

THE USE OF SEGREGATION IN VIRGINIA'S JUVENILE DETENTION HOMES AND CORRECTIONAL CENTERS

STUDY PLAN

Study Mandate

- During the 2016 General Assembly Session, Senator Favola introduced Senate Bill 215. The substitute version of SB 215 requires the Board of Juvenile Justice to promulgate regulations on the use of room segregation in juvenile detention homes and juvenile correctional facilities that (i) include relevant definitions, criteria for use of room segregation, frequency of required room checks, training requirements for staff, and follow-up requirements after using room segregation; (ii) allow the use of room segregation only when other less restrictive options have been exhausted and for certain purposes; (iii) allow the use of room segregation only for the minimum amount of time required to address the resident's behavior; (iv) provide to the resident a means of communication with staff during room segregation; (v) specify that if a resident in room segregation exhibits self-injurious behavior, when and under what conditions staff shall consult with a mental health professional; and (vi) detail the circumstances under which the director of the juvenile detention home or juvenile correctional facility shall develop a plan for improved behavioral outcomes for the resident.
- The House Courts of Justice Committee reviewed this legislation and it was laid on the table. The Commission on Youth received a letter from the Chair of the House Courts of Justice Committee requesting a review of the bill and the concept it addresses and to make recommendations prior to the 2017 General Assembly Session.

Identified Issues

- The circumstances that lead to segregation include threat or actual physical abuse of staff or peers, verbal abuse of staff or peers, failure to follow program rules, or inappropriate behavior including gang activity. Segregation may also be used to protect residents who are likely to be exploited or victimized by others.
- Recent studies have shown that segregating prisoners does not reduce violence and likely increases recidivism. Additionally, experts have increasingly stated that lack of human contact in solitary confinement causes psychological and developmental harm to juveniles.
- Room segregation is a permitted practice in Virginia's juvenile detention homes and correctional facilities. Under the Virginia Administrative Code regulations governing room confinement and isolation and administrative segregation are laid out separately for correctional centers and detention centers in 6 VAC 35-71-1140 – 1160 and 6 VAC 35-101-1100 – 1110 respectively.
- Current Virginia regulations for room confinement and isolation for juvenile correctional centers indicate that staff must visually check on a resident who is confined to a room at least every 30 minutes, and a resident must be allowed one hour of outside physical exercise each day. Also, if confinement extends more than 72 hours, then the confinement and steps being taken or planned to resolve the situation shall be immediately reported to the department staff, in a position above the level of superintendent, and room confinement during isolation shall not exceed five consecutive days.
- The regulations for room confinement and isolation for juvenile detention centers are similar to the above regulations. Staff must check on the resident visually at least every 30 minutes and at least every 15 minutes if the resident is on suicide watch, and a resident must be allowed one hour of outside physical exercise each day. Also, if confinement extends more

than 72 hours, then the confinement and steps being taken or planned to resolve the situation shall be immediately reported to the director, and room confinement shall not exceed five consecutive days except when ordered by a medical provider.

- Nine states have passed laws or have regulations that limit or prohibit the use of solitary confinement for youth in detention facilities. Some of these states' rules differentiate between solitary confinement versus seclusion, while other states focus on creating ombudsman or monitoring programs to assist youth. Finally, one state has enacted legislation that requires in-depth licensing of juvenile detention facilities.
- The Juvenile Detention Alternatives Initiative (JDAI) released revised juvenile detention facility standards in June 2014 prohibiting "the use of room confinement for discipline, punishment, administrative convenience, retaliation, staffing shortages, or reasons other than as a temporary response to behavior that threatens immediate harm to a youth or others."
- In January 2016, the U.S. Department of Justice published a report and recommendation regarding the use of restrictive housing in the criminal justice system. The President adopted the recommendation in this report calling on the Federal Bureau of Prisons to end the practice of placing juveniles in restrictive housing.

Study Activities

- Conduct extensive background and literature reviews
 - National Conference of State Legislatures (NCSL)
 - Annie E. Casey Juvenile Detention Alternatives Initiative (JDAI)
 - Association of State Correctional Administrators (ASCA)
 - American Correctional Association (ACA)
 - National Commission on Correctional Health Care (NCCHC) standards
 - Council of Juvenile Correctional Administrators (CJCA)
 - Best practices in juvenile resident room segregation
 - Other states' statutes, regulations, studies, and activities
- Research and review federal law and policy
 - Adopted recommendations of the Department of Justice review of solitary confinement
 - *Sentencing Reform and Corrections Act of 2015* (proposed legislation)
 - Review judicial case law
- Review and analyze Virginia laws, policies, and procedures
 - Juvenile detention homes and correctional facilities policies and practices
 - Juvenile detention homes and correctional facilities regulations
- Monitor regulatory process of the Board of Juvenile Justice – Virginia Department of Juvenile Justice
 - Juvenile correctional centers
 - Secure juvenile detention centers
- Develop recommendations
 - Synthesize findings
 - Develop recommendations
- Solicit feedback to recommendations
- Refine findings and recommendations
- Present findings and recommendations to the Commission on Youth
- Prepare final report