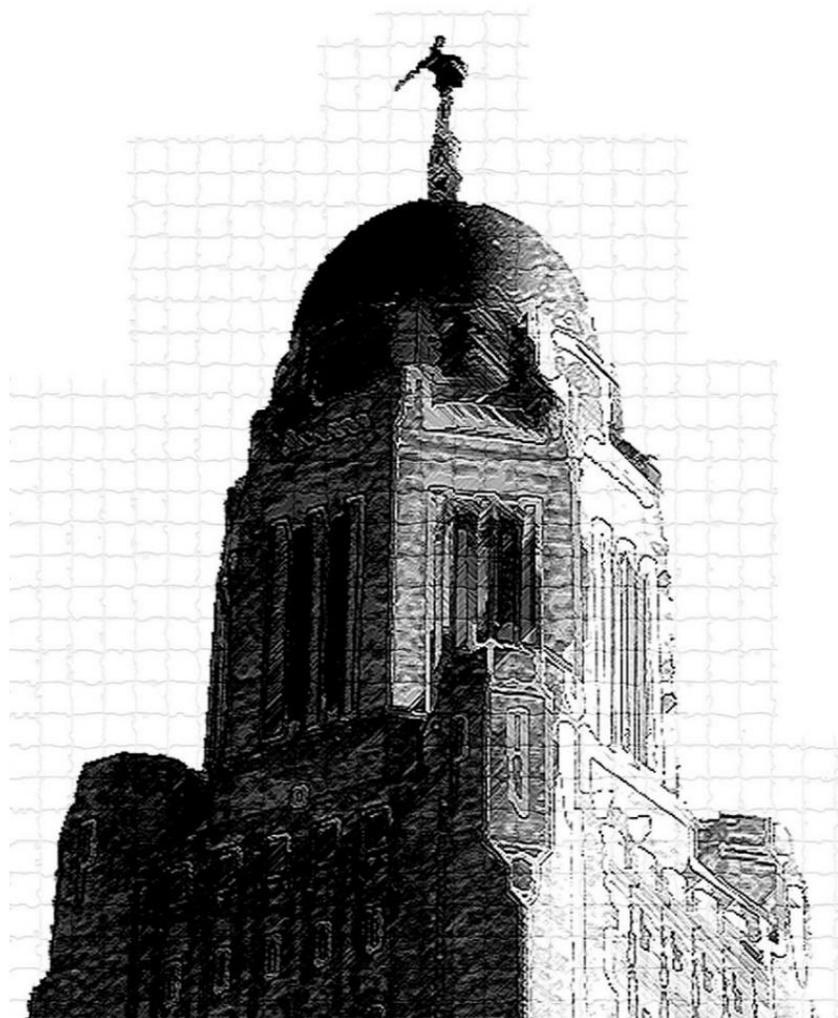


2020-2021
Annual Report

Juvenile Room Confinement in Nebraska



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Office of Inspector General of Nebraska Child Welfare

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Executive Summary

Nebraska law requires a wide variety of facilities that serve children and youth to document information every time a child is placed in room confinement – involuntarily restricted to a room, cell, or other area alone – for an hour or longer. Facilities must submit quarterly reports on their use of room confinement to the Nebraska Legislature.¹ The Office of Inspector General for Nebraska Child Welfare is tasked with analysis of that data, which is then reported to the Legislature on an annual basis.

Many professional and accrediting organizations have developed standards and best practice policies to govern the use of room confinement. Five of those standards are reflected in Nebraska’s juvenile room confinement statutes. This report analyzes the data reported by Nebraska facilities through the lens of those best practices and statutory requirements.

Overall, the data demonstrates that Nebraska facilities have made some effort to reduce the number of juvenile room confinement occurrences within their facilities and decrease the duration of incidents, although facilities continue to rely on it as a method of behavior management. Better adherence to best practices are still necessary. But, there has been progress as indicated by the data reported.

Based on Fiscal Year 2020-2021, the OIG found:

The most frequent reason for confinement was concern for the safety of other juveniles and staff.

Nebraska facilities are making progress in keeping confinements time limited and resolving them in a reasonable amount of time.

The OIG made no new recommendations for this fiscal year. The standards and best practices that lead to a reduction in juvenile room confinement are well known and guidance is available from the experiences of other states in reducing reliance on juvenile room confinement. This has been noted by the OIG in previous reports. Systemic change is not easily accomplished without deliberate actions within facilities. As in the past, the OIG will continue to recommend facility administrators and juvenile justice stakeholders prioritize the need for strategic planning aimed at reducing the use of juvenile room confinement.

Finally, the OIG would like to commend the administrators and staff working in the facilities for their dedication and commitment to the youth they serve.

¹ Neb. Rev. Stat. §83-4,134.01.

Juvenile Room Confinement in Nebraska

In Nebraska, juvenile room confinement is defined as, “[. . .] the involuntary restriction of a juvenile placed alone in a cell, alone in a room, or alone in another area, including a juvenile's own room, except during normal sleeping hours, whether or not such cell, room, or other area is subject to video or other electronic monitoring.”²

It is important to note that juvenile room confinement is not a prohibited practice under Nebraska state law. While there is strong concern for youth placed into juvenile room confinement, it is understood that there is also concern for the safety and security of the facility, staff, and other youth placed there which can drive the use of room confinement. In general, the practice, often considered necessary within facilities to ensure safety, order, and control, must also be balanced with the potential psychological and physical harm it can cause to the individual youth.

Though not prohibited, given the concerns and documented harmful effects of room confinement, Nebraska law places certain limitations on its use, as discussed in more detail below.

In addition, since 2016, Nebraska statute has mandated the collection and reporting of juvenile room confinement data. These documentation and reporting requirements are meant to “establish a system of investigation and performance review in order to provide increased accountability and oversight regarding the use of room confinement for juveniles in a juvenile facility.”³

The OIG is charged with reviewing all the required juvenile room confinement data collected by facilities pursuant to this statute to assess the use of room confinement. Additionally, the OIG must submit an annual report of findings to the Legislature, including any policies and practices that “may lead to decreased use of such confinement.”⁴ As part of the review requirement, the OIG has met with facility administrators to discuss actions, efforts, and procedure related to the issue, and made requests for data clarification, when needed, from individual facilities.

The goal of the law is to reduce the use of juvenile room confinement and incorporate best practices throughout the state’s juvenile facilities.

² Neb. Rev. Stat. §83-4,125 (4).

³ Neb. Rev. Stat. §83-4,134.01.

⁴ Neb. Rev. Stat. §83-4,134.01(2)(d).

Overview

The definition of room confinement within Nebraska statute is broad. As noted above, it includes any time a youth is involuntarily placed alone in a cell, room, or another area, including their own room. This description can apply to a range of practices that facilities label as: rest periods, cooling off periods, time outs, seclusion, room restriction, restrictive housing, segregation, disciplinary confinement, investigative safekeeping, protective custody, medical quarantine, modified operations, and lockdown for the purpose of head count, shift change, staff training, or facility emergencies. What all of these practices have in common is a youth being physically or socially isolated.

The statutory definition does not contain qualifiers based on the intent or the purpose for the use of juvenile room confinement. The behavior or emotional state of the youth is not considered as a factor in whether or not the incident qualifies as room confinement. Compliance with being placed in juvenile room confinement is not an allowable substitute for free will. If a youth complies with the separation, having no other choice in the matter, this is not participating of their own free will.

For example, a youth (given no other options due to facility policy, practice, or scheduling), who is sitting calmly, alone, in a room, unable to leave the room while staff supervise scheduled visitation hours for other youth, is considered to be in room confinement – the youth is involuntarily placed alone.

Similarly, a youth (being defiant and verbally aggressive) who is placed alone, in a room, unable to leave the room due to an act of violence against another youth or staff, is considered to be in room confinement; the youth is involuntarily placed alone.

The statutory definition also does not include the condition of time – an incident of confinement does not have to last a particular amount of time to meet the definition.

Based on Nebraska law, the articulated requisites of juvenile room confinement are — involuntarily and alone.

Designated Juvenile Facilities

While the Nebraska juvenile room confinement definition is inherently broad and could apply to any number of practices within a range of facilities, the Nebraska juvenile room confinement documentation and reporting statutes only apply to a well-defined set of facilities that serve the juvenile population. These facilities specifically fall under the following categories:

- Juvenile detention facilities operated by a political subdivision (county government);
- Residential child-caring agencies acting as an out-of-home placement providing 24-hour care for four or more children and not a foster family home;

- Facilities operated by the Nebraska Department of Corrections that house youth under the age of majority; and,
- Youth Rehabilitation and Treatment Centers operated by the Nebraska Department of Health and Human Services' Office of Juvenile Services.

Juvenile Detention and Staff Secure Detention Facilities operated by individual counties are overseen by the Jail Standards Board of the Nebraska Commission on Law Enforcement and Criminal Justice (Jail Standards Board).

Residential Child-Caring Agencies, often inclusive of mental health and substance abuse treatment centers, are licensed by the Department of Health and Human Services Division of Public Health (Public Health).

Correctional facilities housing juveniles are administered by the Nebraska Department of Correctional Services (Department of Corrections).

Youth Rehabilitation and Treatment Centers (YRTCs) are administered by the Nebraska Department of Health and Human Services (DHHS) Office of Juvenile Services (OJS).

Data Collection

Nebraska Revised Statute §83-4,134 requires facilities to collect the following data when a juvenile has been confined for longer than one hour during a twenty-four-hour period:

- Written approval by a supervisor in the juvenile facility;
- The date of the occurrence;
- Demographic information including race, ethnicity, age, and gender of the juvenile;
- Reason for placement of the juvenile in room confinement;
- An explanation of why less restrictive means were unsuccessful;
- The ultimate duration of the placement in room confinement;
- Facility staffing levels at the time of confinement; and,
- Any incidents of self-harm or suicide committed by the juvenile while he or she was isolated.

Initially, the law only required facilities to collect this data if the incident of confinement lasted an hour or longer. However, in 2020, the juvenile room confinement statute was revised to require documentation and reporting any time the *total* confinement of a youth during a twenty-four-hour period exceeded an hour – meaning if a juvenile was confined for a half hour in three separate incidents during a twenty-four-hour period, those incidents must be taken cumulatively.

The statutory change fundamentally altered when a facility is required to start documenting the required data as incidents are accumulative.

Data Reporting

After collecting the required data, juvenile facilities are then mandated to use the collected information to compile and submit a quarterly report to the Legislature. The reports must redact all personal identifying information but provide individual, not aggregate, data. The reports must include the following information for each individual incident of confinement:

- Length of time each juvenile was in room confinement;
- Demographic information including the race, ethnicity, age, and gender of each juvenile placed in room confinement;
- Facility staffing levels at the time of confinement; and,
- The reason each juvenile was placed in room confinement.

For each incident of juvenile room confinement lasting longer than four hours the report must also include reasons why attempts to return the juvenile to the general population of the juvenile facility were unsuccessful.

The OIG is then tasked with analyzing the reported data. However, the data is provided to the Legislature in a format that does not allow the OIG to sort and analyze the data. As a result, since 2016, the OIG has requested individual facilities provide to the OIG the data reported in a spreadsheet format which then allows the OIG to sort and analyze the data.

Statutory Limits on the Use of Juvenile Room Confinement at Some Facilities

While juvenile room confinement is not prohibited, it is limited in its use in certain facilities, specifically: juvenile detention facilities, both secure and staff secure; facilities operated by the Department of Corrections that house youth under the age of majority; and, YRTC's operated by the Department of Health and Human Services.

In 2020, Nebraska Revised Statute §83-4,134.02 was updated so that these facilities are now required to adhere to the following practices when using juvenile room confinement.

First, a juvenile shall not be placed in room confinement for any of the following reasons:

- As a punishment or a disciplinary sanction;
- As a response to a staffing shortage; or
- As retaliation against the juvenile by staff.

Second, youth placed in any of the above facilities may only be held in room confinement according to the following conditions:

- A juvenile shall not be placed in room confinement unless all other less-restrictive alternatives have been exhausted and the juvenile poses an immediate and substantial risk of harm to self or others.

- A juvenile shall not be held in room confinement longer than the minimum time required to eliminate the substantial and immediate risk of harm to self or others and shall be released from room confinement as soon as the substantial and immediate risk of harm to self or others is resolved;
- A juvenile shall only be held in room confinement for a period that does not compromise or harm the mental or physical health of the juvenile; and
- Any juvenile placed in room confinement shall be released immediately upon regaining sufficient control so as to no longer engage in behavior that threatens substantial and immediate risk of harm to self or others.

