

SOLITARY WATCH MAY 2016

Update, June 7, 2016: According to family members with knowledge of the situation, Tim Muise, Shawn Fisher, and Steven James were all released from solitary on May 26 and returned to general population on May 27. Muise and Fisher received disciplinary reports, dated May 22, alleging an "attempt to build a computer, which they intended to utilize, if able, to hack into and disrupt the computer system of the Massachusetts Department of Correction." Both men deny the allegations. James received no disciplinary report. The families are hopeful that the charges against Muise and Fisher will be dismissed before a disciplinary hearing.

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Three men incarcerated in Massachusetts who were working with a prison reform caucus of state legislators have been thrown in solitary confinement, in an apparent retaliation against their activism and an attempt to disrupt further communications.

In the middle of the night on March 23, 52-year-old Timothy Muise, 44-year-old Shawn Fisher, and 39-year-old Steven James were taken from their cells at the medium-security prison MCI Shirley, handcuffed, and transported by van to three separate prisons spread across the state (Norfolk, Bridgewater, and Gardner), where they were placed in solitary confinement. Muise has since been moved to a different cell every 30 days, while Fisher and James have also been moved more than once.

The three did not receive their underwear or other basic belongings until 41 days after their midnight transfer. Since their placement in solitary confinement, the men's communication abilities have been significantly curtailed, limited to two phone calls a week for 15 minutes, two one-hour non-contact visits a week, and writing letters.

Muise and Fisher are longtime advocates for prisoners' rights and prison reform. In the past year, they have organized multiple meetings with the Legislative Harm Reduction Caucus, a coalition of 70 state legislators working to "address the root causes and symptoms of mass incarceration." Speaking to Solitary Watch, Massachusetts representative Benjamin Swan, one of its leading members, called the caucus, "A group of progressive legislators who see the need for some reform in the criminal justice system and corrections as well."

Muise and Fisher had organized meetings at MCI Shirley with caucus members and prisoners in October and February to discuss potential reform options. The two were in talks with the caucus to soon travel to the statehouse to testify before the Public Safety Committee. The October and February meetings were sanctioned by Shirley prison officials and attended by correctional staff. Though James was not present at the meetings, he has also been involved in the push for reform within Shirley, and is friends with Muise and Fisher.

The night that the three men were transferred and placed in solitary confinement, they were initially brought into separate interview rooms for questioning by investigators from the Department of Corrections. According to people close to the men, they were initially asked about their work with the legislative caucus, and the meaning of "Phases I, II, and III." This referred to meetings with the caucus. The first two were the meetings in October and February. The third "phase," which was still being planned, was to be the culmination of the prior two meetings, and would involve some of the incarcerated being brought to testify about prison conditions and possible reform solutions at the Massachusetts statehouse in Boston. After the phases were clarified, the investigating officers began to accuse the three men of an illegal "plot to build a computer."

According to people present, the meetings in February and October focused on overuse of solitary confinement, the lack of vocational training in Massachusetts prisons, low pay for incarcerated workers despite high fines and prices at the prison canteens, and the high number of deaths (22) in MCI Shirley last year. Representative Swan said that hearing the suggestions of the prisoners has been extremely helpful for his development of new policies to introduce to the legislature. "Sometimes I think the inmates ought to run the facility," he told Solitary Watch. "I think they might do a better job than the administration."

The DOC has not yet provided any evidence of a computer building plot, nor any explanation as to how any of the men could remotely be connected to one. Additionally, it remains unclear why the three men would desire a homemade computer. Steven James was already enrolled in a daily computer class, and all general population prisoners at MCI Shirley were granted significant communication privileges by phone and letter.

On May 22, two months after their initial transfer and placement in solitary confinement, Muise received a disciplinary report accusing him of masterminding a plot to build a computer to hack into the DOC's communications systems. Fisher was told that he has a disciplinary report filed against him, but has yet to be made aware of its contents. James had not yet received a disciplinary report. When reached for comment, a spokesperson for the DOC informed Solitary Watch that under Massachusetts's CORI (Criminal Offender Record Information) laws, the DOC is legally unable to publicly comment on why specific prisoners were being held in solitary confinement.

However, in the time that has elapsed since the three men's initial transfer and placement in solitary, the DOC appears to have backed away from claims of a computer-building plot. Though the DOC has failed to provide a clear answer as to why the men are being punished with 23-hour-a-day solitary confinement, Muise has apparently been upgraded to "Level A Escape Status," which is the highest designation of escape threat.

"Level A is for people with previous escapes, escape attempts, or possession of escape tools, and does not fit me," wrote Muise, who has only 17 months left in a 17-year sentence. "Outrageous for any to portray that I would attempt to

escape! Pure retaliation because I exercised my rights." All three of the prisoners seem unlikely candidates for escape. James has served 22 years and was approaching his parole date, and is currently engaged in a lawsuit challenging the specifics of his initial conviction. Fisher, too, is up for parole in 2019. However, at this point, it remains unclear if Fisher's or James's escape status designations have been changed, or only Muise's.

According to Muise and people close to the other two men, the presentations in October and February may have angered some of the correctional officers at MCI Shirley. Muise's lawyer, John Reinstein, said that the DOC has been opaque in justifying the placement of the prisoners in solitary, but stated that he is under the impression that the punishment is based on their reform efforts. "While there is a fairly clear appearance that Tim and the others were shipped out—and now locked up—because of their involvement in the meetings with legislators, it appears that they are looking for some other basis for bringing disciplinary charges against them, Reinstein said. "I don't think they have anything, but I can't simply say that it is based on their advocacy."

Muise in particular has a long history of advocacy in the prison system, and has faced retaliation before. In 2010, he went public with complaints about a pervasive "sex for snitching" system of abuse within another Massachusetts state prison, MCI Norfolk. This resulted an investigation by the Massachusetts Assistant Deputy Commissioner Paul DiPaolo, and in Muise being promptly thrown in solitary confinement, with the DOC falsely claiming that he had been "inciting a group demonstration." Muise was then moved to MCI Shirley—which he referred to as a "retaliatory transfer"—moving him away from the life he had built behind bars. After spending over three months in solitary confinement, Muise successfully sued the Massachusetts Department of Corrections for impingement of his freedom of speech.

Swan and other Caucus members told Solitary Watch that they are aware of the situation involving Muise, Fisher, and James, and are monitoring the situation. Swan, who met with Muise last week in solitary confinement, has called on the Legislative Harm Reduction Caucus, as well the Black and Latino Caucus, to meet with Massachusetts's Executive Officer of Public Safety and Commissioner of Corrections in order "to talk about how is it that a group of inmates can get in trouble for trying to see the governor" and to "give us some understanding as to why this is happening, and tell us if they think this is what should happen or if someone is overstepping their policy."

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