



Disability Rights
WASHINGTON

Cruel But Not Unusual

Solitary Confinement in Washington's County Jails

November 2016



AVID Jail Project

Amplifying Voices of Inmates with Disabilities



Cruel But Not Unusual:

Solitary Confinement in Washington’s County Jails

Table of Contents

Introduction	3
Background	5
Disability Rights Washington	5
County Jails in Washington State	6
Purpose and Scope	7
Methodology	7
Solitary confinement in jails: precision of terms	8
Solitary confinement is harmful to people with disabilities	9
The solitary confinement of people with disabilities in Washington’s county jails is pervasive and discriminatory	12
Washington’s county jails disproportionately and discriminatorily place people with physical disabilities in solitary confinement	14
Washington’s county jails disproportionately and discriminatorily place people with mental illness in solitary confinement.....	17
Recommended reforms to solitary confinement in Washington State	20
About The Author	22
End Notes.....	23

**The AVID Jail Project is a project of Disability Rights Washington.
315 5th Avenue S, Suite 850 | Seattle, WA 98104**



Introduction

Inmates held in solitary confinement spend 22 to 24 hours a day isolated in a small jail or prison cell with little meaningful human contact. There is overwhelming evidence that this practice is detrimental to peoples' physical and mental health. In recent years, there has been increased public focus on the overuse of solitary confinement in jails and prisons around the country.

The federal government has banned solitary confinement for juveniles and recommended diverting adults with serious mental illness out of solitary confinement and into mental health treatment programs.¹ Several states have made strides towards reducing the use of solitary confinement – especially for inmates with serious mental illness – in response to litigation as well as to legislative and administrative initiatives.² In Washington, the Department of Corrections reduced its population of isolated prison inmates by nearly 50 percent between 2011 and 2015.³

Efforts to curtail the use of solitary confinement in the federal and Washington State prison systems do not directly affect Washington's jails, which continue to rely heavily on solitary confinement. As in many states around the country, jail policies and practices in Washington are determined by the individual counties, municipalities, tribes, and other entities running the jails. There are currently no statewide, uniform standards applicable to jails and there is no centralized oversight over jails in Washington. In fact, policies and practices concerning solitary confinement vary widely from jail to jail, even jails in the same county.

**Disability Rights
Washington
found that
solitary
confinement
policies and
practices vary
widely from jail
to jail.**



Among the varied expressions of solitary confinement throughout Washington's county jails, Disability Rights Washington's Amplifying Voices of Inmates with Disabilities (AVID) Project recently identified one major point of consistency. The AVID Project found, across the board, that solitary confinement in our county jails disproportionately affects people with disabilities. Many jails go so far as to place inmates with disabilities in solitary confinement because of their disability.

Washington's county jails disproportionately and discriminatorily place people with disabilities in solitary confinement. This report (1) defines the term solitary confinement for the purposes of this report; (2) describes the negative effects of solitary confinement on the legal and human rights, physical and mental health, and reentry of people with disabilities; (3) provides an overview of the disproportionate and discriminatory placement of people with disabilities in solitary confinement in Washington's county jails; and (4) identifies best practices and recommendations for reform in Washington's county jails.



A cell with spray-painted windows in the solitary confinement unit for people with mental illness at Franklin County Jail



Background

Disability Rights Washington

Each state and territory has an independent advocacy organization with a federal mandate to monitor any setting serving people with disabilities to ensure their rights are protected and they are not abused or neglected. In Washington, that organization is Disability Rights Washington. As the private nonprofit agency designated as Washington's Protection and Advocacy System by the governor, Disability Rights Washington has the authority to access jails, prisons, homeless shelters, psychiatric hospitals, community hospitals and other healthcare facilities, and even individuals' own homes to monitor and record the conditions of care and treatment of people with disabilities.

Due to the vast number of people with disabilities incarcerated in the adult and juvenile justice systems, Disability Rights Washington created Amplifying Voices of Inmates with Disabilities (AVID), a project focusing specifically on the rights of inmates with disabilities in Washington's correctional systems. AVID is staffed by a team of attorneys, video advocates, and volunteer lawyers and law students.



To address rights violations or abuse and neglect, Disability Rights Washington uses a multi-modal advocacy strategy that includes litigation, investigation, coalition building, video advocacy, and education of the public and



policymakers. Each year AVID serves thousands of inmates by helping them understand their rights and improve their self-advocacy skills. AVID also provides inmates with short-term legal assistance, investigates individual instances of abuse or neglect, monitors facility conditions, and engages in systemic advocacy with state officials and local facility administrators. For more information about Disability Rights Washington and AVID, please visit our website at <http://www.disabilityrightswa.org>.



Three Disability Rights Washington attorneys speak through cuff ports with inmates housed in solitary confinement at Yakima County Jail.

