



Solitary Confinement in the Pelican State

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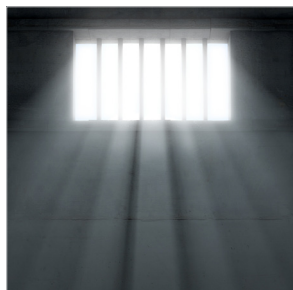


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by Scott E. Peyton

Executive Summary

Since the early 1800s, Louisiana has statutorily abolished the use of solitary confinement in the state prison system with one exception. This exception allows for the use of solitary confinement to enforce the police regulations of the penitentiary. However, police regulations are not defined, nor does the law address inmates in Department of Corrections (DOC) custody housed in parish jails, which account for over one half of the DOC inmates. The law remained unchanged until 2020 when an additional exception was added to limit the use of solitary for pregnant women.

Louisiana has one of the highest rates of incarceration in the United States. *Reforming Restrictive Housing: The 2018 ASCA-Liman Nationwide Survey of Time-in-Cell* report shows that Louisiana also has the highest percentage of male inmates in restrictive housing.

The history of Louisiana's penitentiary system and its use of solitary confinement are infamous. The Louisiana State Penitentiary was home of the Angola 3 who collectively served over 113 years in solitary confinement. Albert Woodfox, one of the Angola 3, served more time in solitary than any other inmate in the United States.

Studies have shown that persons subjected to extended periods of solitary confinement experience mental and physical health issues. In addition to the human cost of solitary, there are substantial financial costs associated with its use. However, there is limited data and research to indicate that the use of solitary is effective in making prisons safer.

It is recommended that the Louisiana Legislature revise and amend the current law regulating the use of solitary confinement. The law should be amended to include a definition of solitary confinement and to update the reference to police regulations to accurately reflect DOC's disciplinary policies. The law should be further amended to include all inmates in DOC custody, even those housed in parish jails. Additional recommendations include eliminating the practice of directly releasing inmates from solitary confinement, correctional officer training on de-escalation techniques, transparency in data collection and reporting of the use of solitary confinement, and the creation of a solitary confinement task force to review DOC's policies and practices regarding the use of solitary confinement.

Introduction

The ASCA-Liman Survey published in October 2018 reported that over 61,000 inmates were in restrictive housing throughout our nation's prisons in 2017 ([Association of State Correctional Administrators, 2018, p. 10](#)). Restrictive housing is one of many terms used to describe solitary confinement. The National Commission on Correctional Health Care (NCCHC) lists the various terms used to describe solitary confinement: "isolation; administrative, protective,

Key Points

- Louisiana's solitary confinement law was enacted in the 1800s when the prison population consisted of 112 inmates.
- Louisiana has an extensive history of relying on solitary confinement as a punitive measure.
- Louisiana ranks #1 in percentage of inmates in segregation in the United States.
- The Louisiana Department of Corrections is working to address its reliance on solitary confinement.

or disciplinary segregation; permanent lockdown; maximum security; supermax; security housing; special housing; intensive management; and restrictive housing units” ([NCCHC, 2020, Definition](#)).

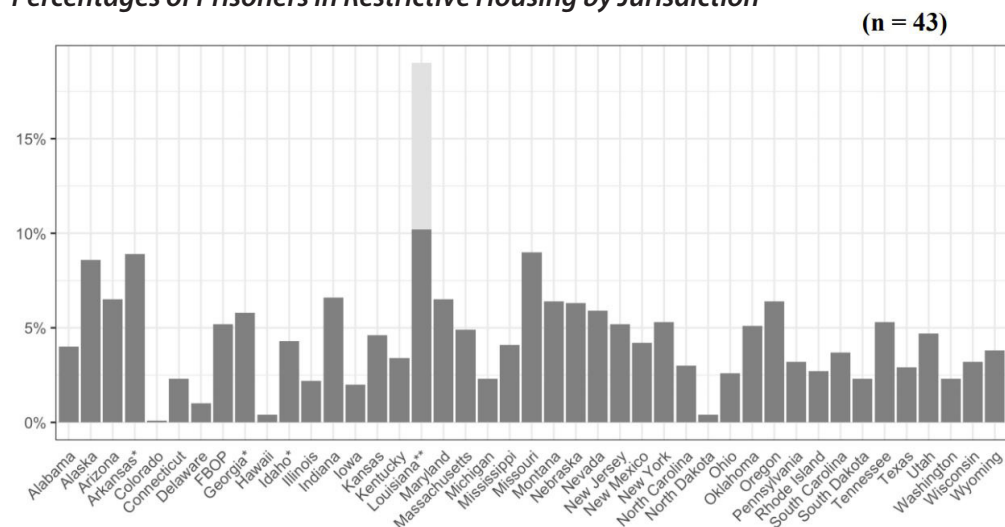
Persons who have served time in solitary confinement report psychological impacts like loneliness and boredom, mental deterioration, self-harm, and suicide ([Quandt et al., 2019](#)). Even Pope Francis has weighed in on the issue and has referred to solitary confinement as “torture” citing studies that indicate, “the lack of sensory stimuli, the total impossibility of communication and the lack of contact with other human beings induce mental and physical suffering such as paranoia, anxiety, depression, weight loss, and significantly increase the suicidal tendency” ([Pope Francis, 2014, p. 4](#)). In solitary confinement, visitation and programming opportunities are limited or non-existent.

Over the years, inmates have been placed in solitary confinement for a variety of reasons to include failure to follow the rules of the institution; safety concerns for the inmate, correctional officers, or other inmates; and for clinical reasons ([NCCHC, 2020, Background](#)).

A recent study shows that Louisiana leads the nation in inmates placed in restrictive housing, as demonstrated in **Figure 1**.

With almost half of Louisiana’s Department of Public Safety and Corrections (DOC) population housed in local jails, this adds to the complexity of collecting data and oversight of the use of solitary confinement. The data in **Figure 1** only reflects the male population of state-housed inmates.

