

From: Custody and Control

Conditions of Confinement in New York's Juvenile Prisons for Girls

Human Rights Watch/ACLU
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VI. Conditions of Confinement: Isolation and Related Issues

Isolated Confinement

International norms prohibit subjecting children to “closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned.”¹ New York state regulations permit isolated confinement, known as “room confinement” or “lock-up,” only when a child “constitutes serious and evident danger to himself or others.”²

The facilities' monthly reports record only the relatively few instances in which room confinement is imposed because a girl poses a danger to herself or others.³ In these official records, Tryon reported no use of isolated confinement for the period between January 2004 and January 2006.⁴ For the same period, Lansing reported an average of 2 instances per month of room confinement for periods of less than an hour. Isolation for more than an hour occurred an average of 6 times per month, ranging between 0 and 19 times per month.⁵

Yet girls in both facilities described incidents of being confined to their rooms for long periods of time for seemingly arbitrarily reasons or because staff found it more convenient.⁶ Girls complained most of isolation in Tryon Reception Center, where all girls to be confined in an OCFS secure or non-secure facility are initially sent for two weeks for

¹ United Nations Guidelines for the Prevention of Juvenile Delinquency (“Riyadh Guidelines”), adopted and December 14, 1990 by General Assembly Resolution 45/112, para. Rule 67. (“All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned.”).

² 9 NYCRR § 168.2 (2006). A child may be confined for up to 24 hours with the approval of the facility director, and indefinitely with the approval of a high level OCFS administrator. 9 NYCRR § 168.2(f) (2006).

³ Office of Children and Family Services, *Policy and Procedures Manual*, “PPM 3247.15: Room Confinement,” July 8, 1997, p. 2 (defining “room confinement” to mean confinement of a child “who constitutes a serious, evident and immediate danger to him/herself or others . . .”).

⁴ Tryon Monthly Reports, January 2004 - January 2006. Monthly reports generated by the director of each OCFS facility and submitted to the OCFS central office were obtained by HRW/ACLU through requests made under the New York Freedom of Information Law. Two such reports from Tryon did not contain any information about the use of room confinement; the remaining reports stated that room confinement had not been used.

⁵ Lansing Monthly Reports, January 2004 - January 2006.

⁶ See, for example, Lansing Grievance #6697 (5/05)(“[name redacted] had locked her in her room. Without permission for 3 hours”), Lansing Grievance #6248 (2/05)(“[name redacted] pushed her in room, locked her in, not time to go to bed”). These and subsequent citations refer to grievance logs maintained by the facilities and obtained by HRW/ACLU through a request under the New York Freedom of Information Law. The logs contain abbreviated summaries of grievances filed by incarcerated girls. The citations herein contain the unique number assigned to each grievance and the month and year in which the grievance was submitted; Tryon Monthly Report, October 2005, p.1 (“There were an inordinate number of grievances submitted by residents. A common theme voiced is the excessive amount of time spent in residents' rooms.”).

evaluation.⁷ Although OCFS literature states that girls “receive thorough assessments – e.g. medical, educational, psychological and mental health” in addition to formal orientation during the two week period,⁸ girls held at Tryon Reception Center complained that little time was spent assessing their needs or providing them with services; rather, the bulk of their time was spent sitting alone in their cells. They reported that during the day they were not allowed to lie down on their bunks.

Such isolation also occurs in the regular housing units of Tryon and Lansing. Interviews and grievance logs suggest that girls view doing chores as a privilege, because it represents an opportunity to leave their rooms.⁹ Girls complain that staff sometimes deny them the opportunity to do their chores, or start girls on their chores late, resulting in more time spent by the girls in their rooms.

Some girls confined at Tryon complained of confinement in Tryon’s “mudroom.” Felicia H., 17 at the time of her incarceration, described the “mudroom,” which exists in each unit at Tryon:

You come in the unit, and to the right there’s a big area with rooms off it, and to the left that’s where we live, and in the middle there’s a hallway with a booth in the middle, toward the outside. That’s the mudroom. The mudroom is a regular hallway, it’s small, when you get in trouble, they say, “Go to the mudroom, stand with your hands behind your back.” You have to stand still and look straight forward.¹⁰

Asked how long she was made to stand in the mudroom, Felicia H. replied:

Three hours or so. I was mad about everything, I was always mad. Sometimes staff is in there with you, sometimes not. If they’re confronting you, there’s staff. Or they’ll just come in and out to check on you.¹¹

Alicia K. described her experience in the mudroom:

It’s a little hall between the two sides of the unit. There is nothing in there. You stand, you can’t sit. Sometimes a staff member is there, sometimes not. You’re there an hour or longer sometimes. The mudroom usually leads to a restraint. You have to “assume a position.” That’s stand up with your hands behind your back in the shape of a diamond. If you move, it’s an automatic restraint. They

⁷ New York State Office of Children and Family Services, “Facility Programs: Brief Descriptions of Office of Children and Family Services Residential Facilities and Their Programs,” (December 2003).

