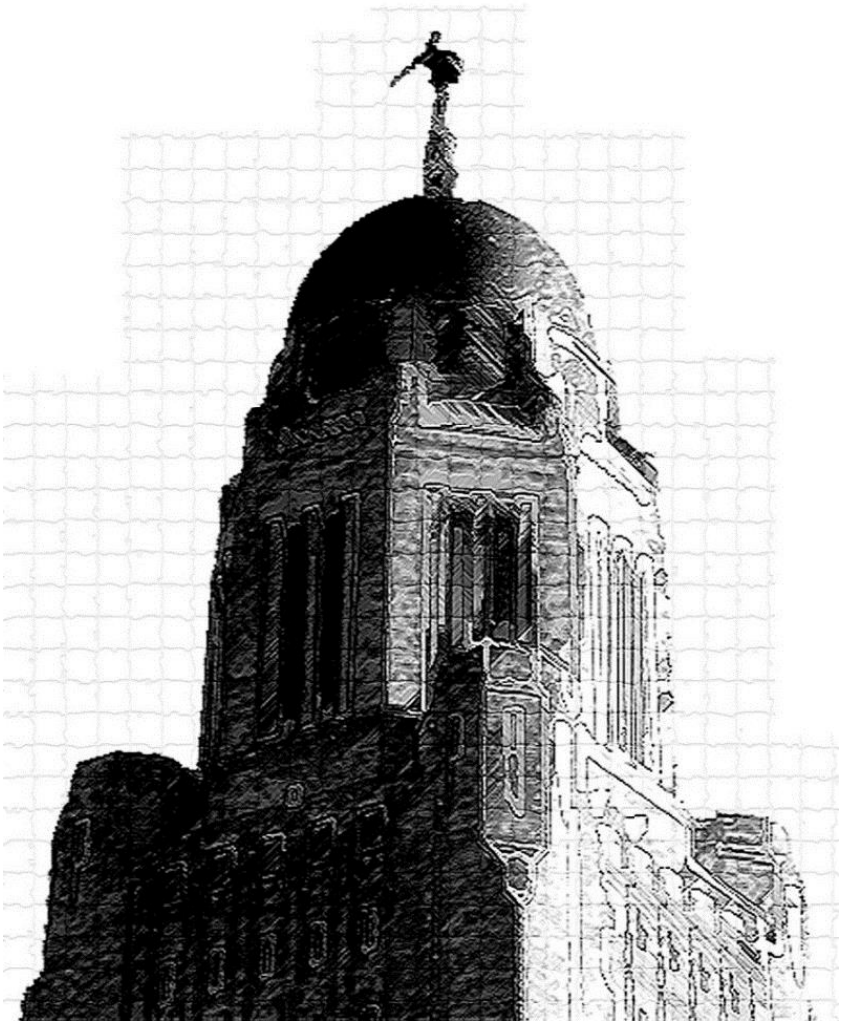
2019-2020
Annual Report

Juvenile Room Confinement in Nebraska



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Providing accountability for the Nebraska child welfare and juvenile justice systems

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Executive Summary

Nebraska law requires a wide variety of facilities that serve children and youth to document information every time a child is placed in room confinement – involuntarily restricted to a room, cell, or other area alone – for an hour or longer. Facilities must report quarterly on their use of room confinement to the Nebraska Legislature.[1]

The Office of Inspector General of Nebraska Child Welfare (OIG) is charged with preparing an annual report on the use of juvenile room confinement.

The following annual report examines juvenile room confinement in Nebraska between July 1, 2019 and June 30, 2020 (FY 19-20).

The OIG received room confinement reports from 22 individual facilities comprised of five different types of juvenile facilities in Nebraska—correctional institutions, youth rehabilitation and treatment centers, detention centers, mental health and substance abuse treatment centers, and residential child-caring agencies.

It should be noted that due to the current COVID-19 pandemic, the OIG expected to see facilities reporting periods of juvenile room confinement in the fourth quarter of the fiscal year due to medical quarantine. Four facility reports included of incidents due to medical quarantine. The remaining facility reports did not indicate incidents of juvenile room confinement due to medical quarantine in the early days of the pandemic. As a result, the OIG cannot determine if some facilities did not report any incidents of medical quarantine during the pandemic because there truly was no need for a medical quarantine during that time or if the absence of medical quarantine was the result of the facility's own sickbed policies and the facility's interpretation of the law as not requiring such reporting.

There are currently at least 16 different definitions of confinement in the Nebraska Administrative Code that would fall under "juvenile room confinement," or would be inclusive of juvenile room confinement practices. This is in addition to other language in facility and agency polices that may result in the practice of juvenile room confinement.

Nebraska has adopted juvenile room confinement definitions as well as documentation and reporting requirements designed to "provide increased accountability and oversight regarding the use of room

[1] Neb. Rev. Stat. §83-4,134.01.

confinement for juveniles in a juvenile facility."[2] It is important to note that room confinement is not prohibited by Nebraska law. Rather, as a means of monitoring its practice and use, the law requires the documentation and reporting of each time juvenile room confinement is used for a period of one hour or more.

Nebraska facilities that report the use of juvenile room confinement have made an effort to reduce the number of occurrences within their facilities and decrease the duration of incidents. While this shows some progress, the OIG has found that some facilities continued to rely on it, and there has been limited success by some of these facilities in the coordinated implementation of recommended best practices. The OIG also noted that in very limited cases, some facilities have focused on producing favorable data more so than facilitating the necessary culture shift by, for example, making adjustments to wording in facility policy or procedure documents to reflect a shift away from the use of juvenile room confinement, when in reality there has been only a slight modification to the actual practice within the facility.

Best practices, derived from established national standards, strive to minimize the use of juvenile room confinement and the potential consequences that include:

- Increased risk of self-harm and suicidal ideation;
- Greater anxiety, depression, sleep disturbances, paranoia, and aggression;
- Exacerbation of the on-set of pre-existing mental illness and trauma symptoms; and,
- Increased risk of cardiovascular related health problems.[3]

Best practices dictate that the use of youth room confinement should be:

- **Used as a last resort**;
- **Time-limited**;
- **Closely Monitored**;
- **Youth should have access to their own belongings**; and,
- **Confinement or isolation should not be used when a youth is potentially suicidal**.

In general, successful efforts to reduce room confinement focus on changing facility culture by way of staff training and education initiatives, as well as changes in facility approaches to behavior management. Nationally there are examples of facilities implementing positive behavioral

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[2] *Id.*

[3] Haney, C. (2001). The Psychological Impact of Incarceration on Post-prison Adjustment. In Prison to Home: The Effect of Incarceration and Reentry on Children, Families, and Communities. Retrieved from http://aspe.hhs.gov/basic-report/psychological-impact-incarceration on October 24, 2018.

management techniques and therapeutic models to replace older models that were ineffective or that heavily relied on room confinement.[4] A number of reports and case studies have also highlighted the benefit of outside technical assistance to help facilities reduce the use of room confinement.[5]

Those facilities that have successfully reduced room confinement have had to implement significant and ongoing changes to facility culture, policy, and practice to find new and different ways to respond to youth behavior and safety concerns.

Even with decades of research, national standards, organizational best practices, and legislative action, the task of implementation and changing facility culture falls to the individual facilities. Doing so requires commitment to the process, which can be complex and multifaceted, with a clearly articulated plan. The process can be time-consuming, staff-intensive, and bring to surface uncomfortable situations and difficult decisions. However, in light of the risks and ill effects to youth, staff and facility safety in general, the required commitment, resources and time are worth the investment.

The role of juvenile room confinement and associated best practices within Nebraska facilities is continuing to develop.

Findings

As a result of the inquiry and data analysis undertaken for the 2019-2020 Juvenile Room Confinement in Nebraska Annual Report, the OIG found the following:

Juvenile room confinement data submitted to the OIG cannot be used to conclusively monitor the actual use of the practice in Nebraska facilities due to subjectivity, non-standardized information, lack of independent verification of data, and reporting format discrepancies.

The OIG can only report on the data it receives from facilities which is limited by differing interpretations of the definition of room confinement, differing interpretations of the reporting requirements, and different reporting methods. As a result, the data does not provide conclusive evidence of how juvenile room confinement is utilized in individual facilities, or if facilities are in alignment with legislative intent. Noted improvements or deterioration in statistical measures may

[4] Delaney,K. R. (2006). Evidence Base for Practice: Reduction of Restraint and Seclusion Use during Child and Adolescent Psychiatric Inpatient Treatment. *Worldviews on Evidence-Based Nursing 3*(1).19–30.
[5] Council of Juvenile Correctional Administrators. "Council of Juvenile Correctional Administrators Toolkit: Reducing the Use of Isolation [Toolkit]." and, LeBel,. et. al. (2012).

not indicate an actual change in confinement and caution should be used when comparing room confinement data among facilities and from year to year.

There is no clear administrative enforcement mechanism for either the reporting requirements or the new juvenile room confinement standards set forth in Legislative Bill 230.

While the intent of the law is clear, what is not clear is how compliance with the new mandate will be enforced. The OIG gathers and reports data that is generally more quantitative, relying on the discretion of the facility to provide contextual information on room confinement to help the Legislature monitor its use. But there is no oversight agency responsible for the qualitative monitoring of juvenile room confinement practices within these facilities' or compliance with the room confinement standards, and no agency is currently authorized to enforce these standards or implement any disciplinary or corrective action for any violations or non-compliance.

Recommendations

In conjunction with the 2019-2020 findings, the recommendations made in 2019-2020 for the reduction on reliance of juvenile room confinement are the following:

- ***Examine oversight and enforcement mechanisms for juvenile room confinement reporting.***
- ***Examine juvenile room confinement enforcement mechanisms for provisions within Legislative Bill 230.***
- ***Require facilities to create formal facility juvenile room confinement reduction plans to be submitted to the Legislature and monitored through the Jail Standards Board, Public Health, Office of Juvenile Services, Department of Corrections, and the OIG.***

Juvenile Room Confinement in Nebraska

Juvenile Room Confinement Defined

Nebraska has adopted juvenile room confinement definitions as well as documentation and reporting requirements designed to "provide increased accountability and oversight regarding the use of room confinement for juveniles in a juvenile facility."[6] It is important to note that room confinement is not prohibited by Nebraska law. Rather, as a means of monitoring its practice and use, the law requires the documentation and reporting of each time juvenile room confinement is used.

Nebraska statute defines room confinement as, "[. . .] the involuntary restriction of a juvenile placed alone in a cell, alone in a room, or alone in another area, including a juvenile's own room, except during normal sleeping hours, whether or not such cell, room, or other area is subject to video or other electronic monitoring."[7]

Based on Nebraska law, the specifically defined conditions of juvenile room confinement are: involuntarily and alone. Juvenile room confinement occurs any time a juvenile is separated alone from a facility's general population, for any period of time, unless the juvenile requested or participated in the separation of their own free will, no matter the reason.

The statutory definition does not include qualifiers based on the intent or the purpose for the use of juvenile room confinement. The behavior or emotional state of the youth is not provided as a factor in whether or not the incident qualifies as room confinement. Compliance with being placed in juvenile room confinement is not an allowable substitute for free will. If a youth complies with the separation, having no other choice in the matter, this is not participating of their own free will.

The definition of room confinement is broad. It could apply to a range of practices that facilities label as: rest periods, cooling off periods and time outs; seclusion; room restriction; restrictive housing, segregation, and disciplinary confinement; investigative safekeeping and protective custody; medical quarantine; and, lockdowns for head count, shift change, or facility emergencies.

For example, a youth (given no other options due to facility policy, practice or scheduling), who is sitting calmly, alone, in a room, unable to leave the room while staff supervise scheduled visitation hours for other youth, is considered room confinement; the youth is involuntarily placed alone.

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[6] Neb. Rev. Stat. §83-4,134.01.
[7] Neb. Rev. Stat. §83-4,125 (4).

