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December 10, 2014

Wisconsin prison system revamps disciplinary rules

Changes come as concerns grow over use of solitary confinement

By: **BILL LUEDERS** | December 10, 2014



Wisconsin Department of Corrections

A segregation cell at Waupun Correctional Institution in a June 2014 photo. A recently obtained Department of Corrections memo calls new disciplinary rules, scheduled to take effect Jan. 1, “an excellent opportunity to focus on making positive changes” to the state’s use of solitary confinement, which in Wisconsin is called segregation.

Cruel and Unusual?

The Wisconsin Center for Investigative Journalism identified 40 allegations of physical or psychological abuse by correctional officers against inmates in Waupun’s segregation unit since 2011. The allegations, involving 33 inmates, allege extreme mistreatment, including being beaten and stomped on while handcuffed behind their backs. Read the series.

The Wisconsin Department of Corrections is quietly preparing to make significant changes to its rules governing inmate discipline, amid heightened discomfort over the state’s use of solitary confinement.

“The disciplinary process should be used as a means to motivate the inmate to alter their negative behavior, with long-term correction of the behavior as the end goal,” wrote Cathy Jess, administrator of the DOC’s division of adult institutions, in a Sept. 25 memo to staff.

Jess’ memo, obtained by the Wisconsin Center for Investigative Journalism, sheds light on the DOC’s revamping of its disciplinary code, last revised in 2001. The new code calls for speeding up the process of imposing discipline for minor offenses, while upholding the ideals of rehabilitation and fairness.

Prison officials have declined to discuss specifics and it remains unclear what changes will occur. But Jess calls the new rules, scheduled to take effect Jan. 1, “an excellent opportunity to focus on making positive changes” to the state’s use of solitary confinement, which in Wisconsin is called segregation. This has been a topic of growing state and national concern.

“Long-term segregation placements have been shown to be ineffective in terms of discipline and do not serve our corrective or rehabilitative goals,” the memo states.

About 1,500 of the state’s 22,000 inmates are in segregation, locked in their cells for upwards of 23 hours a day.

Primary sources(at end)

Wall internal memo on segregation issues, June 2014
In a June 2014 memo to the governor's top staff, Secretary Ed Wall asks "the questions that keep me up at..."

Memo on Wisconsin prison disciplinary code revisions, 9/25/2014
Long-term segregation is "ineffective in terms of discipline" and does not serve corrective or...

Wall article on segregation, April 2014
"Are we placing inmates in segregation out of a sense of retribution? And if we are, does this help our..."

List of segregation workgroup members
Secretary Edward Wall formed a workgroup to review Wisconsin's prison segregation practices and appointed...

4 documents

Segregation is commonly used to discipline inmates for violations of prison rules, with sentences of up to 360 days. A 2013 report by the Association of State Correctional Administrators found 118 Wisconsin inmates who had been in segregation continuously for more than two years, including 14 for more than a decade.

The prolonged use of solitary confinement has been blamed for causing and exacerbating mental illness. A United Nations expert has advised that stays of longer than 15 days “can amount to torture” and should be prohibited.

In Colorado, where former Wisconsin DOC Secretary Rick Raemisch now heads the prison system, the number of inmates in solitary has been cut from 1,500 in 2011 to fewer than 500 today. New York, Maine and Virginia have also taken steps to alter or reduce the use of solitary.

In April, Wisconsin DOC Secretary Edward Wall wrote an article to staff addressing this issue.

Edward Wall

“Are we placing inmates in segregation because we are mad at them?” asked Wall, appointed in 2012 by Republican Gov. Scott Walker. “And if we are, does this help our inmates or does it make us any safer?” Wall’s article, obtained by the Center and made public in July, said the DOC would be working with “scientists, scholars and mental health professionals from across the country” to define new approaches. It acknowledged the subject “will undoubtedly touch nerves with staff for a variety of reasons.”

Questioning the purpose of segregation (pg 1) segregation Cause and effect- at end

‘To isolate and punish’

Despite these internal communications, the DOC has been publicly tight-lipped about policy changes regarding its use of solitary confinement. Wall declined an interview request and agency spokeswoman Joy Staab has declined to answer questions about specific changes.

The DOC took more than two months to fulfill an Aug. 1 request from the Center for records on the matter, then provided only records up until the time of the request. Still, nearly 250 pages of records were released. These include a four-page document, “Reforming Segregation in Wisconsin,” containing what Wall described in an email as his “rambling thoughts” on the issue. It was sent to senior DOC staff as well as to Mike Huebsch, secretary of the state Department of Administration, and Eric Schutt, Walker’s chief of staff.