Figure 1
Percentages of Prisoners in Restrictive Housing by Jurisdiction



Note. Graph from *Reforming Restrictive Housing: The 2018 ASCA-Liman Nationwide Survey of Time-in-Cell*, by the Association of State Correctional Administrators and the Liman Center for Public Interest at Yale Law School, 2018 (https://law.yale.edu/sites/default/files/area/center/liman/document/asca_liman_2018_restrictive_housing_released_oct_2018.pdf).

Additionally, the report notes that “Louisiana staff identified 784 ‘restrictive housing beds’ in the jails. The number of beds that were occupied was not reported. If one assumed that all the restrictive housing beds for state-sentenced prisoners in the jails were full and combined the jail and prison population, the percentage of people in restrictive housing would go down from 19% to 10.2%” ([Association of State Correctional Administrators, 2018, p. 11](#)).

This paper will outline the history of Louisiana’s relationship with solitary confinement and its current practice, and it will provide policy recommendations to limit reliance on it.

Solitary Confinement in Louisiana

According to Louisiana [Revised Statute 15:865](#) (“Solitary confinement abolished”), “No prisoner in the state penitentiary shall be placed in solitary confinement, except in enforcing obedience to the police regulations of the penitentiary.”

Having originated in the 1800s, the law uses outdated terms such as “state penitentiary” and “police regulations.” Today, Louisiana DOC inmates are housed in both DOC state prisons and local parish jails. As written, the current law does not address inmates housed in parish jails. While the law is titled “Solitary confinement abolished,” the practice is still in use in Louisiana DOC facilities and has been since the inception of the state penitentiary system. Solitary confinement is used to enforce, or punish, inmates who violate DOC rules and policies.

Women in Solitary Confinement

Additional research and data are needed in order to obtain an accurate account of the number of female inmates in sol-

itary confinement in Louisiana. The ASCA-Liman Survey did not include solitary confinement numbers for female inmates. According to the report, “Louisiana noted that it was unable to provide restrictive housing data for female inmates due to a ‘2016 flood that impacted our women’s facility,’ resulting in the women being ‘displaced to multiple locations’” ([Association of State Correctional Administrators, 2018, p. 108](#)). In 2019, women represented 5.3% of the prison population, or 1,689 inmates, of which 1,143 were housed in parish jails ([Louisiana](#)

Department of Public Safety & Corrections [DOC], 2019, pp. 20, 22).

Solitary Confinement Explained

There are many terms used to describe the practice of solitary confinement. Louisiana adopts the term *administrative segregation*, which under Louisiana Administrative Code, Section I-341F(c), is assigned the following parameters:

If an offender's continued presence in the general population poses a threat to life, property, self, staff or other offenders, or to the security or orderly operation of the institution, or who is the subject of an investigation, may (with the approval of the highest ranking supervisor on duty in the unit where the incident occurred or the shift supervisor) be placed in administrative segregation until his appearance before the disciplinary officer/disciplinary board or classification board.

The *Disciplinary Rules and Procedures for Adult Offenders* handbook describes administrative segregation as “a temporary holding area, preferably a cell” (DOC, 2008, p. 4). The handbook goes on to describe disciplinary detention as “a punitive holding area” and disciplinary detention/extended lockdown as “a maximum security area for confining offenders” (p. 5). In Vera’s *The Safe Alternatives to Segregation Initiative* report dated May 2019, in general solitary confinement is described as “spending 23 hours per day alone and idle in a cell the size of a parking space” (Cloud et al., 2019, p. 3).

The *Louisiana on Lockdown* report detailed the accounts of hundreds of persons who experienced administrative segregation within Louisiana’s prison system:

Their descriptions paint a grim picture of long stretches of time spent in small cells that are often windowless, filthy, and/or subject to extreme temperatures, where they are denied basic human needs such as adequate food and daily exercise, and subject to many forms of abuse as

well as to unending idleness and loneliness, resulting in physical and mental deterioration. (Quandt et al., 2019, pp. 5-6)

A History of Solitary Confinement and Louisiana’s Penitentiary System

For over 180 years, the practice of solitary confinement has been statutorily “abolished” in Louisiana with exceptions for rule enforcement. Yet the use of solitary confinement in Louisiana’s prison system is notorious and riddled with litigation. Infamous cell blocks like the Red Hat and Camp J have become synonymous with Louisiana’s use of solitary confinement.

The history of Louisiana’s criminal justice system, particularly its penitentiary system, is as complex and unique as the state itself. To understand solitary confinement in Louisiana, one must first understand the history, politics, and culture that led to the creation of a penitentiary system that created the infamous “Alcatraz of the South,” officially known as the Louisiana State Penitentiary (NewsOne, 2011).

The 19th Century

In 1821, Edward Livingston (1764-1836), who was described as a “brilliant and controversial” figure, was commissioned by the Louisiana Legislature to draft the state’s criminal code (Lyons, 1974, p. 243). Born in New York, Livingston was once a U.S. congressman, U.S. district attorney for New York, New York City mayor, Louisiana state representative, U.S. senator, and secretary of state under President Andrew Jackson (Encyclopedia Britannica, n.d.). Livingston began the battle over the fate of the Louisiana penitentiary system.

At the time, two different prison systems were being debated in the United States and in the Louisiana Legislature: the Auburn and the Pennsylvania systems.

The Pennsylvania system, which Livingston supported, provided for a 24-hour solitary confinement practice to include limited contact among inmates when working. Livingston offered a modified version of the Pennsylvania system where prisoners would begin their sentence in solitary confinement and then work their way

Figure 2
Proposed Prison Systems 19th Century Louisiana

Auburn System	Pennsylvania System
<ul style="list-style-type: none"> Modeled after the Auburn NY penitentiary Solitary confinement at night, work during the day <i>Inmates allowed to work together, but were forbidden to speak to one another</i> Considered to be more economical than the Pennsylvania system In the 1800s, was becoming widely accepted throughout the United States 	<ul style="list-style-type: none"> Modeled after the Philadelphia PA penitentiary 24-hour solitary confinement <i>Inmates worked alone</i> Considered to be more philosophical than the Auburn system Popular in European countries and was eventually replaced by the Auburn system in the United States

Note. Data from “Louisiana and the Livingston Criminal Codes” by Grant Lyons, Louisiana History: The Journal of the Louisiana Historical Association, 15(3), 243-272, 1974 (<https://www.jstor.org/stable/4231403>).

out through good behavior. Livingston also envisioned a system that was rehabilitative in nature, not strictly retributive, and sought a “cure” to criminal behavior through the use of solitary confinement.