Similarly, a youth (being defiant and verbally aggressive) who is placed alone, in a room, unable to leave the room due to an act of violence against another youth or staff, is considered room confinement; the youth is involuntarily placed alone.

There are currently at least 16 different definitions of confinement in the Nebraska Administrative Code that would fall under "juvenile room confinement," or would be inclusive of juvenile room confinement practices. This is in addition to other language in facility and agency polices that may result in the practice of juvenile room confinement. See Appendix B.

Reporting Facilities

Juvenile room confinement in Nebraska occurs within several different types of facilities (see page 21 for a description of those facilities reporting incidents of juvenile room confinement). In these facilities youth are being served in diverse ways and for a variety of purposes. The facilities and the interventions they use fall under a variety of state and federal requirements, depending on the type of facility and the service provided to youth.

Correctional facilities housing juveniles are administered by the Nebraska Department of Correctional Services (Department of Corrections). Youth Rehabilitation and Treatment Centers (YRTCs) are administered by the Nebraska Department of Health and Human Services (DHHS) Office of Juvenile Services (OJS). Juvenile Detention and Staff Secure Detention Facilities operated by individual counties are overseen by the Jail Standards Board of the Nebraska Commission on Law Enforcement and Criminal Justice (Jail Standards Board). Mental Health and Substance Abuse Treatment Centers along with Residential Child-Caring Agencies are licensed by DHHS- Division of Public Health (Public Health).

Oversight

Nebraska Revised Statute 83-4,134 requires facilities to collect the following data when an incident of juvenile room confinement has lasted longer than one hour:

- Written approval by a supervisor in the juvenile facility;
- The date of the occurrence;
- Demographic information including race, ethnicity, age, and gender of the juvenile;
- Reason for placement of the juvenile in room confinement;
- An explanation of why less restrictive means were unsuccessful;
- The ultimate duration of the placement in room confinement;
- Facility staffing levels at the time of confinement; and,
- Any incidents of self-harm or suicide committed by the juvenile while he or she was isolated.

Juvenile facilities are then mandated to use the collected information to compile and submit a quarterly report to the Legislature that includes the following information for each individual incident of confinement:

- Length of time each juvenile was in room confinement;
- Demographic information including the race, ethnicity, age, and gender of each juvenile placed in room confinement;
- Facility staffing levels at the time of confinement; and,
- The reason each juvenile was placed in room confinement.

For each incident of juvenile room confinement lasting longer than four hours the report must also include reasons why attempts to return the juvenile to the general population of the juvenile facility were unsuccessful. It should be noted that many of the reporting facilities have a significant number of juvenile room confinement incidents that are resolved in under an hour, however, there is no requirement to report these incidents.

The OIG is charged with reviewing all the required juvenile room confinement data collected by facilities pursuant to this statute in order to assess the use of room confinement and submit an annual report of findings to the Legislature, including any policies and practices that "may lead to decreased use of such confinement." As part of the review requirement, the OIG has met with facility administrators to discuss actions, efforts, and procedure related to the issue, and made requests for data clarification, when needed, from individual facilities. The assessment of juvenile room confinement data by the OIG has not included requesting internal documentation for the purpose of validation, unannounced onsite inspections, or interviews with juveniles placed at the facilities for the purpose of collecting anecdotal information. As currently prescribed by statute, the OIG is limited to the oversight of data as it is submitted by facilities.

Statutorily, Public Health and the Jail Standards Board are provided with oversight authority, and the ability to initiate disciplinary action when licensed child-caring facilities and juvenile detention centers fail to comply with juvenile room confinement reporting requirements.[8] In contrast, for juvenile correction facilities and YRTCs who are administered by the Department of Corrections and OJS, there is no external, independent body with the authority to enforce the reporting requirement as there is with the Jail Standards Board and Public Health. The Department of Corrections and OJS internally enforce the laws with their own facilities.

[8] Neb. Rev. Stat. §83-4,134.01 (e).

Overview, Standards, Best Practices & Implementation

Overview

Nebraska juvenile room confinement statutes may apply to a variety of facilities: hospitals with behavioral health units, group homes, youth shelters, treatment facilities and facilities associated with juvenile justice system. Of those facilities that provide data to the OIG, only those within the juvenile justice system routinely report incidents of juvenile room confinement.

The objective of the juvenile justice system is to provide for community, facility and youth safety while also offering quality treatment and rehabilitation to youth so that they may return to their families and contribute to their communities.

Empirical knowledge has long substantiated the negative impact juvenile room confinement has on youth's psychological, physical and social development, concluding, that if it must be utilized it should only be used in conjunction with best practices. Especially concerning is the detriment to youth with existing mental health conditions and significant trauma histories. In the 2018-2019 Annual Juvenile Room Confinement Report, the OIG reported:

> As many as 70% of children in the U.S. juvenile justice system already suffer from diagnosable mental health conditions.[9] At least 75% of youth in the U.S. juvenile justice system have experienced traumatic victimization; more than 90% have reported adverse childhood experiences (ACEs) that include child abuse, violence, and/or serious illness.[10, 11, 12]

While there is concern for youth placed into juvenile room confinement, concern for the safety and security of the facility, staff and other youth placed there can drive the use of room confinement. In general, the practice is often considered necessary to ensure safety, order and control within the facilities.

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[9] National Ctr for Mental Health and Juvenile Justice, United States of America, Models for Change, & United States of America. (2013). *Better Solutions for Youth with Mental Health Needs in the Juvenile Justice System*. http://cfc.ncmhjj.com/wp-content/uploads/2014/01/Whitepaper-Mental-Health-FINAL.pdf.
[10] Baglivio, M. T., Epps, N., Swartz, K., Sayedul Huq, M., Sheer, A., & Hardt, N. S. (2014). The prevalence of adverse childhood experiences (ACE) in the lives of juvenile offenders. *Journal of Juvenile Justice, 3*(2).
[11] Clark, A. (2017). Juvenile Solitary Confinement as a Form of Child Abuse. *The Journal of the American Academy of Psychiatry and the Law 45*. p. 353.
[12] CJCA. (2017). *Trauma informed care in juvenile justice.* Retrieved from http://cjca.net/wp-content/uploads/2018/02/CJCA-Position-paper-TIC-002.pdf.

Based on information the OIG has received over the past four years, the OIG has noted that juvenile room confinement is regarded by some as a means of security and a tool to protect staff and youth against violent actors. It has been reported to the OIG that juvenile room confinement allows staff to maintain a sense of order within the facility. Youth view it as a punishment and it can potentially deter them from acting in a way that warrants use. It has also been suggested that the practice provides youth the opportunity to reflect on their behavior and understand of the weight of the consequences brought on by their actions – thus leading to a decrease in the unwanted behaviors.

The role of juvenile room confinement and associated best practices within Nebraska facilities continues to develop.

Nebraska facilities that report the use of juvenile room confinement have made an effort to reduce the number of occurrences within their facilities and decrease the duration of incidents. While this shows some progress, the OIG has found that some facilities continued to rely on it as a method of behavior management and there has been limited success by some facilities in the coordinated implementation of recommended best practices.

National Standards

Many professional and accrediting organizations in the field of juvenile justice, mental health, and education have developed standards and policies that govern the use of room confinement.

The preponderance of professionally established standards indicate that practices and policies referring to solitary, seclusion, or room, confinement should:

- Be reserved for incidents in which the youth's behavior has escalated beyond the staff's ability to control the youth by counseling or disciplinary measures AND presents a risk of injury to the youth or others, as segregation is a behavioral control measure which may pose medical danger that increases as the segregation is prolonged.
- Be restricted to no more than 24 hours, as most incidents of room confinement can be limited. The use of segregation for a day or more is unnecessary in all but a very few cases.[13]

[13] National Commission on Correctional Health Care, Standards for Health Services in Juvenile Detention and Confinement Facilities, Standard Y-E-09 (2001), available at http://www.jdcap.org/SiteCollectionDocuments/Health%20Standards%20for%20Dention.pdf.

- Recognize the potential psychiatric consequences of prolonged solitary confinement including depression, anxiety and psychosis, and that, due to their developmental vulnerability, juveniles are at particular risk for such adverse reactions. [14],[15]
- Distinguish between the use of isolation to punish, to provide a brief intervention as a component of a behavioral treatment program, or to seclude as an emergency procedure which should be used for the least amount of time possible for the immediate protection of the youth.
- Not allow it to be used as a convenience as it is appropriate only in situations where a child's behavior poses an imminent danger of serious physical harm to self or others, and should be discontinued as soon as the imminent danger of harm has dissipated.
- Specifically note that when there is repeated use for an individual youth, it should trigger a review of strategies to address dangerous behavior, and that these strategies should address the underlying cause or purpose of the behavior.[16]

Best Practices

Best practices, derived from established national standards, strive to minimize the use of juvenile room confinement and the potential consequences that include:

- Increased risk of self-harm and suicidal ideation;
- Greater anxiety, depression, sleep disturbances, paranoia, and aggression;
- Exacerbation of the on-set of pre-existing mental illness and trauma symptoms; and,
- Increased risk of cardiovascular related health problems.[17]

[14] American Academy of Child & Adolescent Psychiatry, Policy Statements: Solitary Confinement of Juvenile Offenders (April 2012), available at http://www.aacap.org/cs/root/policy_statements/solitary_confinement_of_juvenile_offenders.

[15] Juvenile Detention Alternatives Initiative, A Guide to Juvenile Detention Reform: Juvenile Detention Facility Assessment 2014 Update, available at http://www.aecf.org/m/resourcedoc/aecf-juveniledententionfaciltyassessment-2014.pdf.

[16] Department of Education, Restraint and Seclusion: Resource Document 11-23 and 12-13 (2012), available at htpp:/www.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf.

[17] Haney, C. (2001). The Psychological Impact of Incarceration on Post-prison Adjustment. In Prison to Home: The Effect of Incarceration and Reentry on Children, Families, and Communities. Retrieved from http://aspe.hhs.gov/basic-report/psychological-impact-incarceration on October 24, 2018.

Best practices dictate that the use of youth room confinement should be:

- **Used as a last resort.** Room confinement should be used only in cases of threats to the safety of the individual or other residents and when other less intrusive interventions have failed. Room confinement should not be used for punishment, retaliation, or a matter of administrative convenience;
- **Time-limited.** Youth should be released from room confinement as soon as they are safely able. Room confinement of youth should not last longer than 24 hours, with many standards enacting stricter limits of two or four hours;[18] and,
- **Closely Monitored.** Youth in room confinement should be checked on by staff frequently while in room confinement. It is also recommended that youth in room confinement for long periods of time be seen by mental health professionals. All instances of room confinement should be recorded and reviewed through a quality assurance program at each facility. Administrative approval should be sought to use room confinement in certain instances.[19]

Additional recommended practices include:

- **Youth should have access to their own belongings**, books, and programming while on room confinement status.
- **Confinement or isolation should not be used when a youth is potentially suicidal.** Self-harming youth require immediate trauma-informed intervention, not room confinement.[20]

Holistic Approach to the Implementation of Best Practices

In general, successful efforts to reduce room confinement focus on changing facility culture by way of staff training and education initiatives, as well as changes in facility approaches to behavior management. Nationally there are examples of facilities implementing positive behavioral management techniques and therapeutic models to replace older models that were ineffective or

[18] The exception on time limits is the American Correctional Association which allows up to five days of disciplinary room confinement.
[19] Roush, (1996).
[20] Id.

heavily relied on room confinement.[21] A number of reports and case studies have also highlighted the benefit of outside technical assistance to help facilities reduce the use of room confinement.[22]

Those that have successfully reduced room confinement have had to implement significant and ongoing changes to facility culture, policy, and practice to find new and different ways to respond to youth behavior and safety concerns.

A number of organizations have developed guidance for implementing practices aimed at reducing the use of room confinement in both mental health and correctional settings.

