

## **Wisconsin inmates report despair, little counseling in solitary confinement that can stretch on for years**

**From Center for Investigative Journalism, April 2017, / By Alexandra Arriaga and Dee J. Hall April 15, 2017**

*About 100 prisoners in Wisconsin are currently held in administrative confinement— a little-known category of solitary with no specified end date. A United Nations expert on human rights said that more than 15 days in solitary can be considered torture.*

*(note this has been edited to protect privacy- photos of prisoners were removed as well as the listing of prisoners' crimes)*

Waupun Correctional Institution inmate Cesar DeLeon said he has punched the wall until his fist is bloody to give himself “a sense of reality” during 15 years in prison in which he has rotated in and out of solitary confinement. Brandon Christian, who is serving time at the Wisconsin Secure Program Facility in Boscobel, said he fantasizes about the violence he will commit if he ever leaves solitary, where he has been for more than seven years. About one incident he says: “Someone was talking crap about me and I didn’t know who so I just picked someone and stabbed him.” After two and a half years in isolation — spending at least 22 hours a day in a tiny, solid-walled cell — fellow Boscobel prisoner Ernesto Cervantes that he is no longer capable of “normal human interaction.” “I have not been able to function properly in a social setting,” Cervantes, 35, said of his experience after release from administrative confinement, a status with no specified end date. “I think others are talking about me and feel watched. I also feel like I have lost proper comprehension as when people are speaking to me it sounds like gibberish noise.”

These are some of the voices of Wisconsin prisoners kept in administrative confinement— a little-known category of solitary that the state Department of Corrections describes as “an involuntary non-punitive status” for inmates who pose “a serious threat to life, property, self, staff or other inmates, or to the security of the facility.”

### **Prisoners in administrative confinement have no human contact at least 22 hours a day. Most described feelings of isolation, hopelessness, anxiety or paranoia.**

The agency says these inmates are so dangerous that they must be confined for months, years — even decades — in a cell the size of a parking space with no human contact at least 22 hours a day.

State Department of Corrections officials denied reporters’ requests to interview inmates in person about their experiences in administrative confinement, so the Center mailed surveys to more than 100 who had been held in 2016.

The Center’s survey — conducted in the wake of an inmate hunger strike launched in June aimed at ending long-term solitary confinement in Wisconsin — asked about prisoners’ living conditions, mental health status, whether they received regular meals and whether they had committed or been a victim of violence while in administrative



Shullaw for the Wisconsin Center for Investigative Jrn

### **Inmates in administrative confinement reported sleep deprivation from screaming and banging from other inmates and perpetual lighting.**

Sixty-five inmates, many of whom have committed horrific crimes including multiple murders, violent attacks and sexual assault, responded to the surveys. One respondent to the Center’s survey was in solitary for about 28 years; another has served 20 years. The results of the survey were stark:

Ten inmates reported attempting suicide while in administrative confinement. One said administrative confinement “makes you numb, violent, hateful, loud, disrespectful (and) suicidal.” Most described feelings of isolation, hopelessness, anxiety or paranoia.

- Of the 65 respondents, 26 claimed they have had medications or medical devices withheld or threatened to be withheld by security staff who distribute prescriptions or that they had overheard it happening to other inmates in solitary.
- More than a third of the respondents — 28 inmates — said they had been treated violently by other inmates or prison staff; 13 acknowledged harming or threatening to harm staff members or other inmates.
- Several described sleep deprivation from screaming and banging from other inmates and perpetual lighting.
- Thirteen inmates had food complaints, with some saying guards sometimes failed to deliver meals or that portions were inadequate, leaving them hungry.

How to manage such violent or non-compliant inmates — without worsening their behavior or mental health problems — is a big challenge for prison systems. Because of the negative effects of long-term indefinite solitary confinement, Colorado has largely ended this practice, which a top United Nations expert has said is equivalent to torture after 15 days.

In 2016, seven states — California, Connecticut, Colorado, Delaware, Maryland, Nebraska and New Jersey — approved some restrictions on solitary or new reporting requirements, although New Jersey Gov. Chris Christie vetoed his state’s legislation, which would have prohibited use of solitary for non-disciplinary reasons.

In 2015, the Wisconsin Department of Corrections implemented policies — although not all inmates were aware of the changes — to reduce the amount of time inmates spend in solitary for disciplinary reasons and narrowed the types of offenses that can land them there. It also has made moves to remove prisoners with serious mental illnesses from solitary and to require that psychological staff provide input when such inmates are facing placement in solitary,



The result is a large drop in inmates in all forms of solitary confinement from a high of 1,362 in March 2014 to 1,073 as of Feb. 28, Cook said. Of those, 93 were in administrative confinement.

“DOC has made significant reforms to the restrictive housing process with the goal of minimizing ... (its) usage for all inmates and eliminating the use of restrictive housing for inmates with serious mental illnesses,” he wrote in an email.

**The Department of Corrections has made moves to remove prisoners with serious mental illnesses from solitary and to require that psychological staff provide input when such inmates are facing placement in solitary.**

As of Oct. 1, 2015, Wisconsin held about 3.7 percent of its inmates in solitary confinement for at least 22 hours a day, 15 continuous days or more, compared to a national average of about 4.9 percent, according to a [study](#) released in November by the Association of State Correctional Officials and Yale Law School. The study, based on surveys of 48 correctional systems including the U.S. Bureau of Prisons, found that nearly all had made or were planning to make changes to reduce the use of isolation.

“While restricted housing once was seen as central to prisoner management, by 2016 many prison directors and organizations ... have defined restricted housing as a practice to use only when absolutely necessary and for only as long as absolutely required,” the report found.

Wisconsin is one of 17 jurisdictions that told the ASCA/Yale survey it does not routinely track how long inmates are in solitary.

