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The Opinion Pages | OP-ED CONTRIBUTORS

What's Going On in Our Prisons?

By **MICHELE DEITCH** and **MICHAEL B. MUSHLIN** JAN. 4, 2016

Leonard Strickland's barbaric and unnecessary death at the hands of prison guards at the Clinton Correctional Facility in upstate New York highlights the need for independent oversight of the state's prisons. His beating in 2010, the details of which have only recently come to light, is the latest in a long list of instances of brutality toward inmates in New York's prison system.

The state's inhumane practices involving solitary confinement have also generated outrage. Thousands of prisoners have been held in extreme isolation, in some cases for years, and often for minor rule violations, at great cost to their mental health and potential for rehabilitation. A settlement announced last month of a lawsuit brought by the New York Civil Liberties Union will reduce both the number of inmates held in isolation and the maximum stay, and will abolish some of the harshest conditions.

While this is a welcome move, it provides for only two years of monitoring once it has been implemented and does not address the many issues that affect inmate health and safety for the overwhelming number not in solitary confinement.

This is why additional governmental oversight is urgently needed to truly change the culture of a system that holds 53,000 inmates across 54 prisons. What goes on inside these prisons is largely hidden from view, and there is little accountability for wrongdoing.

The New York State Commission of Correction has longstanding authority to regulate and visit prisons. The state comptroller pointed out in a 2006 audit that the commission had essentially defaulted on that responsibility. Nine years later, little has changed. The commission investigates some inmate deaths, but it cannot be fairly described as a monitoring body.

The result is that New York's prison system operates almost entirely below the radar. This invisibility should end by setting up a system of effective independent governmental oversight to ensure the health and safety of prisoners. If harm is to be prevented in these dark places, we must know what is happening inside.

Nationally, the situation is not better. For example, abuse of prison inmates appears to be endemic in Florida, prison rape is widespread across the country, and the hanging death in a Texas jail cell of Sandra Bland, who was arrested after a routine traffic stop, highlighted the national problem of suicide in custody. (Her family has disputed the finding by authorities that she killed herself.)

While we are witnessing a movement for increased police accountability, the need for transparency and accountability is even more urgent in the nation's jails and prisons, given their closed environments and lack of cellphones and body cameras to capture abusive encounters. These institutions primarily confine the most powerless and vulnerable, including poor people who are disproportionately African-American and Latino, as well as people with mental illness.

The New York State Assembly Standing Committee on Correction recently held a hearing about the need for such oversight. We were among the experts

invited to testify about what an effective system of oversight might look like.

The American Bar Association has provided clear guidance on this issue, which we helped to develop. It calls for every state to create an independent government monitoring body for its prisons and jails that reports to the public about conditions in those facilities.

The State Legislature should follow the A.B.A.'s guidance and establish a monitoring body with unfettered access to prison facilities, staff, inmates and records in announced or unannounced visits.

The monitor should be empowered to examine and report on all aspects of a facility's operations that affect inmates, including, for example: medical and mental health care; use of force; inmate violence; conditions of confinement; staffing practices; inmate discipline and use of solitary confinement; substance abuse treatment; educational and rehabilitative programming; and re-entry planning.

There also should be an independent investigatory body that reviews complaints and allegations of wrongdoing, including inmate grievances, abuse claims, denial of access to health care and inmate deaths.

At the same time, the prison system should enhance its own internal accountability measures, such as its decision to electronically log complaints to monitor accusations of staff misconduct.

But in light of recent events, the public is unlikely to be satisfied with a prison agency's pronouncements that everything is fine or trust the vindications of staff members accused of abusive behavior. Only independent monitoring and investigations can provide that level of public accountability.

The costs of this oversight would pale in comparison to the hundreds of millions of dollars paid out in lawsuits stemming from unconstitutional practices and the untold costs associated with ineffective programs and

unnecessary use of solitary confinement.

Designed correctly, an oversight body can provide an early warning system about patterns of complaints against certain prison employees, assess the appropriateness of discipline meted out to staff members, address concerns about inadequate health care or protocols for dealing with mentally ill inmates, highlight programs that are ineffective, point to areas for improved staff training, and identify policies that need to be adjusted. A monitor could also identify practices worth replicating at other prisons.

The awareness by prison staff that a monitor could show up at any time would check employee misbehavior. The culture of a prison changes when outsiders shine a light on its operations and conditions.

External oversight will likely result in safer prisons for inmates and employees alike, more effective rehabilitation programs, a healthier prison culture that supports positive outcomes and taxpayer savings from fewer lawsuits and lessened recidivism.

Without independent oversight, we will not have a prison system worthy of our values. If further tragedies are to be avoided, the New York Legislature and its counterparts around the nation must provide for comprehensive and meaningful oversight of all correctional facilities.

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