



STOP SOLITARY

Ending the Solitary Confinement of Youth in Juvenile Detention and Correctional Facilities

Solitary Confinement and Isolation in Juvenile Detention and Correctional Facilities

THE UNITED STATES SUBJECTS CHILDREN TO SOLITARY CONFINEMENT

Before they are old enough to get a driver's license or vote, some children in America are held in solitary confinement for hours, days, and even months at a time. On any given day in the United States, more than 70,000 young people are held in state or federal juvenile detention facilities.¹ The use of isolation, including solitary confinement, in these facilities is widespread.² Officials often claim they need solitary confinement to separate youth after a fight, to discipline them when they act out, or for administrative reasons.³ Both protective and punitive isolation practices frequently involve confining youth alone in a cell for several hours at a time, sometimes for 22-24 hours per day, sometimes for days, weeks, or months. Extreme social isolation is harmful in itself; it also frequently coincides with restricted visitation with family members, limited educational materials, and curtailed physical exercise privileges.⁴

SOLITARY CONFINEMENT HARMS CHILDREN

Solitary confinement is well known to harm previously healthy adults, placing any prisoner at risk of grave psychological damage. Children, who have special developmental needs, are even more vulnerable to the harms of prolonged isolation.

- **Psychological Damage:** Mental health experts agree that long-term solitary confinement is psychologically harmful for adults—especially those with pre-existing mental illness.⁵ And the effects on children are even greater due to their unique developmental needs.⁶
- **Increased Suicide Rates:** A tragic consequence of the solitary confinement of youth is the increased risk of suicide and self-harm, including cutting and other acts of self-mutilation. According to research published by the Department of Justice, more than 50% of all youth suicides in juvenile facilities occurred while young people were isolated alone in their rooms, and that more than 60% of young people who committed suicide in custody had a history of being held in isolation.⁷
- **Denial of Education and Rehabilitation:** Access to regular meaningful exercise, to reading and writing materials, and to adequate mental health care—the very activities that could help troubled youth grow into healthy and productive citizens—is hampered when youth are confined in isolation.⁸ Failure to provide appropriate programming for youth hampers their ability to grow and develop normally, to access legal services, and to contribute to society upon their release.⁹
- **Stunted Development:** Young people's brains and bodies are developing, placing youth at risk of physical and psychological harm when healthy development is impeded.¹⁰ Children have a special need for social stimulation.¹¹ And since many children in the juvenile justice system have disabilities or histories of trauma and abuse, solitary confinement can be all the more harmful to the child's future ability to lead a productive life.¹² Youth also need exercise and activity to support growing muscles and bones.¹³

CONSTITUTIONAL AND INTERNATIONAL LAW PROVIDE SPECIAL PROTECTIONS FOR CHILDREN

Recent Supreme Court jurisprudence makes clear that youth and adults must be treated differently in the context of crime and punishment.¹⁴ International human-rights law also distinguishes between youth and adults, mandating that youth who commit crimes receive rehabilitative punishments appropriate to their age and status.¹⁵ According to the United Nations Special Rapporteur on Torture, solitary confinement of youth is cruel, inhumane and degrading treatment and in some cases, torture.¹⁶

THERE ARE BETTER SOLUTIONS

Alternatives to solitary confinement produce positive results and less damage to children. National best practices for managing youth uniformly include strict limitations on the duration of and procedures for placing youth in isolation.¹⁷ The negative effects of the prolonged isolation of youth, whether intended to protect or punish, far outweigh any purported benefits. Indeed, despite its pervasive use and well known harms, prolonged isolation serves no correctional purpose.¹⁸ There is no research to support the prolonged isolation of children as a therapeutic tool or to promote positive behavior. In fact, interactive treatment programs are more successful at reducing behavior problems and mental health problems in youth, while isolation provokes and worsens these problems.¹⁹

States are safely and successfully limiting the solitary confinement of juveniles in custody. Reports indicate that state juvenile justice agencies have implemented policy changes in recent years increasingly limiting isolation practices, with a majority of state agencies limiting isolation to a maximum of five days.²⁰ Six states—Alaska, Connecticut, Maine, Nevada, Oklahoma, and West Virginia—by statute have limited certain forms of isolation in juvenile detention facilities.²¹ In some of these states, lawmakers have passed substantive bans on punitive isolation or on isolation for periods longer than 72 hours. In others, such as Nevada, strict reporting requirements have been implemented, to monitor the system-wide use of isolation. Meanwhile, other states have adopted more systemic models that eliminate the need for isolation. New York, for instance, has moved completely away from using isolation by implementing the “Sanctuary Model,” which emphasizes trauma-informed care in lieu of punitive responses to youth misbehavior.²²

CONCLUSION

Solitary confinement and isolation of children is psychologically and developmentally damaging and can result in long-term problems and even suicide. Laws, policies, and practices must be reformed to ensure that conditions in the juvenile justice system are effective and safe—and that they prioritize protection and rehabilitation.