The National Association of State Mental Health Program Directors (NASMHPD) developed Six Core Strategies for Reducing Seclusion and Restraint Use© and an accompanying planning tool.[23] The Council of Juvenile Correctional Administrators (CJCA), has also developed a toolkit with steps facilities can take to reduce juvenile room confinement.[24]

NASMHPD Six Core Strategies for Restraint & Seclusion Reduction	**CJCA Five Steps to Reduce Isolation**
1. Leadership towards organizational change; 2. Use of data to inform practice; 3. Workforce development; 4. Use of prevention tools; 5. Inclusion of children & family in various roles within the organization; and, 6. Utilization of debriefing techniques.	1. Adopt a mission statement and philosophy that reflects rehabilitative goals; 2. Develop policies and procedures for use and monitoring of isolation; 3. Identify data to manage, monitor and be accountable for use of isolation; 4. Develop alternative behavior management options and responses; and, 5. Train and develop staff in agency mission, values, standards, goals, policies and procedures.

Even with decades of research, national standards, organizational best practices, and legislative action, the task of implementation and changing facility culture falls to the individual facilities.

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[21] Delaney,K. R. (2006). Evidence Base for Practice: Reduction of Restraint and Seclusion Use during Child and Adolescent Psychiatric Inpatient Treatment. *Worldviews on Evidence-Based Nursing 3*(1).19–30.
[22] Council of Juvenile Correctional Administrators. "Council of Juvenile Correctional Administrators Toolkit: Reducing the Use of Isolation [Toolkit]." and, LeBel,. et. al. (2012).
[23] NASMHPD (2008). *Six Core Strategies for Reducing Seclusion and Restraint.* Available from www.nasmhpd.org/sites/default/files/Consolidated%20Six%20Core%20Strategies%20Document.pdf.
[24] Council of Juvenile Correctional Administrators. Council of Juvenile Administrators Toolkit: Reducing the Use of Isolation [Toolkit].

Doing so requires commitment to the process, which can be complex and multifaceted, with a clearly articulated plan. The process can be time-consuming, staff-intensive, and bring to surface uncomfortable situations and difficult decisions. However, in light of the risks and ill effects to youth, staff and facility safety in general, the required commitment, resources and time are worth the investment.

In 2016, the Center for Children's Law and Policy, the Council of Juvenile Correctional Administrators, the Center for Juvenile Justice Reform at Georgetown University, and the Justice Policy Institute initiated the Stop Solitary for Kids campaign with the goal of safely reducing and ultimately ending the practice of solitary confinement for young people, including practices alternately referred to as room confinement, isolation, separation or seclusion.

Work was done with advocates, lawmakers, state and local government officials, state juvenile justice agency directors, superintendents of state and local juvenile facilities, parents, youth and community leaders resulting in the June 2019 release of *Not in Isolation: How to Reduce Room Confinement While Increasing Safety in Youth Facilities.*[25] The purpose of the publication is to provide a practical guide to developing plans to reduce room confinement. The authors noted that what administrators need is information on effective strategies to reduce confinement that include real-world examples of how to implement the strategies into practice.

The report illustrates that reliance on juvenile room confinement can be impacted:

- Colorado significantly reduced room confinement, across state facilities, to under an hour by increasing the staff-to-youth ratio, creating strategies to help staff engage with youth and build positive relationships, and assigning every youth admitted to the state facility to a behavioral health staff member.
- The Department of Youth Services in Massachusetts banned the use of room confinement as punishment and created exit strategies to get youth out of confinement in minutes, not hours.
- A facility in Shelby County, Tennessee, drastically cut isolation by reinforcing positive behavior and finding new ways of holding staff and youth accountable.
- The Oregon Youth Authority reduced room confinement by focusing on culture change, strategies grounded in Positive Human Development philosophy and using data strategically.

The publication documents the challenges and responses in reducing room confinement by these four jurisdictions in Colorado, Massachusetts, Tennessee, and Oregon. The case studies are supported by

[25] Jennifer Lutz, Mark Soler, and Jeremy Kittredge, Not In Isolation: How to Reduce Room Confinement While Increasing Safety in Youth Facilities (Washington, DC: Center for Children's Law and Policy and the Justice Policy Institute, May 2019).

resources from each of the jurisdictions including policy, forms, training material, videos, and contact information.

The document can be found in its entirety at: https://www.stopsolitaryforkids.org/not-in-isolation/.

2019-2020 Findings

Juvenile room confinement data submitted to the OIG cannot be used to conclusively monitor the actual use of the practice in Nebraska facilities due to subjectivity, non-standardized information, lack of independent verification of data, and reporting format discrepancies.

The OIG can only report on the data it receives from facilities which, as discussed below, is limited by differing interpretations of the definition of room confinement, differing interpretations of the reporting requirements, and different reporting methods. As a result, the data does not provide conclusive evidence of how juvenile room confinement is utilized in individual facilities, or if facilities are in alignment with legislative intent. Noted improvements or deterioration in statistical measures may not indicate an actual change in confinement and caution should be used when comparing room confinement data among facilities and from year to year. Challenges with the data include the following factors:

1. Subjectivity — Facilities may change how they document room confinement from year to year in response to how the data is reported. The reporting of medical quarantine is an example that has been highlighted this year due to the pandemic. Youth may at some point need to be separated from others for health reasons, which may include medical emergencies, contagious illness, and post-surgical recuperations. In the past the OIG has surveyed each facility about their sickbed practices and policies and in some instances the sick bed practices could meet the definition of juvenile room confinement. The results demonstrated a variety of practices and reporting procedures. Some facilities do not report medically related confinements at all, even if the youth has no other choice in the matter, thus making the confinement involuntary and thus should be documented as an incident of juvenile room confinement. By narrowly interpreting room confinement to include only behavioral reasons, and denying other factors such as medical necessity, the "involuntary" portion of the definition is ignored and thus use of juvenile room confinement is underreported.

2. Non-standardized Information — Facilities do not report data consistently. Thousands of incidents of confinement are reported each year with no uniformity across facilities, within facilities or from one fiscal year to the next. Some individual facilities and agencies may determine their own definitions and practices related to the reporting of juvenile room confinement data. The most noticeable example of this found in submitted data is in the reporting of "normal sleeping hours". It has been observed that when reporting an incident of juvenile room confinement some facilities will subtract normal sleeping hours from the duration of a confinement when the incident overlaps with sleeping hours of the general

population even though the confined youth may or may not have actually been allowed to egress from the confinement and resume activity with the general population. Similar to this, is when a facility adjusts documentation procedure to indicate that all confinements have ended prior to normal sleeping hours within the facility even though the youth may not have actually gained access to peers and programming, thus influencing reported total duration of a confinement incident.

Inconsistency in reporting juvenile room confinement data varies between facilities, and by staff members of the same facility. This inconsistency is demonstrated in multiple ways: the reporting of the overarching reason for confinement; the reporting of the more nuanced behavior criteria associated with the confinement; and, in the individualization of common reporting terms without providing context or details in the reporting document.

As an example, compare how an attempted escape by two youth (youth X and youth Y) that includes physically assaultive behavior by both youth X and Y is reported by two different facilities (facility A and B): Facility A categorizes the confinement of youth X and Y due to the attempted escape as necessary because the youth are posing a danger to themselves. The physical aggression following the attempted escape by youth X is documented by staff member #1 as an issue of safety for other juveniles, while staff member #2 documents the same behavior of youth Y as posing a threat to the safety of staff. Facility B responds to the two youth attempting to escape by reporting two incidents of juvenile room confinement due to administrative reasons, with no further explanation of what constitutes an incident of juvenile room confinement due to administrative reason in the submitted documentation or in facility policy/procedure documents.

3. Verification — Facilities self-report. Each facility determines the information they share and how they report it. The OIG is not able to independently verify the accuracy of the room confinement reports that are submitted by juvenile facilities against other records.

This was evidenced during the investigation into the Youth Rehabilitation and Treatment Center – Geneva campus. While the juvenile room confinement report submitted to the OIG did provide data on incidents of confinement that had occurred, information obtained during the investigation revealed that the data did not accurately report the incidents in their entirety, nor was the report inclusive of all incidents of confinement occurring.

Another example brought to the attention of this office is that some facilities do not report room confinement incidents occurring when the youth are under the supervision of educational staff (even if educational services are provided within the facility) due in part to the fact that the current statute does not require “schools” to report incidents of juvenile room confinement. Incidents of juvenile room confinement go unreported when the facility asserts

that reporting of room confinement incidents during school hours is the responsibility of educational staff, and educational providers within the facility believe that schools are not required to report on juvenile room confinement. The result is that the room confinements during school go unreported.

4. Reporting Format Discrepancy — There are consistently many inaccuracies in the data. For example, some confinement events were recorded as occurring during the prior fiscal year, when they were intended to mean the current fiscal year. Youth were recorded going into room confinement, and were not recorded as coming out of confinement. Ever. There are multiple examples of youth being reported in concurrent confinements. In some instances, time was inaccurate: a youth might be confined from 13:30 until 13:15 on the same day, which indicated a negative length of time in confinement. Names are particularly problematic. Facilities enter names inconsistently, sometimes beginning with the first name, sometimes with the last name. Names of individuals were spelled/misspelled inconsistently. Hyphenated names were not recorded consistently; names would appear in different orders, and with or without hyphens. When recording a single event, data cells may have reflected either standard time or military time, each of which could be formatted in different ways. Resolving each of these issues took considerable time, discussion, and frequently, recalculation by the OIG.

In May 2020 the OIG attempted to address reporting consistency necessary for data analysis by distributing a standardized reporting form along with new juvenile room confinement guidance to all facilities, known to the OIG, that are required to report data on juvenile room confinement incidents. The OIG form requires all the data to be reported in a consistent manner. The facilities were provided technical instructions on reporting form requirements should they choose to continue utilizing their own in-house formats. In addition, they were informed that data submitted inconsistent with the OIG format would be returned to the facility for modification. The standardized reporting form distributed by the OIG may require further modification in an effort to make it more conducive to the multiple juvenile room confinement reports facilities are required to produce[26], but the OIG will continue to endeavor to standardize the data reported to this office for analysis. The effectiveness of the new reporting form will be analyzed at the conclusion of FY 20-21.

[26] Facilities are required to report juvenile room confinement information to the Nebraska State Legislature, to the OIG and to other entities requesting the publicly available information, in addition to using the information internally. These reports may contain similar data points but the information is not equally available to those requesting it, thus requiring multiple report formats.

There is no clear administrative enforcement mechanism for either the reporting requirements or the new juvenile room confinement standards set forth in Legislative Bill 230.

Moving juvenile room confinement legislation beyond reporting requirements, Legislative Bill 230 (LB 230), signed into law by Governor Ricketts on February 12, 2020, mandated significant changes to the practice of juvenile room confinement within following facilities:

- A juvenile detention facility;
- Staff secure juvenile facility;
- Facility operated by the Department of Correctional Services; and,
- Youth rehabilitation and treatment centers operated by the Department of Health and Human Services.

These facilities are now required to: notify parents, guardians and legal representatives within 24 hours any time a youth has been placed into juvenile room confinement for any length of time; provide adequate, clean and suicide resistant rooms for the purpose of juvenile room confinement; give access to drinking water, toilet facilities, hygiene supplies, meals, contact with parents/guardians, legal assistance and access to educational programming equivalent to the general population; assure appropriate medical and mental health services as needed; and, continuous monitoring by staff though regular in-person visits to the confined youth.

In addition, youth placed in any of the above facilities may only be held in room confinement according to the following conditions:

- A juvenile shall not be held in room confinement longer than the minimum time required to eliminate the substantial and immediate risk of harm to self or others and shall be released from room confinement as soon as the substantial and immediate risk of harm to self or others is resolved;
- A juvenile shall only be held in room confinement for a period that does not compromise or harm the mental or physical health of the juvenile; and
- Any juvenile placed in room confinement shall be released immediately upon regaining sufficient control so as to no longer engage in behavior that threatens substantial and immediate risk of harm to self or others.

