

NEWS

Rikers Doesn't Put Teens in Solitary. Other New York Jails Do.

Even after the high-profile death of Kalief Browder, jails in the rest of the state routinely isolate juveniles.



A Special Housing Unit at Onondaga County Justice Center in Syracuse, N.Y. NYCLU

By TAYLOR ELIZABETH ELDRIDGE

Additional reporting by COURTNEY STEIN, DAVID JEANS and SOPHIA PALIZA-CARRE

Graphic by YOLANDA MARTINEZ

When the police approached Imani and her friends outside a Syracuse, N.Y., dollar store in 2016, she wasn't worried — she didn't believe they had done anything wrong. But a clerk at the store had accused the group of stealing, and Imani, then 16 years old, was arrested and charged with robbery. Unable to afford bail, she waited for her day in court in a maximum-security adult jail.

This article was reported and published in partnership with [Caught](#), a podcast on juvenile justice from [WNYC Studios](#), and [The Root](#).

Imani, petite and wiry, is small for her age. At the Onondaga County Justice Center she was constantly cold, the single jail-issued blanket doing little to keep her warm. After arguing with a guard over a grievance she had filed, she was promptly moved to the solitary confinement wing of the jail, she said. Her meals were fed to her through a slot in the door and her recreation time was spent outside in what seemed like “a cage for a dog,” Imani said. The Marshall Project and WNYC are not using her real name because her juvenile record is sealed.

“I’m ready to come home,” she thought to herself as hours turned to days in isolation. The Onondaga County Sheriff’s Office, which runs the jail, referred calls to a county spokesman, who did not respond to requests for comment.

Listen to Imani on *Caught*, a WNYC Studios podcast on the lives of juveniles in the justice system. WNYC STUDIOS

Solitary confinement is not allowed for inmates younger than 18 at federal and state-run facilities in New York, but for teens like Imani — held in a county jail, waiting for their cases to be heard — it’s a common practice. Local jails use solitary as punishment, and since many counties rarely have separate facilities for juveniles, isolation cells are also routinely used as holding cells for minors.

“It made me feel like nothing, like an animal,” Imani said of her 32 days spent in solitary. “Can’t call nobody, can’t talk to nobody. You just feel worthless.”

Perhaps most well-known is the case of Kalief Browder, a Bronx 16-year-old charged with stealing a backpack who spent three years at New York City’s infamous Rikers Island jail complex. He passed more than two years of it in solitary confinement, steadfastly maintaining his innocence.

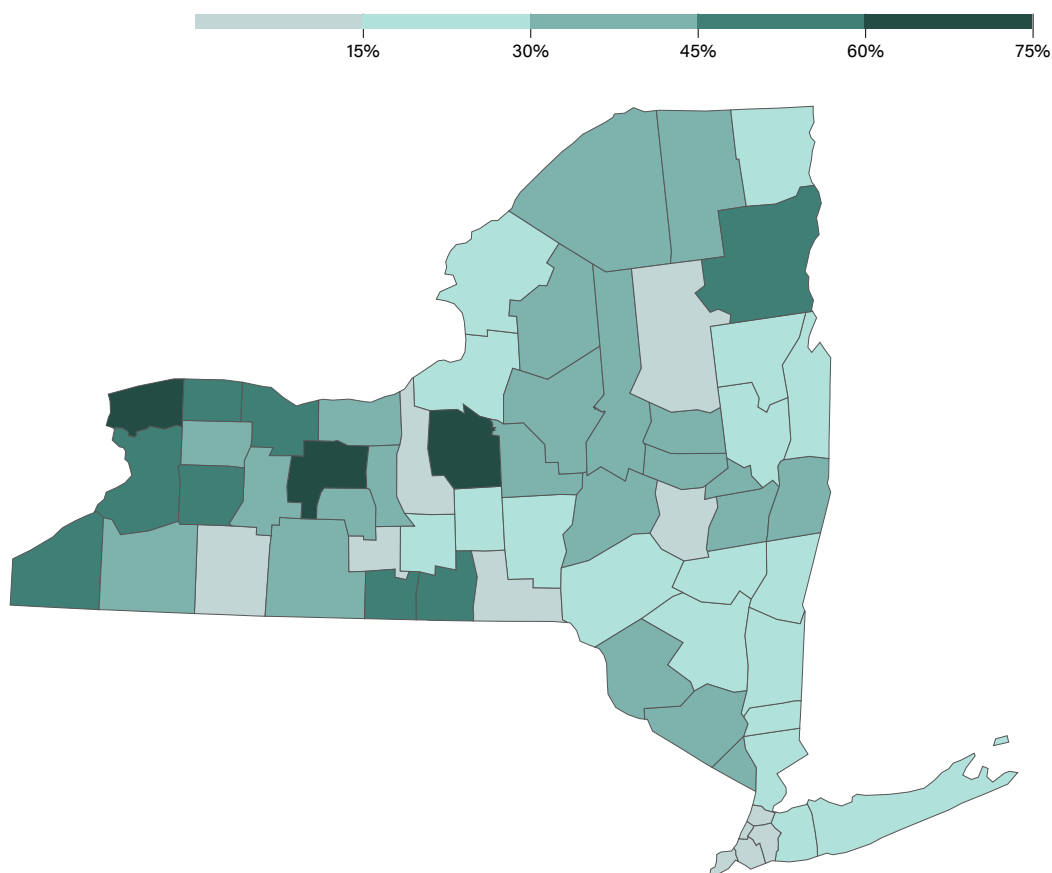
Eventually, the charges were dismissed and Browder was released, but his time in solitary had caused significant mental health issues. He committed suicide at 22 years old in 2015, just two years after his release. His case garnered national attention and eventually led the New York City Department of Correction to ban the use of solitary confinement for inmates under 18.

Yet outside of New York City, teenagers held in jail often don’t warrant special treatment. A Marshall Project review of the 10 counties outside of New York City that detain the largest populations of juveniles shows that at least seven allow holding juveniles in solitary. The remaining three did not respond to inquiries.

In 2016, the last year for which records are available, more than 3,700 16- and 17-year-olds were held in jail in New York’s 57 counties outside of New York City. It is difficult to know precisely how many are placed in isolation because county jails are not required to track the age of inmates locked in isolation.

Teens in New York Jails

Some New York counties jail more 16- and 17-year-olds than others. Here are how many ended up in jail in 2016 compared with how many were arrested that year. Some county jails house people for other law enforcement agencies, including teens arrested in other counties.



Source: New York State Commission of Correction, annual sheriffs' reports, 2017; New York state Division of Criminal Justice Services.

Note: Cayuga County did not file an annual report to the state Commission of Corrections in 2017. All 16- and 17-year-olds arrested in New York City are held at the Rikers Island jail.

In recent years, studies have revealed the damaging effects of solitary on all prisoners, including anxiety and an increased risk of self-harm and suicide. “Social deprivation is not a good practice for anybody,” said Dr. Carly Baetz, an assistant professor of child and adolescent psychiatry at New York University’s School of Medicine. Incarceration is hard, but “isolation alone is a traumatic experience,” she said.

The risks are worse for teenagers, who are still developing intellectually and emotionally.

“You’re just surrounded by four walls with a dim light — no cellmate, no commissary, no pictures of your family,” said Jordan, who was 16 when he was arrested for burglary and detained at the Onondaga County Justice Center in 2015. “All you can think about is death, because you feel like you’re gone already.” The Marshall Project is using his middle name.