As the nation's largest public interest law organization, with affiliate offices in every state and a legislative office in Washington D.C., the ACLU works daily in courts, legislatures, and communities to promote more effective criminal justice policies. www.aclu.org/stopsolitary.

Endnotes

¹ Press Release, Annie E. Casey Foundation, Youth Incarceration Sees Dramatic Drop in the United States (Feb. 27, 2013), available at <http://www.aecf.org/Newsroom/NewsReleases/HTML/2013/YouthIncarcerationDrops.aspx>. This rate has declined in recent years. Youth Incarceration in the United States, ANNIE E. CASEY FOUNDATION (Feb. 27, 2013), available at <http://www.aecf.org/resources/reducing-youth-incarceration-in-the-united-states/>. Notably, Department of Justice data also suggest that close to 100,000 children are held in adult jails and prisons each year. Human Rights Watch and the American Civil Liberties Union recently estimated that in each of the last 5 years, between 93,000 and 137,000 young people under 18 were held in adult jails and that, in 2011, more than 2,200 young people under age 18 were held in adult prisons. HUMAN RIGHTS WATCH & THE AMERICAN CIVIL LIBERTIES UNION, GROWING UP LOCKED DOWN: YOUTH IN SOLITARY CONFINEMENT IN JAILS AND PRISONS ACROSS THE UNITED STATES 101-107 (appendix 1) (2012), available at <http://www.aclu.org/growinguplockeddown>.

² U.S. DEP'T OF JUSTICE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, CONDITIONS OF CONFINEMENT: FINDINGS FROM THE SURVEY OF YOUTH IN RESIDENTIAL PLACEMENT (May 2010), available at <https://www.ncjrs.gov/pdffiles1/ojdp/227729.pdf>. The study, based on a nationally-representative sample of more than 7,000 young people ages 10-20, finds that in 2003 more than one-third (35 percent) of youth in juvenile facilities reported being isolated as a punishment and that more than half of those children were held for longer than 24 hours—amounting to more than 17,000 young people held in solitary confinement. *Id.* at 9. In response to a 2010 Department of Justice census (the most recent year for which there is data) of close to 4,000 juvenile facilities, more than 850 facilities indicated that they locked young people in their room in certain circumstances and more than 430 facilities reported locking young people alone for more than 4 hours at a time in certain circumstances. JUVENILE RESIDENTIAL FACILITY CENSUS CODEBOOK, US DEP'T OF JUSTICE, INTER-UNIVERSITY CONSORTIUM FOR POLITICAL AND SOCIAL RESEARCH 42, 156-57 (2010), available at http://www.icpsr.umich.edu/cgi-bin/file:comp=none&study=34449&ds=1&file_id=1097802.

³ See *Reassessing Solitary Confinement: The Human Rights, Fiscal, and Public Safety Consequences: Hearing Before the Subcomm. on the Constitution, Civil Rights, and Human Rights of the S. Comm. on the Judiciary*, 112th Cong. 4 (2012) (statement of Youth Law Center), available at <http://solitarywatch.com/wp-content/uploads/2012/06/youth-law-center2.pdf>.

⁴ *Id.*; *Reassessing Solitary Confinement: The Human Rights, Fiscal, and Public Safety Consequences: Hearing Before the Subcomm. on the Constitution, Civil Rights, and Human Rights of the S. Comm. on the Judiciary*, 112th Cong. (2012) (statement of the Center for Children's Law and Policy), available at <http://solitarywatch.com/wp-content/uploads/2012/06/center-for-childrens-law-and-policy.pdf>. DOJ research found that half of young people held in isolation for 2 hours or longer reported that they had not spoken with a counselor or mental health professional while incarcerated (including while in isolation). U.S. DEP'T OF JUSTICE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, CONDITIONS OF CONFINEMENT: FINDINGS FROM THE SURVEY OF YOUTH IN RESIDENTIAL PLACEMENT 19 (May 2003), available at <https://www.ncjrs.gov/pdffiles1/ojdp/227729.pdf>.