“Administrative segregation generally had no fixed endpoint, and several systems did not keep track of the numbers of continuous days that people remained in isolation,” the authors found. “In the 24 jurisdictions reporting on this question, a substantial number indicated that prisoners remained in segregation for more than three years.”

There are signs that Wisconsin is beginning to improve conditions for inmates held in solitary confinement. Gov. Scott Walker’s 2017-19 Department of Corrections budget request includes changes to solitary to boost mental health care and to allow some inmates with serious mental illnesses to spend up to 20 hours a week out of their cells for programming and recreation.

**‘Prison within a prison’**

Former Waupun Correctional Institution prison psychologist Bradley Boivin left his job at the prison earlier in 2016 after he expressed strong disagreement with prison officials over several issues, including the treatment of inmates, especially those with mental illness. He said that the lack of an end date while in administrative confinement can be especially damaging to inmates’ mental health, creating a “prison within a prison.” The Center approached Boivin last year after inmates raised questions about why he had left DOC.

“Imagine being told you’re going to prison for five years or you’re going to prison for as long as we want to keep you there,” Boivin said. “That’s going to have two different impacts on the same person ... The ambiguity of it creates additional levels of psychological distress for the inmates.”

Boivin said he resigned after trying unsuccessfully to make changes from within at Waupun. “It wasn’t about correction at all,” he said. “It was about perpetual punitive behavior (towards the inmates). That’s what I couldn’t be a part of anymore, I guess.” In solitary units, Boivin said, inmates receive clinical attention according to their mental health status. Individuals with the highest classifications are required to be seen once a week. Inmates with a classification 3 of less severe mental illness are seen every two weeks. The brief sessions take place through the inmate’s cell door, allowing others to hear. Boivin believes these check-ins, referred to by prisoners as “drive-bys,” are insufficient. “There’s nothing clinical or therapeutic about (weekly check-ins) whatsoever. It’s really just a quick check-in,” Boivin said. “That’s it, they’ll say, ‘I’m fine,’ and you walk away. Often these brief encounters are only routine clinical contact inmates in solitary confinement receive, he said. Boivin said at times when he attempted to set up individual sessions he got “pushback” from security.

“It (check-in) doesn’t come close to any sort of psychological service in the community, or any setting. It doesn’t really provide the opportunity for the clinician to address any psychological issues, any risk, in any meaningful way,” he said, adding there’s no privacy, loud noises and guards often are nearby.

“There’s no way to gather information about a person’s mental health condition ... in two or three minutes,” he said, calling the practice “inadequate.”

## **Suicide attempts, drugs withheld**

In the surveys, most inmates presented bleak descriptions of life in solitary confinement. Ten inmates in 3 our survey reported attempting suicide while in administrative confinement. “I’ve tried many times to hang myself with a sheet, overdose on medication. I start to see things or people who isn’t there; I talk to myself,” wrote Quenton Thompson, 35, “I feel as though people are trying to kill me. I hear voices in my head.”

Shirell Watkins, 37, said he has tried twice to hang himself while in solitary confinement. Watkins, said he has spent years in various forms of solitary at three institutions, most recently Green Bay Correctional Institution. He described suffering from the effects of isolation, including “severe mental anguishment, depression, sleeplessness, high level of stress, constant self-communication, headaches, weight fluctuation, eye aches, hyper-reaction to situations/incidents, isolation/loneliness, short attention span, poor concentration and at times poor memory and difficulty concentrating.”

In early 2016, the Milwaukee Journal Sentinel reported that one staff member was fired, one resigned and another retired from the DOC-run Milwaukee County Secure Detention Facility after they were caught on audiotape taunting an inmate and withholding his medication. He was being held in solitary confinement.

Mark Smith, 47, currently housed at Boscobel, said he has had nine stints on suicide watch. He claims that when he becomes irritated, officers sometimes withhold his medications for conditions including intermittent explosive disorder, polysubstance dependence and antisocial personality disorder. For him, administrative confinement is “a total hell.” Smith has been incarcerated since 2002.

Manuel Salas, 30, wrote that he had attempted suicide a “number of times” over his 10 years in solitary, some of it spent in administrative confinement. Salas, was released on extended supervision in August, said staff had retaliated against him by withholding medicine he takes for post-traumatic stress disorder, sleep and anxiety.

Thompson, inmate at Wisconsin Secure Program Facility, described similar treatment. “Each day I’m to take my medication, but some officers on first shift will pass me up while I’m at the door waiting for meds,” wrote Thompson, who said he has antisocial personality disorder and hears voices. “It just might be a day the officers feel like they wanna come to work just to give me a hard time.”

Boivin used to hear these kinds of complaints from inmates, and he usually did not believe them. But the psychologist said he witnessed it himself in 2015. “The sergeant was really upset at a particular inmate,” Boivin said. “She said, ‘He’s a d—head, he doesn’t even deserve his meds,’ and I reported that.”

The problem, Boivin said, is that untrained non-medical staff should not be administering medicine. DOC has acknowledged the practice is “not acceptable,” requesting more than \$1 million over two years for trained medical staff to administer medication at the embattled Lincoln Hills and Copper Lake juvenile prisons. “Medication delivery by non-health care staff is recognized on a national level as an unsafe practice,” the agency said. Cook did not answer questions about whether DOC is considering changes to how medicine is administered in Wisconsin’s adult prisons.

## **Suicide watch ‘humiliating’ for inmates**

In Wisconsin, some of the harshest treatment is reserved for inmates who want to kill themselves. Boivin said he personally and professionally felt these suicide watch placements were more torturous than solitary confinement itself. When inmates make suicidal threats or harm themselves, they can be placed in suicide watch, known as observation. Clinical staff make the final decision and are responsible for monitoring inmates in that status.

Once the inmate is taken into observation, he is confined in a cell with a bed made of a concrete and steel slab with a thin rubber mat. The prisoner wears a paper security gown or a quilted security smock. The lights are on 24 hours a day, and, initially, he is not allowed any property, even a book.

