



TO: Co-Chair Gorsek, Co-Chair Sollman, & Members of the Joint Subcommittee on Public Safety
FROM: Disability Rights Oregon (DRO)
DATE: February 23, 2021
RE: DRO's Testimony in Support of House Bill 5039

Dear Chairs and Members of the Committee:

Disability Rights Oregon (DRO) submits this testimony in support of House Bill 5039 and Oregon Youth Authority (OYA)'s requested operations budget valued at over \$300,000.

OYA's budget is both reasonable and reflects an understanding of the agency's responsibility to properly serve youth with disabilities in OYA's care and custody. These funds will allow OYA to hire and retain sufficient numbers of qualified mental health providers (QMHPs). National experts have repeatedly urged correctional facilities to have sufficient clinical staff to ensure the health and safety of residents. See [*"Four Years Later: Oregon Prison Overhauls Treatment of Inmates with Serious Mental Illness."*](#) This clinical staffing is especially critical as many youth coming into OYA's care have experienced trauma, abuse, or neglect.

For example, DRO routinely monitors conditions at MaClaren Youth Correctional Facility and its specialized housing placements for youth experiencing mental illness. QMHP's are often the primary staff that shed light down the path towards recovery for youth. Besides the catastrophic loss of hope, youth with disabilities may also face increased time in solitary confinement when their behaviors cannot be safely managed on the unit. Increased, stable clinical staff at OYA will be able to better provide services better designed to treat the disability related behaviors rather than punish their protected status.

In addition, we applaud OYA's vision in asking for investments in diversion and prevention services. According to [The Pew Charitable Trust](#), Oregon's child incarceration rate is among the worst in the country. In 2020, DRO launched an ambitious new project to reduce the "mis-incarceration" of children and youth in Oregon. "Mis-incarceration" occurs when youth with disabilities are inappropriately placed into the criminal justice system, usually following failures of the service system including education, foster care, and community behavioral health.

Ultimately, HB 5039 seeks to secure services so that our children can get the supports and services they need to succeed and safely return home to their families and community. Thank you in advance for your leadership in protecting the health and safety of our youth.

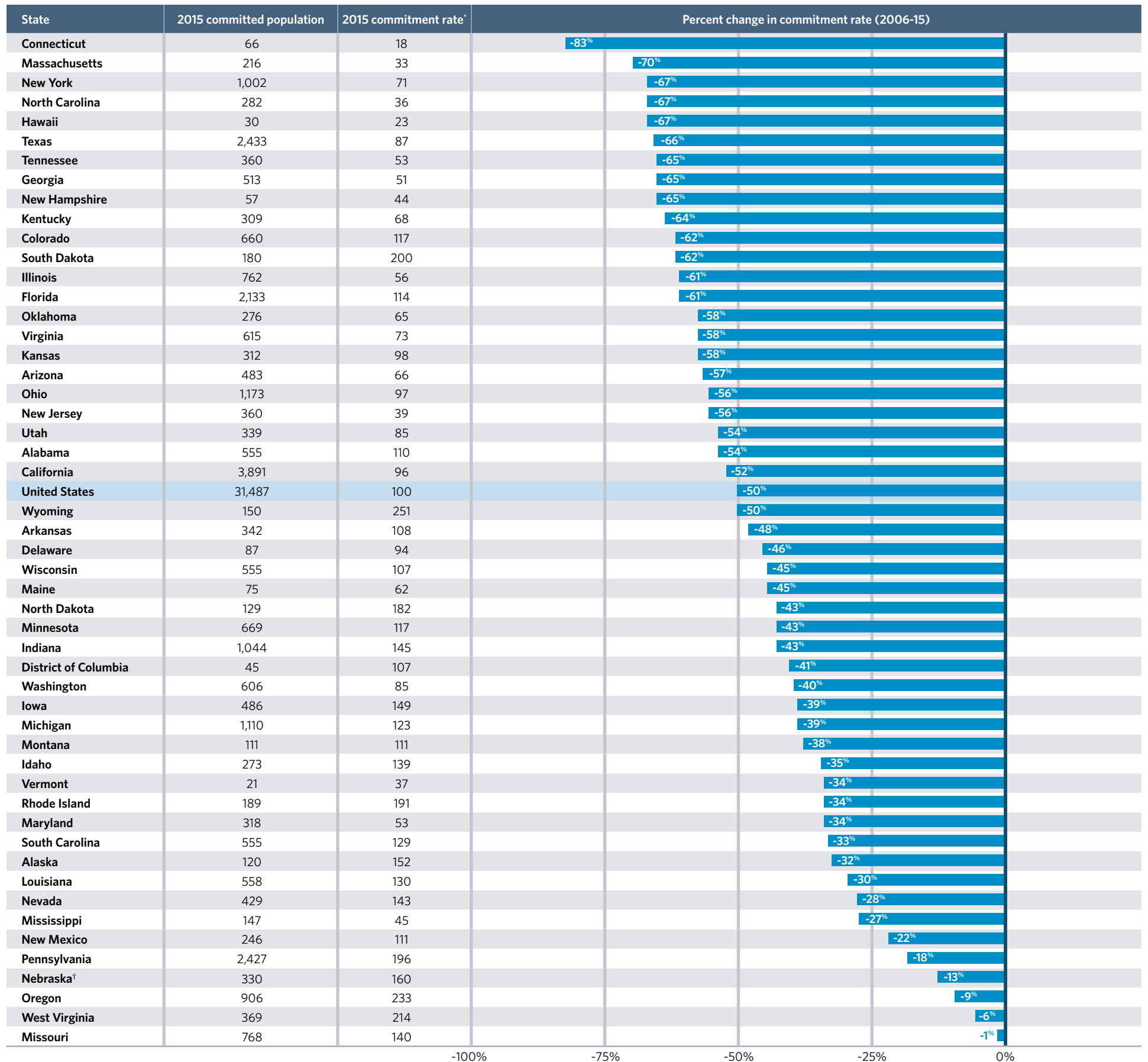
Disability Rights Oregon (DRO)

For more than 40 years, DRO has served as Oregon's federally authorized and funded Protection & Advocacy System. DRO is committed to ensuring the civil rights of all people are protected and enforced, including youth in correctional settings. In recent years, DRO has actively maintained our presence in youth facilities across Oregon. For example, in 2017, we issued the ["Don't Look Around"](#) report about the inhumane conditions for youth at NORCOR.

