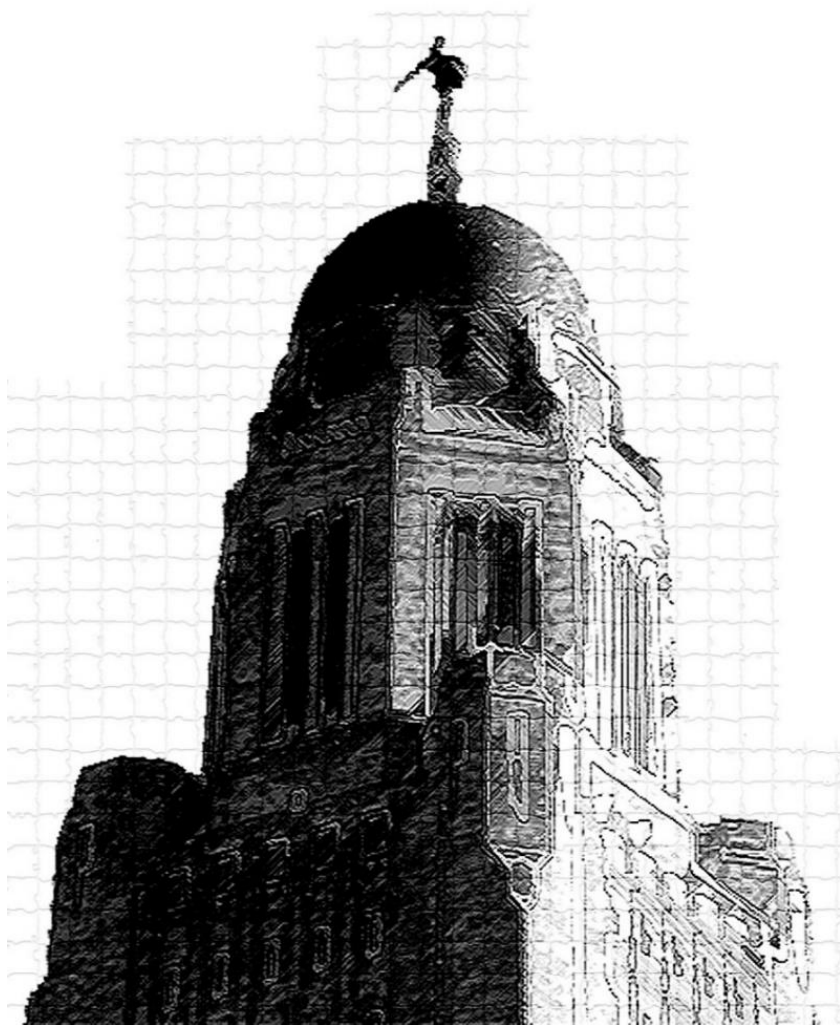


2018-2019
Annual Report

Juvenile Room Confinement in Nebraska



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Inspector General
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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 report quarterly on their use of room confinement to the Nebraska Legislature.¹

The Office of Inspector General of Nebraska Child Welfare (OIG) is charged with preparing an annual report on the use of juvenile room confinement.

The following annual report examines juvenile room confinement in Nebraska between July 1, 2018 and June 30, 2019 (FY 18-19).

The OIG received room confinement reports from 32 individual facilities comprised of five different types of juvenile facilities in Nebraska—correctional institutions, youth rehabilitation and treatment centers, detention centers, mental health and substance abuse treatment centers, and residential child-caring agencies.

Based on the data reported by the facilities across the state, the utilization of juvenile room confinement has generally not changed in the last three years—it continues to be relied upon. In FY 18-19, the total number of youth subject to room confinement was 631, with 2,683 incidents. Youth ranged in age from 12-18 years and were put into room confinement most frequently due to physical assault, verbal assault, administrative reasons and behavioral infractions/rule violations.

As noted in previous OIG Juvenile Room Confinement Annual Reports, according to research, juvenile facilities with lower rates of room confinement also have lower rates of staff and youth injury, suicide attempts, and youth behavioral incidents.²

Findings

As a result of the inquiry and data analysis undertaken for the 2018-2019 Juvenile Room Confinement in Nebraska Annual Report, the OIG found the following:

Over the past three years, limited changes have been made to decrease reliance on juvenile room confinement as a management tool among the facilities that report.

Based on the analysis of data provided by individual facilities, the OIG could only conclude that juvenile room confinement continued to occur in 2018-2019 and is relied upon in a manner similar to what was reported in 2016-2017, and 2017-2018.

¹ *Id.*

² Council of Juvenile Correctional Administrators. (2015). *Council of Juvenile Correctional Administrators Toolkit: Reducing the Use of Isolation [Toolkit]*. Retrieved from <http://dcfs.nv.gov/uploadedFiles/dcfsnv.gov/content/Programs/JJS/CJCA%20Toolkit%20Reducing%20the%20use%20of%20Isolation.pdf>. p. 9.

Formal changes to policies and practices on the use of room confinement have not contributed to a comprehensive facility change in reliance on the practice.

Subjective interpretations of the current statute has resulted in inconsistent reporting.

Some facilities have interpreted the definition of juvenile room confinement and associated reporting requirements differently and out of alignment with the legislative intent.

The Jail Standards Board at the Nebraska Crime Commission and the Department of Health and Human Services-Division of Public Health have not revised their regulations to incorporate statutes related to juvenile room confinement.

Neither agency has implemented rules and regulations that mandate each facility to collect data and submit a report to the legislature.³

Recommendations

In conjunction with the 2018-2019 findings, the recommendations made in 2018-2019 for the reduction on reliance of juvenile room confinement are the following:

Implement legislation that requires the following:

- ***All facilities adhere to best practices to reduce reliance on juvenile room confinement.***
- ***Clarification of current legislative provisions related to juvenile room confinement.***
- ***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.***

³ §83-4,134.01

Juvenile Room Confinement in Nebraska

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. Nebraska has adopted definitions as well as documentation and reporting requirements designed to “provide increased accountability and oversight regarding the use of room confinement for juveniles in a juvenile facility.”⁴

Nebraska statute defines room confinement 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.”⁵ “Room confinement of a juvenile for longer than one hour shall be documented and approved in writing by a supervisor in the juvenile facility.”⁶ Facilities must report quarterly on their use of room confinement to the Nebraska Legislature. These reports are submitted to the Nebraska Legislature and the Office of Inspector General of Nebraska Child Welfare (OIG);

The OIG is charged with reviewing and analyzing the reports; the OIG then compiles an annual report from data that facilities submit.⁷ The annual report must contain:

- An assessment of juvenile room confinement in each juvenile facility. “Juvenile facility” is defined broadly to include state-run correctional facilities and local detention centers, which house children in the justice system, as well as residential child-caring agencies.⁸
- Model evidenced-based criteria on the use of room confinement; and
- Identified changes which may lead to a reduction in room confinement.⁹

Juvenile room confinement in Nebraska encompasses a wide range of practices at different types of facilities where youth are being served in different ways for a variety of purposes. Different facilities keep youth involuntarily alone by using practices which may be known or referred to as segregation, restrictive housing, special management, isolation, seclusion, disciplinary confinement, time-out, and room restriction, among others.

The Nebraska Department of Correctional Services, the Jail Standards Board, the Licensure Unit of the Division of Public Health, and the Office of Juvenile Services each have their own statutory and administrative standards and definitions. Depending on the specific practice and facility, youth in room confinement receive different levels of contact with staff and peers, privileges, and care. Facilities and the interventions they use fall under a variety of state and federal requirements, depending on the type of facility and the service provided to youth. [See Appendix C]

⁴ Neb. Rev. Stat. §83-4,134.01.

⁵ Neb. Rev. Stat. §83-4,125 (4).

⁶ Neb. Rev. Stat. §83-4,134.01(2) (a).

⁷ Neb. Rev. Stat. §83-4,134.01.

⁸ Neb. Rev. Stat. §83-4,125.

⁹ Neb. Rev. Stat. §83-4,134.01.

This is the OIG's third Annual Juvenile Room Confinement report. Historical data can now be explored to give some indication of trends.

The following annual report examines juvenile room confinement in Nebraska between July 1, 2018 and June 30, 2019 (FY 18-19). The OIG received room confinement information from 32 individual facilities comprised of five different types of juvenile facilities in Nebraska:

2 - Correctional Institutions facilities administered by the Nebraska Department of Correctional Services (NDCS);

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

4 - Juvenile Detention and Staff Secure Detention Facilities operated by counties and overseen by the Jail Standards Board of the Nebraska Commission on Law Enforcement and Criminal Justice (Crime Commission);

6 - Mental Health and Substance Abuse Treatment Centers licensed by the DHHS Division of Public Health (Public Health); and,

18- Residential Child-Caring Agencies licensed by the DHHS Public Health.

Nebraska Department of Correctional Services (NDCS)

The Nebraska Department of Correctional Services (NDCS) 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.

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.¹⁰ Longer-term restrictive housing is a housing assignment used as a behavior management intervention of over 30 days.¹¹

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.”¹² The use of restrictive housing for inmates under the age of 19 requires approval of the warden within eight hours of placement.¹³

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.¹⁴ 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.

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 over¹⁵.

¹⁰ 72 NAC 1-002.06.

¹¹ 72 NAC 1-002.07.

¹² 72 NAC 1-004.02.

¹³ 72 NAC 1-004.03(B) (i).

¹⁴ 68 NAC 6-018.

¹⁵ Prison Rape Elimination Act (PREA) National Standards, 28 C.F.R. § 115.14 (2012).

Of the ten facilities operated by NDCS, only two are designated to house such juveniles - Nebraska Correctional Youth Facility (NCYF) in Omaha, and the Nebraska Correctional Center for Women (NCCW) in York.

Nebraska Correctional Center for Women (NCCW)

The Nebraska Correctional Center for Women (NCCW) houses all female youth for NDCS. There are so few female juveniles in the NDCS system that they usually only house one or two persons each year. In FY 18-19, NCCW housed a total of two juveniles under the age of 18; one turned 18 shortly after being ordered to the facility and was then moved into the general population. The second was segregated from the general population for approximately 10 months. NCCW reported hundreds of instances of involuntary room confinement of that youth.

The segregation of the second youth was predominately due to a combination of PREA requirements and the physical design of the NCCW facility. NCCW was required to balance complying with PREA while attempting to avoid unnecessary isolation of the youth. The juvenile was housed in the orientation unit and on days when there were multiple intakes, the youth was required to remain in her room except for the time between intakes. She had access to programming, recreation time, reading materials, and other resources. NCCW administration reported, “At the time we could not provide her with group programming. We provided her with other programming through UNO [University of Nebraska at Omaha]. It was difficult for us because we felt we were isolating her.”¹⁶ Because this youth was the only inmate under the age of 18 being housed at the facility, all of her programming, recreation time, or time out of her cell in general would have been spent alone or in the company of staff.