County Jails in Washington State

Jails are generally designed for short-term stays of adults who are awaiting trial or have been found guilty of a crime and sentenced to one year or less.⁴ In contrast, prisons are designed for long-term stays of adults convicted of felonies with sentences longer than a year.⁵ Nearly every county in Washington State operates a jail.⁶ Some cities also operate jails.⁷ Unlike the Washington



State prison system, which the Department of Corrections oversees and operates, local administrators run the jails. These are usually the county sheriff's department. There are currently no mandatory Washington State jail conditions standards aside from general constitutional requirements.⁸

Purpose and Scope

The purpose of this report is to shed light on how county jails in Washington use solitary confinement, to bring attention to the impact of solitary confinement on inmates with disabilities, and to advocate for reform. This report is one in a series of reports intended to support an informed dialogue about how Washingtonians with disabilities are treated in county jails. It builds upon the broader findings presented in Disability Rights Washington's earlier AVID report, County Jails, Statewide Problems: A Look at How Our Friends, Family, and Neighbors with Disabilities are Treated in Washington's Jails. For more information about the AVID Project's advocacy surrounding solitary confinement in prisons, see the September 2016 report Locked Up and Locked Down: Segregation of Inmates with Mental Illness.

Methodology

The information presented in this report was gathered through the AVID Project's review of jail policies and visits to each county jail in Washington State completed in March 2016. The process for this review is covered in depth in the *County Jails, Statewide Problems* report, referenced above. Policy review and in-person monitoring revealed that most county jails in Washington regularly house inmates with disabilities in solitary confinement, often as a result of their disability.



Solitary confinement in jails: precision of terms

Jail administrators in Washington rarely, if ever, describe their jail as housing inmates in solitary confinement. The term “solitary confinement” appears in few county jail written policies. Jails sometimes call solitary confinement “segregation” (including administrative segregation and disciplinary segregation). Increasingly, jails have begun referring to solitary confinement as “restrictive housing.”⁹ The United Nations Special Rapporteur on Torture has called solitary confinement “torture.”¹⁰ Regardless of what we call it, solitary confinement is used widely in Washington’s county jails.



A sign that reads “Administrative Seg.” above a door frame at Yakima County Jail

Solitary confinement is generally recognized as the isolated confinement of an inmate in a locked cell, where the inmate is removed from the general inmate population and deprived of meaningful contact with other people, for 22 to 24 hours a day.¹¹ Typically, solitary confinement cells measure about six by eight feet (smaller than a standard parking space), contain a metal bed, sink, and toilet, and are enclosed by a metal door with a small window and cuff port.¹² Inmates in solitary confinement often have limited or no access to jail programming, services, or treatment, due to their isolation.¹³ Duration of stay in



solitary confinement varies widely in jails, ranging from a few days to a few years.

Jails may decide to place an inmate in solitary confinement for a variety of reasons. A jail may decide to isolate an inmate based on a desire to protect the health or safety of the inmate or of other inmates or staff members. Jails may also isolate inmates as punishment for failing to follow jail rules. Inmates with disabilities may be disproportionately and discriminatorily considered to be a health or safety risk in general population housing. They may also have difficulty complying with jail rules due to their disabilities.

Solitary confinement is harmful to people with disabilities

Jail inmates with disabilities are often housed in solitary confinement. Once placed in solitary confinement, people with disabilities are exposed to a high risk of harm. From a legal and human rights perspective, solitary confinement violates the rights of people with disabilities. From a clinical and safety perspective, solitary confinement puts the health and lives of people with disabilities at risk. Finally, solitary confinement undermines the successful reentry of former jail inmates with disabilities back into our communities.

The solitary confinement of people with disabilities may violate federal constitutional and statutory law. Under the Eighth and Fourteenth Amendments to the United States Constitution, jails must refrain from keeping inmates with serious mental illness in conditions of confinement that risk or cause serious harm.¹⁴ Many courts have recognized the harms of isolation on inmates with mental illness.¹⁵ Housing people with disabilities in solitary



confinement may also violate the Americans with Disabilities Act (ADA).¹⁶ Under the ADA, jails must provide qualified inmates with disabilities equal access to jail services, programs, and activities and must do so in the most integrated setting appropriate to individuals' needs.¹⁷ Solitary confinement often denies people the opportunity to participate in and benefit from jail services and activities.

The United Nations Special Rapporteur on Torture has concluded that "solitary confinement is a harsh measure which may cause serious psychological and physiological adverse effects on individuals regardless of their specific conditions" and found it to be "contrary to one of the essential aims of the penitentiary system, which is to rehabilitate offenders and facilitate their reintegration into society."¹⁸ The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) prohibit solitary confinement of people with mental illness or physical disabilities when it would exacerbate their conditions and prohibit indefinite or prolonged solitary confinement (over 15 days) for anyone.¹⁹

**Solitary
confinement
puts the health
and lives of
people with
disabilities at
risk.**

Physicians, as well as national and international health organizations, have consistently recognized that solitary confinement is harmful to people's physical and mental health.²⁰ Most recently, the National Commission on Correctional Health Care issued a position statement, recommending the exclusion of inmates with mental illness from solitary confinement for any duration and the prohibition of prolonged solitary confinement (over 15 days) for all inmates.²¹ The physical effects of solitary confinement may include gastrointestinal and genitourinary problems, insomnia, deterioration of eyesight, profound fatigue, heart palpitations, migraines, back and joint pains, weight loss, diarrhea, and aggravation of preexisting medical problems.²² Psychological effects, even among people without preexisting mental health



conditions, may include anxiety, depression, diminished impulse control, paranoia, visual and auditory hallucinations, cognitive disturbances, obsessive thoughts, hypersensitivity to noises and smells, post-traumatic stress disorder, and psychosis.²³ Solitary confinement also places people with disabilities at increased risk of injury or death.²⁴



