and receive special packages.[38] The department places individuals in protective segregation "to ensure their physical safety and well-being or for institutional security" and is voluntary or involuntary.[39]

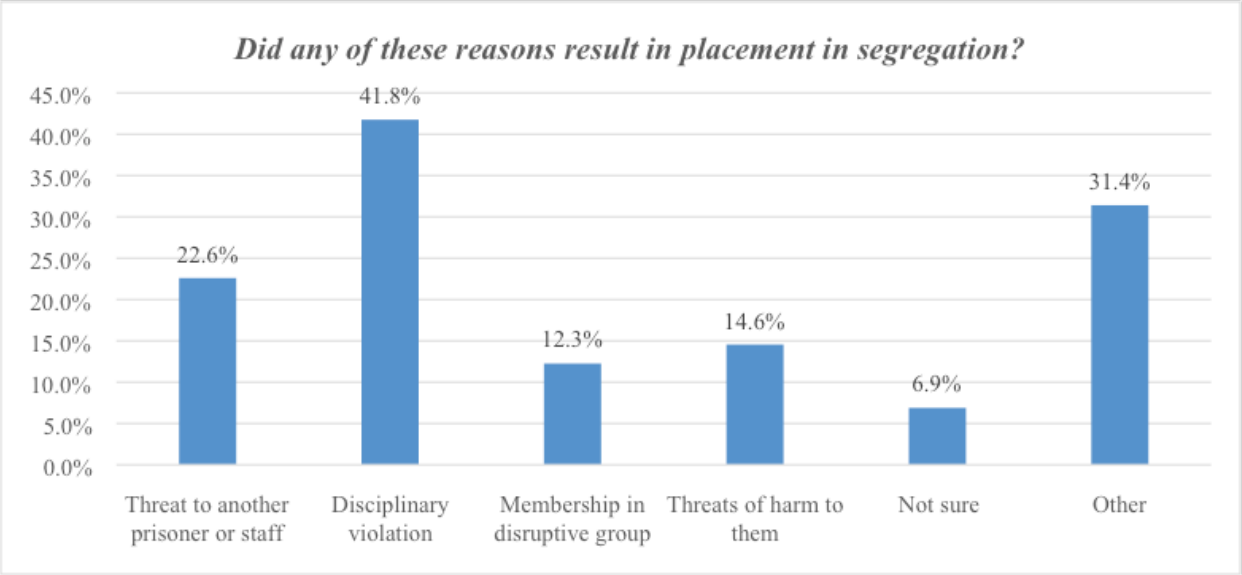
In their public records request response, NDOC noted that they "do have protective custody wings at a few facilities" and that there are "medical reasons such as communicable diseases that warrant temporary segregation until treatment is completed." They also have mental health units to provide more care for individuals with acute mental illnesses.[40]

The majority of respondents reported that their segregation was administrative (68.2 percent) or disciplinary (66.2 percent). Other reported types of segregation were protective segregation (31.8 percent), austere housing (12.6 percent), disruptive group segregation (10.6 percent), and involuntary segregation (9.9 percent).



The most common level of custody for people in segregation was maximum custody (45 percent), followed by 34 percent in close custody. Although 9 percent indicated being in both maximum and close custody, 1 percent indicated maximum and another type of custody and 11 percent indicated another type of custody altogether.

Over 41 percent of respondents in segregation were there as a result of a disciplinary violation. Other reasons included threats to another prisoner or staff (22.6 percent), threats of harm from others (14.6 percent), and membership in a disruptive group (12.3 percent).



Since Nevada law does not regulate the use of segregation, isolation, or solitary confinement[41], there is not a set list of rule violations that can lead to placement in solitary confinement.
Many survey respondents reported that correctional officers place people in segregation as retaliation.

"NDOC requires that inmates 'verbally' attempt to resolve issues with the staff members," Dan wrote. "As a result, myself and other inmates have been placed in ad-seg in retaliation for complying in making verbal complaints. LCC [Lovelock Correctional Center]'s go-to charge is 'inciting a disturbance/riot'—even in peaceful, one-on-one complaints." He added that prison officials will put a prisoner in administrative segregation for "retaliation and punishment," and then claim he was a "threat to the safety and security of the institution." However, "this threat is never explained so as to mount a defense."

Owen wrote, "I was filing a lawsuit against an officer and asked my caseworker for the correctional officer's first name. That is why they put me in the hole/ad seg." He said he was later told his segregation had been a mistake.

Isaac said he was placed in segregation after he "was accused of selling my medication, by an officer that was upset because I filed a grievance on him. I won my disciplinary appeal, but still did the whole time."

Eric wrote that he was once placed in segregation "in retaliation for a class action lawsuit filed by the ACLU. I was a class representative. As a result of that time in segregation I gave up any and all attempts to reform this prison system through litigation."

"Drugs or contraband were never found on my person, my cell, or in my system, but that is what I was found guilty of and sentenced to 30 months in the hole at this maximum security prison [Ely]," wrote Dominic.

Multiple people wrote that they were placed in segregation for fighting, when they had actually acted in self-defense. Ian wrote that his placement in segregation was a result of self-defense. "There was a riot a week or two earlier, and I believe the harsh nature of my sentence was a (tough on convicts) response to the riot." Wilbert said he ended up in solitary for defending himself when another prisoner tried to rape him.

Mark wrote that "they came and talked to my celly and took me to the hole and never told me why… I was there for almost four months with no write up." Chris wrote that she was placed in segregation because she is a transgender woman in a men's prison. Dylan wrote that he is in segregation because of the nature of his crime.

NDOC statutes require any prisoner who is HIV positive and "engages in behavior that increases the risk of transmitting the virus such as battery, sexual activity, or illegal intravenous injection of a controlled substance or a dangerous drug" to be segregated from all HIV negative prisoners.[42]

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Hearings

According to the American Bar Association Treatment of Prisoners Standards, prisoners should receive a hearing to review their assignment to segregation within three days of placement.[43]

However, 40.2 percent of Nevada respondents who had been assigned to segregation said they never received a hearing to review that placement. Of those who did receive a hearing, 27.6 percent said it came more than 30 days after their initial placement. Just 9 percent of those who received hearings said they occurred within two days.

Even when hearings did occur, 61 percent rated the hearing quality as poor and just 6 percent found the quality of hearings to be good.

"The hearings I've had were always poor because it's never fair," wrote Chip. "We, the prisoners, can be accused of just about anything and be found guilty of it. The corrections officers (c/o) are all on the same team and will not go against another c/o for a prisoner at all."

Derek said he was placed in segregation because "someone had written statements which were false to get me out of the cell with them…The hearing was unfair…because I was found guilty without my side of the story being taken into consideration."

"Nothing is discussed in these hearings, only cookie cutter responses from staff are given, and staff never knows any details of the incident in question," wrote Mike.

Following their hearings, 24 percent indicated that they never received a written reason for the decision of the hearing and 28 percent indicated that they have sometimes—but not always—received a written reason.

Getting Out of Solitary Confinement

The NDOC told the ACLUNV and Solitary Watch that "the file of every inmate in segregated status is reviewed every 30 to 90 days. If they can be placed in less restrictive housing, they will be." If this is accurate, then one respondent, who reported he has been in solitary for 25 years, would have been determined unfit for general population during at least 100 reviews.

"There's no real contact or opportunity to be heard at most classification 'reviews' by people who end up signing decisions," wrote Kevin. "Caseworkers just breeze by cell door as fast as possible every 30 days."

Frank wrote that he has been trying to get out of solitary for years. "It's been a year since I asked and they keep slow-playing. I haven't had any writeups for two years and four months, my points are low (4), and nothing. I feel helpless."

Close to 40 percent of respondents believe that when they are eventually released from solitary into the general prison population, they will not receive any counseling. Brent wrote that returning to general population feels "like a culture shock. I go through anxiety attacks and feel uncomfortable around others. I feel like I'm wearing a target on my back."

"If I ever go back to general population, I think it will be hard to live with someone and be around other inmates after being locked in a room by yourself for a long time," wrote Javier. Javier is worried that his future release from solitary confinement "poses an unfair strain on the other people" since he is "very much nervous, jumpy for long times like an animal that has been beaten/abused too long."

Two-thirds of respondents believe they will be released from segregation directly onto the street, and 75 percent knew of another prisoner who was released directly from segregation back to the street.

Jesse wrote that being released from segregation to the street is "a scary thing. I worry if I'll be able to find a job or a place to live…If I and others can't get the help we need in here then we're doomed to repeat our mistakes and continue to come back again and again. This is the real crime here in Nevada."

Wilbert is worried about being sent "home, with no medication, dr. appointment, prison money, or help." He said he is, "scarred, sick, old, and afraid. My family is old but will try to help. I want retribution. They can't take back what they did to me."

Respondents were asked if their placement in disciplinary segregation has ever been discussed at a parole hearing. Of the 85 people who responded that yes, their segregation status had been discussed at a parole hearing, 75 believed it affected the outcome of the hearing.

General Population at Ely State Prison: Segregation By Another Name

Some respondents reported that at Ely State, general population is de facto solitary confinement.

"What they call general population here at ESP really isn't general population," wrote Justin. "You're still locked in a cell all day but you have a cellmate. With the issues I'm dealing with right now I'd rather live alone."

"I am in a double cell in a unit which is classified as 'General Population' but in reality we are locked down 24/7 except for approx. one hour of exercise a day," wrote Eric. "Handcuffs are used at all times when taken to the shower, taken to see medical staff, and when taken to the yard or outside the unit…My annual medical examination is always conducted with me being in handcuffs."

Eric wrote that "it was originally a single cell but it was converted to a two-man cell in 2006. My cellmate and I try to keep different schedules. One of us sleeps during the day, the other sleeps at night.…It is approximately 6 ft wide and 15 ft long."