In extreme cases, inmates are strapped down, restrained at their shoulders, their wrists, their ankles and their knees, in an “eight-point restraint.” Boivin said he has seen inmates restrained for hours or days, nude except for a washcloth covering their genitals. “It’s humiliating, it’s degrading,” Boivin said. “They’re just kind of there, like a tied down animal.”

In 2015, there were 80 inmates with serious mental illnesses in solitary who had a total of 132 placements in suicide watch, according to a [DOC budget request](#). Observation status can go on for weeks or months, Boivin said. After a couple of days, Boivin said the “decompensation” is noticeable. Inmates’ eyes become bloodshot and watery, and they can become aggressive, delirious and eventually “shut down.” Sounds of other inmates taunting statements such as “Just do it!” can be heard, he said.

## **Days filled with boredom and rage**

Inmates were asked to describe a typical day in administrative confinement. Many wrote of repetitiveness, spending the entire day in bed or that the “days blur into one another.” Reading, watching TV, working out in their cells or the “rec cage,” and writing letters are some of the ways inmates keep busy.

William Ledford, 54 —detailed the monotony of his daily life. “Wake up, read my Bible, watch the news, listen to some music, read, take a nap, have lunch, start the process all over again,” Ledford wrote. “Same thing over and over every day.” He was in administrative confinement for about one and a half years for “repeated assaultive behavior” and “noncompliance with prison rules,” Cook said. Some inmates say overwhelming isolation takes over their daily lives.

Eric Conner, 30, is at Boscobel serving has had 56 conduct reports since he was imprisoned in 2008 for murder. During his time in solitary, Conner wrote that he hears his victim telling him to kill or harm himself. "I'm stuck in the cell and have nothing to distract me from him," he wrote. Tony Caravella, 31 reported being in administrative confinement for six months in 2016 at Wisconsin Secure Program Facility after spending years in solitary for repeated rule violations including assaulting another inmate.

"Administrative confinement has had effect on me for depression, anxiety and loss of self-worth and I crave human contact like a hug from my dad," he wrote. Before his incarceration, Caravella said he was not diagnosed with any mental illness, but now takes medications for depression, sleep, anxiety and post-traumatic stress disorder.

Brandon Christian said he fantasizes about the violence he will commit if he ever leaves solitary, where he has been for more than seven years. Christian, 29, said he has been in solitary confinement for more than seven years — including 3 ½ years in administrative confinement — He describes being "unfeeling," adding, "Life has no point."

"I pace my cell for hours thinking about all the horrible things I've done and the horrible things I will do," Christian wrote. "I have no choice but to listen to people screaming, banging on their doors, or otherwise making noise. I think about what I'd do to those people if these doors would open."

### **Last on strike**

For about seven months, DeLeon participated in the hunger strike. Although the state had been force-feeding him through a nasal tube, at other times, DeLeon said in a letter, he went several days without any food or water, risking kidney failure. My hands and feet feel like they are on fire," the Waupun inmate wrote, adding later, "Things are going to end up bad." Karina DeLeon felt her brother's hunger strike was futile. "The truth is if something happens to him, the system will continue the same way it always has," Karina DeLeon said in Spanish, speaking in the living room of her family's Milwaukee home. "He will be gone, and it will be as if nothing happened." (4)

DeLeon, 34 is facing trial for attempted homicide for stabbing a Columbia Correctional Institution staff member in 2014 with a scissors after he was denied a promotion at the prison library where he worked. DeLeon's violent behavior is what landed him in prison and what has kept him in various forms of solitary confinement for stretches during his 15 years in prison. At various times, he and his family have alleged that he has been mistreated by correctional officers, including a "use-of-force" incident on Dec. 5 that Cook said is under investigation.

Cook said DeLeon is in administrative confinement because of repeated assaultive behavior, security threat group activity, manufacture of weapons and other violations. "To date, he has refused to participate in programming that could result in his return to general population," Cook wrote in an email. During a video visit late last year, DeLeon showed a bruised arm to a reporter, saying the mark was from the choking, dragging and tasing he claimed to have experienced.

Rosa Maria Landeros, the mother of inmate Cesar DeLeon, said DeLeon's health suffered during a months-long hunger strike during which officials at Waupun Correctional Institution force-fed him. She visited him by video shortly after the alleged assault.

"He had memory loss and poor concentration, and that's for how long he's lasted without food," Landeros said. "I saw him beat and in pain, his body was in pain. I saw him bad, truly bad." DeLeon said administrative confinement has no rehabilitative purpose. He called it a "torture technique." "It has deteriorated me psychologically, I'm constantly depress," DeLeon wrote in response to the survey. "I punch the walls a lot. I do it until I bleed. I can't understand why I have to do it, but the pain somehow gives me a sense of reality."

<http://wisconsinwatch.org/2017/04/wisconsin-inmates-report-despair-little-counseling-in-solitary-confinement-that-can-stretch-on-for-years/>

for article 2 on WIDOC and SOLITARY, go to page 9.

## **Now: ON THE MONEY!!!**

Notice: read article on misuse of act 355 below. The injunction is **in Branch 6, Dane County Circuit Court, Judge Shelley Gaylord, presiding: Marcus Kerby V. Jon Litscher, 17-IP-18,** However it looks like we will need to do some pushing to get it to move through the court as it was filed April 13<sup>th</sup> and has not been addressed. As Randall Mataya pens: "*The judge is just sitting on the case 17-ip-18. She should have ruled on *informa pauperis* status. This is an injunction and as such, it should be ruled on due to the injuries complained of, continuing. We really need the media on this*"

Please help . Have your family contact their local media and tell your story of ,money taken from you wrongly and that an injunction has been filed and is not moving. Also your family can contact me and we can work together. Below are the people that covered the issue originally. Please inform along with your locals, as will FFUP, and ask them to cover this juncture in our long road to fairness.