A solitary confinement unit in Grant County Jail

Solitary confinement may also have a detrimental effect on an inmate's reentry into the community. Isolated inmates, deprived of human contact, may have a particularly difficult time being around other people again. Moreover, inmates in solitary confinement are generally excluded from reentry planning services or programming aimed towards easing their transition back into the community. As reported by the Federal Interagency Reentry Council, "[n]early everyone who goes to jail" eventually is released and returns to their communities.²⁵ Even after transfer to serve a prison sentence, "approximately 95 percent of persons in state or federal prison will eventually return home."²⁶ Once isolated inmates leave jail, their experiences in solitary confinement over



the preceding months or years may set them up for a cycle of recidivism and incarceration, rather than successful reentry into the community.²⁷

The solitary confinement of people with disabilities in Washington's county jails is pervasive and discriminatory

During the statewide jail survey, the AVID Project observed and spoke with people housed in solitary confinement, including administrative segregation, disciplinary detention, maximum security, mental health isolation, and medical isolation. A disproportionate number of these people self-identified as having disabilities, as compared with people housed in less restrictive housing. Many county jails discriminate against inmates with disabilities by placing them in solitary confinement due explicitly to their disability or for reasons clearly related to that disability.

The use of solitary confinement in Washington jails is extremely widespread. Out of the thirty-nine²⁸ jails the AVID Project visited during its statewide county jail survey, at least thirty-one used solitary confinement in some form. Of the eight that did not regularly use solitary confinement, seven had a maximum capacity and average daily population of fewer than sixty inmates.²⁹ Solitary confinement is an expensive practice, for which smaller jails may not have sufficient resources. Moreover, staff at smaller jails may be more familiar with the people incarcerated in their jails and may be able to provide more individualized care without isolation.

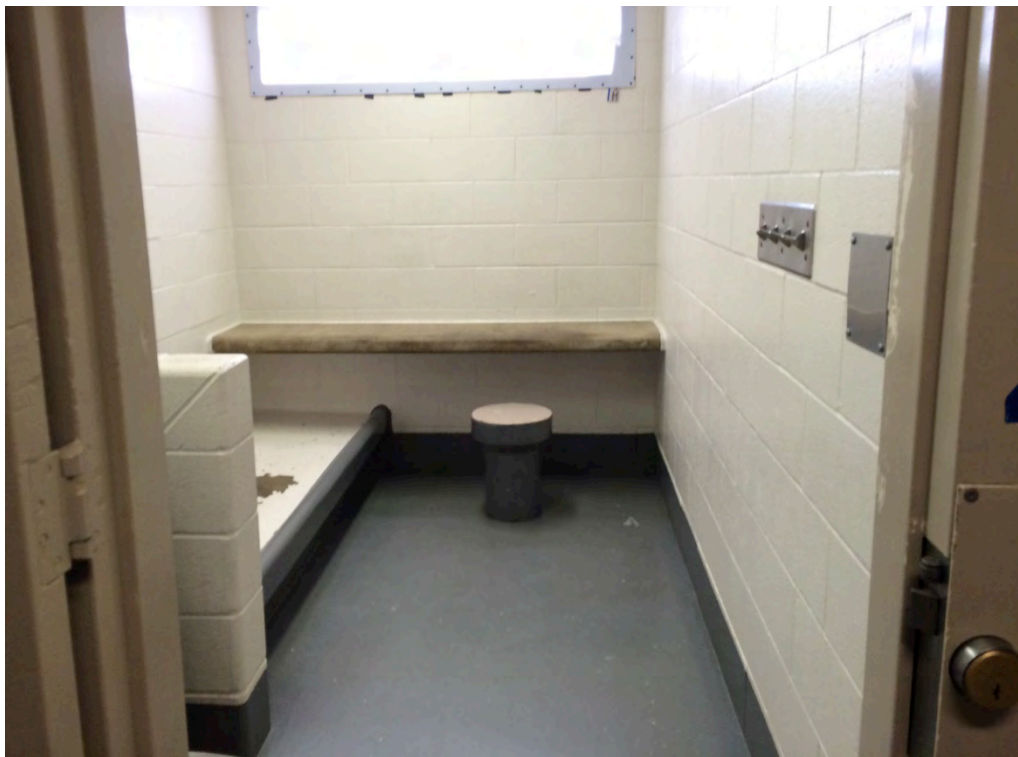
The AVID Project found that one jail, Klickitat County Jail proactively avoided placing inmates in isolation. During the AVID Project's tour of the jail, jail staff explained that they want to avoid the harm that

Some inmates with disabilities are placed in solitary confinement due explicitly to their disability.



solitary confinement can cause people. As a result, the jail does not use solitary confinement as a form of punishment and sends people in psychiatric crisis or at serious risk of self-harm or suicide to the hospital.

On the other end of the spectrum, Franklin County Jail automatically placed nearly everyone in solitary confinement. Out of the 194 inmates incarcerated at the jail on the day of the AVID Project's visit, nearly 90 percent of inmates were housed in solitary confinement. In all units except for two (one women's unit with four inmates and the inmate worker dorm, which could house up to 20 inmates), inmates were on 23-hour lockdown. This was regardless of criminal charge or history.