Juvenile Confinement Drops by Half

More states diverting youths from residential facilities

From 2006-15, the rate at which adjudicated youths were sent to out-of-home placement by juvenile courts fell 50 percent, according to data recently released by the federal Office of Juvenile Justice and Delinquency Prevention.¹ Rates declined in states across the country, including decreases of at least 50 percent in 24 states. The nationwide reduction is matched by a 49 percent drop in juvenile violent crime arrests over the same period and comes as a growing number of states adopt policies that prioritize costly space in residential facilities for youths adjudicated for serious crimes.²



* The commitment rate is the number of adjudicated juveniles in residential facilities per 100,000 youths in the population (ages 10 through the upper age of original juvenile court jurisdiction in each state).

† Pew used 2007 as the base year for Nebraska because of data limitations.

Source: Office of Juvenile Justice and Delinquency Prevention

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Endnotes

- Office of Juvenile Justice and Delinquency Prevention, "Census of Juveniles in Residential Placement: 1997-2015," <https://www.ojjdp.gov/ojstatbb/ezacjrp>. Pew's analysis includes only youths committed to a facility as part of a court-ordered disposition. The census reference dates for the data analyzed by Pew were Feb. 22, 2006, and Oct. 28, 2015; Oct. 24, 2007, was used only for Nebraska.
- Office of Juvenile Justice and Delinquency Prevention, "Statistical Briefing Book: Juvenile Arrest Rate Trends" (March 27, 2017), http://www.ojjdp.gov/ojstatbb/crime/JAR_Display.asp?ID=qa05200. Pew's analysis of the violent crime arrest rates includes murder and nonnegligent homicide, robbery, and aggravated assault.

Project website: pewstates.org/publicsafety

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DISABILITY RIGHTS OREGON



“Don’t Look Around”:

A Window into Inhumane Conditions for
Youth at NORCOR

Winter 2017

EXECUTIVE SUMMARY

Oregon's child incarceration rate is one of the worst in the country. According to recent national studies, Oregon's youth mental health system ranks 41st in the nation,¹ and our youth incarceration rate is the second highest in the nation.² This alarmingly high rate of youth incarceration is fueled by the lack of more effective, community-based mental healthcare, crisis intervention, family supports, and residential or respite care.

Not only do we incarcerate far too many youth, we confine them in unregulated detention centers that are empowered to use harmful, counterproductive, and long-ago disproven management strategies. There is no state or local agency charged with enforcing safe and humane conditions for youth in juvenile detention facilities.

Juvenile detention facilities are unlicensed and unregulated, and are not held to any uniform standards of care that kids are entitled to receive while confined.

This lack of oversight and accountability has allowed Northern Oregon Regional Correctional Facility (NORCOR) to neglect the basic mental health and social development needs of kids in custody. Youth detained at NORCOR are often isolated from human contact, prevented from reading, writing, or drawing, and subjected to harsh and purposeless rules such as prohibitions against "looking around" or asking what time it is. They are denied access to adequate education and separated from their families and communities for unnecessarily long periods.

With appropriate resources, youth can address the behavior that led them to detention and become happy, healthy, members of our community. These kids should not be in jail; and they should not be in a jail that needlessly re-traumatizes them.

As a result of our investigation of conditions for youth incarcerated at NORCOR, Disability Rights Oregon is calling for immediate implementation of the 2016 recommendation by the Oregon State Court Juvenile Justice Mental Health Task Force: that all child-serving systems commit to employing evidence-based, trauma-informed practices. We are also recommending that juvenile detention facilities be regulated and licensed, just like any other residential setting for people who may be vulnerable, to ensure that critical improvements are made to conditions and that allegations of mistreatment are addressed.

¹ Ranking the States (2017), Mental Health America, Available at:

<http://www.mentalhealthamerica.net/issues/ranking-states>

² *Juvenile Confinement Drops by Half (2017)*, The Pew Charitable Trust, Available at:

<http://www.pewtrusts.org/en/multimedia/data-visualizations/2017/juvenile-confinement-drops-by-half>

INTRODUCTION

As the federally designated Protection + Advocacy System for Oregonians with disabilities, Disability Rights Oregon has the ability to access facilities that care for or confine people with disabilities, to monitor conditions, and to investigate concerns of abuse or neglect.³

Over the past two years, Disability Rights Oregon has focused monitoring efforts on county jails, where we know that people with disabilities are disproportionately confined. Last spring, our monitoring schedule brought us to NORCOR, a regional jail in The Dalles. Visiting youth detention facilities was not anticipated within the scope of the project, but we made a spontaneous decision to have a look at NORCOR’s youth detention facility. What we saw there proved difficult to shake, and ultimately led to this report.

We saw kids as young as twelve who were locked in their cells for hours at a time and weren’t allowed to read, write, or draw. They were isolated and had no one to talk to. They weren’t allowed to look out of windows or to ask what time it was. Several reported spending weeks on disciplinary status; deprived of visits with family and phone calls, and required to eat meals, receive education, and exercise alone. Conditions were harsher and more restrictive than any adult jail we had visited, and the kids appeared so young. They were timid and soft-spoken. It was hard to imagine that, as a community, we couldn’t do better for these kids than to lock them alone in sparse cells.