Both the Auburn and Pennsylvania systems relied on inmates working to cover the cost of incarceration and used solitary confinement for inmates when they were not working to keep them from associating with one another.

The Legislature ultimately decided on the Auburn system with the hope that “penitentiaries not only could pay for themselves, but even yield a profit” (Lyons, 1974, p. 266). Lyons’ article “Louisiana and the Livingston Criminal Codes” sums up Livingston’s failed effort:

The movement for rehabilitation of the criminal itself died, to be replaced by the principle of expedient storage. All that remained, besides the buildings, was solitary confinement—no longer aimed at enforced penitence but now, as of old, an extreme punishment. (p. 271)

While the Legislature rejected the Pennsylvania system and Livingston’s code, they did keep the concept of a state penitentiary alive. In 1835, the first state penitentiary was established in downtown Baton Rouge, Louisiana, with Governor Andre B. Roman proclaiming the state “free from that reproach ... of having the worst prison in the United States” (quoted in Lyons, 1974, p. 268).

Solitary Confinement Abolished

Within 3 years of creating the first penitentiary, Louisiana Act 107 of 1838, section 4, was passed providing “that hereafter solitary confinement in the penitentiary be and the same is hereby abolished, except in enforcing obedience to the regulations in the police thereof” ([Acts Passed at the ... Session of the Legislature of the State of Louisiana ..., 1838, p. 109](#)). The *Reports of the Prison Disciplinary Society, Boston, 1836-1845, Volume II*, provided additional insight into the passage of Act 107 by publishing the contents of a committee report that was submitted to the Louisiana Legislature. According to the report, in 1837 there were 112 inmates in the Louisiana Penitentiary (p. 251). Using 1840 Census data, this would equate to an incarceration rate of 32 per 100,000 compared with today’s incarceration rate of 1,052 per 100,000 ([U.S. Census Bureau, 1975, p. 28](#); [Wagner & Sawyer, 2018](#)). The section titled “Changes in the System of Prison Discipline” published the committee report that recommended to the Louisiana Legislature “the abolition of solitary confinement in the Penitentiary of Louisiana, and the substitution of confinement at labor, as a punishment better adapted to the accomplishment of the objects

of criminal justice, and more in accordance with the dictates of humanity” (p. 252). The report also added, “experience has shown, that very few constitutions can stand solitary confinement in this climate” (p. 252). The chairman’s report to the legislature was included in the text, which concluded:

The time spent by a person under the sentence of the law, if not employed, is, in almost all cases, devoted to speculation upon his situation, and brooding over a wrong which he imagines to have been inflicted upon him by the laws of the court. The consequence is, that his mind, constantly turning with such views, gradually adopts their coloring, becomes morose and embittered, and nine tenths of those who are discharged leave the place of their confinement worse men than when they entered. (p. 253)

Act 107 (1838) contradicts Livingston’s intention for solitary confinement to be used as a means of treatment. The committee findings also replaced solitary with “confinement at labor,” which was the object of the Auburn system.

The language of Act 107 was reorganized in the 1856 Revised Statutes: “Sec. 22. Hereafter solitary confinement in the penitentiary is abolished, except in enforcing obedience to the police regulations thereof” ([Louisiana & Phillips, The revised statutes of Louisiana, 1856, p. 422](#)). Ralph Slovenko, forensic psychology expert, noted that “[c]uriously enough, Louisiana is perhaps the only state to ban solitary confinement as a means of treatment. It can be used only as a punishment, to enforce obedience to the police regulations of the penitentiary” (Slovenko 1959-1960, p. 531). So, although the law utilizes the term “abolished” to describe the newfound policy regarding solitary confinement, the law only abolished the practice as a treatment method while still allowing for it to be used as a means of punishment—therefore not fully abolishing the practice but rather limiting the practice to specific circumstances, that is, rules infractions, that are applied at the discretion of correctional staff.

The 20th Century

In 1922, Louisiana expanded the size of the Angola prison to over 18,000 acres. The total inmate population at the end of 1923 was 1,593 ([Bureau of Justice Statistics, 1986, p. 29](#)).

First Extended Lockdown Unit

In 1933, a mass escape from Angola led to the death of a captain and two guards ([Angola Museum, n.d.](#)). In response, a cell block called the Red Hat was established and designed to punish inmates who failed to follow the

rules. It was given this name as the inmates in the cell block wore hats that were dipped in red paint. The Red Hat cell blocks were 3' x 6' in size and became "Angola's first extended lockdown unit" ([Quandt et al., 2019, p. 33](#)).

Williams v. Edwards

Between 1950 and 1970, Angola became known as the "bloodiest prison in the South" ([Angola Museum, n.d., 1962 section](#)). In just under 50 years, Louisiana's prison population nearly tripled in size to 4,039 by 1971. ([Bureau of Justice Statistics, 1986, p. 72](#)). Elayn Hunt, secretary of DOC in the early 1970s and an advocate of criminal justice reform, in response to the increased violence at Angola was credited with the closure of the Red Hat cell block. She also ended the practice of the trustee guard system and was given the task of decentralizing Angola ([Angola Museum, n.d., 1972 section](#)). Additional reforms would come by way of a federal lawsuit. A federal court found that conditions at Angola "shock the conscience of any right thinking person," "flagrantly violate basic constitutional requirements as well as applicable State laws," and "the State authorities, who have the power to do so, are either failing or refusing to take the necessary steps to correct these conditions" ([Williams v. Edwards, 1977](#)). The "conditions" addressed in *Williams v. Edwards* related to security, medical care, food and sanitation, religious freedoms, overcrowding, and the overall physical condition of the facilities. DOC's use of solitary confinement was not addressed.

