



11-22-2021

The Use of Solitary Confinement as a Form of COVID-19 Quarantine in Prisons

Danielle Bluth

Cardozo Journal of Equal Rights and Social Justice

Follow this and additional works at: <https://larc.cardozo.yu.edu/ersj-blog>



Part of the [Law Commons](#)

Recommended Citation

Bluth, Danielle, "The Use of Solitary Confinement as a Form of COVID-19 Quarantine in Prisons" (2021).
ERSJ Blog. 11.

<https://larc.cardozo.yu.edu/ersj-blog/11>

This Article is brought to you for free and open access by the Journal Blogs at LARC @ Cardozo Law. It has been accepted for inclusion in ERSJ Blog by an authorized administrator of LARC @ Cardozo Law. For more information, please contact larc@yu.edu.



The Use of Solitary Confinement as a Form of COVID-19 Quarantine in Prisons

The COVID-19 pandemic has proven deadly and extremely challenging to control, making the need for rigid guidelines vital in maintaining a healthy community. The Center for Disease Control (CDC) has implemented specific guidelines which prisons and detention centers must follow in attempting to combat the COVID-19 virus. [1] While it is essential to stop the spread, the differences between an individual quarantining at home and those doing so behind bars is palpable. The CDC requires that an incarcerated individual who has been exposed to the virus and or has tested positive must quarantine for fourteen days, keeping that “individual’s movement outside the quarantine space to an absolute minimum.” [2] The most *ideal* form of quarantine includes, “separately, in single cells with solid doors (i.e., not bars) and solid doors that close fully.” [3]

On the other hand, solitary confinement is defined as “the housing of an adult or juvenile with minimal to rare meaningful contact with other individuals.” [4] The reasons for this type of isolation generally include, punishment, safety concerns for other inmates, or protection of the inmate from others. [5] Many inmates fear being placed in solitary, deterring individuals from reporting their symptoms. [6] The innate constraint and limitation of social interaction negatively affects the health and welfare of those who are held in solitary confinement. [7] This harm to health has been recognized by the World Health Organization, United Nations, and other international bodies. [8] Within those organizations, many believe it is the correctional health professionals who have a duty to provide “clinical care, physical safety, and psychological wellness to their patients.” [9]

Further, the U.N special rapporteur finds the outcomes of solitary confinement to be contrary to the critical aim of the prison system: “to rehabilitate offenders and facilitate their reintegration into society.” [10] Fifteen days was cited as the starting point for prolonged solitary confinement, after which some of the harmful psychological effects become irreversible; one day over the length of quarantine. [11] While there are instances where this type of punishment or protection might be appropriate, the main concern regarding COVID-19 quarantine guidelines surrounds those who are treated this way merely because of contracting the virus, as opposed to being disciplined.

The nature of American prisons makes it difficult to afford each inmate a comfortable room with fresh air, daily walks outside and social interaction with others in the midst of a pandemic. However, prisons should be cautioned to refrain from implementing solitary confinement-like conditions on those who have unfortunately caught the virus. The same measures originally used to “shock those who are incarcerated to get back in line and start following rules,” [12] are now being used to reduce the spread of the virus. As a result, many minimum security inmates are being detained using maximum security protocols. This practice, however, is nothing new.

Prison administrators have used solitary confinement for non-punitive reasons dating even before COVID-19; as mentioned above, to protect those who are targeted by others in prison.[13] COVID-19 should not add yet another non-punitive basis to segregate inmates.

The solution to this issue is not an easy one; prisons are still punitive and require a heightened security system. Yet, there are ways to prevent irreparable harm to the men and women serving their time during these difficult conditions. “Amend, Changing the Correctional Culture,” provides possible avenues by which this issue can be resolved.[14] Once an individual has tested positive, he or she should be separated from those who do not have the virus. The area of isolation should be sanitary, have adequate lighting and ventilation.[15] The healthcare staff should “provide at least daily assessments...wh[ich] clearly communicate reasons for isolation and its duration.”[16] Further, those in quarantine should be provided with nutritious meals, opportunities for outdoor exercise, and enhanced access to television, radio, reading materials and communication with loved ones.[17] Those held in quarantine should be overseen by medical staff rather than security staff. Together, these measures will allow for necessary physical distancing in prisons and ensure the harmful consequences of solitary confinement are prevented.

As we move away from the pandemic and towards a healthier future, it is important to establish that individuals of all facets of society are protected and given access to healthcare. The CDC has updated their guidelines, requiring those who test positive to quarantine for ten days.[18] Those who have been exposed and test negative may still be sent to isolation areas to see if they develop the virus. The conditions in which one quarantines have ample effect on that individual’s ability to recover. With health as its main goal, quarantine guidelines should not be implemented using solitary confinement protocols.

[1] Center for Disease Control, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) Correctional and Detention Facilities* (last updated, June 9, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html#QuarantineCloseContacts>.

[2] *Id.*

[3] *Id.*

[4] National Commission on Correctional Healthcare, *Solitary Confinement (Isolation)*, <https://www.ncchc.org/solitary-confinement>.

[5] *Id.*

[6] Amend, Changing Correctional Culture, *COVID-19 In Correctional Facilities: Medical Isolation*, <https://amend.us/covid-19-in-correctional-facilities-medical-isolation/>.

[7] *Id.*

[8] *Supra* note 3.

[9] *Id.*

[10] *Id.*

[11] *Supra* note 1.

[12] Walter Pavlo, *Bureau Of Prisons Using Solitary Confinement As A Means To Curb Covid-19 Contagion*,

FORBES, <https://www.forbes.com/sites/walterpavlo/2020/07/16/bureau-of-prisons-using-solitary-confinement-as-a-means-to-curb-covid-19-contagion/?sh=26930832193a>.

[13] David H. Cloud, et al., *Public Health and Solitary Confinement in the United States*, AM. J. PUBLIC HEALTH, 105(1): 18-26 (Jan. 2015), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4265928/#bib20>.

[14] *Supra* note 6.

[15] *Id.*

[16] *Id.*

[17] *Id.*

[18] Center for Disease Control, *For People Living in Prisons*, (last updated, Sept. 3, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/living-prisons-jails.html>.