This communication, which Wall asked not be shared, included examples of segregation being used harshly and punitively. In one case, he said an inmate was sentenced to 180 days for having kitchen spices in his cell and wondered how this had “anything to do with the safety and security of the institutions.”

‘Our culture may be our worst enemy’ (pg 2) (reforming segregation in Wisconsin- at end)

Wall went on to muse that segregation has at times become “a method to isolate and punish inmates as a form of internal judge, jury and executioner. Depriving people of outside contact, personal property, programming, etc., seems to focus on doing psychological harm rather than achieve desirable goals.” Moreover, Wall wrote, “Courts have repeatedly found that forcing prisoners with mental illness to undergo solitary confinement constitutes cruel and unusual punishment. How would our placements be viewed by the courts?”

A 2009 Wisconsin state audit found that nearly half of all inmates in segregation were mentally ill, compared to a third of the overall prison population.

In July, the Center published a three-part series that identified 40 allegations since 2011 of abuse of inmates by guards in the segregation unit at Waupun Correctional Institution. DOC officials accuse the inmates of lying, but prison records document the frequent use of force, including inmates being pepper sprayed, tasered and thrown to the ground or into walls.

The series sparked calls for an outside investigation by Wisdom, a faith-based prison-reform advocacy group and expressions of concern from Democratic state lawmakers. Wisdom has also called on the state to adopt strict limits on the use of solitary confinement throughout the state prison system.

One Wisdom-backed reform is to make sure that inmates are never released directly from segregation into the community. In a June email to DOC staff, Jess said this practice “takes place much more often than it should” and urged steps to prevent it.

Workgroup is formed

Wall has received a number of positive responses to his stated desire to change how Wisconsin uses segregation, the released records show.

“Thank you for your leadership, insights and perspectives on this issue,” emailed a psychological staff worker at Jackson Correctional Institution in Black River Falls.

There are also signs that the issue drew internal resistance. “I saw the recoil on some when we discussed it,” Wall wrote in one email, dated June 26.

In July, at Wall's instigation, the DOC named a 19-member "Segregation workgroup." It was charged with reviewing state segregation practices, including conditions of confinement, length of sentences and mental health treatment.

The group held its first meeting in August. A discussion topic list included calls to use segregation more narrowly, for rehabilitative ends, not "punishment or retribution." The DOC has not released additional information on the group's work.

All of the workgroup members are state employees. The co-chairs are William Pollard, the warden at Waupun Correctional Institution, and Kevin Kallas, the DOC's mental health director.



Hank Snyder/Beaver Dam Daily Citizen
Waupun Warden William Pollard, at a Memorial Day event. Pollard, the co-chair of a DOC workgroup looking at changing how the state uses solitary confinement, warned in one email "we may get sued."

Pollard, in an email to Wall in June, expressed his view that the state had already made "significant progress" toward reforming segregation. But, he added, "culture shifts are like turning an old Cadillac in a short radius. Doers like us would rather be spinning that tight circle in a sports car and making faster progress." Still, he added, "we may get sued."

Wall responded: "I agree Bill. Unfortunately, I think our progress is going to end up being directed by someone else soon." He did not elaborate.

What is really changing?

The rule changes referred to in the memo from Jess were initially submitted to the Legislative Council Rules Clearinghouse in March 2011, with hearings held the following month. The rules were received by the Legislature in late March of this year and approved with minimal committee involvement.

According to Jess' memo, the changes will "better align with current laws and streamline the disciplinary process, without violating liberty interests, while minimizing potential court actions."

A rule summary prepared for the Legislature lists more than two dozen changes, many dealing with terminology. One change amends the rules for inmate disciplinary hearings, by more clearly describing what inmates may appeal and limiting inmate statements to 500 words on two sheets of paper.

Another rule change "requires consideration of an inmate's serious mental illness during due process hearings and disposition stage." Spokeswoman Staab has not responded to questions seeking more information on what this entails.

Wisdom member the Rev. Kate Edwards, a Buddhist chaplain who visits inmates in prison, said the DOC's rule changes do not match its rhetoric. While the comments from Wall and Jess "make it seem like they're trying to have a shift in attitude," the new code still allows inmates to be sentenced to 180 days in segregation for minor offenses like loitering.

"They're still engaging in abusive overuse of solitary confinement, which I consider to be torture," Edwards said. "Torture cannot be accepted as public policy or as a treatment method for the mentally ill."