In January, 2014, a prisoner named Manuel wrote a memorandum and affidavit, stating that "all inmates housed at Ely State Prison who are classified as General Population Inmates are confined to our cells for a minimum of 23 hours a day, every day."[44] He added that all prisoners classified as General Population are double bunked and anyone who refuses to be double bunked "are threatened with being housed in a segregation unit."[45]

He further stated that those in general population at ESP "are not allowed personal access to the gym, nor the main yard, nor the legal library, nor the education building, ever," and that they "are not allowed outside of our own cells, except for 45 minutes a day, approximately 5 days a week, for physical exercise, in a very small enclosed pin-area, by ourselves or with our cellmate only."

He said the only difference between general population and segregation is that those in segregation are housed alone in single occupancy cells, are not allowed to order food from commissary, and wear orange jumpsuits.

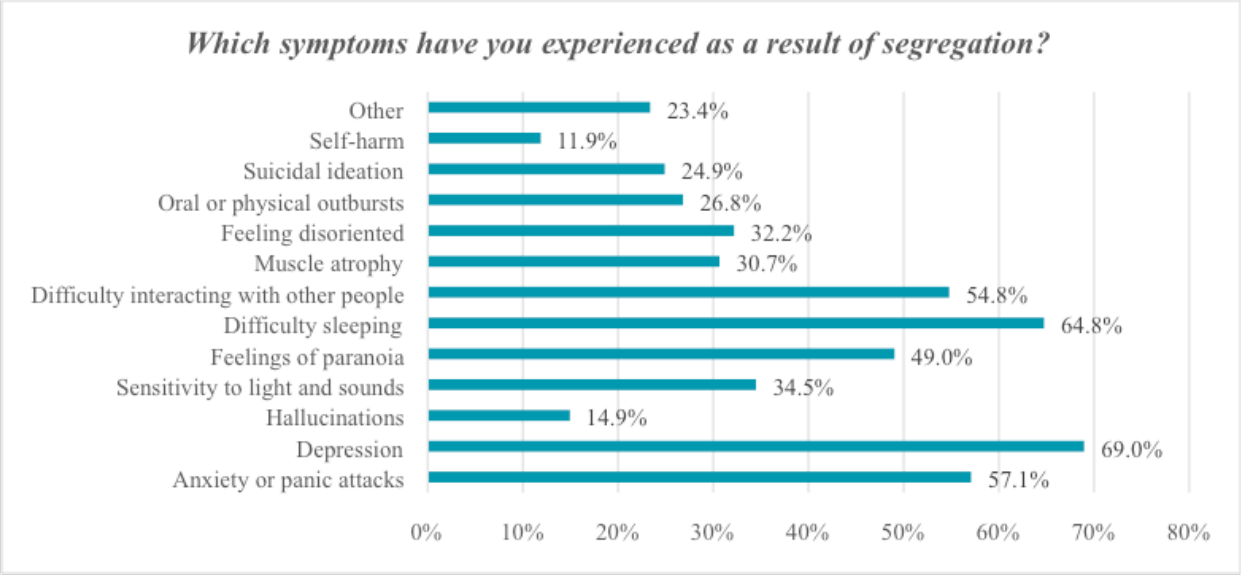
Winn wrote that there are "usually around 1,000 people housed at Ely, with 400 classified as general population and 400 classified as "segregation inmates, disciplinary segregation, administrative segregation, and protective custody segregation." He said another 70 prisoners are classified as Workers and allowed to work at E.S.P. These 70 are the only prisoners with access to the legal library, gym, and main yard.

PART IV: LIFE IN SOLITARY CONFINEMENT IN NEVADA

Experience in Segregation

Many respondents indicated that while in segregation, they experienced depression (69 percent), difficulty sleeping (64.8 percent), anxiety or panic attacks (57.1 percent), and feelings of paranoia (49 percent). Over a third reported having sensitivity to light and sounds (34.5 percent), feeling disoriented (32.2 percent), and muscle atrophy (30.7 percent).

Thirty-three percent reported that they received treatment for these symptoms.



Absence of Mental Stimulation

Many people reported that their days in segregation are empty of meaningful activity. Wilbert reported that his daily schedule was "sleep, pace, scream, ward off the voices, shower if I could but often they wouldn't let me." Monica said her days in isolation consist of "Nothing… Counting the bricks in the cell. Sleeping. Sometimes exercise." She said her cell "feels like what a dog must feel like in a kennel. Hopeless."

"I slept and then I would work out and pray and go back to sleep," wrote Isaac, and Derek wrote that his schedule was "Sit there. Stare at the walls. Wish I was dead."

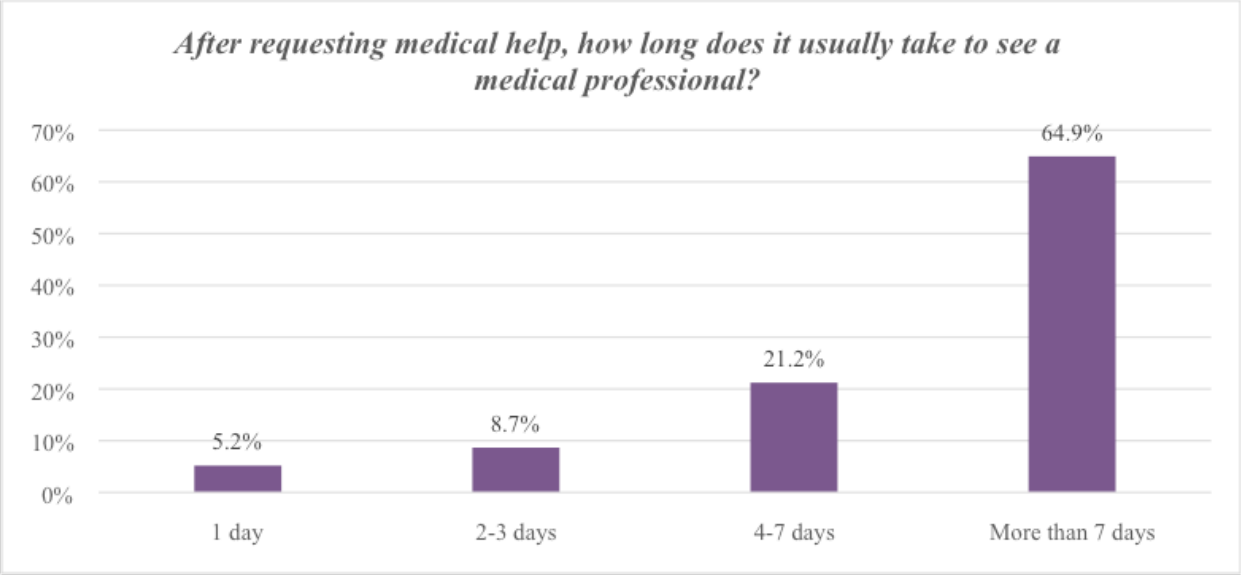
Denial of Medical Care

Most of respondents (60.2 percent) indicated that they suffer from serious and/or chronic health problems and most reported experiencing physical or psychological symptoms because of segregation.

However, 41 percent of respondents said a medical professional comes to see them less than once a month in segregation. If they request to see a medical professional, 64.9 percent reported that it usually takes more than seven days before they see help. One-third (31 percent) indicated that they often experienced problems getting medications or medical help and over one-third (36.8 percent) indicated they sometimes experienced problems.

"When you lay down for months in cell you develop back, neck, leg, and eye problems," wrote Jay, "and the nurse will tell you to walk around your cell and deal with it." "Sometimes I would complain of eye problems and breathing problems and I was never seen until 1-2 months," wrote Isaac."

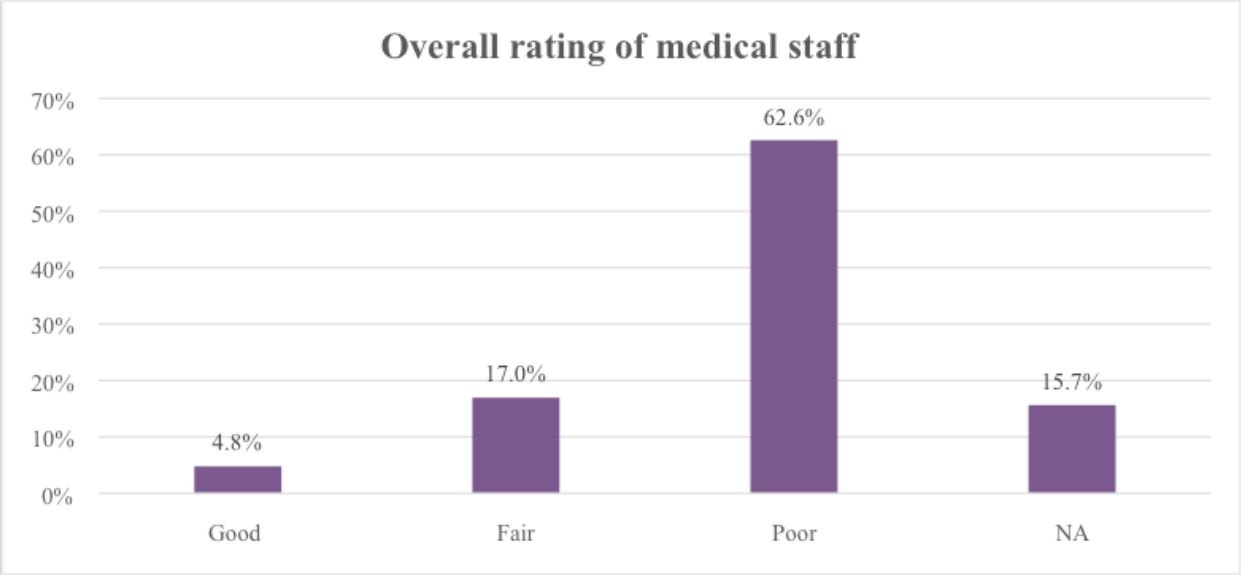
"Dental care took months to get. Colds and flu were never treated," wrote Malik. "Have wax blocking an ear? Better hope it clears up on its own. Delays in care were always months."