Jordan tried to sleep through his first day in solitary. “The second day, waking up to my door slot being opened, was probably the worst sound I’ve ever heard in my life,” he said.

Josh Cotter, an attorney with Legal Services of Central New York, has led several lawsuits across the state challenging the use of isolation for teenagers in jails, especially those who have not been convicted of any crime. “Kids just aren’t little adults — they’re kids,” he said. “They have different needs.”

When Imani arrived at the Justice Center in 2016, the jail was already burned into her mind as the place where her step-sister had died in 2009 from an ectopic pregnancy. She had repeatedly asked officers for medical attention. “They didn’t care, they didn’t do nothing,” Imani said. The county settled a wrongful death lawsuit with the family for \$385,000.

Imani didn’t know what to expect. “I was just 16,” she said. “I ain’t know.”

Even after her release, she felt the effects of solitary lingering. “You still feel like an animal sometimes,” said Imani, who is now 18 and thinking about getting her GED.

Watch a short animated film where Imani describes her arrest, incarceration and time spent in solitary. [WNYC STUDIOS AND THE ROOT](#)

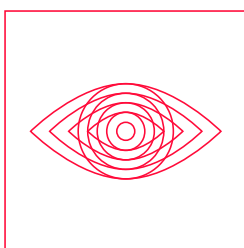
In 2016, Cotter sued the Onondaga County Sheriff’s Office and the Syracuse City School District. The Justice Center, Cotter claimed, routinely used isolation as discipline for minor misbehavior. One teen was placed in solitary for banging on his cell door to get the deputy’s attention so he could tell him he felt suicidal. Others were put in solitary for singing, talking loudly, and wearing shower shoes outside of the shower. Once in isolation, the teens no longer had phone privileges, couldn’t go to school, and received only one hour outside of their barren cell each day.

Jordan was one of the lead plaintiffs in Cotter’s case. When the jail didn’t allow him to go to school while in solitary, it was a “slap in the face, saying that they didn’t care about any possible future for me,” Jordan said. “It really hurts your brain and your soul because all you can think about is you not leaving that cell.”

The county settled the case in 2017, agreeing to significantly limit the use of solitary confinement, develop a system that rewards good behavior, and improve education services. “Young people don’t respond well to punitive threats,” said Alex Frank of the Vera Institute’s Center on Youth Justice. “They respond to being recognized when they’re doing something well.”

Among the nearly two dozen local jail officials who responded to questions from The Marshall Project, many said solitary confinement isn’t just used as punishment. It’s often necessary so jails can comply with a federal anti-rape law requiring minors be kept out of “sight and sound” from adults.

“Our biggest problem is housing them,” said Steven VanCise, a lieutenant at Cortland County Jail. “We don’t have a block for them, so it’s a headache.”



WE ARE WITNESSES

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In 2017, New York passed legislation that raised the age of criminal responsibility from 16 to 18, creating a new class of adolescent offenders and requiring they be housed in specially certified facilities. The state has allocated millions of dollars to update facilities for sentenced teens, but it’s unclear what will happen for 16- and 17-year-olds who are awaiting court. “We have no beds in this county,” said Joseph Gerace, sheriff of Chautauqua County. “We have to house them in special housing units that are not there.”

Late last year, the state Commission of Correction, which oversees county jails, proposed new regulations for solitary confinement: it would still be allowed for teens but with stricter guidelines and more required documentation.

Jails would have to allow teens four hours out of their cells and two hours of exercise. However, if jail staffers deem the teen to be a risk to the safety or “good working order” of the facility, those hours out of the cell can be denied.

Facilities would also have to document any time solitary is used for a minor and provide written justification for denying a minor access to school for each school day missed. The proposal is

waiting for final approval.

In the meantime, counties continue to use different strategies for teenagers. Some, with limited space, send teens over to another county, paying for each night spent in the receiving county.

Others try a seemingly simple solution — keeping teens out of jail. “If you’re a kid coming to jail, we’re working hard to get you out,” said Chris Ivers, the jail administrator in Allegany County, where only 14% of arrested teens are admitted to the jail. “You shouldn’t be here.”

Jordan, who is now looking for a job, agrees. “The first day they enter jail, is the last day that they can remain a child,” he said. ■■■

FEATURE

Too Sick for Jail — But Not for Solitary

Tennessee locks ailing, mentally ill, pregnant and juvenile prisoners in isolation to help jails save money.



Regenia Bowman was placed in solitary confinement at the Tennessee Prison for Women in 2014 even though she had only been charged, not convicted of a crime. SHELLEY MAYS/THE TENNESSEAN

By ALLEN ARTHUR with additional reporting by DAVE BOUCHER
Graphic by YOLANDA MARTINEZ

The state of Tennessee locked Regenia Bowman in solitary confinement for more than six months because she had a skin infection.

Bowman wasn't violent, and she hadn't threatened anyone. She was free on bond when she walked into a courtroom in Bledsoe County in April 2014 to answer charges of selling prescription painkillers, a violation of her probation on a similar charge. During the hearing, when it looked like Bowman was headed to jail, her lawyer revealed she was sick with what turned out to be MRSA, an antibiotic-resistant staph infection.

This story was produced in collaboration with the [USA TODAY NETWORK – Tennessee](#)

The judge suggested sending her to a “special needs” facility in Nashville. Bowman, now 54, assumed she would be going to a clinic or hospital.

Instead, she was driven more than 120 miles to the Tennessee Prison for Women, which usually houses people already convicted of a crime. There, without understanding why, she was dressed in white, the uniform of maximum security prisoners. She was placed in solitary — locked down 23 hours a day with three showers a week and fed through a slot in her cell door. The MRSA cleared up in about two months, she said, but records show she was held in these conditions for 189 days.



The Tennessee Prison for Women in Nashville. LACY ATKINS/THE TENNESSEAN

“I was terrified,” Bowman said. “The first two days I was so afraid I wouldn’t even go outside because I had no idea what was going on.”

Bowman had been declared a safekeeper.

Under a state law virtually unchanged since 1858, people awaiting trial in Tennessee county jails can be shipped to state prison if a judge deems the local jail “insufficient” to handle their medical problems, mental illness, or behavioral issues. State policy dictates they are kept in solitary confinement, even if they are mentally unstable or have not committed a disciplinary infraction.

From January 2011 through 2017, more than 320 people in Tennessee were declared safekeepers. The numbers have grown in recent years. In 2013, there were 26 safekeepers; in 2017, there were 86.

The law is intended to relieve a financial burden on local jails and get pretrial detainees necessary care or protect jail staff. Some safekeepers have allegedly attacked guards or fashioned crude weapons. But interviews and court records show people are sent to safekeeping because they are juveniles, pregnant, wrestling with severe mental illness, or simply too notorious to remain in county lockup. They have not been convicted of a crime, but all of them are sent far away from their families and defense lawyers and placed in cells usually reserved for the state's most unruly, dangerous inmates.

Transfer of "Safekeepers" in Tennessee

From 2011 through 2017, Tennessee judges sent 324 jail detainees to state prison for "safekeeping." The Marshall Project obtained court orders explaining the reasons behind the transfers for 171 of them.