⁵ See, e.g., Stuart Grassian, *Psychopathological Effects of Solitary Confinement*, 140 AM. J. OF PSYCHIATRY 1450, 1452 (1983); Richard Korn, *The Effects of Confinement in the High Security Unit at Lexington*, 15 SOC. JUST. 8 (1988); Stanley L. Brodsky & Forrest R. Scogin, *Inmates in Protective Custody: First Data on Emotional Effects*, 1 FORENSIC REP. 267 (1988); Craig Haney, *Mental Health Issues in Long-Term Solitary and "Supermax" Confinement*, 49 CRIME & DELINQ. 124, 130, 134 (2003); Holly A. Miller & Glenn R. Young, *Prison Segregation: Administrative Detention Remedy of Mental Health Problem?*, 7 CRIM. BEHAV. & MENTAL HEALTH 85, 91 (1997); HANS TOCH, MOSAIC OF DESPAIR: HUMAN BREAKDOWN IN PRISON (Am. Psychol. Ass'n., 1992).

⁶ AM. ACAD. OF CHILD & ADOLESCENT PSYCHIATRY, POLICY STATEMENTS: SOLITARY CONFINEMENT OF JUVENILE OFFENDERS (Apr. 2012), available at http://www.aacap.org/cs/root/policy_statements/solitary_confinement_of_juvenile_offenders; Sandra Simkins, Marty Beyer & Lisa Geis, *The Harmful Use of Isolation in Juvenile Facilities: the Need for Post-Disposition Representation*, 38 WASH. U.J.L. & POL'Y 241, 257-61 (2012).

⁷ *Id.* at 27; see also Seena Fazel, Julia Cartwright, et al., *Suicide in Prisoners: A Systematic Review of Risk Factors*, J. CLIN. PSYCHIATRY 69 (2008); CHRISTOPHER MUOLA, DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, SUICIDE AND HOMICIDE IN STATE PRISONS AND LOCAL JAILS (2005), available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/shsplj.pdf>. The study by Lindsay M. Hayes of the Department of Justice suggests that, "When placed in a cold and empty room by themselves, suicidal youth have little to focus on—except all of their reasons for being depressed and the various ways that they can attempt to kill themselves. HAYES, *supra* note **Error! Bookmark not defined.**, at 42, citing LISA M. BOESKY, JUVENILE OFFENDERS WITH MENTAL HEALTH DISORDERS: WHO ARE THEY AND WHAT DO WE DO WITH THEM? 210 (2002).

⁸ See Statement of the Center for Children's Law and Policy, *supra* note 4; DEP'T OF JUSTICE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, CONDITIONS OF CONFINEMENT: FINDINGS FROM THE SURVEY OF YOUTH IN RESIDENTIAL PLACEMENT, *supra* note 4, at 19.

⁹ CTNS FOR DISEASE CONTROL TASK FORCE ON COMMUNITY PREVENTIVE SERVICES, EFFECTS ON VIOLENCE OF LAWS AND POLICIES FACILITATING THE TRANSFER OF YOUTH FROM THE JUVENILE TO THE ADULT JUSTICE SYSTEM (2007), available at <http://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf>; BARRY HOLMAN & JASON ZIEDENBERG, JUSTICE POLICY INST., THE DANGERS OF DETENTION (2006), available at http://www.justicepolicy.org/images/upload/06-11_REP_DangersOfDetention_JJ.pdf.

¹⁰ AM. ACAD. OF CHILD & ADOLESCENT PSYCHIATRY, POLICY STATEMENTS: SOLITARY CONFINEMENT OF JUVENILE OFFENDERS, *supra* note 6; Lawrence Steinberg et al., *The Study of Development Psychopathology in Adolescence: Integrating affective neuroscience with the study of context*, in DEVELOPMENTAL PSYCHOPATHOLOGY 710 (DANTE CICCETTI & DONALD J. COHEN EDS., 2d ed. 2006); Jay N. Giedd, *Structural Magnetic Resonance Imaging of the Adolescent Brain*, 1021 ANNALS N.Y. ACAD. SCI. 83 (2004).