Bill Lueders, The Progressive ; 409 E Min, Madison, 53703/608-257-4626/800-827-0555( At Progressive but 

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 article was publish in Isthmus)

Gina Barton , journalist, Milwaukee Journal sentinel; 414-224-2125

And here is another good one: Dee Hall; WI Center for Inv journalism/WCIJ; 500 Vilas Hall; 821 University Ave; Madison 53706; 608-262-3642

### **This From Randall Mataya, architect of the suit:**

First off, a legal action, such as an injunction, seeks to stop a specific act of the DOC. It is initially a 'temporary' situation. The court looks to the body of the petition to determine if we have raised sufficient facts to get it to order a temporary injunction. It then schedules a hearing at which all evidence is put forth, arguments made and the court then decides whether to make the injunction permanent or to end it.

Now, here is where it gets a bit complicated. In order to get that injunction, I alleged that the DOC enacted a policy called 309.45.02 that is in direct conflict with State laws. Now, the injunction is sought pursuant to 813.02 Wisconsin Statutes. However, because I am challenging the validity of 309.45.02, the court must construe 309.45.02, as a DOC rule, which calls into the equation, 227.40, Wis. Stats. which is a Declaratory Judgment. This DJ is required by the statute, **the** legal procedural rules for challenging a rule of the DOC. So, in the injunction, I quote declaratory judgment as part of our legal action, combining an 813.02 and 227.40 proceeding since both are in play. Its complex. However, if we prevail, it will make the DOC stop taking everyone's money etc. That is why I said everyone needs to relax and let this legal action progress to its end to see what happens. EVERYONE, TAKE CHILL PILL!!!! ha ... ha.

In the declaratory judgment portion, you will see I named those entities that have to be notified, i.e. the joint committee for administrative rule review the Attorney General and the DOC Secretary. These people all had to be served with a summons and petition, by the Dane County Sheriff. \$42.00 per person served! The filing fee is \$129.50. Its all coming o t of the release account.

We never know how a court will act. It should obey the law and if it does, we will win this legal action. In your john doe, the court said the inmates could file certioraris. That is true. HOWEVER, any decision on certiorari, will only apply to that individual inmate that filed it. Certiorari is the worst way to go. Declaratory judgment is legally required..

We allege 309.45.02 is in conflict with State law and-that law is 973.045, 973.05, 973.06,and.301.32. We do not make any challenge to 2015 Wis. Act 355. This act is not retroactive and thusly does not affect anyone sentenced prior to July 31, 2016. That 309.45.02 policy is being applied illegally. 50% deductions across the board. Act 355 does not say it is retroactive-so there is no valid reason to attack it. That 50% language all stems from 309.45.02 and the DOC has taken to citing 301.32 as its guiding light. That is stupidity on their part. 301.32 only got amended to allow "restitution to be paid by the inmates. 301.32 does not do anything else.

The DOC could legally take 50% from new inmates sentenced after 7-31-16. It chose to take it from everyone, which would make 355 a retroactive act. But, since it isn't, the DOC is abusing its authority, As usual. This should answer all questions. **No need for anyone to file anything right now. It's being done. Randall Mataya**

### **Further submissions**

1) Our John Doe was dismissed. You will recall, the architect of this effort was Nate Lindell, FFUP was the conduit into the court. Some of the text:

“ This is a John Doe Petition filed by Petitioner Peg Swan ,on behalf of twenty –two inmates at SCI. RGCI, GBCI,FLCI.”

(the judge then writes about the purpose of a JD and the “4 corners” that must be presented.)Finally:

This decision focuses on the first step, whether the petition must be referred to the district attorney. In the petition, Swan complains that the Wisconsin Department of Corrections ("DOC") erroneously deducted various debts and obligations from a number of inmates' prison trust fund accounts.

Swan has not alleged facts to demonstrate that the named defendants committed any criminal offense. As the court understands, the only conduct attributed to defendant Schwochert is his allegedly improper application of the provisions of 2015 Act 355 that resulted in the purported erroneous deductions. The conduct attributed to defendant O'Donnell is her dismissal of inmate Nate Lindell's group complaint. Moreover, the conduct attributed to defendant, Marquis Corp., a third-party bill collecting company, is its "search[es] for debts prisoners may owe and deductions of those debts from] prisoners' fluids to pay those debts." Pet. at 2. There is nothing criminal about these alleged conducts. Furthermore, there is no other conduct attributed to the named defendants, or in fact any individuals. Swan only attributes wrongful deductions to the DOC.

The crux of the complaint seems to be the retroactive application of the provisions of 2015 Act 355. However, a John Doe action is not the proper action to challenge the application of such laws. If any inmate is unsatisfied with the DOC's interpretation of 2015 Act 355, he or she may choose to pursue their administrative remedies, and ultimately a writ of certiorari.

Therefore, an examination of the four corners of the petition shows an insufficient factual basis to establish an..objective reason to believe that a crime has been committed in the court's jurisdiction.

For the above-stated reasons, Swan's petition to conduct a John Doe proceeding is DENIED, and the case is DISMISSED.

IT IS SO ORDERED.

Dated: April 5, 2017/Circuit Court

2) **Tony Merriweather submitted a “motion for contempt of court for principal action” coupled with “order for the production of documents”.** It is 14 pages long and due to our space limitations will not be presented here. I submitted it to another litigator for vetting and there were a few points of difference but in the main it was praised. I will send both letters to any who request the motion, as the discussion is way over my head. Both are fine litigators and you should consider both opinions as you use this offering.

2) **Nathan Lindell offers corrections to his motion to modify sentence** he submitted in last newsletter, the Motion to Modify sentence

Re:NATE LINDELL’S GUIDE FOR SUING OVER \$ ISSUE.

