Defining Solitary Confinement

Solitary confinement is a harmful practice used by adult and youth correctional institutions, juvenile detention centers, and residential treatment facilities. Solitary confinement is frequently called seclusion or isolation. It can also be referred to as administrative segregation, protective custody, disciplinary confinement, security housing, or restricted housing, but the practice and impact of keeping a child in seclusion is the same.

“I feel like kids on mental health get worse by being in their rooms so long. Kids on mental health are locked up for three weeks without coming out.”

O.R. - AGE 17

Youth placed in solitary confinement often live in small windowless cells, with little or no access to the outside world. A person in solitary confinement typically spends 22 to 24 hours a day in a small boxlike space that usually contains only a toilet, a sink, and a cot. Youth in solitary are denied meaningful human contact and access to adequate medical care, education, rehabilitative programming, and recreational activities.

Eric H. Holder, Jr.,
U.S. Attorney General

“Overreliance on solitary confinement for young people, particularly those with disabilities, is unsafe and counterproductive.”

There is a growing national advocacy movement that recognizes the use of solitary confinement as a human rights issue and seeks to end of its use. Solitary confinement has been identified as cruel, inhumane, and degrading. Holding individuals under the age of 18 in solitary confinement is particularly egregious and should be prohibited.
In some facilities, youth have been isolated in this manner for days, months, or even for years. Such extreme isolation can cause youth to deteriorate psychologically, physically, and socially. It may also exacerbate mental illness, create symptoms of mental illness, and increase the chance of self-mutilation, and suicide.

“To confine a boy without exercise, always indoors, almost always in a small cell, with little in the way of education or reading materials, and virtually no visitors from the outside world, is to rot away the health of his body, mind, and spirit. To then subject a boy to confinement in a dark and stripped confinement cell with inadequate warmth and no human contact can only lead to his destruction.”

Facilities may employ solitary confinement as a mechanism for physical and social isolation for a variety of reasons including discipline (for rule infractions), protection (where youth need protection from threats within the institution), and management of special populations (typically for high-risk youth with assaultive behaviors or youth who present a danger to themselves). It is important to note that separating youth as a brief intervention, may be a component of a behavioral treatment program or a short-term emergency procedure; that is not considered solitary confinement for purposes of this fact sheet.

“I have been placed on ‘Security Seclusion’... I could be on it for days... You get no school or nothing. You only get out for shower.”

C.D. - AGE 16
The Prevalence of Solitary Confinement
Reliable data about how frequently solitary confinement is used is elusive as states and prison systems define solitary confinement conditions differently, and there is no federal requirement for prisons, jails or juvenile facilities to report its use. Yet, experts who study the issue agree that it is commonplace. It is estimated that across the country, hundreds if not thousands of youth are held in solitary confinement among juvenile and adult state and local institutions, and residential treatment programs. In particular, youth in adult jails (because they may need to be separated from adults) and kids that suffer from behavioral health issues are at greater risk for being placed in solitary confinement. Seclusion is often the default intervention used for teenagers in lieu of adequate staff training and supervision and mental health services. There is also a disproportionate representation of African-Americans, those living with mental illness, and LGBTI experiencing solitary confinement.

The Destructive Effect of Solitary Confinement
Solitary confinement is an ineffective, counterproductive, and unsafe practice. Numerous studies have documented its harmful physical and psychological effects. Many believe it rises to the level of cruel and degrading treatment, even being called torture.

Due to their vulnerability, youth are at jeopardy for adverse reactions to seclusion, including stunted development. The National Task Force on Children Exposed to Violence held that solitary confinement can harm youth who are already severely traumatized from childhoods of abuse and neglect. Youth subjected to seclusion have suffered visual and auditory hallucinations, insomnia and paranoia, uncontrollable feelings of rage and fear, and post-traumatic stress disorder. The U.S. Department of Justice found that youth may experience these symptoms even after short periods of isolation.

Solitary confinement can exacerbate short- and long-term mental health problems. While in seclusion, mental health deteriorates for those with preexisting conditions and access to psychiatric consultation and medication can be rare. At least half of all prison suicides occur in solitary confinement. Confined youth who spend extended periods isolated are among the most likely to attempt or actually commit suicide. Additionally, youth in seclusion consistently report experiencing sexual intimidation and violence. Kids held in adult facilities are five times more likely to be sexually assaulted than kids held in juvenile facilities.

