


Written Testimony regarding House File 1233

Good morning, my name is Matt Bauer, I am the Superintendent at The Dakota County Juvenile Services Center, the Co-Chair of the Juvenile Justice Advisory Committee Mental Health Committee, and I am representing the MN Juvenile Detention Association at today's hearing. I have nearly 30 years' experience working with youth in juvenile justice facilities. The MN Juvenile Detention Association or MNJDA serves youth with the highest risks and greatest needs. These are the youth that have nowhere else to go in Minnesota and have been determined by courts to be unsafe in our communities. We are committed to providing these youth our best services, including providing them an opportunity to be the best they can be. We cannot do this in an unsafe setting. We are concerned that the elimination of Disciplinary Room Time (DRT) without a safe and viable alternative will lead to increased assaults, unsafe situations, and further trauma for the youth we serve.

- DRT was written into our licensing rule 20 some years ago. It is not the name we chose or would choose today because youth should not be isolated as a form of discipline but rather only when it is necessary to keep youth and staff safe. The DRT standard is extraordinarily vague- it is outdated- and needs to be modernized. As stakeholders- we strongly endorse revision but need to have a voice as practitioners and subject matter experts.
- States that have been cited as "banning" the use of solitary confinement updated their language to follow a practice similar to our licensing rule.
- Seclusion, as currently written in MN licensing rules, is not a viable replacement for DRT. It requires a staff person to constantly look into a room and monitor the youth. The youth do not want this nor is this a trauma informed practice to be in a room and constantly watched. There is a staffing crisis in facilities and using seclusion could take away staff from providing those youth that are being safe with the trauma informed care they deserve.
- A September 29, 2022, letter from the Governor of California To the Members of the California State Assembly: I am returning Assembly Bill 2632 without my signature. This bill would establish rules governing the use of segregated confinement within prisons, jails, and detention facilities . I have prioritized improving the conditions within custodial settings, and I support limiting the use of segregated confinement. Segregated confinement is ripe for reform in the United States -- and the same holds true in California. Assembly Bill 2632, however, establishes standards that are overly broad and exclusions that could risk the safety of both the staff and incarcerated population within these facilities.

In closing, MNJDA is reducing the use of room time in our facilities. We are increasing our mental health services, trauma informed care, restorative justice opportunities, incentive based programming, and our safety stabilization planning for youth. We agree with and support further reform in the use of room time, including universal reporting, tracking, and oversight to the use of room time. A renaming, redefining, and consistent use throughout our State is needed. We have made great strides to meet the growing mental health and trauma needs of our youth while other programs and services in our state have disappeared. We ask that we are allowed an opportunity to partner with the MN Dept of Corrections and/or others to update the licensing standards around room time so we can provide a safe environment for a youth to become the best they can be.


3.1.23


I recently met with the youth in the Dakota County Juvenile Services Center and told them I would bring their voices to this hearing. I asked them the following questions:

- 1) What would the JSC be like without DRT? Would it be more or less safe? How would you improve the use of DRT?
 - a. Residents could get away with anything and it could be out of control
 - b. Less safe, but changes to DRT would help
 - c. Less safe, no fear of consequences
 - d. Positives of DRT- it provides a youth time to calm down and get back under control, to think about what they need to do
 - e. Negatives – too long sometimes, need to use shorter times and let youth out earlier
 - f. Less behaviors that can lead to DRT, only serious behaviors get DRT and other consequences for less severe behaviors.
 - g. Shorter times and more opportunity to get out earlier
 - h. Concern that some youth will manipulate to get out earlier and cause problems
 - i. Less time in room, able to come out each shift or sooner

- 2) I explained Seclusion, as currently defined in MN licensing rules, to the youth and asked them their thoughts about seclusion?
 - a. Residents on pod 2 said they would not want a staff watching them directly from the window. They stated this would make calming down difficult without privacy.
 - b. The 1 resident who chose seclusion said he likes to talk and process with staff as much as possible. He wouldn't like being watched but would like to ability to speak with staff more often.
 - c. The girls said having someone constantly watching them would not be good for their mental health and could very well escalate them further. All said they prefer privacy when calming themselves.
 - d. Long-term Boys said they don't want someone watching them in their room. It would be difficult to calm down with someone there all the time.
 - e. Uncomfortable