A solitary confinement unit in Okanogan County Jail

The national rate of solitary confinement is 2.7 percent in jails and up to 4.4 percent in state and federal prisons.³⁰ The AVID Project identified several Washington county jails where the rate of solitary confinement seemed much higher. Based on information obtained during the AVID Project's one-day snapshot of county jails in March 2016, the rates of solitary confinement



appeared to be approximately 14 percent at Chelan County Jail, 15 percent at Benton County Jail, 34 percent at Okanogan County Jail, 38 percent at Lewis County Jail, and 44 percent at Grant County Jail. These numbers were calculated based on interviews with jail staff and AVID observations and therefore may contain some inaccuracies. The extreme difference compared to national averages, however, are notable.

Washington's county jails disproportionately and discriminatorily place people with physical disabilities in solitary confinement

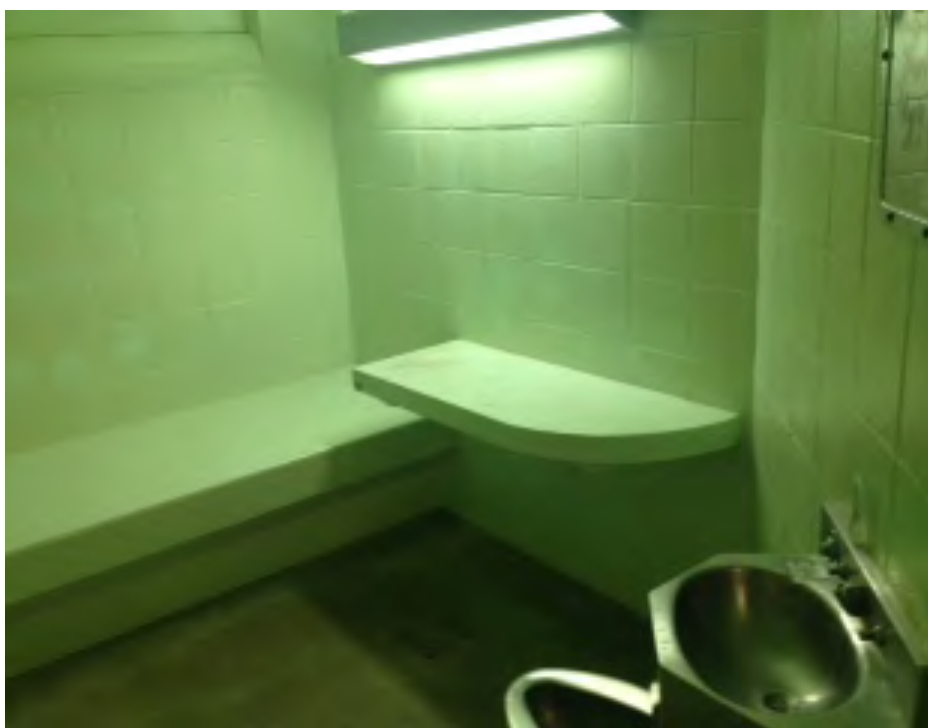
Some county jails in Washington automatically place people with physical disabilities in solitary confinement. Jails may consider inmates with physical disabilities to be at greater risk of injury or victimization in a general population setting. Jails may also have safety concerns regarding the potential for aids to impairment (for example, canes, wheelchairs, or walkers) to be used as weapons. Such automatic placement not only constitutes disability discrimination, but may also subject people with physical disabilities to more potentially dangerous conditions.



Jered Armstrong, an inmate housed in the solitary confinement unit for people with physical disabilities at Benton County Jail



At Benton County Jail, staff informed the AVID Project that inmates with physical disabilities were automatically placed in 23-hour lockdown. On the date of the AVID Project's visit, approximately 30 to 40 inmates with physical disabilities who used a variety of aids including wheelchairs, canes, walkers, helmets, CPAP machines, oxygen tanks, hearing aids, and inhalers were housed in solitary confinement. Ironically, despite concentrating inmates with physical disabilities in one solitary confinement unit, the cells in this unit were not accessible to people with mobility impairments.³¹ The one ADA-accessible cell in the unit was provided to the inmate workers assigned to the unit.



A solitary confinement cell in Lewis County Jail

Similarly, the AVID Project observed that Lewis County Jail placed inmates with physical disabilities in 23-hour lockdown. This included inmates who used wheelchairs, crutches, and CPAP machines. Jail staff explained to the AVID Project that this was due to security concerns regarding the devices. However, by automatically placing people with physical disabilities in solitary confinement, Washington's county jails discriminate against people with disabilities and subject them to a greater risk of harm.



Solitary confinement can also place people with physical disabilities at greater risk of harm regardless of the reason for their placement in isolation. At King County Jail, the AVID Project met an inmate with epilepsy in a solitary confinement unit. While the inmate did not report that he was placed in solitary confinement because of having epilepsy, he expressed serious concerns about what could happen to him if he had a seizure alone in his cell. The inmate explained that no other inmates would be around to help prevent serious injury, in the event of him having a seizure, or to contact medical staff on his behalf. The inmate himself would be unable to press the emergency call button. Furthermore, it would be unlikely that an officer would notice that he had a seizure outside of the hourly welfare checks on the inmate's unit.



