

## Public Safety

# Virginia relaxes restrictions on death row inmates

By [Matt Zapposky](#) August 29 at 3:03 PM

Virginia prison officials have relaxed the restrictive conditions under which death row inmates live and are in talks to settle a lawsuit over those prisoners' near constant placement in solitary confinement — a signal that state authorities are willing to at least modify the incarceration practice that is facing increasing criticism across the country.

State officials revealed in a recent court filing that Virginia's eight death row inmates are allowed weekly contact visits with family members and more opportunity for showers and recreation — including daily sessions in which they are allowed to mingle in person with up to three others slated to die.

[\[Lawsuit threatens to upend solitary confinement in Virginia\]](#)

Victor M. Glasberg, an attorney for four inmates in Virginia who are suing over their placement in solitary confinement, said the contact visits with family members, in particular, are “decidedly huge” for the inmates. But he said he is working to understand how the other changes have been implemented and whether the inmates are still forced to spend nearly 23 hours a day alone.

“The issue of the hours spent in solitary is a huge, outstanding issue,” Glasberg said. “They’ve said they want to negotiate in good faith, and I’m going to accept that.”

The four death row inmates represented by Glasberg alleged in a [lawsuit late last year](#) that being forced to spend so much time in solitary confinement constituted cruel and unusual punishment, causing them severe mental distress while they waited to be executed. The issue is one that is being examined across the country; Supreme Court Justice Anthony M. Kennedy, for example, mused in June that it might be time for the high court to take a look at the use of solitary confinement.

The case in Virginia seemed to have a good chance of success on its own: U.S. District Judge Leonie M. Brinkema this year rejected the state's bid to throw the matter out and said she did “not understand why the commonwealth is insisting on maintaining this level of these conditions.” After the state alerted the court to its changes to death row, Brinkema put the case on hold so the two sides could work out a broader settlement.

Glasberg said he is scheduled to meet with state lawyers Thursday. Spokesmen for the Virginia Department of Corrections and the state attorney general's office declined to comment.

All four of the death row inmates in the case were convicted of heinous crimes. (The lawsuit was initially brought by five

inmates, but one dropped out.) One of the four condemned men killed a police officer, another raped and killed a woman whom he attacked while she was sleeping, and the other two killed several people, including children. Attorneys for the state previously denied that the inmates have suffered the harm they allege.

Virginia Department of Corrections Director Harold W. Clarke said in an affidavit submitted in the case that, as part of a review of its policies and procedures for those slated to die, the department decided to provide more privileges to death row inmates who follow the rules.

Clarke said in his affidavit that death row inmates would be given an hour and a half of outdoor recreation time five days a week, an opportunity for “in-pod” recreation with three of their peers for an hour every day and the opportunity for daily showers. (Inmates had alleged that they were allowed just an hour of outdoor recreation time five times a week and thrice-weekly showers.)

Clarke also said death row inmates could have weekly contact visits with family members, and prison officials were working to construct facilities for them — including a covered recreation yard with a basketball court and stationary exercise equipment, and a multipurpose day room where they could purchase books and movies, make calls and send e-mails, play cards, and watch TV. Both areas, Clarke said, were expected to be finished by October.

Glasberg said while state officials seemed to have “recognized he need to move away from their prior protocol,” there was still much to resolve.

“I will hope for the best, and plan for the worst,” he said.

A fifth death row inmate in Virginia, multiple killer Alfredo Prieto, is challenging his solitary confinement on slightly different grounds and [has asked the Supreme Court to take up the matter](#). It remains unclear how the changes to death row will affect his case. State lawyers are expected to respond to his filing with the high court next month. He is scheduled to be executed Oct. 1.

Robert Barnes contributed to this report.

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Matt Zapotosky covers the federal district courthouse in Alexandria, where he tries to break news from a windowless office in which he is not allowed to bring his cell phone.

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