While the intent of the law is clear, what is not clear is how compliance with the new mandate will be enforced. As noted earlier in this report, the OIG gathers and reports data that is generally more quantitative, relying on the discretion of the facility to provide contextual information on room confinement to help the Legislature monitor its use. But there is no oversight agency responsible for the qualitative monitoring of juvenile room confinement practices within these facilities' or compliance with the room confinement standards, and no agency is currently authorized to enforce

these standards or implement any disciplinary or corrective action for any violations or non-compliance.

Since 2016 Nebraska statute has mandated the collection and reporting of juvenile room confinement data. It has also generally provided for disciplinary consequences for any juvenile facility under the oversight of Public Health (through licensing) or the Jail Standards Board that does not collect or report confinement data.[27] However, as discussed earlier in this report, these agencies have, to this point, maintained minimal involvement in juvenile room confinement reporting oversight perhaps due in part to the fact that facilities under their jurisdiction have technically complied with reporting requirements. With the added requirements of LB 230, the expectations of Public Health and the Jail Standards Board in the oversight of actual juvenile room confinement practices within licensed facilities and county detention centers is unclear.

The passage of LB 230 further compounds the oversight and enforcement issues for facilities within OJS and the Dept. of Corrections. YRTCs and youth correctional facilities currently monitor juvenile room confinement provisions internally and, as noted, there is no independent body with the power to enforce the adherence to the provisions of LB 230 in addition to the reporting requirements.

[27] §83-4,134.02 (e).

2019-2020 Recommendations

The OIG's annual report on the use of juvenile room confinement must contain identified changes which may lead to a reduction of reliance on room confinement in Nebraska.[28]

The OIG recommends the following:

Legislative action to address enforcement mechanisms of juvenile room confinement and require comprehensive juvenile room confinement reduction plans

1. Examine oversight and enforcement mechanisms for juvenile room confinement reporting.

As noted in the findings, Neb. Rev. Stat. 83-4,134.01 provides an avenue for Public Health and the Jail Standards Board to enforce the reporting requirements under that same section. While facilities under the jurisdiction of the Jail Standards Board and Public Health have generally complied with reporting requirements, the two agencies responsible for oversight have been minimally involved in reporting oversight, including disregarding the OIG recommendation to proactively incorporate relevant statutes into their own regulations. OJS and the Department of Corrections do not have those same tools for enforcement in the law. There is no administrative avenue for enforcement since these facilities are not licensed by another state entity. While these facilities may work to comply with the law, there is no consequence for non-compliance except perhaps that it may be reflected in the OIG's reporting, assuming the information reported is accurate.

However, greater oversight and enforcement by all four entities with authority over the facilities that use juvenile room confinement – Public Health, Jail Standards Board, the Department of Corrections, and OJS – would be extremely helpful. Requiring greater oversight by these main agencies could provide some consistency in reporting by clarifying and standardizing the definition of juvenile room confinement across the facilities under those agencies' jurisdiction; by creating standard procedures for recording room confinement; by verifying the room confinement data reported by those facilities; and by creating a consistent and coordinated reporting format. Creating an enforcement mechanism for OJS and the Department of Corrections to ensure reporting would also be helpful.

[28] Neb. Rev. Stat §83-4,134.01 (d).

2. Examine juvenile room confinement enforcement mechanisms for provisions within Legislative Bill 230.

The passage of LB 230 implements juvenile room confinement practice requirements, creating a greater need for quality oversight and enforcement for facilities. If the long-term goal is to reduce the use of room confinement, the research previously noted shows that a fundamental shift in culture and practice is required. It is important, then, to understand how these new standards of the use of juvenile room confinement are being implemented. At the moment the law does not specify any oversight or enforcement mechanisms to ensure the correct and consistent implementation of those standards. The Legislature might consider ways to create independent oversight and enforcement of the standards implemented in LB 230.

3. Require facilities to create formal facility juvenile room confinement reduction plans to be submitted to the Legislature and monitored through the Jail Standards Board, Public Health, Office of Juvenile Services, Department of Corrections, and the OIG.

As has been noted in the prior three annual juvenile room confinement reports, research has long established that a change within the facility culture is necessary to reduce the use of room confinement and the change in culture is best achieved through the implementation of a comprehensive plan. As the 2019 publication, *Not In Isolation: How to Reduce Room Confinement While Increasing Safety in Youth Facilities* demonstrates, such plans have been created and implemented successfully reducing reliance on juvenile room confinement practices. Nebraska facilities that allow for juvenile room confinement, or similar practices would benefit from a formal plan to incorporate best practices, including programming, training, implementation strategies, and the internal monitoring of data to inform change.

As stated in the 2018-2019 Annual Juvenile Room Confinement in Nebraska Report, if not mandated, any further changes by facilities to reduce reliance on the practice will be unlikely. If the Legislature's goal is to significantly reduce the use of room confinement, it may be necessary and helpful to require comprehensive plans by the facilities to reduce the use.

Fiscal Year 2019-2020 Data

This annual report examines juvenile room confinement in Nebraska between July 1, 2019 and June 30, 2020 (FY 19-20). The OIG received room confinement information from 22 individual facilities comprised of five different types of juvenile facilities in Nebraska:

2 - Correctional Institutions facilities administered by the Department of Corrections;

3 - YRTCs administered by OJS;

4 - Juvenile Detention and Staff Secure Detention Facilities operated by counties and overseen by the Jail Standards Board;

5- Mental Health and Substance Abuse Treatment Centers licensed by Public Health; and,

8- Residential Child-Caring Agencies licensed by Public Health.

Of the 22 individual facilities reporting to the OIG, nine indicated that there had been one or more incident of juvenile room confinement lasting longer than one hour occurring within the facility during FY 19-20. These nine facilities were representative of three types of juvenile facilities: Correctional Institutions; YRTCs; and, Juvenile Detention and Staff Secure Detention Facilities. The following section provides further information related to reported data from those facilities.

COVID-19 Pandemic

Due to the current COVID-19 pandemic, the OIG expected to see some facilities reporting more incidents of juvenile room confinement due to medical quarantine during the fourth quarter of the fiscal year (April-June 2020) [29]. Facilities adhering to the Center for Disease Control recommendations may have quarantined youth displaying symptoms pending the results of a COVID-19 test, or isolating youth who tested positive for the virus. This quarantine and isolation could have represented an involuntary confinement, alone, lasting longer than one hour, thereby meeting the definition of juvenile room confinement and triggering the reporting requirement.

Utilizing only the submitted data, the OIG is unable to determine to what extent the pandemic influenced the occurrence of juvenile room confinement incidents within Nebraska juvenile facilities. The OIG can report that of the 22 facilities providing data to the office, nine indicated incidents of

[29] Medical quarantine or sickbed data was identified for the fourth quarter only to correspond with the timing of the COVID-19 pandemic.

juvenile room confinement, and of those nine, four included data identifying medical quarantine as the cause for one or more incidents during the fourth quarter of the fiscal year.

As was reported in the 2018-2019 Juvenile Room Confinement Report, the OIG asked facilities about their sickbed/medical quarantine policies. The question revealed a variety of practices related to sickbed/medical quarantine among the facilities. As a result, the OIG cannot determine if some facilities did not report any incidents of medical quarantine during the pandemic because there truly was no need for a medical quarantine during that time or if the absence of medical quarantine was the result of the facility's own sickbed policies and the facility's interpretation of the law as not requiring such reporting.

To assist in identifying how medical quarantine may have influenced the data, the OIG included fourth quarter data both with and without incidents of confinement due to medical quarantine in the data summary charts. Of the nine facilities reporting one or more incidents of juvenile room confinement to the OIG, four facilities indicted there were incidents due to medical quarantine during the fourth quarter.

Nebraska Department of Correctional Services (NDCS)

The Nebraska Department of Correctional Services (NDCS) operates facilities that house individuals convicted of crimes in Nebraska's criminal courts and sentenced to prison terms. While most of its inmates are 19 years of age (the age of majority in Nebraska) or older, some NDCS inmates are considered juveniles. These youth have been tried, convicted, and sentenced to prison terms in adult criminal court, rather than juvenile court which handles the majority of cases against children.

Room Confinement at NDCS

NDCS regulations on room confinement are generally applicable across the prison system and contain few provisions specifically related to juvenile inmates. At NDCS facilities, juvenile room confinement practices are generally referred to as immediate segregation and longer-term restrictive housing, both of which fall under restrictive housing guidelines. Under the 72 NAC 1-002, restrictive housing is defined as, "conditions of confinement that provide limited contact with other inmates, strictly controlled movement while out of cell, and out-of-cell time less than 24 hours per week." Immediate segregation is used in response to behavior that creates a risk to the inmate, others, or the

security of the institution for not more than 30 days.[30] Longer-term restrictive housing is a housing assignment used as a behavior management intervention of over 30 days.[31]

Under the NDCS regulations, all restrictive housing "shall be used predominantly as a short-term intervention, in the least restrictive manner possible consistent with institutional safety and security" and "the purpose shall be as a risk-based and needs-based intervention, rather than primarily as a mechanism for punishment or incapacitation."[32] The use of restrictive housing for inmates under the age of 19 requires approval of the warden within eight hours of placement.[33] NDCS policies also allow for a practice called room restriction – when inmates are confined to their room during free time and their privileges are restricted.[34] Depending on the circumstances (if the room is shared with one or more other youth), this practice could also constitute juvenile room confinement. While in confinement, youth have access to health services, recreation time, and reading materials.

The Prison Rape Elimination Act (PREA) requires sight, sound, and physical separation between juvenile inmates (defined as inmates who are younger than 18 years of age) and inmates 18 years and over[35].

Of the ten facilities, only two are reported by the Dept. of Corrections to house such juveniles - Nebraska Correctional Youth Facility (NCYF) in Omaha, and the Nebraska Correctional Center for Women (NCCW) in York.

Nebraska Correctional Center for Women (NCCW)

The Nebraska Correctional Center for Women (NCCW) houses all female youth for NDCS. There are so few female juveniles in the NDCS system that they usually only house one or two persons under 18 years of age each year. In FY 19-20, NCCW reported six incidents of room confinement involving three youth. The room confinement periods ranged from a high of 14 hours to a low of one hour and 15 minutes. The four longest confinements were due to a combination of PREA requirements and the physical design of the NCCW facility. The remaining two room confinements were due to facility head count (one hour and 15 minutes) and a disciplinary sanction (two hours and 10 minutes). NCCW did not report any incidents of room confinement due to medical needs or medical quarantine. Prior to fiscal year 19-20, the facility reported no such incidents occurring.

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[30] 72 NAC 1-002.06.
[31] 72 NAC 1-002.07.
[32] 72 NAC 1-004.02.
[33] 72 NAC 1-004.03(B) (i).
[34] 68 NAC 6-018.
[35] Prison Rape Elimination Act (PREA) National Standards, 28 C.F.R. § 115.14 (2012).

Nebraska Correctional Youth Facility (NCYF)

NCYF is a facility that specifically houses male offenders who are aged 21 and under. The facility has a total of 127 beds. Between July 2019 and June 2020, the facility served a total of 61 youth who were 18 years of age or under.

In 2020, the American Correctional Association (ACA) limited restrictive housing for youth aged 18 and under to no more than 30 days.[36] Also under Nebraska law, as of March 2020, any inmates who are aged 18 or younger are considered to be a members of a vulnerable population, and can no longer be placed in restrictive housing.[37] This new legislation has required NCYF to make significant changes to their use of restrictive housing for inmates 18 years or younger.