Medical solitary
confinement cell in
Yakima County Jail



Washington's county jails disproportionately and discriminatorily place people with mental illness in solitary confinement

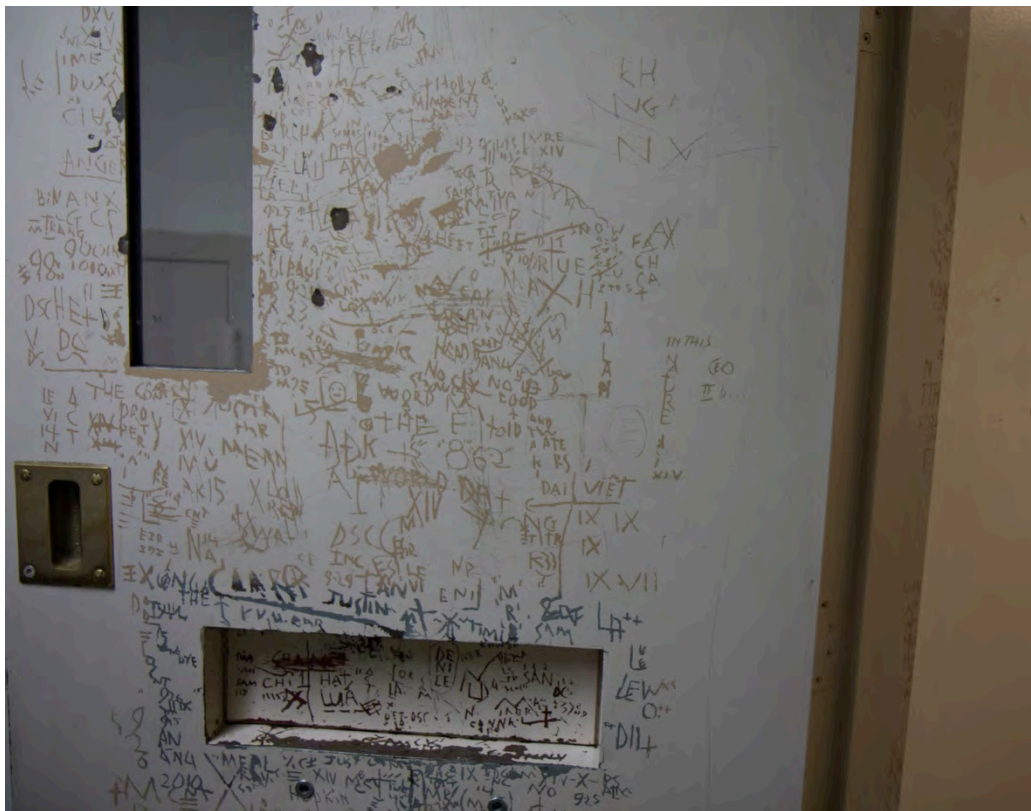
Many county jails in Washington also automatically place people with mental illness in solitary confinement. In the absence of adequate mental health services or adequate staffing levels, jails may determine that they are unable to ensure the safety of inmates with mental illness or the safety of other inmates and staff members in general population settings. Jails may also have disciplinary policies and practices that punish inmates with solitary confinement for behaviors related to mental health symptoms. Inmates with cognitive disabilities, including traumatic brain injury, developmental disabilities, and intellectual disabilities, are at risk of placement in solitary confinement for many of the same reasons as inmates with mental illness.



Josh Stuller, an inmate with mental illness housed in solitary confinement at Chelan County Jail, interacted with mental health providers in what staff referred to as “the cage.”



Staff members at many county jails informed the AVID Project that solitary confinement served as their de facto mental health housing. For example, staff members at Chelan County Jail, Benton County Jail, and Yakima County Jail reported that inmates with mental illness are typically housed in segregation. Grant County Jail concentrated inmates with mental illness in two particular solitary confinement units (one for men and one for women). Inmates in these units were subjected to the same conditions of solitary confinement as inmates in any other solitary confinement unit at the jail, without mental health programming or counseling.



The inside of a cell door with the paint scratched off in the 23-hour lockdown mental health unit at King County Jail

At Franklin County Jail, the AVID Project observed that, in addition to the regular conditions of solitary confinement, inmates with identified mental health issues were housed in an old, extremely dirty part of the jail that had black spray-painted and cracked windows to the outside and cracked windows to the dayroom.³² In addition to living in more dire conditions than inmates in



the other solitary confinement units at the jail, people with mental illness in this unit did not have access to mental health programming or counseling.

Up until recently, King County Jail and South Correctional Entity (SCORE), a multijurisdictional jail located in South King County,³³ both imposed disciplinary infractions and sanctions on inmates with mental illness who engaged in acts of self-harm. Sanctions for self-harm at both jails could have resulted in placement in disciplinary segregation (solitary confinement). They have since modified their practices to no longer respond to self-harm with discipline. Both King County Jail and SCORE also have policies in place to consult with mental health staff prior to imposing disciplinary sanctions to determine whether an infraction was related to an inmate's mental health symptoms and what type of sanction is appropriate given an inmate's mental health condition.



Micha Lexing, an inmate with mental illness, looks out from the dayroom in a solitary confinement unit at King County Jail.