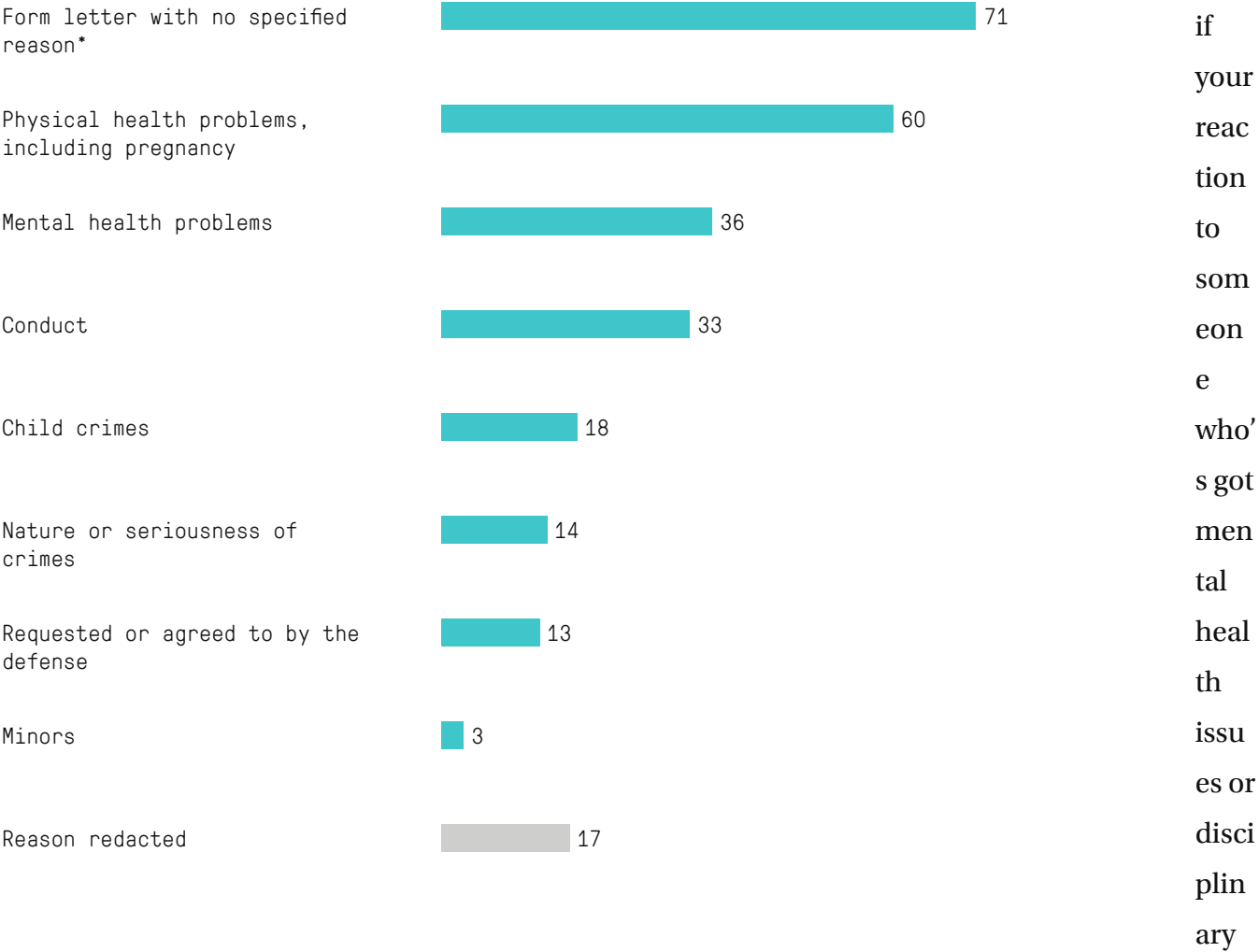
* VARIES FROM COUNTY TO COUNTY BUT FREQUENTLY REFERS TO "CONDUCT AND/OR CONDITION" PLACING "AN UNDUE BURDEN" ON THE COUNTY, WITH NO OTHER FACILITY BEING SUFFICIENT.

SOURCE: MARSHALL PROJECT ANALYSIS OF TENNESSEE COURT RECORDS

One of at least eight states with a safekeeping law, Tennessee has no formal review process to determine if and when inmates should be returned to their original counties.

That means safekeepers have sat in isolation for months or even years as they await trial, even if their conditions improve. While the state does not track precise release dates, a review of records shows safekeeping stays range from a couple of weeks to more than four and a half years. A snapshot from Dec. 31, 2017, shows the average stay of safekeepers was 328 days. Fifteen of the 57 people in safekeeping on that day had been held longer than a year.

"There's extreme psychological effects on people who are subjected to solitary confinement," said Tom Castelli, legal director of ACLU Tennessee. "So you are pouring gasoline on a fire, so to speak,



issues is to isolate them completely.”

Asafekeeping designation generally happens like this: A county sheriff or jail administrator petitions the District Attorney, saying a detainee has unmanageable issues. The DA then applies for a court order to transfer the inmate. A judge approves.

With one exception, safekeepers have gone to one of three state prisons, all in Nashville. Slightly more than half are sent to Lois M. DeBerry Special Needs Facility, an 854-bed hospital prison for men. The remaining men are sent to Riverbend Maximum Security Institution.

All female safekeepers are sent to Tennessee Prison for Women, where Department of Correction spokeswoman Neysa Taylor said “inmates, safekeepers included, have access to the full gamut of mental health and medical care.”

Dr. Ali Winters, a senior clinical therapist hired by Corizon, the private company providing mental health care to Tennessee prisons, worked with women in solitary at TPFW from June 2013 to mid-2016. She said safekeepers had little access to treatment beyond sporadic conversations with her.



Dr. Ali Winters, a senior clinical therapist, worked with women in solitary confinement at the Tennessee Prison For Women. LARRY MCCORMACK/THE TENNESSEAN

“They would be fine, and then within 30 days they wouldn’t be fine because of solitary confinement and what it does to you neurologically,” Winters said. Women experienced depression, mood changes and hallucinations, she said. Her colleague, Lori De Leo, who worked with women in isolation at TPFW from November 2015 to late 2016, agreed that safekeepers would “deteriorate.”

Numerous national studies show the detrimental mental and physical health ramifications of solitary confinement. When an inmate is left in solitary confinement for extended periods of time, he or she may become more anxious or prone to panic attacks, paranoia, and other effects, according to [a 2013 study by the American Public Health Association](#).

People with mental illness placed in solitary confinement “may deteriorate and experience an exacerbation of symptoms,” the study states.

Amanda Beaty has spent more than three years in safekeeping after attempting suicide multiple times while awaiting trial for killing her son in June 2014. In letters to The Marshall Project, she said other safekeepers she saw included two blind women, one pregnant woman, and others who had stopped eating or simply screamed all day. Each name she provided matched state records of safekeepers who were in custody during the time period she described.

Beaty, 34, said when she was put on suicide watch, she had to sleep on a concrete cell floor.

“I was already down in this dark place, and rather than helping me, they just make me feel even worse. It’s horrible,” she said.

One safekeeper, John Raymond Walz, successfully challenged his detention after he was sent to DeBerry on suicide watch in November 2016.