¹¹ Laurence Steinberg et al., *Age Differences in Future Orientation and Delay Discounting*, 80 CHILD. DEV. 28 (2009); Jennifer Woolard et al., *Juveniles in Adult Correctional Settings: Legal Pathways and Developmental Considerations*, 4 INT'L J. OF FORENSIC MENTAL HEALTH 1 (2005), available at <http://www.policyarchive.org/handle/10207/bitstreams/20668.pdf>; Deborah Laible et al., *The Differential Relations of Parent and Peer Attachment to Adolescent Adjustment*, 29 J. OF YOUTH & ADOLESCENCE 45(2000), available at <http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1050&context=psychfacpub>; David E. Arredondo, *Principles of Child Development and Juvenile Justice Information for Decision-Makers*, 5 J. CTR. FOR FAMILIES, CHILD & COURTS 127 (2004).

¹² American Academy of Pediatrics, Policy Statement: Health Care for Youth in the Juvenile Justice System, 128 PEDIATRICS 1219, 1223-24 (2011), available at <http://pediatrics.aappublications.org/content/early/2011/11/22/peds.2011-1757.full.pdf> (reviewing the literature on the prevalence of mental health problems among incarcerated youth); OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, NATURE AND RISK OF

VICTIMIZATION: FINDINGS FROM THE SURVEY OF YOUTH IN RESIDENTIAL PLACEMENT 4 (June 2013), available at <http://www.ojjdp.gov/pubs/240703.pdf> (finding that 56 percent of youth in custody experience one or more types of victimization while in custody, including sexual assault, theft, robbery, and physical assault).

¹³ Ctrs For Disease Control and Prevention, *How Much Physical Activity do Children Need?*, available at <http://www.cdc.gov/physicalactivity/everyone/guidelines/children.html>; Dep't Health and Human Services, *Physical Activity Guidelines for Americans*, <http://www.health.gov/paguidelines/factsheetprof.aspx>.

¹⁴ See, e.g., *Graham v. Florida*, 130 S.Ct. 2011 (2010); *Roper v. Simmons*, 453 U.S. 551 (2005). In addition to these Supreme Court opinions on the difference between youth and adults in the context of crime and punishment, courts are increasingly hearing cases specifically about juveniles in solitary confinement. Recently, for instance, two young men who experienced mental health deterioration while held in solitary confinement in juvenile facilities in New Jersey prevailed against the state in a \$400,000 settlement. See Jeff Goldman, *N.J. To Pay Half of \$400K Settlement over Solitary Confinement of Juveniles*, THE STAR-LEDGER, Dec. 10, 2013.

¹⁵ International Covenant on Civil and Political Rights, Arts. 10, 14(4), opened for signature Dec. 16, 1966, S. Exec. Rep. 102-23, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976) (ratified by U.S. June 8, 1992) ("ICCPR"); Convention on the Rights of the Child, Arts. 3(1), 37, 40(3)-(4), opened for signature Nov. 20, 1989, 1577 U.N.T.S. 3 (entered into force Sept. 2, 1990) ("CRC"). The United States signed the CRC in 1995 but has not ratified the treaty.

¹⁶ Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Interim Rep. of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, ¶ 77, U.N. Doc. A/66/268 (Aug. 5, 2011) (by Juan Mendez), available at <http://solitaryconfinement.org/uploads/SpecRapTortureAug2011.pdf>.

¹⁷ See, e.g., AM. CORR. ASS'N, PERFORMANCE BASED STANDARDS JUVENILE CORR. FACILITIES (4th ed. 2009); PBS LEARNING INST., PBS GOALS, STANDARDS, OUTCOME MEASURES, EXPECTED PRACTICES AND PROCESSES (2007), available at <http://sccounty01.co.santa-cruz.ca.us/prb/media%5CGoalsStandardsOutcome%20Measures.pdf>; JUVENILE DETENTION ALTERNATIVES INITIATIVE (JDAI), A GUIDE TO JUVENILE DETENTION REFORM: JUVENILE DETENTION FACILITY ASSESSMENT 2014 UPDATE 177 (2014), available at <http://www.aecf.org/m/resourcedoc/aecf-juviledetentionfacilityassessment-2014.pdf> ("Staff never use room confinement for discipline, punishment, administrative convenience, retaliation, staffing shortages, or reasons other than a temporary response to behavior that threatens immediate harm to a youth or others."); DEP'T OF JUSTICE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, STANDARDS FOR THE ADMINISTRATION OF JUVENILE JUSTICE (1980), available at <http://catalog.hathitrust.org/Record/000127687>; NAT'L COMM. ON CORR. HEALTH CARE, STANDARDS FOR HEALTH SERVICES IN JUVENILE DETENTION AND CONFINEMENT FACILITIES standard Y-39 (1995), available at <http://www.jdcap.org/SiteCollectionDocuments/Health%20Standards%20for%20Detention.pdf>; AM. ACAD. OF CHILD & ADOLESCENT PSYCHIATRY, POLICY STATEMENTS: SOLITARY CONFINEMENT OF JUVENILE OFFENDERS, *supra* note 6.