Snapshot: Disciplinary Infractions - “Looking Around”

Date: 4-5 Shift: Day Staff: _____

Comments: Poor effort Doing the minimum Worked hard
 Disrespectful Respectful Helpful
 Talking in line Hands above waist Looking around
 Focused on rules Example for others Other: _____

Education: Poor effort Good effort Excellent work Cross talking Other: _____

Recommendation: Level One Level Two IP / SP: Pass Fail

A recent study by the Pew Charitable Trust found that Oregon has the second highest youth confinement rate in the United States. Only Wyoming incarcerates a higher percentage of its kids. Other states have made great strides in reducing youth incarceration in the past ten years. Nationally, youth incarceration rates have dropped by fifty percent since 2006. Nine states have reduced youth incarceration by over sixty-five percent. Oregon, in contrast, has only managed

³ 42 U.S.C. § 10805(a)(4) (2012); 42 C.F.R. § 51.41(b),(c) (2016); Or. Rev. Stat. § 192.517 (2015).

to reduce youth incarceration by nine percent; its progress is worse than any state, except Missouri and West Virginia.⁴

Research shows that kids from marginalized communities are more likely to be incarcerated and that, once treated like criminals, they are more likely to become involved in criminal activity in the future.⁵ For example, we know that students with disabilities are much more likely to be expelled from school and subsequently, to enter the criminal justice system.⁶ Jails also disproportionately confine kids whose families struggle with poverty and instability,⁷ who have experienced abuse, neglect, or other trauma⁸ who have challenges related to learning or mental health,⁹ and who have experienced discrimination based on their racial, ethnic, or LGBTQ identity.¹⁰ Compounding these challenges, studies show that incarceration itself amounts to an additional significant hurdle that negatively impacts success in school, employment, and recidivism.¹¹

The best outcomes for youth and for public safety occur when youth are safely supported in their communities.¹² Rather than creating a pipeline to prison, juvenile justice policies should focus on keeping kids in school, connecting them to appropriate behavioral health services, supporting families, and offering safe respite or foster care when needed.

⁴ *The Pew Charitable Trust, supra* p. 2.

⁵ *Juvenile Justice Fact Sheet: Highlights from Pathways to Desistance: A Longitudinal Study of Serious Adolescent Offenders*, U.S. Department of Justice (March 2011), Available at:

http://www.pathwaysstudy.pitt.edu/documents/OJJDP%20Fact%20Sheet_Pathways.pdf

⁶ *Breaking Schools' Rules: A Statewide Study of how School Discipline Relates to Students' Success and Juvenile Justice Involvement*, Justice Center: The Council of State Governments and PPRI (Public Policy Research Institute) (2011), Available at: https://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking_Schools_Rules_Report_Final.pdf

⁷ *Oregon State Court Juvenile Justice Mental Health Task Force: Report and Recommendations* (July 2016), Available at: <http://www.oregonyouthdevelopmentcouncil.org/wp-content/uploads/2016/06/Oregon-Chief-Justice-Task-Force-on-Juvenile-Justice-and-Mental-Health-Report-2016.pdf>

⁸ Feyerherm, W. & Johnson, S., *Juvenile Justice and Child Welfare: Estimates of the Crossover between Oregon's Systems* (2012). Studies show that 75 percent of youth involved in the juvenile justice system have experienced traumatic victimization. *Better Solutions for Youth with Mental Health Needs in the Juvenile Justice System*, National Center for Mental Health + Juvenile Justice, (2014), Available at: <https://www.ncmhjj.com/wp-content/uploads/2014/01/Whitepaper-Mental-Health-FINAL.pdf>

⁹ *Orphanages, Training Schools, Reform Schools, and Now This?* National Disability Rights Network, (June 2015), Available at: http://www.ndrn.org/images/Documents/Issues/Juvenile_Justice/NDRN_-_Juvenile_Justice_Report.pdf

¹⁰ *Youth & You, Juvenile Justice: Equity Considerations*, Oregon Youth Development Council (2016), Available at: http://www.oregonyouthdevelopmentcouncil.org/wp-content/uploads/2016/09/Juvenile-Justice-Position-Paper_YDC.pdf, "Available research has estimated that LGBT youth represent 5% to 7% of the nation's overall youth population, but they compose 13% to 15% of those currently in the juvenile justice system."

¹¹ *No Place for Kids: The Case for Reducing Juvenile Incarceration*, The Annie E. Casey Foundation (2011), Available at: <http://www.aecf.org/m/resourcedoc/aecf-NoPlaceForKidsFullReport-2011.pdf> p.12.

¹² *Id.*, "[incarceration] harms the well-being and dampens the future prospects of the troubled and lawbreaking youth who get locked up. Other approaches usually produce equal or better results—sometimes far better—at a fraction of the cost."

When, as a last resort, kids are incarcerated, jails should rely on evidence-based practices to support age appropriate social, psychological, and educational development. Kids should have access to education, exercise and fresh air, mental and physical healthcare, and should stay as connected as possible to their community and future outside jail walls. Under no circumstances should youth be subjected to solitary confinement.

NORCOR is emblematic of Oregon's failure to sustainably and consistently implement positive interventions in the homes and communities of youth who need supports and services to stay safe. Too many kids are incarcerated at NORCOR, they stay there too long, and conditions of confinement appear designed to punish instead of teach life skills. NORCOR deprives kids of human contact and the tools for healthy human development. It's a system bent on producing compliant inmates, rather than rehabilitating kids to become contributing members of our communities. That approach imposes an impermissible cost on the long-term health and stability of our communities, and the social development and mental health of kids in the system.

METHODS

Disability Rights Oregon visited NORCOR on three occasions between June and September 2017. We conducted confidential interviews with approximately 23 youth. We observed operations and took photographs. We interviewed the administrator on multiple occasions, as well as the current and former teacher, and representatives from the Wasco County School District. Current NORCOR staff were invited to provide input into our investigation. DRO reviewed NORCOR policies and youth records. We also researched state and federal law, and related clinical studies regarding the care and treatment of youth in detention.

NORCOR BACKGROUND

What is NORCOR?

NORCOR is a regional jail located in the Dalles, Oregon. It was created through a partnership between Wasco, Hood River, Sherman, and Gilliam counties and holds 100 to 130 adult inmates and about 20 to 24 youth detainees. NORCOR maintains contracts for youth detention with 17 Oregon counties, the Warm Springs Reservation, several Washington counties, and Immigration + Customs Enforcement (ICE).

The NORCOR youth facility houses two programs under one roof: a youth detention facility and a Youth Care Center, which is designated by the Oregon Youth Authority (OYA). On average, NORCOR houses two to four youth who are committed to the Youth Care Center for treatment and rehabilitation services.¹³ OYA conducts periodic visits to NORCOR to renew the Youth Care Center (YCC) designation, but OYA's authority is limited to reviewing compliance with the very sparse rules that govern the YCC program and, most critically, OYA's oversight only extends to kids in OYA custody through the YCC program. Youth held for detention purposes are generally serving sentences for minor charges, or are held pre-adjudication (awaiting disposition of their case.)

Who is held at NORCOR and why?