Third, requirements for the use of confinement have also been implemented into the law and include:

- All rooms used for room confinement shall have adequate and operating lighting, heating and cooling, and ventilation for the comfort of the juvenile. Rooms shall be clean and resistant to suicide and self-harm. Juveniles in room confinement shall have access to drinking water, toilet facilities, hygiene supplies, and reading materials approved by a licensed mental health professional.
- Juveniles in room confinement shall have the same access as provided to juveniles in the general population of the facility to meals, contact with parents or legal guardians, legal assistance, and access to educational programming.
- Juveniles in room confinement shall have access to appropriate medical and mental health services. Mental health staff shall promptly provide mental health services as needed.
- Juveniles in room confinement shall be continuously monitored by staff of the facility. Continuous monitoring may be accomplished through regular in-person visits to the confined juvenile which may also be supplemented by electronic video monitoring.

The use of consecutive periods of room confinement to avoid the intent and purpose of the section is prohibited.

Oversight

As the OIG has noted in other reports, the documentation and reporting requirements provide transparency and oversight of the use of juvenile room confinement. But, a mechanism for enforcing the requirements of the juvenile room confinement law is lacking or, where available, not utilized.

Statutorily, Public Health and the Jails Standards Board have been given oversight of licensed child-caring facilities and juvenile detention centers. They possess the ability to initiate disciplinary action if the facilities they oversee fail to comply with juvenile room confinement

reporting requirements.⁵ Despite their oversight authority, their involvement in juvenile room confinement oversight has been peripheral. Technically, the facilities under their jurisdiction have complied with the reporting requirements. With the change in the law last year which creates limitation on and requirements for the use of juvenile room confinement, there is a greater need for oversight and enforcement by Public Health and the Jail Standards Board.

Juvenile correctional facilities and YRTCs who are administered by the Department of Corrections and OJS respectively, have no external, independent body with the authority to enforce the reporting requirement as there is with the Jail Standards Board and Public Health. The Department of Corrections and OJS are expected internally to ensure the facilities they administer are complying with juvenile room confinement reporting requirements, as well as adhering to statutorily mandated practices.

There is an expectation that facilities adhere to the juvenile room confinement laws. However, there are no clear guidelines for how the departments tasked with oversight should monitor compliance with statutorily mandated practices relating to juvenile room confinement within these facilities.

The OIG provides a measure of oversight through data analysis. It is important to note that the OIG gathers and reports data that is generally more quantitative, relying on the discretion of the facility to provide contextual information on room confinement to help the Legislature monitor its use. The assessment of juvenile room confinement data by the OIG has not included a review of facilities' internal documentation for the purpose of validation, unannounced onsite inspections, or interviews with juveniles placed at the facilities for the purpose of collecting anecdotal information. As currently prescribed by statute, the OIG's analysis is based on the data as it is submitted by facilities.

⁵ Neb. Rev. Stat. §83-4,134.01 (e).

OIG Analysis of Nebraska Facilities & Best Practices for Juvenile Room Confinement

Many professional and accrediting organizations in the field of juvenile justice, mental health, and education have developed standards and best practice policies to govern the use of room confinement. Five significant standards are reflected in Nebraska's juvenile room confinement statutes. According to Nebraska Revised Statute §83-4,134.01 and §83-4,134.02, juvenile room confinement should be (1) used as a last resort, (2) time limited, (3) recognize the potential physical and psychological harm, (4) closely monitored, and (5) provide youth with access to their own belongings.

The following section analyzes the data reported by facilities through the lens of best practices to glean implementation within Nebraska facilities. The analysis incorporates data submitted by nine juvenile facilities and the five generally accepted best practices present in Nebraska statute.

It should be noted that data reporting in Nebraska is not standardized, nor can the data be externally verified by the OIG. What follows should be considered a broad analysis of how reporting Nebraska facilities performed in regards to utilizing best practices during the fiscal year based on the totality of the data. Individual facility data can be found beginning on page 18.

Of the five best practices contained within in this section, two of these practices – close monitoring and access to personal belongings – could not be assessed by the OIG based on the data. The data facilities report to the Legislature and OIG does not provide relevant information necessary for analysis of these practices.

1. JUVENILE ROOM CONFINEMENT SHOULD BE USED AS A LAST RESORT

Room confinement should be used only in cases of threats to the safety of the individual or other residents and when other less intrusive interventions have failed. Room confinement should not be used for:

- Punishment;
- Retaliation by staff; or,
- A matter of administrative convenience.

Best practice would dictate that the use of juvenile room confinement is appropriate only in situations where a youth's behavior poses an imminent danger of serious physical harm to self or others, and should be discontinued as soon as the imminent danger of harm has dissipated.

Facilities are required to report the reason for the confinement and have the discretion to categorize a situation as they see fit. The OIG relies on the reasons reported by the facilities for its analysis and assumes inappropriate reasons for confinement are not being misconstrued and reported as a threat to safety. As noted, the OIG is unable to verify if juvenile room confinement incidents are only occurring in the cases of imminent danger, or if less intrusive measures have been attempted.

Based on reported data, it would appear that the majority of confinement incidents in all of the facilities are due to threats to the safety of youth and threats to the safety of facility staff. Of the 1,777 total incidents of confinement reported, these two reasons combined, accounted for a total of 1,009 incidents (57%).

The OIG reviewed all reported data concerning reasons for confinement and found few incidents that were reported as related to punishment or disciplinary action. Incidents of confinement associated with administrative convenience, however, were more prevalent.

For example, the Lancaster County detention facility reported that of its 887 incidents, 310 were due to administrative staffing (shift change). The facility also reported that an additional 310 incidents were due to a juvenile being a danger to other residents; meaning the facility utilized juvenile room confinement equally between administrative needs and safety needs.

Each incident reported by Lancaster County due to shift change were under an hour. However, the statutory change made in 2020 requires facilities to document the cumulative time of confinement over a 24-hour period. As a result, the 310 confinements due to staffing at shift change had to be reported by the facility when the individual youth was later confined for another reason(s) resulting in confinement for more than an hour in a 24-hour period. Lancaster County's use of juvenile room confinement for the purpose of accommodating staff meetings, training time, or both have been discussed in previous reports. The OIG acknowledges that the

facility has made strides in reducing the frequency and duration of confinement due to the use of this practice.

2. JUVENILE ROOM CONFINEMENT SHOULD BE TIME-LIMITED

Best practice indicates that confinement should be reserved for incidents in which the youth's behavior has escalated beyond the staff's ability to control the youth by counseling or disciplinary measures *and* presents a risk of injury to the youth or others, as room confinement is a behavioral control measure which may pose medical and psychological danger that increases as the segregation is prolonged. With that in mind, it is recommended that youth should be released from room confinement as soon as they are safely able. Specifically, standards recommend that room confinement of youth should not last longer than 24 hours, with many standards enacting stricter limits of two or four hours,⁶ as most incidents of room confinement can be limited in duration. The use of segregation for a day or more is considered unnecessary in all but a very few cases.⁷

Based on the premise that confinement should not last any longer than 24 hours, the OIG reviewed data submitted between 2016-2021 related to how frequently youth are being released from confinement within 24 hours and found that facilities are showing an improvement at moving youth out of juvenile room confinement in a timelier manner. For Fiscal Year 20-21, five facilities reported ending 80% or more of all confinement incidents within 24 hours. Three of the five facilities are ending 90% or more of incidents within 24 hours. (See page 37 for additional data comparisons).

⁶ The exception on time limits is the American Correctional Association which allows up to five days of disciplinary room confinement.

⁷ National Commission on Correctional Health Care, Standards for Health Services in Juvenile Detention and Confinement Facilities, Standard Y-E-09 (2001), available at <http://www.jdcap.org/SiteCollectionDocuments/Health%20Standards%20for%20Dention.pdf>.

3. JUVENILE ROOM CONFINEMENT PRACTICES SHOULD RECOGNIZE THE POTENTIAL PHYSICAL AND PSYCHIATRIC CONSEQUENCES OF PROLONGED CONFINEMENT

Best practices strive to minimize the use of juvenile room confinement due to the potential consequences that include:

- Increased risk of self-harm and suicidal ideation;
- Greater anxiety, depression, sleep disturbances, paranoia, and aggression;
- Exacerbation of the on-set of pre-existing mental illness and trauma symptoms; and,
- Increased risk of cardiovascular related health problems.⁸

Empirical knowledge has long substantiated the negative impact juvenile room confinement has on a youth's psychological, physical and social development, concluding, that if it must be utilized it should only be used in conjunction with best practices.

Standards and best practice experts have been very clear in articulating that juvenile room confinement should not be used when a youth is potentially suicidal; stating self-harming youth require immediate trauma-informed intervention, not the social isolation associated with room confinement.

This element of best practice is especially concerning when considering the detriment juvenile room confinement contributes to youth with existing mental health conditions and significant trauma histories. As many as 70% of children in the U.S. juvenile justice system already suffer from diagnosable mental health conditions.⁹ At least 75% of youth in the U.S. juvenile justice system have experienced traumatic victimization. More than 90% have reported adverse childhood experiences (ACEs) that include child abuse, violence, and/or serious illness.^{10,11, 12}

Any juvenile facility utilizing juvenile room confinement must recognize the potential psychiatric consequences of prolonged solitary confinement including depression, anxiety, and

⁸ Haney, C. (2001). The Psychological Impact of Incarceration on Post-prison Adjustment. In *Prison to Home: The Effect of Incarceration and Reentry on Children, Families, and Communities*. Retrieved from <http://aspe.hhs.gov/basic-report/psychological-impact-incarceration> on October 24, 2018.

⁹ National Ctr for Mental Health and Juvenile Justice, United States of America, Models for Change, & United States of America. (2013). *Better Solutions for Youth with Mental Health Needs in the Juvenile Justice System*. <http://cfc.ncmhjj.com/wp-content/uploads/2014/01/Whitepaper-Mental-Health-FINAL.pdf>.

¹⁰ Baglivio, M. T., Epps, N., Swartz, K., Sayedul Huq, M., Sheer, A., & Hardt, N. S. (2014). The prevalence of adverse childhood experiences (ACE) in the lives of juvenile offenders. *Journal of Juvenile Justice*, 3(2).

¹¹ Clark, A. (2017). Juvenile Solitary Confinement as a Form of Child Abuse. *The Journal of the American Academy of Psychiatry and the Law* 45. p. 353.

¹² CJCA. (2017). *Trauma informed care in juvenile justice*. Retrieved from <http://cjca.net/wp-content/uploads/2018/02/CJCA-Position-paper-TIC-002.pdf>.

psychosis, and that, due to their developmental vulnerability, juveniles are at particular risk for such adverse reactions.^{13, 14}

Nebraska facilities are required to consider any physical or mental health clinical evaluation results when deciding to place a juvenile in room confinement or to continue room confinement, and report any incidents of self-harm or suicide committed by the juvenile while he or she was isolated. Detention centers, facilities operated by the Department of Corrections, and YRTCs are only allowed to hold a youth in room confinement for a period that does not compromise or harm their mental or physical health. These facilities must also provide juveniles in room confinement access to appropriate medical and mental health services with mental health staff promptly providing mental health services as needed.

The OIG's data review found very few incidents of juvenile confinement that included a concern for a mental health crisis or incidents of self-harm or attempted suicide. While this does not appear to be a large scale problem, additional information voluntarily provided by facilities indicates that facilities have placed youth experiencing a mental health crisis or displaying self-harming behaviors in confinement.

4. YOUTH IN JUVENILE ROOM CONFINEMENT SHOULD BE CLOSELY MONITORED

Best practice calls for youth in room confinement to be checked on by staff frequently while in room confinement. It is also recommended that all instances of room confinement be recorded and reviewed through a quality assurance program at each facility. Additionally, best practice also suggests administrative approval should be sought to use room confinement in certain instances.¹⁵

Nebraska statute mandates that juveniles in room confinement be continuously monitored by staff of the facility. Continuous monitoring may be accomplished through regular in-person visits to the confined juvenile which may also be supplemented by electronic video monitoring, and that confinement longer than one hour during a twenty-four-hour period requires written approval by a supervisor in the juvenile facility.

¹³ American Academy of Child & Adolescent Psychiatry, Policy Statements: Solitary Confinement of Juvenile Offenders (April 2012), available at http://www.aacap.org/cs/root/policy_statements/solitary_confinement_of_juvenile_offenders.

¹⁴ Juvenile Detention Alternatives Initiative, A Guide to Juvenile Detention Reform: Juvenile Detention Facility Assessment 2014 Update, available at <http://www.aecf.org/m/resourcedoc/aecf-juviledetentionfacilityassessment-2014.pdf>.

¹⁵ Roush, (1996).

5. YOUTH IN JUVENILE ROOM CONFINEMENT SHOULD BE PROVIDED ACCESS TO PERSONAL BELONGINGS

Best practice recommends that youth have access to personal hygiene items, books, and programming while on room confinement status.