¹⁶ Interview with NCCW staff.

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 127 beds. Between July 2018 and June 2019, the facility served a total of 57 youth who were 18 years of age or under. The average daily population for this group was 19.

FY 18-19 indicated significant changes in room confinement data from NCYF. Incidents of room confinement increased from 18 youth involved in 34 incidents in FY 17-18 to 57 youth involved in 482 incidents; that is, three times more youth were involved in 14 times more incidents of juvenile room confinement during the most recent fiscal year. Despite this 1300% increase in incidents of juvenile room confinement, the median duration of confinements decreased, from 240 hours per incident to 2.5 hours per incident (a 99% decrease). Also in marked contrast to the previous year, 83% of incidents ended in eight hours or less, and 79% ended in four hours or less; prior to this fiscal year, no reported incident ended in fewer than eight hours.

The longest confinement in FY 18-19 ended in 2731 hours (113.8 days), compared with 7152 hours (298 days) in the previous year. Total reported confinement hours increased by about 48% from FY 17-18 to FY 18-19, from 22,560 total hours to 33,340.25 total hours.

The OIG cannot account for the startling changes in juvenile room confinement data for FY 18-19 at NCYF. NDCS administration indicated in a meeting with the OIG that they had developed a new database after the last reporting period; it is unknown whether reporting changes coincided with changes in data input and collection, or whether the data for this fiscal year was reported more or less accurately when compared with prior years.

NCYF administration reported to the OIG that juvenile inmates in the general population who are subject to room restriction (which may meet the statutory definition of juvenile room requirement if the juvenile is involuntarily alone for greater than one hour) are still permitted out of their cells to work or go to school. They have access to medical and mental health care, religious programming if requested, and may select books to read. In general, an inmate on room restriction loses access to being out of his cell during the day unless it is for worship services, meals, school/work assignment and mental health services.¹⁷ In the case of juveniles who are placed in either immediate segregation or longer-term restrictive housing, there is a significant reduction in contact outside of the cell. While in immediate segregation, juveniles are only allowed out of their cell for a period of recreation time and showers. If a juvenile is placed in longer-term restrictive housing, the amount of mobility/contact they are given is determined by compliance, and their progression through a level system.

NCYF is a correctional facility. A representative of the facility explained to the OIG that they attempt to balance safety and rehabilitation. “They did something scary and bad, but you don’t want to write them off. You can’t rehabilitate anybody unless they have hope. So we try to build that, give

¹⁷ 68 NAC 6-018; NCYF O.M. 217.1.1 p. 6-7.

them access to things, programs, but the opportunities here are different. The youth here started up in a street gang when they were 8-9 years old, kicked out of school, reading at a 5th grade level.”¹⁸

The NCYF Room Confinement Summary FY 18-9 Table found on page 9 provides information about the frequency and duration of room confinement incidents at NCYF and reasons for the incidents.

In 2020, the American Correctional Association (ACA) will limit restrictive housing for youth aged 18 and under to no more than 30 days.¹⁹ Also under Nebraska law, as of March 2020, an inmate who is aged 18 or younger is considered to be a member of a vulnerable population, and can no longer be placed in restrictive housing.²⁰ In response to this legislation and the ACA, NCYF plans to create a “limited movement” unit in one wing of the facility, in which youth can be out of their cells most of the time. NCYF created a “blue room” within the past year, which is essentially a space which promotes de-escalation and well-being through calming techniques and other quiet experiences.²¹

¹⁸ Interview with NCYF staff.

¹⁹ Interview with NCYF staff.

²⁰ Neb. Rev. Stat. 83 173.03(1).

²¹ NCCW also has a blue room, called “The Mindfulness Suite.”

<https://www.corrections.nebraska.gov/node/353/23?combine=blue+room>.

NCYF Room Confinement Summary FY 18-19

<i>Total Incidents/Total Individual Youth</i>	482 incidents/57 youth
<i>Median Duration of Room Confinement Incidents</i>	2.5 hours
<i>Percentage of Room Confinement Ending in 4 hours or less</i>	79%
<i>Percentage of Room Confinement Ending in 8 hours or less</i>	83%
<i>Longest Confinement Incident: Hours, Age, Reason(s)</i>	2731 hrs.; 18 yrs.; serious act of violence
<i>Shortest Confinement Incident: Hours, Age, Reason(s)</i>	1 hr.; 18 yrs.; disciplinary sanction
<i>Frequently Confined</i>	14 individual youth comprised 235 incidents

Most cited reasons for confinement		
	<i>Number of Related Incidents</i>	<i>Percentage of Total Incidents</i>
Disciplinary Sanction	216	45%
Administrative Reasons	180	37%
Safety	86	18%

Quarterly Breakdown				
	Q1	Q2	Q3	Q4
<i>Total Incidents</i>	95	97	162	128
<i>Total Youth</i>	28	24	22	28
<i>Longest Confinement</i>	2731.0	473.25	499.5	691.25
<i>Shortest Confinement</i>	1.0	1.0	1.0	1.0

Youth Rehabilitation and Treatment Centers

In FY 18-19, the DHHS Office of Juvenile Services (OJS) operated two Youth Rehabilitation and Treatment Centers (YRTC). The YRTC in Kearney for boys and the YRTC in Geneva for girls²² 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.”²³ Both YRTCs are members of the Performance-based Standards Project, sponsored by Council for Juvenile Correctional Administrators, and they are accredited through the ACA.

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 both YRTCs consider a cooling off period and can last up to an hour, and disciplinary segregation which can last for up to 5 days.²⁴ YRTC Administrative Regulations also allow for room confinement for protective or investigative safekeeping.²⁵

YRTC-Kearney

During FY 18-19, YRTC-Kearney served an average daily population of 87. They reported 956 incidents of room confinement involving a total of 134 individual youth. YRTC-Kearney Room Confinement Summary found on page 12 provides further details on the use of room confinement for FY 18-19. YRTC-Kearney continued to show improvement in ending room confinement in both under four and under eight hours. FY 17-18 showed an average of 8.5% of incidents ending in four hours and 16% ending in eight hours. Data for the current fiscal year indicated those percentages increasing to 18% and 31% respectively.

Median duration of room confinement has declined 5.25 hours from 20.75 hours in FY 17-18, to 15.5 hours in FY 18-19. The longest total confinement during the current fiscal year was up slightly from the previous year, showing an approximate 10 hour gain from 125.5 in FY 17-18. Consistent with previous annual reporting, Physical Assault and Behavior Infractions/Rule Violations comprised more than half of the room confinements.

YRTC-K administration acknowledged in an interview that shackling was also used during FY 18-19; stating that shackling within the Dickson Security Unit was used in place of room confinement in instances when escape risk was of concern. It was reported to the OIG that this practice was employed for a limited period of time during the construction of a perimeter fence and was intended to allow juveniles found to be at risk of escape to remain with peers. The use of physical, mechanical,

²² Though both facilities served youth during the whole of FY 18-19, at the time of this report, both boys and girls are being served at the YRTC-Kearney.

²³ Neb. Rev. Stat. §43-286.

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

²⁵ AR 302.1 Governing Juvenile Conduct.

and chemical restraints is permitted by designated staff at the youth facilities when deemed appropriate under YRTC policies²⁶, however this practice could be understood as a contradiction to a March 2017 YRTC Administrative Memo which states: Juveniles are not subjected to corporal or unusual punishment, humiliation, disease, property damage, mental or personal abuse or harassment, personal injury, or punitive interference with the daily functions of living, such as eating or sleeping.²⁷ Shackling is permitted in the YRTCs.²⁸ However, research indicates that shackling is traumatic to both juveniles and facility staff; witnessing shackling may induce secondary trauma in both populations.²⁹

YRTC-Kearney administration reports they have engaged in continual training to reduce room confinement. “Confinement does not make your facility safer, as much as you would like it be so. As much as it seems counterintuitive, it doesn’t help.” When discussing reducing the use of juvenile room confinement at the YRTCs, the administrator stated that YRTC-Kearney has implemented restorative justice training, which the person likened to “old-school parenting.” “You say to the kid, you’re going to go mend with the person you’ve wronged. OR, they may have to call their parents and explain what happened and take accountability for it. There’s a little incentive in choosing restorative justice instead of traditional sanctions for youth, because that restores some of their privileges.”³⁰ The YRTCs also report that issues such as rule violations are no longer causes for confinement.

The administration wanted youth to believe their disciplinary and grievance processes were fair. “When I started, you never saw grievances that ruled in the youth’s favor. We rule in their favor all the time. Hopefully they build some trust there.” The administration hoped that processes would reduce behavior issues thereby reducing the use of room confinement. Staff members have also received new training on adolescent brain development.

²⁶ 390 NAC 11-002.01E.

²⁷ YRTC Administrative Memo 302.1.II.D. “Juveniles are not subjected to corporal or unusual punishment, humiliation, disease, property damage, mental or personal abuse or harassment, personal injury, or punitive interference with the daily functions of living, such as eating or sleeping.” P. 2.

²⁸ 390 NAC 11-002.01E. “For children at a YRTC, physical, mechanical or chemical restraints or lock-up may be used by designated staff when deemed appropriate under YRTC policies.”

²⁹ Dierkhising, C. B., Lane, A., & Natsuaki, M. N. (2014). Victims Behind Bars: A Preliminary Study of Abuse During Juvenile Incarceration and Post-Release Social and Emotional Functioning. *Psychology, Public Policy, and Law* 20(2). 181-190.

³⁰ Telephone interview with YRTC-K staff.

YRTC-Kearney Room Confinement Summary FY 18-19

<i>Total Incidents/Total Individual Youth</i>	956/134
<i>Median Duration of Room Confinement Incidents</i>	15.5 hrs.
<i>Percentage of Room Confinement Ending in 4 hours or less</i>	18%
<i>Percentage of Room Confinement Ending in 8 hours or less</i>	31%
<i>Longest Confinement Incident: Hours, Age, Reason(s)</i>	135.75 hrs.; 17 yrs.; Escape Risk
<i>Shortest Confinement Incident: Hours, Age, Reason(s)</i>	1.25 hrs.; (30) 15-18 yrs.; Admin- Other (25), Danger to others & staff (5)
<i>Frequently Confined</i>	18 individuals comprised 481 incidents

Most cited reasons for confinement		
	<i>Number of Related Incidents</i>	<i>Percentage of Total Incidents</i>
Danger to Others: Assault, Non-Compliant, Verbal Aggression	336	35%
Admin –Other: Investigative Status, Medical, Intake	311	34%
Danger to Staff: Assault, Threatening Behavior, Verbal Aggression	251	26%

Quarterly Breakdown				
	Q1	Q2	Q3	Q4
<i>Total Incidents</i>	214	187	234	321
<i>Total Youth</i>	63	49	56	74
<i>Longest Confinement</i>	114.0	129.75	135.75	118
<i>Shortest Confinement</i>	1.25	1.5	1.25	1.25

YRTC-Geneva

The YRTC- Geneva facility served a total of 52 girls, with an average daily population of 35. Administration reported that YRTC-G used mechanical restraints “only when needed.”