NCYF discontinued the use of Restrictive Housing with the last Longer-Term Restrictive Housing placement in December 2019 and the last Immediate Segregation placement in April 2020. The facility also discontinued the use of Room Restriction as a disciplinary sanction in May 2020 in order to comply with LB230.

The NCYF Room Confinement Summary FY 19-20 Table on page 26 provides information about the room confinement incidents at NCYF and reasons for the incidents.

NCYF reported five incidents of medical related quarantine during the fourth quarter of the fiscal year. Medical quarantines were documented to include five youth and last between 131-335 hours, or the equivalent of 5-15 days. Prior to FY 19-20, NCYF reported no incidents due to medical quarantine or medical issues.

[36] Interview with NCYF staff.
[37] Neb. Rev. Stat. §83-173.03(1).

NCYF Room Confinement Summary FY 19-20 *NCYF reported 5 incidents due to medical quarantine, involving 5 youth, ranging between 131-335 hours. This did not affect their longest and shortest confinement periods for the fiscal year.*	**WITH** 4th Quarter Medical Quarantine incidents	**WITHOUT** 4th Quarter Medical Quarantine incidents
Total Youth / Total Incidents	44 / 382	41 / 377
MEDIAN Duration of Room Confinement Incidents The point at which ½ of the total incidents were lower and ½ were higher	3 hours	3 hours
Percentage of Room Confinement Ending in 4 hours or less	76%	77%
Percentage of Room Confinement Ending in 8 hours or less	83%	84%
Longest Confinement Incident: Hours, Age, Reason(s)	1697 hours; 18 yrs.; threats of violence	No change from data calculated with incidents
Shortest Confinement Incident: Hours, Age, Reason(s)	15 incidents – 1 hour; 18 yrs.; multiple categories	No change from data calculated with incidents
Frequently Confined – number of youth comprising 50% of all confinement incidents and percentage of total involved youth	8 youth (18%)	9 youth (22%)
Most Cited Reasons for Confinement (percentage of total incidents)	Disciplinary sanction (41%) Orientation status (22%) Modified operations (17%)	

	Quarter 1	Quarter 2	Quarter 3	Quarter 4	
				WITH	WITHOUT
Total Youth	23	23	17	14	10
Total Incidents	102	151	42	87	82
Longest Confinement	1679 hrs.	1099 hrs.	717.5 hrs.	335 hrs.	110 hrs.
Shortest Confinement	1 hour	1 hour	1 hour	1 hour	1 hour

Youth Rehabilitation and Treatment Center

During FY 19-20 OJS operated three Youth Rehabilitation and Treatment Centers (YRTCs) in Geneva, Kearney and Lincoln. Each facility serves youth in the juvenile justice system, ages 14 through 18. Every youth at the YRTC is committed there by a court that determines that the youth has already, "exhausted all levels of probation supervision and options for community-based services."[38]

In August 2019 a crisis arose at the YRTC in Geneva which at the time served only female youth. YRTC-Geneva had become unsafe due to disrepair of the facilities, a lack of programming, and staffing issues. Services at the YRTC Geneva campus were suspended during the first quarter of the fiscal year and were not resumed for the remainder of the reporting year. The Kearney campus thus became the only operational campus during the latter part of the first quarter and all of the second quarter, accommodating both males and females. During the third quarter of the fiscal year the YRTC campus in Lincoln was opened. The new campus began accepting high acuity youth already part of the YRTC system, originally placed at the Geneva and Kearney campuses.

Room Confinement at the YRTCs

DHHS rules and regulations authorize the use of room confinement either for reasons of safety and security or as a disciplinary sanction if the youth has violated a facility rule. Regulations distinguish between two different kinds of room confinement - room restriction, which is considered a cooling off period and can last up to an hour, and disciplinary segregation which can last for up to 5 days.[39] YRTC Administrative Regulations also allow for room confinement for protective or investigative safekeeping.[40]

[38] Neb. Rev. Stat. §43-286.
[39] 401 NAC 7-007. http://www.sos.ne.gov/rules-and regs/regsearch/Rules/Health_and_Human_Services_System/Title-401/Chapter-7.pdf.
[40] AR 302.1 Governing Juvenile Conduct.

YRTC-Kearney

YRTC-Kearney served a total of 185 youth with an average daily population of 122. The YRTC-Kearney Room Confinement Summary found on page 29 provides details on the use of room confinement for FY 19-20.

The campus reported 8 incidents of juvenile room confinement during the fourth quarter of the fiscal year due to medical quarantine, involving 8 youth and lasting between 1.25-331.25 hour(s). Prior to FY 19-20, YRTC-Kearney has reported incidents of juvenile room confinement due to medical conditions requiring isolation.

YRTC-Lincoln (Quarters 3-4 only)

During the third and fourth quarters of FY 19-20, YRTC-Lincoln served 12 youth with an average daily population of 6 youth. The YRTC-Lincoln Room Confinement Summary found on page 30 provides details on the use of room confinement.

The Lincoln campus did not report any juvenile room confinement incidents due to medical quarantine.

YRTC-Geneva (July 1-August 19, 2019)

The OIG investigation into the Geneva campus crisis included the gathering of information and evidence related to practices on that campus. The OIG discovered the first quarter juvenile room confinement data provided for the campus was unreliable. While the juvenile room confinement report submitted to the OIG did provide data on incidents of confinement that where confirmed to have occurred, information obtained during the investigation revealed that the data did not accurately report the incidents in their entirety, nor was the report inclusive of all incidents of confinement occurring.

Juvenile room confinement data for Geneva, found on page 31, has been included in this summary only as “reported information” and should not be considered accurate.

YRTC-Kearney Room Confinement Summary FY 19-20 *YRTC-Kearney reported 8 incidents due to medical quarantine, involving 8 youth, ranging between 2.75-331.5 hours. This affected the longest confinement period for the fiscal year.*	**WITH** 4th Quarter Medical Quarantine incidents	**WITHOUT** 4th Quarter Medical Quarantine incidents
Total Youth / Total Incidents	175 / 2605	174 / 2597
MEDIAN Duration of Room Confinement Incidents The point at which ½ of the total incidents were lower and ½ were higher	7.5 hours	7.5 hours
Percentage of Room Confinement Ending in 4 hours or less	34%	34%
Percentage of Room Confinement Ending in 8 hours or less	54 %	54 %
Longest Confinement Incident: Hours, Age, Reason(s)	3 occurrences 331.5 hrs.; 15-18 yrs.; medical quarantine	163.25 hrs.;18 yrs.; assault/escape
Shortest Confinement Incident: Hours, Age, Reason(s)	15 incidents – 1 hour; 15-18 yrs.; multiple categories	No change from data calculated with incidents
Frequently Confined – number of youth comprising 50% of all confinement incidents and percentage of total involved youth	26 youth (15%)	No change from data calculated with incidents
Most Cited Reasons for Confinement (percentage of total incidents)	Danger to staff (48%) Administrative (25%) Danger to other youth (18%)	

	Quarter 1	Quarter 2	Quarter 3	Quarter 4	
				WITH	WITHOUT
Total Youth	79	104	109	64	63
Total Incidents	477	695	920	513	505
Longest Confinement	148.25 hrs.	120 hrs.	120.75 hrs.	331.25 hrs.	163.25 hrs.
Shortest Confinement	1.25 hours	1.25 hours	1.25 hours	1.5 hours	1.25 hours

YRTC-Lincoln Room Confinement Summary
FY 19-20 Quarter 3-4

YRTC-Lincoln did not report any incidents of juvenile room confinement due to medical quarantine during the fourth quarter of the fiscal year.

Total Youth / Total Incidents			10 / 34	
MEDIAN Duration of Room Confinement Incidents The point at which ½ of the total incidents were lower and ½ were higher			3.25 hours	
Percentage of Room Confinement Ending in 4 hours or less			59%	
Percentage of Room Confinement Ending in 8 hours or less			65%	
Longest Confinement Incident: Hours, Age, Reason(s)			35 hours; 18 yrs.; danger to staff	
Shortest Confinement Incident: Hours, Age, Reason(s)			1.25 hours; 17 yrs.; danger to staff	
Frequently Confined – number of youth comprising 50% of all confinement incidents and percentage of total involved youth			3 youth (30%)	
Most Cited Reasons for Confinement (percentage of total incidents)			Danger to Staff (74%) Danger to Other Youth (24%)	
	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Total Youth			5	7
Total Incidents			7	27
Longest Confinement			35 hrs.	24.25 hrs.
Shortest Confinement			1.75 hours	1.25 hours

YRTC-Geneva Room Confinement Summary
FY 19-20 July 1-August 19, 2019

Youth from YRTC-Geneva were relocated prior to the fourth quarter of the fiscal year, thus there were no reported incidents of juvenile room confinement due to medical quarantine.

Total Youth / Total Incidents	22/59
MEDIAN Duration of Room Confinement Incidents The point at which ½ of the total incidents were lower and ½ were higher	21.5 hours
Percentage of Room Confinement Ending in 4 hours or less	10 %
Percentage of Room Confinement Ending in 8 hours or less	15 %
Longest Confinement Incident: Hours, Age, Reason(s)	117 hours; 16 yrs.; danger to other youth
Shortest Confinement Incident: Hours, Age, Reason(s)	1 hour; yrs.; 18 yrs.; danger to staff
Frequently Confined – number of youth comprising 50% of all confinement incidents and percentage of total involved youth	7 youth (32%)
Most Cited Reasons for Confinement (percentage of total incidents)	Administrative (41%) Danger to other youth (31%) Danger to staff (17%)

Juvenile Secure and Staff Secure Detention Facilities

Juvenile secure and staff secure detention facilities are residential facilities operated by local governments in Nebraska. There are currently four juvenile secure and staff secure detention facilities in Nebraska – Douglas County Youth Center (Douglas), Lancaster County Youth Services Center (Lancaster), Northeast Nebraska Juvenile Services Center (Madison), and the Patrick J. Thomas Juvenile Justice Center (Sarpy). These facilities primarily serve youth under 18 years old after initial arrests, youth who are sent to detention after probation violations, and youth awaiting placement while on probation.

Room Confinement at Detention Centers

The Nebraska Jail Standards Board has the authority and responsibility to "develop standards for juvenile detention facilities and staff secure juvenile facilities, including, but not limited to, standards for physical facilities, care, programs, and disciplinary procedures, and to develop guidelines pertaining to the operation of such facilities."[41] In addition to creating standards, the Crime Commission is responsible for auditing facilities for compliance and providing technical assistance to facilities.

The standards for Juvenile Detention Facilities were last updated in 1992 and contain a number of provisions about juvenile room confinement. In 2013, the Nebraska Legislature exempted staff secure facilities from residential child-caring agency licensure and instead charged the Jail Standards Board with creating standards for staff secure units and facilities. The Jail Standards Board has chosen not to create new standards for staff secure facilities, but rather use the Standards for Juvenile Detention Facilities, as there are few facilities operating staff secure units.

Under the Juvenile Detention Facilities Standards promulgated by the Jail Standards Board, there are at least nine different practices in the regulations that may meet Nebraska's definition of room confinement.[42] However, the terms are used inconsistently within regulations and some are undefined.

Detention Standards allow for the use of "room restriction" for up to an hour for minor misbehavior and up to 24 hours for minor rule violations.[43] Room restriction is not defined by the standards. They also allow the use of disciplinary confinement for up to seven days for major rules violations.[44]

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[41] Neb. Rev. Stat. §83-4,126(1) (c).
[42] Segregation, confinement, administrative segregation, disciplinary detention, protective custody, temporary confinement, room restriction, separate confinement, and disciplinary confinement
[43] 83 NAC 13-003 and 13-004.
[44] 83 NAC 13-005.

Disciplinary confinement is not specifically defined in the standards, although disciplinary detention is.