Most rated medical staff as overall poor (62.6 percent), and just 4.8 percent rate the medical staff as overall good.

Carmen wrote that she is not allowed to buy ibuprofen or aspirin for menstrual cramps or headaches. "So I have to go to sick call to pay $8.00 to get ibuprofen."

"The anxiety, occasional depression, sensitivity to lights, difficulty sleeping: These are all things that I can deal with on my own," wrote Ian. "But the lack of medical attention, just to save money scares me…Some time ago there was a doctor here who told all the inmates he'd see that they had to submit to a mandatory prostate exam in order to receive medical attention. Needless to say, some people said no to the prostate exam, and as a result the 'Dr.' said that they were refusing medical attention, and kicked them out."



Monica wrote that accessing care is difficult because "the staff say only on your scheduled day 1x a week or call a 'man down' which costs over $100." She said when you do meet with medical staff, "the average visit is 5 min and you can only speak about one issue. For multiple issues you must return and get charged $8.00 each time."

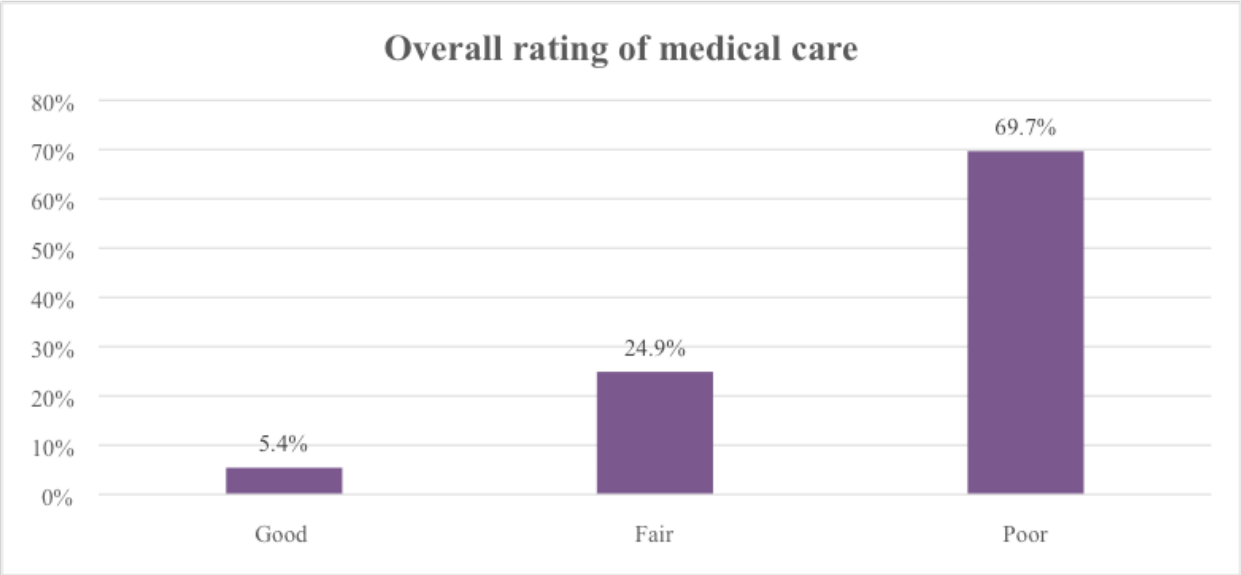
Alex wrote that the medical care is good but "the problem is getting the c/os to contact medical staff when it's necessary. Sometimes the only way to get medical attention is to call a man down. I witnessed a man die at N.N.C.C. because the staff refused to call nursing staff."

Another major complaint about the medical staff is that the vast majority (80.5 percent) said interactions with medical staff are not confidential; instead, a corrections officer or other prison official is always in the room when they meet with a doctor, PA, or NP.

"Every instant wherein I have had conversations with medical staff, there is an unprofessional correctional staff standing right there," wrote Manuel. "They talk to you outside your cell where everyone around you can hear," wrote Mark. Adam reported that there was even an officer present during his prostate exam.

Some reported c/os and medical staff openly discuss prisoners' health issues. "Nurses and doctors are very friendly with the officers," wrote Chip. "I've witnessed [them] have conversations with each other about other prisoners' medical/mental health issues, how they disliked certain prisoners who made medical complains, and they have talked about my medical issues right in front of DOC officers!"

Nearly 70 percent of respondents indicated that on the whole the quality of medical care is poor.



Inadequacy of Mental Health Services

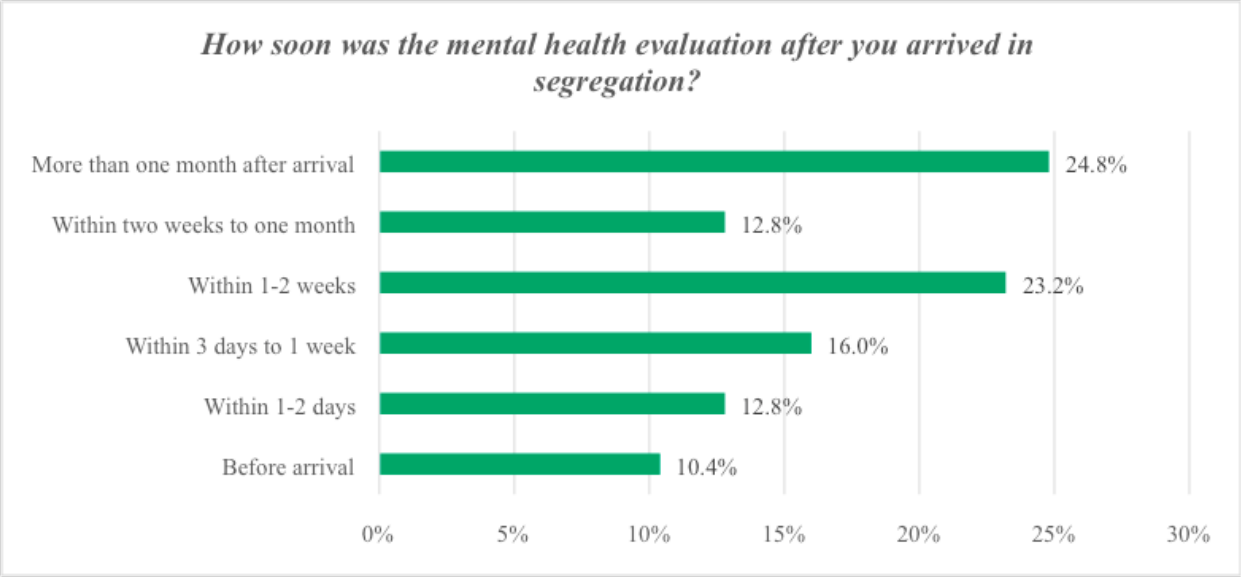
People with mental illness are disproportionately likely to be locked down in segregation.[46] Its use can result in twice the negative outcomes: Those with preexisting mental health issues may exhibit behaviors that get them sent to segregation, while extreme isolation can exacerbate existing mental health issues or even bring them out in people who never exhibited them before.

One-third of respondents (31.1 percent) reported that they had been diagnosed with a mental health illness, 19.4 percent with a traumatic brain injury, and 11 percent with mental retardation or autism. Forty percent reported that they have trouble talking, remembering, learning, or thinking.

Specifically, the most common mental health diagnosis was major depressive disorder (21.5 percent) followed by bipolar disorder (manic depression) (17.7 percent). Smaller percentages reported diagnoses of Post-Traumatic Stress Disorder (13.5 percent), schizophrenia (10 percent), traumatic brain injury (4.6 percent), or mental retardation (2.7 percent).

The majority of those who received mental health care while in segregation (57.6 percent) rated the overall quality as poor.

Almost half of respondents (49.2 percent) indicated that they did not receive an in-person evaluation of their mental health when placed in segregation (another 20.2 percent were not sure if they received one). Of those who did receive mental health evaluations, one-quarter received the evaluation more than one month after their arrival in segregation and 23.2 percent received one within 1 to 2 weeks.