Camp J

In order to address the lack of security and violence inside Angola as outlined in *Williams v. Edwards*, a disciplinary segregation unit, Camp J, was built in 1976 and continued in this capacity until 2018. It was designed with four cell blocks. Each block consisted of eight tiers that made up 13 single units and "used to discipline offenders following grave infractions of prison rules, such as fighting with a weapon, or for behavioral issues" ([Toohey, 2018, para. 10](#)). Inmates had to earn their way out of Camp J by satisfying certain conditions set by facility policy, leading to overuse of solitary confinement. One example of this overutilization is illustrated in the case of the "Angola 3," so named for three of the prison's inmates—Albert Woodfox (44 years in solitary confinement), Herman Wallace (40+ years in solitary confinement), and Robert King Wilkerson (29 years in solitary confinement) ([Quandt et al., 2019](#)).

The Angola 3

Background

Woodfox and Wallace were both convicted of murdering a prison guard in 1972 and were sent to solitary confinement without any indication of when they would be returned to the general population ([p. 34](#)). The third member, Robert King Wilkerson, was transferred to Angola from the Orleans Parish Jail after having been convicted of armed robbery and aggravated battery of a correctional officer in 1972. Within 2 weeks he was placed in solitary confinement. In 1973, Wilkerson was convicted of killing another inmate and remained in solitary confinement until 2001 when his murder conviction was overturned (reduced to a lesser charge; [Wilkerson v. Stalder](#)).

Wilkerson v. Stalder

The Angola 3 filed a federal lawsuit, *Wilkerson v. Stalder*, resulting in national attention to their plight. The court held that "these plaintiffs had been in extended lockdown more than anyone in Angola's history, and more than any other living prisoner in the entire United States, according to plaintiffs' evidence" ([Wilkerson v. Stalder, 2007, p. 685](#)). DOC asserted in its defense that the plaintiffs "presented a serious threat to the safety of the staff, other inmates, the general public, and a threat to the safety, security, and good order of the facility" ([p. 660](#)). All three men claim that their involvement with the Black Panther party, along with advocating for better conditions within the prison, led to their extensive time in solitary confinement.

As a result of the litigation, Wilkerson was released in 2001 and is an advocate for prison reform. Wallace was released from prison in October 2013. However, he died 3 days after his release due to complications from liver cancer. Woodfox was released from prison in 2016 and has become an advocate for the abolishment of solitary confinement. The lawsuit in combination with the extensive issues present in Camp J led to its closing in 2018. Upon its closing, DOC Secretary James LeBlanc acknowledged Camp J's depressing environment. He further pronounced that "in lieu of everything else we're doing in the department to restructure restrictive housing, and to have something like (Camp J) sitting there, just felt like we needed to do something about it" (quoted in [Toohey, 2018, para. 5](#)). However, despite the federal lawsuit and national attention, Louisiana continued its use of administrative segregation.

The 21st Century

House Resolution 1

In 2014, Louisiana passed House Resolution 1, which requested DOC to “evaluate the use of solitary confinement, isolation, closed-cell restriction, and extended lockdown by the Department of Public Safety and Corrections and its effectiveness and impact on housing costs, prison violence, inmate safety, recidivism, and the mental health of the inmate placed in such conditions” ([HR1, 2014](#)). The resolution provided that the Committee on the Administration of Criminal Justice was to submit its final report before January 1, 2016. As of May 2020, no reports have been submitted in response.

Vera Institute

In 2016, the DOC participated in the Vera Institute of Justice’s (Vera) Safe Alternatives to Segregation (SAS) Initiative that assessed DOC’s segregation practices. Vera’s May 2019 report proposed recommendations to limit the practice of administrative segregation and acknowledged that DOC had undertaken policy changes to achieving safe alternatives to segregation ([Cloud et al., 2019](#)).

Act 140 (2020)

In the 2020 Louisiana regular session, [Act 140](#) was passed that added exceptions to RS 15:865. The law was changed to exempt any woman who is “pregnant, or is less than eight weeks post medical release following a pregnancy, or is caring for a child in a penal or correctional institution.” Act 140 is the first change to Louisiana’s solitary confinement law since the 1800s.

Present Day

Louisiana has one of the highest rates of incarceration per capita at 1,052 per 100,000 in the nation ([Wagner & Sawyer, 2018](#)). By the end of 2019, there were 31,609 persons incarcerated in Louisiana. Of these, 16,567 were held in parish jails with the remaining 15,042 in Louisiana Department of Public Safety & Correction’s facilities ([DOC, 2019](#)). In addition to having one of the highest incarceration rates, Louisiana leads the nation in percentage of male inmates in restrictive housing in state-run DOC prisons ([Association of State Correctional Administrators, 2018, p. 11](#)). No data were provided by DOC for female inmates.

The Impact of Solitary Confinement

Psychological Impact

Professor Craig Haney, social psychologist, reported on the psychological effects of solitary confinement:

Negative psychological consequences of long-term solitary-like confinement include: an impaired sense of identity; hypersensitivity to stimuli; cognitive dysfunction (confusion, memory loss, ruminations); irritability, anger, aggression, and/or rage; other directed violence, such as stabbings, attacks on staff, property destruction, and collective violence; lethargy, helplessness and hopelessness; chronic depression; self-mutilation and/or suicidal ideation, impulses, and behavior; anxiety and panic attacks; emotional breakdowns; and/or loss of control; hallucinations, psychosis and/or paranoia; overall deterioration of mental and physical health. ([Haney, 2002, pp. 85-86](#))

The *Louisiana on Lockdown* report conducted surveys of persons who experienced solitary confinement while incarcerated. Floyd, one of the persons surveyed, describes what he experienced firsthand that speak to the effects listed by Haney:

Solitary confinement at LSP [Louisiana State Penitentiary] is a cess-pool. You have many, many people who are mentally unstable that are being ignored. The staff treat them horribly and honestly, so does many of the inmates. Also I’ve seen many, many guys just break from the strain of being in these cells; they lose their mental stability. In some areas of this prison inmates are in cells 24 hours a day every day for months at a time... Solitary confinement here is a weapon for staff and they use it mightily... There are policies in place but they are not being adhered to. (quoted in [Quandt et al., 2019, p. 49](#))

In regards to long-term use of solitary confinement, Haney writes, “This kind of confinement creates its own set of psychological pressures that, in some instances, uniquely disable prisoners for freeworld reintegration” ([Haney, 2002, p. 85](#)). There has been limited research in this area documenting the effects of solitary confinement on recidivism rates.