Nebraska statute specifically outlines that detention centers, facilities operated by the Department of Corrections, and YRTCs provide juveniles placed in room confinement access to the following:

- Confinement rooms with adequate and operating lighting, heating and cooling, and ventilation for the comfort of the juvenile, and rooms that are clean and resistant to suicide and self-harm;
- Access to drinking water, toilet facilities, hygiene supplies, and reading materials approved by a licensed mental health professional; and,
- The same access as provided to juveniles in the general population of the facility to meals, contact with parents or legal guardians, legal assistance, and access to educational programming.

Reducing the Use of Juvenile Room Confinement

A number of nationally recognized organizations with relevant areas of expertise have developed guidance for implementing practices aimed at reducing the use of room confinement in both mental health and correctional settings.

In general, successful efforts to reduce room confinement focus on changing facility culture by way of staff training and education initiatives, as well as changes in facility approaches to behavior management. Nationally there are examples of facilities implementing positive behavioral management techniques and therapeutic models to replace older models that were ineffective or heavily relied on room confinement.¹⁶ A number of reports and case studies have also highlighted the benefit of outside technical assistance to help facilities reduce the use of room confinement.¹⁷

Those that have successfully reduced room confinement have had to implement significant and ongoing changes to facility culture, policy, and practice to find new and different ways to respond to youth behavior and safety concerns.

The National Association of State Mental Health Program Directors (NASMHPD) developed Six Core Strategies for Reducing Seclusion and Restraint Use© and an accompanying planning tool.¹⁸ The Council of Juvenile Correctional Administrators (CJCA) has also developed a toolkit with steps facilities can take to reduce juvenile room confinement.¹⁹

¹⁶ Delaney, K. R. (2006). Evidence Base for Practice: Reduction of Restraint and Seclusion Use during Child and Adolescent Psychiatric Inpatient Treatment. *Worldviews on Evidence-Based Nursing* 3(1), 19–30.

¹⁷ Council of Juvenile Correctional Administrators. “Council of Juvenile Correctional Administrators Toolkit: Reducing the Use of Isolation [Toolkit].” and, LeBel, et. al. (2012).

¹⁸ NASMHPD (2008). *Six Core Strategies for Reducing Seclusion and Restraint*. Available from www.nasmhpd.org/sites/default/files/Consolidated%20Six%20Core%20Strategies%20Document.pdf.

¹⁹ Council of Juvenile Correctional Administrators. Council of Juvenile Administrators Toolkit: Reducing the Use of Isolation [Toolkit].

| NASMHPD Six Core Strategies | CJCA Five Steps to Reduce Isolation |
|--|--|
| <ol style="list-style-type: none"> 1. Leadership towards organizational change; 2. Use of data to inform practice; 3. Workforce development; 4. Use of prevention tools; 5. Inclusion of children & family in various roles within the organization; and, 6. Utilization of debriefing techniques. | <ol style="list-style-type: none"> 1. Adopt a mission statement and philosophy that reflects rehabilitative goals; 2. Develop policies and procedures for use and monitoring of isolation; 3. Identify data to manage, monitor and be accountable for use of isolation; 4. Develop alternative behavior management options and responses; and, 5. Train and develop staff in agency mission, values, standards, goals, policies and procedures. |

In 2016, the Center for Children’s Law and Policy, the Council of Juvenile Correctional Administrators, the Center for Juvenile Justice Reform at Georgetown University, and the Justice Policy Institute initiated the Stop Solitary for Kids campaign with the goal of safely reducing and ultimately ending the practice of solitary confinement for young people, including practices alternately referred to as room confinement, isolation, separation, or seclusion.

Work was done with advocates, lawmakers, state and local government officials, state juvenile justice agency directors, superintendents of state and local juvenile facilities, parents, youth and community leaders resulting in the June 2019 release of *Not in Isolation: How to Reduce Room Confinement While Increasing Safety in Youth Facilities*.²⁰ The purpose of the publication was to provide a practical guide to developing plans to reduce room confinement. The authors noted that what administrators need is information on effective strategies to reduce confinement that include real world examples of how to implement the strategies into practice. The report illustrated that reliance on juvenile room confinement can be impacted. The document can be found in its entirety at: <https://www.stopsolitaryforkids.org/not-in-isolation/>.

Even with decades of research, national standards, organizational best practices, and legislative action, the task of implementation and changing facility culture falls to the individual facilities. Doing so requires commitment to the process, which can be complex and multifaceted, with a clearly articulated plan. The process can be time-consuming, staff-intensive, and bring to surface uncomfortable situations and difficult decisions. These changes can also have financial implications beyond what is currently available to facilities. However, in light of the risks and ill

²⁰ Jennifer Lutz, Mark Soler, and Jeremy Kittredge, *Not In Isolation: How to Reduce Room Confinement While Increasing Safety in Youth Facilities* (Washington, DC: Center for Children’s Law and Policy and the Justice Policy Institute, May 2019).

effects to youth, staff, and facility safety in general, the required commitment, resources and time are worth the investment.

The OIG recognizes that reducing reliance on juvenile room confinement is not an easily obtained goal, nor is it accomplished in isolation. The OIG has made several recommendations in both 2017 and 2020 concerning the need for strategic planning by facilities and the utilization of supportive technical assistance from outside agencies.

Fiscal Year 2020-2021 Data

This annual report examines juvenile room confinement in Nebraska between July 1, 2020 and June 30, 2021 (Fiscal Year 20-21). The OIG received room confinement data from nine individual facilities comprised of three different types:

- 3 - Correctional Institutions administered by the Nebraska Department of Corrections;
- 2 – Youth Rehabilitation and Treatment Centers administered by OJS; and
- 4 - Juvenile Detention Centers including both Secure Detention Facilities and Staff Secure Detention Facilities operated by independent counties.

Each of the nine facilities indicated that there had been at least one youth in juvenile room confinement with a duration of at least one hour within a 24-hour period during Fiscal Year 20-21.

The Effect of COVID-19 on the Data

Due to the current COVID-19 pandemic, the OIG expected to see an increase in reported incidents of juvenile room confinement due to medical quarantine during the fiscal year. Facilities adhering to the Center for Disease Control recommendations may have quarantined youth displaying symptoms pending the results of a COVID-19 test, or been isolating youth who tested positive for the virus. Depending on the facility's sickbed policies this quarantine and isolation could have represented an involuntary confinement, alone, lasting longer than one hour, thereby meeting the definition of juvenile room confinement and triggering the reporting requirement.

As was reported in the 2018-2019 Juvenile Room Confinement Report, facilities employ a variety of practices related to sickbed and medical quarantine. As a result, the OIG cannot determine if some facilities did not report any incidents of medical quarantine during the pandemic because there truly was no need for a medical quarantine during that time or if the absence of medical quarantine was the result of the facility's own sickbed policies and the facility's interpretation of the law as not requiring such reporting.

To assist in identifying how medical quarantine influenced the use of juvenile room confinement, the OIG separated out the data points for incidents of confinement due to medical quarantine and incidents based on infractions.

For Fiscal Year 20-21 a total of 5,974 incidents of juvenile room confinement related to medical quarantine were reported. These incidents resulted in 51,358 hours of confinement for 286 individual youth. Clearly the pandemic has greatly increased the number of youth being confined and the total hours they are spending in social isolation.

Individual Facility Data

Nebraska Department of Correctional Services (NDCS)

The Nebraska Department of Correctional Services (NDCS or the Department of Corrections) operates facilities that house individuals convicted of crimes in Nebraska’s criminal courts and sentenced to prison terms. While most of its inmates are 19 years of age (the age of majority in Nebraska) or older, some NDCS inmates are considered juveniles. These youth have been tried, convicted, and sentenced to prison terms in adult criminal court, rather than juvenile court which handles the majority of cases against children. NDCS does not report incidents of confinement after a youth has reached their eighteenth birthday. This is different from other facilities that report through the eighteenth year.

Room Confinement at NDCS

NDCS regulations on room confinement are generally applicable across the prison system and contain few provisions specifically related to juvenile inmates. At NDCS facilities, juvenile room confinement practices are generally referred to as immediate segregation and longer-term restrictive housing, both of which fall under restrictive housing guidelines. Under the 72 NAC 1-002, restrictive housing is defined as, “conditions of confinement that provide limited contact with other inmates, strictly controlled movement while out of cell, and out-of-cell time less than 24 hours per week.” Immediate segregation is used in response to behavior that creates a risk to the inmate, others, or the security of the institution for not more than 30 days.²¹ Longer-term restrictive housing is a housing assignment used as a behavior management intervention of over 30 days.²²

Under the NDCS regulations, all restrictive housing “shall be used predominantly as a short-term intervention, in the least restrictive manner possible consistent with institutional safety and security” and “the purpose shall be as a risk-based and needs-based intervention, rather than primarily as a mechanism for punishment or incapacitation.”²³ The use of restrictive housing for inmates under the age of 19 requires approval of the warden within eight hours of placement.²⁴ NDCS policies also allow for a practice called room restriction – when inmates are confined to their room during free time and their privileges are restricted.²⁵ Depending on the circumstances (if the room is shared with one or more other youth), this practice could also constitute juvenile room confinement. While in confinement, youth have access to health services, recreation time, and reading materials.

²¹ 72 NAC 1-002.06.

²² 72 NAC 1-002.07.

²³ 72 NAC 1-004.02.

²⁴ 72 NAC 1-004.03(B) (i).

²⁵ 68 NAC 6-018.

Nebraska Department of Corrections Terminology Summary

| Terminology | Definition | Duration | Citation |
|---|--|--|--|
| Room Restriction | “Room restriction is the status of being restricted from certain privileges normally afforded members of the general inmate population. It does not consist of total separation from the general population and does not constitute disciplinary segregation” | Up to 90 days per offense | 68 NAC 6-018; NCYF O.M. 217.1.1 p. 6-7 |
| Solitary Confinement | “The status of confinement of an inmate in an individual cell with solid, sound-proof doors and which deprives the inmate of all visual and auditory contact with other persons” | “The Nebraska Department of Correctional Services does not utilize solitary confinement” | 72 NAC 1-002.14 |
| Restrictive Housing- Immediate Segregation | “A short-term restrictive housing assignment of not more than 30 days in response to behavior that creates a risk to the inmate, others, or the security of the institution” | 30 days | 72 NAC 1-002.06 |
| Restrictive Housing - Longer Term Restrictive Housing | “Used as a behavior management intervention for inmates whose behavior continues to pose a risk to the safety of themselves or others and includes inmate participation in the development of a plan for transition back to general population or mission based housing” | Longer than 30 days | 72 NAC –002.07 |

The Prison Rape Elimination Act (PREA) requires sight, sound, and physical separation between juvenile inmates (defined as inmates who are younger than 18 years of age) and inmates 18 years and over.²⁶

Of the ten facilities, three were reported by NDCS to have housed juveniles for the fiscal year - Nebraska Correctional Youth Facility (NCYF) in Omaha, the Nebraska Diagnostic & Evaluation Center in Lincoln, and the Nebraska Correctional Center for Women (NCCW) in York.

Nebraska Diagnostic & Evaluation Center (D&E)

The Diagnostic & Evaluation Center is a maximum custody facility that serves a number of functions, including diagnostic evaluations for the purpose of mental health assessment. This is the first time since mandatory juvenile room confinement reporting was implemented in 2016 that the facility has reported an incident. According to Nebraska Department of Corrections data,

²⁶ Prison Rape Elimination Act (PREA) National Standards, 28 C.F.R. § 115.14 (2012).

a 17 year old male was confined in the facility for 667 hours due to the juvenile being a danger to self. Self-harm behaviors included scratching skin, biting self to draw blood, and banging head on wall to draw blood. While in the facility, the youth was placed on suicide watch with 15 minute checks, and daily contact with mental health staff.

Nebraska Correctional Center for Women (NCCW)

The Nebraska Correctional Center for Women houses all female youth for NDCS. The facility usually only houses one or two persons under 18 years of age each year. In Fiscal Year 20-21, NCCW reported one incident of room confinement involving one youth. The incident involved a 17 year old youth confined for 170 hours due to safe keeping on behalf of a county facility.

Nebraska Correctional Youth Facility (NCYF)

NCYF is a facility that specifically houses male offenders who are aged 21 and under. The facility has a total of 128 beds. Between July 2020 and June 2021, the facility served a total of 26 youth who were under the age of 18 years.

As of March 2020, under Nebraska law, any inmates who are aged 18 or younger are considered to be a members of a vulnerable population, and can no longer be placed in restrictive housing.²⁷ This new legislation has required significant changes to the use of restrictive housing for inmates 18 years or younger.

NCYF successfully discontinued the use of Restrictive Housing with the last Longer-Term Restrictive Housing placement in December 2019 and the last Immediate Segregation placement in April 2020. The facility also discontinued the use of Room Restriction as a disciplinary sanction in May 2020 in order to comply with state law.