The total number of juveniles reported as confined at the Geneva facility remained consistent with the previous year. However, while the facility reported a 37% decrease in total confinement incidents (726 reported incidents in FY 17-18 to 460 in FY 18-19) that was accompanied by a 722% increase in median duration. In summary; the facility confined about the same number of juvenile girls as last year, fewer times than previously reported, but for periods of time that were 722% longer than the previous year (from a median duration of 2.25 hours in FY 17-18 to a median duration of 18.5 hours in FY 18-19).³¹ YRTC-Geneva Room Confinement Summary found on page 14.

The youth facility in Geneva attempted to structure one of the cottages in a way that was similar to YRTC-Kearney’s most secure housing unit, in order to reduce juvenile room confinement, and reported that rule violations were no longer causes for room confinement. These adjustments were successful in reducing the total number of confinements overall, but resulted in the confinements lasting much longer than had been reported the year prior. These changes brought the facility back to a duration of confinement similar to that reported in FY 16-17.

Also, as in previous years, the OIG noted that while Geneva has a relatively small average daily population, they had a higher population of youth who were considered "danger to selves." Geneva continued to use room confinement for girls who were believed to be suicidal or self-harming. This practice does not appear to be supported by research. Best practices indicate that youth who are at high risk of suicide or self-harm should not be isolated.^{32, 33}

³¹ The OIG is currently investigating issues at the YRTC-Geneva that came to light in August 2019, including the conditions of juvenile room confinement.

³² National Commission on Correctional Health Care (NCCHC). (2019). Suicide Prevention and Management in Juvenile Correctional Settings. Retrieved from <https://www.ncchc.org/suicide-prevention-and-management-in-juvenile-correctional-settings>.

³³ NCCHC (2016). Policy Statement: solitary confinement. <https://www.ncchc.org/filebin/Positions/Solitary-Confinement-Isolation.pdf>. The NCCHC recommends that juveniles should be excluded from solitary confinement of any duration.

YRTC-Geneva Room Confinement Summary FY 18-19

<i>Total Incidents/Total Individual Youth</i>	460/52
<i>Median Duration of Room Confinement Incidents</i>	18.5 hrs.
<i>Percentage of Room Confinement Ending in 4 hours or less</i>	31%
<i>Percentage of Room Confinement Ending in 8 hours or less</i>	37%
<i>Longest Confinement Incident: Hours, Age, Reason(s)</i>	111.5 hrs.; 16 yrs.; Danger to Staff & Self
<i>Shortest Confinement Incident: Hours, Age, Reason(s)</i>	1.0 hr.; 15 yrs.; Danger to Others
<i>Frequently Confined</i>	8 individuals comprised 228 incidents

Most cited reasons for confinement		
	<i>Number of Related Incidents</i>	<i>Percentage of Total Incidents</i>
Danger to Others: Assault, Destruction of Property, Threats, Non-compliance	165	36%
Administrative-Other: Facility Emergency, Investigative Status, Escape, Escape Risk	117	25%
Danger to Staff: Assault, Threats, Non-compliance	91	20%

Quarterly Breakdown				
	Q1	Q2	Q3	Q4
<i>Total Incidents</i>	100	105	181	74
<i>Total Youth</i>	24	26	38	21
<i>Longest Confinement</i>	89.75	111.5	102.25	110.25
<i>Shortest Confinement</i>	1.25	1.0	1.25	1.25

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 (DCYC), Lancaster County Youth Services Center (LCYS), Northeast Nebraska Juvenile Services Center (Madison), and the Patrick J. Thomas Juvenile Justice Center (Sarpy). 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, housed at the Nebraska Commission on Law Enforcement and Criminal Justice (Crime Commission) 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.”³⁴ 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. In 2013, the Nebraska Legislature exempted staff secure facilities from residential child-caring agency licensure and instead charged the Jail Standards Board with creating standards for staff secure units and facilities. Instead of creating new standards for staff secure, the Jail Standards Board has chosen to use the Standards for Juvenile Detention Facilities, as there are few facilities operating staff secure units.

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.³⁵ 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.³⁶ Room restriction is not defined by regulations. The regulations also utilize the use of disciplinary confinement for up to seven days for major rules violations.³⁷ Disciplinary confinement is not specifically defined in the regulations, although disciplinary detention is.

Detention Standards require facilities have documentation “of juveniles placed in temporary confinement away from the general population.”³⁸ The regulations also require that any juvenile

³⁴ Neb. Rev. Stat. §83-4,126(1)(c).

³⁵ Segregation, confinement, administrative segregation, disciplinary detention, protective custody, temporary confinement, room restriction, separate confinement, and disciplinary confinement

³⁶ 83 NAC 13-003 and 13-004.

³⁷ 83 NAC 13-005.

³⁸ 83-NAC 6-006.

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-being.³⁹ 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.”⁴⁰ 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.⁴¹

Juvenile detention administration reported that while in restrictive housing, youth continue to receive education, medical care, religious programming if requested, one hour of recreation each day, reading materials, the same meals and snacks that others receive, and daily visits from staff or mental health care specialists. Depending on the facility, youth may have access to television or communicate with their peers. In some facilities, youth who are restricted to their rooms still have roommates. Each facility characterized juvenile room confinement as a loss of free time.

Policies on room confinement at the detention centers vary significantly. Sarpy, the only fully staff-secure facility, reports that they do not allow administrative segregation to be used for discipline.⁴² As of 2016, facility administration reported that they no longer use room confinement as a disciplinary tool.⁴³ LCYS policy permits the use of segregation housing for more than 24 hours as discipline for a major rule violation.⁴⁴ Policy at DCYC allows placement in restrictive housing for up to five days for a major rule violation.⁴⁵ For rule violations involving violence, DCYC policy allows placement in restrictive housing for up to seven days.⁴⁶ During interviews in 2017, 2018, and 2019, each facility maintained that room confinement was no longer used for discipline, but is only used when incidents threaten the safety and security of individuals and the facility as a whole.

785 room confinement incidents occurred at Nebraska detention centers between July 1, 2018 and June 30, 2019. This number is down from the 827 reported in the 2017-2018 review.

Data gathered by a national organization from participating facilities across the country similar to these detention centers, indicated in 2014, the average duration of room confinement at juvenile detention and assessment centers was just over six hours.⁴⁷ Three of the four detention centers in Nebraska (Madison, LCYS, and Sarpy) typically end room confinement in six hours or less.

During on-site interviews conducted in October 2019, all juvenile detention centers acknowledged that room confinement reporting was a challenge. Administration reported that they continually

³⁹ 83-NAC 13-007.02.

⁴⁰ 83 NAC12-001.

⁴¹ 83-NAC13-001 and 13-002.

⁴² Sarpy County Juvenile Justice Center Standard Operating Procedure JS-5500 “Juvenile Housing Classification” March 3, 2017.

⁴³ Madison County Basic Guidelines for New Behavior/Sanction Rules at NNJS, July 2016.

⁴⁴ Lancaster County Youth Services Center Policy 05000000.4, August 22, 2006.

⁴⁵ Douglas County Youth Center Policy 9.3.

⁴⁶ Id.

⁴⁷ Council of Juvenile Correctional Administrators. “Council of Juvenile Correctional Administrators Toolkit: Reducing the Use of Isolations [Toolkit].”

worked to reduce confinement instances. Common responses have been to hire staff, add incentives or level programs for the youth, and use behavioral approaches that provide youth with additional tools as they deal with frustration. Each site observed improved critical thinking skills among staff; while critical thinking skills did not reduce incidents of youth violence or stress, these skills helped the staff in de-escalating some situations.

Douglas County Youth Center (DCYC)

The Douglas County Youth Center is a secure juvenile detention center in Douglas County. The facility has a total of 144 beds. In FY 18-19 the facility served 923 youth and had an average daily population of 78.

DCYC Room Confinement Summary found on page 19 provides a summary of data pertaining to the use of room confinement at DCYC.

Half of all incidents of confinement for the fiscal year were due to some type of assault or fighting. DCYC has made progress in the number of incidents that are resolved in either four or eight hours or less. In FY 17-18 the facility completed less than 1% (3 out of 392 incidents) of room confinements in 4 hours or less and less than one percent (14 out of 392 incidents) in eight hours or less. In FY 18-19, 14 percent of confinements are completed in eight hours or less.

Other measures were reduced as well. The longest period of room confinement reported by the facility was 346.5 hours (14.5 days) for being a disruption during a cool out, room restriction, or lock down by a 13 year old female. The longest confinement in FY 17-18 was 262.25 for assaulting another juvenile. The shortest periods of room confinement were .25 hours for two juveniles for noncompliance with staff directives. The median duration for this facility for FY 18-19 was 45.75 hours, from 57.5 hours in FY 17-18. The reasons cited for room confinement incidents have not significantly changed at DCYF from FY 17-18 to FY 18-19. The most frequently cited reasons for both fiscal years included assault, behavior infractions/rule violations, intimidating or threatening behavior, and gang related activity.

The use of room confinement most frequently occurs when a juvenile is placed into restrictive housing at DCYC. When on restrictive housing, administration reported that youth are restricted to their locked room but receive educational and other services.

DCYC administration maintains that the youth have very little time alone during a twenty-four hour period. When reporting, DCYC does not report the total number of hours a youth is in restrictive housing, instead reporting the total number of hours in the period assigned to restrictive housing the youth is actually left alone in a locked room. The OIG reports the total time a youth is confined from start to finish.

In an interview with the OIG, DCYC stated they feel the biggest driver of room confinement is violence. One DCYC administrator told the OIG that incidents of violence have increased as the use of juvenile room confinement has become limited. "We need to have a greater impact for some of our kids. Some of the behaviors are rooted in pretty serious stuff, and you're not going to get past

that in a few hours.”⁴⁸ Administration believed that restrictive housing is not always considered a serious consequence by some youth. DCYC reported that sometimes a youth feels safe in restrictive housing after having an altercation in the general population, and they (the youth) will find ways to delay returning to the general population.

DCYC reported to the OIG that they employ three licensed mental health professionals and a psychologist. They stated there are plans to hire a psychiatrist this year as well. They are also in the process of changing their training and orientation from crisis intervention to cognitive behavioral therapy, in order to provide youth with more coping skills. The staff also indicated that they attempt to build relationships with youth, and they have less violence-related issues with the youth who have been there for the longest time. Staff have been encouraged to help develop incentives for youth; these incentives include intramural sports. One staff member credited participation in these activities for causing reduced incidents of confinement, possibly because there was peer pressure to be available for the teams.

