

FACT SHEET ON JJPOC ISSUES REGARDING CONDITIONS OF CONFINEMENT

ISSUE #1. Mandated Reporting of Child Abuse and Neglect in Facilities Housing Youth

- A. The Center for Children Law and Policy provided the following information to TYJI on mandated reporting by DOC personnel.
- The federal Department of Health and Human Services (DHHS) released a publication that summarizes mandated reporting laws and the individuals required to report. Last version released August 2015 indicated 6 states that require mandated reporting.
 - The 6 states are Alaska, Illinois, Kansas, Minnesota, New York, and Washington
 - It should be noted that this may be undercounted as correctional officers may fall within “other job classifications “in some states; and in some states, other executive agencies are responsible for the housing of youth, even those transferred from Juvenile Courts.
- B. The Prison Rape Elimination Act (PREA) established the National Standards to Prevent, Detect, and Respond to Prison Rape which include standards for adolescent offender facilities.

In such facilities, the standards require all staff*, volunteers, and contractors to immediately report: (1) any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not the facility is part of the agency, (2) retaliation against inmates, AO's, or staff who reported such an incident, and (3) any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation

- (*)All reference to staff shall also include volunteers and contractors.

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ISSUE #2. Use of Solitary Confinement in Facilities Housing Youth

A. In December 2018, Congress passed the First Step Act (FSA) and the reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP). Both are now law and both address the issue of solitary confinement.

The FSA adopted the recommendations of justice and mental health advocates, the Annie E. Casey Foundation's Juvenile Detention Alternative Initiative (JDAI) Facility Assessment Standards, and the Stop Solitary for Kids campaign. **The FSA prohibits federal facilities from using solitary confinement as punishment and permits the practice only when youth behavior poses a risk of immediate physical harm that cannot otherwise be deescalated.**

The FSA requires that youth must be released from solitary confinement as soon as they are calm and always within three hours.

B. **The JJDP incentivizes states to implement similar reforms. The Act requires state data on restraints and isolation and requires states to describe their strategies to reduce isolation, and requires federal training and technical assistance to support these goals.** Critically, the JJDP prohibits states from holding youth in adult jails, except in narrow circumstances.

C. **The Council of Juvenile Correctional Administrators (CJCA) believes that isolating or confining a youth in his/her room should be used only to protect the youth from harming him/herself or others and if used, should be for a short period and supervised.**

Their "Toolkit" used for training states: The use of isolation should be a last resort only after verbal de-escalation techniques are employed to defuse a situation; 2. All staff should be trained in use of Isolation policy; 3. Isolation may not be used as punishment; 4. Staff must request permission to use room confinement from higher managers in a facility; 5. Residents on 'suicide watch' may never be placed in isolation; 6. Any use of isolation beyond 15-minutes must be recorded in incident reports;

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7. Duration of isolation must be recorded; 8. Medical and Mental Health staff should be included in the intervention; and 9. Use of isolation report should be completed and reviewed at program and higher administrative levels.
- D. CJCA believes that all jurisdictions should have a written policy that limits the use of isolation to situations involving a serious threat by a youth to harm oneself or others, the authority that must approve its use, for what duration of time, appropriate and adequate staff to monitor the youth with appropriate follow up and review.
- E. The opposition to reducing the use of isolation comes most vocally from staff and unions. They argue that restricting or eliminating the practice puts staff in danger and facility security at risk; it would remove a tool from their tool belt of sanctions and the youths would run the facilities. There is no research showing any of those reasons to be true.

ISSUE #3: Use of Chemical Agents in Facilities Housing Youth

The Juvenile Justice Information Exchange is a publication covering juvenile justice and related issues nationally. It indicates that as of 2018 there were only six (6) states that allowed juvenile correctional officers to carry pepper spray.

Thirty-five (35) states have banned pepper spray in juvenile facilities.

Chemical agents are already prohibited in Juvenile Detention in CT.

A fact sheet regarding the use of chemical agents on juveniles authored by the Center for Children's Law and Policy ("CCLP") in 2012 recommends a prohibition on the use of chemical agents on children due to potential health risks and the potential for misuse by staff.

The CCLP cites research published in the British Medical Journal which noted the ill effects of chemical agents in confined spaces and areas with poor ventilation.

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The CCLP identified several states that have taken action to prohibit chemical agent use on juveniles. (<http://www.cclp.org/wp-content/uploads/2016/06/Fact-Sheet-Chemical-Agents-Final-5-14-12.pdf>)

Louisiana: The Louisiana Office of Juvenile Justice barred chemical agents in its facilities in 2007.²⁸ In 2012, the state's Department of Children and Family Services promulgated standards prohibiting the use of use of "any chemical restraint" in local juvenile detention facilities.²⁹

Florida: In 2006, the state legislature required the Department of Juvenile Justice to adopt a policy that "[p]rohibit[ed] the use of aerosol or chemical agents, including, but not limited to, oleoresin capsicum spray and ammonia capsules, on a youth unless required for medical treatment of the youth by a licensed medical professional."³⁰

New Jersey: In 2005, the state amended its administrative code to clarify that the use of "chemical and/or natural agents, such as mace, pepper spray, or other similar agents" is not allowed in juvenile detention facilities.³¹

New Hampshire: In 2010, New Hampshire passed a statute prohibiting "the intentional release of noxious, toxic, caustic, or otherwise unpleasant substances near a child for the purpose of controlling or modifying the behavior of or punishing the child" in a broad range of settings, including schools, group homes, shelters, detention centers, and commitment facilities.³²

Wisconsin: In 2010, the state's Department of Corrections promulgated regulations prohibiting the use of chemical agents for disciplinary purposes in juvenile detention facilities.³³

Kansas: State regulations require that detention centers have policies and practices that "ensure that chemical agents are not used by center personnel."³⁴

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The complete bulletin from the CCLP can be found at:

<http://www.cclp.org/wp-content/uploads/2016/06/Fact-Sheet-Chemical-Agents-Final-5-14-12.pdf>