Detention Standards require facilities have documentation "of juveniles placed in temporary confinement away from the general population."[45] The regulations also require that any juvenile placed in room confinement must be visually checked every 30 minutes and staff must enter the confinement room at least once per shift to converse with the juvenile and assess their well-being.[46] Under the regulations, juveniles in room confinement "shall be afforded living conditions and access to basic programs and services approximating those available to the general resident population, subject to restrictions necessary to ensure the juvenile's safety or the security of the facility."[47] In general, Detention Standards allow most room confinement practices to be governed by written policies, procedures, and rules of conduct written by the individual facilities.[48]

Douglas County Youth Center (Douglas)

The Douglas County Youth Center is a secure juvenile detention center in Douglas County. The facility has a total of 96 beds. In FY 19-20 the facility served 806 youth and had an average daily population of 78.

Douglas Room Confinement Summary found on page 35 provides a summary of data pertaining to the use of room confinement at the facility.

Douglas reported no incidents of juvenile room confinement due to medical quarantine during the fourth quarter of the fiscal year. Prior to FY 19-20, the facility has reported no incidents due to medical quarantine or medical issues.

Lancaster County Youth Services Center (Lancaster)

The Lancaster County Youth Services Center provides secure detention services for juveniles up to the age of 19 years of age. In FY 19-20, the facility served a total of 253 youth with an average daily population of 19.

[45] 83-NAC 6-006.
[46] 83-NAC 13-007.02.
[47] 83 NAC12-001.
[48] 83-NAC13-001 and 13-002.

The Lancaster Room Confinement Summary on page 36 presents further information.

640 incidents of juvenile room confinement due to medical quarantine were reported by Lancaster during the fourth quarter of the fiscal year. The incidents involved 27 individual youth and ranged between 1– 345.75 hour(s). Prior to FY 19-20, Lancaster has reported incidents of confinement due to medical quarantine.

Northeast Nebraska Juvenile Services Center (Madison)

The Northeast Nebraska Juvenile Services Center is located in Madison County. It provides both staff secure and secure detention to juveniles18 years of age and younger. The facility has a total of 34 beds and served 244 youth in FY 19-20 with an average daily population of 24 youth.

The Madison Room Confinement Summary found on page 37 presents further information on room confinement at Madison. The OIG noted that 81% of total room confinements reported for the fiscal year at Madison were due to administrative reasons. However, the facility only reported 21 total incidents for the fiscal year and the 81% metric was reached when 17 incidents attributed to administrative reasons, occurred on the same date, all lasting 1.25 hours.

The facility reported nine incidents of juvenile room confinement due to medical quarantine during the fourth quarter of the fiscal year. The confinement incidents involved nine youth and ranged between 17.75 hours to 358 hours. Prior to FY 19-20, Madison has reported incidents of juvenile room confinement due to medical quarantine.

Patrick J. Thomas Juvenile Justice Center (Sarpy)

The Patrick J. Thomas Juvenile Justice Center is a staff-secure detention center located in Sarpy County. Sarpy serves juveniles aged 13-18 years and is equipped with 30 beds. During FY 19-20 the facility served a total of 134 youth, with an average daily population of 10.

The Sarpy Room Confinement Summary found on page 38 provides further detail on the use of juvenile room confinement at the facility. Sarpy does not have a facility designed for room confinement in the juvenile's sleeping area due to few youth having their own room, instead s/he is taken to the booking area, where they are physically observed by a staff member at all times.

The facility did not report any room confinement incidents due to medical quarantine during the fourth quarter of the fiscal year. Prior to FY 19-20, Sarpy reported no incidents of juvenile room confinement due to medical quarantine.

Douglas Room Confinement Summary FY 19-20

Douglas reported no incidents of juvenile room confinement due to medical quarantine during the fourth quarter of the fiscal year.

Total Youth / Total Incidents			178 / 494	
MEDIAN Duration of Room Confinement Incidents The point at which ½ of the total incidents were lower and ½ were higher			43.5 hours	
Percentage of Room Confinement Ending in 4 hours or less			7%	
Percentage of Room Confinement Ending in 8 hours or less			13%	
Longest Confinement Incident: Hours, Age, Reason(s)			167.75 hours; 17 yrs.; assault	
Shortest Confinement Incident: Hours, Age, Reason(s)			6 incidents – 1 hour; 15-17years; multiple categories	
Frequently Confined – number of youth comprising 50% of all confinement incidents and percentage of total involved youth			41 youth (23%)	
Most Cited Reasons for Confinement (percentage of total incidents)			Fighting (35%) Assault (25%) Disobeying Direct Order (6%)	
	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Total Youth	67	73	74	63
Total Incidents	117	118	135	124
Longest Confinement	150.5 hrs.	167.25 hrs.	167.5 hrs.	167.75 hrs.
Shortest Confinement	1 hour	1 hour	1 hour	1 hour

Lancaster Room Confinement Summary FY 19-20 *Lancaster reported 640 incidents of medical quarantine during the fourth quarter, involving 27 youth, ranging between 1-345.75 hour(s).*	**WITH** 4th Quarter Medical Quarantine incidents	**WITHOUT** 4th Quarter Medical Quarantine incidents
Total Youth / Total Incidents	87 /871	71 /234
MEDIAN Duration of Room Confinement Incidents The point at which ½ of the total incidents were lower and ½ were higher	2.0 hours	1.75 hours
Percentage of Room Confinement Ending in 4 hours or less	81%	99%
Percentage of Room Confinement Ending in 8 hours or less	98%	99.5%
Longest Confinement Incident: Hours, Age, Reason(s)	345.75 hours; 16 yrs.; medical	95 hours; 16 yrs.; administrative
Shortest Confinement Incident: Hours, Age, Reason(s)	43 incidents – 1 hour; 13-18 yrs.; multiple categories	35 incidents – 1 hour; 14-18 yrs.; multiple categories
Frequently Confined – number of youth comprising 50% of all confinement incidents and percentage of total involved youth	16 youth (23%)	10 youth (11%)
Most Cited Reasons for Confinement (percentage of total incidents)	Quarantine (74%) Danger to Others (18%) Administrative (3%)	

	Quarter 1	Quarter 2	Quarter 3	Quarter 4	
				WITH	WITHOUT
Total Youth	12	35	22	37	18
Total Incidents	23	72	77	702	63
Longest Confinement	2.5 hrs.	5 hrs.	95 hrs.	345.75 hrs.	4 hrs.
Shortest Confinement	1 hour	1 hour	1 hour	1 hour	1 hour

Madison Room Confinement Summary FY 19-20 *Madison reported 9 incidents of medical quarantine during the fourth quarter, involving 9 youth, and ranging between 17.75- 358 hour(s). This did not affect their shortest confinement incident.*	**WITH** 4th Quarter Medical Quarantine incidents	**WITHOUT** 4th Quarter Medical Quarantine incidents
Total Youth / Total Incidents	30 /30	21 /21
MEDIAN Duration of Room Confinement Incidents The point at which ½ of the total incidents were lower and ½ were higher	1.25 hours	1.25 hours
Percentage of Room Confinement Ending in 4 hours or less	21%	100%
Percentage of Room Confinement Ending in 8 hours or less	21%	All incidents ended in 4 hrs. or less
Longest Confinement Incident: Hours, Age, Reason(s)	2 incidents 358 hours; 14-17yrs.; medical	2.5 hours; 17yrs.; danger to staff
Shortest Confinement Incident: Hours, Age, Reason(s)	1 hour; 14years; danger to others	No change from data calculated with incidents
Frequently Confined – number of youth comprising 50% of all confinement incidents and percentage of total involved youth	No youth were confined more than once	
Most Cited Reasons for Confinement (percentage of total incidents)	Admin-emergency (57%) Medical quarantine (30%) Danger to staff (6%)	

	Quarter 1	Quarter 2	Quarter 3	Quarter 4	
			No Incidents	WITH	WITHOUT
Total Youth	18	2	0	10	1
Total Incidents	18	2	0	10	1
Longest Confinement	1.25 hrs.	1.25 hrs.	0	358 hrs.	2.25 hrs.
Shortest Confinement	1 hour	1 hour	0	1 hour	1 hour

Sarpy Room Confinement Summary FY 19-20

Sarpy reported no incidents of medical quarantine during the fourth quarter.

Total Youth / Total Incidents			22 /53	
MEDIAN Duration of Room Confinement Incidents The point at which ½ of the total incidents were lower and ½ were higher			3 hours	
Percentage of Room Confinement Ending in 4 hours or less			72%	
Percentage of Room Confinement Ending in 8 hours or less			96%	
Longest Confinement Incident: Hours, Age, Reason(s)			12 hours; 17 yrs..; danger to others	
Shortest Confinement Incident: Hours, Age, Reason(s)			4 incidents 1 hr.; 14-18 yrs.; danger to others	
Frequently Confined – number of youth comprising 50% of all confinement incidents and percentage of total involved youth			4 youth (18%)	
Most Cited Reasons for Confinement (percentage of total incidents)			Danger to Youth (94%) Danger to Staff (5%)	
	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Total Youth	6	1	12	7
Total Incidents	11	6	25	11
Longest Confinement	12 hrs.	5.5 hrs.	8.5 hrs.	7 hrs.
Shortest Confinement	1 hour	1 hour	1 hour	1 hour

Recommendations — 2017-2019

The OIG's annual report on the use of juvenile room confinement must contain identified changes which may lead to a reduction of reliance on room confinement in Nebraska.[49] The following section accounts for all recommendations made by the OIG and published in Annual Nebraska Juvenile Room Confinement Reports.

(2019) Extension of the Crime Commission and Department of Health and Human Services-Division of Public Health responsibilities related to juvenile room confinement to include, at a minimum, on-site verification and standardized data collection and content.

The OIG recommends all DHHS, and Crime Commission administrative language be revised to conform to Neb. Rev. Stat. §83-4,125 and Neb. Rev. Stat. §83-4,134.01. There are at least 16 different definitions of confinement language in the Nebraska Administrative Code, as well as other language in facility and agency polices. These expressions range from "time out" and "seclusion" to "solitary confinement." See Appendix B.

The current role of DHHS and the Crime Commission is limited to verifying that documentation is collected and submitted to the legislature as set out in statute. Increased involvement is needed to verify the manner in which juvenile room confinement is used in the facility and the accuracy of the data collection and content.

(2019) The OIG recommends that legislation be passed that requires the following:

- All facilities adhere to best practices to reduce reliance on juvenile room confinement.
- Room confinement should only be used as a last resort, be time-limited, and be closely monitored. Facilities will make changes if they are legislatively required to do so. If not mandated, any further changes on its reliance will be unlikely.
- Clarification of current legislative provisions related to juvenile room confinement.
- Specific language is recommended to clearly define the meanings of "facility" and "agency," with explicit guidance on which organizations are required to report, and which are exempt. For example, Psychiatric Residential Treatment Facilities such as Immanuel/CHI and Boys Town do not report the use of juvenile room confinement. Whether they should do so is a legislative decision.

[49] Neb. Rev. Stat. §83-4,134.01 (d).

Legislation should include specific determinations of what constitutes voluntary confinements, in contrast to involuntary confinements. Clear definitions should also include what constitutes sickbed and other medical quarantines.

(2017) For the use of juvenile room confinement, best practices require that it be used:

- **As a last resort.** Room confinement should only be used in cases when there are threats to safety of the individual or other residents, and when less intrusive measures have failed.
- **Time-limited and finite.** Youth need to be released as soon as they are safely able. Juveniles do not experience open-ended times in the same way as adults, and may perceive their situation as permanent.
- **Closely monitored.** Youth need to be seen frequently; those in confinement for long periods (more than two hours) should checked by qualified mental health professionals. The circumstances and interactions with the youth should be recorded and analyzed frequently.