Physical Health Impact

Dr. Brie Williams, medical consultant for Woodfox’s civil litigation, provided research on the negative health consequences of solitary confinement. She points out that “the medical case against its use remains only half-made; the physical health effects of this practice are under-documented” ([Williams, 2016, p. 2126](#)). Dr. Williams writes that exercise is often what helps to reduce the effects of hypertension, diabetes, arthritis, heart disease, along with many others. In solitary, the lack of exercise, especially for older inmates, can lead to increased health risk. She also points out that the lack of sunlight can cause a deficiency in vitamin D in older inmates leading to falls and fractures ([p. 2126](#)).

Robert King Wilkerson described what he witnessed while incarcerated and highlighted some of the physical health issues. He said, “I saw some guys throw a football and break their arms because their bones had gotten so brittle, their muscles so weak. Dudes would run the yard and hit a small hole and their ankle would just snap” (quoted in [Quandt et al., 2019, p. 36](#)).

Financial Impact

Solitary confinement units are costly to build and operate, and they are more staff intensive. In 2013, the cost to house a federal inmate in a supermax setting was \$130.38 more per day than an inmate in general population ([Shames et al., 2015, p. 25](#)). Louisiana does not report financial cost associated with its use of restrictive housing.

Current Use of Administrative Segregation in Louisiana

Dr. Williams makes an excellent point in her article: “Solitary confinement is not a legal sentence but is used at the discretion of correctional staff” ([2016, p. 2126](#)). In Louisiana over 50% of DOC inmates are housed in parish jails ([DOC, 2019](#)). The ASCA-Liman Survey reported that as of 2017, 19% of male DOC inmates in DOC-run facilities were in restrictive housing ([Association of State Correctional Administrators, 2018, p. 11](#)). The report was only able to determine the number of restrictive housing beds in parish jails, which was 784, not the number of beds in use. This information is critical as it relates to over one half of inmates in DOC custody. A separate report conducted by Vera indicated that between January 2015 and November 2016, nearly 17.4% of Louisiana’s inmates were in administrative segregation in state-operated prisons ([Cloud et al., 2019, p. 7](#)). *Louisiana on Lockdown* and the

ASCA-Liman Survey both conclude that the use of administrative segregation in parish jails is difficult to track. DOC has to enforce administrative segregation policies not only in DOC facilities, but also in the numerous parish jails that are housing state inmates.

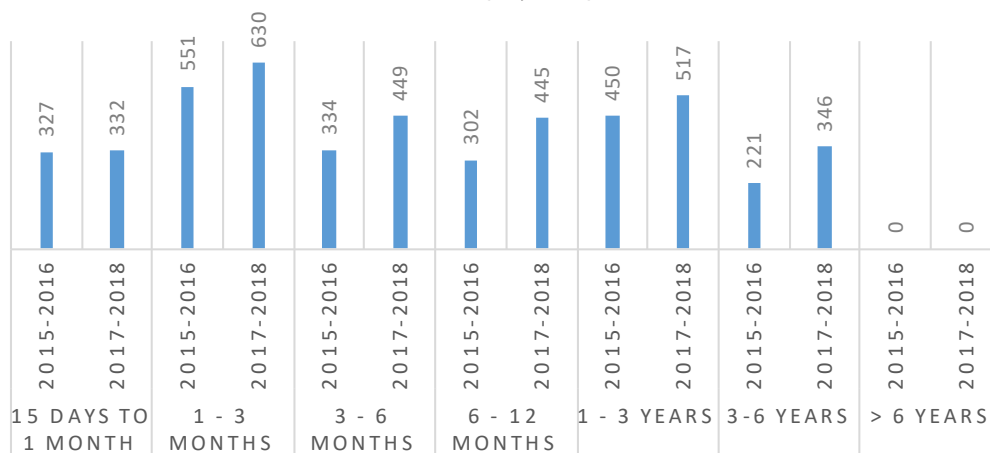
Louisiana law has limited the use of solitary confinement to the enforcement of “the police regulations of the penitentiary.” History shows that this provision of the law originated in the early 1800s and was not enacted to reform the practice. It was rooted in keeping inmates working and avoiding idle time. There were no historical references to what the term “police regulations” refers to. The term “police regulations” is not defined in the statute, nor mentioned in the Louisiana Administrative Code or DOC policy. This makes DOC, not the Legislature, responsible for making the policies that regulate the use of solitary confinement as well as overseeing its use. *Disciplinary Rules and Procedures for Adult Offenders* sets forth DOC’s policies that determine what violations will lead to an inmate being placed in administrative segregation ([DOC, 2008](#)).

Amount of Time Spent in Administrative Segregation

The amount of time Louisiana inmates spent in restrictive housing increased from 2015-2016 to 2017-2018 as demonstrated in **Figure 3** in all time frames.

However, in the *Louisiana on Lockdown* report’s survey of persons currently in solitary confinement, over 77% responded that they had been in lockdown for over one year ([Quandt et al., 2019, p. 45](#)). The ASCA report found that 19% of Louisiana’s male inmates served 1-3 years in administrative segregation ([Association of State Correctional Administrators, 2018, p. 102](#)). This points out one of the many difficulties in collecting and analyzing data.

Figure 3
Louisiana Inmates in Restrictive Housing by Length of Time



Note. Data from *Reforming Restrictive Housing: The 2018 ASCA-Liman Nationwide Survey of Time-in-Cell*, by the Association of State Correctional Administrators and the Liman Center for Public Interest at Yale Law School, 2018, p. 101 (https://law.yale.edu/sites/default/files/area/center/liman/document/asca_liman_2018_restrictive_housing_released_oct_2018.pdf). The data only reflect male inmates serving time in state run facilities.

Administrative Segregation Placements

The National Institute of Justice report titled *Administrative Segregation in U.S. Prisons* refers to three types of segregation: “administrative segregation, disciplinary segregation, and protective custody” (p. 5). In this report, administrative segregation refers to inmates who are a risk to themselves and others. Disciplinary segregation is used to address rule violations, and protective custody is used to protect inmates from others.