Despite these facts, kids are still being held in solitary confinement in state correctional facilities, detention centers, adult jails and residential treatment centers.
The Cost of Solitary Confinement to Communities

Solitary confinement undermines public safety. Research reveals that seclusion increases recidivism and fails to reduce violence in correctional settings.

Young people in solitary confinement are routinely denied access to treatment, services, and programming required to meet their medical, psychological, developmental, social, and rehabilitative needs. Because young people are still developing, traumatic experiences like seclusion may have a profound impact on long-term outcomes. This is recognized by U.S. Attorney General, Eric H. Holder, Jr., who said, “solitary confinement can be dangerous, and a serious impediment to the ability of juveniles to succeed once released.”

One study concluded that people returning to the community after spending time in solitary confinement had recidivism rates double of those who were provided a period of transition into the general prison population before release. This is a startling fact since the vast majority of all teens placed in seclusion will return to their communities. Furthermore, it is estimated that using seclusion in a correctional setting costs three times as much as keeping a youth with the general population.

Mounting Condemnation of the Practice

A growing number of experts are challenging solitary confinement. Internationally, the United Nations (UN) has referred to isolating youth close to all but torture since passing a resolution in 1990 specifically prohibiting its use with juvenile offenders as a matter of international law. The U.S. is one of only three countries that participate in the UN that have refused to ratify this Convention on the Rights of the Child. In October 2011, the United Nations called on all countries to ban solitary confinement of youth. The Inter-American Commission on Human Rights (IACHR) criticized the United States for its misuse and abuse of solitary confinement. The IACHR emphasized that solitary confinement should only be used in exceptional circumstances, for the shortest period possible, and only as a measure of last resort. It also averred that its application must be subject to strict judicial oversight, take place in cells

Juan Mendez, Special Rapporteur on Torture, United Nations

“Solitary confinement can amount to torture or cruel, inhuman and degrading treatment or punishment ... for juveniles.”
that meet the minimum conditions according to the international standards, and inmates must undergo strict medical supervision.

In the U.S. there is acknowledgment that this harmful practice must stop. In 2012 and 2014, U.S. Senate Minority Whip Dick Durbin (D-IL) chaired congressional hearings on the human rights, fiscal and public safety consequences of solitary confinement. As a result of the hearings, legislation was introduced to end the use of solitary confinement on youth being held for federal delinquency proceedings (see H.R. 4124 – Protecting Youth from Solitary Confinement Act). Placing youth in solitary confinement arguably violates the 8th and 14th Amendments of the U.S. Constitution. However, the United States Supreme Court has yet to make a decision on whether solitary confinement is classified as cruel and unusual punishment or contraindicative to treatment, despite the aforementioned congressional hearings on the subject.

In 2012, the American Academy of Child and Adolescent Psychiatry approved a position statement opposing the use of solitary confinement on youth in correctional facilities and calling for any youth that is secluded for more than 24 hours to be evaluated by a mental health professional, such as a child and adolescent psychiatrist. The American Psychiatric Association and the American Bar Association have similarly weighed in on isolation as it pertains to adults, asking for more accountability and limitation of its use.

“Thirty-five percent of juveniles in custody report being held in solitary for some amount of time. The mental health effects of event short periods of isolation...are heightened in youth...I’m calling for all federal and state facilities to end the use of solitary confinement for juveniles”

Assistant Majority Leader Dick Durbin (D-IL), Senate Hearing (Feb. 25, 2014)
FACT SHEET
STOP SOLITARY FOR OHIO’S YOUTH

“Nowhere is the damaging impact of incarceration on vulnerable children more obvious than when it involves solitary confinement.”

Stop Solitary for Ohio’s Youth

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U.S. Department of Justice, Report of the Attorney General’s National Task Force on Children Exposed to Violence

The Annie E. Casey Foundation, a national organization that is at the forefront of juvenile justice, recently revised its JDAI Detention Facility Standards. These standards prohibit the use of isolation for everything BUT as a temporary response for children who pose an immediate risk to themselves or others; after other techniques had failed; only for as long as it took for a child to regain control of himself; and never for longer than four hours or as a punishment.