Given the widely accepted premise that detention for kids should be used only as a last resort, we expected that NORCOR would be reserved for kids facing serious criminal charges. This is not the case; a third to half of youth at NORCOR are incarcerated due to probation violations. These are often "technical" violations, meaning that the offense wouldn't warrant detention if the child were not on probation. For example, a youth may be required regularly to check in with a mental health counselor. If they fail to show up to their appointments, this may be a

¹³ Oregon Administrative Rule 416-315-0010.

probation violation. A small number of youth detained at NORCOR are facing serious charges. In 2017, three youth have been admitted to NORCOR on Measure 11 charges.¹⁴

Most kids at NORCOR are between 14 and 17 years old. The youngest child admitted to NORCOR in 2017 was 11 years old, four were 12 years old, and 15 were 13 years old. The youth are 57 percent white, 16 percent Latino, 13 percent Native American, less than 1 percent African American, and almost 10 percent are identified in NORCOR documentation as “other.” Approximately 24 percent of the children are girls. Fifty of the 236 youth admitted to NORCOR in the first nine months of 2017 are from Washington State. Four youth have been admitted in 2017 who are in Immigration + Customs Enforcement (ICE) custody, hailing from as far as Massachusetts and South Carolina.

Across the country, youth with disabilities are disproportionately represented in the criminal justice system. Approximately 65 - 70 percent of youth involved in the juvenile justice system meet criteria for a disability,¹⁵ and 70 percent meet criteria for mental health diagnosis.¹⁶

Lack of regulatory oversight

Settings in which residents are isolated from the outside world are, by definition, more susceptible to problems of abuse and neglect. That risk is compounded in juvenile detention facilities because of the age of the residents; children are vulnerable.

When an elderly loved one moves into a nursing home, we find some assurance in the fact that the facility is inspected and licensed by the Department of Human Services (DHS); there is a robust system of state and federal regulations enforced by the DHS and Center for Medicaid and Medicare Services (CMS); state and local entities are charged with investigating allegations of abuse and neglect; and there is a statewide long-term care ombudsman program dedicated to enforcing resident rights and mediating problems.

None of that protection or infrastructure exists for children in juvenile detention. Various entities conduct annual inspections ensuring food safety, fire safety, or separation of adults and juveniles, but no state or local agency is charged with ensuring humane conditions and adequate treatment for youth in juvenile detention facilities. Our investigation brings to light large gaps in state and county oversight, and highlights the absence of a formalized process for making and investigating complaints of mistreatment.

¹⁴ Data provided by NORCOR, 10/18/17.

¹⁵ See National Disability Rights Network, *Orphanages, Training Schools, Reform Schools, and Now This?* *supra* p. 5.

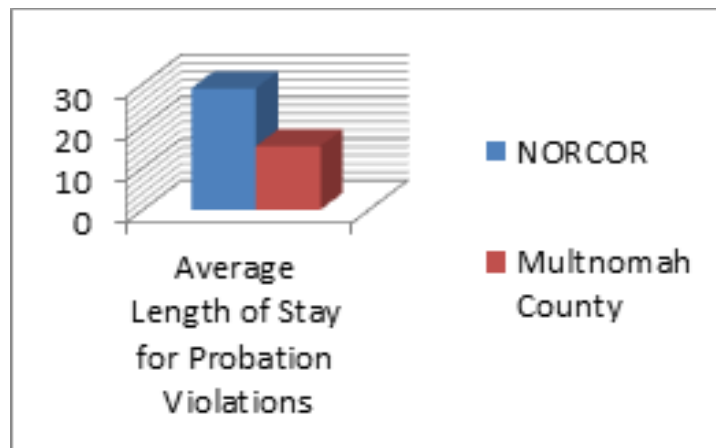
¹⁶ See Oregon Youth Development Council, *Youth & You*, *supra* p. 5

Disproportionate youth incarceration rates in Oregon

Oregon disproportionately incarcerates kids from marginalized communities. African American youth are referred to the juvenile department at two-and-a-half times the rate of white youth.¹⁷ Native American youth are placed in detention at almost twice the rate of white youth.¹⁸

In addition to reflecting statewide concerns about disproportionate minority youth confinement, data provided by NORCOR indicates drastically long lengths of stay. This data reveals a reality that is inconsistent with protections in state law designed to prevent youth from languishing in detention.¹⁹

Statewide, only 7 percent of youth are sentenced to a period of more than 30 days.²⁰ At NORCOR, however, 21 percent of youth remain in custody for more than 30 days.²¹ On average, those long-term youth stay for 82.91 days.



NORCOR's records show that many youth stay for multiple months. Youth booked on technical probation violations at NORCOR (such as failing to show up for community service or a required class), stayed on average 29 days. In contrast, youth detained on probation violations in Multnomah County stayed an average of 15.2 days.²² Shockingly, 25 percent of youth detained

¹⁷ *Racial and Ethnic Disparities in the Juvenile Justice System*, Oregon Youth Development Council (2016), Available at: http://www.oregonyouthdevelopmentcouncil.org/wp-content/uploads/2016/09/Juvenile-Justice_Equity-Considerations-Venngage-Policy-Brief.pdf

¹⁸ *Id.*

¹⁹ ORS 419C.453(1).

²⁰ *Juvenile Justice Information System, Data + Evaluation Reports, Detention Charts and Trends*, Oregon Youth Authority (2007), Available at: http://www.oregon.gov/oia/reports/jjis/2008/2007_detention_charts_trends.pdf. Some may stay for longer periods on a pre-trial basis.

²¹ Data provided by NORCOR, 10/18/17. Youth who were held for less than one day were removed from the calculation.

²² Data provided by Multnomah County Department of Community Justice Juvenile Services Division, 10/20/17.

at NORCOR on technical probation violations stayed in jail for an average of almost 76 days – more than five times the average length of stay in Multnomah County.

Youth from Warm Springs Reservation are disproportionately represented at NORCOR, and they stay on average 29 days. Four youth from the Reservation stayed for an average of 78.56 days in 2017.

Six youth were admitted for violating a conditional release (similar to a probation violation, but pre-adjudication) for an average of 40 days. One of these youth stayed at NORCOR for 187 days.

Youth admitted to the Youth Care Center Placement stay on average almost 74 days, but 11 of these youth stayed for an average of 91 days. The maximum length of stay for youth in the YCC program is 180 days.