Confinement incidents that extend past 24 hours are generally a result of “Security lay-in” placement. Security lay-in is used when an inmate is involved in an incident that needs to be evaluated due to a safety or security concern. The Warden or designee must approve the placement and the inmate is secured in their assigned cell with full access to their personal property. Security lay-in placements are reviewed every business day by executive staff to determine whether the juvenile should be removed from the status. Youth 17 years old or younger are allowed a minimum of four hours of out of cell time daily while on security lay-in. Out of cell time is meant to promote positive social interaction in a controlled environment and generally consists of out of cell time on the unit wing, but can also include programming involvement, attending school classes and meetings with other NCYF Intentional Peer Support Specialists (staff).

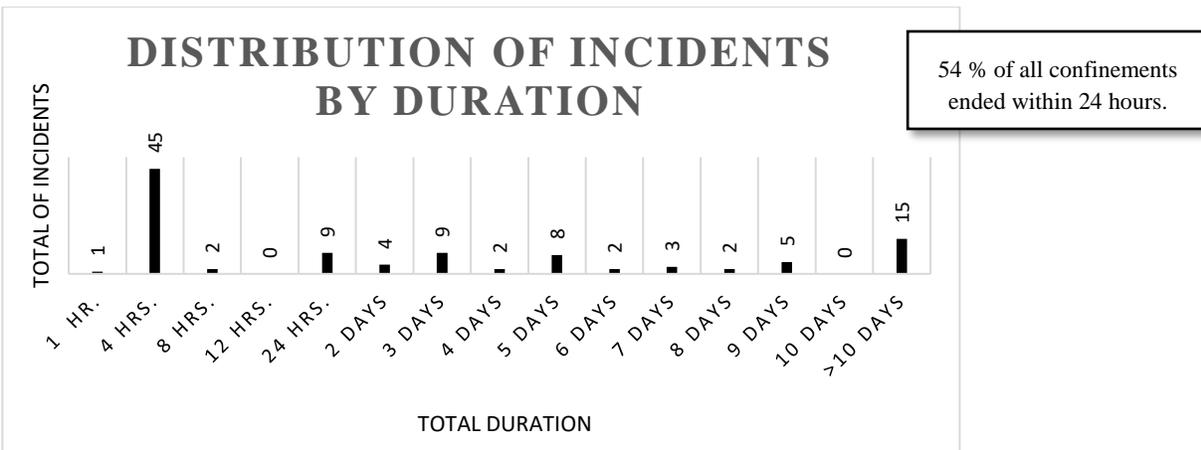
²⁷ Neb. Rev. Stat. §83-173.03(1).

NCYF reports confining 80% of the youth committed to the facility. Of all reported incidents, 43% were terminated within four hours with a slight increase at eight hours to 45%. The median duration of the 106 incidents was 17.5 hours. While the OIG noted that the facility is confining 80% of the juvenile population, the data related to the duration of those confinements is a positive shift in comparison to previous years.

Nebraska Department of Corrections Youth Facility FY 20-21

Total Available Beds: 128 Total Youth Served: 26

| | | | |
|---------------------------|---|--------------|--|
| Confinement Totals | 106 incidents | 13,059 hours | 21 youth |
| | 46 incidents ending within 4 hours | | |
| | 57 incidents ending within 24 hours | | |
| | 49 incidents EXCEEDING 24 HOURS | | 12 youth confined longer than 24 hours |
| Longest Duration | 1,413 hour (59 days) confinement of two 17 yr. old males due to their assault of another youth with a weapon. | | |
| Medical/COVID: | 29 incidents | 8,830 hours | 21 youth |



Reasons for Confinement – Number of Associated Incidents

| | |
|------------------------------------|----|
| Safety: Danger to Others | 28 |
| Safety: Danger to Staff | 19 |
| Admin: Facility Emergency | 13 |
| Safety: Unauthorized area | 13 |
| Admin: Orientation Status | 10 |
| Admin: Facility Count | 5 |
| Admin: Investigative Needs | 5 |
| Other: Please Specify | 5 |
| Safety: Danger from Other(s) | 4 |
| Admin: Facility Modified Operation | 3 |
| Safety: Danger to Self | 1 |

Youth Rehabilitation and Treatment Centers

During Fiscal Year 20-21, OJS operated three YRTCs in Hastings, Kearney, and Lincoln. Each facility serves youth in the juvenile justice system, ages 14 through 18. Every youth at the YRTC is committed there by a court that determines that the youth has already “exhausted all levels of probation supervision and options for community-based services.”²⁸ The YRTC-Hastings campus was not opened until the fourth quarter of the fiscal year and reported no incidents of juvenile room confinement.

Room Confinement at the YRTCs

DHHS rules and regulations authorize the use of room confinement either for reasons of safety and security or as a disciplinary sanction if the youth has violated a facility rule. Regulations distinguish between two different kinds of room confinement — room restriction, which is considered a cooling off period and can last up to an hour, and disciplinary segregation which can last for up to 5 days.²⁹

YRTC Terminology Summary

| Source | Terminology | Definition | Duration | Citation |
|-----------------------|------------------------------|---|--|---|
| NAC | Room Restriction | “The temporary placement of a juvenile within his or her sleeping room for brief cool down period or as an informal sanction for a rule violation” | “cooling off”: 15-60 minutes; Youth cannot be confined for more than 1 day without supervisor review | 401 NAC 1-009; 401 NAC 7-007.02 |
| YRTC Operational Memo | Room Confinement/Segregation | “Confinement of a juvenile in a room as a result of a rule violation and when there is no adequate alternative disposition to regulate the juvenile’s behavior” | Confinements after 72 hours must be approved | AR 302.1 Governing Juvenile Conduct, p. 7 |
| NAC | Disciplinary Segregation | “The confinement of a juvenile to an individual room that is separated from the general population as a sanction for a serious rule violation” | Up to 5 days | 401 NAC 1-009; 401 NAC 7-007.03 |

²⁸ Neb. Rev. Stat. §43-286.

²⁹ 401 NAC 7-007. http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-401/Chapter-7.pdf.

YRTC-Kearney

YRTC-Kearney served a total of 166 male youth and 29 female youth. Thirty-eight percent (38%) of the male youth were confined during the fiscal year. In contrast, 69% of the female youth were confined. The YRTC-Kearney Room Confinement Summary found on page 25 provides details on the use of room confinement for Fiscal Year 20-21. The facility reported terminating about 70% of all incidents (male and female youth) within eight hours and more than 50% of incidents at the four hour mark. The median duration for male youth was three hours and thirty minutes and four hours for female youth.

Disparity between confinement of male and female youth

During the course of data analysis, the OIG observed that specific to the YRTC-Kearney campus, 69% of female youth were confined, while 38% of males were confined. This data reflects the period of time that the female youth were being housed at the Kearney campus after the closure of YRTC-Geneva which resulted in a disruption to the standard practice of utilizing dedicated campuses for male and female youth. This was clearly a major transition for both populations and may be indicative of the challenges the YRTCs faced during that time.

The OIG noted that while females were more likely to be confined, both populations had similar rates in terms of the duration of confinement at four, eight, and 24 hours. The YRTC-Hastings campus was opened during the fourth quarter of the fiscal year. This campus exclusively houses female youth, which may influence the use of juvenile room confinement on both the Kearney and Hasting campuses.

YRTC-Lincoln

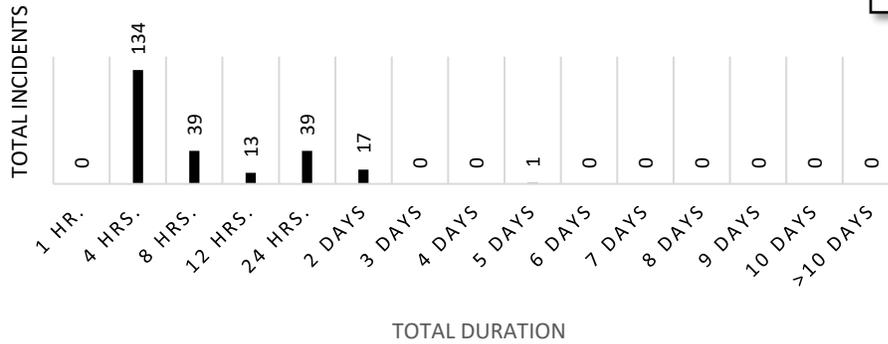
YRTC-Lincoln served 14 male youth and 13 female youth. Seventy-one percent (71%) of the male population was confined while placed at the Lincoln facility, and 77% of the female youth were confined. The YRTC-Lincoln Room Confinement Summary found on page 27 provides details on the use of room confinement. YRTC-Lincoln was created to serve higher acuity youth committed to the YRTC system. The facility reported close duration rates between males and females with 81% of male confinements terminating within 24 hours and 78% of female youth confinements ending by the 24 hour mark. Median duration for the two populations was also similar at three and four hours respectively.

YRTC-Kearney (Males) FY 20-21

Total Available Beds: 140 Total Youth Served: 166

| | | | |
|---------------------------|---|-------------|--|
| Confinement Totals | 243 incidents | 1892 hours | 63 youth |
| | 137 incidents ending within 4 hours | | |
| | 225 incidents ending within 24 hours | | |
| | 18 incidents EXCEEDING 24 HOURS | | 13 youth confined longer than 24 hours |
| Longest Duration | 98 hour confinement of a 14 yr. old male due to the assault of another youth. | | |
| Medical/COVID: | 46 incidents | 3,343 hours | 34 youth |

DISTRIBUTION OF INCIDENTS BY DURATION



93% of confinements ended within 24 hours.

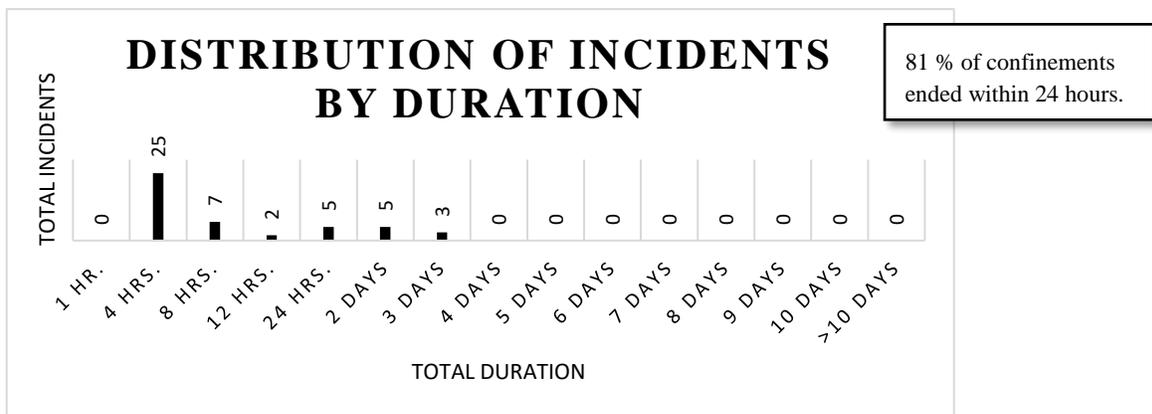
Reasons for Confinement – Number of Associated Incidents

| | |
|--|-----|
| Juvenile is a danger to other residents | 118 |
| Juvenile is a danger to staff | 54 |
| Administrative: Sight/Sound Separation | 17 |
| Juvenile is a danger to other residents; Juvenile is a danger to staff | 12 |
| Juvenile is in danger due to behaviors of others | 11 |
| Escape Risk | 9 |
| Data not provided - cell blank | 8 |
| Juvenile is a danger to staff; Escape Risk | 3 |
| Administrative: Staffing | 3 |
| Administrative: Emergency | 2 |
| Juvenile is a danger to other residents; Administrative: Sight/Sound Separation | 1 |
| Juvenile is a danger to other residents; Juvenile is a danger to self | 1 |
| Juvenile is a danger to other residents; Administrative: Sight/Sound Separation | 1 |
| Juvenile is a danger to other residents; Juvenile is a danger to staff; Juvenile is a danger to self | 1 |
| Juvenile is a danger to self | 1 |
| Juvenile is a danger to staff; Juvenile is a danger to self | 1 |

YRTC-Lincoln (Males) FY 20-21

Total Available Beds: 9 Total Youth Served: 14

| | | | |
|---------------------------|---|-------------|---------------------------------------|
| Confinement Totals | 48 incidents | 665.5 hours | 10 youth |
| | 25 incidents ending within 4 hours | | |
| | 39 incidents ending within 24 hours | | |
| | 9 incidents EXCEEDING 24 HOURS | | 4 youth confined longer than 24 hours |
| Longest Duration | 92 hour confinement of a 17 yr. old male due to assaulting staff. | | |
| Medical/COVID: | 13 incidents | 988.5 hours | 7 youth |