⁴⁸ Interview with DCYC staff.

DCYC Room Confinement Summary FY 18-19

<i>Total Incidents/Total Individual Youth</i>	463/201
<i>Median Duration of Room Confinement Incidents</i>	45.75 hrs.
<i>Percentage of Room Confinement Ending in 4 hours or less</i>	6%
<i>Percentage of Room Confinement Ending in 8 hours or less</i>	14%
<i>Longest Confinement Incident: Hours, Age, Reason(s)</i>	346.5 hrs.; 13 yr. old; Disruption while on cool-out, room restriction, or lock down
<i>Shortest Confinement Incident: Hours, Age, Reason(s)</i>	.25 hr. (2) 14 & 17 yrs.; Non-compliance with staff directive
<i>Frequently Confined</i>	39 individuals comprised 230 incidents

Most cited reasons for confinement		
	<i>Number of Related Incidents</i>	<i>Percentage of Total Incidents</i>
Fighting (includes gang related activity)	144	31%
Assault of other youth, staff or volunteer (includes attempted use & use of a weapon, gang related activity)	97	21%
Disobeying a Direct Order	42	9%

Quarterly Breakdown				
	Q1	Q2	Q3	Q4
<i>Total Incidents</i>	145	107	98	113
<i>Total Youth</i>	80	58	57	76
<i>Longest Confinement</i>	346.5	179.25	168.0	187.0
<i>Shortest Confinement</i>	4.0	.75	.25	.75

Lancaster County Youth Services Center (LCYS)

The Lancaster County Youth Services Center provides secure detention services for juveniles up to the age of 19 years of age. In FY 18-19, the facility served a total of 67 youth with an average daily population of 29.

The facility reported a total of 130 room confinement incidents during FY 18-19, involving 67 individual youth ranging in age from 13-18 years, a reduction from 276 incidents in FY 17-18. LCYS Room Confinement Summary found on page 21 presents further information.

The facility reported completing 99% of room confinement incidents in eight hours or less for FY 17-18. There was continued improvement on decreasing the duration of room confinements in FY 18-19. LCYS room confinement incidents were completed in four hours or less 90% of the time and within eight hours more than 99% of the time. There was a single incident of confinement of one youth that lasted 13 hours.

Of the 130 room confinement incidents reported by LCYS in FY 18-19, 64 of them were attributed to 14 individual youth. It was noted that LCYS reported 21 incidents of room confinement lasting between 2.5 and 2.75 hours at the same time on a single day; an additional juvenile was confined for 4.75 during that event. The reason for confinement was the juveniles were in danger due to the behaviors of others. The median duration of juvenile room confinements for LCYS was 2.0 hours

The use of room confinement for administrative reasons at LCYS was reduced, from 29 in the previous year to 11 for this reporting period. Based on documentation provided by the facility, these administrative confinements were all for medical reasons.

LCYS administration indicated their greatest challenge related to the room confinement issues is the temporary nature of the facility. Youth often enter detention facilities because there are no other placement options for them at a particular time. Many behavior issues result from youth frustration with the absence of a permanent placement that provides the care and support that a juvenile may need. LCYS reported that many behavior issues emerge following hearings.

Administration reported that efforts to reduce the use of room confinement in FY 18-19 have built on their work over previous years. "Our work in family engagement has continued. Our program supervisor has worked with youth on self-advocacy skill development; we now implement a strengths inventory for all youth when they come in. We talk about goal setting."⁴⁹ They continue to strengthen their behavior management program, focusing on positive reinforcement with the youth instead of separation from the group. Last year LCYS brought in a full time Detention Program Supervisor. This person is on site and has developed programing in Restorative Justice, Life Skills and Independent Living Skills.

⁴⁹ Interview with LCYSC staff.

LCYS Room Confinement Summary FY 18-19

<i>Total Incidents/Total Individual Youth</i>	130/67
<i>Median Duration of Room Confinement Incidents</i>	2.0 hrs.
<i>Percentage of Room Confinement Ending in 4 hours or less</i>	90%
<i>Percentage of Room Confinement Ending in 8 hours or less</i>	99%
<i>Longest Confinement Incident: Hours, Age, Reason(s)</i>	13 hrs.; 17 yrs.; Danger to others
<i>Shortest Confinement Incident: Hours, Age, Reason(s)</i>	1.0 hr.; 16 yrs.; Danger due to behavior of others
<i>Frequently Confined</i>	14 individuals comprised 64 incidents

Most cited reasons for confinement		
	<i>Number of Related Incidents</i>	<i>Percentage of Total Incidents</i>
Danger to Others	66	51%
In Danger due to Behavior of Others (Safe Keeping)	33	25%
Danger to Staff	11	8%

Quarterly Breakdown				
	Q1	Q2	Q3	Q4
<i>Total Incidents</i>	12	29	72	17
<i>Total Youth</i>	9	18	39	13
<i>Longest Confinement</i>	5.25	13.0	5.75	4.0
<i>Shortest Confinement</i>	1.25	1.25	1.25	1.0

Northeast Nebraska Juvenile Services Center (Madison)

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 63 youth in FY 18-19 with an average population of 23.

In FY 17-18, Madison reported a total of 84 room confinement incidents. For this reporting period the facility reported a total of 78 room confinement incidents, involving 63 individual youth ages 12-17 years. The Madison Room Confinement Summary found on page 23 presents further information on room confinement at Madison.

NNJSC reported 96% of room confinements ended in eight hours or less; 94% ended in four hours or less. This metric is consistent with FY 17-18. One of the longest reported incidents of room confinement at the facility was 12.75 hours involving a female youth who was a danger to herself.

More than 80% of room confinements at Madison were due to administrative reasons. This number is high when compared to best practices. Madison administration reported a power outage, and a natural disaster near the facility, which made getting staff to and from the location a challenge during that time. Another contributing factor to the administrative confinements is the fact that Madison is dependent on the local sheriff's office to come on site and evaluate juveniles for emergency protective custody (EPC) when there is a mental health concern/crisis that might necessitate the juvenile being transported to a local emergency room.

Madison administrators maintain that room confinement is not used as punishment; it is utilized for emergency situations or situations that impact the safety and security of youth, staff or facility. This shift in room confinement practice was made in July 2016. The Madison administration reported that room confinement does not include regularly scheduled time during the day. Youth on room confinement status attend school, congregate for meals and programming as scheduled, and then are restricted to their sleeping rooms during the portion of the evening that would be considered unstructured time. When asked how room confinement was used, the reply was, "First, we evaluate situation as unsafe. That is the standard. Room confinement isn't necessary if the youth cooperates. If they continue to be socially unsafe, they might need to go into a room against their will. The goal is to not have to lock everyone down."⁵⁰ Although most youth remain in the facility for 21-24 days, Madison administration reported they have been waiting on placement for one youth for more than ten months.

Madison reported that they hired an additional staff member to move (float) about the facility as needed for the evening shift, because this is when youth have the most unstructured time. They continue to use their incentive program as part of their behavior management plan, as they believe this has a significant amount of influence on their need to utilize room confinement. New staff have been trained in how to deal with rule violations. Critical incident reports are reviewed, and staff members receive feedback on how they implement restrictions.

⁵⁰ Interview with NNJSC staff.

Madison Room Confinement Summary FY 18-19

<i>Total Incidents/Total Individual Youth</i>	78/63
<i>Median Duration of Room Confinement Incidents</i>	1.5 hrs.
<i>Percentage of Room Confinement Ending in 4 hours or less</i>	94%
<i>Percentage of Room Confinement Ending in 8 hours or less</i>	96%
<i>Longest Confinement Incident: Hours, Age, Reason(s)</i>	15.0 hrs.; 14 yrs.; Medical Quarantine
<i>Shortest Confinement Incident: Hours, Age, Reason(s)</i>	1.0 hr.; (7) 15-17 yrs.; Administrative-Facility Emergency
<i>Frequently Confined</i>	25 individuals comprised 39 incidents

<i>Most cited reasons for confinement</i>		
	<i>Number of Related Incidents</i>	<i>Percentage of Total Incidents</i>
Administrative- Staffing	38	49%
Administrative – Other (Medical or Facility Emergency)	26	33%
Danger to self, other and/or staff	12	15%

<i>Quarterly Breakdown</i>				
	Q1	Q2	Q3	Q4
<i>Total Incidents</i>	24	1	26	27
<i>Total Youth</i>	22	1	23	20
<i>Longest Confinement</i>	3.75	15.0	2.25	12.75
<i>Shortest Confinement</i>	1.5	15.0	1.25	1.0

Patrick J. Thomas Juvenile Justice Center (Sarpy)

The Patrick J. Thomas Juvenile Justice Center is a staff-secure detention center located in Sarpy County. Sarpy serves juveniles aged 13-18 years, and is equipped with 30 beds. During FY 2018-2019 the facility served a total of 45 youth, with an average daily total of 13.

The facility reported a total of 114 incidents of room confinement with 45 individual youth aged 14-18 years. The Sarpy Room Confinement Summary found on page 25 provide further detail on the use of juvenile room confinement at the facility.

Room confinement incidents for Sarpy stayed generally level when compared to last year's report. The four shortest periods of room confinement reported by the facility were one hour episodes in which the youth were determined to be dangers to others. The longest period of room confinement was 9.5 hours involving a 16 year old male who was a danger to others/staff. The median duration of room confinement for Sarpy for FY 18-19 was three hours. Half of room confinement incidents (58) involved 8 separate youth. The highest frequency for room confinement was one youth who was confined 12 times for a total of 33.75 hours.

The most frequently cited reasons for room confinement were instances in which the youth was determined to be a danger to other residents, staff, or a combination of the two. Sarpy does not have a facility designed for room confinement in the juvenile's sleeping area because few youth have their own rooms, instead s/he is taken to the booking area, where they are observed at all times.

The Sarpy administration reported that the greatest challenge the facility faces when trying to reduce the number of room confinement incidents is the increased mental health needs of youth placed at the facility, and the lengthy stay of some of the youth. This facility housed one youth for approximately seven months, compared with a normal stay of 17-18 days. Long stays make it difficult to keep youth invested in the incentive program they use as part of their behavior management program. "They don't have a light at the end of the tunnel, so there's no incentive."⁵¹ The staff person also observed how difficult the instability was for youth to process and tolerate, noting that one youth was leaving the facility that day, and neither the youth nor the facility had information about where they were being placed next.

According to administration, there has been an effort to reduce the use of room confinement by further developing the youth incentive program to provide more privileges and increased opportunities. In addition to this, they have continued to provide more mental health focused training for staff. They have been able to access 24-hour emergency mental health care through the Sarpy County Sheriff's Office, which lets them have a mental health practitioner on site within 30 minutes. They also have two licensed mental health practitioners on staff. The facility has also received programming and training through Region VI which has been invaluable, according to Sarpy administrators.