Louisiana generically uses the term administrative segregation to refer to all three types.

The *Louisiana on Lockdown* report submitted surveys to over 2,900 persons who were in administrative segregation in Louisiana as of August 2017, of which 709 persons responded (Quandt et al., 2019, p. 64). Figure 4 illustrates their understanding as to why they were placed in administrative segregation.

Figure 4
Inmates Understanding of Their Placement in Administrative Segregation

59.3 %	Rule Violations
21.7 %	Threat to Others
6.2 %	Other
3.8 %	Protection from Others
3.6 %	Unknown
0.8 %	No beds available
0.5 %	Age
0.5 %	Sexual Identity

Note: Data from *Louisiana on Lockdown: A Report on the Use of Solitary Confinement in Louisiana State Prisons, With Testimony From the People Who Live It* by Quandt et al., Solitary Watch, American Civil Liberties Union of Louisiana, Jesuit Social Research Institute/Loyola University New Orleans, 2019 (<https://solitarywatch.org/wp-content/uploads/2019/06/Louisiana-on-Lockdown-Report-June-2019.pdf>).

Schedule (b) Violations

Any schedule (b) violation can be punishable up to 5 days in administrative segregation. The [Louisiana Administrative Code, Title 22](#), provides a list of 17 schedule (b) violations under the *Offender Rules and Violation Description*:

- Aggravated Disobedience
- Aggravated Fighting
- Aggravated Work Offenses
- Contraband
- Defiance
- Disturbance
- Escape/Attempted Escape
- Fighting
- Gambling
- General Prohibited Behaviors
- Intoxication
- Malingering
- Property Destruction
- Self-Mutilation
- Sex Offenses
- Theft
- Unauthorized Areas

In 2015 and 2016, 70,263 disciplinary charges were filed in DOC (Cloud et al., 2019, p. 22). Aggravated disobedience

was the most frequently charged violation, representing 23% of the charges filed (p. 22). According to the DOC *Disciplinary Rules and Procedures for Adult Offenders* (2008), aggravated disobedience is the violation of the following rule:

Offenders must obey direct verbal orders cooperatively and promptly and not debate, argue or ignore the orders before obeying. The last order received must be obeyed when orders conflict. Even orders the offender believes improper must be obeyed; grievances must be pursued through proper channels. (p. 21)

The report also found that 30% of the 70,263 violations resulted in the use of administrative segregation (Cloud et al., 2019, p. 23). For those in administrative segregation, the report found that they received 1.9 more violations than those in the general population, creating a cycle of continued violations leading to more time in segregation, loss of visitation, and loss of phone privileges (p. 27). The report does not indicate if correctional officers are more inclined to write-up persons in confinement, or if this is a result of continued behavioral issues. This brings out a good point regarding a claim that the use of solitary confinement “should restore order and lead to greater safety” in the correctional facilities (Frost & Monteiro, 2016, p. 19). More research and data are needed in this area to substantiate whether the use of solitary confinement leads to order and safety.

Oversight and Release From Administrative Segregation
Louisiana Administrative Code, Section I-341G3c, provides for a 72-hour hearing for inmates placed in administrative segregation for a rules violation. Section I-341 F(f) allows for an “appropriate review board” to review the status of inmates in administrative segregation “at least every seven days for the first two months and every 30 days thereafter.” Both the Vera and *Louisiana on Lockdown* reports indicate that the board is comprised of DOC staff.

In the Vera report, the 90-day review process that transitions inmates back to the general population was found to be “lengthy, inconsistently applied, and perceived as unfair” by both staff and inmates (Cloud et al., 2019, p. 43). The process is held for inmates in extended lockdown or in working cell blocks. The study goes on to cite the lack of “objective criteria” in determining whether an inmate should be returned to the general population or continued in administrative segregation.

Direct Release from Administrative Segregation to Society

In 2015-2016, 743 persons were released directly from administrative segregation back to society, and an additional 163 persons were released within 3 weeks

of completing confinement ([Cloud et al., 2019, p. 45](#)). Most were not afforded reentry programming prior to their release.

A study conducted in 2007 in Washington state showed that inmates released directly from supermax had a higher recidivism rate and committed new offenses sooner than inmates who were released 3 months or longer after completing supermax ([Lovell, et al., 2007, p. 633](#)).

The studies conducted by Williams ([2016](#)) and Haney ([2002](#)) outlined the harmful psychological impact and physical health issues attributed to the extended use of solitary confinement. The practice of directly releasing inmates from solitary confinement to society can have a negative impact on their successful reentry. *The Safe Alternatives to Segregation Initiative* recommends that this practice be eliminated, which would “likely decrease recidivism” ([Cloud et al., 2019, p. 48](#)).

Alternatives to Solitary Confinement

In conjunction with the recommendations offered in this paper, the following alternatives should be considered, or continued within DOC facilities.

Transparency and Reporting

The task of collecting data regarding the use of solitary confinement is challenging as evidenced by the lack of data in Louisiana concerning inmates housed in local jails and female inmates. When developing best practices and research, nationally, the challenge has been even greater. Obtaining data from the federal prison system, 50 different state prison systems, and over 3,000 local jails throughout the United States regarding a practice that is uniquely defined in each state poses a significant difficulty in data collection. Requiring DOC to report the number of inmates in administrative segregation will allow for transparency and a more accurate picture of DOC’s reliance and overuse of “administrative segregation,” or solitary confinement.

Vera Pilot Programs

Vera’s *The Safe Alternatives to Segregation Initiative* report details pilot programs that were implemented at several DOC facilities. One of the programs focuses on death row inmates allowing them more time out of their cells, providing more group activities, and giving them access to programming ([Cloud et al., 2019, p. 6](#)). As of December 2019, there were 68 inmates on death row in Louisiana ([DOC, 2019, p. 68](#)).

Aggravated disobedience is the most frequently charged violation in Louisiana prisons ([Cloud et al., 2019, p. 22](#)). Simply failing to obey the orders of a correctional

officer even when force, or violence, is not involved can place someone in administrative segregation. Another pilot program from Vera employs the use of a disciplinary matrix with the goal of reducing rule infractions that can lead to administrative segregation, and reducing time spent in segregation by clearly defined sanctions that are dictated by the severity of the violation ([p. 6](#)).

