

New York Law Journal  
State Agrees to Limit Solitary for Juvenile Inmates  
By Tania Karas  
10/30/2014

The New York State Department of Corrections and Community Services (DOCCS) has agreed to update its policies to further limit use of solitary confinement for inmates under 18 years old. The revisions are part of a settlement reached last week with Prisoners' Legal Services.

The settlement in *Cookhorne v. Fischer*, 2012-1791, builds on *Peoples v. Fischer*, 11CV2696, a separate agreement that DOCCS reached in February with the New York Civil Liberties Union to provide alternatives to solitary confinement for juveniles, pregnant women and mentally ill inmates.

That agreement limited juveniles' cell time to 19 hours per day from the typical 23 and called for the creation of separate solitary units for 16- and 17-year-old prisoners.

Under last week's agreement before Erie County Supreme Court Justice Donna Siwek ( See Profile), underage inmates serving disciplinary confinement time in the special juvenile units for breaking DOCCS rules will get an extra hour of out-of-cell recreation time daily. Five days per week, they will have access to four hours of juvenile-specific education and transitional programming.

The Cookhorne settlement calls for DOCCS to conduct a one-time review of all juveniles currently in solitary confinement to look at modifying their disciplinary sanctions, as well as any inmate under 21 who has been held in solitary continuously since age 18. In addition, DOCCS has agreed to hire three licensed social workers to work with 16- and 17-year-olds in the new housing units.

Finally, DOCCS agreed to consider age as a mitigating factor in disciplinary proceedings involving juveniles.

Of more than 53,500 inmates, 97 are under 18, according to DOCCS. Between nine and 15 are held in segregated housing at any given time.

Prisoners' Legal Services Director Karen Murtagh called the agreement a "huge victory" for juvenile inmates.

"We don't believe juveniles should ever be held in solitary confinement," Murtagh said. "But we got a lot more out of this settlement than we would have gotten if we'd gone to trial."

Prisoners' Legal Services, which is based in Albany and represents indigent New York prisoners, filed the case on behalf of Paul Cookhorne in Erie County Supreme Court in 2012. At age 17, Cookhorne, an inmate, allegedly injured a corrections officer and was given four years in solitary confinement.

In March 2013, the Appellate Division, Fourth Department, ruled that Cookhorne's punishment was "shocking to one's sense of fairness" and ordered his immediate release from solitary. The appeals panel remitted the case to the Erie County Supreme Court, prompting DOCCS and Prisoners' Legal Services to settle.

Murtagh was joined by Maria Pagano, managing attorney of the group's Buffalo office.

"By signing the agreement, the department reinforced its continued progressive thinking and commitment to make appropriate changes to the management of young inmates who engage in acts of misbehavior based upon special circumstances while still maintaining the essential need for safety and security," said Anthony Annucci, DOCCS acting commissioner, in a press release.

The agreement will expire in 24 months, during which time the department said it would implement the changes.