⁸ Ibid.

⁹ HRW/ACLU interview with Alicia K., Syracuse, New York, February 21, 2006.

¹⁰ Human Rights Watch interview with Felicia H., New York, New York, May 4, 2006.

¹¹ HRW/ACLU interview with Felicia H., New York, New York, May 4, 2006.

kind of egg you on, they yell at you. “If you move one inch, I’m going to drop you.”¹²

Another girl held at Tryon complained that a staff person had spit in her face and told her to “shut up” when she was being held in the mudroom.¹³ Such examples suggest that girls are made to stand alone in the mudroom as a form of punishment, although the staff members involved may view these incidents differently. As described elsewhere in this report, however, HRW/ACLU were not permitted access to the facilities nor to members of the line staff, and therefore could not obtain the staff’s perspectives or other information to test the validity of these accounts.

A subtler form of isolation takes the form of restrictions on conversation among girls. Some girls complained that although not locked in their rooms, they were kept away from their peers.¹⁴ Denise J. said that if a girl was caught talking to other girls at Tryon Reception Center, she was punished.¹⁵ Selena B., who had been held at Lansing, said that Christmas was fun in the facility because “we got to associate with each other.”¹⁶

Social isolation can be expected to be especially damaging to girls because research reveals that connection with others is essential to their development.¹⁷ In addition, when persons with any propensity to self-harm are placed in isolated confinement, they demonstrate a very high incidence of anxiety and are much more likely to harm themselves.¹⁸ The following comments of the girls themselves, drawn from facilities grievance logs in which staff members summarize girls’ complaints, suggest that isolation and prolonged lack of stimulation negatively impact girls’ mental health. One grievance cites “having to stay in their rooms all the time. It affects her because she thinks about cutting herself.”¹⁹ Another complains that, “she is staying in her room for long periods of time and she begins to think about what her stepfather did to her.”²⁰ Current understanding of the importance of a “relationship based” model of juvenile programming is contradicted by the practices of the Lansing and Tryon facilities.

Idleness

¹² HRW/ACLU interview with Alicia K., Syracuse, New York, February 21, 2006.

¹³ Tryon Grievances #8151, #8153 (2/03).

¹⁴ See, for example, Lansing Grievance #3982 (1/03) (“staff keeping her away from peers sitting in hall”).

¹⁵ HRW/ACLU interview with Denise J., New York, New York, February 13, 2006 (“If you got caught talking to people, you got a level.”). Denise’s comment refers to the three “levels” of punishment meted out at OCFs facilities.

¹⁶ HRW/ACLU interview with Selena B., New York, New York, February 14, 2006.

¹⁷ Speech by Marty Beyer, Psychologist/Juvenile Justice and Child Welfare Consultant, in “Girls and their Unique Needs in the System,” at “Beyond These Walls: Promoting Health and Human Rights of Youth in the Justice System, April 8, 2006.

¹⁸ Email message from Terry Kupers, M.D., M.S.P., a psychiatrist specializing in prisoners’ mental health, to HRW/ACLU, June 22, 2005.

¹⁹ Tryon Grievance #8798 (8/04).

²⁰ Tryon Grievance #8245 (5/03); see also Lansing Grievance #4195 (3/03) (“made to sit at end of hall. Drives you crazy”); Lansing Grievance #6014 (1/05).

In addition, international standards require that incarcerated juveniles be provided with beneficial activities,²¹ yet girls describe being subjected to lengthy periods of idleness at the facilities. Grievance log entries show complaints that girls are, for example, “sitting there and doing nothing,”²² “sitting around doing nothing-wants something to do,”²³ and “tired of being bored.”²⁴

The problem of idleness in the Lansing facility appear to be most severe in the disciplinary “C-Unit,” which was created to contain the most problematic girls. The threat of confinement in the “C-Unit” is also used to curb misbehavior by girls in other units. The girls held in the “C-Unit” have very little to do, must attend school in the unit, and are never allowed to attend assemblies or other facilities events.²⁵

It’s very boring. The kids don’t have structured things to do for a great deal of their day. That’s why the kids go crazy, get into fights. There’s isn’t enough to do. There aren’t enough art supplies. They spend an inordinate amount of time indoors.²⁶

²¹ United Nations Rules for the Protection of Juveniles Deprived of their Liberty (“U.N. Rules”), adopted December 14, 1990 by General Assembly Resolution 45/113, para. 12, (“Juveniles detained in facilities should be guaranteed the benefit of meaningful activities and programs which would serve to promote and sustain their health and self-respect, to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society.”).

²² Lansing Grievance #6014 (1/05).

²³ Lansing Grievance #5377 (7/04).

²⁴ Lansing Grievance #5370 (7/04).

²⁵ HRW/ACLU telephone interview (name withheld), June 2006.

²⁶ Ibid.