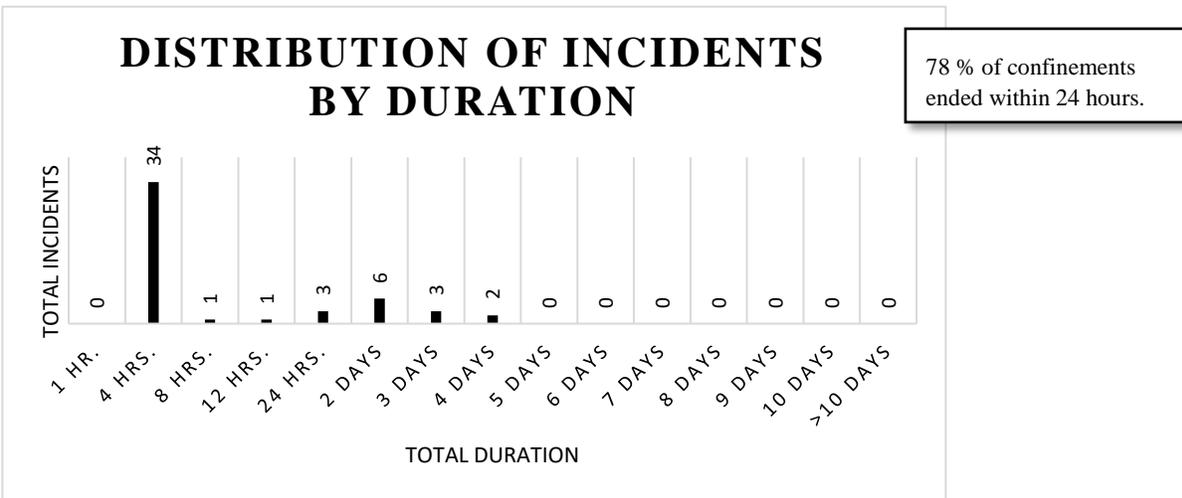
Reasons for Confinement – Number of Associated Incidents

| | |
|--|----|
| Safety: Juvenile is a danger to staff | 23 |
| Safety: Juvenile is a danger to other residents | 10 |
| Administrative: Emergency | 9 |
| Safety: Juvenile is a danger to other residents; Safety: Juvenile is a danger to staff | 2 |
| Safety: Juvenile is a danger to self | 2 |
| Administrative: Sight/Sound Separation | 1 |
| Safety: Juvenile is in danger due to behaviors of others | 1 |

YRTC-Lincoln (Females) FY 20-21

Total Available Beds: 11 **Total Youth Served:** 13

| | | | |
|---------------------------|--|-----------|---------------------------------------|
| Confinement Totals | 50 incidents | 734 hours | 10 youth |
| | 34 incidents ending within 4 hours | | |
| | 39 incidents ending within 24 hours | | |
| | 16 incidents EXCEEDING 24 HOURS | | 6 youth confined longer than 24 hours |
| Longest Duration | 92 hour confinement of a 17 yr. old female due to assaulting staff and self-harming. | | |
| Medical/COVID: | 6 incidents | 483 hours | 3 youth |



Reasons for Confinement – Number of Associated Incidents

| | |
|--|----|
| Safety: Juvenile is a danger to staff | 26 |
| Safety: Juvenile is a danger to other residents | 8 |
| Administrative: Emergency | 7 |
| Safety: Juvenile is a danger to self | 4 |
| Safety: Juvenile is a danger to other residents; Safety: Juvenile is a danger to staff | 3 |
| Safety: Juvenile is a danger to staff; Administrative: Staffing | 1 |
| Safety: Juvenile is a danger to staff; Safety: Juvenile is a danger to self | 1 |

Juvenile Secure and Staff Secure Detention Facilities

Juvenile secure and staff secure detention facilities are residential facilities operated by local governments in Nebraska. There are currently four juvenile secure and staff secure detention facilities in Nebraska – Douglas County Youth Center, Lancaster County Youth Services Center, Northeast Nebraska Juvenile Services Center in Madison County, and the Patrick J. Thomas Juvenile Justice Center in Sarpy County. These facilities primarily serve youth under 18 years old after initial arrests, youth who are sent to detention after probation violations, and youth awaiting placement while on probation.

Room Confinement at Detention Centers

The Nebraska Jail Standards Board has the authority and responsibility to “develop standards for juvenile detention facilities and staff secure juvenile facilities, including, but not limited to, standards for physical facilities, care, programs, and disciplinary procedures, and to develop guidelines pertaining to the operation of such facilities.”³⁰ In addition to creating standards, the Crime Commission is responsible for auditing facilities for compliance and providing technical assistance to facilities.

The standards for Juvenile Detention Facilities were last updated in 1992 and contain a number of provisions about juvenile room confinement. Under the Juvenile Detention Facilities Standards promulgated by the Jail Standards Board, there are at least nine different practices in the regulations that may meet Nebraska’s definition of room confinement.³¹ However, the terms are used inconsistently within regulations and some are undefined.

Detention Standards allow for the use of “room restriction” for up to an hour for minor misbehavior and up to 24 hours for minor rule violations.³² Room restriction is not defined by the standards. They also allow the use of disciplinary confinement for up to seven days for major rules violations.³³ Disciplinary confinement is not specifically defined in the standards, although disciplinary detention is.

Detention Standards require facilities have documentation “of juveniles placed in temporary confinement away from the general population.”³⁴ The regulations also require that any juvenile placed in room confinement must be visually checked every 30 minutes and staff must enter the confinement room at least once per shift to converse with the juvenile and assess their well-

³⁰ Neb. Rev. Stat. §83-4,126(1) (c).

³¹ Segregation, confinement, administrative segregation, disciplinary detention, protective custody, temporary confinement, room restriction, separate confinement, and disciplinary confinement

³² 83 NAC 13-003 and 13-004.

³³ 83 NAC 13-005.

³⁴ 83-NAC 6-006.

being.³⁵ Under the regulations, juveniles in room confinement “shall be afforded living conditions and access to basic programs and services approximating those available to the general resident population, subject to restrictions necessary to ensure the juvenile’s safety or the security of the facility.”³⁶ In general, Detention Standards allow most room confinement practices to be governed by written policies, procedures, and rules of conduct written by the individual facilities.³⁷

Detention Center Terminology Summary

| Terminology | Definition | Duration | Citation |
|---|---|----------------|------------------|
| Segregation: Disciplinary Detention | “Housing for juveniles convicted of serious rule violation” | Up to 7 days | 83 NAC 1-008.96 |
| Segregation: Administrative Segregation | “Housing for juveniles whose continued presence in the general population poses a serious threat to life, property, self, staff, or other inmates” | Not defined | 83 NAC 1-008.96 |
| Segregation: Protective Custody | “Shall mean a status that describes juveniles requesting or requiring protection from others” | Not defined | 83 NAC 1-008.83 |
| Separate Confinement | “Juveniles placed in separate confinement shall be afforded living conditions and access to basic programs and services approximating those available to the general resident population, subject to restrictions necessary to ensure the juvenile's safety or the security of the facility. When services or programs are withheld, written justification shall be provided” | Not defined | 83 NAC 13-007.01 |
| Disciplinary Confinement | “Where the possible sanction of violation of a rule is limitation or deprivation of privileges more than seven (7) days, or the placement in disciplinary confinement not to exceed 7 days except in cases involving violence, the violation shall be treated as a major infraction” | Up to 7 days | 83 NAC 13-005 |
| Disciplinary Confinement | “Where the possible sanction of violation of a rule is limitation or deprivation of privileges more than seven (7) days, or the placement in disciplinary confinement not to exceed 7 days except in cases involving violence, the violation shall be treated as a major infraction” | Up to 7 days | 83 NAC 13-005 |
| Room restriction | “These guidelines may include room restriction of up to sixty (60) minutes to allow juveniles a “cooling off” period. Room restriction for this purpose shall be noted in the shift activity documentation” | Up to one hour | 83 NAC 13-003 |
| Temporary Room Restriction | “Infractions of the rules where informal resolution appears unwarranted and for which the maximum penalty is temporary room restriction (not to exceed 24 hours), deprivation or limitation of privileges for seven (7) days or less” | 1-24 hours | 83 NAC 13-004 |

³⁵ 83-NAC 13-007.02.

³⁶ 83 NAC12-001.

³⁷ 83-NAC13-001 and 13-002.

| | | | |
|---------------------|--|--------------|---|
| Restrictive Housing | “Placement of a juvenile in room or Restrictive Housing Unit to control behavior that is a clear and present threat to the safety of his/herself, other juveniles, staff, or is posing a threat to the security of the facility” | Up to 7 days | Douglas County Youth Center Policy 9.3. p. 6 (2016) |
|---------------------|--|--------------|---|

Douglas County Youth Center (Douglas County)

The Douglas County Youth Center is a secure juvenile detention center in Douglas County. The facility has a total of 144 beds. In Fiscal Year 20-21 the facility served 631 youth.

During the fiscal year the facility reported confining a total of 122 youth, or 19% of their total population. Douglas County is ending incidents of confinement within four hours at a rate of 8% and at a rate of 12% by eight hours, with 68% of incidents extending past 24 hours of confinement. Douglas County reported no incidents of juvenile room confinement due to medical quarantine during the fiscal year. Douglas County Room Confinement Summary found on page 33 provides a summary of data pertaining to the use of room confinement at the facility.

Lancaster County Youth Services Center (Lancaster County)

The Lancaster County Youth Services Center provides secure detention services for juveniles up to the age of 19 years of age. In Fiscal Year 20-21, the facility served a total of 210 youth with a total of 40 available beds.

The OIG noted that the Lancaster County facility reported a high number of confinement incidents for the fiscal year – a total of 887 incidents involving 36% of their total population. However, 94% of the incidents concluded within four hours, 98% concluded in eight hours and the remaining two percent concluded within 24 hours. It was also noted that the median duration for confinement was one hour, the lowest amongst all reporting facilities.

The Lancaster Room Confinement Summary on page 34 presents further information.

Northeast Nebraska Juvenile Services Center (Madison County)

The Northeast Nebraska Juvenile Services Center is located in Madison County. It provides both staff secure and secure detention to juveniles 18 years of age and younger. The facility has a total of 34 beds and served 326 youth in Fiscal Year 20-21.

During the fiscal year Madison County confined the lowest percentage of the total population compared to all other reporting facilities at 8% or 27 youth out of the 326 served. It also ended 86% of all confinements within eight hours with a median duration of two hours.

The Madison Room Confinement Summary found on page 35 presents further information on room confinement at Madison.

Patrick J. Thomas Juvenile Justice Center (Sarpy County)

The Patrick J. Thomas Juvenile Justice Center is a staff-secure detention center located in Sarpy County. Sarpy County serves juveniles aged 13-18 years and is equipped with 30 beds. During Fiscal Year 20-21, the facility served a total of 84 youth. Sarpy County does not have a facility designed for room confinement in the juvenile's sleeping area due to few youth having their own room. Instead he or she is taken to the booking area, where they are physically observed by a staff member at all times.

Sarpy County is the smallest reporting facility both in relationship to available beds and total population served. The facility only confined 12 total youth out of 84 (14%), and in 100% of the instances had the youth back in the general population within 8 hours. The median duration for youth placed at the facility during the fiscal year was two hours and thirty minutes.

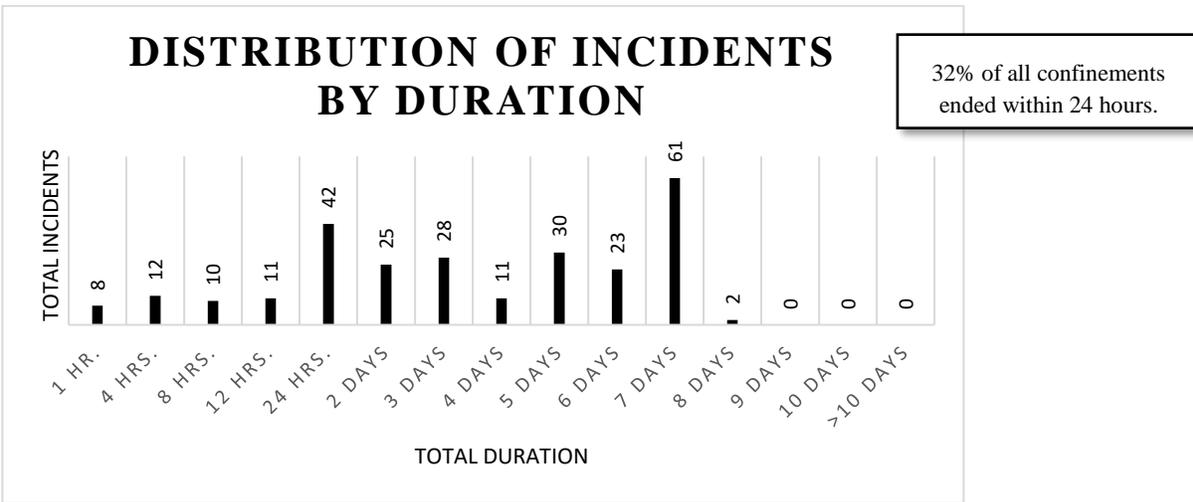
The Sarpy County Room Confinement Summary found on page 36 presents further information on room confinement at the facility.