During our interviews, teachers, criminal defense attorneys, and administrators identified a number of causes that contribute to the long lengths of stay at NORCOR, including:

- Too few local resources and programs, especially in rural areas, which means that probation officers lack an array of intervention tools and instead, overuse detention
- Difficulty finding appropriate residential or foster care placements for youth whose home situation is not safe
- Too much local discretion, and wide variation among County Juvenile Department policies and practices

Data regarding NORCOR recidivism rates are not available, but we interviewed multiple youth who reported being admitted to NORCOR between two and five times. These youth described multiple residential placements all over the state; a saga of instability punctuated by their own missteps that landed them back in jail.

Spending multiple months in jail is antithetical to what research and common sense tells us that kids need most: stability. Jail time is disruptive to kids' education and family life. For children who lack a safe and supportive home life, jail is the worst place of refuge.

CURRENT BEST PRACTICES AND LEGAL STANDARDS IN YOUTH DETENTION

Experts recommend a strengths-based, trauma-informed approach

Over the past 25 years, research has proven that heavy-handed, compliance-oriented tactics actually discourage prosocial behavior, and excessive lock-down time can cause lasting psychological damage, especially for kids.

In recognition of the vast overrepresentation of kids with mental health concerns in the juvenile justice system, the Oregon Judicial Department convened a Juvenile Justice Mental Health Task Force, which issued a report and recommendations in 2016. A key area of recommendations addressed a “common set of principles” to be adopted by all “child serving systems,” including detention facilities.²³ These principles include:

- Trauma informed care; recognizing the high prevalence of Adverse Childhood Experiences (ACES)
- Family and youth voice; seeking input, recognizing and celebrating individuality and diverse cultural backgrounds
- Strengths-based approach; treatment plans that are asset driven and build on youth’s strengths
- Evidence-based treatment; tracking efficacy and incorporating current understanding of best practices

Ajit Jetmalani, M.D., is the Director of Child and Adolescent Psychiatry at Oregon Health and Science University and a member of the statewide task force. Dr. Jetmalani explained, “The vast majority of youth who encounter the juvenile justice system have a mental illness and significant histories of trauma exposure (neglect, abuse, food and housing insecurity).”

The key to recovery for these kids is not enforcing strict compliance with rules, but rather in forming healthy relationships, which help to foster an intrinsic desire to engage positively with the world.

Dr. Jetmalani continued, “Studies of human development clearly highlight the critical importance of attachment and sustained positive relationships as the primary resilience factors that allow for emotional regulation, cognitive processing and problem solving. When youth

²³ See *Oregon State Court Juvenile Justice Mental Health Task Force*, *supra* p.5.

experience adults as interested in them, willing to listen and focused on their safety and success, youth are much more likely to participate in prosocial productive activities.”²⁴

“This 30-60 day period of these young people’s lives should be seen as an opportunity to right the ship, engage family and community and offer interpersonal, educational, vocational and health care (physical, substance use and mental) engagement that is much less expensive and much more effective than warehousing and traumatically isolating already vulnerable youth.”

Holding kids in solitary confinement is illegal and inhumane, and results in lasting harm

Solitary confinement is broadly recognized as psychologically and physically detrimental for youth, and is opposed by numerous professional organizations.²⁵ The United Nations Convention on the Rights of a Child declares that placing children in solitary confinement is a violation of international human rights.²⁶ The U.N Special Rapporteur has found that solitary confinement constitutes torture when applied to juveniles.²⁷ In 2016, U.S. Department of Justice banned used of solitary confinement of youth in federal prison.

A number of terms are used to describe locking youth in cells: isolation, room-lock, lock-down, Special Program. What matters is not the name or designation, but whether the youth is deprived of meaningful human contact for most waking hours. If that’s the case, it is solitary confinement.

Studies show that solitary confinement exacerbates mental health concerns, such as depression, psychosis, and suicidal ideation, and that these risks are even more significant for

²⁴ Dr. Ajit Jetmalani, email, 11/8/17.

²⁵ *Unlocking Youth: Legal Strategies to End Solitary Confinement in Juvenile Facilities*, Juvenile Law Center (2017), Available at: <http://jlc.org/resources/publications/unlocking-youth-legal-strategies-end-solitary-confinement-juvenile-facilities>

²⁶ *Convention on the Rights of the Child*, United Nations (1990), Available at: <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

²⁷ *Torture and other cruel, inhuman or degrading treatment or punishment*, United Nations (2011), Available at: <http://solitaryconfinement.org/uploads/SpecRapTortureAug2011.pdf>

kids.²⁸ In detention facilities, suicide is linked to use of solitary confinement.²⁹ Even relatively brief periods of isolation can cause serious and lasting harm to children’s neurological and social development.

The risk of harm is unique for young people because of their developmental need for socialization, the intensity of emotional and impulsive reactions associated with adolescent brain development, and the fact that their neurological pathways and social identity are still developing.

Organizations that oppose solitary confinement for youth

- The National Task Force on Children Exposed to Violence
- American Academy of Child & Adolescent Psychiatry
- American Correctional Association
- American Medical Association
- American Psychological Association
- American Public Health Association
- National Commission on Correctional Health Care
- Council of Juvenile Correctional Administrators
- National Council of Juvenile and Family Court Judges

Oregon law reflects these concerns about the impact of isolation on young people. In 2017, Oregon passed important legislation to prevent the Oregon Youth Authority from placing a youth alone in a locked room as a sanction for a rule violation.³⁰ However, the new law does not apply to local juvenile detention facilities. Instead, pre-existing law sets forth a somewhat less protective framework addressing two forms of lock-down in juvenile detention facilities.³¹

²⁸*Unlocking Youth, supra*, citing *V.W. v. Conway*, No. 9:16-CV-1150, 2017 WL 696808, at *7 (N.D.N.Y. Feb. 22, 2017) (citing expert testimony); Fatos Kaba, MA, et al., *Solitary Confinement and Risk of Self-Harm among Jail Inmates*, 104 *Amer. J. Pub. Health* 442, 444 (2014), Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3953781/pdf/AJPH.2013.301742.pdf>

²⁹ *Id.*, citing Lindsay M. Hayes, *OJJDP Report: Juvenile Suicide in Confinement: A National Survey 18 (2009)*, Available at: <https://www.ncjrs.gov/pdffiles1/ojjdp/213691.pdf>

³⁰ Senate Bill 82 amended ORS 420A.108.