“Those using this guide and its forms, YOU MUST add the Joint Committee for review of Admin, Rules (JCRAR) as defendants and put that name and their address (get from law library, STREET address) in the caption, per WI statues 227,40(1).See State ex rel. Hensley V Endicott, 245 WI 2d 607 (2001).You Must serve the JCRAR just like the other defendants. Then you can pursue the Due Process claims in state court. Casteel V Kolb, 176 Wis.2d 470 (app.ct.1993)

The Feds would require this for you to do a 1983 claim over due process, see ,E.g.,Lindell V. Frank, 377 F3d 659-60 (7<sup>th</sup> Cir .2004)(invalidating DAI policy banning copies of clippings).Technically state courts can’t block a 1983 federal claim based on state law requirements, but that’s what happened in Casteel. My guide is for a state –court suit, so you’d best comply with 227.40.

Finally,227.40 can’t bar criminal litigation that requires the declaration of a rule’s legality, sub (2)(b), so it can not bar a John Doe petition, as such a petition seeks to initiate a criminal case. Still, judges will likely not rule on the legality of Shwochert’s policy/rule as “helping prisoners” wins no votes and may/will cost some. If they declare the policy/rule illegal, the DOC is guilty of many crimes.

Note: make sure before using the above, that you check the laws that apply to your specific case.

Disclaimer: although this newsletter needs to contain a lot of law, I claim no expertise, I do not know the law and generally go by instincts as I listen and learn from the many fine litigators trapped in our system. We have a main editor now and a several litigators helping on various aspects of FFUP’s legal projects. Our goal is to help and not harm but keep in mind there are no lawyers here.

## **FFUP FOUNDER NOTES:**

### **First on the money scam:**

I have received a lot of phone calls and mail on this and am not a lawyer- I can only be a conduit. Our John Doe was dismissed but an injunction was filed April 13<sup>th</sup> 2017 and I have been asked to push it along. If there are family members who would like to help me with this, Please contact me (pgswan3aol.com) . The main message is that you can sit on your hands- the injunction is in. On page\_5-6 , however, there are single actions you can do, one is Nate Lindell’s correction on his motion to modify sentence, and the other is by Tony Merriweather which is too long for inclusion here (“Motion for Contempt of Court for Principal Actions” and “Order for the Production of Documents”). You can request a copy from FFUP and we will have both online and in prison libraries if possible.

I want to thank Randy Mataya and the inmates working with him for filing this injunction- it was a great effort and a lot of expense and From what I understand, will do the trick if the courts follow the law. I also want to thank Nate Lindell for his effort our first time around and Tony Merriweather for his motion and order.n wondering wh

We would like to put newsletters and often requested legal material, guides and cases into the prison libraries. There is much available on the internet as free downloads . If you are a librarian or know your librarian, please let FFUP know the procedure.

### **Sabbatical**

Which leads me to the next issue. Money and time are becoming increasingly short. Many of you have written in concern and have noticed fewer letters from me . I need to do some real organizing and will be reading fewer letters while I take what I call a sabbatical-something teachers take when they need to go off and research. I am not a teacher but it is a good term. Organizing and connecting and researching this wondersul ADA ( page8) - so what we have started here has a chance to continue. There are more groups now and people who are willing to put in hours –some of the ideas inmates and I have wished on over the years have some possibility now and I and my husband are old and our cheapo living is coming near an end as will much of my ability to fund FFUP. I also need to focus on the needed lawsuit and legislative bills using the many stories and cases I have access to. I cannot write a lawsuit but I can gather the cases in such a way that they are usable for a knowledgeable litigator and I can collect the cases that will lead us forward. The killing of parole back in 2000 is, I believe, the heart of DOC corruption causing complete loss of mission and the overcrowding. For example, As you know, no matter what an old law prisoner accomplishes, he will not be paroled because he is “Too dangerous or has not served enough time” while resources and staff are so short because of the overcrowding that TIS prisoner are let go without treatment or training often straight from solitary and with no support once they get out. Dangerous? you bet! The circle is complex but all is connected so anything we accomplish at one end helps all.

So ,as usual, many letters will not be answered but I will no longer be chasing my tail I will be focusing on carrying FFUP’s part of this movements forward. I will read and deal with all but will only answering when I have help. My main focus will be on the bigger pictures.. Finally, during this sort of sabbatical, I will also be working on ways to make the stamp program sustainable and do general fundraising. We do have someone who is willing to take the reigns of FFUP when she is ready and I have talked with a few EXPO members about a mentoring program for newly released and soon to be released inmates, and there are a myriad of ideas you prisoners and FFUP have discussed that just await energy , focus and time- gradually we will forge a working division of labor between groups. All good, needed work.

### **Ongoing hunger strikes and Articles on AC, Solitary by Center for Investigative Journalism**

First, let me acknowledge that we are aware of the efforts of some of you in solitary to reach out to the world through hunger strikes. We honor what you are doing yet plead that you do not harm your health. I am convinced that a bigger broader and more active collation needs to

be in force out here in order to make your efforts in there effective. Otherwise at best, as last spring, there is a short media peek and then silence and the business of solitary torture goes on as usual. IWOC is in the process of discussing a strategy to effectively support the hunger strikes (see present campaign efforts on pg 10) and FFUP is doing its usual shouting into the wind. This is hard stuff. The good news is that LaRon McKinley is soon to be on his way to general population in another state and is entering the negotiation stage on his lawsuit which attempts to change much about solitary in the WDOC. And Cesar, we believe has been or will be released from AC. This is not what these men started out to do but it is what is possible until we get a stronger voice out here to support you in there.