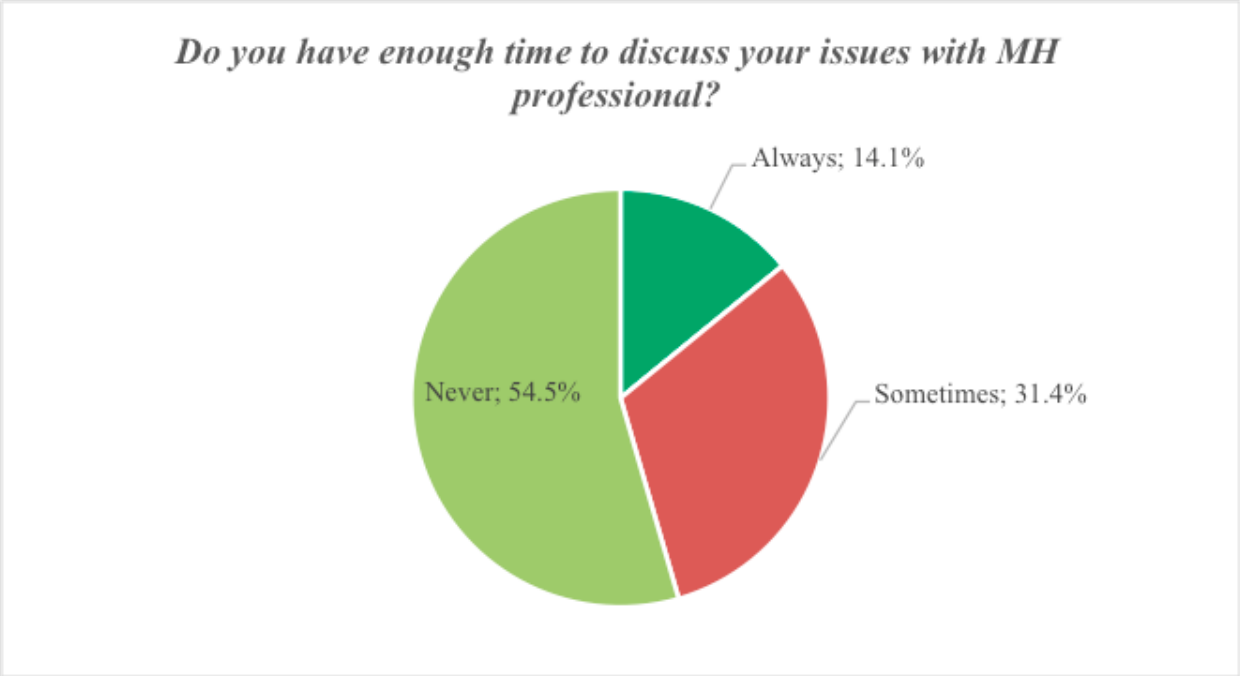
Over half of respondents who had evaluations reported that their evaluation was conducted through the cell door (55 percent) and 29.7 percent were taken to another room.

More than half of respondents (55.8 percent) had never been on a mental health caseload in their current prison, and 22.5 percent were currently on the caseload. Visits with mental health professionals are rare both inside and outside of solitary. The median number of visits by a mental health professional was zero times per month, both prior to and during segregation.

Maria wrote, "I was not given counseling that I needed to process through my delusions… No one would talk to me so my delusions and paranoia got worse. My depression worsened as well… Alls I needed was someone to listen to me and explain some things to me in response and it would have limited the extent of my delusions."

Even when they do meet with a mental health professional, over half of respondents (54.5 percent) reported that they never have enough time to discuss their issues, and 14.1 percent said they always have enough time. Of the 17 people who responded to a question about the length of their sessions with a mental health professional, the average reported length was 9 minutes with a median of just one minute.

Kevin wrote that he receives "very poor, almost non-existent counseling with psychologist or 'telemed' psychiatrist," which he described as "a pathetic, once every 90 days skype interview for only minutes."



As with their medical visits, most of respondents (51 percent) indicated that they did not feel their sessions with a mental health professional were confidential.

Justin wrote that he recently saw a therapist for the first time in the year and two months he had been in the prison. "She came to my cell door and asked how I was doing. The thing is, my neighbors can hear every word I say. That's not confidential. And if they take you into an office an officer has to be there, so you can never talk to someone from mental health one-on-one."

Many people wrote that prison staff often discuss prisoners' medical and mental health cases in public or feed the information to other prisoners. "You hear nurses talking about the women who are housed on med like they are not humans," wrote Stacey. She also wrote that "medical doesn't come in to check on anyone isn segregation. You can be in seg for months, they never check anyone."

Access to Prescription Medication

Twenty-eight percent of respondents reported that they currently take mental health medications and the same percentage reported they took mental health medications before they were imprisoned. The majority (71 percent) of those who currently take medications reported that they are receiving correct medications.

A small percentage (8.6 percent) indicated that they often had their medications checked and a much higher percentage (30.2 percent) indicated that they sometimes had their medications checked. By contrast, 13 percent indicated that they never had their medications checked.

Some respondents (11 percent) reported that they often experience problems getting medications and 7.6 percent reported they sometimes experience problems getting mental health medications.

Justin, who takes medication for depression, wrote that "As long as I take the meds I'm fine. The thing is some of the psychologists and psychiatrists…will use your medications against you which is very unprofessional. I've been taken off of the antidepressants because I basically upset someone with my attitude. That's not right. Medications should never be used as a disciplinary measure."

Mental Deterioration

Nearly half (47 percent) of respondents reported that their mental health condition worsened since being placed in segregation, while 11.3 percent indicated it improved, and 27.9 percent weren't sure.

Kevin listed a variety of symptoms he has developed in segregation, including panic attacks, jumpiness, "a lot of uncontrolled crying and fixation on what would seem petty," nightmares, suicidal thoughts, "reliving past traumas in increasing vivid mental images," "deep chronic mental depression," inability to concentrate, manic behavior, auditory hallucinations, distortions of sounds, paranoia, and hate towards prison staff. He said he has received prescription drugs but "no actual treatment or therapy."

Some respondents reported that segregation had eroded their capacity to interact with others. "I am disconnected and I am permanently scarred inside and grey out," wrote Wilbert. "I went in young and strong, but special needs. I came out old and torn."

Maria wrote, "You lose social skills and values being locked in seg for large amounts of time without counseling and it's hard to readjust to society. I just hope after 20 years [when she is eligible for parole] I can get the right access to resources and help to be able to get set up with a good foundation and support groups in the area. Alls I can do is try my very best to readjust to society."

"My mental health has worsened during my time in segregation," wrote Chip. "I can't stay focused, it's harder for me to express myself to people. I'm easily angered… I don't socialize much anymore because I believe that segregation has damaged my social skills. I don't like to be around too many people, and I don't like to shake people's hands. When people get too close to me I quickly move away. I always feel like I am being watched by the inmates and corrections officers…I'd be very happy to be released back out into society but at the same time sad because I won't know how to interact with other human beings!"

Manuel wrote, "In my humble opinion, I do not believe it is possible for an adult male, locked in a bathroom, housed in that bathroom with another adult male for several hours a day…deniedfresh air for five or six days out of the week, denied exercise of our central tenets of our religious practices (congregational prayer and fellowship with other believers), deprived of personal physical contact with family and friends or any human beings, looked down upon and daily addressed by correctional officers and free-staff as if you are subhuman, for any length of time, without suffering major, multiple, abnormal health problems."

"My mental health has worsened during my time in segregation," wrote Chip. "I can't stay focused, it's harder for me to express myself to people. I'm easily angered… I don't socialize much anymore because I believe that segregation has damaged my social skills. I don't like to be around too many people, and I don't like to shake people's hands. When people get too close to me I quickly move away. I always feel like I am being watched by the inmates and corrections officers…I'd be very happy to be released back out into society but at the same time sad because I won't know how to interact with other human beings!"

Jay wrote that solitary confinement has filled him with hatred. "It's like having an out-of-body experience, because the reality of it is like staying in a bathroom for months that turns into years…The mental impact carries on like a toxic thought that do change my character traits as a human being."

"I've lost plenty of weight. I am hungry each and every day," wrote Phillip. "I have extreme difficulty falling and staying asleep. I work out, meditate, read, etc, but have difficulty being at peace (anxiety). This is a loud and disruptive environment. I feel a sense of post-traumatic stress when I am around other people outside of my cell. Whenever I got outside I have difficulty adjusting to the environment. I feel depressed When I consider where I am at. We are deprived of movement, interaction, programs that will help us assimilate to jobs/economy when released, yard times, food, etc. This isn't right, it's inhumane."

Alex wrote that "People lose their sanity in these cells. We are trapped like circus animals with nothing to feed our minds. People's brains are literally deteriorating. Being caged in the hole makes people angry, violent, and bitter. There is nothing positive about this, all it does is create monsters…The hole makes the rest of prison look appealing and that's sad."

Suicide and Self-Harm

People in solitary confinement are seven times more likely to attempt self-harm than people housed in the general population, based on a study of New York City's jail population.[47]

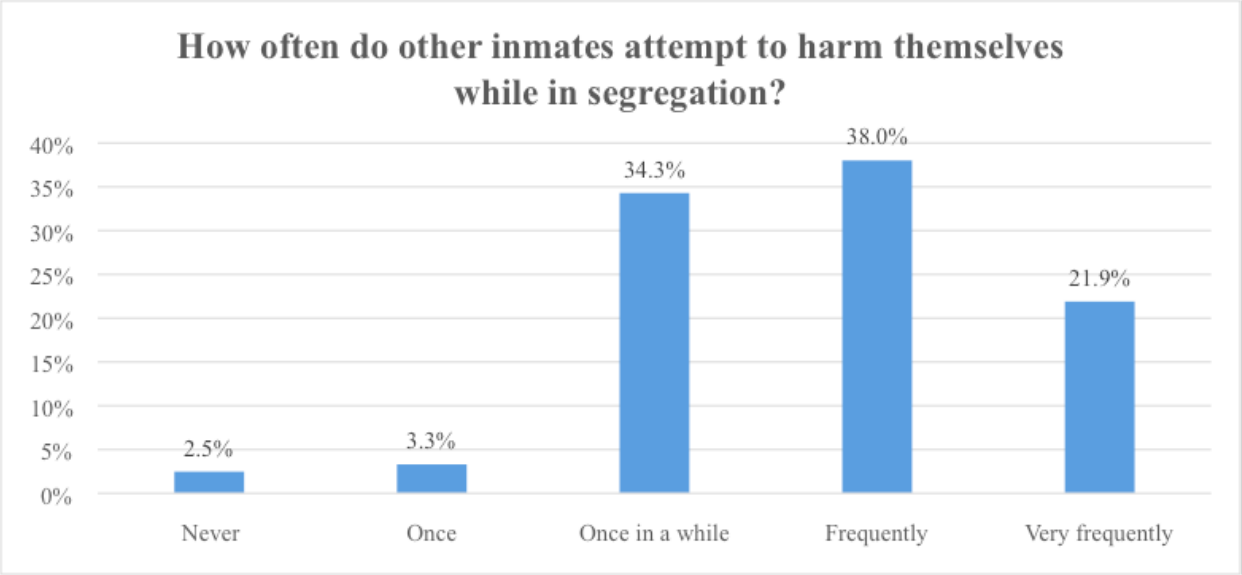
A slightly higher percentage of incarcerated individuals reported engaging in self-harm—such as cutting and head banging—at least once when they were in segregation (9.3 percent) than when they were in the general population (7.1 percent). While in segregation, 7.7 percent attempted suicide.