State Action

Across the country, states are passing laws limiting the use of solitary confinement in prisons, jails, and youth detention facilities. Seven states – Alaska, Arizona, Connecticut, Maine, Nevada, Oklahoma and West Virginia – have placed some prohibition on secluding youth. In Maine, however, the ban is not explicit, and a loophole in Nevada allows isolation if less-restrictive options have been exhausted.

Lawsuits based on isolating youth have also been filed. For example, in Polk County, Florida, the sheriff is being sued for locking teenagers in isolation cells for months on end. It was alleged that youth at risk of committing suicide were dressed in smocks and held in cages, usually alone but in full view of adult inmates. In 2014, New Jersey’s Juvenile Justice Commission settled a civil rights lawsuit for $400,000 after keeping a severely mentally ill teenager in isolation for 178 out of 225 days.

In response to a lawsuit, the New York State Department of Corrections recently prohibited isolating adolescent inmates in adult jails. In that state, the U.S. Department of Justice found a pattern of abuse of 16- and 17-year-old inmates with more than a quarter of Rikers’ adolescent population being held in prolonged solitary confinement – nearly always before being convicted of any crime.

In response to the high rates of rape in prison, especially of youth being held in adult jails, the U.S. Congress passed the Prison Rape Elimination Act of 2003 (PREA). It is the first federal law dealing with the sexual assault of prisoners and it applies to adult and juvenile correctional facilities. It mandates that there is no contact between adult and youth prisoners. However, understanding the significant problems with solitary confinement, PREA compliance requires, and the guidelines suggest, that facilities should not place youth in single cells or solitary to achieve sight and sound separation.
Ohio Action

In May 2014, the Children’s Law Center, and the U.S. Department of Justice entered into an agreement with the Ohio Department of Youth Services (DYS). DYS consented to dramatically reduce, and eventually eliminate, its use of seclusion on young people in its custody in juvenile correctional facilities. The agreement also ensures youth receive individualized mental health treatment to prevent and address the conditions and behaviors that lead to the use of seclusion.

This signifies the first federal-level move to end disciplinary seclusion at state juvenile facilities. Nevertheless, the agreement does not extend to the many youth experiencing solitary confinement that are held in adult prisons and jails, detention centers, or residential treatment facilities. There is still a lack of oversight at these institutions. For example, in the fall of 2014, a lawsuit was filed against a multi-county detention center for repeatedly placing youth in solitary for more than a month without proper attire. This lead to frostbite and denied youth proper humane conditions.

Progress has been made in keeping youth out of adult jails wherever possible. In April 2014, the Ohio Standards for Jails were modified limiting the circumstances that youth can be placed in adult jails. They dictate that youth must be kept out of sight and sound of all adult inmates during their stay in the jail, not just beyond the range of touch. And, youth must have access to all of the same programming and recreation as adult inmates (i.e.,
In 2008, the State of Ohio entered into a consent decree and federal monitoring plan (S.H. v. Stickrath) to correct the widespread problems that were uncovered through an investigation of the conditions of its juvenile correctional facilities. The ongoing monitoring discovered that the State continued to use isolation, including on special management units, where youth were isolated 23-24 hours a day, sometimes for months and years. These units were finally closed in 2013. But in March of 2014, the U.S. Department of Justice filed a restraining order, joining with the S.H. lawyers, alleging the continued misuse of solitary in other facilities, specifically:

- 229 juveniles with mental-health problems were kept in seclusion for a total of almost 60,000 hours in the second half of 2013 alone.
- One boy spent almost 2,000 hours in solitary confinement during the course of six months.
- One teen was kept in seclusion for 21 straight days.
- While secluded, several boys were on suicide watch, had suicidal thoughts or hurt themselves.
- That youth in solitary were denied treatment and programming, in violation of their constitutional rights.

**Conclusion**

Solitary confinement is detrimental for Ohio’s youth. Physical and social isolation and deprivation of education and care, even for short periods of time, can be damaging. When courts place kids in the custody and care of state and local correctional institutions, residential treatment facilities and detention centers, their safety and well-being must be ensured.

**“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.”**

Robert L. Listenbee, Administrator, U.S. Department of Justice, OJJDP, Department of Justice Policies, Standards, and Activities Related to Isolation of Youth in Custody
References