³¹ ORS 169.730. “Isolation” and “roomlock” are defined below:

- (1) “Isolation” means confinement of a juvenile in any room which lacks toilet facilities, furniture, reading and recreation materials or access to light and air comparable to that in other rooms used for the detention of juveniles
- (2) “Roomlock” means confinement of a juvenile in any sleeping room, other than an isolation room, except during regular sleeping periods;

Except that, in the case of facilities serving counties with a population less than 70,000, based on the 1980 census, “roomlock” does not include confining a juvenile in a sleeping room when all detained juveniles of the same sex are similarly confined due solely to the limitations of physical facilities or staff.

Under state law, “isolation” in juvenile detentions facilities may generally only be used if “reasonably necessary and justified to prevent escape from the facility, physical injury to another person, to protect a detained juvenile from physical self-injury.”³² The isolation should last only as long as the danger exists, and in any event, isolation may not continue for more than six hours.³³ Oregon law prevents the use of “Roomlock” (confinement of a juvenile in a sleeping room) except to discipline a juvenile for a violation of a written rule of conduct (that has been provided to the youth in advance), or for conduct that constitutes a crime.³⁴

Oregon Juvenile Detention Facility Guidelines instruct staff to make visual contact with a youth in roomlock at least every fifteen minutes and require that written policy, procedure, and practice specify that roomlock for minor misbehavior serves only as a short-duration “cooling off” period (15-60 minutes).³⁵

³² ORS 169.750(2).

³³ ORS 169.730.

³⁴ ORS 169.750(3).

³⁵ Oregon Juvenile Detention Facility Guidelines 3rd Edition (2001) p. 36, Available at: <http://library.state.or.us/repository/2008/200808291547305/index.pdf>



UNACCEPTABLE CONDITIONS AT NORCOR

The juvenile justice philosophy practiced by NORCOR is an outdated and disproven approach that emphasizes control for control's sake rather than employing evidence-based treatment models.

When youth are booked at NORCOR, they are placed on 24-hour lockdown without access to phone calls, visits, books, or access to education until they pass a 52-question test regarding 62 rules. (See exhibit). During that period, written policy states that the only item that children are allowed access to is the Bible.

Excerpt from NORCOR rules for youth:

- Do NOT look out any windows.
- You will not ask what time it is.
- You will give a full effort in all activities.

Line movements:

- During line movements, you will be on SILENCE and keep your hands down to your side.
- You will look forward at all times. Do NOT look into any other rooms.
- Do NOT move or touch any doors.
- These rules are not tied to improved safety or facility security, and eliminate nearly all autonomy that kids have over the smallest choices involving their bodies.

Frequent, prolonged, and undocumented use of isolation at NORCOR

All kids confined at NORCOR spend long periods locked in their cells. Most youth reported that they spend between three to six hours per day locked down in their cells. They said that their out-of-cell time varied greatly depending on staffing levels and which staff were on duty on a given shift. Weekends, for example, could involve a movie and social time, or could consist of almost 24/7 lock-down, depending on which staff members were on duty. Their ability to recount their daily schedule was impaired by the fact that there are no clocks visible to youth at NORCOR, and the rules expressly forbid youth from asking what time it is.

In contradiction to Oregon law, NORCOR does not maintain any records documenting periods during which youth are confined to their cells. Hence, there are no records to refute the account provided by the youth that we interviewed.³⁶ NORCOR administration acknowledged

³⁶ ORS 169.740(2)(i).

that they simply do not make a report when youth are locked down, either on a routine basis or as a disciplinary intervention.



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Access to books, journals, photos of family, phone calls, and visitation is severely restricted

Under Oregon law, juvenile detention facilities can limit access to exercise, reading materials, visitation, and phone calls with family and friends, only to the extent necessary to ensure the safety and security of the facility.³⁷ Yet, at NORCOR, harsh restrictions leave youth desperate for an extra phone call, a ball, a book, or a pencil.

At NORCOR, children are generally allowed to possess one book, in addition to the Bible. Children enrolled in the YCC program are also allowed to have three pictures of family members on the wall. No letters, no journals, no drawing, no comic books, no snacks . . . nothing but the concrete walls, one book, and the Bible. In response to Disability Rights Oregon's request, the facility has begun to allow youth to possess a journal and a flexible pen in their cells. The youth we interviewed after the introduction of those items reported that access to pen and paper made a significant difference.

One boy reported that drawing is how he copes with stress. Because he wasn't allowed to draw at NORCOR, he would get really frustrated and punch the wall or scratch at his arms.

In many of our interviews, Disability Rights Oregon staff asked youth what would help them cope with their conditions of confinement at NORCOR.

One young boy stated that having a small ball or hacky sack would really help. At home, he calmed himself by lying on his bed and tossing and catching a ball.

Another boy was desperate to be allowed to draw. He reported that drawing is how he copes with stress. Because he wasn't allowed to draw at NORCOR, he would become frustrated and yell, punch the wall or scratch at his arms. The staff would then discipline him and he would lose access to a book, phone calls, and group education and exercise. This would increase his boredom, frustration and loneliness, making it harder for him to control his outbursts.

One boy had been confined to NORCOR for more than a year. What he wanted most was additional phone calls and visits. Like all youth there, he was allowed two 15-minute phone calls per week and generally received one 15-minute visit per week. He also wished for more

³⁷ ORS 169.760.

opportunities to play basketball or cards. His favorite part of the week was “singing church,” when church volunteers would form a circle and sing with the youth.

A number of children said that they’d like to process their feelings by journaling or writing letters.

Visitation is very limited at NORCOR. Local detainees may come from 17 Oregon counties, the Warm Springs Reservation, or Southeastern Washington. Some of these areas are a three to four hour drive from The Dalles.

ICE detainees may come from anywhere in the United States (for example, we interviewed youth from Massachusetts and South Carolina).

“This is a setting that appears to be unaware of the neuroscience of adolescent development that is driving changes in juvenile justice programming across the country.” – Ajit Jetmalani, M.D.