Douglas County Youth Center FY 20-21

Total Available Beds: 144 Total Youth Served: 631

| | | | |
|---------------------------|--|----------------------------------|---|
| Confinement Totals | 263 incidents | 21,095 hours | 122 youth |
| | 20 | incidents ending within 4 hours | |
| | 83 | incidents ending within 24 hours | |
| | 180 | incidents EXCEEDING 24 HOURS | 104 youth confined longer than 24 hours |
| Longest Duration | 173 hour confinement of a 15 yr. old female due to fighting. | | |

Medical/COVID: None reported



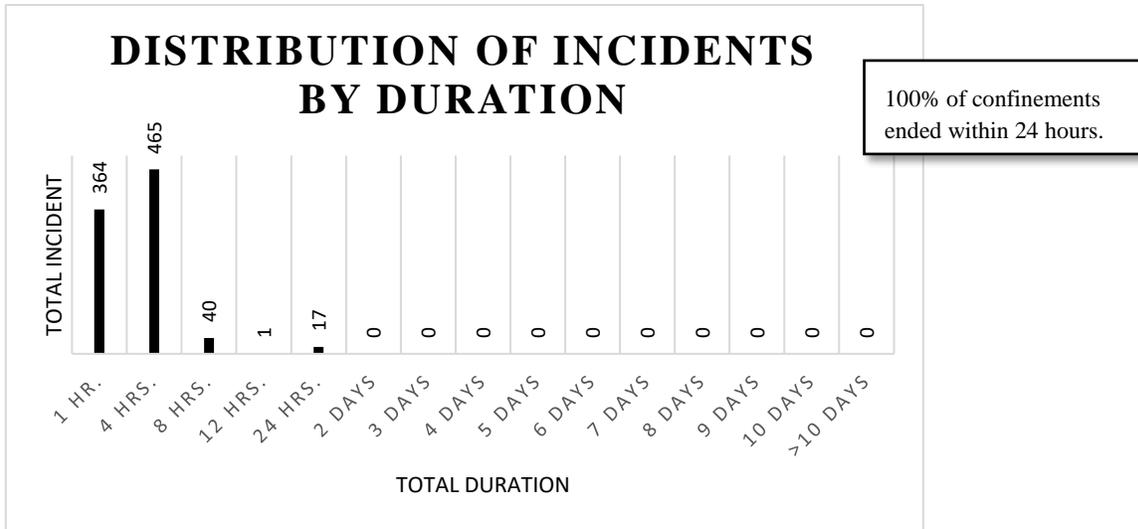
Reasons for Confinement – Number of Associated Incidents

| | |
|--|-----|
| Major Class 1 [Fighting] | 146 |
| Major Class 1 [Assault, Attempted Assault] | 69 |
| Major Class 1 [Assaulting Staff or Volunteer, or Attempt] | 8 |
| Major Class 2 [Intimidating or Threatening Behavior] | 7 |
| Minor [Noncompliance with staff directives] | 5 |
| Major Class 1 [Possession or Manufacture of Drugs or Intoxicants] | 3 |
| Major Class 1 [Assault, Attempted Assault] - Minor Class [Being in Unauthorized Areas] | 2 |
| Major Class 2 [Destruction of Property] | 2 |
| Major Class 2 [Disobeying a Direct Order] - Major Class 2 [Intimidating or Threatening Behavior] | 2 |
| Major Class 2 [Stealing] | 2 |
| Major Class 2 [Tampering with any Internal Communications Equipment] | 2 |
| Minor Class [Being in Unauthorized Areas] | 2 |
| Minor Class [Horesplaying] | 2 |
| Minor Class [Verbal Disrespect] | 2 |
| Major Class 1 [Escape, Attempted Escape] | 1 |
| Major Class 1 [Assault, Attempted Assault], - Major Class 1 [Fighting] | 1 |
| Major Class 1 [Fighting]- Major Class 2 [Intimidating or Threatening Behavior] | 1 |
| Major Class 1 [Possession of Manufacturing of a Weapon] | 1 |
| Major Class 1 [Sexual Activities] | 1 |
| Major Class 1 [Unauthorized Possession of Facility Prescribed Medication] | 1 |
| Major Class 2 [Gang Activity] | 1 |
| Major Class 2 [Gang Activity]- Major Class 2 [Intimidating or Threatening Behavior] | 1 |
| Major Class 2 [Intimidating or Threatening Behavior]- Major Class 2 [Verbally Uncontrolled] | 1 |

Lancaster County Youth Services Center FY 20-21

Total Available Beds: 40 Total Youth Served: 210

| | | | |
|---------------------------|--|--------------|---------------------------------------|
| Confinement Totals | 887 incidents | 1,543 hours | 76 youth |
| | 832 incidents ending within 4 hours | | |
| | 887 incidents ending within 24 hours | | |
| | 0 incidents EXCEEDING 24 HOURS | | 0 youth confined longer than 24 hours |
| Longest Duration | 14 hour confinement of a 17 yr. old male due to refusing to comply with safety practices & procedures while making threats to harm/kill staff and other youth. | | |
| Medical/COVID: | 5,794 incidents | 25,511 hours | 150 youth |



Reasons for Confinement – Number of Associated Incidents

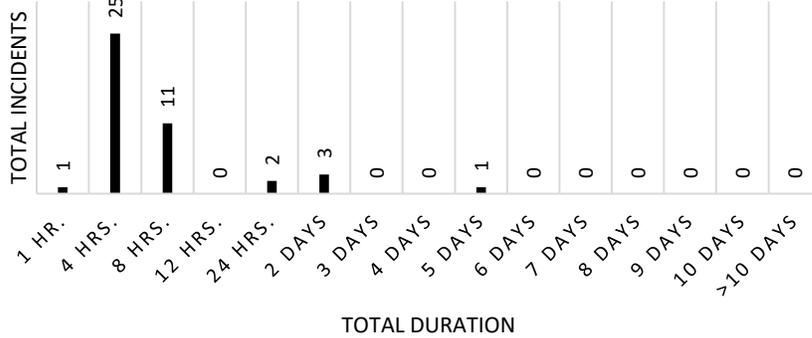
| | |
|--|-----|
| Administrative: Staffing. | 310 |
| Safety: Juvenile is a danger to other residents. | 310 |
| Safety: Juvenile is a danger to staff. | 67 |
| Administrative: Emergency/Weather. | 63 |
| Safety: Juvenile is a danger to other residents., Safety: Juvenile is a danger to staff. | 56 |
| Safety: Juvenile is in danger due to behaviors of others. | 44 |
| Safety: Juvenile is a danger to other residents., Safety: Juvenile is a danger to staff. , Administrative: Staffing. | 9 |
| Safety: Juvenile is a danger to other residents., Safety: Juvenile is in danger due to behaviors of others. | 7 |
| Corrective Action (room time for rule violation). | 5 |
| Safety: Juvenile is a danger to staff. , Corrective Action (room time for rule violation). | 5 |
| Safety: Juvenile is a danger to staff. | 4 |
| Safety: Juvenile is a danger to staff. , Safety: Juvenile is a danger to other residents. | 2 |
| administrative: Staffing., Safety: Juvenile is a danger to staff. | 1 |
| Safety: Juvenile is a danger to other residents., Administrative: Staffing. | 1 |
| Safety: Juvenile is a danger to other residents., Safety: Juvenile is a danger to self. | 1 |
| Safety: Juvenile is a danger to self. | 1 |
| Safety: Juvenile is a danger to self., Corrective Action (room time for rule violation). | 1 |

Northeast Nebraska Juvenile Service Center (Madison Co.) FY 20-21

Total Available Beds: 34 **Total Youth Served:** 326

| | | | |
|---------------------------|--|-------------|---------------------------------------|
| Confinement Totals | 43 incidents | 339 hours | 27 youth |
| | 26 incidents ending within 4 hours | | |
| | 39 incidents ending within 24 hours | | |
| | 4 incidents EXCEEDING 24 HOURS | | 4 youth confined longer than 24 hours |
| Longest Duration | 96.5 hour confinement of a 16 yr. old male due to being a danger to staff. | | |
| Medical/COVID: | 50 incidents | 9,464 hours | 46 youth |

DISTRIBUTION OF INCIDENTS BY DURATION



91% of all confinements ended within 24 hours.

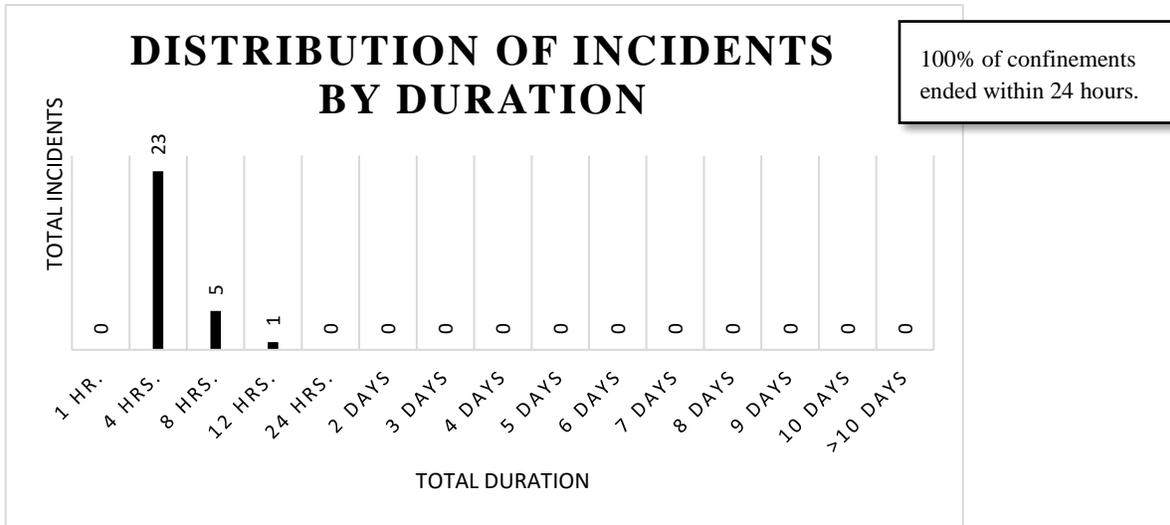
Reasons for Confinement – Number of Associated Incidents

| | |
|---|----|
| Safety: Juvenile is a danger to other residents | 31 |
| Safety: Juvenile is a danger to staff. | 10 |
| Punishment or discipline, Safety: Juvenile is a danger to other residents | 1 |
| Safety: Juvenile is in danger due to behaviors of others | 1 |

Patrick J. Thomas Juvenile Justice Center (Sarpy Co.) FY 20-21

Total Available Beds: 30 Total Youth Served: 84

| | | | |
|---------------------------|---|-----------|---------------------------------------|
| Confinement Totals | 29 incidents | 85 hours | 12 youth |
| | 23 incidents ending within 4 hours | | |
| | 29 incidents ending within 24 hours | | |
| | 0 incidents EXCEEDING 24 HOURS | | 0 youth confined longer than 24 hours |
| Longest Duration | 8 hour and thirty minute confinement of a 16 yr. old male due to physical and verbal threats to staff and others. | | |
| Medical/COVID: | 7 incidents | 490 hours | 6 youth |



Reasons for Confinement – Number of Associated Incidents

| | |
|--------------------------|----|
| Safety: Danger to Others | 23 |
| Safety: Danger to Staff | 5 |
| Escape Risk | 1 |

Performance Based Standards – Facility Data Comparison

Performance Based Standards (PbS), is a program developed by the Council of Juvenile Correctional Administrators (CJCA) to improve conditions of confinement. PbS set national standards that established the highest expectations for facility conditions, services and measures of practice related to the use of juvenile room confinement.³⁸ PbS suggests facilities monitor four outcome measures as a means of monitoring progress towards the reduction of juvenile room confinement practices: the total number of incidents, average or median duration of incidents, percent of cases terminated in four hours or less, and percent of cases terminated in eight hours or less. Below is a comparison of Nebraska Facility data including PbS recommended data points.

FY 20-21 Data Comparison Chart

| | NCYF | YRTC Kearney (Male) | YRTC Kearney (Female) | YRTC Lincoln (Male) | YRTC Lincoln (Female) | Douglas County Detention | Lancaster County Detention | Madison County Detention | Sarpy County Detention |
|--------------------------------------|---------------|------------------------------------|--------------------------------------|------------------------------------|--------------------------------------|---|---|---|---------------------------------------|
| Youth Confined | 81% | 38% | 69% | 71% | 77% | 19% | 36% | 8% | 14% |
| Incidents Ending in 4 hrs. | 43% | 56% | 53% | 52% | 68% | 8% | 94% | 60% | 79% |
| Incidents Ending in 8 hrs. | 45% | 71% | 67% | 67% | 70% | 12% | 98% | 86% | 100% |
| Incidents Ending in 24 hrs. | 54% | 93% | 95% | 81% | 78% | 32% | 100% | 91% | |
| Median Duration | 17.5 hours | 3.5 hours | 4 hours | 4 hours | 3 hours | 64 hours | 1 hours | 2 hours | 2.5 hours |

³⁸ Reducing Isolation and Room Confinement. Performance-based Standards Learning Institute, Inc. (2012).

