



OVERVIEW

These days there is substantial controversy about the use of solitary confinement of prisoners in the US penal system. About one in five people in prison, or about 300,000 people, are put in solitary confinement at some point each year.

Currently, there are no Federal time limits on the period of time prisoners may be placed in solitary confinement. There is controversy over the fact that some people are kept in solitary confinement for extended periods. About ten percent of people who are put in solitary are kept there for three years or more, with some kept there for decades.

There are also no Federal specifications about what type of offense can justify the use of solitary confinement. It is currently used as a tool to protect the safety of the prisoner and other prisoners and prison staff, as well as a tool for punishing prisoners who violate serious and minor rules. A prisoner can be put into solitary for smoking in unauthorized areas or using profanity. In each case, this is generally at the discretion of prison staff and wardens.

Over the last several years, state legislatures have passed laws limiting the use of solitary confinement in state prisons and jails, most recently in New York state.

Following this, Members of Congress introduced legislation in the 116th Congress to impose Federal limits on the use of solitary confinement, limiting the reasons for which it can be administered, and the length of time a person can be kept in solitary. These proposals have appeared in:

- **Restricting the Use of Solitary Confinement Act** (H.R. 8155) by Rep. Bonnie Watson-Coleman (D)
- **Solitary Confinement Reform Act of 2019** (S. 719) by Sen. Dick Durbin (D).

To find out how Americans feel about these proposals, the Program for Public Consultation conducted an in-depth survey where respondents went through a process called a “policymaking simulation” in which they were effectively put in the shoes of a policymaker. They were given a briefing on the issue and evaluated competing arguments before making their recommendation.

To ensure that the briefings were accurate and balanced, and that the arguments presented were the strongest ones being made, the text of the survey was reviewed by experts, including those who favor and those who oppose each proposal. Changes were made in response to their feedback.

FIELDING

The survey was conducted online from February 12-22, 2021, with a national probability-based sample provided by Nielsen Scarborough from Nielsen Scarborough’s sample of respondents, who were recruited by mail and telephone using a random sample of households. The sample included 2,487 respondents with a margin of error of +/- 2.0%.

Responses were weighted by age, income, gender, education, race and geographic region. Benchmarks for weights were obtained from the US Census’ Current Populations Survey of Registered Voters. The sample was also weighted by partisan affiliation.

A further analysis was conducted by dividing the sample six ways, depending on Cook’s Partisan Voter Index rating of the respondent’s Congressional district. This enabled comparison of respondents who live in very red, somewhat red, leaning red, leaning blue, somewhat blue, and very blue districts.

SUMMARY OF FINDINGS

An overwhelming majority (86%) of American voters support reforms in current Congressional legislation that would greatly restrict the use of solitary confinement, including 84% of Republicans and 90% of Democrats.

A very large and bipartisan majority of over eight in ten favored one of the two proposals for reforming the use of solitary confinement by restricting the reasons and length of time for which it can be used. All respondents favored limiting the period to 30 days in a row and no more than 40 days in a two-month period or less.

The more restrictive proposal, selected by 28% (Republicans 13%, Democrats 40%), would prohibit any use of solitary confinement for disciplinary purposes. Inmates would receive regular medical and mental evaluations, and if at any time the medical professional determines that solitary is having adverse health risks, the person in solitary would have to be removed. This proposal would limit the period to 15 days in a row and no more than 20 days in a two-month period.

The most popular proposal, selected by 58% (Republicans 71%, Democrats 50%), would be similar to the first in the event of an inmate posing a threat to themselves or others, but would also allow solitary confinement to be used as punishment for serious violations. Time in solitary for disciplinary purposes would be limited to 30 days in a row and no more than 40 days in a two-month period.

Those who favored the option that would allow solitary confinement to be used as punishment for serious violations were asked, if they were a Member of Congress and the narrower option were the only option, how they would vote. Another 25% of the full sample said they would vote for the more restrictive proposal, which would ban the use of solitary confinement for any disciplinary purposes. Together with those who initially supported the proposal, 52% favored the idea (Republicans 35%, Democrats 70%).

A bipartisan majority (75%) said they would find the narrower proposal at least “tolerable,” including 62% of Republicans and 87% of Democrats.

BRIEFING

Respondents first received an introductory briefing about the use and effects of solitary confinement in the United States:

As you may know, solitary confinement is when a prisoner is kept in a small cell by themselves for 22-24 hours a day, with no outside contact or communication, or participation in prison activities. Some of the reasons that prisoners are put in solitary confinement are because they:

- *have been violent or threatened violence;*
- *committed serious violations that do not entail violence such as possessing a weapon or drugs, or trying to escape;*
- *committed minor violations, such as using profanity or smoking in an unauthorized area;*
- *are seen as having the potential to harm themselves;*
- *committed any action that prison officials view as threatening the safety and security of the prison.*

On any given day, around 70,000 people are in solitary confinement in state and federal prisons. About 20% of all prisoners spend some time in solitary confinement each year. This can be for as little as a few days or as long as several decades. Most spend more than three months in solitary confinement. About 10 percent are in for three years or more. For some time, human rights organizations and the UN have called for limits on the use of solitary confinement.

A number of studies have shown that prisoners who are put in solitary confinement are more likely:

- *to become mentally ill, including developing depression, paranoia, and anxiety;*
- *to have an existing mental illness become worse;*
- *to attempt or commit suicide.*

Effects have been found, in a substantial number of cases, to be long-lasting, extending beyond the period of imprisonment.

They were then informed of the current laws concerning the use of solitary confinement, as follows:

Right now, there are no federal limits on the use of solitary confinement by state or local prisons. Eight states have passed laws that limit the reasons for which a prisoner can be put in solitary confinement, and for how long. All other states leave it to the discretion of the prison’s warden.