(2017) For the reduction with the goal of eliminating juvenile room confinement, facilities should:

1. **Revise facility policies to reflect best practice:** Room confinement should only be used as a last resort, be time-limited, and be closely monitored. Facility policies should be gradually modified to reflect these best practices. Some facility policies on juvenile room confinement are not in line with best practices or national recommendations. Policy change without the development of appropriate alternatives at facilities may not effectively and safely reduce room confinement. Nonetheless, as part of wider strategies to reduce room confinement, revisions to policy to reflect best practices is essential.
2. **Focus on workforce development:** Facilities should ensure that each is staffed appropriately, administrative efficiencies are sought, and the facility's workforce is well-trained and supported in alternatives to room confinement. Many strategies that have been shown to successfully reduce room confinement have been linked to staff-intensive positive behavioral intervention and therapeutic programs.[50] In order to reduce room confinement, facility staff must have the support and training to implement alternatives to room confinement. Furthermore, staffing issues (shortages, training, shift changes, etc.) were directly related to room confinement incidents at Nebraska facilities. Facilities should ensure juvenile room confinement is not being used to accommodate administrative tasks such as headcount and training, in the effort to reduce unnecessary room confinement.

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[50] *Id.*

3. **Create a Juvenile Room Confinement Reduction Plan and include technical assistance and oversight:** National research and information suggests facilities that have reduced juvenile room confinement successfully, have done so by implementing a variety of different strategies, tailored for their specific circumstances. Many facilities have benefitted from technical assistance and oversight from outside entities in creating and implementing plans to reduce juvenile room confinement. Each juvenile facility that uses room confinement should have a plan to reduce its use. To the extent possible, these facilities should receive assistance from state regulators and others experts in developing, implementing, and monitoring plans to reduce the use of room confinement.
4. **Publicly report information on the use of room confinement, including seclusion:** Facilities that use any form of room confinement for children and youth in their care should report such. Many facilities over the past year did report room confinement numbers on a quarterly basis, but several did not. Without full and complete reporting, a comprehensive review of juvenile room confinement in Nebraska cannot be undertaken. Transparent public reporting about the use of room confinement, including seclusion, can only help monitor and reduce its use.

(2017) Agency based recommendations include the following:

The **Nebraska Department of Correctional Services (NDCS)** runs the prisons and sets forth rules and regulations for the prison system in dealing with inmates under 19 years of age. NDCS should take steps to: Provide Additional Details in NDCS Rules and Regulations on Restrictive Housing as it Relates to Best Practices and Youth Under 19: NDCS has already initiated the process of developing a plan to reduce the use of restrictive housing across all of their correctional facilities. So far, however, the promulgated regulations and other changes apply generally to the correctional system and not specifically to issues related to juvenile inmates. There are no formal policies or strategies to reduce the use and duration of room confinement of juveniles across the correctional system.

Specifically Adopt Time Limits for Inmates in Restrictive Housing Under the Age of 19: NDCS rules and regulations do not adequately address room confinement limits for inmates under 19 years old. Rules and regulations should be changed to implement time limits.

Conduct a study on youth who spend particularly long periods of time in room confinement: Further study is needed to examine the youth who spend long periods of time in longer-term restrictive housing to determine what resources are needed to allow them to integrate into general population.

The **Office of Juvenile Services (OJS)**, under the Department of Health and Human Services Division of Children and Family Services, oversees the Youth Rehabilitation and Treatment Centers. OJS should take steps to:

Develop and Implement a Strategic Plan to Reduce Room Confinement: OJS should ensure that both YRTCs develop and implement concrete plans to reduce the use and length of time youth spend in room confinement over the next 12 months.

Change OJS Rules and Regulations to Align with Best Practices: Though internal operating memos are updated, current rules and regulations authorize the use of room confinement either for reasons of safety and security or as a disciplinary sanction if the youth has violated a facility rule. Best practices do not contemplate the use of room confinement for disciplinary purposes. Formal rules and regulations should be updated to reflect current best practices.

The **Nebraska Jail Standards Board**, housed at the Nebraska Commission on Law Enforcement and Criminal Justice, develops standards, or rules and regulations, for the operation of juvenile detention facilities. Steps should be taken to:

Clarify definitions of different forms of room confinement within Juvenile Detention Jail Standards: Current Juvenile Detention Jail Standards use a variety of terms that could be considered "room confinement". Some of these are defined and others are not (e.g. – room restriction). Some terms appear to be applied inconsistently – for example disciplinary confinement and disciplinary detention. It would be helpful to update Jail Standards to ensure all terms are defined and that requirements for each form of room confinement are appropriately specified.

Update Jail Standards to reflect room confinement reporting requirements: In light of requirements on room confinement documentation and reporting, incorporating specific documentation and reporting requirements and integrating them with current definitions in standards should be completed as required by law.

Update Jail Standards to eliminate the use of room confinement for disciplinary purposes: All detention and staff secure facilities in Nebraska reported no longer using room confinement for disciplinary purposes. Jail standards should be updated to recognize this current best practice and revise other standards as necessary to be consistent with this practice.

The **Department of Health and Human Services, Division of Public Health** licenses all mental health centers, health care facilities, residential child-caring agencies, and substance abuse treatment centers. The Division of Public Health should take steps to:

Update licensing rules and regulations to reflect juvenile room confinement reporting requirements: In light of requirements on room confinement documentation and reporting, incorporating specific documentation and reporting requirements and integrating them with current definitions in rules and regulations should be completed.

Appendices

Appendix A: Nebraska State Statues

Appendix B: Administrative Language

Appendix C: OIG Juvenile Room Confinement Facility Guidance Document July 2020

Appendix C: Report Process

Appendix D: References

Appendix A: Nebraska State Statutes

Neb. Rev. Stat. §83-4,125. Detention and juvenile facilities; terms, defined.

For purposes of sections 83-4,124 to 83-4,134.01:

(1) Criminal detention facility means any institution operated by a political subdivision or a combination of political subdivisions for the careful keeping or rehabilitative needs of adult or juvenile criminal offenders or those persons being detained while awaiting disposition of charges against them. Criminal detention facility does not include any institution operated by the Department of Correctional Services. Criminal detention facilities shall be classified as follows:

(a) Type I Facilities means criminal detention facilities used for the detention of persons for not more than twenty-four hours, excluding nonjudicial days;

(b) Type II Facilities means criminal detention facilities used for the detention of persons for not more than ninety-six hours, excluding nonjudicial days; and

(c) Type III Facilities means criminal detention facilities used for the detention of persons beyond ninety-six hours;

(2) Juvenile detention facility means an institution operated by a political subdivision or political subdivisions for the secure detention and treatment of persons younger than eighteen years of age, including persons under the jurisdiction of a juvenile court, who are serving a sentence pursuant to a conviction in a county or district court or who are detained while waiting disposition of charges against them. Juvenile detention facility does not include any institution operated by the department;

(3) Juvenile facility means a residential child-caring agency as defined in section 71-1926, a juvenile detention facility or staff secure juvenile facility as defined in this section, a facility operated by the Department of Correctional Services that houses youth under the age of majority, or a youth rehabilitation and treatment center;

(4) Room confinement means the involuntary restriction of a juvenile placed alone in a cell, alone in a room, or alone in another area, including a juvenile's own room, except during normal sleeping hours, whether or not such cell, room, or other area is subject to video or other electronic monitoring; and

(5) Staff secure juvenile facility means a juvenile residential facility operated by a political subdivision (a) which does not include construction designed to physically restrict the movements and activities of juveniles who are in custody in the facility, (b) in which physical restriction of movement or activity of juveniles is provided solely through staff, (c) which may

establish reasonable rules restricting ingress to and egress from the facility, and (d) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision. Staff secure juvenile facility does not include any institution operated by the department.

83-4,134.01. Juvenile facility; legislative intent; placement in room confinement; provisions applicable; report; Inspector General of Nebraska Child Welfare; duties; disciplinary action.

(1) It is the intent of the Legislature to establish a system of investigation and performance review in order to provide increased accountability and oversight regarding the use of room confinement for juveniles in a juvenile facility.

(2) The following shall apply regarding placement in room confinement of a juvenile in a juvenile facility:

(a) Room confinement of a juvenile for longer than one hour shall be documented and approved in writing by a supervisor in the juvenile facility. Documentation of the room confinement shall include the date of the occurrence; the race, ethnicity, age, and gender of the juvenile; the reason for placement of the juvenile in room confinement; an explanation of why less restrictive means were unsuccessful; the ultimate duration of the placement in room confinement; facility staffing levels at the time of confinement; and any incidents of self-harm or suicide committed by the juvenile while he or she was isolated;

(b) If any physical or mental health clinical evaluation was performed during the time the juvenile was in room confinement for longer than one hour, the results of such evaluation shall be considered in any decision to place a juvenile in room confinement or to continue room confinement;

(c) The juvenile facility shall submit a report quarterly to the Legislature on the juveniles placed in room confinement; the length of time each juvenile was in room confinement; the race, ethnicity, age, and gender of each juvenile placed in room confinement; facility staffing levels at the time of confinement; and the reason each juvenile was placed in room confinement. The report shall specifically address each instance of room confinement of a juvenile for more than four hours, including all reasons why attempts to return the juvenile to the general population of the juvenile facility were unsuccessful. The report shall also detail all corrective measures taken in response to noncompliance with this section. The report shall redact all personal identifying information but shall provide individual, not aggregate, data. The report shall be delivered electronically to the Legislature. The initial quarterly report shall be submitted within two weeks after the quarter ending on September 30, 2016. Subsequent reports shall be submitted for the ensuing quarters within two weeks after the end of each quarter;

(d) The Inspector General of Nebraska Child Welfare shall review all data collected pursuant to this section in order to assess the use of room confinement for juveniles in each juvenile facility and prepare an annual report of his or her findings, including, but not limited to, identifying changes in policy and practice which may lead to decreased use of such confinement as well as model evidence-based criteria to be used to determine when a juvenile should be placed in room confinement. The report shall be delivered electronically to the Legislature on an annual basis; and

(e) Any juvenile facility which is not a residential child-caring agency which fails to comply with the requirements of this section is subject to disciplinary action as provided in section 83-4,134. Any juvenile facility which is a residential child-caring agency which fails to comply with the requirements of this section is subject to disciplinary action as provided in section 71-1940.

83-4,134.02. Placement of juvenile in room confinement; restrictions on placement; conditions; release; facility; duties; monitoring.

(1) This section applies to placement of a juvenile in room confinement in the following facilities: A juvenile detention facility, staff secure juvenile facility, facility operated by the Department of Correctional Services, or youth rehabilitation and treatment center operated by the Department of Health and Human Services.

(2) A juvenile shall not be placed in room confinement for any of the following reasons:

(a) As a punishment or a disciplinary sanction;

(b) As a response to a staffing shortage; or

(c) As retaliation against the juvenile by staff.

(3) A juvenile shall not be placed in room confinement unless all other less-restrictive alternatives have been exhausted and the juvenile poses an immediate and substantial risk of harm to self or others.

(4) A juvenile may only be held in room confinement according to the following conditions:

(a) A juvenile shall not be held in room confinement longer than the minimum time required to eliminate the substantial and immediate risk of harm to self or others and shall be released from room confinement as soon as the substantial and immediate risk of harm to self or others is resolved; and

(b) A juvenile shall only be held in room confinement for a period that does not compromise or harm the mental or physical health of the juvenile.

(5) Any juvenile placed in room confinement shall be released immediately upon regaining sufficient control so as to no longer engage in behavior that threatens substantial and immediate risk of harm to self or others.

(6) Not later than one business day after the date on which a facility places a juvenile in room confinement, the facility shall provide notice of the placement in room confinement to the juvenile's parent or guardian and the attorney of record for the juvenile.

(7) All rooms used for room confinement shall have adequate and operating lighting, heating and cooling, and ventilation for the comfort of the juvenile. Rooms shall be clean and resistant to suicide and self-harm. Juveniles in room confinement shall have access to drinking water, toilet facilities, hygiene supplies, and reading materials approved by a licensed mental health professional.