Here also are two articles by Dee Hall and Alexandra Arriaga of The Center for Investigative Journalism (pg 1 and 8) to show you what the best seg /AC/Solitary reporting in the state looks like. These are comprehensive and seem to try very hard to be fair, to present all sides of the incarceration question. I had my usual difficulty reading the media on prison, however, for there is fine reporting here of prisoner testimony (which is rare), but this writing perpetuates a lot of myths and accepts the prison's versions of the facts to a great degree. And they also take the word of the DOC that reform of Solitary confinement use is going along swimmingly.

The second article, (pg8) seems more balanced than the first and is about the ongoing changing of prisoner's mental health diagnosis and failed efforts of legislators to effect real change. It also outlines fantastic propositions by our governor including body cameras and a mental health center. At the same time, however, there is a push to be harder on crime and fill the prisons nationwide and in our legislature.

These articles are the best general awareness gets and I put as much of this as is possible so you can help bring the truth out. Please keep FFUP up to date on any improvements you see as well as the horrors which I usually get and use and appreciate. My information now is wholesale dumping of prisoners of every ilk into Solitary and all kind of subterfuges to keep people in solitary whatever it is called- all to cope with lack of staff and overcrowding

The first article is on AC, the second mostly on mentally ill in solitary. I will be researching groups, websites to find effective outlets to use to spread the word more effectively both about solitary and the mentally ill and about the other corruptions and to get legal help. So please read these articles carefully and possibly prepare a rebuttal aimed at the public. If you have had your diagnosis downgraded, we would like to know that so we can pass on more than rumors. We raise our energy level, do scary stuff we have never done before if we are going to make real change. The second article has Governor Walker proposed wonderful reforms---including body cameras for staff and mental health treatment units. Please keep us abreast of what is really happening. I will read and use all, answer what I can and appreciate all. But, let me make again clear- I must focus on organizing if FFUP is to be any real help in moving this very stuck system toward its true mission- keeping the public safe and rehabilitating offenders. It does neither at this time and the public needs to be made aware of the corruption along with alternatives that are healthy and do work.

**ON FFUP Stamp PROGRAM: We have far more requests than can be filled and the difference gets bigger each month. So the once a month promise becomes once every 1 ½ or two/ Probably I will be rolling these along in 4 groups-so conserve stamps! Meanwhile, During my upcoming time at organizing I will be doing fundraising. Send Account statement with request please.**

We have received notice that WCI is not following the new DOC AC policy enacted in March. We list below the part of the policy of which most WCI inmates are unaware. The whole new policy was sent to us by an inmate; it seems to not be available to the public. Is this being enacted anywhere?

**NEW WI DOC ADMIN CONFINEMENT POLICY:**

DIVISION OF ADULT INSTITUTIONS DAI POLICY AND PROCEDURES #: 30800.01

Original Effective Date:01/01/99 New Effective date 03/01/17; Supersedes: 308.00.01 Dated: 08/17/09

Administrator's Approval: Jim Schwochert, Administrator /

Chapter 308/Subject: Administrative Confinement/Restrictive Housing

**IV Programming and Level System##**

**A Each facility shall have a structured and progressive system that allows inmates to progress through privilege levels based on program participation, behavior and appropriate interactions with staff. Where space and resources allow, the program shall include opportunities for recreation and leisure time activities and out-of-cell time with other inmates (with or without restraints), consistent with level of risk.**

**B. At the time of AC placement, inmates shall be informed the behaviors and actions required to successfully transition to a less restrictive setting.**

**C. Property and privileges of AC shall be consistent with the highest level allowed in the RH unit where they are housed.**

**D. Additional property, privileges and programming may be initiated to assist in transition planning and preparation for release from the status.**

**V Mentally ill inmates ##**

**For inmates placed AC with MH-2A, MH-213 or ID codes:**

**A. Facility staff shall complete a Behavior Management Plan as defined in DAI Policy 500.70.30 within 10 days of AC placement.**

**B. PSU staff shall meet with the inmate at least once per week and document contacts on DOC-3473.**

**C. If the inmate is not already on a mental health treatment unit, staff shall regularly review options for placement on such unit**

**D. Each facility shall review their capabilities for additional out of cell activities for SMI inmates.**

**B. Out of cell time for SMI —Whew Resources Allow**

**1. Five hours out of cell time for unstructured recreational/leisure activities per Wisconsin Administrative Code.**

**2. Five hours out of cell for structured activity.**

## INTRODUCING THE ADA/AMERICANS WITH DISABILITES ACT( ADA) gives us new tools

Note: I am just learning about this act although for many years I have accessed the good services of Disability Rights WI (DRWI), which is a non- profit that advocates for prisoners using this act. I do not have much law knowledge and this is only a taste. The most complete digest with the fewest words is as usual , the PLN, Prisoner legal News and I quote it liberally below. Margo schlanger, director of the Civil Rights Litigation Clearinghouse & MI law professor, seems to present the most comprehensive view of the use of the act and sites many cases using it.

FFUP will be trying to get some of these incredible documents on this into prison law libraries. For applications to DRWI , ask your Social worker or write directly to DRWI at Disability Rights WI, 131 Wilson St, Suite 700, Madison 53403. DRWI does not do lawsuits but they have lawyers who do often succeed in enforcing your rights. We will be researching law firms and successful cases using the ADA If you have difficulty obtaining info on the ADA, write FFUP (and include a SASE if you can.)

**The AMERICANS WITH DISABILITES ACT (ADA)** was passed in 1990, became effective in 1992. The Supreme Court decision, Pennsylvania DOC v. Yeskey, 524 U.S. 206 (1998) held that the ADA applies to people in prison. But most inmates, including many lawyers, are not familiar with its possibilities for prison advocacy. It is used in conjunction with the 1st, 5th, 8<sup>th</sup> and 14th amendment but is broader and more flexible than these.