Most people did not report attempting to harm themselves, but 59.9 percent indicated that other prisoners attempt to harm themselves frequently or very frequently in segregation.

Derek wrote that solitary "made me want to die. I began collecting apple seeds to make poison to kill myself."

Chris, a transgender woman, wrote that she has attempted self-castration and has made 12 suicide attempts in the past three years.

"Overall, segregation is very depressing and lonely for anyone," wrote Stacey. "I myself thought about dying in there because of all my past thoughts and recurring memories. Solitary can have the strongest minded people thinking of suicidal thoughts. The only real conversation I had was with the ants on the floor while feeding them crumbs and droplets of water."



Of those who reported attempting to harm themselves while in segregation, 27.3 percent said that the prison did not respond to their behavior in any way, 22.7 percent received counseling, 19 percent were placed in an observation cell, and 15 percent were punished.

Physical Setup of the Cell

People in solitary in Nevada spend 23 to 24 hours a day in small cells ("four paces by seven paces," according to Frank). Most have some natural light (84 percent), and 78.1 percent said they can see outside of their cell. "I can see another building and a storage bin," wrote Carmen. Dylan wrote that he can see "the institution shooting range and a water tower."

More than 70 percent said that their cell temperature was too hot or too cold, and many complained about the noise level.

"The housing unit is too hot, especially in the summer when the 'air handlers' break down," reported Dylan. "Maintenance is reluctantly informed—if at all—and repairs are purposefully delayed due to the biased attitude of staff toward Protective Segregation inmates."

"There are two people now in my cell, just a little larger than a dog kennel," wrote Greg. "It is very difficult having the toilet in the cell with…hardly any proper ventilation. The a/c unit constantly is breaking down and the temperature is horrific." Dan wrote that he is "forced to run a fan 24 hours a day due to the excess heat and yelling from other prisoners. Inmates bang on desks, walls, windows."

"The inmates are completely bored and yell across the unit to inmates," wrote Malik. "It's extremely loud most times of the day and sometimes into the early hours of the morning (1 am - 3 am)." Dominic wrote that "you hear other inmates yelling all day long constantly, it never stops. People sing, kick doors, and other irritating things that never allow you to relax."

Drew, who has heart diseases, wrote that "I'm constantly startled into afib v-fib where my heart is not beating, by inmates' blood-curdling screams, pounding on steel toilets, vents, kicking doors. Guards at 9:30 pm count kick or pound on the door with the butt of their mag-lite flashlight, scaring the hell out of me."

Tyler wrote that at Warm Springs Correctional Center, "what 'segregation' facilities we have here are five cells in a general population unit, so all the rumor and gossip reach the others and the turn the [segregation] cells into a veritable zoo exhibit."

Half of respondents (49.4 percent) reported that they were not satisfied with the cleanliness of their unit, and many had no access to cleaning supplies.

Alex described segregation cells as "Uninhabitable. Bloodstained walls. Mold, bugs. The building is decrepit. The cells are bare, not as small as most but definitely dirtier. We are not given supplies to properly clean our cells, so we have to use our shower soap and whatever rag we can find.… The plumbing is bad. There have been times when a person on the top tier used the bathroom, 'shit,' and when they flushed, instead of going into the sewage, it backed up into and flooded a bottom tier cell. Some cell windows are cracked or broken, which makes for bad conditions in the winter."

"In my opinion, my cell looks like a dirty bathroom," wrote Chip. "There was scratches all over the cell door, the walls were very dirty, the inside of the toilet was very dirty and smelled bad because it hadn't been clean in what seems like ages, and guards did not give me any cleaning supplies to clean my cell…The toilet sat directly at the foot of my bed, not even two feet away. So I smelled the toilet before I went to sleep and once I woke up."

Isaac wrote that when he was in the hole, "the power went out frequently and the water went out [in his unit] for six days and I had to hold in my bowels. I also had to shit and piss in a plastic bag that was often kept in the room until it was filled. The building…was supposed to be condemned twice already because of black mold and [vermin?]."

"Last February our water was turned off. Only the toilet worked. Reasons unknown," wrote Eric. "This lasted almost two weeks. Then in March and April the cell above us would leak water every time they flushed their toilet. It would drop down through our light fixture and pool on our floor."

"Most [facilities] only give you a couple spoons of ajax on one paper towel, no scrub pad allowed," wrote Brandon.

Fifty-one percent of respondents reported that they are not permitted to wear the same clothing as prisoners in general population, and 70 percent reported that their clothing had been confiscated and replaced with a jumpsuit.

Owen reported that his clothing was confiscated and "I was locked in the hold/ad seg for 10 days with one tee shirt, one underwear, and one pair of socks and that was it. And then told at the end of the 10 days a mistake was made."

Limitations on Programs and Services

The majority of respondents (85.4 percent) reported that they are not satisfied with in-cell programming—largely because there is not much programming available. This is not surprising: Nevada statutes state that education programs are "acts of grace of the State. No offender has a right to participate in such a program."[48]

Just 30.3 percent participate in any in-cell education or other programming—the most common one being a program called Commitment to Change. Many indicated that there are either no programs available for high school graduates, or that there are no programs available at all in their prison facility.

"They're just work books—no participation by psych staff or ed staff," wrote Kevin of his in-cell programming, "Almost have no meaning or much practical application. Psych staff at ELY ESP refuse to allow me to continue counseling and programs I was getting elsewhere not in ad seg."

Some respondents expressed a strong desire and even desperation for programming.

"I really wish…that I could have more access to education," wrote Sean. "My head injury wiped out my memory and I need to relearn a lot…I just feel that I should be given the opportunity to work on my problems. But no, it was, 'just keep him in the hole and he'll go away some day.'" He added, "I would really still like to work on myself so I won't have problems when I finally get out. I would rather try to get some kind of job, but I am scared that will be hard."

Ian also worried about how far behind he will be when he is released. "I have faith in myself," he wrote. "Although, and this is a big one, I've never used the internet. And phones weren't 'smart' 11 years ago. So we'll see."

Jesse wrote that "they have no adult literacy program available for someone like me (I cannot read or write and a friend is helping me to fill this survey out)." Instead, to fill his day, "I occasionally play cards, watch my cellie's tv, and exercise. I would like to program but I can't due to my illiteracy. I have been to school for three years but have learned nothing.

Sixty-five percent indicated they believe that a lack of programming affected their opportunity for early release.

Lack of Religious Materials

Over half of respondents reported that they practiced a religion while in segregation. However, most of those who do practice do not have access to communal worship (80.5 percent) and 78 percent do not have access to what they need for in-cell religious exercise.

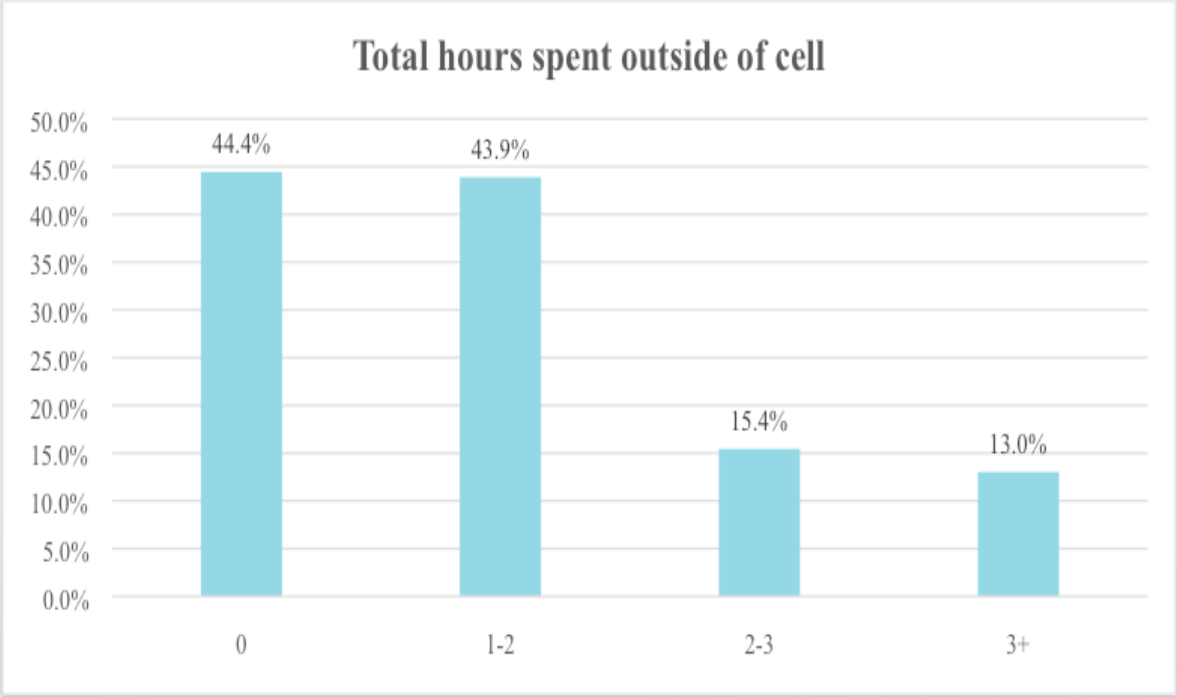
Kevin wrote that he does not have access to challah bread, grape juice, or candles (either fire or electric), even on major holidays, which he called "very depressing" and "very demoralizing."