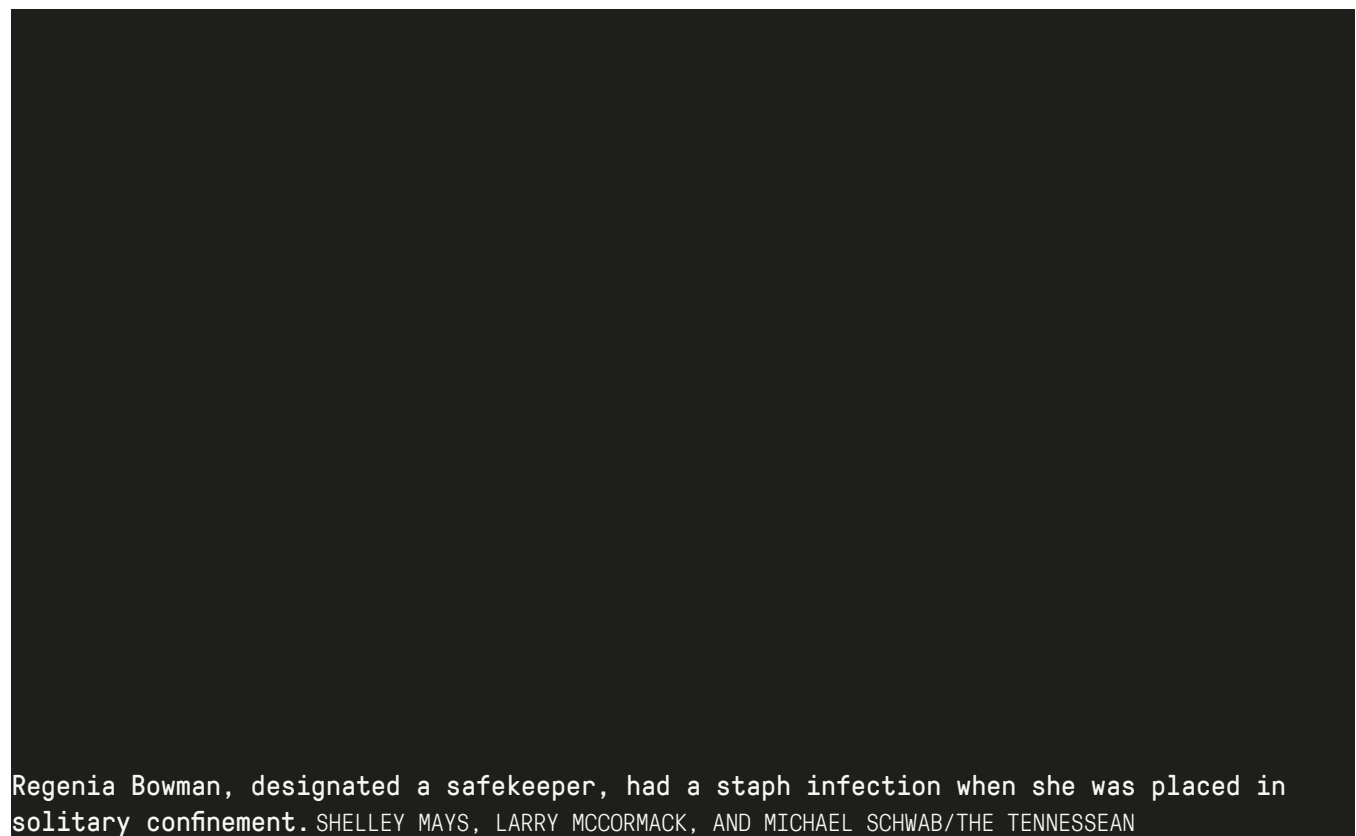
His lawyer, Jeffrey Vires, understood that the local jail didn’t have the resources to keep a close eye on Walz, but he said DeBerry took him off suicide watch after a week — and then held him another

seven months before trial, his health deteriorating. The lawyer successfully petitioned a court to release Walz to a Veterans Affairs hospital near his home.

At least seven women have been deemed safekeepers because of issues with their pregnancies, three of them in Fentress County, according to court records. Criminal Court Judge Shayne Sexton, whose jurisdiction includes Fentress and other northeast Tennessee counties, said he didn't remember specifically signing an order for any pregnant inmates.

But he said he would sign such an order to relieve a rural jail of a potentially steep cost while sending the inmate to what he thought would be a more appropriate facility.

"I would not send anyone on a safekeeping order anywhere if I think where they're going is a worse place than where they are," Sexton said.



Regenia Bowman, designated a safekeeper, had a staph infection when she was placed in solitary confinement. SHELLEY MAYS, LARRY MCCORMACK, AND MICHAEL SCHWAB/THE TENNESSEAN

County jail officials expressed frustration, saying that while safekeeping is not ideal, local jails lack the resources to care for severely ill or difficult detainees.

Mentally or physically ill detainees can jeopardize safety, while slim budgets and skyrocketing health costs prohibit the necessary care at the county level. Some administrators pointed to rising drug use and a lack of adequate mental health facilities straining their resources.

“There’s no room at the inn, figuratively speaking. I can’t put [them] with the other inmates,” said Captain Scotty McKay, jail administrator for Franklin County. “When budgets are cut statewide and nationwide, I think mental health is the first thing to get cut. And I think we’re going backwards.”

In January 2016, Sonya Babb, a woman with a long history of mental health problems, was experiencing severe delusions. She fatally shot her father in his Carter County home because she believed he had killed her son, even though he was alive. Babb’s attorney, Assistant Public Defender Melanie Sellers, said safekeeping was the only option to get the now 56-year-old Babb any help.



Sonya Babb, left, charged with first-degree murder in the death of her father at an appearance in court in Tennessee in 2016.

ABBY MORRIS-FRYE/ELIZABETHTON STAR

“It’s just one of those things where the pure human misery was just overwhelming,” said Sellers, who prepared the letter requesting the transfer.

Babb’s only treatment in TPFW was medication, her lawyer said. She was held in solitary confinement for more than a year before she was found not guilty by reason of insanity and committed to a mental health facility. Sellers said she does not regret asking for the safekeeper designation. The county jail would have been worse.

Cost appears to be a major factor in keeping safekeepers in state custody. While other safekeeping states require the sending county to cover costs, in Tennessee, the state pays the bill.

"Truth is, the county would have to agree [to take a safekeeper back], and most will not," said Sonya Troutt, jail administrator for the Sumner County Sheriff's Office.

Circuit Court Judge Thomas Graham, who presided over Regenia Bowman's safekeeping hearing, said he would prefer to send defendants with serious medical issues to hospitals, but counties cannot shoulder the cost.

The judge was surprised to hear that safekeepers are held in solitary confinement. "The only thing we're trying to do is get them medical care," he said.

Teriyona Winton turned 16 this year in the maximum security unit at Tennessee Prison for Women, more than 200 miles from home. Just 15 when she was accused of murder in Memphis last May, Winton is one of three teenage girls Shelby County has sent to safekeeping since 2011, records show.

After Winton was charged as an adult and the county said it was not equipped to hold her, the hearing declaring her a safekeeper lasted about two minutes, said her current attorney, Josh Spickler. There was no evidence presented, and she did not have a lawyer.

Her mother, Latosha Winton, 38, saw her daughter this week during a court hearing, the first time since the teen was moved to TPFW in October. Latosha Winton works on Saturdays, the prison's visiting day, and did not have a car to make the six-hour round-trip trek.



Teriyona Winton, 16, right, was accused of murder in Memphis. She is being held in the maximum security unit at Tennessee Prison for Women in Nashville. JIM WEBER/THE COMMERCIAL APPEAL

An analysis of all safekeepers since 2011 found they were sent an average distance of 117 miles from their home counties, making it difficult to communicate with family and lawyers before a trial. Taylor, the DOC spokeswoman, said that other factors, including safety and medical needs, “take priority over proximity to home.”