2020-2021 Findings

The most frequent reason for confinement was concern for the safety of other juveniles and staff.

All the juvenile facilities reporting the use of juvenile room confinement indicated the most frequent reason was due to concerns for the safety of others in the facility (juveniles and staff). In general facilities distinguish between three main functions of juvenile room confinement: as punishment for rule violations, as a brief behavioral intervention, and as an emergency procedure due to eminent threats to the safety of others.

The OIG observed that there are still some facilities reporting the use of confinement for administrative ease. For example, Lancaster County Detention reported a significant number of incidents due to shift change. These incidents were less than one hour in duration but still contributed to the accumulated confinement time for each youth. There does not exist a standard definition of what an immediate or eminent threat to safety is within Nebraska facilities, but it appears even without such standardization, facilities cite it as the most common reason necessitating the use of confinement.

Nebraska facilities are making progress in keeping confinements time limited and resolving them in a reasonable amount of time.

The majority of facilities are returning youth to the general population within 24 hours.

YRTC-Kearney, Lancaster County Detention, Madison County Detention, and Sarpy County Detention are all ending confinement within 24-hours more than 90% of the time. Lancaster and Sarpy County are ending 100% of confinements within 24 hours. With the exception of Douglas County Detention and the Nebraska Correctional Youth Facility, all of the reporting facilities (noted above with the addition of YRTC-Lincoln) are making progress at terminating incidents of confinement within eight hours, doing so 80% of the time. These same facilities were able to return youth to the general population within four hours 65% of the time.

It was observed that while Douglas County Detention Center is terminating confinement incidents within 24 hours only 32% of the time, they are also only confining 19% of their total population served. Douglas County is the largest detention center serving a very diverse population, yet they are confining a relatively small portion of their total population. Only two, much smaller facilities confine youth in their total populations at a lower rate – Madison County at 8% and Sarpy County at 14%.

2020-2021 Recommendations

Since 2017, the OIG has made detailed recommendations to the Legislature, Nebraska juvenile facilities, and the administrative agencies responsible for the oversight of these facilities. Nebraska law related to the use of juvenile room confinement is unambiguous and thorough. Alignment between the intent of the law and facility policy, regulation, and practice continues to have gaps that could be narrowed, leading to further reduction of juvenile room confinement use in Nebraska facilities.

The standards and best practices that lead to a reduction in juvenile room confinement are well known and have been documented by the OIG in previous reports. As a result, the OIG makes no new recommendations, but instead directs your attention to the recommendations made over the past five years. The OIG encourages all stakeholders to focus on the next steps necessary for the further implementation of best practices.

Recommendations — 2017-2020

The OIG’s annual report on the use of juvenile room confinement must contain identified changes which may lead to a reduction of reliance on room confinement in Nebraska.³⁹ The following section accounts for all recommendations made by the OIG and published in Annual Nebraska Juvenile Room Confinement Reports.

(2020) Examine oversight and enforcement mechanisms for juvenile room confinement reporting.

As noted in the findings, Neb. Rev. Stat. 83-4,134.01 provides an avenue for Public Health and the Jail Standards Board to enforce the reporting requirements under that same section. While facilities under the jurisdiction of the Jail Standards Board and Public Health have generally complied with reporting requirements, the two agencies responsible for oversight have been minimally involved in reporting oversight, including disregarding the OIG recommendation to proactively incorporate relevant statutes into their own regulations. OJS and the Department of Corrections do not have those same tools for enforcement in the law. There is no administrative avenue for enforcement since these facilities are not licensed by another state entity. While these facilities may work to comply with the law, there is no consequence for non-compliance except perhaps that it may be reflected in the OIG’s reporting, assuming the information reported is accurate.

However, greater oversight and enforcement by all four entities with authority over the facilities that use juvenile room confinement – Public Health, Jail Standards Board, the Department of Corrections, and OJS – would be extremely helpful. Requiring greater oversight by these main agencies could provide some consistency in reporting by clarifying and standardizing the definition of juvenile room confinement across the facilities under those agencies’ jurisdiction; by creating standard procedures for recording room confinement; by verifying the room confinement data reported by those facilities; and by creating a consistent and coordinated reporting format. Creating an enforcement mechanism for OJS and the Department of Corrections to ensure reporting would also be helpful.

(2020) Examine juvenile room confinement enforcement mechanisms for provisions within Legislative Bill 230.

The passage of LB 230 implements juvenile room confinement practice requirements, creating a greater need for quality oversight and enforcement for facilities. If the long-term goal is to reduce the use of room confinement, the research previously noted shows that a fundamental shift in culture and practice is required. It is important, then, to understand how these new standards of the use of juvenile room confinement are being implemented. At the moment the law does not specify any oversight or enforcement mechanisms to ensure the correct and

³⁹ Neb. Rev. Stat. §83-4,134.01 (d).

consistent implementation of those standards. The Legislature might consider ways to create independent oversight and enforcement of the standards implemented in LB 230.

(2020) Require facilities to create formal facility juvenile room confinement reduction plans to be submitted to the Legislature and monitored through the Jail Standards Board, Public Health, Office of Juvenile Services, Department of Corrections, and the OIG.

As has been noted in the prior three annual juvenile room confinement reports, research has long established that a change within the facility culture is necessary to reduce the use of room confinement and the change in culture is best achieved through the implementation of a comprehensive plan. As the 2019 publication, *Not In Isolation: How to Reduce Room Confinement While Increasing Safety in Youth Facilities* demonstrates, such plans have been created and implemented successfully reducing reliance on juvenile room confinement practices. Nebraska facilities that allow for juvenile room confinement, or similar practices would benefit from a formal plan to incorporate best practices, including programming, training, implementation strategies, and the internal monitoring of data to inform change.

As stated in the 2018-2019 Annual Juvenile Room Confinement in Nebraska Report, if not mandated, any further changes by facilities to reduce reliance on the practice will be unlikely. If the Legislature's goal is to significantly reduce the use of room confinement, it may be necessary and helpful to require comprehensive plans by the facilities to reduce the use.

(2019) Extension of the Crime Commission and Department of Health and Human Services-Division of Public Health responsibilities related to juvenile room confinement to include, at a minimum, on-site verification and standardized data collection and content.

The OIG recommends all DHHS, and Crime Commission administrative language be revised to conform to Neb. Rev. Stat. §83-4,125 and Neb. Rev. Stat. §83-4,134.01. There are at least 16 different definitions of confinement language in the Nebraska Administrative Code, as well as other language in facility and agency policies. These expressions range from "time out" and "seclusion" to "solitary confinement." See Appendix B.

The current role of DHHS and the Crime Commission is limited to verifying that documentation is collected and submitted to the legislature as set out in statute. Increased involvement is needed to verify the manner in which juvenile room confinement is used in the facility and the accuracy of the data collection and content.

(2019) The OIG recommends that legislation be passed that requires the following:

- All facilities adhere to best practices to reduce reliance on juvenile room confinement.
- Room confinement should only be used as a last resort, be time-limited, and be closely monitored. Facilities will make changes if they are legislatively required to do so. If not mandated, any further changes on its reliance will be unlikely.
- Clarification of current legislative provisions related to juvenile room confinement.

- Specific language is recommended to clearly define the meanings of “facility” and “agency,” with explicit guidance on which organizations are required to report, and which are exempt. For example, Psychiatric Residential Treatment Facilities such as Immanuel/CHI and Boys Town do not report the use of juvenile room confinement. Whether they should do so is a legislative decision.

Legislation should include specific determinations of what constitutes voluntary confinements, in contrast to involuntary confinements. Clear definitions should also include what constitutes sickbed and other medical quarantines.

(2018) For the reduction with the goal of eliminating juvenile room confinement, facilities should:

- 1. Revise facility policies to reflect best practice:** Room confinement should only be used as a last resort, be time-limited, and be closely monitored. Facility policies should be gradually modified to reflect these best practices. Some facility policies on juvenile room confinement are not in line with best practices or national recommendations. Policy change without the development of appropriate alternatives at facilities may not effectively and safely reduce room confinement. Nonetheless, as part of wider strategies to reduce room confinement, revisions to policy to reflect best practices is essential.
- 2. Focus on workforce development:** Facilities should ensure that each is staffed appropriately, administrative efficiencies are sought, and the facility’s workforce is well-trained and supported in alternatives to room confinement. Many strategies that have been shown to successfully reduce room confinement have been linked to staff-intensive positive behavioral intervention and therapeutic programs.⁴⁰ In order to reduce room confinement, facility staff must have the support and training to implement alternatives to room confinement. Furthermore, staffing issues (shortages, training, shift changes, etc.) were directly related to room confinement incidents at Nebraska facilities. Facilities should ensure juvenile room confinement is not being used to accommodate administrative tasks such as headcount and training, in the effort to reduce unnecessary room confinement.
- 3. Create a Juvenile Room Confinement Reduction Plan and include technical assistance and oversight:** National research and information suggests facilities that have reduced juvenile room confinement successfully, have done so by implementing a variety of different strategies, tailored for their specific circumstances. Many facilities have benefitted from technical assistance and oversight from outside entities in creating and implementing plans to reduce juvenile room confinement. Each juvenile facility that uses room confinement should have a plan to reduce its use. To the extent possible, these facilities should receive assistance from state regulators and others experts in developing, implementing, and monitoring plans to reduce the use of room confinement.

⁴⁰ *Id.*

4. Publicly report information on the use of room confinement, including seclusion:

Facilities that use any form of room confinement for children and youth in their care should report such. Many facilities over the past year did report room confinement numbers on a quarterly basis, but several did not. Without full and complete reporting, a comprehensive review of juvenile room confinement in Nebraska cannot be undertaken. Transparent public reporting about the use of room confinement, including seclusion, can only help monitor and reduce its use.

(2018) Agency based recommendations include the following:

The **Nebraska Department of Correctional Services (NDCS)** runs the prisons and sets forth rules and regulations for the prison system in dealing with inmates under 19 years of age. NDCS should take steps to: Provide Additional Details in NDCS Rules and Regulations on Restrictive Housing as it Relates to Best Practices and Youth Under 19: NDCS has already initiated the process of developing a plan to reduce the use of restrictive housing across all of their correctional facilities. So far, however, the promulgated regulations and other changes apply generally to the correctional system and not specifically to issues related to juvenile inmates. There are no formal policies or strategies to reduce the use and duration of room confinement of juveniles across the correctional system.

Specifically Adopt Time Limits for Inmates in Restrictive Housing Under the Age of 19:

NDCS rules and regulations do not adequately address room confinement limits for inmates under 19 years old. Rules and regulations should be changed to implement time limits.

Conduct a study on youth who spend particularly long periods of time in room

confinement: Further study is needed to examine the youth who spend long periods of time in longer-term restrictive housing to determine what resources are needed to allow them to integrate into general population.

The **Office of Juvenile Services (OJS)**, under the Department of Health and Human Services Division of Children and Family Services, oversees the Youth Rehabilitation and Treatment Centers. OJS should take steps to:

Develop and Implement a Strategic Plan to Reduce Room Confinement: OJS should ensure that both YRTC's develop and implement concrete plans to reduce the use and length of time youth spend in room confinement over the next 12 months.

Change OJS Rules and Regulations to Align with Best Practices: Though internal operating memos are updated, current rules and regulations authorize the use of room confinement either for reasons of safety and security or as a disciplinary sanction if the youth has violated a facility rule. Best practices do not contemplate the use of room confinement for disciplinary purposes. Formal rules and regulations should be updated to reflect current best practices.

The **Nebraska Jail Standards Board**, housed at the Nebraska Commission on Law Enforcement and Criminal Justice, develops standards, or rules and regulations, for the operation of juvenile detention facilities. Steps should be taken to:

Clarify definitions of different forms of room confinement within Juvenile Detention Jail Standards: Current Juvenile Detention Jail Standards use a variety of terms that could be considered “room confinement”. Some of these are defined and others are not (e.g. – room restriction). Some terms appear to be applied inconsistently – for example disciplinary confinement and disciplinary detention. It would be helpful to update Jail Standards to ensure all terms are defined and that requirements for each form of room confinement are appropriately specified.

Update Jail Standards to reflect room confinement reporting requirements: In light of requirements on room confinement documentation and reporting, incorporating specific documentation and reporting requirements and integrating them with current definitions in standards should be completed as required by law.

Update Jail Standards to eliminate the use of room confinement for disciplinary purposes: All detention and staff secure facilities in Nebraska reported no longer using room confinement for disciplinary purposes. Jail standards should be updated to recognize this current best practice and revise other standards as necessary to be consistent with this practice.