Manuel wrote that Nevada "does not allow us to receive nor use prayer oils, nor incense. Further, only inmates classified as Level I or Level II can participate in communal/ congregational prayer."

Owen reported that he could not even get a Bible when he was in the hole, and Alex wrote that Bibles are forbidden in disciplinary seg. He said they are allowed in austere housing, but not community worship.

Time Outside of Cell

The psychological effects of segregation are worsened when people are rarely allowed to leave their cells. Close to half of those (44.4 percent) in solitary confinement reported that they did not spend any time outside of their cell. Another 44 percent reported that they spent 1-2 hours per day outside of their cell.



Recreation and Showers

The American Bar Association recommends that "[e]ach prisoner, including those in segregated housing, should be offered the opportunity for at least one hour per day of exercise, in the open air if the weather permits."[49]

However, in Nevada, just 36.4 percent of prisoners indicated that they are taken to recreation every day in segregation, and 16 percent reported they never are taken to recreation.

Nearly half (45.2 percent) of respondents reported that recreation was held outdoors, and 42.1 percent said it was not connected to their cells. Half reported that recreation lasts an average of one hour, and 15 percent reported that it lasts two hours.

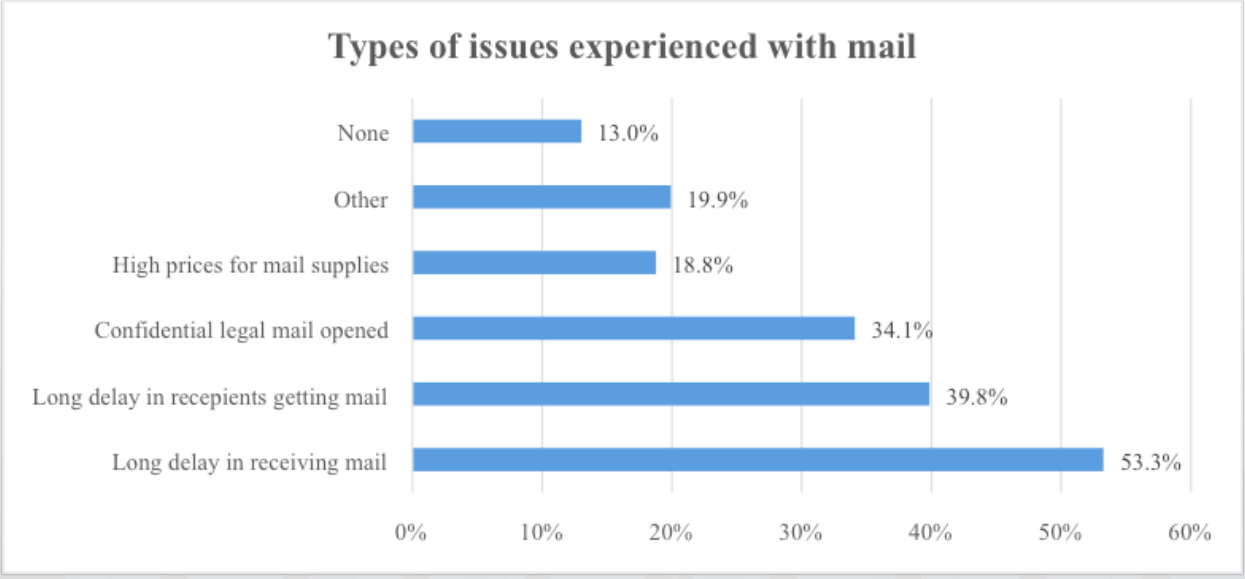
Many respondents reported that they are allowed to shower between one and four times per week (42.1 percent). Just 2.7 percent reported that they are allowed to shower less than once per week.

Many wrote that the showers are rarely or never sanitized. "Other inmates simply sweep up any debris. You have to shower in filthy pools of water," wrote Eric.

Contact With the Outside World

Close to 40 percent of respondents reported dissatisfaction with their access to incoming and outgoing mail while in segregation.

Over half (53.3 percent) experience long delays in incoming mail, and close to 40 percent experience long delays in outgoing mail. One-third (34 percent) indicated that their confidential legal mail had been opened. Many wrote that their mail is frequently delivered to the wrong people.



Nearly half of respondents indicated that they had weekly access to phone calls, while 28 percent could make calls daily and 14.3 percent had monthly access. Eight percent never had access to telephone calls.

Almost half of respondents (48 percent) reported that they are allowed weekly visits. Another 11.3 percent could have monthly visits and 2.7 reported daily access to visitation. Over one-third (38 percent) never have access to visitation.

Carmen wrote that she is allowed to write to her family, have a "no contact visit through glass, one [15 minute] phone call every two days." Neal wrote that "We have a cordless phone. The c/os don't do their jobs and pass the phone like they're supposed to." Frank wrote that "we are supposed to get the phone once a week but that never happens. You get the phone in probably 2-3 weeks, if that. They throw your phone kites away. The phone call is only 15 minutes and you can't call back."

Isaac wrote that while in segregation, "I was on medication and couldn't urinate on demand so my visits were taken for two years."

Access to Books, Radio, Television

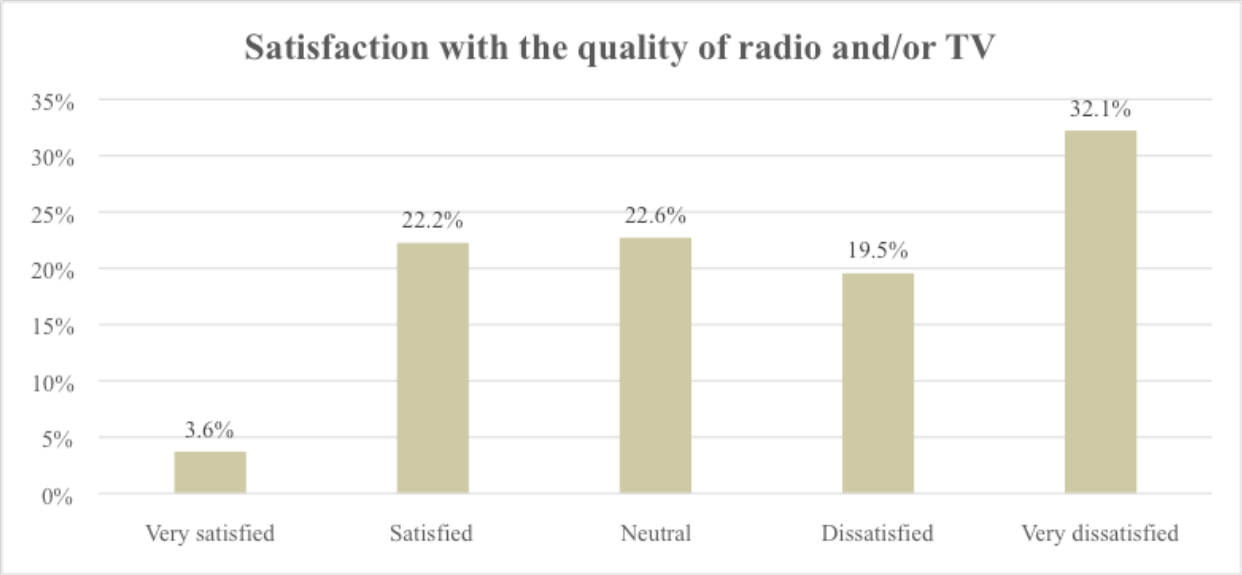
People in segregation are subjected to a severe lack of mental stimulation. More than half of respondents (53.7 percent) indicated that they were not satisfied with access to reading materials. Half of respondents reported that they have access to television, and over 40 percent access to radio (29 percent have access to both). One-third (33.3%) did not have access to either television or radio.

Many reported that in-cell televisions and radios are only available by purchase, so many without families to support them have to do without. "You can get your t.v. after three months of good behavior," wrote Carmen. "Then radio after another three months of good behavior."

Of those with access to radio and/or television, 32 percent indicated they were very dissatisfied with the quality and only 3.6 percent were very satisfied.

Mike wrote that prisoners in seg "only get 'up to' two books per week! Radio only gets one music station."

According to Alex, "In disciplinary segregation you are not allowed to have anything. No books, mags, no tv, commissary, or hygiene items. In austere you can have books, mags, and TV, but no commissary and very limited hygiene supplies." He also reported that people in disciplinary segregation "are only allowed undergarments," while those in austere can wear their normal clothing.