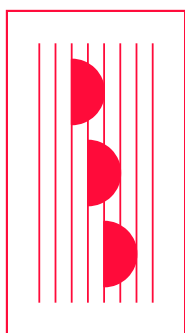
Winton can shower three days a week and go out for recreation two days a week, Spickler said. When she leaves her cell, her feet and hands are shackled. Every weekday, teachers instruct her for two hours through the flap in her door, Spickler said.

“She’s just feeling down, basically just ready for it to be over with,” her mother said. Spickler challenged Winton's safekeeping in court, and on Thursday, a judge ordered that Winton be sent back to Shelby County.

Demetria Frank, an assistant professor of law at the University of Memphis, expressed disbelief that the state’s largest county had no facilities for female minors, particularly after a 2012 Justice Department report faulted the county for failing to properly safeguard juveniles in detention.

“They’re on 23-hour lockdown, that’s just unacceptable for anyone, especially if the period is indefinitely,” Frank said. “The state of Tennessee should be ashamed of itself.”

Shelby County Criminal Court judges J. Robert Carter, Jr. and W. Mark Ward, who have signed safekeeping orders for juveniles in the Memphis area, did not respond to requests for comment.



THE RECORD

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In 1980, the Tennessee Court of Criminal Appeals unanimously ruled that the intention of the safekeeping law was to send people to another local jail, not state prison. The stigma of going to prison before a conviction is so strong that safekeeper transfers there are allowed only if counties

prove to a judge there is no “sufficient” jail nearby, the court ruled. Despite this, a Marshall Project review of jails in seven of Tennessee’s largest counties found that none reported accepting a safekeeper in recent memory, nor had any been offered one.

Taylor, the DOC spokeswoman, said those determinations are made by judges. Graham, the judge in Bowman’s case, said no county likely would be willing to shoulder the burden and cost of an ailing inmate from another county.

Like Graham, F. Lee Russell, a former longtime judge in East Tennessee, and Sexton, the criminal court judge, said they did not realize safekeepers were kept in solitary confinement at the state prison.

“I can’t imagine solitary being good for anyone,” Sexton said.

The practice raised concerns among several Tennessee state lawmakers, including House Health Committee Chairman Cameron Sexton, R-Crossville, and Sen. Ed Jackson, R-Jackson, chairman of the Senate corrections subcommittee.

“Clearly, taking someone and placing them in solitary confinement, that is different than just being in the county jail,” said House Democratic Caucus Chairman Mike Stewart, D-Nashville, a frequent critic of the Tennessee prison system. “That is a severe punishment.” He said it was “unacceptable” for juveniles to be held in solitary before a trial.

Bowman, who was eventually convicted and spent 18 months in prison, said she got out of safekeeping only after she and her daughter repeatedly called Bledsoe and Sequatchie counties, where she had open cases, to pressure them into bringing her back. Her defense lawyer at the hearing did not respond to several requests for comment.

Bowman said she still suffers from the effects of her time in solitary. She is now out on parole and said she tries to avoid being around people.

“I start hyperventilating, I start feeling like the walls are closing in on me. If there are several people, I can do it for five or 10 minutes and then I start finding a way out,” Bowman said.

“The things you see there you don’t forget.”

This story has been updated from its original post to reflect a judge's decision to transfer Winton back to Shelby County. lll

08.01.2017

NEWS

Ending Solitary for Juveniles: A Goal Grows Closer

Recent rulings in a half-dozen states signal new momentum.

By ELI HAGER

A nationwide shift toward abolishing solitary confinement for juveniles, which began to take shape in 2016 after former President Barack Obama banned the practice in federal prisons, has surged ahead in recent months, with a half-dozen states either prohibiting or strictly limiting its use in their youth facilities.

In just the past year, a series of strongly worded federal court decisions, new state laws and policy changes in Wisconsin, Tennessee, New York, California, Colorado, Connecticut and North Carolina have nearly eliminated “punitive” solitary — holding youth in isolation for long periods of time rather than briefly for safety purposes — from the juvenile justice system. It was already largely prohibited in at least 29 states, according to a [July 2016 survey](#) of policies in all states and the District of Columbia.

The developments suggest that long-term isolation is rapidly losing ground as an accepted practice within the juvenile corrections profession, and that a child-specific definition of “cruel and unusual punishment” is now being established by courts across the country.

“These diverse courts seem to all at once be coming to the same conclusion: that solitary confinement of kids, who are our most vulnerable citizens, is unconstitutional,” said Amy Fetting, an expert on the issue for the ACLU.

But for youth advocates, ending juvenile solitary will take more work. Twenty-three percent of juvenile facilities nationally use some form of isolation, according to a [2014 study](#) by the U.S. Department of Justice. And a [new report out Wednesday](#) from the Juvenile Law Center, a national

legal advocacy organization based in Philadelphia, suggests that even though its prevalence is diminishing, 23-hours-a-day isolation continues to be a reality for hundreds if not thousands of incarcerated youth across America, mostly older teenagers.

The practice still has support from many, though not all, juvenile corrections administrators and officers, who are often underpaid, overworked and exhausted from double shifts and who believe solitary is the only disciplinary tool available to them without adequate mental health resources or alternative discipline options.

“The front-line staff, historically, they’ve been trained to use isolation as a means to control violent behavior and to keep themselves safe, and now we tell them, ‘Hey, there’s a different way to do things,’ ” said Mike Dempsey, executive director of the Council of Juvenile Correctional Administrators. “So there is pushback, resistance, fear — a fear that changes like these will basically create unsafe conditions.”

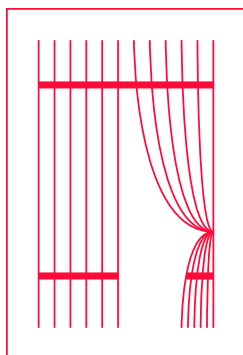
But the momentum for juvenile solitary reform continues, with the latest development coming just a month ago in Wisconsin, where a federal judge ruled that children at the Lincoln Hills and Copper Lake youth prison complex — one of the largest juvenile facilities in the nation and long the subject of litigation — have an age-specific “right to rehabilitation” and that “solitary confinement violates it.”

Under the preliminary injunction issued by Judge James Peterson of Federal District Court in Madison on July 10, Wisconsin officials must stop holding youths in solitary for longer than seven days, and must allow them outside their cells for at least 30 hours a week. (They had previously been held in isolation for periods of 60 days or longer, according to the underlying lawsuit by the ACLU and the Juvenile Law Center.) The youths must also be provided therapy, education and recreation, the judge said.

A spokesman for the Wisconsin Department of Corrections said that while the agency has moved to implement these changes, “The merits of the case have not been decided.”

The injunction echoes one in March by another federal judge, in Tennessee, who blocked a county from placing juveniles in solitary confinement. And in February, a third federal judge, in yet another preliminary injunction, ordered a Syracuse, N.Y., jail to immediately stop putting 16- and 17-year-olds in solitary, citing the Eighth Amendment protection against cruel and unusual punishment.

The Juvenile Law Center report, published today alongside a [briefing](#) on juvenile solitary on Capitol Hill, notes the recent court rulings, while also finding that juveniles in solitary are typically black or Latino, often do not receive a disciplinary hearing before they are placed in isolation, and can be deprived of medical treatment, showers, eating utensils, reading and writing materials, mattresses and sheets. It also points to jurisdictions such as Massachusetts and Ohio that have successfully implemented alternatives to the practice, including training staff in de-escalation tactics, bringing mental health workers into the disciplinary process, establishing a system of age-based rewards and penalties, and increasing the amount of scheduled activities in order to keep kids occupied.