Recommended reforms to solitary confinement in Washington State

County jails in Washington violate the rights of people with disabilities on a daily basis by placing them in solitary confinement disproportionately, discriminatorily, and despite serious detrimental effects. In order to comply with their obligations under the Constitution and the ADA and to avoid litigation, the AVID Project recommends that jails:

1. **Place far fewer inmates in solitary confinement.** Solitary confinement is dangerous for anyone and can cause or worsen mental health and physical symptoms even in people without pre-existing disabilities. Due to the disproportionate representation of inmates with disabilities in solitary confinement, reducing its overall use will benefit people with disabilities.³⁴
2. **Limit the amount of time inmates may be housed in solitary confinement.** The United Nations and NCCHC recommend prohibiting prolonged solitary confinement (defined as more than fifteen days) for all inmates. While the average lengths of stay for inmates in jails are only a few weeks, the AVID Project has met inmates in King County and around the state who have been kept in solitary confinement in jail for months and even years.
3. **Avoid placing inmates with disabilities in solitary confinement.** If, due to exceptional circumstances, a jail determines that it must place an inmate with a disability in solitary confinement, it should never do so



solely on the basis of their having a disability. Such practices constitute disability-based discrimination.³⁵

4. **Create therapeutic mental health units.** As researchers agree and courts recognize that solitary confinement is not an acceptable practice for inmates with mental illness, many jails and prisons are replacing solitary confinement with mental health housing units that provide programming and treatment.³⁶
5. **Create less restrictive units for inmates with physical disabilities.** Both King County Jail and Yakima County Jail have dorm-style medical units where inmates with physical disabilities who may use aids to impairment or medical devices can interact with other inmates instead of being isolated. At the time of the AVID Project's visits to these jails, however, these units were not fully accessible to inmates with physical disabilities.³⁷
6. **Screen inmates for contraindications to solitary confinement.** Many jails and prisons around the country have started screening thoroughly to prevent placement or prolonged stay for inmates with serious mental illness into solitary confinement.³⁸
7. **Avoid punishing inmates with disabilities for behaviors related to their disabilities.** Punishing inmates for behaviors related to their disabilities, including behaviors related to symptoms of mental illness, constitutes disability-based discrimination. In order to prevent discriminatory disciplinary practices, jails may wish to consult with health staff to assess the appropriateness of disciplinary sanctions, such as solitary confinement.
8. **Implement small group hours out.** In order to make solitary confinement units less isolating, jails may wish to consider allowing inmates to leave their cells in small groups, instead of alone.³⁹ This may also make it possible to increase the number of hours out of cell that inmates in these units receive.



About The Author



Kayley Bebber is a staff attorney on Disability Rights Washington's Amplifying Voices of Inmates with Disabilities (AVID) Jail Project. Kayley engages in individual and systemic advocacy in order to achieve sustainable reform to conditions, treatment, and services for people with disabilities in jails around the state. She graduated with a Juris Doctor from Georgetown University Law Center in February 2013.



End Notes

¹ Barack Obama, Opinions, *Why we must rethink solitary confinement*, Wash. Post, Jan. 25, 2016, https://www.washingtonpost.com/opinions/barack-obama-why-we-must-rethink-solitary-confinement/2016/01/25/29a361f2-c384-11e5-8965-0607e0e265ce_story.html; U.S. Dep't of Justice, *Report and Recommendations Concerning the Use of Restrictive Housing* 112-114 (2016), <https://www.justice.gov/dag/file/815551/download> [hereinafter *DOJ Report*].

² See Juliet Eilperin, *Obama bans solitary confinement for juveniles in federal prisons*, Wash. Post, Jan. 26, 2016, https://www.washingtonpost.com/politics/obama-bans-solitary-confinement-for-juveniles-in-federal-prisons/2016/01/25/056e14b2-c3a2-11e5-9693-933a4d31bcc8_story.html.

³ See Leon Neyfakh, *What Do You Do With the Worst of the Worst?*, Slate, Apr. 3, 2015, http://www.slate.com/articles/news_and_politics/crime/2015/04/solitary_confinement_in_washington_state_a_surprising_and_effective_reform.html.

⁴ See Wash. Office of Fin. Mgmt., *Analysis of Statewide Adult Correctional Needs and Costs* 13 (2014), http://www.ofm.wa.gov/reports/Correctional_Needs_and_Costs_Study2014.pdf [hereinafter *OFM Analysis*].

⁵ See *id.*

⁶ Douglas and San Juan counties do not operate jails. Douglas County sends its inmates to Chelan County Jail and San Juan County operates a short-term holding facility with three cells that it does not consider a jail. This holding facility was monitored along with the other county jails.

⁷ *OFM Analysis*, *supra* note 4, at 5.

⁸ See *id.* at 8.

⁹ The U.S. Department of Justice uses the term “restrictive housing” out of concern that the traditional meaning of the word “solitary” excludes situations where inmates are confined with one other person – a practice known as “double-celling.” *DOJ Report*, *supra* note 1, at 3. For information about the particular dangers of double-celling, see Christie Thompson and Joe Shapiro, *The Deadly Consequences of Solitary with a Cellmate*, The Marshall Project, Mar. 24, 2016, <https://www.themarshallproject.org/2016/03/24/the-deadly-consequences-of-solitary-with-a-cellmate#.JP4EAGAj6>. Other common ways of describing solitary confinement include “isolation,” “protective custody,” “lockdown,” “maximum” or “ultra security,” and “special” or “intensive management.”