Law Library/ Access to Legal Materials

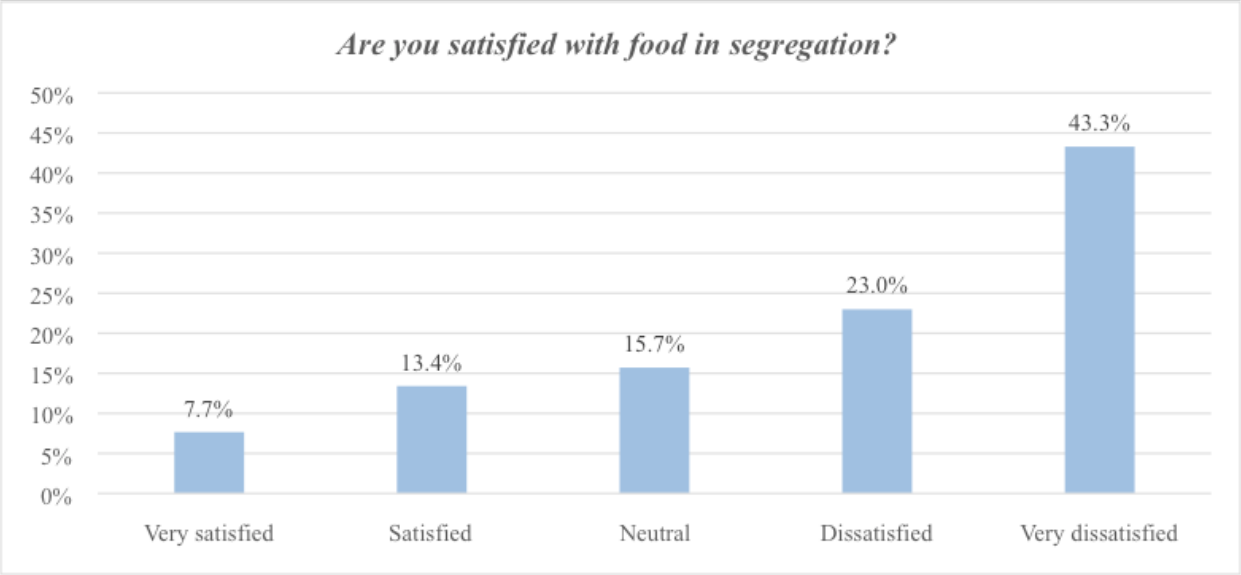
Incarcerated people use law libraries to research legal claims and bring appeals. Almost 40 percent of respondents were very dissatisfied with the law library services and legal materials available in segregation and an additional 20.3 percent indicated they were dissatisfied. Just 13.4 percent were satisfied with legal materials.

Kevin said that "it is very hard to get access to tools/materials to prepare papers for legal mail, court, lawyers," such as staplers, pens, and tape. He said this delays grievances and legal mail.

Phillip wrote that his legal mail is opened outside of his presence. He said this survey came to him opened and "the staff claims you've opened and resealed the envelopes and that they did not open it. I doubt it."

Food Quality

Nevada Department of Corrections (NDOC) statutes require a "healthful diet and appropriate, sanitary housing."[50] However, 43 percent reported that they were very dissatisfied with food in segregation and an additional 23 percent were dissatisfied. Just over 20 percent were satisfied.



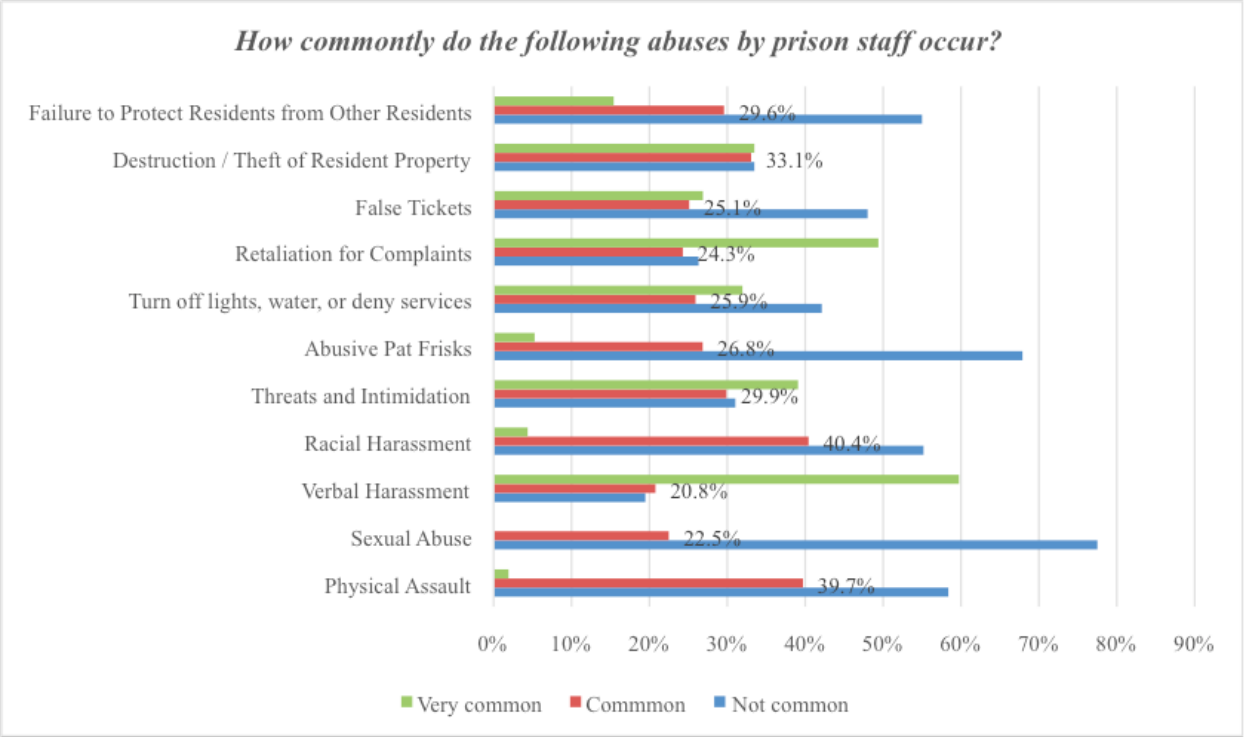
"They have GPs serving PCs food," wrote Jesse, "and have been caught spitting in our food, putting soap in it, getting small portions, and a lot of time it's cold."

"The c/os will prepare the trays with food and then stack the trays as many as six high on one arm while opening the tray slot with the other hand," wrote Eric. "The bottom of the trays are sitting on the food below them."

Treatment by Correctional Officer

NDOC statutes prohibit corporal punishment and inhumane treatment.[51]

The most common types of abuses at the hands of correctional officers, according to survey respondents, were racial harassment (with 40 percent indicating they are common) and physical assault (40 percent). Thirty-three percent reported that property destruction was common and 30 percent also indicated that threats and intimidation were common.



"They play with our food, beat up on people, take property," wrote Javier. "They do what they want. It's like we are lost to the world." Todd Honeycutt said he endures abuse like "officers withholding food, showers, and yard, kicking doors while inmate is asleep in cell, abusive taunting and keeping lights on for days."

"Officers keep bright lights on all night, don't put heat or air on when needed. If you file grievances, your mail gets lost, store list does not get turned in." wrote Brandon.

"When receiving your meals, officers will bang food slot door to agitate inmates. They say it's to make you think about not coming back to solitary," wrote Stacey. "Or they yell at chow time over and over. They definitely treat solitary inmates like less than human. That's part of your punishment."

Other prisoners reported violence or threats of violence from correctional officers. Jay has been "tripped while handcuffed, pushed into doors, slammed against walls, not given food, and been cuffed too tight." Wilbert "was smashed against the wall for screaming water when the shower was too hot."

Brent wrote that when he reported to guards that he was being threatened and harassed by other prisoners, one CO "beat me and threatened me if I filed grievances," he wrote. He said the guard threatened him, "I'll fuck you up even worse the next time you come to count if you file a grievance, you P.O.S!"

Chip wrote that in 2010, he was in isolation in the infirmary at High Desert State Prison, when an officer "snatched me out of the shower cage while I was in handcuffs, slammed me on the hard floor, punched me in my jaw, punched me in my nose and caused it to bleed, and then put a pillowcase over my head! Then he put his knee in the middle of my back!"

Dan listed a variety of abuses he has faced in segregation, including "abusive pat frisks, damaged property, cell trashed in full-unit shake-downs, physical assault, ass grabbed during pat frisk, denied clean water during 'boil water orders,' denial of hot water for showering for 2-4 months."

Nearly two-thirds of respondents reported that they are frequently (37 percent) or somewhat frequently (27 percent) punished in their segregation unit.

"The guards disrespect us," wrote Jesse. "They take their job to the extreme. I have had no writeups and it seems like I get into an altercation on a weekly basis over petty things, i.e. a cover over the door window when I have to use the toilet and minor things like that. They give us all these rules but don't seem to follow their own rules and they don't get in trouble for it."

Nearly half (49 percent) of respondents reported that they have received restrictions since they have been in their current unit. Restrictions include the use of pepper spray, the loss of recreation, mattress removal, and getting put on the loaf.

Some respondents wrote that when people in segregation return from the yard or shower they often find their cells searched and trashed. "A lot of officers, especially the ones in segregation, tend to do things like this to punish us further for being in segregation," wrote Derek. "It's bad enough to be in segregation but to be punished for it and harassed as well makes it worse." He said the officers' treatment discourages him from speaking with medical or mental health staff (since officers are always present) and discourages him from taking recreation or showers because his cell will get trashed.

Chip also said that officers trashed prisoners' cells while they were in the shower or taking recreation to discourage them from doing these activities in the future. He said they removed letters from envelopes, threw photographs on the floor, and ripped blankets off bunks.