Final Message to the Committee:

- We prefer DRT over seclusion.
- There are improvements to DRT that is needed but overall, it helps keep us all safe.
- Shorter time on DRT and more opportunities to be released from DRT early but not seclusion.
- Seclusion would be a big mistake, make changes to DRT but don't replace with seclusion
- Make changes to DRT but not Seclusion


3-1-23

National Conference of State Legislators (NCSL)

Summary

States that Limit or Prohibit Juvenile Shackling and Solitary Confinement

Updated July 08, 2022 | Anne Teigen

State legislatures and courts across the country also are re-examining the practice of placing juveniles in solitary confinement and shackling youth during court appearances without first assessing each juvenile's individual behavior.

On Jan. 26, 2016, President Barack Obama announced a ban on solitary confinement for juvenile offenders in the federal prison system.

Solitary Confinement

Solitary confinement, or "seclusion," is the most extreme form of isolation in a detention setting and can include physical and social isolation in a cell for 22 to 24 hours per day. The American Academy of Child & Adolescent Psychiatry says solitary confinement of juveniles can lead to depression, anxiety and even psychosis. In recent years, seven states have passed laws that limit or prohibit the use of solitary confinement for youth in detention facilities. For example, Connecticut law states that no child at any time shall be held in solitary confinement, but "seclusion" may be used periodically if authorized and the young person is checked every thirty minutes. 23 states and the District of Columbia have enacted statutes that limit or prohibit so solitary confinement while other states have limited its use through administrative code, policy or court rules.

This is the same as MN's current DRT rule

Use of Shackles at Court Appearances

Shackles are physical restraints that can include handcuffs, straitjackets, leg irons, belly chains and others. According to the National Juvenile Defender Center, the practice of restraining youth who pose no safety threat can humiliate, stigmatize and traumatize young people. In many jurisdictions, young people are automatically shackled for court appearances, even if they are accused only of misdemeanor, non-violent or status offenses. Proponents of shackling argue it is a necessary security procedure to protect the judge, lawyers and other court room observers from a possible flight risk. Laws, court decisions or rules in 32 states and the District of Columbia prohibit the use of unnecessary

NEW INITIATIVE

Through our new Abortion Criminal Defense Initiative, we'll fight on behalf of those who face criminal prosecution related to abortion care.

ACLU



2019 was a Watershed Year in the Movement to Stop Solitary Confinement

The movement to stop the torturous practice of long-term solitary confinement gained momentum in 2019. These are the achievements and developments the ACLU is most excited about, as well as what we're watching in the year to come.

Amy Fettig, Deputy Director, National Prison Project

December 16, 2019

Back in 2016, then President of the United States, Barack Obama, called solitary confinement “an affront to our common humanity” and ordered the Justice Department to implement reforms to the practice in U.S. prisons. Although just three short years ago, in too many ways it seems a different age: We have seen a resurgence of the “tough on crime” rhetoric that favors harsh policies and approaches that we know don’t work. Despite these painful setbacks in other areas, the strength of grassroots movements, political leadership, and growing public awareness have created a robust and growing movement to end solitary confinement – known to those of us in the justice community as Stop Solitary – dedicated to ensuring that this torturous practice ends up in the dustbin of history where it belongs.

In 2019, we saw national momentum to reign in the abusive use of solitary confinement expand faster than ever before. This year was record-setting in terms of reforms we saw introduced in state legislatures. Twenty-eight states introduced legislation to ban or restrict solitary confinement, and twelve states passed reform legislation: Arkansas, Connecticut, Georgia, Maryland, Minnesota, Montana, Nebraska, New Jersey, New Mexico, Texas, Washington, and Virginia. Some of these new laws, such as those in Connecticut and Washington, present tentative and piecemeal approaches to change. But most represent significant reforms to existing practices that promise to facilitate more humane and effective prisons, jails, and juvenile detention centers.