Recommendations

The following policy recommendations are offered to bring Louisiana’s solitary confinement law up to date, limit its use, and allow transparency in the use of solitary confinement.

Recommendation 1

Revise and amend RS 15:865 to provide a definition of “solitary confinement.” The definition should encompass all forms of “isolation; administrative, protective, or disciplinary segregation; permanent lockdown; maximum security; supermax; security housing; special housing; intensive management; and restrictive housing units” ([NCCHC, 2020, Definition](#)). Revise the language that references “state penitentiary” to include “persons in the physical custody of the Department of Corrections” in order to clarify that this provision applies to those state inmates housed in parish jails. Further, the exemption for “police regulations” should be revised to reflect the disciplinary policies enacted by DOC. Parish jails must follow the same procedures and policies as DOC facilities regarding the use of administrative segregation.

Recommendation 2

End the practice of releasing inmates directly from administrative segregation into the community. In Louisiana from 2015-2016, 743 persons were released directly from administrative segregation back to society, and an additional 163 persons were released within 3 weeks of completing confinement ([Cloud et al., 2019, p. 45](#)). The Washington state study found that persons released directly from supermax, which has become synonymous with solitary confinement, had a higher recidivism rate and committed new offenses sooner than inmates who were released 3 months or longer after completing supermax ([Lovell et al., 2007, p. 633](#)).

Recommendation 3

Train correctional staff in de-escalation techniques that focus on alternative ways to address violations like “aggravated disobedience,” which account for 23% of the violations issued ([Cloud et al., 2019, p. 22](#)).

Recommendation 4

Require DOC to submit a quarterly report of all DOC inmates, male and female, in administrative segregation, the purpose for the confinement, the amount of time in confinement, DOC or parish jail inmate, and a cumulative total

of days spent in confinement since entering DOC custody. Distinctions should be made for inmates in punitive confinement versus protective confinement. Require DOC to submit in its annual budget the estimated cost for the use of administrative segregation.

Recommendation 5

Previous attempts by the Legislature, like HR1 in 2014, have failed to address Louisiana's use of solitary confinement. A concurrent resolution is recommended that would create a Solitary Confinement Task Force that reports to the House Administration of Criminal Justice Committee and consists of the chairperson of the House Administration of Criminal Justice Committee, the chairperson of the Senate Judiciary B Committee, formerly incarcerated persons, a DOC representative, a representative of the Governor's Office, a representative of the Louisiana Sheriff's Association, and criminal justice stakeholders. The task force would review DOC's current policies regarding the use of administrative segregation, the training of correctional officers in alternative de-escalation methods, the current violation process, and the overall effectiveness of DOC's use of solitary confinement. Additionally, the task force would propose legislative and policy changes regarding Louisiana's use of solitary confinement.

Conclusion

From the early 1800s to the present day, the Louisiana penitentiary system has used solitary confinement in one form or another. The name and definition change, but the effects remain the same. In fact, the law abolishing solitary confinement has remained almost unchanged since 1838. Despite the history, numerous federal lawsuits, and the experiences of the Angola 3, the punitive segregation practice remains. Current law does not define "solitary confinement" or "police regulations."

DOC has been participating in programs under the direction of Vera to identify and address its use of administrative segregation. The latest reports on Louisiana's use of administrative segregation do not reflect data past 2018. DOC has implemented pilot programs in some of its facilities that address disciplinary procedures along with alternatives to segregation. We are awaiting new data that will reflect the results of DOC and Vera's collaboration.

There are times when the appropriate use of administrative segregation is necessary to prevent violence, and/or protect both staff and general prison population. The overreliance on and overuse of administrative segregation have both human and financial costs. DOC must learn from the past and move forward. In recent years, DOC has moved from the days of Camp J and the Angola 3. However, there is much more work to be done. Making statutory changes will ensure that Louisiana does not repeat its checkered past but continue to move in a direction that creates a safe environment for correctional officers and the persons in their custody. ★