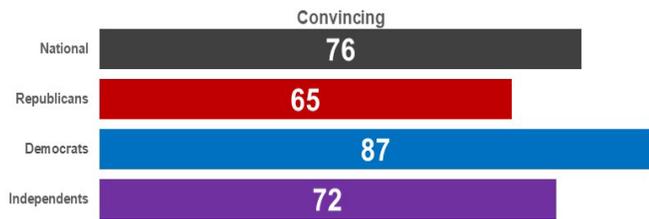
ASSESSMENT OF ARGUMENTS

The argument in favor of prohibiting the use of solitary confinement for any punitive purposes asserted that solitary is “cruel, dangerous, and exceeds the punishment given by a judge,” and thus should only be used as a last resort for reasons of safety. Seventy six percent found this convincing, as did 65% of Republicans and 87% of Democrats.

The argument in favor of prohibiting the use of solitary confinement, except as punishment for serious violations or reasons of safety, agreed that it should never be used as punishment for minor violations, but made the case that we should not be taking away one of the only tools for disciplining prisoners who commit serious violations such as possessing weapons. Over three in four (78%) found this convincing, as did 84% of Republicans and 73% of Democrats.

The argument in favor of keeping the status quo declared that prison staff and wardens know best how to run their prisons, and reminded respondents that, “wardens are trying to keep order in a place filled with criminals... who are likely to be unruly and dangerous...” Over half (55%) found this convincing, including 71% of Republicans, but less than four in ten Democrats (39%).

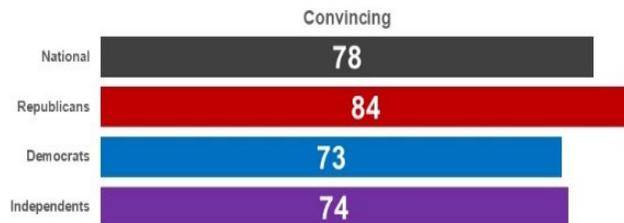
Argument for Not Using for Punishment



CONGRESSIONAL DISTRICTS



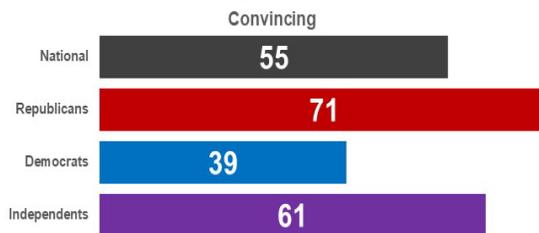
Argument for Allowing for Serious Violations



CONGRESSIONAL DISTRICTS



Argument for Status Quo



CONGRESSIONAL DISTRICTS

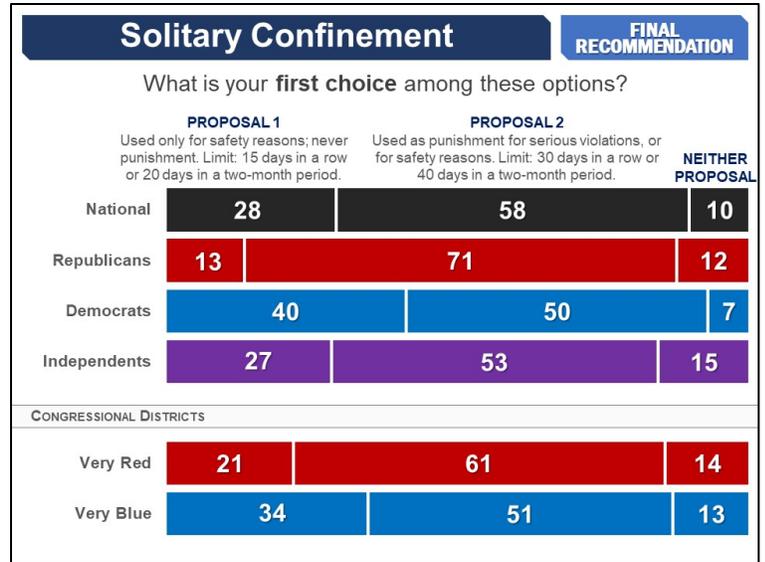


FINAL RECOMMENDATIONS

Nine-in-ten Democrats supported such reforms, as did 84% of Republicans. Just ten percent chose neither proposal (Republicans 12%, Democrats 7%).

Fifty-eight percent (Republicans 71%, Democrats 50%) chose the proposal to prohibit solitary confinement from being used except as punishment for serious violations (e.g., drug possession, escape attempt), or if a prisoner poses a threat to others or themselves. Time in solitary would be limited to 30 days in a row and no more than 40 days in a two-month period. They would receive regular medical and mental evaluations, and if at any time the medical professional determines that solitary is having adverse health risks, the prisoner would have to be removed.

Twenty-eight percent (Republicans 13%, Democrats 40%) chose the other proposal, which would go further and only allow solitary confinement to be used for reasons of safety, and never for punitive purposes. Time in solitary would be limited to 15 days in a row and no more than 20 days in a two-month period. There was no significant difference in support for the more restrictive proposal among respondents of color and white respondents. Support for the more restrictive proposal did not reach a majority among any demographic. However, it was substantially higher among younger voters 18-34 (39% vs. 22% among 65 or older), and those with a postgraduate degree (35% vs 23% among those with a high school education).



WOULD RESPONDENTS VOTE FOR THE OTHER OPTION?

Those who favored the option that would allow solitary confinement to be used as punishment for serious violations were also asked, if they were a Member of Congress and the other proposal was the only option, how they would vote. Another 25% of the whole sample said they would favor their Member voting for the proposal which would ban the use of solitary confinement for any punitive purposes, bringing the total in support for that proposal to 52% (Republicans 35%, Democrats 70%).