“Justice Scalia observed in Yeskey that the ADA has breadth, and the Department of Justice apparently agrees. The ADA was designed to remedy the serious and pervasive disability-based discrimination that exists throughout society as documented by Congress when the ADA was enacted. It was intended to ensure equal protection of the rights of all persons with disabilities, including prisoners according to the Supreme Court, and to relegate the existence of a disability to a non-issue.

The Fourteenth Amendment reads, in part, “No State [can] deny to any person within its jurisdiction the equal protection of the laws.” The Fourteenth Amendment, in conjunction with the ADA, ensures that prisoners with disabilities have the means with which to protect their rights. (#PLN)”

**The language of Title II of the Americans with Disabilities Act (ADA) is clear: “[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132.**

### **Carl McDaniel let me know of the usefulness of this act with his 3 17 letter about his successful case against retaliations:**

“In a nutshell, “no public entity shall discriminate against an individual because that individual has asserted his rights under the American’s with Disabilities Act, and that no public entity shall coerce, threaten, intimidate or interfere with an individual in exercise of his rights(See section 28 C.F.R. 35.134[A and B]- retaliation under Title II of the A.D.A ) This requires plaintiff show: 1.He engaged in statutorily protected expression ( pursuing legal action) 2) he suffered and adverse action and (example, a succession of conduct reports) and 3)the adverse action(s) was casually related to the protected expression.(“adverse” only if it results in some tangible, negative effect).Plaintiff Must show all three. Most importantly, “adverse” means a deprivation of loss. Prospective loss can also be adverse, for example loss of legal library time. Deterioration of mental and physical health etc. these must be presented and documented.

The ADA is used in conjunction with other tools: “essentially, the new civil action will be a 1983, but within the main claim is an A.D.A. claim The 1983 1<sup>st</sup>, 5<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendments will be claimed and the A.D.A .language and 28CFR35# violations will be first cited for each of the amendment coalitions. Like this:“28 CRF35.134#(a) Retaliation , 42 U.S.C.19831<sup>st</sup> amendment violation of my right to redress..etc

**Point is.ADA right are far more enforceable that 1983 amendment rights. Easier too, and much more inclusive, BUT ONLY IF YOU QUALIFY!”**

(#28CFR35: are revised rules/Amendment of Title II and Title III Regulations done in 2011.)

**Very briefly: The question then becomes one of who is considered to be a “qualified individual with a disability” under Title II, as far as prisoners are concerned.** Pursuant to the ADA, an “individual with a disability” is a person who:

- 1) has a physical or mental impairment that substantially limits a “major life activity,”
- 2) has a record of such an impairment, or 3) is regarded as having such an impairment.

**What constitutes a “major life activity”?** A major life activity includes functions such as performing manual tasks, walking, seeing, speaking, hearing, learning, breathing, working or caring for oneself. A “qualified” individual with a disability is a person who meets the essential eligibility requirements for a program or activity offered by a public entity, irrespective of their disability.

### **More on uses of ADA**

#### **The ADA and Discrimination( more from 2013 PLN )**

The ADA broadly defines the term “disability” to cover people faced with a number of different forms of discrimination. Generally, the ADA bars public entities from denying services to people with disabilities or failing to provide services such as those offered to others who are not disabled. Each of the ADA’s five titles targets specific areas in which people with disabilities



face discrimination. Title II of the ADA is the one under which a prisoner would file suit to address discrimination against a qualified individual with a disability by a public entity.

**Title II of the ADA provides that state and local governments:**

- May provide special benefits, beyond those required by the regulation, to individuals with disabilities.
- May not refuse to allow a person with a disability to participate in a service, program or activity simply because the person has a disability.
- Must provide programs and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity.
- Shall operate their programs so that, when viewed in their entirety, they are readily accessible to and usable by individuals with disabilities.
- Must furnish auxiliary aids and services when necessary to ensure effective communication, unless an undue burden or fundamental alteration would result.
- Are required to make reasonable modifications in policies, practices and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration in the program would result.
- Must eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy services, programs or activities unless “necessary” for the provisions of the service, program or activity.
- May not place special charges on individuals with disabilities to cover the costs of measures necessary to ensure nondiscriminatory treatment, such as making modifications required to provide program accessibility or providing qualified interpreters.

We will be researching on how to put all this in effect –exciting new tool.

Finally, the Wisconsin Center for Investigative Journalism Article by Dee Hall :

**Wisconsin prison officials quietly changed mental health status of inmates in solitary, psychologist says/** By [Alexandra Arriaga](#) and [Dee J. Hall](#) April 15, 2017

When he returned from a medical leave in early 2016, psychologist Bradley Boivin found that thirteen of his patients’ mental health classifications had been changed without Boivin’s knowledge — and in his opinion, without proper assessment. The re-evaluations came after a July 2015 memo from Deputy Secretary Cathy Jess to psychological staff to reassess the mental health classification of the most seriously mentally ill inmates in solitary confinement, according to a memo provided by Boivin to the Wisconsin Center for Investigative Journalism. Boivin resigned from Waupun in 2016 because of a “difficult environment” at the prison after he expressed strong disagreement with prison officials over several issues, including the treatment of inmates, especially those with mental illnesses. Boivin said some of the conditions for inmates in solitary confinement are “beyond unacceptable” and “inhumane.”

The mental health reassessment ordered by Jess is part of a push by the administration of Gov. Scott Walker to limit the use of solitary for inmates with serious mental illnesses and to improve conditions for inmates there.

In its 2017-19 budget request, the Department of Corrections acknowledged that the “overall psychological effects” of solitary confinement are “negative” for inmates already suffering from mental illness and include “increased depression or anxiety, worsening of trauma-related symptoms, insomnia, worsening of psychosis, paranoia, emergence of self-harm behavior, suicide attempt or aggression.”