The **Department of Health and Human Services, Division of Public Health** licenses all mental health centers, health care facilities, residential child-caring agencies, and substance abuse treatment centers. The Division of Public Health should take steps to:

Update licensing rules and regulations to reflect juvenile room confinement reporting requirements: In light of requirements on room confinement documentation and reporting, incorporating specific documentation and reporting requirements and integrating them with current definitions in rules and regulations should be completed.

(2017) Recommendation

Clarification on what practices constitute room confinement would help make clear what practices need to be reported as juvenile room confinement. Currently, some Mental Health Centers do not consider their practice of seclusion to be a form of room confinement and are not reporting on its use. This should be resolved through statutory change.

Clarification on which facilities should report would help ensure there is a comprehensive understanding of room confinement among public and private agencies across the state and would help ensure uniform reporting. Currently, “juvenile facilities” include residential child-caring agencies: facilities that are not foster family homes and provide 24-hour care to four or more children under age 19. The OIG included only those facilities specifically licensed as

residential child-caring agencies in its notices and reviews. However, there are facilities provide 24-hour care to four or more children under age 19 includes that are not licensed as a residential child-caring agencies. This would include those entities operating under other licensing requirements –hospitals with behavioral health units serving children under the age of 19, like Richard H. Young Hospital Behavioral Health Adolescent Unit and the Bryan Medical Center’s mental health inpatient hospitalization program, for example, among other mental health centers and inpatient programs. It could also include county jails.

Whether the desire is to include or exclude these facilities from future reporting, statutory clarifications will help future OIG reports and analysis of the practice of room confinement in Nebraska.

Creation of a Reporting Enforcement Mechanism for Facilities: The current requirement that facilities report to the Legislature has no enforcement mechanism. From July 2016 through June 2017, a number of facilities did not report full information on their use of room confinement to the Legislature. Most of the facilities that failed to fully report are privately-administered.

Nebraska’s current law on juvenile room confinement reporting should be revised to create an enforcement mechanism, especially for the numerous privately or locally-administered facilities over which the Legislature has no direct enforcement authority. Most of these facilities are either licensed through the Nebraska Department of Health and Human Services (DHHS) Division of Public Health or regulated by the Jail Standards of the Crime Commission. One approach of reporting enforcement would be to include room confinement reporting, already law in Nebraska, in current public health licensing requirements or juvenile detention standards. Then room confinement reporting could be enforced and verified by DHHS and the Crime Commission.

Appendices

Appendix A: Nebraska State Statues

Appendix B: Report Process

Appendix C: References

Appendix A: Nebraska State Statutes

Neb. Rev. Stat. §83-4,125. Detention and juvenile facilities; terms, defined.

For purposes of sections 83-4,124 to 83-4,134.01:

(1) Criminal detention facility means any institution operated by a political subdivision or a combination of political subdivisions for the careful keeping or rehabilitative needs of adult or juvenile criminal offenders or those persons being detained while awaiting disposition of charges against them. Criminal detention facility does not include any institution operated by the Department of Correctional Services. Criminal detention facilities shall be classified as follows:

(a) Type I Facilities means criminal detention facilities used for the detention of persons for not more than twenty-four-hours, excluding nonjudicial days;

(b) Type II Facilities means criminal detention facilities used for the detention of persons for not more than ninety-six hours, excluding nonjudicial days; and

(c) Type III Facilities means criminal detention facilities used for the detention of persons beyond ninety-six hours;

(2) Juvenile detention facility means an institution operated by a political subdivision or political subdivisions for the secure detention and treatment of persons younger than eighteen years of age, including persons under the jurisdiction of a juvenile court, who are serving a sentence pursuant to a conviction in a county or district court or who are detained while waiting disposition of charges against them. Juvenile detention facility does not include any institution operated by the department;

(3) Juvenile facility means a residential child-caring agency as defined in section 71-1926, a juvenile detention facility or staff secure juvenile facility as defined in this section, a facility operated by the Department of Correctional Services that houses youth under the age of majority, or a youth rehabilitation and treatment center;

(4) Room confinement means the involuntary restriction of a juvenile placed alone in a cell, alone in a room, or alone in another area, including a juvenile's own room, except during normal sleeping hours, whether or not such cell, room, or other area is subject to video or other electronic monitoring; and

(5) Staff secure juvenile facility means a juvenile residential facility operated by a political subdivision (a) which does not include construction designed to physically restrict the movements and activities of juveniles who are in custody in the facility, (b) in which physical restriction of movement or activity of juveniles is provided solely through staff, (c) which may establish reasonable rules restricting ingress to and egress from the facility, and (d) in which the movements and activities of individual juvenile residents may, for treatment purposes, be

restricted or subject to control through the use of intensive staff supervision. Staff secure juvenile facility does not include any institution operated by the department.

83-4,134.01. Juvenile facility; legislative intent; placement in room confinement; provisions applicable; report; Inspector General of Nebraska Child Welfare; duties; disciplinary action.

(1) It is the intent of the Legislature to establish a system of investigation and performance review in order to provide increased accountability and oversight regarding the use of room confinement for juveniles in a juvenile facility.

(2) The following shall apply regarding placement in room confinement of a juvenile in a juvenile facility:

(a) Room confinement of a juvenile for longer than one hour shall be documented and approved in writing by a supervisor in the juvenile facility. Documentation of the room confinement shall include the date of the occurrence; the race, ethnicity, age, and gender of the juvenile; the reason for placement of the juvenile in room confinement; an explanation of why less restrictive means were unsuccessful; the ultimate duration of the placement in room confinement; facility staffing levels at the time of confinement; and any incidents of self-harm or suicide committed by the juvenile while he or she was isolated;

(b) If any physical or mental health clinical evaluation was performed during the time the juvenile was in room confinement for longer than one hour, the results of such evaluation shall be considered in any decision to place a juvenile in room confinement or to continue room confinement;

(c) The juvenile facility shall submit a report quarterly to the Legislature on the juveniles placed in room confinement; the length of time each juvenile was in room confinement; the race, ethnicity, age, and gender of each juvenile placed in room confinement; facility staffing levels at the time of confinement; and the reason each juvenile was placed in room confinement. The report shall specifically address each instance of room confinement of a juvenile for more than four hours, including all reasons why attempts to return the juvenile to the general population of the juvenile facility were unsuccessful. The report shall also detail all corrective measures taken in response to noncompliance with this section. The report shall redact all personal identifying information but shall provide individual, not aggregate, data. The report shall be delivered electronically to the Legislature. The initial quarterly report shall be submitted within two weeks after the quarter ending on September 30, 2016. Subsequent reports shall be submitted for the ensuing quarters within two weeks after the end of each quarter;

(d) The Inspector General of Nebraska Child Welfare shall review all data collected pursuant to this section in order to assess the use of room confinement for juveniles in each juvenile facility

and prepare an annual report of his or her findings, including, but not limited to, identifying changes in policy and practice which may lead to decreased use of such confinement as well as model evidence-based criteria to be used to determine when a juvenile should be placed in room confinement. The report shall be delivered electronically to the Legislature on an annual basis; and

(e) Any juvenile facility which is not a residential child-caring agency which fails to comply with the requirements of this section is subject to disciplinary action as provided in section 83-4,134. Any juvenile facility which is a residential child-caring agency which fails to comply with the requirements of this section is subject to disciplinary action as provided in section 71-1940.

83-4,134.02. Placement of juvenile in room confinement; restrictions on placement; conditions; release; facility; duties; monitoring.

(1) This section applies to placement of a juvenile in room confinement in the following facilities: A juvenile detention facility, staff secure juvenile facility, facility operated by the Department of Correctional Services, or youth rehabilitation and treatment center operated by the Department of Health and Human Services.

(2) A juvenile shall not be placed in room confinement for any of the following reasons:

(a) As a punishment or a disciplinary sanction;

(b) As a response to a staffing shortage; or

(c) As retaliation against the juvenile by staff.

(3) A juvenile shall not be placed in room confinement unless all other less-restrictive alternatives have been exhausted and the juvenile poses an immediate and substantial risk of harm to self or others.

(4) A juvenile may only be held in room confinement according to the following conditions:

(a) A juvenile shall not be held in room confinement longer than the minimum time required to eliminate the substantial and immediate risk of harm to self or others and shall be released from room confinement as soon as the substantial and immediate risk of harm to self or others is resolved; and

(b) A juvenile shall only be held in room confinement for a period that does not compromise or harm the mental or physical health of the juvenile.

(5) Any juvenile placed in room confinement shall be released immediately upon regaining sufficient control so as to no longer engage in behavior that threatens substantial and immediate risk of harm to self or others.

(6) Not later than one business day after the date on which a facility places a juvenile in room confinement, the facility shall provide notice of the placement in room confinement to the juvenile's parent or guardian and the attorney of record for the juvenile.

(7) All rooms used for room confinement shall have adequate and operating lighting, heating and cooling, and ventilation for the comfort of the juvenile. Rooms shall be clean and resistant to suicide and self-harm. Juveniles in room confinement shall have access to drinking water, toilet facilities, hygiene supplies, and reading materials approved by a licensed mental health professional.

(8) Juveniles in room confinement shall have the same access as provided to juveniles in the general population of the facility to meals, contact with parents or legal guardians, legal assistance, and access to educational programming.

(9) Juveniles in room confinement shall have access to appropriate medical and mental health services. Mental health staff shall promptly provide mental health services as needed.

(10) Juveniles in room confinement shall be continuously monitored by staff of the facility. Continuous monitoring may be accomplished through regular in-person visits to the confined juvenile which may also be supplemented by electronic video monitoring.

(11) The use of consecutive periods of room confinement to avoid the intent and purpose of this section is prohibited.

(12) Nothing in this section shall be construed to authorize or require the construction or erection of fencing or similar structures at any facility, nor the imposition of nonrehabilitative approaches to behavior management within any facility.

Appendix B: Report Process

In preparing this report, the OIG undertook a number of activities to assist facilities with understanding reporting requirements and accurately reporting room confinement use. The OIG took steps to assure the interpretation of reported data was consistent, taking into consideration each facility's unique physical building and youth population.

Data Reported

The OIG analyzed the use of room confinement by facility type to provide context around factors that influence the use of room confinement. These factors include the differences in facility function, type of population served, and specific policies and standards.

In order to analyze the use of room confinement at each type of juvenile facility, the OIG reviewed available data and when possible, calculated statistical measures as a means of ascertaining a descriptive analysis of the use of juvenile room confinement in all reporting facilities.

The following measures were calculated at facilities that reported any instances of room confinement in the fiscal year:

- **Total Incidents/Total Youth/Total Hours:** The total number of room confinement incidents and the associated total confinement hours, and the number of individual youth confined.
- **Median Duration of Room Confinement:** The median duration statistic represents the midpoint of incidents based on the length of time. In general it represents the middle point in the data with half the incidents below the median and half above. The OIG made the decision to report this number instead of the average duration statistic because the average can be distorted by a few incidents of low or high duration. The median is more robust and reflects more accurately the central tendency of room confinement duration.
- **Percentage of Room Confinement Incidents Ending in Four Hours or Less:** Of the total incidents of room confinement, the number that ended in four hours or less.
- **Percent of Room Confinement Incidents Ending in Eight Hours or Less:** Of the total incidents of room confinement, the number that ended in eight hours or less.
- **Percent of Room Confinement Incidents Ending in 24 Hours or Less:** Of the total incidents of room confinement, the number that ended in 24 hours or less.
- **Longest Incident:** The incident of room confinement that represents the longest duration.
- **Shortest Incident:** The incident of room confinement that represents the shortest duration.
- **Age Range:** The range of juvenile age from youngest to oldest youth associated with an incident of room confinement at each facility.

- Frequently Confined Youth: The fewest number of individual juvenile room confinement incidents required to equal approximately one half of the total room confinement incidents.

Data Collection and Review

Each year, the OIG spends hundreds of hours compiling this report. Before drafting this report, the OIG requests data, and policy/procedure updates made by each facility from July 1, 2020 through June 30, 2021.

Administrators are provided with an opportunity to discuss efforts made towards reducing the use of room confinement by their facility that may not have been reflected in policy and procedure documents.

The OIG reviewed the following material for this report:

- Quarterly facility room confinement reports submitted to the Legislature and/or to the OIG covering July 1, 2020 through June 30, 2021;
- Federal and state regulations that govern juvenile facilities' use of room confinement;
- Individual facilities' written policies and procedures for utilizing different forms of room confinement; and,
- Academic research and available reports on the history, impact and appropriate use of juvenile room confinement, and effective methods for reducing its use.

This report covers thousands of incidents of room confinements. This office made all calculations using Excel functions. We also used Excel to cross reference names and ID numbers to locate individuals who had different names but the same identification, and to attempt to resolve spelling inconsistencies.

Appendix C: References

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