



U.S. Department of Justice

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

Office of the Administrator

Washington, D.C. 20531

July 5, 2013

Jesselyn McCurdy
Senior Legislative Counsel
American Civil Liberties Union
Washington Legislative Office
915 15th Street, N.W.
Washington, D.C. 20005-2303

Dear Ms. McCurdy:

This responds to your letter dated May 6, 2013, to Attorney General Holder concerning the Department of Justice's (Department) policies prohibiting solitary confinement of youth in federal custody. I also want to thank you for meeting with my staff and me on May 9, 2013, to discuss this same matter.

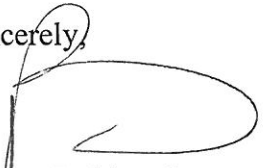
I appreciate, too, that you shared copies of the ACLU's recently released report "Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States."

As discussed, we at the Office of Juvenile Justice and Delinquency Prevention (OJJDP), take this issue very seriously. The Department has stated in various contexts that isolation of children is dangerous and inconsistent with best practices and that excessive isolation can constitute cruel and unusual punishment. OJJDP is cognizant that young people have needs that differ in nature and degree from adults because they are still developing physically and psychologically. As you noted, these differences are reflected in recent Supreme Court cases establishing that young people are entitled to greater constitutional protections in the context of crime and punishment.

Preliminary discussions on youth isolation have taken place among Department components, including the Bureau of Prisons. As OJJDP's newly appointed Administrator, I intend to examine the status of Department efforts in this area and the relationship to our program and policy work. Please refer to the attached summary of policy statements, standards and recent activities related to the isolation of youth in custody.

I look forward also to a continued dialogue. In the interim, do not hesitate to contact Elissa Rumsey, Compliance Monitor Coordinator, with questions or further suggestions for how we may work together. Ms. Rumsey may be reached by phone on (202) 616-9279 or by e-mail at elissa.rumsey@usdoj.gov.

Sincerely,



Robert L. Listenbee
Administrator

Attachment

Attachment

Department of Justice Policies, Standards and Activities Related to Isolation of Youth in Custody

The Department of Justice (DOJ) specifically acknowledged that isolation is not appropriate for youth when promulgating regulations implementing the Prison Rape Elimination Act (PREA): “Isolation is known to be dangerous to mental health, especially among youth. Among other things, isolation puts youth at greater risk of committing suicide ... The Department agrees that long periods of isolation have negative and, at times, dangerous consequences for confined youth.”

DOJ has concluded that a range of isolation practices imposed on youth in juvenile and adult facilities, as applied, violate the United States Constitution. For example, in an investigation of a facility in Terrebonne Parish, LA, the Department stated “Confined youth have a constitutional right of freedom from unreasonable bodily restraints... [and therefore t]he routine improper use of an isolation unit in a state facility can constitute cruel and unusual punishment.”

The US Attorney General’s National Task Force on Children Exposed to Violence, recommended abandonment of traumatic corrections practices, including the excessive use of isolation, concluding that “nowhere is the damaging impact of incarceration on vulnerable children more obvious than when it involves solitary confinement.”

DOJ standards¹ state that all youth in residential facilities should have a right to a basic level of services (including an adequate and varied diet; varied recreation and leisure-time activities; preventive and immediate medical/dental care; remedial, special, vocational, and academic educational services; protection against physical and mental abuse; freedom to develop individuality; opportunity to participate or not participate in religious observances; clean, safe, adequately heated and lighted accommodations; and maximum feasible contact with family, friends, and community) as well as a maximum level of treatment services (including individual and group counseling; psychiatric and psychological services; and casework services).

OJJDP funded the National Research Council of the National Academies of Sciences to conduct a detailed study regarding the importance of taking a developmental approach to juvenile justice policy and practices, including care for system-involved or delinquent youth. The report states that scientific knowledge about adolescence sheds light on the possible harmful developmental impact of harsh or extended confinement and concludes that “confinement under punitive conditions may increase recidivism.” OJJDP is working to promote these findings and incorporate its recommendations into our policy and practice.

¹ http://www.bop.gov/locations/cc/SOW_Secure_Juvie.pdf (Note in particular Chapters 14, 17, 18 and 20)