Boivin agreed that inmates with mental health problems can get worse in solitary. “Does it (solitary) cause mental illness? Those sorts of things are debated,” Boivin said. “But the reality is you see a lot of mental illness and you see things exacerbated in that environment, and you don’t have to be a rocket scientist, a psychologist, to understand that when you put someone in that kind of an environment — very loud, everywhere you go if you move even to see your therapist you’re shackled — it’s just a very vulgar environment. I refer to it as a very toxic environment.”

Legislative efforts to curb the use of solitary have been unsuccessful. [Assembly Bill 1001](#), introduced in 2016, would have required the state DOC to “develop evidence-based criteria for confining a prison inmate in a solitary cell” and an audit by the Legislative Audit Bureau on the state’s use of solitary confinement. [Senate Bill 803](#) would have prohibited the use of solitary for any offender under age 18. Both bills, proposed by Democrats, died without a hearing.

In March, Democratic lawmakers led by Sen. LaTonya Johnson of Milwaukee proposed restricting solitary confinement for any inmate with a serious mental illness to no more than 10 days. DOC spokesman Tristan Cook said the agency already has made some changes. The number of inmates with serious mental illnesses in solitary dropped from 155 inmates to 91 inmates between April 2015 and April 2016, and the number of inmates in administrative confinement with serious mental illnesses has decreased from 11 to 10 inmates, Cook said.

Walker is proposing additional funding in the 2017-19 budget to improve conditions in solitary, especially for inmates with serious mental illnesses. His budget includes [\\$2.2 million](#) to convert a vacant housing unit at Oshkosh 10 Correctional Institution to house up to 86 inmates with serious mental illnesses or intellectual disabilities who are in so-called restrictive housing status.

The funding would allow inmates to spend 20 hours of out-of-cell time a week, instead of the four hours a week that many prisoners in solitary currently receive. This program requires 10 out-of-cell hours for structured programming and therapy in addition to 10 unstructured out-of-cell hours for activities such as meals and recreation. (9)

The state also is seeking to expand this “10/10” model — currently in use in Colorado — to other prisons. Walker has endorsed a DOC budget request for about \$600,000 over two years for increased psychological staff at restrictive housing units at Waupun, Green Bay and Columbia correctional institutions.

At Columbia Correctional Institution, the DOC seeks an additional \$773,200 to staff a new Health Services Unit to treat the prison’s large population of chronically and mentally ill inmates. With the completion of the unit and the provision of additional staff, it would operate 24 hours per day, seven days per week.

The governor’s request also includes \$591,000 to buy body-worn cameras for staff working in solitary confinement units, where numerous complaints of mistreatment have been lodged.

The Rev. Jerry Hancock, director of Madison’s Prison Ministry Project, a prisoners’ rights advocacy group, said the budget request is “laudable” but also a “far cry” from what Colorado and other states are doing to curtail solitary confinement.

“The Department of Corrections finally has recognized that extended stays in solitary confinement is not appropriate, effective or humane treatment for the more than 2,000 seriously mentally ill people in Wisconsin prisons,” Hancock said in a written statement.

The Alabama Department of Corrections is awaiting a decision in a class-action lawsuit alleging the serious mental health needs of Alabama inmates are being neglected. The services, as described by the inmates’ attorney, sound similar to those in Wisconsin for prisoners in solitary.

“To the extent that they get any counseling at all, it is a few minutes through their cell door,” Maria Morris, a Southern Poverty Law Center attorney working on the case, told [AL.com](http://AL.com).

**Mental health status questioned**

The Wisconsin Center for Investigative Journalism last year sent surveys to more than 100 inmates held in administrative confinement, a form of solitary in which the length of confinement can go on for years, even decades. Some inmates said in response to the Center’s survey that the severity of mental illness among some prisoners in administrative confinement had been downgraded recently by prison officials.

According to DOC policy, MH-2 is the highest classification of inmates with serious mental illnesses. It is those inmates, Cook said, that the agency is seeking to move out of restrictive housing.

One inmate, who spent multiple years in solitary, said he heard from others that their mental health status had been changed to make it appear there were low levels of serious mental illness among inmates in solitary confinement. “About the mental health classification-it came out that inmates with MH-2 are not fit to be in solitary confinement or (administrative confinement), so what they did was drop a lot of inmates’ classification (down) .... just so they will not have to release them from (solitary confinement).”

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**We are families of court involved youth running the Facebook community Wisconsin Alliance for Youth Justice (WayJ). The community is a place for families to find each other, learn about youth justice, and if they want they can get involved in youth justice reform efforts**

**Recently we learned that the Remington Center at the University of Wisconsin Law School has initiated a small project focusing on Juvenile Life without Parole (JLWOP) sentences. This sounds like a good time for WAYJ to join**

**the national conversation around the extreme sentencing of youth. Wisconsin possible legislation. The Remington Center has agreed to give us updates on their legal efforts. We are also building a list of people we believe fit in the Juvenile Lifer category. People that were convicted of a crime committed while under that age of 18 years old that resulted in a life sentence here in Wisconsin. needs to abolish JLWOP. Having an opportunity at release is not enough. It must be a *meaningful* opportunity.**

**We are working to gather information from a national organization about We're going to start sending letters to individuals within the next month to create a line of communication. In the meantime, we ask that your families reach out to us on our “Facebook” page. They will find additional contact information in our “About” section. Thank you, Nikki and Jaime**

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**This From IWOC: Help Close Milwaukee Secure Detention Facility!** A coalition of Wisconsin prisoner support and advocacy organizations are working on a campaign to shut down the Milwaukee Secure Detention Facility (MSDF). They are seeking testimonials from prisoners who spent time in that facility and experienced or witnessed abuse, particularly harsh conditions, or violations of their rights. This campaign is also addressing the DOC's reliance on crimeless revocations to avoid due process, extend supervision and cycle people through the system. If you would like to share your story, please write to Milwaukee IWW, P.O. Box 342294, Milwaukee, WI 53234