⁵¹ *Id.*

Sarpy Room Confinement Summary FY 18-19

<i>Total Incidents/Total Individual Youth</i>	114/45
<i>Median Duration of Room Confinement Incidents</i>	3.0
<i>Percentage of Room Confinement Ending in 4 hours or less</i>	71%
<i>Percentage of Room Confinement Ending in 8 hours or less</i>	97%
<i>Longest Confinement Incident: Hours, Age, Reason(s)</i>	9.5 hrs.; 16 yrs.; Danger to Others & Staff
<i>Shortest Confinement Incident: Hours, Age, Reason(s)</i>	1.0 hr.; (4) 16-17 yrs.; Danger to Others
<i>Frequently Confined</i>	8 individuals comprised 58 incidents

Most cited reasons for confinement		
	<i>Number of Related Incidents</i>	<i>Percentage of Total Incidents</i>
Danger to Others & Staff	77	68%
Danger to Staff	19	16%
Danger to Others	18	16%

Quarterly Breakdown				
	Q1	Q2	Q3	Q4
<i>Total Incidents</i>	29	29	34	22
<i>Total Youth</i>	10	10	15	17
<i>Longest Confinement</i>	6.0	8.25	9.5	9.25
<i>Shortest Confinement</i>	1.25	1.0	1.0	1.25

National Overview of Juvenile Room Confinement

Research & Literature Review

The OIG undertook a systematic search for literature that supported the use of juvenile room confinement in the administration of juvenile justice. The OIG concludes; based on research—there is no behavioral, medical, educational, or legal research that indicates juvenile room confinement, specifically the lengthy involuntary isolation of juveniles placed in any program functioning outside of the family environment, is beneficial or therapeutic. There is no non-partisan, independently-funded, peer-reviewed research which indicates that use of juvenile room confinement is a best practice in juvenile facilities. Seclusion and restraint are considered high-risk and non-consensual. Not only are these practices traumatic to the youth, but there is also possibility of trauma to other juveniles who witness responses to behaviors, to the person who engages in that type of discipline, and to others who are aware that the discipline has taken place.^{52,53,54} Juvenile room confinement is often used despite research associating the practice with serious consequences for youth mental and physical health. Possible consequences 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.”⁵⁵

As many as 70% of children in the U.S. juvenile justice system already suffer from diagnosable mental health conditions.⁵⁶ 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.^{57,58,59} More than half of incarcerated juvenile suicide victims have a history of room confinement while placed in a publically

⁵² LeBel, J., Mohr, W. K., Nunno, M., & O’Halloran, R. (2012). Restraint and Seclusion Use in U.S. School Settings: Recommendations from Allied Treatment Disciplines. *American Journal of Orthopsychiatry* 82(1). http://img2.wikia.nocookie.net/__cb20141006144827/specialeducation/images/d/de/Lebel_Restraint_Seclusion_in_Schools_2012.pdf.

⁵³ LeBel et al. (2012).

⁵⁴ Dierkhising, et al.(2014).

⁵⁵ 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.

⁵⁶ 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>.

⁵⁷ 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).

⁵⁸ 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.

⁵⁹ CJCA. (2017). *Trauma informed care in juvenile justice*. Retrieved from <http://cjca.net/wp-content/uploads/2018/02/CJCA-Position-paper-TIC-002.pdf>.

operated facility.⁶⁰ In a recent study of juveniles in the New York City jail system, researchers determined that the group of juveniles making up the 7% of the total population who had been placed in isolation for any duration were responsible for 53% of the total self-harm incidents.⁶¹ Juvenile facilities with lower rates of room confinement also have lower rates of staff and youth injury, suicide attempts, and youth behavioral incidents.⁶²

The criminal justice system treats juveniles differently than adults because they are cognitively, behaviorally, physiologically, and experientially different. Because of these factors, juvenile room confinement or other forms of isolation and physical restraint should only be employed under carefully defined, circumscribed, and well-supervised conditions.⁶³

Many professional and accrediting organizations in the field of juvenile justice and mental health have developed standards and policies that govern the use of room confinement and are intended to limit its use.

Most standards agree that the best practice use of youth 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, or a matter of administrative convenience;
- **Time-limited.** Youth should be released from room confinement as soon as they are safely able. Room confinement of youth should not last longer than 24 hours, with many standards enacting stricter limits of two or four hours;⁶⁴ and,
- **Closely Monitored.** Youth in room confinement should be checked on by staff frequently while in room confinement. It is also recommended that youth in room confinement for long periods of time be seen by mental health professionals. All instances of room confinement should be recorded and reviewed through a quality assurance program at each facility. Administrative approval should be sought to use room confinement in certain instances.⁶⁵

⁶⁰ Hayes, L. M. (2009). *Characteristics of juvenile suicide in confinement*. Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice. Retrieved from <https://www.ncjrs.gov/pdffiles1/ojjdp/213691.pdf>.

⁶¹ Kaba, F. et al. (2014). Solitary Confinement and Risk of Self-Harm Among Jail Inmates. *American Journal of Public Health* 104(3). 442-447.

⁶² Council of Juvenile Correctional Administrators. (2015). *Council of Juvenile Correctional Administrators Toolkit: Reducing the Use of Isolation [Toolkit]*. Retrieved from <http://dcfs.nv.gov/uploadedFiles/dcfsvnv.gov/content/Programs/JJS/CJCA%20Toolkit%20Reducing%20the%20use%20of%20Isolation.pdf>. P. 9.

⁶³ Roush, D. W. (1996). *Desktop Guide to Good Juvenile Detention Practice*. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention. <https://www.ncjrs.gov/pdffiles/desktop.pdf>.

⁶⁴ The exception on time limits is the American Correctional Association which allows up to five days of disciplinary room confinement.

⁶⁵ Roush, (1996).

Additional recommended practices dating back to 1996 include:

- **Youth should have access to their own belongings**, books, and programming while on room confinement status.
- **Confinement or isolation should not be used when a youth is potentially suicidal.** Self-harming youth require immediate trauma-informed intervention, not room confinement.⁶⁶

Research on juvenile room confinement is no longer in its initial stages. Data cited in past appendices of the Juvenile Room Confinement Annual Report began in 1980, and has snowballed in the past decade. This represents nearly 40 years of accumulated research. There is no research that supports the use of juvenile room confinement. The practice is traumatic and has little therapeutic value outside of limited medical settings. As guidelines and best practices are continually updated and supported by additional research and data, recommended use of juvenile room confinement will become increasingly constrained. New federal legislation has limited its use based on this research.

Methods for Reducing the Use of Room Confinement

Available information suggests room confinement remains fairly widespread in juvenile residential, detention, correctional facilities, and child/adolescent psychiatric facilities in the United States, despite concerns about its harmful effects.

A number of organizations have proposed steps and developed guidance for reducing the use of room confinement in both mental health and correctional settings, based on available research and best practices from facilities and states that have been successful in its reduction.

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 which takes a public health prevention and continuous quality improvement approach to helping aide Mental Health facilities reduce seclusion.⁶⁷ The Council of Juvenile Correctional Administrators (CJCA), has also developed a toolkit with steps facilities can take to reduce juvenile room confinement.⁶⁸

⁶⁶ *Id.*

⁶⁷ NASMHPD (2008). *Six Core Strategies for Reducing Seclusion and Restraint*. Available from www.nasmhpd.org/sites/default/files/Consolidated%20Six%20Core%20Strategies%20Document.pdf.

⁶⁸ Council of Juvenile Correctional Administrators. *Council of Juvenile Administrators Toolkit: Reducing the Use of Isolation [Toolkit]*.

<p style="text-align: center;">NASMHPD Six Core Strategies for Restraint & Seclusion Reduction</p>	<p style="text-align: center;">CJCA Five Steps to Reduce Isolation</p>
<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 general, successful efforts to reduce room confinement have focused on changing facility culture to ensure it is therapeutic, rehabilitative, and trauma-informed. Changes to policies and practices to restrict the use of room confinement and provide for more individualized responses to residents’ aggression, when paired with data monitoring and reporting of all room confinement events to help facilities assess the impact of their changes and make further reductions, have also contributed to reduction in room confinement.⁶⁹

Other successful approaches include staff training and education initiatives, as well as changes in facility approaches to behavior management. Facilities have implemented positive behavioral management techniques and therapeutic models to replace older models that were ineffective or heavily relied on room confinement.⁷⁰ A number of reports and case studies have highlighted the benefit of outside technical assistance to help facilities reduce the use of room confinement.⁷¹

Although organizational standards are in agreement on the need to limit the use of room confinement, success at doing so has been uneven across states and individual facilities. 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.

⁶⁹ *Id.*

⁷⁰ 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.

⁷¹ Council of Juvenile Correctional Administrators. “*Council of Juvenile Correctional Administrators Toolkit: Reducing the Use of Isolation [Toolkit]*.” and, LeBel, et. al. (2012).

Federal Laws

In December 2018, President Donald J. Trump signed the First Step Act (FSA). The FSA limits the duration of solitary confinement for juvenile offenders in the federal system. The FSA requires specific attempts at de-escalation of the youth, including requiring the staff member to attempt to de-escalate the youth by talking to them, or to provide a licensed mental health professional to speak with the youth.⁷² The reasons for room confinement and circumstances for release must be explained. Confinements are limited to three hours for youth who are considered dangers to others, and 30 minutes for youth who are considered dangers to themselves. If after the time limit has expired, and the youth is still not sufficiently calm, the youth must either be transferred to another facility, or be moved to an internal location where services can be provided without room confinement. Finally, the FSA specifies, “Spirit and purpose.—The use of consecutive periods of room confinement to evade the spirit and purpose of this subsection shall be prohibited.”⁷³

The Juvenile Justice Reform Act of 2018 now requires the Office of Juvenile Justice and Delinquency Prevention (OJJDP) administrator to report annually regarding states’ uses of isolation and restraints in juvenile detention and corrections facilities.⁷⁴

⁷² 18 U.S.C. § 5043 (b) (2) (A).

⁷³ 18 U.S.C. § 5043 (b) (2) (D).

⁷⁴ 34 U.S.C. §11117 207.

2018-2019 Findings

Over the past three years, limited changes have been made to decrease reliance on juvenile room confinement as a management tool among the facilities that report.

Based on the analysis of data provided by individual facilities, the OIG could only conclude that juvenile room confinement continued to occur in 2018-2019 and is relied upon in a manner similar to what was reported in previous years. As stated earlier in the report, formal changes to policies and practices on the use of room confinement have not contributed to a comprehensive facility change in reliance on the practice.