Despite the invariably long travel times, visits are limited to 15 minutes and the youth remains behind glass. If more than two family members visit, each must visit independently and they have to divide the 15-minute timeslot among the family members. Not surprisingly, several youth reported that it wasn’t realistic to expect family to spend gas money and multiple hours of driving time for a 15-minute visit, divided among family members, and behind glass. Given the long lengths of stay at NORCOR, youth may spend months without seeing family members.

All youth are allowed two 15-minute phone calls per week and 15-minute visits on a first-come, first-served basis, behind glass. One boy, who had been confined to NORCOR for more than a year, said that what he wanted most was additional phone calls and visits.

These conditions are much more severe than what adults experience in jail. At the adult NORCOR facility, inmates enjoy access to commissary, a television on each unit, almost unlimited out-of-cell time, daily video visitation, phone calls six days per week, and unrestricted social contact with other adults in custody.

One of the youth we interviewed was looking forward to aging up into adult jail (while still in pre-adjudication custody) so that he could access commissary and more frequent phone calls.

A disciplinary system designed to break the will at any cost.

NORCOR uses a complicated disciplinary system that relies on a scorecard completed each shift by an individual staff person. Youth who receive a staff report recommending disciplinary status are denied visitation, phone calls, the right to possess a book in cell, communal meals, and the ability to receive education and exercise with their peers. In order to earn their way out of this state of deprivation, the youth must “pass” an undefined number of shifts (again, by individual staff report).

Snapshot: Shift Scorecard Example

Date: 5/6 Shift: Swing Staff: _____

Comments: Poor effort Doing the minimum Worked hard
 Disrespectful Respectful Helpful
 Talking in line Hands above waist Looking around
 Focused on rules Example for others Other: Kept Talking

Recommendation: Level One Level Two IP ~~SP~~ Pass Fail

If the youth fails to pass sufficient shifts, she or he transitions to long-term disciplinary status, entitled “Special Program.” According to NORCOR written policy, “Special Program” can also be imposed on youth who are “are highly suicidal, a major security or safety risk, or individuals who need added structure and restriction to their daily routine.”³⁸

³⁸ NORCOR Policy 10.4.

Snapshot: Excerpt from Youth File Describing Terms of "Special Program"

06/15/17

NORCOR JUVENILE DETENTION

SPECIAL SANCTION PROGRAM

[REDACTED]

1. The youth will maintain regular shower days.
2. The youth will not be allowed any visitation privileges.
3. The youth will only be allowed evaluation level reading materials. (Bible only)
4. The youth will eat all meals in his/her room.
5. The youth will exercise alone for one (1) hour per day.
6. For education time, the youth is to be alone at a wing table.
7. The youth is to be placed on Caution Status during the extent of the special program.

17 Books returned

No changes will be made to this program until reviewed by the Detention Manager or Supervisor

o **on 6-16-2017** *o*

Special Program includes the same restrictions (no book, no phone calls or visits, solitary exercise, solitary education, and solitary meals) and lasts “until such time that the Detention Manager, Operations Manager, or Supervisor deem it appropriate.” There are no parameters for “Special Program’s” use and duration. Prior to exiting the Special Program, the youth is required to retake the orientation test.

If a youth is released prior to earning sufficient passed shifts to end the Special Program, he or she will be required to resume that disciplinary status if admitted to NORCOR custody in the future. This is a practice that NORCOR reports it has recently discontinued.

Deprivation of phone calls, visits, communal meals, exercise, and education, means that youth on disciplinary status at NORCOR are alone all day and night. Even though youth may leave their cells to exercise or study, the fact that they are effectively denied all meaningful human contact during the disciplinary period means that they are held in solitary confinement.

Case Study: “Eli”

One boy with a history of self-harm was placed on a “Special Program” for 69 consecutive days for infractions such as talking and “being needy”, according to NORCOR records. The boy reported to Disability Rights Oregon that his initial infraction was having an additional book in his cell. “I love to read,” he explained.

According to documentation provided by NORCOR, the reasons he remained in disciplinary status included being “needy” (noted multiple times, with no detail provided), “passive aggressive,” “tattling,” “attention seeking,” “talking,” “feet on stool,” “junior staffing” (which means telling other youth what the rules are), “hands above waist,” and “looking around.” (NORCOR rules require youth to “look forward at all times.”)

Kids at NORCOR are caught in a vicious cycle: behavior that is symptomatic of mental health crisis and trauma is perceived as noncompliance and triggers a disciplinary response and placement in even more counter-therapeutic conditions. Frustration at being locked down, extreme boredom, lack of human contact, and absence of trust and engagement with caregivers make it that much more difficult to comply. The result is that kids with a history of trauma and mental health concerns can spend weeks in disciplinary lock-down at NORCOR, sometimes enduring conditions that amount to solitary confinement.

Dr. Ajit Jetmalani explained that “youth with traumatic backgrounds may process information differently and react unpredictably to their perceptions of potential threat and abandonment. This hypervigilance is protective and can be misunderstood as ‘defiance or noncompliance’ by inadequately trained caregivers or juvenile staff. This can create a cycle of interpersonal disengagement, distrust, and behavioral escalation.”

Case Study: “Brandy”

One young girl made a serious suicide attempt during her stay at NORCOR. She reported that she had been on disciplinary status for multiple weeks.³⁹ She failed shifts (meaning that she could not get off disciplinary status) for things like falling asleep (after hours alone in her room with no entertainment other than the Bible), using a clean piece of tissue as a bookmark, or leaving an orange seed on her floor. NORCOR records show that most of the time, staff noted that she was “respectful,” “polite,” and “helpful,” or doing “excellent work” in school.

Nevertheless, she was also consistently demoted for things like, being “needy,” “doing the minimum,” “doing just okay,” flirting, “hands above waist,” not saying excuse me, or for no documented reason at all.

At our last visit to NORCOR, this girl had been in custody for five months; her incarceration was triggered by a probation violation but, since her home situation was not viable, she was stuck at NORCOR awaiting a bed in a residential treatment setting. Unhappy at the treatment facility, which was many hours from her rural community, she ran away, and was then returned to NORCOR.

Solitary confinement is especially dangerous when applied against youth who are suicidal. Written NORCOR policy confirms that “Special Program,” is used as a response to children who are “highly suicidal.” Multiple youth reported to us that they struggle with impulses to harm themselves, especially during long stretches of solitary time confined in their cells.