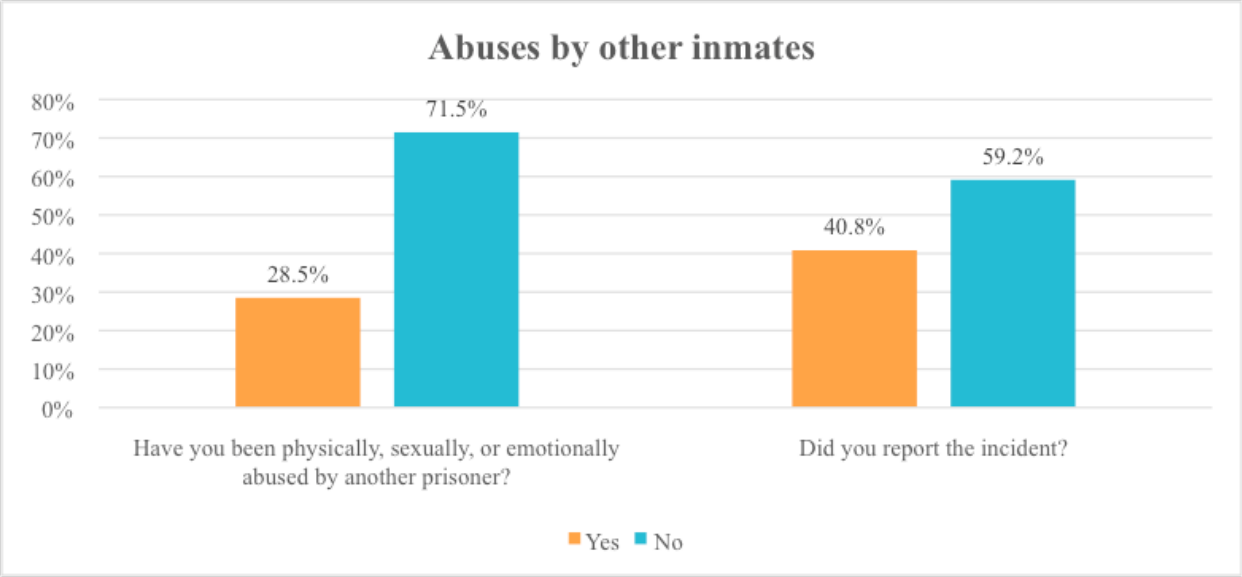
"Rather than punish individual violators…staff in their laziness punish all the inmates," wrote Dan. "This makes the responsible inmate a target of those that unjustly suffer as a result of one individual's actions."

Some respondents reported that they have also been restrained by guards for episodes lasting from 7.5 hours to 12 months. The most common type of restraints was handcuffs or leg restraints or chain cuffs. Ivan said that his arms and legs are restrained every time he leaves his cell which aggravates his existing shoulder injury.

Most respondents (78 percent) who were restrained during their segregation were not examined by a medical professional during or after the application of restraints.

Treatment by Fellow Prisoners:

Nearly one-third (28.5 percent) of prisoners reported that they had been physically, sexually, or emotionally abused by another prisoner. Of those who had suffered abuse, 40.8 percent reported the incident. The nature of abuse was either physical (30 percent), emotional (22.5 percent), or sexual (12.7 percent).



Maria wrote, "Other inmates called me all kinds of bad names and told me to kill myself on a daily basis for months and the officers did nothing to stop it. The officers actually provoked their behavior to continue and told details of my case to the other inmates. The inmates threatened to kick my ass when I made it to GP on the yard."

PART V: RECOMMENDATIONS

International human rights authorities agree that solitary confinement should only be utilized in exceptional circumstances, as a last resort, and for the shortest period of time possible.[52] The Nevada Department of Corrections' (NDOC) history of poor record keeping and vague answers to inquiries regarding segregated housing, coupled with stories from inmates within NDOC who have experienced the damaging effects of extreme isolation, make clear that there is a significant problem with the use of solitary confinement in Nevada prisons.

NDOC must work to severely limit the use of segregation and prohibit its use among vulnerable populations. It can achieve this by admitting there is a solitary confinement problem; auditing its use of solitary confinement; adopting stringent protocols for placing individuals in segregated housing; removing individuals with serious mental illness or developmental disabilities from segregated units; and improving overall conditions of solitary confinement.

Recommendation One: Admit There is a Problem

Real reform requires a change in institutional attitudes toward solitary confinement. The first step toward changing these attitudes is acknowledging that the widespread practice of extreme isolation exists in Nevada prisons.[53] Once this fact is acknowledged, NDOC can begin to train officers and other prison personnel on what comprises extreme isolation; its detrimental impact on individuals; when it is and is not necessary; and how to utilize other, less invasive behavioral interventions.

Recommendation Two: Audit the Use of Isolation within the NDOC

NDOC not only struggled with identifying which units qualify as segregated housing, but also with identifying who is in a particular type of segregation unit. In response to public records requests, NDOC stated it "[has] no ability to go back and figure out how many inmates were segregated at a given time. "Our computer system only shows where a person is housed, but not why they are housed there...we don't have the ability to give demographics either," nor could the department provide an estimate for the amount of time each individuals was placed in a segregation unit.

In order for NDOC to move forward with necessary reforms, it must have a global picture of the use of solitary confinement, at every level, within the system. This includes analyzing which and how many units qualify as extreme isolation units; the purpose for which an individual is placed in isolation; the mental health diagnosis of each individual in such units; whether the individual has developmental disabilities; the healthcare needs of the individual; the individual's age, race, gender and other demographic information; how long each individual is in an isolation cell; the sentence term for each individual; etc.

This audit must be public and conducted by an independent committee or agency and aim at removing as many individuals as possible from solitary confinement.[54] It should further aim to provide the NDOC with strategies and systems to develop a uniform data system for tracking the use of solitary confinement.

Recommendation Three: Adopt Policies and Practices Designed to End Use of Long-Term Solitary Confinement

NDOC leadership and state policy makers must move toward an institutional policy where isolation is used only in exceptional circumstances and for the briefest period possible.

NDOC must establish a clear and objective system of protocols and safeguards for placing an individual in solitary confinement. Protections must ensure that a prisoner is separated only when officials have proven through specific and demonstrable evidence that the prisoner: (1) is chronically violent or assaultive, (2) presents a serious escape risk, or (3) otherwise poses a serious ongoing threat to prison safety and security or whose personal safety is at risk while in the general prison population.[55]

If the department must isolate an individual, its policy must limit the time spent in isolation to 15 days.[56] The reason for isolation must be explained to the individual and the justification must be "increasingly detailed and compelling" as time goes on.[57]

The department must establish procedures for review when placing an individual in solitary confinement. Best practices require a hearing before an impartial decision maker in accordance with ABA standards within 3 days of placement in segregation.[58]

Finally, the department must address the 11 percent of the prison population currently in confinement. Those who have been in isolation for an extended period of time will struggle if immediately released back into the general population. The department must create step-down programs designed to incrementally reintegrate those individuals.

Recommendation Four: Remove Individuals with Serious Mental Illness and Developmental Disabilities from Solitary Confinement

The vast majority of inmates in the NDOC will eventually be released from prison and expected to lead productive, crime-free lives.[59] This task is incredibly challenging for a typically functioning individual, and even more challenging for an individual with serious mental illness or a developmental disability. The state's most vulnerable inmates face further mental deterioration when confined to a segregated unit. Treating these populations with out-of-cell interventions is necessary for the health and well-being of the formerly incarcerated individual and for the safety of the community.

Any individual with a qualifying mental health diagnosis or developmental disability should be immediately diverted to a psychiatric unit or other appropriate setting. If a diagnosis is unknown, NDOC should provide mental health screenings before placing an individual in isolation, placing an emphasis on treatment and long-term intervention.

Recommendation Five: Improve Overall Conditions in Solitary Confinement

In the exceptional case where solitary confinement is necessary, an individual is still entitled to basic human necessities. Again, most individuals in the Nevada prison system will be released to the street. Several individuals who responded to our survey have spent the majority of their prison term in an isolation cell and many may finish their term in confinement. Prolonged periods of confinement without access to certain basic interactions and stimuli can lead to serious anti-social tendencies which cause problems both in and out of prison.

Medical and mental health care is a right that cannot be denied regardless of housing status. Individuals ought to have regular physical and mental health screenings and access to fresh air for at least one hour a day.[60]

Moreover, individuals should have access to educational opportunities and other programs to prepare themselves for their eventual release. They should not be deprived of sensory stimuli such as books, music, art supplies, etc., for extended periods of time. Nor should NDOC deny them access to their families who provide their sole connection to the outside world.

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[53]See Minutes of the Advisory Commission on the Administration of Justice March 5, 2014, 2013-2014 Interim, 77th Sess. 22 (2014) ("Mr. McDaniel [Former Deputy Director of NDOC] said the definitions people made concerning solitary confinement versus protective segregation or disciplinary segregation did not apply to Nevada. He said they did not have solitary confinement in the Nevada Department of Corrections"); Letter from Brooke Keast, supra note 20 ("Many of your questions I cannot answer for the simple reason we do not have "Segregated Housing Units in the manner in which you are referring, with few exceptions...we do not have "solitary confinement," "isolation" or any type of segregation that sequesters an inmate from others").

[54]Nevada to Join Study on Solitary Confinement in Prisons, KRNV (Dec. 20, 2016), http://mynews4.com/news/local/nevada-to-take-part-in-study-focused-on-prisons-solitary-confinement (During the drafting of this report, the Vera Institute announced that Nevada was among five states selected for an in-depth study of solitary confinement within their prisons systems. This study will address many of the issues discussed in this report and poise the NDOC for reform).

[55]See generally ABA Standards, supra note 37, at Standard 23-2.6(a), 23-2.7(a)(ii) Standard 23-5.5(b).
[56]Méndez, supra note 1, at ¶ 26.
[57]Méndez, supra note 1, at ¶ 34.
[58]ABA Standards, supra note 37, at Standard 23-4.2(c)-(d).
[59]Wesley Juhl, Year of Big Changes Ahead for Nevada's Prison System, Corrections Chief Says, L.V.Rev. J. (Jan. 9, 2017, 7:38 AM), http://www.reviewjournal.com/news/politics-and-government/nevada/year-big-changes-ahead-nevada-s-prison-system-corrections-chief.

[60]Méndez, supra note 1, at ¶ 32.


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