(8) Juveniles in room confinement shall have the same access as provided to juveniles in the general population of the facility to meals, contact with parents or legal guardians, legal assistance, and access to educational programming.

(9) Juveniles in room confinement shall have access to appropriate medical and mental health services. Mental health staff shall promptly provide mental health services as needed.

(10) Juveniles in room confinement shall be continuously monitored by staff of the facility. Continuous monitoring may be accomplished through regular in-person visits to the confined juvenile which may also be supplemented by electronic video monitoring.

(11) The use of consecutive periods of room confinement to avoid the intent and purpose of this section is prohibited.

(12) Nothing in this section shall be construed to authorize or require the construction or erection of fencing or similar structures at any facility, nor the imposition of nonrehabilitative approaches to behavior management within any facility.

Appendix B: Administrative Language Chart

Source	Terminology	Definition	Duration	Citation
Federal Law	U.S. Code § 5043."Juvenile Solitary Confinement"[51]	"The term 'room confinement' means the involuntary placement of a covered juvenile alone in a cell, room, or other area for any reason"	Three hours; if self-harming, 30 minutes.	The First Step Act; 18 U.S.C. § 5043 (b) (2) (D)
Nebraska Statute	Room Confinement	"The involuntary restriction of a juvenile placed alone in a cell, alone in a room, or alone in another area, including a juvenile's own room, except during normal sleeping hours, whether or not such cell, room, or other area is subject to video or other electronic monitoring."[52]	"Longer than one hour"[53]	Neb. Rev. Stat. §83-4,125; Neb. Rev. Stat. §83-4,134.01

[51] 18 U.S.C. § 5043 The First Step Act "Juvenile solitary confinement" is the title of that section of The First Step Act. https://www.law.cornell.edu/uscode/text/18/5043. See Appendix [xxx].
[52] Neb. Rev. Stat. §83-4,125; https://nebraskalegislature.gov/laws/statutes.php?statute=83-4,125.
[53] Neb. Rev. Stat. §83-4,134.01; https://nebraskalegislature.gov/laws/statutes.php?statute=83-4,134.01.

Facility	Source	Terminology	Definition	Duration	Citation
Corrections	Nebraska Administrative Code (NAC)	Room Restriction	"Room restriction is the status of being restricted from certain privileges normally afforded members of the general inmate population. It does not consist of total separation from the general population and does not constitute disciplinary segregation"	Up to 90 days per offense	68 NAC 6-018; NCYF O.M. 217.1.1 p. 6-7
	NAC	Solitary Confinement	"The status of confinement of an inmate in an individual cell with solid, sound-proof doors and which deprives the inmate of all visual and auditory contact with other persons"	"The Nebraska Department of Correctional Services does not utilize solitary confinement"	72 NAC 1-002.14
	NAC	Restrictive Housing-Immediate Segregation	"A short-term restrictive housing assignment of not more than 30 days in response to behavior that creates a risk to the inmate, others, or the security of the institution."	30 days	72 NAC 1-002.06
	NAC	Restrictive Housing - Longer Term Restrictive Housing	"Used as a behavior management intervention for inmates whose behavior continues to pose a risk to the safety of themselves or others and includes inmate participation in the development of a plan for transition back to general population or mission based housing."	Longer than 30 days	72 NAC – 002.07

Facility	Source	Terminology	Definition	Duration	Citation
YRTC	NAC	Room Restriction	"The temporary placement of a juvenile within his or her sleeping room for brief "cool down" period or as an informal sanction for a rule violation"	"cooling off": 15-60 minutes; Youth cannot be confined for more than 1 day without super-visor review	401 NAC 1-009; 401 NAC 7-007.02
	YRTC Operational Memo	Room Confinement/Segregation	"Confinement of a juvenile in a room as a result of a rule violation and when there is no adequate alternative disposition to regulate the juvenile's behavior"	Confinements after 72 hours must be approved	AR 302.1 Governing Juvenile Conduct, p. 7
	NAC	Disciplinary Segregation	"The confinement of a juvenile to an individual room that is separated from the general population as a sanction for a serious rule violation"	Up to 5 days	401 NAC 1-009; 401 NAC 7-007.03

Facility	Source	Terminology	Definition	Duration	Citation
Detention	NAC	Segregation: Disciplinary Detention	"Housing for juveniles convicted of serious rule violation"	Up to 7 days	83 NAC 1-008.96
	NAC	Segregation: Administrative Segregation	"Housing for juveniles whose continued presence in the general population poses a serious threat to life, property, self, staff, or other inmates"	Not defined	83 NAC 1-008.96
	NAC	Segregation: Protective Custody	"Shall mean a status that describes juveniles requesting or requiring protection from others"	Not defined	83 NAC 1-008.83
	NAC	Separate Confinement	"Juveniles placed in separate confinement shall be afforded living conditions and access to basic programs and services approximating those available to the general resident population, subject to restrictions necessary to ensure the juvenile's safety or the security of the facility. When services or programs are withheld, written justification shall be provided"	Not defined	83 NAC 13-007.01

Administrative Language Chart (continued)

Facility	Source	Terminology	Definition	Duration	Citation
Detention continued	NAC	Disciplinary Confinement	"Where the possible sanction of violation of a rule is limitation or deprivation of privileges more than seven (7) days, or the placement in disciplinary confinement not to exceed 7 days except in cases involving violence, the violation shall be treated as a major infraction"	Up to 7 days	83 NAC 13-005
	NAC	Disciplinary Confinement	"Where the possible sanction of violation of a rule is limitation or deprivation of privileges more than seven (7) days, or the placement in disciplinary confinement not to exceed 7 days except in cases involving violence, the violation shall be treated as a major infraction"	Up to 7 days	83 NAC 13-005
	NAC	Room restriction	"These guidelines may include room restriction of up to sixty (60) minutes to allow juveniles a "cooling off" period. Room restriction for this purpose shall be noted in the shift activity documentation"	Up to one hour	83 NAC 13-003
	NAC	Temporary Room Restriction	"Infractions of the rules where informal resolution appears unwarranted and for which the maximum penalty is temporary room restriction (not to exceed 24 hours), deprivation or limitation of privileges for seven (7) days or less"	1-24 hours	83 NAC 13-004
	DCYC Policy Manual	Restrictive Housing	"Placement of a juvenile in room or Restrictive Housing Unit to control behavior that is a clear and present threat to the safety of his/herself, other juveniles, staff, or is posing a threat to the security of the facility"	Up to 7 days	Douglas County Youth Center Policy 9.3. p. 6 (2016)

Facility	Source	Terminology	Definition	Duration	Citation
Residential Child-Caring Agency (RCCA)	NAC	Seclusion	"Places the child in any room against his or her will, where the child cannot voluntarily leave the room and isolating him/her from any personal contact;"	Up to 4 hours, depends on age, constantly monitored	474 NAC 6-008.10; 42 CFR 483.364

Facility	Source	Terminology	Definition	Duration	Citation
Mental Health & Substance Abuse Treatment Facilities	NAC	Seclusion	"Seclusion means the involuntarily confinement of an individual in a locked room. A locked room includes a room with any type of door locking device, or physically holding the door shut."	Determined by federal statute	175 NAC 19-002; 42 CFR 483.352; 42 CFR 483.358;
	NAC	Time out	"The removal of a client from the setting in which he or she is exhibiting inappropriate behavior until the client exhibits appropriate behavior. Staff requires the client to remain in an unlocked room or area where there are no other individuals except for staff monitoring the client"	Not specified	175 NAC 19-002; 175 NAC 18-002; 42 CFR 483.368

Appendix C: Report Process

In preparing this report, the OIG undertook a number of activities to assist facilities with understanding reporting requirements and accurately reporting room confinement use. The OIG took steps to assure the interpretation of reported data was consistent, taking into consideration each facility's unique physical building and youth population.

Data Reported

The OIG analyzed the use of room confinement by facility type to provide context around factors that influence the use of room confinement. These factors include the differences in facility function, type of population served, and specific policies and standards.

In order to analyze the use of room confinement at each type of juvenile facility, the OIG reviewed available data and when possible, calculated eight measures as a means of ascertaining a descriptive analysis of the use of juvenile room confinement in all reporting facilities.

The following measures were calculated at facilities that reported any instances of room confinement in the fiscal year:

- Total Incidents/Total Youth: The total number of room confinement incidents and the associated total number of individual youth confined.
- Median Duration of Room Confinement: The median duration statistic represents the midpoint of incidents based on the length of time. In general it represents the middle point in the data with half the incidents below the median and half above. The OIG made the decision to report this number instead of the average duration statistic because the average can be distorted by a few incidents of low or high duration. The median is more robust and reflects more accurately the central tendency of room confinement duration.
- Percentage of Room Confinement Incidents Ending in Four Hours or Less: Of the total incidents of room confinement, the number that ended in four hours or less.
- Percent of Room Confinement Incidents Ending in Eight Hours or Less: Of the total incidents of room confinement, the number that ended in eight hours or less.
- Percent of Room Confinement Incidents Ending in 24 Hours or Less: Of the total incidents of room confinement, the number that ended in 24 hours or less.
- Longest Incident: The incident of room confinement that represents the longest duration.
- Shortest Incident: The incident of room confinement that represents the shortest duration.
- Age Range: The range of juvenile age from youngest to oldest youth associated with an incident of room confinement at each facility.
- Frequently Confined Youth: The fewest number of individual juvenile room confinement incidents required to equal approximately one half of the total room confinement incidents.

Data Collection and Review

Each year, the OIG spends hundreds of hours compiling this report. Before drafting this report, the OIG requested missing data that had not been filed, and policy/procedure updates made by each facility from July 1, 2019 through June 30, 2020. Administrators are given the opportunity to discuss efforts made towards reducing the use of room confinement by their facility that may not have been reflected in policy and procedure documents. The OIG reviewed the following material for this report:

- Quarterly facility room confinement reports submitted to the Legislature and/or to the OIG covering July 1, 2019 through June 30, 2020;
- Federal and state regulations that govern juvenile facilities' use of room confinement;
- Individual facilities' written policies and procedures for utilizing different forms of room confinement; and,
- Academic research and available reports on the history, impact and appropriate use of juvenile room confinement, and effective methods for reducing its use.

This report covers thousands of incidents of room confinements. This office calculated time and when applicable, dates of confinement using Excel functions. We also used Excel to cross reference names and ID numbers to locate individuals who had different names but the same identification, and to attempt to resolve spelling inconsistencies.

This office rounded times by the quarter hour: if a time difference was seven minutes or less, the total time was rounded down to the nearest quarter hour; if a time difference was eight minutes or more, the total time was rounded up. A confinement from 11:00 to 12:22 was recorded as lasting for one hour and 15 minutes. Total time was then converted to decimal form for consistent calculation purposes. A confinement lasting 1:45 – one hour and 45 minutes – is represented as 1.75 hours.

Correctional Institutions
Nebraska Correction Center for Women
Nebraska Correctional Youth Facility

Office of Juvenile Services,
Youth Rehabilitation & Treatment System
YRTC-Kearney
YTRC-Geneva
YRTC-Lincoln

Juvenile Secure & Staff Secure Detention
Douglas County Youth Center
Lancaster County Youth Services Center
Northeast Nebraska Juvenile Services Center
Patrick J. Thomas Juvenile Justice Center

Mental Health & Substance Abuse Centers
HopeSpoke
Hastings Regional Center-Juvenile Chemical Dependency
NOVA Treatment Community
Lincoln Regional Center-Whitehall Program
OMNI Behavioral Health- Seward Family Support Center

Residential Child-Caring Agencies
CAPWN Youth Shelter
Child Saving Institute, Inc.
Heartland Boys Home LLC
Masonic-Eastern Star Home for Children
Norfolk Group Home
Omaha Home for Boys
Release Ministries, Inc.
Rite of Passage – Uta Halee Academy

Appendix D: References

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