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## Civil Rights Clinic Wins Historic Louisiana Case Ending Solitary Confinement of Individuals Awaiting Death Sentences

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# Civil Rights Clinic Wins Historic Louisiana Case Ending Solitary Confinement of Individuals Awaiting Death Sentences



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Should an incarcerated person who has been sentenced to death be required to live out the rest of his or her life in solitary confinement? Not according to the Cardozo Civil Rights Clinic, which recently won a historic settlement changing policy in Louisiana prisons.

Not long ago, individuals on death row at Louisiana State Penitentiary at Angola were held in “permanent solitary confinement,” which meant they had no contact with other prisoners or even guards, often for years, while they waited out appeals. Prison officials deemed such individuals too dangerous to come in contact with others under any circumstances, even if they had no violent history while incarcerated.

That policy changed in 2021 when Professor Betsy Ginsberg led the Civil Rights Clinic to a historic settlement of a class action lawsuit on their behalf. Ginsberg founded and directs the clinic, which works on cases that involve police misconduct and the constitutional and statutory rights of incarcerated individuals in federal court.

When Ginsberg and students from the Civil Rights Clinic visited the Angola prison system, death row individuals were held in permanent solitary confinement and allowed one hour of outdoor recreation in solitary cages per day. Their meals were served inside their cells.

“Solitary confinement—even for limited periods of time— has such a significant detrimental impact on the mental and physical health of the people who are held in these conditions,” Ginsberg said. “Many of our clients on Louisiana’s death row had been held in isolated conditions for decades and were experiencing tremendous harm.”

According to Ginsberg, the United Nations has put forth recommendations calling for the prohibition of solitary confinement lasting more than 15 days because of the harmful effects of isolation. Many of the individuals Ginsberg and her clinic represented in their class action suit had remained in solitary confinement for decades.

The settlement by the clinic and prison officials entitled people on death row to a minimum of four hours of congregate time seven days per week, at least five hours per week of group outdoor recreation as well as allowing religious worship with others and contact with visitors. Since the implementation of the settlement, prison officials at Angola have recognized that congregate out-of-cell time is beneficial for everyone, including staff, and they have expanded the hours of outdoor recreation and tier time.

As part of the settlement, the clinic’s clients can now enroll in GED courses and other academic programs in a group setting. A grassy space was created, and people can sit together with others for one meal each day.

Ginsberg challenges corrections officials who believe that people who have been convicted of serious crimes are dangerous and must be held in restrictive conditions. “This thinking isn’t based on any evidence and simply isn’t true,” she said. “Some corrections officials and experts in corrections have noted that people sentenced to death are not more likely than people placed in the general prison population to behave violently. In fact, they have been shown to be less violent overall.”

It remains to be seen whether this victory, coupled with other lawsuits concerning prison conditions across the country, will lead to a reduction of harsh punishments in jails and prisons.

Ginsberg said when prison officials and other policymakers understand that punishments and practices like solitary confinement do not make prisons safer, it can help achieve change.

In fact, prior to Ginsberg and her clinic's victory in Louisiana, changes were made in Missouri, North Carolina and Colorado. There, people who are sentenced to death are not automatically placed in solitary confinement. In Missouri, they are housed in the general population.

"The prison officials who oversaw the changes in those systems and who run those systems are on record saying that not only is solitary not necessary, but things are better for everyone without it," Ginsberg said.

Easing restrictions on incarcerated individuals spending time with one another was only one accomplishment of Ginsberg and her clinic. In 2022, with the New York Civil Liberties Union, Ginsberg and the clinic filed and won a federal lawsuit in which they challenged the New York State Department of Corrections and Community Supervision's ban on the book *Blood in the Water: The Attica Prison Uprising of 1971 and Its Legacy*. As a result of that lawsuit, New York State is now allowing incarcerated people access to the Pulitzer Prize-winning book, written by Heather Ann Thompson. Published in 2016, it is an account of the time that nearly 1,300 incarcerated individuals took control of Attica Correctional Facility and protested mistreatment. The conditions that led to the uprising and the brutal assault ordered by the governor to end it have been the subject of many historical accounts.

While different prisons have varying policies on what reading materials prisoners are allowed to have, Ginsberg said many policies are overly restrictive. She has spoken to many incarcerated people who describe the books they read while in prison as transformative.

"If we truly care about making sure that people who come out of prison can successfully reintegrate into their communities, then we should be dedicating more resources to education, job training, humane conditions, and of course, significantly decreasing our reliance on incarceration," she said.

Ginsberg is optimistic about improving prison conditions because there is greater awareness now than there was when she began doing this work more than 20 years ago. She said steps have been taken to address reducing the country's overreliance on mass incarceration, at closing prisons and jails and exposing and correcting harsh conditions.

As a new generation of professionals—current and future law students—prepares to take on these challenges, Ginsberg said they should push back against the existing system that she described as “completely broken.”

She said that students who want to practice in criminal justice reform and civil rights should get as much experience as possible and take clinics while in law school that deal with criminal defense and civil rights issues. Additionally, Ginsberg said it is important to listen to those who were harmed by the criminal legal system.

“Most importantly, I think future lawyers must understand that their role will not necessarily be as leaders of these movements, but as critical supporters through legal representation and counsel,” she said.