The data supplied — which is not externally verifiable — does not indicate that there is a shift towards relying less on room confinement overall, but rather there have been changes to the practice itself. Over the past three years, greater effort has been made by facilities in how juvenile room confinement is used, tracked, and reported, as shown in the Table below. However, little effort has been made to use best practices to *reduce* the heavy reliance on juvenile room confinement as a management tool.

Juvenile Room Confinement (JRC) 3 Year Data Review

FY	#Youth in JRC			Incidents of JRC			Median Duration In Hours			% ended in > 8 Hours		
	16-17	17-18	18-19	16-17	17-18	18-19	16-17*	17-18	18-19	16-17	17-18	18-19
NCYF	33	18	57	93	34	482	261*	240	2.5	0	0	83
YRTC-Kearney	140	125	134	839	1099	956	49.25*	20.75	15.5	6	16	31
YRTC-Geneva	53	56	52	376	726	460	22.0*	2.25	18.5	54	59	37
DCYC	180	174	201	403	392	463	70.75*	57.5	45.75	6	0	14
LCYS	154	89	67	473	276	130	2.25*	1.75	2.0	99	99	99
Madison	75	48	63	130	84	78	3.0*	1.5	1.5	95	98	96
Sarpy	29	36	45	57	75	114	2.5*	3.25	3	98	100	97
Median	75	56	63	376	276	460	22.0*	3.25	3.0	54	59	83

*The 2016-2017 Annual Juvenile Room Confinement Report the duration metric as an average (mean) starting in 2017-2018 this metric was reported as a median.

Subjective interpretations of the current statute has resulted in inconsistent reporting.

Room Confinement as defined in Nebraska statute is any time a juvenile 18 years of age or younger is involuntarily placed alone in any area while residing in any type of institution, facility or agency that is not the child's family home. Reporting exceptions are defined to be when the confinement lasts one hour or less, or when done as a result of normal sleeping hours with no other reasons for confinement. To clarify, the OIG would not expect a facility to report each time youth are retired to their sleeping quarters as part of normal operations (lights out, bedtime, quiet hours etc.) as an incident of juvenile room confinement.

However, some facilities have interpreted the definition of juvenile room confinement and associated reporting requirements differently and out of alignment with the legislative intent.

As noted in previous reports, two Psychiatric Residential Treatment Facilities (PRTF) do not view the statute as applying to them, leading to sporadic reporting or no reporting at all.

Other examples include organizations who do not relate sickbed policies to incidents of juvenile room confinement. Youth may at some point need to be separated from others for health reasons, which may include medical emergencies, contagious illnesses, and post-surgical recuperations. By narrowly interpreting room confinement to include only disciplinary or behavioral reasons, the “involuntary” portion of the definition is ignored.⁷⁵

The OIG asked each facility about their sickbed policies because in some instances this could represent an involuntary confinement. This question revealed a variety of practices. NCYF and NCCW do not report youth on “lay-in” status in their room confinement reports. This status is determined by the facility’s nurse. Similarly, DCYC does not report involuntary medical quarantine. The YRTC’s nurses are permitted to quarantine youth; these youth are reported as involuntarily confined. Madison’s policy is that youth who are unwell have the choice to remain in their rooms, thus it is not considered to be room confinement; Madison reported one medical quarantine in FY 18-19, which occurred when a determination was made by a physician that the youth should be held away from the general population. Sarpy requires a nurse’s permission for a youth to remain in their room, but quarantines are operationally difficult because most youth share a room with others, Sarpy does not report sickbed or quarantines. LCYS’s policy is based on a health care professional’s recommendations; the facility does report sickbed/medical confinements as incidents of room confinement.

Another relevant example is the issue of “normal sleeping hours”; facilities will regularly subtract eight hours of sleeping time from the duration of an incident. Facilities have changed their reporting practices to ensure that youth who are in confinement in the evening are considered to be out of confinement by a specific time at the end of the day. This practice was implemented to ensure that sleeping hours will not be counted in room confinement reporting; some youth then are re-confined in the morning. It is not known if contact with staff and peers is of sufficient quality or duration to consider the youth out of confinement. This practice does not reflect a change in room confinement events. It reflects a change in room confinement reporting.

The OIG has found that the subjectivity applied to juvenile room confinement practices and reporting has resulted in data that cannot be used to definitively quantify the use of juvenile room confinement by facilities in Nebraska. Each individual facility or agency is interpreting the statute, and therefore has determined its own definitions and practices. For further examples of data irregularities see Appendix D.

⁷⁵ Neb. Rev. Stat. §83-4,125 “Room confinement means the involuntary restriction of a juvenile placed alone in a cell, room, or other 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.”

The Jail Standards Board at the Nebraska Crime Commission and the Department of Health and Human Services-Division of Public Health have not revised their regulations to incorporate statutes related to juvenile room confinement.

Neither agency has implemented rules and regulations that mandate each facility to collect data and submit a report to the legislature.⁷⁶

The OIG was informed by the Crime Commission that there is no hearing scheduled to revise §83-4,134 to incorporate the requirements of this section which subjects a facility to disciplinary action for failing to comply with the requirements of the statute.

Public Health reported that proposed changes are being reviewed by the Board of Health. If accepted, regulations will be updated in the spring of 2020. Public Health reported that changes will reflect the requirements in statute.

⁷⁶ §83-4,134.01

2018-2019 Recommendations

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.⁷⁷

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.

Page 29 above gives guidance on how facilities can reduce reliance on juvenile room confinement.

Examples of state legislation relevant to juvenile room confinement can be found in Appendix B.

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.

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 E.

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.

⁷⁷ Neb. Rev. Stat. §83-4,134.01 (d).

Past Recommendations — 2016-2018

There has been facility-level and agency progress made on adopting some recommendations the OIG has iterated in previous annual reports on juvenile room confinement as outlined earlier in the report.

For the use of juvenile room confinement, best practices require that it be used:

- **As a last resort.** Room confinement should only be used in cases when there are threats to safety of the individual or other residents, and when less intrusive measures have failed.
- **Time-limited and finite.** Youth need to be released as soon as they are safely able. Juveniles do not experience open-ended times in the same way as adults, and may perceive their situation as permanent.
- **Closely monitored.** Youth need to be seen frequently; those in confinement for long periods (more than two hours) should be checked by qualified mental health professionals. The circumstances and interactions with the youth should be recorded and analyzed frequently.

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.⁷⁸ 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

⁷⁸ *Id.*

from state regulators and others experts in developing, implementing, and monitoring plans to reduce the use of room confinement.

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.

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.

Appendices

Appendix A: Nebraska State Statues

Appendix B: Federal Laws & Statue from other states

Appendix C: Reporting Facilities

Appendix D: Methodology

Appendix E: Administrative Language

Appendix F: 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.

Appendix B: Federal Law and Statutes from other States

President Donald J. Trump signed The First Step Act into law in December 2018. A key provision of the First Step Act limits the amount of time juveniles are placed in room confinement.

SEC. 613. JUVENILE SOLITARY CONFINEMENT.⁷⁹

(a) In General.—Chapter 403 of title 18, United States Code, is amended by adding at the end the following:

“§ 5043. Juvenile solitary confinement

“(a) Definitions.—In this section—

“(1) the term ‘covered juvenile’ means—

“(A) a juvenile who—

“(i) is being proceeded against under this chapter for an alleged act of juvenile delinquency; or

“(ii) has been adjudicated delinquent under this chapter; or

“(B) a juvenile who is being proceeded against as an adult in a district court of the United States for an alleged criminal offense;

“(2) the term ‘juvenile facility’ means any facility where covered juveniles are—

“(A) committed pursuant to an adjudication of delinquency under this chapter; or

“(B) detained prior to disposition or conviction; and

“(3) the term ‘room confinement’ means the involuntary placement of a covered juvenile alone in a cell, room, or other area for any reason.

“(b) Prohibition On Room Confinement In Juvenile Facilities.—

(1) IN GENERAL.—The use of room confinement at a juvenile facility for discipline, punishment, retaliation, or any reason other than as a temporary response to a covered juvenile’s behavior that poses a serious and immediate risk of physical harm to any individual, including the covered juvenile, is prohibited.

“(2) JUVENILES POSING RISK OF HARM.—

(A) REQUIREMENT TO USE LEAST RESTRICTIVE TECHNIQUES.—

(i) IN GENERAL.—Before a staff member of a juvenile facility places a covered juvenile in room confinement, the staff member shall attempt to use less restrictive techniques, including—

⁷⁹ The First Step Act; 18 U.S.C. § 5043

“(I) talking with the covered juvenile in an attempt to de-escalate the situation; and

“(II) permitting a qualified mental health professional to talk to the covered juvenile.

(ii) EXPLANATION.—If, after attempting to use less restrictive techniques as required under clause (i), a staff member of a juvenile facility decides to place a covered juvenile in room confinement, the staff member shall first—

“(I) explain to the covered juvenile the reasons for the room confinement; and

“(II) inform the covered juvenile that release from room confinement will occur—

(aa) immediately when the covered juvenile regains self-control, as described in subparagraph (B)(i); or

(bb) not later than after the expiration of the time period described in subclause (I) or (II) of subparagraph (B)(ii), as applicable.

(B) MAXIMUM PERIOD OF CONFINEMENT.—If a covered juvenile is placed in room confinement because the covered juvenile poses a serious and immediate risk of physical harm to himself or herself, or to others, the covered juvenile shall be released—

“(i) immediately when the covered juvenile has sufficiently gained control so as to no longer engage in behavior that threatens serious and immediate risk of physical harm to himself or herself, or to others; or

“(ii) if a covered juvenile does not sufficiently gain control as described in clause (i), not later than—

“(I) 3 hours after being placed in room confinement, in the case of a covered juvenile who poses a serious and immediate risk of physical harm to others; or

“(II) 30 minutes after being placed in room confinement, in the case of a covered juvenile who poses a serious and immediate risk of physical harm only to himself or herself.

“(C) RISK OF HARM AFTER MAXIMUM PERIOD OF CONFINEMENT.—If, after the applicable maximum period of confinement under subclause (I) or (II) of subparagraph (B)(ii) has expired, a covered juvenile continues to pose a serious and immediate risk of physical harm described in that subclause—

“(i) the covered juvenile shall be transferred to another juvenile facility or internal location where services can be provided to the covered juvenile without relying on room confinement; or

“(ii) if a qualified mental health professional believes the level of crisis service needed is not currently available, a staff member of the juvenile facility shall initiate a referral to a location that can meet the needs of the covered juvenile.

“(D) SPIRIT AND PURPOSE.—The use of consecutive periods of room confinement to evade the spirit and purpose of this subsection shall be prohibited.”

State legislation

Examples of state legislation and practices illustrating that juvenile room confinement is limited.

California - Section 208.3 of the Welfare and Institutions Code.

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WIC§ionNum=208.3.