LIFE INSIDE

Essays by people in prison and others who have experience with the criminal justice system

The report and the rulings also come in the wake of — and perhaps as a result of — two events involving juvenile solitary that drew national attention.

The first was the death of [Kalief Browder](#), the 16-year-old from the Bronx who, after being accused of stealing a backpack in 2010 — a charge he denied — was held at the Rikers Island jail for three years, about two of which he spent in solitary. [In 2015](#), after finally having his case dismissed and gaining his release, he hanged himself in his own home.

It was an image that, for many, drove home the total and long-term damage that isolation can do to young people, a group that depends more than most on social contact, educational stimulus, and a sense of purpose. More than half of all suicides in juvenile facilities take place in solitary, [according to the Justice Department](#).

Soon after, [in January 2016](#), Obama banned the solitary confinement of juveniles in federal prisons and also [wrote an op-ed](#) article citing Browder's case and calling the practice “an affront to our

common humanity.” It was a largely symbolic move, given that only 26 juveniles were being held in the federal system at that time. But many advocates credit it as an act of policy leadership that has spurred the flurry of state and local reforms in the year since.

In the months following, both California and Colorado legislatively banned the use of punitive solitary in juvenile facilities for periods longer than four hours. (However, an ACLU report published this year notes that despite the new law, Colorado’s youth corrections department placed juveniles in solitary 2,240 times in 2016.)

And both North Carolina and Connecticut in 2016 limited the solitary confinement of teenagers held in adult facilities, a different but related policy change. Since youth in adult prisons must by federal law be segregated from adult prisoners, they are often held in isolation for no reason other than to keep them separate.

Yet despite the recent spurt of reforms, according to the Juvenile Law Center report, states like Nebraska are still regularly holding youth in isolation. And in New Mexico, Gov. Susana Martinez vetoed a bill this year that would have restricted solitary for juveniles in adult prisons. She said it would have put guards in danger and hampered their flexibility to choose the best disciplinary options for the most violent inmates and also to keep youths fully separated from adults.

Even in the places where reform has been enacted, the work of translating a judge’s order or a new piece of legislation into actual, sustained culture change remains to be done, according to the JLC report.

Indeed, many juvenile justice agencies, when challenged by litigation or legislation, simply re-name solitary confinement using one of a variety of well-worn euphemisms: “room confinement,” “special management unit,” “restricted engagement,” “administrative detention,” “time out,” or even “reflection cottage.” Other agencies just reclassify the type of isolation as “non-punitive” in their official statistics, calling it “temporary” or for the limited purpose of protecting the youth or those around him from harm.

“Anytime you’re talking about new or additional training,” said Dempsey, the executive director of the juvenile corrections administrators council, “it does cost money. It takes investment in alternative techniques, and that can be hard because in this line of work there’s always turnover and staff shortages.”

That’s why Dempsey’s organization and the Stop Solitary for Kids campaign, which aims to end juvenile solitary within three years, provide on-the-ground technical assistance to state and local

agencies that might otherwise be inclined toward superficial reform. Juvenile justice officials from Kansas, for instance, were brought to a successful facility in Massachusetts to observe alternatives to solitary for themselves, said Mark Soler, executive director of the Center for Children's Law and Policy and a leader of the campaign.

To Fetting, the ACLU advocate, the cause could not be more urgent. "Imagine if *you* left a kid locked in a small room for 70 days. Well, that same action is taken by state governments all over this country!" she said. "When you do this to children, they do not come back." ■■■

FEATURE

28 Days in Chains

In this federal prison, inmates have a choice: live with a violent cellmate or end up in shackles.



ANGIE WANG FOR NPR

By CHRISTIE THOMPSON and JOSEPH SHAPIRO

On Feb. 3, 2011, corrections officers at Lewisburg federal penitentiary in rural Pennsylvania arrived outside Sebastian Richardson's cell door. With them was a man looking agitated and rocking back and forth. He stared down at Richardson, who at 4 feet, 11 inches was nicknamed "Bam Bam."

Reported and published in collaboration with [NPR](#). Listen to the piece [here](#).

The man, officers told Richardson, was his new cellmate. The two would spend nearly 24 hours a day celled together in a concrete room smaller than a parking space.



Sebastian Richardson in an undated photo.

Richardson, 51, didn't know his new cellmate's name, only that he also went by a nickname: "The Prophet." He had a habit of screaming songs or shouting the spelling of words for hours, as though competing in his own private spelling bee. There were also rumors that he had assaulted more than 20 previous "cellies."

"He's Lewisburg's weapon," said former Lewisburg inmate Deangelo Moore. "If he like you, he like you. But if he don't, he's your worst enemy."

"Every cellie he get he always end up fighting," said Lenelle Gray, another former Lewisburg inmate. "He was just crazy."

So when officers told Richardson to cuff up and step aside to make room for his new cellmate, he refused.

Richardson later claimed in a [LAWSUIT](#)¹ that the guards took The Prophet away and then returned 30 minutes later with reinforcements. They moved him to a laundry area to be stripped, searched, and put in paper clothes. Richardson yelped in pain as they then placed him in hand and ankle cuffs, clicking them tighter until they cut into his wrists and Achilles tendon. A chain, locked

high on his chest in a practice known among staff as “T-rexing,” forced his arms into an awkwardly high bend and made it hard to breathe. Officers then walked him, haltingly, to a cell where another man was being held in identical shackles.

LAWSUIT ¹

The details of Richardson’s story are laid out in a lawsuit he filed against the Bureau of Prisons and the agency’s response to that lawsuit – and are reinforced by Richardson’s letters from prison and interviews with former inmates.

According to inmates’ lawyers, Lewisburg staffers, and more than 40 current and former prisoners — who made similar claims in lawsuits, court testimonies, government audits, or letters and interviews with The Marshall Project and NPR — restraints are used as punishment at Lewisburg, often for those who refuse their cell assignments. Inmates have no say over who shares their cell, even if guards place them with someone who has a violent history, is from a rival gang, or is suffering from a severe mental illness.

If they try to refuse a cellmate out of fear, as Richardson said he did, they are locked into metal “ambulatory restraints” for hours or days until they relent.

Seven prisoners said that they were threatened with or subjected to a punishment far more painful than ambulatory restraints, a form of punishment that at other prisons is used as a short-term last resort for uncontrollable inmates. It is known as “four-pointing” and consists of having each limb cuffed to a corner of a concrete slab or bed frame.

Richardson was freezing in the new cell. He claimed that guards left the window open when they locked him in. His paper uniform was no match for the Pennsylvania winter air. It didn’t help that the uniform was soaked with urine; in restraints, he wasn’t able to pull his pants down to use the toilet.

Richardson’s cuffs also made the top bunk an impossible reach. So when the other prisoner would take the bottom bed, Richardson did the only thing he could: He would curl up on the concrete floor.

Guards came every two hours to check on him. Richardson said they ignored his complaints: his swelling hands, his soiled clothes, his cut ankles. Instead they reiterated his options — be locked in a tiny cell with a violent man or cope with the restraints.

Richardson remained cuffed for 28 days.



Lewisburg, a federal prison in Pennsylvania. CHRISTOPHER SADOWSKI/SPLASH NEWS, VIA NEWS.COM

The Special Management Unit where Richardson was housed was created in 2009 for “dangerously violent, confrontational, defiant, antagonistic inmates,” according to the federal Bureau of Prisons. Richardson, serving a 35-year sentence for drug trafficking, was transferred there in March 2010 for assaulting a corrections officer; in his telling, he was intervening in a fight between a guard and another inmate.