¹⁰ Juan Méndez, *Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment*, at 19-21, U.N. Doc. A/66/268 (Aug. 5, 2011), http://www.un.org/ga/search/viewm_doc.asp?symbol=A/66/268 [hereinafter *U.N. Interim Report*].

¹¹ See *DOJ Report*, *supra* note 1, at 3; Nat'l Comm'n on Corr. Health Care, *Position Statement: Solitary Confinement (Isolation)* (2016), <http://www.ncchc.org/solitary-confinement> [hereinafter *NCCHC*].



Position Statement]; Alison Shames et al., Vera Institute of Justice, *Solitary Confinement: Common Misconceptions and Emerging Safe Alternatives* 4-5 (2015), http://www.vera.org/sites/default/files/resources/downloads/solitary-confinement-misconceptions-safe-alternatives-report_1.pdf [hereinafter *Vera Report*]; U.N. Interim Report, *supra* note 10, at 8.

¹² *Vera Report*, *supra* note 11, at 8.

¹³ Anna Guy, Amplifying Voices of Inmates with Disabilities Prison Project, *Locked Up and Locked Down: Segregation of Inmates with Mental Illness* 12 (2016), <http://avidprisonproject.org>.

¹⁴ See *Farmer v. Brennan*, 511 U.S. 825, 832 (1994); *Madrid v. Gomez*, 889 F. Supp. 1146, 1261-1267 (N.D. Cal. 1995); *Coleman v. Wilson*, 912 F. Supp. 1282, 1320-21 (E.D. Cal. 1995); *Jones v. Blanas*, 393 F.3d 918, 931 (9th Cir. 2004) (holding that the Due Process Clause of the Fourteenth Amendment is more protective than the Eighth Amendment's bar against cruel and unusual punishment).

¹⁵ See, e.g., *Madrid*, 889 F. Supp. at 1265-66; *Jones' El v. Berge*, 164 F. Supp. 2d 1096, 1122, 1124 (W.D. Wis. 2001); *Ruiz v. Johnson*, 37 F. Supp. 2d 855, 907 (S.D. Tex. 1999), *rev'd and remanded sub nom. Ruiz v. United States*, 243 F.3d 941 (5th Cir. 2001); *Graves v. Arpaio*, 48 F. Supp. 3d 1318, 1336, 1353 (D. Ariz. 2014).

¹⁶ See U.S. Dep't of Justice, *Findings Letter Re: Investigation of the State Correctional Institution at Cresson and Notice of Expanded Investigation* 1 (May 31, 2013), http://www.justice.gov/crt/about/spl/documents/cresson_findings_5-31-13.pdf.

¹⁷ *Id.* at 4; Rachael SeEVERS, Amplifying Voices of Inmates with Disabilities Prison Project, *Making Hard Time Harder: Programmatic Accommodations for Inmates with Disabilities Under the Americans with Disabilities Act* (2016), <http://avidprisonproject.org/Making-Hard-Time-Harder/>; Jessica Knowles, Note and Comment, "The Shameful Wall of Exclusion": How Solitary Confinement for Inmates with Mental Illness Violates the Americans with Disabilities Act, 90 Wash. L. Rev. 893, 934-37 (2015).

¹⁸ U.N. Interim Report, *supra* note 10, at 21-22.

¹⁹ U.N. Office on Drugs and Crime, *The U.N. Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, ¶¶ 43-45 (May 2015), https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf.

²⁰ For example, the American Psychiatric Association, the Society of Correctional Physicians, the World Health Organization, and the National Commission on Correctional Health Care recognize these harms and support vastly limiting the use of solitary confinement for those with serious mental illness. See, e.g., American Psychiatric Ass'n, *Position Statement on Segregation of Prisoners with Mental Illness* (2012), <https://www.psychiatry.org/file%20library/about-apa/organization-documents-policies/policies/position-2012-prisoners-segregation.pdf>; The Soc'y of Corr. Physicians, *Restricted Housing of Mentally Ill Inmates* (2013), <http://societyofcorrectionalphysicians.org/resources/position-statements/restricted-housing-of-mentally-ill-inmates>; World Health Org., *Prisons and Health* 32-33 (2014), http://www.euro.who.int/_data/assets/pdf_file/0005/249188/Prisons-and-Health.pdf [hereinafter *WHO Report*]; NCCHC Position Statement, *supra* note 11.

²¹ NCCHC Position Statement, *supra* note 11.



²² *WHO Report*, *supra* note 20, at 28.

²³ *Id.*

²⁴ *Id.*; Fatos Kaba et al., *Solitary Confinement and Risk of Self-Harm Among Jail Inmates*, 104 *American Journal of Public Health* 442, 445 (2014); *Vera Report*, *supra* note 11, at 17 (noting that rates of suicide and incidents of self-harm are much higher for inmates in segregation than for inmates in general population).

²⁵ The Federal Interagency Reentry Council, *A Record of Progress and a Roadmap for the Future* 3 (Aug. 2016), <https://csjjusticecenter.org/wp-content/uploads/2016/08/FIRC-Reentry-Report.pdf>.

