

More States Need to Limit Solitary Confinement, Which Doesn't Work

By Mark Soler and Anders Jacobson | September 12, 2018



The [National Council of Juvenile and Family Court Judges](http://www.ncjfcj.org/) (NCJFCJ) approved a resolution in 2016 to limit the use of solitary for young people, urging judges to take leadership positions in the effort. We recently presented to NCJFCJ's annual conference seeking to highlight the role that judges can and should play in ending solitary. We presented recent reforms in Colorado as proof that success can be achieved.

Solitary confinement — also known as room confinement, isolation, segregation, separation, seclusion and restricted housing — is the involuntary restriction of a youth alone in a cell, room or other area, for any reason other than as a temporary response to behavior that threatens immediate harm to the youth, other youth or staff. Temporary confinement of a youth to their room when they are out of control can be necessary and appropriate, but the youth should be released from their room when they calm down so they can return to regular programming.



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The dangers of solitary are well-known: psychological harm such as anxiety, depression, paranoia and psychosis; retraumatization of youth previously victimized; increased risk of suicide and self-harm; exacerbation of existing mental illness; disruptions of normal social interactions; and lack of education, mental health and substance abuse services.

Most rooms used for solitary confinement would fit inside a parking space: Parking spaces are at least 16 feet by 9 feet (144 square feet), while most confinement rooms measure 8 feet by 10 feet (80 square feet).

There is no research showing that solitary confinement works to reduce problem behaviors in a juvenile facility, yet isolation is common. A 2010 survey published by the U.S. Department of Justice found that more than 35 percent of incarcerated youth reported being held in solitary for some period of time. Of those youth, 87 percent reported being held longer than two hours, and 55 percent reported being held in solitary for longer than 24 hours.

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For judges, solitary is often an invisible problem; room confinement is generally not mentioned in juvenile court proceedings. Youth are reluctant to bring up the subject, even if they have been held for long periods of time, because they fear retaliation. Many judges don't visit the juvenile facilities where they send hundreds or even thousands of youth. Even when judges do visit juvenile facilities, they're often not sure what to look for in terms of use of solitary.

Progress in some states

Solitary confinement has been in the news a lot during the past few years. Most people have heard of Kalief Browder, the 16-year-old boy who was arrested in New York City for allegedly stealing a backpack and then spent three years in the notorious Rikers Island jail, much of it in solitary. When the prosecution finally dismissed the charges for lack of evidence and Kalief was released, he committed suicide a year later. Kalief's story, and others documenting the abusive use of room confinement, have been covered by major newspapers, magazines, NPR and other media outlets.



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There have been major developments in efforts to limit and end solitary confinement for kids. Under President Barack Obama, the Department of Justice set limits on the use of solitary in federal facilities, with the directive that youth under 18 years of age should never be held in solitary. President Obama himself published an [op-ed](https://www.washingtonpost.com/opinions/barack-obama-why-we-must-rethink-solitary-confinement/2016/01/25/29a361f2-c384-11e5-8965-0607e0e265ce_story.html) (https://www.washingtonpost.com/opinions/barack-obama-why-we-must-rethink-solitary-confinement/2016/01/25/29a361f2-c384-11e5-8965-0607e0e265ce_story.html) on solitary in The Washington Post, referring specifically to Kalief Browder.

New legislation has been passed in California, Colorado, Nebraska, New Jersey, Oregon, Seattle and Washington, D.C. to limit the use of solitary for young people. Federal courts in New York, Tennessee and Wisconsin have entered court orders limiting the use of solitary. Standards for conditions and practices in juvenile facilities have been developed by the [Annie E. Casey Foundation](https://www.aecf.org/) (<https://www.aecf.org/>) and the Performance-based Standards division of the [Council of Juvenile Correctional Administrators](http://cjca.net/) (<http://cjca.net/>).

One major development has been the creation of [Stop Solitary for Kids](http://www.stopsolitaryforkids.org/) (<http://www.stopsolitaryforkids.org/>), a focused effort to end solitary for young people in the United States. The effort is a partnership of the [Center for Children's Law and Policy](http://www.cclp.org/) (<http://www.cclp.org/>), the Council of Juvenile Correctional Administrators, the [Center for Juvenile Justice Reform](http://cjjr.georgetown.edu/) (<http://cjjr.georgetown.edu/>) at Georgetown University and the [Justice Policy Institute](http://www.justicepolicy.org/) (<http://www.justicepolicy.org/>). Stop Solitary for Kids maintains a comprehensive website with new reports, research, legislation, court decisions and other state and local reforms. Stop Solitary is also developing an instrument, the Room Confinement Assessment Tool (RCAT), to help facility superintendents and agency directors "red flag" policies and practices that enable solitary to continue.

What works

From past efforts in multiple jurisdictions, we can identify strategies that work to reduce the use of solitary: establishing clear limits in policy and practice on the use of solitary, providing adequate numbers of staff without requiring staff to do double shifts, having a sufficient number of mental health clinicians to help individual youth with behavior problems, providing engaging programming throughout the day and evening for youth in the facility, developing an effective behavior management system and creating a positive culture and environment in the facility.

Judges can support these strategies by visiting their local juvenile detention facility, visiting state commitment facilities they commit young people to, requesting data on the use of room confinement in the facilities, reviewing relevant policies at the facility and asking youth at the facilities about their experiences in solitary.

Colorado is an example of a state that has made significant progress in reducing the use of room confinement in juvenile facilities. The state has made a strong effort to move away from a punitive, correctional culture in its facilities and toward a trauma-responsive environment.

In February 2017, the Colorado Child Safety Commission issued a report, "[Bound & Broken](http://static.aclu-co.org/wp-content/uploads/2017/03/Bound-and-Broken-report-Feb17-complete.pdf)" (<http://static.aclu-co.org/wp-content/uploads/2017/03/Bound-and-Broken-report-Feb17-complete.pdf>): How DYC's Culture of Violence is Hurting Colorado Kids and What To Do About It," which documented physical abuse, degrading restraints, isolation and verbal degradation by staff against youth at Division of Youth Corrections facilities.

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A year later, with a new director, the Division had changed course, spurred by the “Bound & Broken” report and working to comply with a new state law that put restrictions on the use of solitary. The director of the Division of Youth Services banned pressure-point pain compliance, offensive strikes by staff, strip searches and the use of the “Wrap,” a full-body straightjacket.

He and his staff set out to reduce the use of isolation, using the strategies listed above that have proved effective. They worked closely with unit staff to hear their concerns about the reforms. They declared a goal of creating healthy environments as demonstrated through prosocial, safe and nonviolent interactions. They changed the name of the agency to the Division of Youth Services to signal their new approach. They brought trauma-responsive practices to the state facilities. DYCS also built “relaxation rooms” to replace seclusion rooms. The new rooms provide youth an opportunity to calm down in a more normal environment. They have carpeting, chairs and other furniture, wall decorations and stuffed animals.

The results have been dramatic. Youth-on-staff assaults in the facilities are down 22 percent from three years ago. The use of seclusion has decreased by 68 percent from October 2016 (302 incidents) through July 2018 (97 incidents). The average time spent in seclusion has averaged under an hour for nearly two years (23 months; September 2016 through July 2018). In July 2018, the average time spent in seclusion was 39 minutes. To add context, the national field average is 4.43 hours for detained youth and 10.95 hours for committed youth. There were no incidents of seclusion over four hours in 2017, and only three in 2018 through July.

The change in culture at DYCS took considerable strategic planning, skill, unwavering support for the effort, and leadership across the agency. The results clearly show the value of the investment and a path for other jurisdictions to take.

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