The aim of the SMU is to increase safety at other federal prisons by culling their most problematic inmates and putting them through a three-step rehabilitation program (if an inmate breaks a rule or gets into a fight, he may have to repeat a step). Prisoners are assigned a series of workbooks and journal entries to be completed in-cell on topics like “The Con Game,” the “criminal lifestyle,” and anger management. BOP lectures play over inmates’ radios, instructing them on everything from diversity to parenting.

At Lewisburg, the vast majority of those inmates are in “double-cell” solitary, housed with another prisoner in cells as small as 6 feet by 10 feet for nearly 24 hours a day. The cells were originally built for just one person, but officials doubled up the SMU inmates in order to teach them to “successfully coexist,” according to the prisoner handbook. It also helped alleviate overcrowding — high-security federal prisons are overstuffed by more than 50 percent.

As a result, prisoners in the SMU share excessively tight cells; between the bunks, sink, toilet, desk, and the roommate, there is barely room to stand. “When I use the toilet, his feet are on my knees,” said Moore, the former Lewisburg inmate. Inmates get a brief reprieve from the closetlike conditions every week for medical care, three showers, and five hours in a “recreation cage.”



Inside a double cell in the Special Management Unit at Lewisburg. Two inmates share this space for nearly 24 hours a day. TONI BYRD

Double-cell solitary is a common practice in federal prisons, where more than 80 percent of the nearly 11,000 inmates in restricted housing have a cellmate. But Lewisburg has the added danger of housing some of the bureau's most volatile prisoners. "I've gone to as many as three, four cell fights in a day, a lot more than you would at any other institution," said a current SMU corrections officer, who spoke on the condition of anonymity for fear of losing his job.

Guards in SWAT gear are often seen running down the tier with pepper balls and handcuffs to break up brawling cellmates, including the prisoner who was found kicking a roommate lying in the fetal position, the prisoner who tore off half of his cellmate's ear, and the inmate who slashed his cellmate with a razor blade.

According to incident reports obtained by The Marshall Project and NPR, officers responded to 228 in-cell fights and assaults with restraints or pepper spray in 2014 and 2015. At least 19 inmates were treated for injuries such as a collapsed lung, a broken rib, multiple stab wounds, and head injuries.

Since the SMU opened, there have been more than 800 recorded inmate-on-inmate assaults — a rate six times higher than all federal prisons.

And in that time, at least four inmates have been killed by their cellmates.

In August, the Bureau of Prisons announced changes to the SMU in response to recommendations made by the Department of Justice. The new policy limited the length of the rehabilitation program to 12 months and ensured that prisoners who failed to advance on schedule cannot be held in the SMU for longer than two years. Prisoners are also supposed to receive more thorough mental health screenings before and during their time in the unit.

But the conditions that inmates are held in, and the practice of using restraints against them, remain unchanged.

At other facilities, if an inmate objects to his cellmate out of concern for his safety, he may be given a disciplinary notice for disobeying orders, be held in a cell by himself while officers investigate his complaints, or be ignored altogether. Restraints of any kind are meant to be used briefly and as a last alternative. “The inmate who refuses to cell with someone ordinarily receives an incident report for ‘Refusing A Program Assignment,’ which is a moderate severity infraction,” wrote Jack T. Donson, a former Bureau of Prisons official and current correctional consultant, in an email. “Restraints should not be applied simply because they refuse a cellmate.”



A view of the penitentiary from above. Several of the buildings in the foreground comprise the SMU.

GOOGLE EARTH

The procedures in the SMU leave inmates with few, difficult options: They can verbally refuse their cellmate and risk being restrained. Or they can live with someone they fear, risking attack. Some resort to throwing the first punch, in plain view of guards, knowing that the officers will have to separate them — a strategy that often lands them in restraints, too. Incident reports show that at least 48 men attacked their cellmate directly in front of officers in 2014 and 2015.

“I’ve been practicing for almost 30 years, and my clients tell me Lewisburg is the worst place they’ve ever been,” said assistant federal public defender D. Toni Byrd, who has represented several Lewisburg defendants and sits on the board of the Lewisburg Prison Project, a prisoners’ rights nonprofit. “If you did to your dog what they do to men here, you would be arrested.”

The BOP declined multiple interview requests for this story. In response to detailed questions about The Marshall Project and NPR’s findings, spokesman Justin Long said he could not comment on pending lawsuits. “The Bureau ensures inmates in its custody are treated fairly and with dignity,” Long wrote in an email. “Allegations of mistreatment are thoroughly investigated and appropriate action is taken if such allegations are proven true.” Long noted that the SMUs are “non-punitive” units meant for inmates with a history of violence.

In February 2014, former Lewisburg inmate Royce Brown, who was sentenced to 20 years on drug and gun possession charges, said he had been housed with a “gunner” — someone who masturbates when a woman walks down the tier. During the 18 days they lived together, tension and frustration mounted. “We were stuck looking at each other waiting for it to pop,” Brown said. “It was torture just being in the cell with him.”

Brown said that one morning, his cellmate told him, “We can’t live in the cell together no more. I’m gonna make ‘em gas us.” Brown asked to be moved, but guards ignored his requests. Brown knew the protocol: If he attacked his cellmate in front of corrections officers, they would be forced to remove him. “I [hit] him a few times and I put him on the ground,” Brown said. “Now they have to separate us.”

Surveillance footage shows more than 30 officers ran down the tier as some shot pepper spray and pepper balls into Brown’s cell to break up the fight. Brown stuck his hands out of the slot to be cuffed and was removed by guards wearing gas masks and blue and black sweatshirts that read “The Big House.”

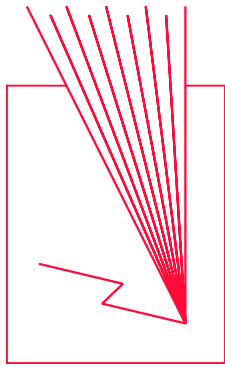
Royce Brown, a former Lewisburg inmate, was placed in ambulatory and four-point restraints in 2014. CELINA FANG FOR THE MARSHALL PROJECT

“I tried to deal with this the right way,” Brown told an officer as staff bound his limbs, tears and mucus dripping from his face. “Lieutenant, I tried to get you to talk to me.”

As guards chained his hands, ankles, and chest, Brown yelled out in pain. “God damn these are tight. I can’t even breathe.”

Brown remained restrained for more than 24 hours after hitting his cellmate, one of several times he was shackled at Lewisburg. A year and a half after coming home, he still has scars on his wrists and stomach.

The Lewisburg Prison Project, which has a two-person staff, received 962 letters from Lewisburg prisoners in 2015 and makes regular visits to the penitentiary. They often hear the same complaint. “You are placed in a cell with shackles so tight, I’ve seen probably 30 guys at Lewisburg months later who have open wounds,” said Dave Sprout, a paralegal at the project who is in charge of inmate visits and correspondence. “Many guys can’t eat, they can’t use the bathroom.”



COMMENTARY

Original analysis and perspectives from
across the spectrum on criminal justice

At least two men have filed lawsuits alleging that they were forced to drink from the toilet when they could not operate the sink in their restraints. Another Lewisburg inmate filed a lawsuit claiming that the ambulatory restraints were so tight he passed out and still suffers from nerve damage in his hands. He was restrained, he said, for trying to avoid a dangerous cell assignment.