3) “Room confinement” means the placement of a minor or ward in a locked sleeping room or cell with minimal or no contact with persons other than correctional facility staff and attorneys. Room confinement does not include confinement of a minor or ward in a single-person room or cell for brief periods of locked room confinement necessary for required institutional operations.

(b) The placement of a minor or ward in room confinement shall be accomplished in accordance with the following guidelines:

- (1) Room confinement shall not be used before other less restrictive options have been attempted and exhausted, unless attempting those options poses a threat to the safety or security of any minor, ward, or staff.
- (2) Room confinement shall not be used for the purposes of punishment, coercion, convenience, or retaliation by staff.
- (3) Room confinement shall not be used to the extent that it compromises the mental and physical health of the minor or ward.

(c) A minor or ward may be held up to four hours in room confinement. After the minor or ward has been held in room confinement for a period of four hours, staff shall do one or more of the following:

- (1) Return the minor or ward to general population.
- (2) Consult with mental health or medical staff.
- (3) Develop an individualized plan that includes the goals and objectives to be met in order to reintegrate the minor or ward to general population.

(d) If room confinement must be extended beyond four hours, staff shall do the following:

- (1) Document the reason for room confinement and the basis for the extension, the date and time the minor or ward was first placed in room confinement, and when he or she is eventually released from room confinement.
- (2) Develop an individualized plan that includes the goals and objectives to be met in order to reintegrate the minor or ward to general population.
- (3) Obtain documented authorization by the facility superintendent or his or her designee every four hours thereafter.

(e) This section is not intended to limit the use of single-person rooms or cells for the housing of minors or wards in juvenile facilities and does not apply to normal sleeping hours.

(f) This section does not apply to minors or wards in court holding facilities or adult facilities.

(g) This section shall not be construed to conflict with any law providing greater or additional protections to minors or wards.

(h) This section does not apply during an extraordinary, emergency circumstance that requires a significant departure from normal institutional operations, including a natural disaster or facility-wide threat that poses an imminent and substantial risk of harm to multiple staff, minors, or wards. This exception shall apply for the shortest amount of time needed to address the imminent and substantial risk of harm.

(i) This section does not apply when a minor or ward is placed in a locked cell or sleeping room to treat and protect against the spread of a communicable disease for the shortest amount of time required to reduce the risk of infection, with the written approval of a licensed physician or nurse practitioner, when the minor or ward is not required to be in an infirmary for an illness. Additionally, this section does not apply when a minor or ward is placed in a locked cell or sleeping room for required extended care after medical treatment with the written approval of a licensed physician or nurse practitioner, when the minor or ward is not required to be in an infirmary for illness.

Colorado Rev Stat 26-20-101. Short title. The short title of this article is the "Protection of Individuals from Restraint and Seclusion Act":

26-20-104.5. Duties relating to use of seclusion by division of youth services.

(1) Notwithstanding the provisions of section 26-20-103 to the contrary, if the division of youth services holds a youth in seclusion in any secure state-operated or state-owned facility:

- (a) A staff member shall check the youth's safety at varying intervals, but at least every fifteen minutes;
- (b) Within one hour after the beginning of the youth's seclusion period, and every hour thereafter, a staff member shall notify the facility director or his or her designee of the seclusion and receive his or her written approval of the seclusion; and
- (c) Within twelve hours after the beginning of the youth's seclusion period, the division of youth services shall notify the youth's parent, guardian, or legal custodian and inform that person that the youth is or was in seclusion and the reason for his or her seclusion.

(2) (a) A youth placed in seclusion because of an ongoing emergency must not be held in seclusion beyond four consecutive hours, unless the requirements of paragraph (b) of this subsection (2) are satisfied.

(b) If an emergency situation occurs that continues beyond four consecutive hours, the division of youth services may not continue the use of seclusion for that youth unless the following criteria are met and documented:

(I) A qualified mental health professional, or, if such professional is not available, the facility director or his or her designee, determines that referral of the youth in seclusion to a mental health facility is not warranted; and

(II) The director of the division of youth services, or his or her designee, approves at or before the conclusion of four hours, and every hour thereafter, the continued use of seclusion.

(c) A youth may not be held in seclusion under any circumstances for more than eight total hours in two consecutive calendar days without a written court order.

(3) Notwithstanding any other provision of this section, the division of youth services may place a youth alone in a room or area from which egress is involuntarily prevented if such confinement is part of a routine practice that is applicable to substantial portions of the population. Such confinement must be imposed only for the completion of administrative tasks and should last no longer than necessary to achieve the task safely and effectively.

Supporting policy document - POLICY S 14.3 B - Time-out, Seclusion and Program Refusal-
<https://drive.google.com/file/d/0B32vshZrERKsUTBqZjFMcnNUS28/view>

District of Columbia B21-0683 - Comprehensive Youth Justice Amendment Act of 2016

<http://lims.dccouncil.us/Download/35539/B21-0683-SignedAct.pdf>

Title II 202 (3) Room confinement" means the involuntary restriction of a juvenile alone, other than during normal sleeping hours or facility-wide lockdowns, in a cell, room, or other area

Sec. 203. Limitations on the use of room confinement.

- (a) Penal institutions and secure juvenile facilities shall not use room confinement on a juvenile for the purposes of discipline, punishment, administrative convenience, retaliation, or staffing shortages.
- (b) (I) Except as provided in subsection (c) of this section, a penal institution or secure juvenile facility may use room confinement on a juvenile as a temporary response to behavior that threatens:
 - (A) Imminent harm to the juvenile or others; or
 - (B) Imminent danger to the safe or secure operation of the penal institution or secure juvenile facility.

(2) A penal institution or secure juvenile facility may use room confinement pursuant to paragraph (1) of this section if there is no other reasonable means to eliminate the condition; provided, that:

- (A) Room confinement is used only to the extent necessary to eliminate the condition identified;
 - (B) Facility staff promptly notifies the juvenile of the specific conditions that resulted in the use of room confinement;
 - (C) Room confinement takes place under the least restrictive conditions practicable and consistent with the individualized rationale for placement; and
 - (D) Facility staff develops a plan that will allow the youth to leave room confinement and return to the general population as soon as possible.
- (c) Facility staff at a penal institution or secure juvenile facility may grant a juvenile's request for room confinement; provided, that the juvenile is free at any time to revoke his or her request for confinement and be immediately returned to the general population.
- (d) Except for room confinement occurring under subsection (c) of this section, a health or mental health professional shall conduct a mental health screening on a juvenile placed in room confinement within one hour after placement. After a screening, the penal institution or secure juvenile facility shall provide mental health services to the juvenile, if necessary.
- (e) Except for room confinement occurring under subsection (c) of this section, room confinement shall be used for the briefest period of time possible and not for a time to exceed 6 hours. After 6 hours, the youth shall be returned to the general population, transported to a mental health facility upon the recommendation of a mental health professional, transferred to the medical unit in the facility, or provided special individualized programming that may include:
- (1) Development of an individualized plan to improve the juvenile's behavior, created in consultation with the juvenile, mental health or health staff, and the juvenile's family members that identifies the causes and purposes of the negative behavior as well as concrete goals that the juvenile understands and that he or she can work toward to be removed from special programming.
 - (2) In-person supervision by and interaction with staff members;
 - (3) In-person provision of educational services;
 - (4) Involvement of the juvenile in other aspects of the facility's programming, unless the involvement threatens the safety of the juvenile or staff or the security of the facility; and
 - (5) Daily review with the juvenile of his or her progress toward the goals outlined in his or her plan.

New York

No vote on legislation to end juvenile solitary confinement in New York on June 23, 2019. However, **Cuomo's administration agreed to administratively implement changes:** (Cuomo said it would be too expensive to implement the bill if passed; corrections & police associations were against it as well)

- Minors, pregnant women and disabled inmates will no longer be put in solitary confinement.
- Tighter rules will be put in place to ensure that only those who commit serious misconduct that creates a significant risk to the safety and security of inmates and correctional facility staff can be placed in solitary confinement.
- The length of time an inmate can be left in solitary confinement will be capped at 30 days.
- Departments of correction will need to expand the use of specialized units where inmates being released from solitary confinement can receive treatment and rehabilitation programming before they are reintegrated with the general prison or jail population. Staff in these units will need to undergo additional training on de-escalation techniques, implicit bias, trauma-informed care, and dispute resolution.
- Inmates in the specialized transition units will be able to earn early release into the general population by completing rehabilitation programming earlier than they are expected to, and any loss of good time will be restored to those who successfully complete their rehabilitation program.
- Departments of correction will be prohibited from imposing restricted diets or any other changes in diet as punishment. Inmates also cannot be denied essential services as a form of discipline.

The HALT bill would have:

- The Humane Alternatives to Long-Term Solitary Confinement Act would have limited a prisoner's time in solitary confinement to 15 consecutive days. An alternative rehabilitative unit, where prisoners would have been allowed a fixed amount of time out of their cells or units, would be provided for any period thereafter.
- It also would have capped the total number of days a prisoner can spend in isolation at 20 for every 60-day period.
- Certain practices would have been banned as well, such as the isolation of pregnant women, the mentally or physically disabled, and inmates 21 years old or younger. Other groups would have received protections, like new mothers and those ages 55 and above.

Raise the Age law took effect in New York State, meaning the state no longer automatically charges all 16-year-olds as adults. In October 2019, the law phases in 17-year-olds. Prohibits 16- and 17-year-olds from being held in adult jails and prisons.

Appendix C: Reporting Facilities

NEBRASKA FACILITIES REPORTING TO THE OIG

Correctional Institutions

Nebraska Correction Center for Women
Nebraska Correctional Youth Facility

Office of Juvenile Services, Youth Rehabilitation & Treatment Centers

YRTC-Kearney
YTRC-Geneva

Juvenile Secure & Staff Secure Detention

Douglas County Youth Center
Lancaster County Youth Services Center
Northeast Nebraska Juvenile Services Center
Patrick J. Thomas Juvenile Justice Center

Mental Health & Substance Abuse Centers

HopeSpoke (formerly Child Guidance Residential Treatment Center)
Hastings Regional Center-Juvenile Chemical Dependency Program
NOVA Treatment Community
Lincoln Regional Center-Whitehall Program

Mental Health & Substance Abuse Centers

Immanuel Medical Center – Residential Treatment Center (CHI)
OMNI Behavioral Health- Seward Family Support Center

Residential Child-Caring Agencies

CAPWN Youth Shelter
Cedars Youth Services
Child Saving Institute, Inc.
Father Flanagan’s Boys Home
Father Flanagan’s Boys Home – Grand Island
Heartland Boys Home LLC
Heartland Family Service – Jefferson House
Heartland Family Service – Youth Links
Masonic-Eastern Star
Home for Children
Nebraska Youth Center
Norfolk Group Home
Omaha Home for Boys
Optimal Family Preservation
Release Ministries, Inc.
Rite of Passage – Uta Halee Academy
Winnebago Youth Facility
Women in Community Service, Inc
Youth Care and Beyond, Inc.

