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# NYCLU Lawsuit Secures Historic Reforms to Solitary Confinement

## FOR IMMEDIATE RELEASE

**February 19, 2014** – The New York Civil Liberties Union and the New York State Department of Community Corrections (DOCCS) today announced [an unprecedented agreement](#) to reform the way solitary confinement is used in New York State’s prisons, with the state taking immediate steps to remove youth, pregnant inmates and developmentally disabled and intellectually challenged prisoners from extreme isolation. With the agreement, New York State becomes the largest prison system in the United States to prohibit the use of solitary confinement as a disciplinary measure against prisoners who are younger than 18.

The agreement comes as a result of the NYCLU’s class-action lawsuit, *Peoples v. Fischer*, challenging New York’s use of solitary confinement. The law firm of Morrison & Foerster is *pro bono* co-counsel on the case, together with Professor Alexander Reinert of the Benjamin N. Cardozo School of Law. The NYCLU will now suspend its litigation and two nationally recognized corrections experts will develop recommendations to reform DOCCS’ use of isolation cells, where approximately 3,800 prisoners are locked down daily for 22 to 24 hours as punishment for violating prison rules. This unprecedented agreement reflects a shared commitment by the NYCLU and DOCCS to a collaborative process that will reduce New York’s use of extreme isolation.

“New York State has done the right thing by committing to comprehensive reform of the way it uses extreme isolation, a harmful and inhumane practice that has for years been used as a punishment of first resort in New York’s prisons,” said NYCLU Executive Director Donna Lieberman. “By entering into this agreement, the Cuomo administration has shown that it has the vision to transform New York into a national leader in the movement toward alternatives to solitary confinement, and has prioritized the safety of prisoners, prison staff and New York’s communities.”

Under the joint agreement, the state will adopt sentencing guidelines for the first time, and set first-ever maximum limits on isolation-sentence lengths.

Isolation in prison has consistently been identified as a cause of severe mental illness and suffering, and has been linked with higher rates of recidivism. Prison officials, mental health professionals and human rights activists have long denounced prolonged isolation as destructive, and experts recommend that it be used only rarely. Yet the NYCLU’s 2012 report [“Boxed In”](#) showed that DOCCS doled out thousands of extreme isolation sentences every year, and that the average time spent in isolation was 150 days – five to 10 times longer than experts say is the maximum tolerable span – with some prisoners serving terms of years or even decades in isolation.

“This agreement is an important step toward dignity and decency,” said lead plaintiff Leroy Peoples, who served 780 consecutive days in isolation for nonviolent behavior after prison officials determined he filed false legal documents. “I thank the governor for taking this seriously and hearing us out.”

Currently, inmates held in isolation are either confined in their cells 23 hours a day entirely alone – with an hour outdoors daily in a walled-in solitary pen, with meals delivered through a slot in the cell door – or with another inmate in a cell the size of a parking space that includes an open toilet and shower. Prisoners in isolation are denied access to educational classes, and more than 2,000 are released from these conditions directly to their home communities every year.

“Hopefully, this agreement can stop the prison system from failing our communities,” said plaintiff Dewayne Richardson, who was sentenced to 780 days in isolation for nonviolent behavior after prison officials determined he filed false legal documents. “This agreement has the potential to change DOCCS’ focus to treatment, not just punishment, so some good will come of our time in prison.”

“Comprehensive reform to the use of extreme isolation is about reaffirming our most fundamental values, and it is also about smart, progressive reforms that make our communities and our prisons safer,” said NYCLU Senior Staff Attorney Taylor Pendergrass, lead counsel on the case. “We agreed to suspend our lawsuit because the State demonstrated in the course of these negotiations a real commitment to reform. If this collaborative approach is successful, we will see a sharp reduction in the use and duration of extreme isolation. This will not only be a tremendous accomplishment for the State of New York and DOCCS, but will also signal a critical reorientation of the system toward practices that emphasize treatment and rehabilitation over punishment and isolation.”

DOCCS has also agreed to improve isolation conditions including an increase in recreation hours, and expanded access to radios and educational materials.

“It is deeply satisfying for our lawyers to work closely with the NYCLU in bringing greater fairness to the rules that govern more than 50,000 of our fellow New Yorkers who are in state custody,” said David Fioccola, the partner who leads the Morrison & Foerster team. “We are excited to continue this groundbreaking collaboration with DOCCS in the months ahead.”

“New York is taking a substantial step in the right direction, and we hope that it will ultimately join the many other states who have recognized that lengthy isolation sentences cause serious harm while accomplishing little if any of the goals of a rational corrections system,” said Reinert, of the Benjamin N. Cardozo School of Law.

If the process is successful as anticipated, the expert recommendations agreed upon by both parties will be implemented, analyzed and memorialized in a final settlement agreement in two years. If the process fails, the NYCLU will resume litigation.

In addition to Pendergrass, Fioccola and Reinert, the lawyers representing the plaintiffs in the case include Christopher Dunn and Elena Landriscina from the NYCLU, and Jennifer Brown, Kayvan Sadeghi, Daniel Matza-Brown, Adam Hunt and Leda Moloff from Morrison & Foerster.

To download a copy of the agreement, visit [http://www.nyclu.org/files/releases/Solitary\\_Stipulation.pdf](http://www.nyclu.org/files/releases/Solitary_Stipulation.pdf).

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