A 2014 independent audit of solitary in federal prisons, commissioned by the Bureau of Prisons, noted that a “significant percentage” of Lewisburg inmates they interviewed complained about the overuse and harsh application of restraints. “The high number of reported incidents ... suggests the need for further investigation,” auditors wrote. In their response, BOP officials did not comment on that aspect of the audit.

Then in November 2015, the D.C. Corrections Information Council, a city government agency that inspects facilities where Washington, D.C. prisoners are housed (the district has no prisons of its own), concluded that the SMU was in violation of federal use-of-force policies. Seventeen D.C. inmates said officers abused restraints, with several recounting how they had been held for days at a time in chains that caused nerve damage in their hands and feet.

One prisoner showed investigators his scars and said his three days in restraints was “the most agonizing experience of my life.”

Another told investigators that he was held in restraints for refusing a cellmate, and was “forced to defecate and urinate in his pants because the restraints were so tight he could not remove [the pants].”

The Bureau of Prisons said in a statement that all of the allegations were investigated, and none were substantiated.

But some staffers don't deny that the prison relies on restraints. "If you allow inmates to dictate the terms under which they get a cellie, then you're not in control," the Lewisburg guard said.

"[Officers] don't think twice about putting someone in restraints if they're insubordinate or if they're not being compliant with the rules," said Marc Marchioli, who worked as a physician assistant at Lewisburg from October 2012 to May 2014. "You have to remember these guys are dangerous people. If they don't cuff up, it's considered a direct threat."

Marchioli said that officers applied restraints correctly — but that inmates caused their own injuries when they tried to move. "The more they wiggle, the more damage they end up doing."

Last year was a particularly violent one at Lewisburg. In August 2015, Jimmy Barker, serving a 13-year sentence for fraud, died after a fight with his cellmate. BOP documents obtained by The Marshall Project and NPR show that Barker had been in a psychiatric hospital three times and attempted suicide twice, but that a Lewisburg psychologist found no evidence of serious mental illness before placing him in a double cell with another inmate.

Then in October, Gerardo Arche-Felix was killed by his cellmate.

Arche-Felix, 57, was serving a five-year sentence for attempted entry after deportation and had been at Lewisburg since April 2014. He had tried to cross the border in 2012 to rejoin his family in Utah after being sent to Mexico two years earlier. He was also a diagnosed schizophrenic and said he had not been given his medication for much of his time in Lewisburg. Prison documents show that psychology staff in the SMU repeatedly found Arche-Felix to have "no significant mental health issues," though he had previously been under an involuntary treatment order in a Utah state prison and was forced to take antipsychotic drugs. Without medication, Arche-Felix could be erratic, agitated, and paranoid.

"It's been more than a month I don't take my meds," he wrote in a letter to his daughter, Jana Oman, in September 2014. "I need my meds or I'll lose my mind."

"It was hell. You could hear it in his voice every time he spoke on the phone or read a letter," Oman said. "Little by little, he was just falling apart."



Jana Oman, left, with her father, Gerardo Arche-Felix, in January 2010, four years before he landed in the SMU. COURTESY OF THE ARCHE FAMILY

Because of his mental health problems and slight, 5-foot-8-inch frame, Arche-Felix was especially vulnerable to attacks from other prisoners. “My cellmate went crazy on me and started to beat me up while I was asleep. He is younger and taller and stronger than me,” he wrote in November 2014.

He often ended up in restraints, according to his family, for his erratic behavior. “He told my aunt that he would be handcuffed on his ankles and around his wrists and they would be chained together,” Oman said. “He’d be like that for days.”

Arche-Felix’s sister, Kiana Arche, said her brother grew more afraid the longer he spent in the SMU. At Lewisburg, his options were to accept the cellmates he desperately feared or end up shackled in a cell. One day he called his sister and told her, “Call this nurse and please tell her they need to move me from here,” she recounted. “This not right. I’m so scared. I’m not supposed to be here.”

Oman received a call the morning of October 14, 2015, from the prison chaplain, who told her that her father was dead. Days later, she read in the newspaper that his death was a suspected homicide. Prosecutors have since confirmed they are investigating his cellmate for murder. On Arche-Felix’s death certificate, his cause of death reads “strangulation by ligature.”

After seven days in restraints, Sebastian Richardson remained determined. He would not be put in the same small cell with The Prophet or any other violent prisoner. So officers tried something else.

A team of guards took Richardson to a room, painted floor to ceiling in pink, a shade designed to soothe aggressive behavior. In the center of the room was a bed frame topped with a thin pad. As is protocol, guards laid Richardson on the bed and bound each limb to one of its corners. Because he was so short, the restraints were even more painful because his arms and legs had to stretch farther to reach each post. Officers then draped a paper blanket over him before leaving the room and locking the door. He was left to stay in the pink room, splayed and immobile.

Richardson screamed out in pain as he was being chained down. He claimed one officer again opened the window before leaving the room, as other prisoners have accused guards of doing. His requests for water and a bathroom break were ignored, leaving him shivering in his soiled paper uniform.

The Bureau of Prisons confirmed that Richardson was four-pointed but denied his description of the conditions. They claimed he was placed in more severe restraints for threatening to assault staff.

Richardson was pinned down for a total of eight hours. He was then put back into ambulatory restraints for three more weeks. He said he was uncuffed only once, to take a shower. “They placed the restraints on me so tight ... my hands had puffed up. Each finger looked like the Valasic *[sic]* pickles ... not the smaller ones, the medium size,” he later wrote to Dave Sprout of the Lewisburg Prison Project about restraints at Lewisburg. “My wrists were so swollen the cuffs were stuck in them.”



Royce Brown being four-pointed in January 2014. COURTESY OF ROYCE BROWN

On March 2, 2011, almost a month after he'd been cuffed, Richardson agreed to live with any cellmate they gave him.

At one point, he was housed with someone he said had not been given his psychiatric medication. The inmate stayed up all night talking to himself. After that cellmate was moved, Richardson claimed that officers tried to get him to live with someone who had stabbed him on the rec yard of another facility. Richardson refused and ended up in restraints again. This time, he was held in shackles for 16 days, one of which was spent four-pointed. Richardson claimed this cycle continued several more times during his two-and-a-half years in the SMU.

“It is my desire to get through this violating, unstable, dangerous environment, but not at the cost of jeopardizing my safety and life,” Richardson wrote in a letter to Sprout. “[They] said they will keep putting me in 4-points until I go where they put me.”

In December 2011, the Lewisburg Prison Project and the Pennsylvania Institutional Law Project, a legal aid organization, filed a federal lawsuit over the prison’s use of restraints, with Sebastian Richardson as the lead plaintiff. The case is ongoing.

In response to the suit, Bureau of Prisons officials denied that Lewisburg staff are placing inmates in restraints as punishment. The bureau also objected to the claim that restraints are applied in a way that injures or prevents prisoners from eating, drinking, or using the toilet. “Inmates in ambulatory restraints are able to take care of basic human needs without staff intervention,” they wrote.

A kind of relief came to Richardson in September 2012, when he was transferred out of Lewisburg to the supermax prison in Florence, Colo., the highest-security prison in the country. There, inmates are locked down in a single cell for almost 24 hours a day.

Though Florence has been called “America’s Toughest Prison,” for many in Lewisburg’s SMU, it’s seen as an escape. At Florence, they can live alone, free from the constant threat of violence.

As Richardson wrote in a letter to Sprout, “anywhere is a better place to be.” lll