

San Diego CityBeat

Wednesday, February 4, 2015

Legislation seeks to end isolation in juvenile facilities

Part of it comes down to the meaning of ‘confinement’

By [Kelly Davis](#)



Illustration by Lindsey Voltoline

Ask probation officials if juvenile-detention facilities use solitary confinement and you'll likely get a "no."

That might be because you're using the wrong words. In San Diego County, for instance, the oversight body that inspects the county's seven juvenile-detention facilities has been told by probation officials that confinement is not used, according to recent inspection reports. But [a complaint filed last July](#) with the U.S. Department of Justice's Civil Rights Division shows otherwise.

Youth Law Center (YLC), the San Francisco legal-advocacy nonprofit that filed the complaint, initially set out to investigate the excessive use of pepper spray in San Diego County's juvenile-detention facilities. But incident reports also revealed the routine use of solitary confinement—

usually for two, three or four days—even on youth with mental illness and suicidal intentions, and that pepper-spray use often went hand-in-hand with confinement.

“In some cases, room confinement is imposed as discipline based on youth’s response to staff’s attempts to remove their clothing,” the complaint says, referring to the strip-searches conducted on juveniles who express a desire to harm themselves.

Minors placed on room confinement are shackled if they need to leave their rooms, the complaint notes, even during shower time. There’s no requirement that confined youth receive educational instruction, and it’s not clear whether they receive mental-health services. One young girl was already on suicide watch when she kicked a staff member in the leg and spit on another. She was given 72 hours of room confinement.

“The nurse who visited her after the incident noted that the minor was rocking back and forth with her arms folded and crying,” according to the complaint.

Last month, state Sen. Mark Leno introduced [SB 124](#), legislation that would define solitary confinement in state and county juvenile-corrections facilities and establish standards for how it’s used. The bill would forbid the use of room confinement except in instances where a juvenile “poses an immediate and substantial risk of harm to others or the security of the facility” and less-restrictive options haven’t worked. Even then, the juvenile can’t be confined for longer than four hours, and the bill would ban a facility from isolating juveniles who are mentally ill or expressing a desire for self harm.

Jennifer Kim, policy director at the Ella Baker Center for Human Rights in Oakland, helped write the legislation and says that nailing down the definition of what constitutes solitary confinement was an important component of the bill.

“Different counties and even the state call it different things,” she says. “So, one of the aims of the bill is to really provide a uniform definition that anytime a young person is placed in a locked cell in isolation, with limited contact from guards and other correctional staff, that’s solitary confinement. We don’t want different juvenile facilities to hide behind these terms that they create and then simply say that, ‘We don’t have solitary because we don’t call it that.’”

If you were to look at facility-inspection reports from San Diego County’s Juvenile Justice Commission (JJC), a court-appointed oversight body, covering 2012 and 2013—the same years YLC examined for its investigation—you’d read that youth-detention facilities here don’t use solitary confinement. The form used by JJC inspection teams includes a section with the heading “Confinement” and a series of questions asking whether there are written policies “to ensure that solitary confinement is used only when necessary” and “only as long as necessary” as well as whether each incidence of its use is documented.

For each of those questions on [the inspection report](#) for the Kearny Mesa Juvenile Detention Facility, the county’s largest, “N/A” is checked, and there’s a note at the bottom: “Solitary confinement is not used at this facility.”

Asked about the inconsistency between Youth Law Center's finding and the inspection reports, Kathleen Edward, chair of the JJC, wrote in an email to *CityBeat* that the commission plans to change the wording on its inspection forms, "so that we ask the number of administrative segregations and the number of room confinements instead of asking for numbers of solitary confinements."

Edward says the JJC also wants to know under what circumstances a minor is placed in isolation.

"This data," she says, "will allow us to provide appropriate recommendations on this confinement issue."

Edward says the commission has been in contact with YLC about its complaint.

"We take their allegations very seriously," she says.

The county's Probation Department didn't respond to *CityBeat's* questions about practices and policies.

YLC staff attorney Sue Burrell says that things aren't as bad as they were even a decade ago, when juveniles in state-run facilities were kept in solitary confinement for months and denied an education. Court orders stemming from a 2002 lawsuit filed by the Prison Law Office against what was then the California Youth Authority (now called the Division of Juvenile Justice) put an end to the worst abuses. However, that doesn't mean current practices aren't harmful.

"When juvenile facilities think about solitary confinement, they think of those little metal rooms, like when you go on the Alcatraz tour, or they think of Pelican Bay," Burrell says, "and part of the challenge in trying to reduce solitary confinement is to sort of shine light on the fact that what we're talking about is putting kids all by themselves in a locked room. It's sensory deprivation, really.

"Yes, it's true that we might not have Pelican Bay-level use of solitary for months or years on end, but for young people, being locked in a room by yourself for even a period of a few hours can be very harmful," she says.

The American Academy of Child and Adolescent Psychiatry has publicly opposed solitary confinement for juveniles, and as part of its Juvenile Detention Alternatives Initiative, the Annie E. Casey Foundation has recommended that confinement be limited to four hours and never used as a disciplinary measure. [A 2009 study](#) commissioned by the U.S. Department of Justice on suicide among juvenile detainees found that nearly two-thirds had a history of room confinement and roughly half committed suicide while in solitary confinement.

In November, *CityBeat* [wrote about 16-year-old Rosemary Summers](#), who was found hanging in her room at the Girls Rehabilitation Facility in Kearny Mesa on Sept. 27, 2013. According to records obtained by attorneys representing Summers' parents in a lawsuit against the county, the teen struggled with depression and panic attacks that were especially acute after she was moved into a single room, where staff reported hearing her talking to herself. In one instance, when

Summers refused to return to her room because of severe anxiety, she was punished with 48 hours of room confinement.

Also in Leno's bill are several provisions to strengthen the oversight role of county and regional Juvenile Justice Commissions. For instance, the bill would require that two or more members of a JJC be a parent or guardian of a young person who's been incarcerated. It might seem like a small change in context, but Kim says those are the folks who know best what's happening in detention facilities.

"The way we found out that these egregious practices were happening on a frequent basis is we received phone calls from family members that were alerting us to the fact that their children were in isolation," she says.

Leno's bill is the third try at this legislation. A 2014 bill authored by Sen. Leland Yee was pulled after Yee was arrested on corruption charges. Earlier versions faced strong law-enforcement opposition; a 2012 bill fell one vote short of making it out of the seven-member Senate Public Safety Committee after two Democratic senators joined the committee's two Republicans in opposing it.

"The bill doesn't prevent or ban the use of isolation," Kim says. "We just want some protections, and for [probation departments] to basically keep track of how often they're using it. We're just puzzled as to why there was such a resistance to something we thought would be beneficial to not only the young people, but to just general outcomes in these juvenile facilities.

"We're trying to say that the state and the counties shouldn't be engaged in practices that if a parent were to do at home, they would get arrested," she says. "Your children would be taken away by CPS if you locked up your kid for 23 hours a day and denied them education, denied them physical and emotional contact. So why are we allowing the government to do this?"

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