²⁶ *Id.*

²⁷ See, e.g., Joseph Shapiro, *From Solitary to the Streets: Released Inmates Get Little Help*, National Public Radio, June 11, 2015, <http://www.npr.org/2015/06/11/413208055/from-solitary-to-the-streets-released-inmates-get-little-help>; Joseph Shapiro, *Coming Home Straight from Solitary Damages Inmates and Their Families*, National Public Radio, June 12, 2015, <http://www.npr.org/2015/06/12/413730912/coming-home-straight-from-solitary-damages-inmates-and-their-families>.

²⁸ This number includes the 38 county jails in Washington as well as South Correctional Entity (SCORE), a multijurisdictional jail located in South King County.

²⁹ Maximum capacity and average daily population information based on AVID Project visits and *OFM Analysis*, *supra* note 4, at Appendix B.

³⁰ See Allen J. Beck, Bureau of Justice Statistics, U.S. Dep't of Justice, *Special Report: Use of Restrictive Housing in U.S. Prisons and Jails, 2011-12* 1 (2015), <http://www.bjs.gov/content/pub/pdf/urhuspj1112.pdf>.

³¹ Physical accessibility in this context refers to whether the design or construction of a jail cell make it readily accessible to and usable by people with disabilities. This could include grab bars next to the toilet, sufficient turning space, and an appropriate sink height.

³² In July 2014, Columbia Legal Services sued Franklin County Jail regarding conditions of confinement for inmates with mental illness, including overuse of solitary confinement. Disability Rights Washington served as co-counsel and organizational plaintiff in the case. In February 2016, the parties reached a settlement agreement. An independent monitor will review the jail's compliance with the settlement agreement over the course of the next three years. See Columbia Legal Services, *Settlement Reached in Class Action Case Involving Detainee Abuse at Franklin County Correctional Center* (Feb. 11, 2016), <http://columbialegal.org/settlement-reached-class-action-case-involving-detainee-abuse-franklin-county-correctional-center>.

³³ For more information about the AVID Project's collaboration with SCORE, see AVID Jail Project, *The AVID Jail Project and SCORE: Improving Conditions for Inmates with Mental Illness Through Collaboration* (2016), <http://www.disabilityrightswa.org/avid-jail-project-and-score>.

³⁴ SCORE recently drastically reduced its use of solitary confinement by creating three mental health units with increased hours of out cell and therapeutic programming. By moving many minimum and medium-security inmates to the less restrictive Geiger Correctional Facility and by readjusting staffing and operations, Spokane County Jail increased hours out of cell for three



units from one to eight hours per day, thus removing over 200 inmates from solitary confinement.

³⁵ Some Washington county jails have explored alternatives to solitary confinement for inmates with disabilities. The AVID Project observed that Walla Walla County Jail housed inmates with mental illness in a general population unit, where inmates had access to the dayroom all day and were locked in their cells at night. While this was not a mental health unit with therapeutic programming, it provided inmates with mental illness opportunities for social interaction as well as some personal space.

³⁶ See, e.g., Supplemental Consent Decree on Mental Health Care, Use of Force and Classification, *Presley v. Epps*, 4:05-cv-00148-JAD (N.D. Miss. Nov. 13, 2007), <https://www.aclu.org/legal-document/presley-v-epps-supplemental-consent-decree-mental-health-care-use-force-and>; Memorandum of Agreement Regarding the Muscogee Cty. Jail, U.S. Dep't of Justice – Gov't of Columbus, Ga. at 12 (Jan. 16, 2015), http://www.justice.gov/crt/about/spl/documents/muscogee_moa_1-16-15.pdf [hereinafter *Muscogee Cty. Jail MOA*]; *Graves*, 48 F. Supp. 3d at 1352. In Washington, King County Jail and SCORE have mental health units that offer therapeutic programming. Both jails have mental health units that are solitary confinement units as well as some less restrictive units. Pierce County Jail has some mental health units, but staff informed the AVID Project that inmates in these units do not receive any formalized therapeutic programming.

³⁷ For example, at both jails, the dorm-style medical units had steps in front of the showers. Yakima County Jail informed the AVID Project in May 2016 that it had recently undergone an audit conducted by the Department of Justice of all Yakima County buildings through Project Civic Access. The Yakima County Jail Facilities Department is reportedly currently working to address physical accessibility issues at the jail. Over the subsequent months, the AVID Project has heard from inmates that the jail has begun making changes, such as installing grab bars in medical unit bathrooms.

³⁸ See, e.g., *Muscogee Cty. Jail MOA*, *supra* note 35, at 6; Settlement Agreement, *Hernandez v. Cty. of Monterey*, CV 13 2354 PSG (May 11, 2015) at 9, <https://www.aclunc.org/sites/default/files/2015-05-11SettlementAgreement.pdf>. In Washington, King County Jail's Jail Health Services recently revised its policy on providing health care to segregated inmates to provide for a contraindications screening upon placement into solitary confinement and for regular checks for signs of decompensation for inmates in solitary confinement. Based on AVID Jail Project monitoring, it does not appear that any inmates with mental illness have been screened out of solitary confinement based on a finding of contraindications or following meaningful mental health checks identifying worsening symptoms. The AVID Jail Project continues to monitor implementation of this policy.

³⁹ SCORE and King County Jail have begun experimenting with small group hours out.

This publication was made possible by funding support from the Substance Abuse and Mental Health Services Administration, SAMHSA (16SMP05397). These contents are solely the responsibility of DRW and do not necessarily represent the official views of SAMHSA.