Appendix D: Methodology

Report Process, Limitations, & Analysis

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 eight 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 more than ten instances of room confinement in the fiscal year:

- **Total Incidents/Total Youth:** The total number of room confinement incidents and the associated total 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.
- **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 requested missing data that had not been filed, and policy/procedure updates made by each facility from July 1, 2018 through June 30, 2019. On-site interviews were conducted with administrators at each detention facility and each correctional facility during October 2019. A telephone interview was conducted with a representative from the YRTC-Kearney, because the OIG made an on-site visit to YRTC-K in September. Administrators were given the 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. They described room confinement reduction challenges, their successes, and unique situations that are faced by each facility, as well as their specific room confinement data reported for FY 18-19. 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, 2018 through June 30, 2019;
- 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.

The OIG also interviewed members of the Jail Standards Board, which is charged with inspecting and monitoring the detention centers, and the Division of Public Health Licensure Unit, which licenses the Residential Child Caring Agencies (RCCAs). No youth in any facility were interviewed for this report.

Limitations

This report cannot be considered a comprehensive review of juvenile room confinement in Nebraska for a number of reasons:

- **Verification** — Facilities self-report. The OIG is not able to independently verify the accuracy of the room confinement reports that are submitted by juvenile facilities against other records. Each facility determines the information they share and how they report it.
- **Gaps in Required Reporting** — Some Mental Health Centers have interpreted the definition differently and do not report their seclusion numbers. It is possible other facilities also did not report practices which fall under the scope of room confinement. Some hospitals may qualify as “juvenile facilities” under the law because they provide 24-hour care to groups of children. Examples of hospital-based behavioral health units include Richard H. Young Hospital Behavioral Health Adolescent Unit, or Bryan Medical Center’s mental health inpatient hospitalization program. None of these facilities submitted reports, nor did the OIG specifically request they do so. While schools are not required to report under current statute, they are another example of organizations that may place children involuntarily into rooms,

alone, for more than one hour. This type of data is not collected for the purposes of this report.

- **Inconsistent Information** — The OIG collected and analyzed information surrounding each incident of room confinement. However, facilities do not interpret data selection and sharing in the same manner. One example was differences in reporting the reason for room confinement, which occurred not only between facilities but also among different staff members at the same facility. As an example, one type of behavior, such as a fight, may be documented as “assaultive” by one facility/staff and as a “rule violation” by another. Similarly, sickbed policies vary among facilities. In preparation for the 2018-2019 annual report, facilities were asked about medical confinements and sickbed policies. As this report illustrates, facilities have considerable flexibility in what they report. Due to these inconsistencies, caution should be used when comparing the reasons for the room confinement among facilities or from year to year.
- Facilities may change how they report room confinement from year to year. The OIG was informed that during 2018-2019 some facilities attempted to ensure that incidents of confinement are recorded as ended at some point before normal sleeping hours begin because of the way the OIG calculates sleeping time in these instances.⁸⁰ Another example would be facilities that utilize in-house databases or data collection software. Changes in these collection methods could also contribute to the fluctuating data reported to the OIG for analysis from one year to the next. Thus, noted improvements/deterioration in statistical measures may not indicate actual reductions/increase in confinement.
- **Variation in the Method for Calculating Total Time** – Based on individual facilities’ interpretation of the statute, there was a considerable variation in how time spent in room confinement was reported. For example, a youth may have been in room confinement for 24 hours, but a facility would subtract time designated as “normal sleeping hours” or time spent engaged in programming (meetings with mental health professionals or teachers) or in normal hygiene (showers) routines. That time was added back in, because the confinement appeared to resume immediately the following morning. The practice of incorporating normal sleeping into the raw data is not unique to the OIG; Performance-based Standards also uses this method when calculating data on isolation/room confinement.⁸¹

This report covers hundreds of incidents of room confinements. This office calculated time and when applicable, dates of confinement 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. Data input was not consistent. Within facilities, and frequently when recording a single event, data cells may have reflected either standard time or military time, each of which could be formatted in different ways. To add elapsed time, time and date cells needed to be combined. Then the data was reviewed by hand to discover rollover incidents or inconsistencies, when a youth may have experienced overlapping or consecutive confinements.

⁸⁰ Performance-based Standards. (2019). *Reducing Isolation*. p. 2. Retrieved from <https://pbstandards.org/cjcaresources/158/PbSReducingIsolationJune2019.pdf>.

⁸¹ *Id.*

Some facilities confined juveniles for multiple consecutive intervals, and yet recorded the confinement as more than one incident. To illustrate, a juvenile may have been confined for 194 hours, until 14:23 on 8/11/2018; he might then have been re-confined at 14:24 on 8/11/2018 until 13:00 on 10/15/2018. These times were added together as a single incident because the juvenile clearly had no opportunity to enter the general population between confinements. On the other hand, overlapped times were also combined and reported as single incidents, indicating that youth were confined for less time than reported by the facility.

There were many inaccuracies in the data. For example, some events were recorded as occurring in January, 2018 (during the prior fiscal year) when they were intended to mean January, 2019, the current fiscal year. Youth went into room confinement, and were not recorded coming out. Ever. There are multiple examples of youth being placed in concurrent confinements: in one instance, a youth was confined for five days, and yet on the first day was also confined for 2.25 hours within that five day period. One facility transposed digits in a reported date that resulted in a calculated confinement of more than nine days; a conversation with a staff member indicated the correct time was nine and one half hours. In some instances, time was plainly inaccurate: a youth might be confined from 13:30 until 13:15 on the same day, which indicated a negative length of time in confinement. In one dataset, ages were reported twice: the first was apparently the present-day age, and a second time was meant to be the youth's age at the time of the incident. Facilities were asked to list the reasons for confinement. When facilities chose multiple reasons, this office assumed the first reason listed was the most important.

Names were particularly problematic. Facilities entered names inconsistently, sometimes beginning with the first name, sometimes with the last name. Names of individuals were spelled inconsistently. One facility had multiple youth of different ages with the same identifying number. In this instance, this office chose to go by the name instead of the identifying number. In instances when names were spelled differently and the identifying number coincided, this office used the identifying number. Hyphenated names were not recorded consistently; names would appear in different orders, and with or without hyphens.

In reviewing data for one quarter at one facility, the OIG calculated a specific number of youth involved in juvenile room confinement. A count of names by spelling for the same quarter, revealed a different number; a count by identification number indicated a third and different number. Using two different Excel parameters, this office filtered the data to remove duplicate values or repetitions. Reconciling the quarter revealed that the number arrived at by the OIG was in fact the correct number.

Resolving each of these issues took considerable time, discussion, and frequently, recalculation.

This office rounded times by the quarter hour: if a time difference was seven minutes or less, the total time was rounded down to the nearest quarter hour; if a time difference was eight minutes or more, the total time was rounded up. A confinement from 11:00 to 12:22 was recorded as lasting for one hour and 15 minutes. Total time was then converted to decimal form for consistent calculation purposes. A confinement lasting 1:45 – one hour and 45 minutes – is represented as 1.75 hours.

In preparing this year's annual report, the OIG visited the following facilities: The Youth Rehabilitation Center in Kearney (YRTC-K), Lancaster County Youth Services Center (LCYSC), Patrick J. Thomas Juvenile Justice Center (PJTJJC), Northeast Nebraska Juvenile Service Center (NNJSC), Douglas County Youth Center (DCYC), the Nebraska Correctional Youth Facility (NCYF), and the Nebraska Correctional Center for Women (NCCW). This office also interviewed individuals from The Jail Standards Board and from the Licensure Unit of the Division of Public Health. The OIG appreciates the transparency and generous time allocated for each interview. Administrators explained their experiences with room confinement overall. This report does not comprehensively address all juvenile room confinement occurring in Nebraska.

Appendix E: Administrative Language Chart

Source	Terminology	Definition	Duration	Citation
Federal Law	U.S. Code § 5043."Juvenile Solitary Confinement" ⁸²	"The term 'room confinement' means the involuntary placement of a covered juvenile alone in a cell, room, or other area for any reason"	Three hours; if self-harming, 30 minutes.	The First Step Act; 18 U.S.C. § 5043 (b) (2) (D)
Nebraska Statute	Room Confinement	"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." ⁸³	"Longer than one hour" ⁸⁴	Neb. Rev. Stat. §83-4,125; Neb. Rev. Stat. §83-4,134.01

Facility	Source	Terminology	Definition	Duration	Citation
Corrections	Nebraska Administrative Code (NAC)	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
	NAC	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
	NAC	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
	NAC	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

⁸² 18 U.S.C. § 5043 The First Step Act "Juvenile solitary confinement" is the title of that section of The First Step Act. <https://www.law.cornell.edu/uscode/text/18/5043>. See Appendix [xxx].

⁸³ Neb. Rev. Stat. §83-4,125; <https://nebraskalegislature.gov/laws/statutes.php?statute=83-4,125>.

⁸⁴ Neb. Rev. Stat. §83-4,134.01; <https://nebraskalegislature.gov/laws/statutes.php?statute=83-4,134.01>.

Administrative Language Chart (continued)

Facility	Source	Terminology	Definition	Duration	Citation
YRTC	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
Detention	NAC	Segregation: Disciplinary Detention	"Housing for juveniles convicted of serious rule violation"	Up to 7 days	83 NAC 1-008.96
	NAC	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
	NAC	Segregation: Protective Custody	"Shall mean a status that describes juveniles requesting or requiring protection from others"	Not defined	83 NAC 1-008.83
	NAC	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
	NAC	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

Administrative Language Chart (continued)

Facility	Source	Terminology	Definition	Duration	Citation
Detention continued	NAC	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
	NAC	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
	NAC	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
	DCYC Policy Manual	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)
Residential Child-Caring Agency (RCCA)	NAC	Seclusion	“Places the child in any room against his or her will, where the child cannot voluntarily leave the room and isolating him/her from any personal contact;”	Up to 4 hours, depends on age, constantly monitored	474 NAC 6-008.10; 42 CFR 483.364
Mental Health & Substance Abuse Treatment Facilities	NAC	Seclusion	“Seclusion means the involuntarily confinement of an individual in a locked room. A locked room includes a room with any type of door locking device, or physically holding the door shut.”	Determined by federal statute	175 NAC 19-002; 42 CFR 483.352; 42 CFR 483.358;
	NAC	Time out	“The removal of a client from the setting in which he or she is exhibiting inappropriate behavior until the client exhibits appropriate behavior. Staff requires the client to remain in an unlocked room or area where there are no other individuals except for staff monitoring the client”	Not specified	175 NAC 19-002; 175 NAC 18-002; 42 CFR 483.368

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Providing accountability for the Nebraska child welfare and juvenile justice systems

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