Wall, Edward F - DOC

From: Wall, Edward F - DOC
Sent: Friday, April 25, 2014 2:06 PM
To: Rick Raemisch - DOC (rick.raemisch@state.co.us); Mohr, Gary (Gary.Mohr@odrc.state.oh.us)
Cc: George Camp (GCamp@asca.net)
Subject: Article

Gentlemen,

Just FYI, my most recent article in the "Secretary's Corner" on our Intra-net and I mentioned your efforts and testimony with links to those articles and prepared remarks. Thanks for your leadership on the issue of Segregation!

Ed

Segregation / Cause, Effect and Reforms

When I went to my first meeting of the Association of State Correctional Administrators (ASCA) as the new Secretary of the Wisconsin DOC, it was an enlightening experience. I learned many things that week, including that we face very similar issues across corrections agencies nationwide. One of the issues we discussed at length that is now becoming a national focus, was the impact of confinement in segregation and the lasting effects it has on inmate behavior.

One of my mentors at that first ASCA meeting was Tom Clements, Executive Director of the Colorado Department of Corrections. Tom was an exceptional man who was very focused on the issues dealing with the impacts of segregation and was himself one of the national leaders in pushing for reforms to positively affect change. Tragically, Tom was killed just a few weeks later at his home in the presence of his family by an inmate who had recently been released from a long stay in segregation, directly into the community.

We need segregation to address problematic, dangerous and violent behaviors in order to assure the immediate safety of staff and other inmates. Yet beyond this purpose, what do we need segregation to accomplish for us? That is the focus that corrections agencies across the country are dealing with now.

This subject will undoubtedly touch nerves with staff for a variety of reasons. The view of segregation's purpose varies for many of us. For some, segregation is seen as a method of punishment where inmates are taught a lesson. Long periods of sensory deprivation, no contact with family and limited time for physical fitness or interaction are just part of that punishment cycle. Obviously, the intent being that if the sanction is unpleasant enough, then people won't want to return.

Although it's easy to understand the human emotion behind that kind of feeling, we need to ask if it serves us well in the long term? Are we placing inmates in segregation because we are mad at them? Are we placing inmates in segregation out of a sense of retribution? And if we are, does this help our inmates or does it make us any safer?

Any of us who are parents know that when we discipline our children, we can choose various strategies. We may *punish* the child by taking away activities or privileges, but we also want to *teach* the behaviors that we see as more appropriate. All of us intuitively know that properly administered discipline involves both control and teaching. This same broader view of discipline is an integral part of efforts to improve segregation units so that they are more effective in achieving our mission as corrections professionals

Reforming Segregation In Wisconsin

My list of "What If?" thoughts.

We will always have inherent tension between our security and public safety mission and mental health considerations with segregation. How do we address them both?

What do staff want to see in a disciplinary sanction? Why? Is it revenge or the desire to see changed behavior? Is it a power trip or concern that they need to see improvements?

Programming, Education and Counseling should be on a daily basis. What is it actually? Why?

We should consider strict limits to the number of days allowed for segregation.

How would we justify to the public, courts, etc. putting a person into segregation for a non-violent disciplinary issues when there is so much evidence that it causes psychological trauma?

We have a Security Director who approved sending an inmate to segregation for a period of 180 days for having kitchen spices in his cell. The same Security Director has a standing disciplinary "sentence" to segregation for mouthing medications. 1st offense, 180 days. 2nd offense, 360 days. How do any of these things have anything to do with the safety and security of the institutions? How many others are doing something similar? Our culture may be our worst enemy in this regard.

How many Security Directors would agree that we need segregation reforms? Who perpetuates the historical methods of segregation use and who sees a need for change? Have we ever done a review of segregation placements on an institutional level to see how they compare across the DAI?

How has the culture of segregation use developed? How do we change it? Why should we change it? Have we articulated this in the past beyond doing "CYA" policies on placement reviews? What have we done historically to reduce segregation use as opposed to defend its present usage?

Segregation is supposed to be non-punitive and to assure the safety and security for all. So why is it used as punishment for disciplinary issues? Segregation time for disrespect? Nonviolent issues? Officer complained to me that he had written an inmate for disrespect and he only received 30 days in segregation. 30 days of isolation because an officer was "disrespected"? Ironically, I experience disrespect pretty regularly from staff and haven't sent anyone to segregation yet.

Segregation has turned in some cases into a method to isolate and punish inmates as a form of internal judge, jury and executioner. Depriving people of outside contact, personal property, programming, etc. seems to focus on doing psychological harm rather than achieve desirable goals.

Why do we have segregation? Honestly, how do we use it most? What percentage is disciplinary?