References

- Acts Passed at the ... Session of the Legislature of the State of Louisiana (1838). New Orleans: J. C. de St. Romes. Retrieved from https://www.google.com/books/edition/Acts_Passed_at_the_Session_of_the_Legis/AH5GAQAAIAAJ?hl=en&gbpv=0
- Angola Museum at the Louisiana State Penitentiary. (n.d.). History of Angola. Retrieved July 31, 2020, from <https://www.angolamuseum.org/history-of-angola>
- Association of State Correctional Administrators and the Liman Center for Public Interest at Yale Law School. (2018). Reforming restrictive housing: The 2018 ASCA-Liman nationwide survey of time-in-cell. https://law.yale.edu/sites/default/files/area/center/liman/document/asca_liman_2018_restrictive_housing_released_oct_2018.pdf
- Bureau of Justice Statistics. (1986). Historical corrections statistics in the United States, 1850 1984. <https://www.bjs.gov/content/pub/pdf/hcsus5084.pdf>
- Cloud, D., LaChance, J., Smith, L., & Galarza, L. (2019). The safe alternatives to segregation initiative: findings and recommendations for the Louisiana department of public safety and corrections, and progress toward implementation. Vera Institute of Justice. <https://www.vera.org/downloads/publications/safe-alternatives-segregation-initiative-findings-recommendations-ldps.pdf>
- Encyclopedia Britannica*. (n.d.). Biography - Edward Livingston. Retrieved July 30, 2020, from <https://www.britannica.com/biography/Edward-Livingston>
- Forret, J. (2013). Before Angola: Enslaved prisoners in the Louisiana State Penitentiary. *Louisiana History: The Journal of the Louisiana Historical Association*, 54(2), 133-171. www.jstor.org/stable/24396520
- Frost, N., & Monteiro, C. (2016). Administrative segregation in U.S. prisons. National Institute of Justice. <https://www.ncjrs.gov/pdffiles1/nij/249749.pdf>
- Haney, C. (2002). The psychological impact of incarceration: implications for post-prison adjustment. From Prison to Home Conference. http://webarchive.urban.org/UploadedPDF/410624_PsychologicalImpact.pdf
- HR1. Louisiana State Legislature. Regular (2014). <https://www.legis.la.gov/Legis/BillInfo.aspx?i=225166&sbi=y>
- Louisiana Department of Public Safety and Corrections. (2008). Disciplinary rules and procedures for adult offenders. <https://www.law.umich.edu/special/policyclearinghouse/Documents/LA%20B-05-001%20Offender%20Rule%20Book%20OCR.pdf>
- Louisiana Department of Public Safety and Corrections. (2019, December 31). Demographics [Fact sheet]. <https://s32082.pcdn.co/wp-content/uploads/2020/03/0B-Demographics-1.pdf>
- Louisiana, & Phillips, U. B. (1856). *The revised statutes of Louisiana*. New Orleans: John Claiborne. <https://babel.hathitrust.org/cgi/pt?id=nyp.33433007133444&view=1up&seq=7>
- Louisiana, & Wolff, S. (1904). *Constitution and revised laws of Louisiana: containing the constitution of 1898, and the revised statutes of the state (official edition of 1870) as amended by acts of the General Assembly from the session of 1870 to that of 1902, inclusive ... (2nd enl. and rev. ed.)*. New Orleans, LA: F.F. Hansell. Retrieved April 24, 2020, from <https://babel.hathitrust.org/cgi/pt?id=hvd.hl39mc&view=1up&seq=7>
- Lovell, D., Johnson, L. C., & Cain, K. C. (2007). Recidivism of supermax prisoners in Washington State. *Crime & Delinquency*, 53(4), 633-656. <https://journals.sagepub.com/doi/abs/10.1177/0011128706296466>
- Lyons, G. (1974). Louisiana and the Livingston criminal codes. *Louisiana History: The Journal of the Louisiana Historical Association*, 15(3), 243-272. <https://www.jstor.org/stable/4231403>
- National Commission on Correctional Health Care. (n.d.). Solitary confinement. Retrieved May 5, 2020, from: <https://www.ncchc.org/solitary-confinement>

- Newsone. (2011, October 4). Most notorious prisons in the US. <https://newsone.com/1565605/most-notorious-prisons-in-the-us/>
- Pope Francis. (2014, October 23). Address of Pope Francis to the delegates of the international association of penal law. http://www.vatican.va/content/francesco/en/speeches/2014/october/documents/papa-francesco_20141023_associazione-internazionale-diritto-penale.html
- Prison Policy Initiative. (n.d.). Louisiana profile. Retrieved July 30, 2020, from <https://www.prisonpolicy.org/profiles/LA.html>
- Quandt, K. R., Casella, J., Gilbert, A. Kiebala, V., Manson, J., Schwartzmann, K., & Weishar S. (2019). Louisiana on lockdown: a report on the use of solitary confinement in Louisiana state prisons, with testimony from the people who live it. Solitary Watch; American Civil Liberties Union of Louisiana; Jesuit Social Research Institute/Loyola University New Orleans <https://solitarywatch.org/wp-content/uploads/2019/06/Louisiana-on-Lockdown-Report-June-2019.pdf>
- Richmond, C., Conyers, J., Nadler, J., & Scott, R. (2013, July 12). Letter to DOJ regarding Angola 3. https://bobbyscott.house.gov/sites/bobbyscott.house.gov/files/migrated/images/user_images/gt/stories/7_12_13_Letter_to_DOJ_re_Angola_3.pdf
- Rideau, W., & Sinclair, B. (1985). Prisoner litigation: How it began in Louisiana. *Louisiana Law Review*, 45(5), 1061-1076. <https://digitalcommons.law.lsu.edu/lalrev/vol45/iss5/11>
- Shames, A., Wilcox, J., & Subramanian, R. (2015). Solitary confinement: common misconceptions and emerging safe alternatives. Vera Institute of Justice. <https://www.safealternativestosegregation.org/resource/solitary-confinement/>
- Slovenko, R. (1959-1960). Treatment of the criminal in Louisiana and elsewhere. *Tulane Law Review*, 34(3), 523-570.
- Toohy, G. (2018, May 13). Angola closes its notorious Camp J, ‘a microcosm of a lot of things that are wrong.’ *The Advocate*. https://www.theadvocate.com/baton_rouge/news/crime_police/article_b39f1e82-4d84-11e8-bbc2-1ff70a3227e7.html
- U.S. Census Bureau (1975). *Historical statistics of the United States: Colonial times to 1970, Part 1*. <https://www.census.gov/history/pdf/histstats-colonial-1970.pdf>
- Wagner, P., & Sawyer, W. (2018, June). States of incarceration: The global context 2018. <https://www.prisonpolicy.org/global/2018.html>
- Ward, D. A., & Werlich, T. G. (2003). Alcatraz and Marion: Evaluating super-maximum custody. *Punishment & Society*, 5(1), 53–75. <https://doi.org/10.1177/1462474503005001295>
- Wilkerson v. Stadler*, 639 F. Supp. 2d 654 (M.D. La. 2007) <https://www.courtlistener.com/opinion/2520775/wilkerson-v-stadler>
- Williams B. A. (2016). Older prisoners and the physical health effects of solitary confinement. *American Journal of Public Health*, 106(12), 2126–2127. <https://doi.org/10.2105/AJPH.2016.303468>
- Williams v. Edwards*, 547 F.2d 1206 (5th Cir. 1977). <https://casetext.com/case/williams-v-edwards>

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Peyton trained as a medic in the Louisiana National Guard before being honorably discharged in 1991. He graduated from the University of Southwestern Louisiana with a BS in criminal justice in 1992.

About Right on Crime

Right on Crime is a national campaign of the Texas Public Policy Foundation, in partnership with the American Conservative Union Foundation and Prison Fellowship, that supports conservative solutions for reducing crime, restoring victims, reforming offenders, and lowering taxpayer costs. The movement was born in Texas in 2007, and in recent years, dozens of states such as Georgia, Ohio, Kentucky, Mississippi, Oklahoma, and Louisiana, have led the way in implementing conservative criminal justice reforms.

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