New Jersey passed the strongest law yet in the nation, limiting the length of solitary confinement to 20 consecutive days for all prisoners and detainees. Before the passage of this law, New Jersey put people in solitary for months or even years at a time. The new law ends that practice and also protects vulnerable populations from the harms of solitary, including people under 21 and over 65, pregnant and post-partum people and those who have recently suffered a miscarriage or terminated a pregnancy, LGBTQ people, those with serious medical conditions, and those with various forms of mental health or developmental disabilities. Please see Addendum "A" for additional details regarding ① ② ③ below

① Nebraska's law also stands out: It bans any practice that looks like solitary for minors, pregnant people, and those with serious mental illness, developmental disabilities, or traumatic brain injuries. ② New Mexico also moved aggressively to ban solitary for minors and pregnant people and ban its use on individuals with serious mental illness.

Several states, including Georgia, Texas, Montana, and Maryland passed laws prohibiting the use of solitary on pregnant people, and Montana, Maryland, and

③ Arkansas also passed prohibitions on the use of solitary confinement on minors. In total, five states limited the use of solitary confinement on minors, and six prohibited its use on pregnant people. We even saw this issue taken up at the federal level, with the first briefing in the U.S. House of Representative highlighting The Solitary Confinement Study and Reform Act of 2019, a bipartisan bill which would establish a national commission to study the problem of solitary confinement and recommend national standards for reducing its use.

The one major disappointment came from New York, where the widely-supported HALT Solitary Bill was never brought to a vote after legislative leaders cut a deal with New York Governor Cuomo to let the prison administrators write their own reform policies. Those proposed rules have already been widely panned as woefully inadequate to stop the torture of solitary in New York State. Despite these setbacks, advocates in New York continue to push for passage of HALT and the implementation of real reform in the state, including a 15-day limit on solitary confinement that conforms with the international human rights standards set forth in the United Nations Standard Minimum Rules on the Treatment of Prisoners, now known as the Mandela Rules. If HALT passes in 2020, New York will be the first state in the nation to incorporate the Mandela Rules into its laws.

Advocates across the country are now gearing up to introduce more legislation to Stop Solitary and to ensure that the significant reforms passed in 2019 are actually implemented by corrections institutions as the laws require. State by state and community by community, solitary survivors, civil rights advocates, faith leaders, medical professionals, politicians, and interested members of the public are joining together to bring an end to the torture of solitary confinement in the United States. Much has changed since President Obama spoke of “our common humanity” in 2016, but that humanity remains the same. It demands that we end solitary confinement once and for all – to the protect the people it harms and the communities they will return to, but also so we can be the type of country we aspire to be.

Part of an end of year wrap-up series. Read more:

[Under Attack by Trump, Immigrant Justice is Advancing in the States](#)

[In 2019, We Fought Across the Country to Dismantle Mass Incarceration. We won on Multiple Fronts](#)

[The Battle for Abortion Access is in the States](#)

[The 2020 Election Promises Record Turnout](#)

Addendum A

- 1) Nebraska law intends to protect “vulnerable populations” in correctional facilities. The law allows for “vulnerable populations” to be assigned to immediate segregation to protect himself, herself, staff, other inmates, or other vulnerable populations waiting classification.
- 2) New Mexico banned anything in a locked room for more than 22 hours or more without daily meaningful sustained human interactions. This doesn’t apply to the first 5 days in custody. Jail administrators can authorize no more than 48 hours of room time.
- 3) Arkansas law states that people shall not be placed in punitive isolation or solitary confinement as a disciplinary measure for more than 24 hrs. Placement must be due to physical or sexual assault or conduct that poses imminent threat to others in the facility. A “jail administrator” authorizes anything over 24 hours.