¹⁸ See, e.g., Linda M. Finke, RN, PhD, *Use of Seclusion is not Evidence-Based Practice*, J. CHILD & ADOLESCENT PSYCHIATRIC NURSING, (2001), available at http://www.findarticles.com/p/articles/mi_qa3892/is_200110/ai_n8993463/print; Steven H. Rosenbaum, Chief, Special Litigation Section, Remarks before the Fourteenth Annual National Juvenile Corrections and Detention Forum (May 16, 1999), available at <http://www.usdoj.gov/crt/split/documents/juvspeech.htm>.

¹⁹ Simkins, *supra* note 6, at 257-58.

²⁰ PERFORMANCE-BASED STANDARDS, REDUCING ISOLATION AND ROOM CONFINEMENT 4-6 (Sept. 2012), available at http://pbstandards.org/uploads/documents/PbS_Reducing_Isolation_Room_Confinement_201209.pdf. The report states, "very few state agency policies permit extended isolation time for youths and the majority limit time to as little as three hours and a maximum of up to five days." *Id.* at 4.

²¹ See Okla. Admin. Code, 377:35-11-4, Solitary Confinement (noting that solitary confinement of youth is a "serious and extreme measure to be imposed only in emergency situations"); W.V. Code §49-5-16a, Rules governing juvenile facilities (solitary confinement may not be used to punish a juvenile and except for sleeping hours, a juvenile may not be locked alone in a room unless that juvenile is "not amenable to reasonable direction and control."); but see W.V. Div. Juvenile Serv., Pol'y No. 330.00, Institutional Operations, at 9, available at <http://www.wvdjs.state.wv.us/Portals/0/Files/330.00%20-%20Resident%20Discipline.pdf> (permitting up to ten days room confinement as a sanction for some offenses); Nev. Rev. Stat. § 62B (children may be subjected to "corrective room restriction" only if all other less-restrictive options have been exhausted and only for listed purposes, and no child may be locked alone in a room for longer than 72 hours); Alaska Delinquency Rule 13 (Oct. 15, 2012) (banning isolation of juveniles for "punitive" reasons, but defining "secure confinement" as permissible for "disciplinary" reasons and when there is a safety or security risk); Conn. Gen. Stat. Ann. § 46b-133 (d)(5) (officials supervising children who have been arrested may not place "any child at any time" in "solitary confinement," but the statute does not define "solitary confinement"); Conn. Gen. Stat. Ann. § 17a-16(d)(1) (West 2014); Conn. Agencies Regs. § 17a-16-11 (2014) (for post-adjudication youth in Connecticut, the use of "seclusion" is governed by a statute and corresponding regulations requiring periodic authorizations and thirty-minute checks); Me. Rev. Stat. tit. 34-A § 3032 (5) (including segregation in the list of permissible punishments for adults, but not in the list for children; however, while state law prohibits "confinement to a cell" and "segregation" as punishment in juvenile correctional facilities, the state's rules permit "room restriction" for juveniles, even for minor rule violations). California, Texas, and New Hampshire have also recently considered legislation to limit or ban the solitary confinement of children, and Texas is conducting a full review of the practice. See 2013 Tex. Sess. Law Serv. Ch. 1184 (S.B. 1003) (West); Cal. S.B. 61 (2013); N.H. H.B. 480-FN (2013). For other state reforms, see, for example, Consent Decree, *C.B., et al. v. Walnut Grove Corr. Facility*, No. 3:10-cv-663 (S.D. Miss. 2012) (prohibiting solitary confinement of children); Settlement Agreement, *Raistlen Katka v. Montana State Prison*, No. BDV 2009-1163 (Apr. 12, 2012) (limiting the use of isolation and requiring special permission); Mo. Sup. Ct. Rule 129.04 app. A § 9.5-9.6 (2009) (placing limits on "room restriction" exceeding twenty-four hours).

²² See Sanctuary Network, The Sanctuary Model, <http://www.sanctuaryweb.com/network.php> (last visited Mar. 12, 2014) (listing systems and facilities that have adopted the Sanctuary Model for juvenile justice).