Case Study: “James”

“James” reported that he started using drugs as a young child – 8 or 9 years old – and that he experienced abuse at home. During our interview, he explained “people need someone to talk to really bad.” He said that a lot of the kids at NORCOR don’t trust adults because they’ve been abused, and they’d rather talk to their peers. “James” was denied privileges almost every shift due to talking.

He reported a serious suicide attempt prior to admission at NORCOR, and a history of head-banging while at NORCOR. He also reported that the facility response to youth who disclose thoughts of self-harm amounts to the opposite of what those kids need at that time. “If you tell staff,” he said, “they won’t talk you down; they’ll just put you in ‘obs’ [observation cell], alone.”

³⁹ Disability Rights Oregon reviewed her records. Due to lack of documentation, we were unable to confirm the number of days that she spent on disciplinary status.

Snapshot: Disciplined for Talking

Date: 5/9 Shift: Day Staff: SAB

Comments: Poor effort Doing the minimum Worked hard
 Disrespectful Respectful Helpful
 Talking in line Hands above waist Looking around
 Focused on rules Example for others Other: _____

Education: Poor effort Good effort Excellent work Cross talking Other: _____

Recommendation: Level One Level Two IP / SP: Pass Fail

Yonda was asked several times to stop talking, he continued until told he was going to be placed in holding for his behavior

Oregon law requires the opportunity for a hearing prior to imposing “room lock” in excess of 12 hours, or denial of any privilege in excess of one day.⁴⁰ Contrary to these requirements, there is no meaningful mechanism through which a youth can challenge a disciplinary sanction, because the grievance procedure requires that he or she complete the disciplinary action prior to filing a complaint about it. The youth we interviewed did not know of the grievance process or see it as a viable mechanism for redress.

⁴⁰ ORS 169.750(7) A juvenile detention facility may not:

7)Discipline or punish any juvenile for conduct or behavior by roomlock, for a period in excess of 12 hours, or by denial of any privilege, regularly awarded other detained adults or juveniles, for more than one day, except after:

- (a)Advising the juvenile in writing of the alleged offensive conduct or behavior;
- (b)Providing the juvenile the opportunity to a hearing before a staff member who was not a witness to the alleged offensive conduct or behavior;
- (c)Providing the juvenile the opportunity to produce witnesses and evidence and to cross-examine witnesses;
- (d)Providing the detained juvenile the opportunity to testify, at the sole option of the juvenile; and
- (e)A finding that the alleged conduct or behavior was proven by a preponderance of the evidence and that it violated a rule of conduct or behavior of the facility as provided for in ORS [169.076](#) (Standards for local correctional facilities) or constituted a crime under the laws of this state;

NORCOR AND THE WASCO COUNTY SCHOOL DISTRICT PROVIDES INADEQUATE PROGRAMMING AND EDUCATION

Almost universally, the youth that we interviewed at NORCOR liked the education there. They were glad for the opportunity to get out of their cells. They loved their teacher. Some students reported the NORCOR classroom was the first place where they had felt engaged and motivated to learn.

Challenges: A Vast Range of Ages, Languages and Abilities

In many ways, even the most talented and experienced teacher is at a disadvantage in a correctional classroom. The students range from age 12 (or occasionally, younger) to 17 and represent an array of abilities and challenges. Many youth described learning challenges and had a history of receiving special education services. At any given time, there are at least a few students that speak exclusively Spanish.

In addition to the diversity of abilities and languages represented in the classroom, there is significant turnover among students; some stay for a few days; others stay for a year or more. Furthermore, the teacher is required to teach all subjects. By definition, this is a classroom that poses unique and significant instructional challenges.

Not surprisingly, students' unique and diverse needs are not adequately addressed in the NORCOR classroom.

Students with disabilities appear to be under-identified. Out of 227 admissions to NORCOR during 2017, only 30 youth (or 13 percent) were identified by the Wasco County School District as having special education needs. Given the disproportionate representation of youth with disabilities in the juvenile justice system, however, the actual number is likely much higher.⁴¹ Furthermore, the teacher and school district could not provide any examples of disability-specific strategies, accommodations, or interventions that are provided to youth with disabilities at NORCOR.

Our interviews indicated that students with limited English proficiency currently do not receive ESOL instruction or interpretation; instead, they hope that a bilingual classmate will help them follow along. Students who had long or multiple admissions reported that they completed the same math curriculum over and over again. Students who had hoped to graduate saw those

⁴¹ National studies indicate that 65-70 percent of youth involved in the juvenile justice system meet criteria for a disability. Obviously, not all disabilities correspond with learning challenges, but this data indicates that NORCOR has likely under-identified students who require special education services. The school district initiated a special education evaluation for a NORCOR student only once during 2017.

See NDRN, *Orphanages, Training Schools, Reform Schools, and Now This? Supra* p. 5.

aspirations crushed as they realized how difficult it would be to earn high school credits in detention.

Barriers to accessing the classroom result in students receiving significantly less education than they would receive in the community

Notwithstanding the challenges within the classroom, the more troubling issues we encountered related to accessing the classroom. Several facility-driven barriers kept students out of the classroom: staffing shortages, a test required as a prerequisite to entering the classroom, and the challenge of providing solitary education to children on discipline.

In order to enter the classroom, NORCOR requires that students pass a 52-question test regarding 62 facility rules. The special education teacher assigned to support NORCOR students explained that sometimes a learning disability or other barrier (such as anxiety or ADHD) prevents students from completing the test. Yet, there is no formalized process to identify or assist students that need help. Because this process is not tracked, DRO was unable to obtain information about how frequently or for how long youth are prevented from accessing education due to inability to pass the test.

Questions on the Test Include:

22. When staff yells , you are expected to immediately drop to the _ on your _____ with your _____ covering your __, your _____ tucked tightly into your body, your legs spread apart with the _____ or your _ flat on the _____.

30. Any _ will result in _____ from the _ area and you will be dealt with accordingly.

47. When _ comes to your _____, you will be _ on your _____ with your feet on the , awaiting staff _____.

Once students pass the test and become “eligible” for school, there is no guarantee that they will consistently receive a full day of education. Youth on disciplinary status receive solitary education in their housing unit. A prior NORCOR teacher expressed that it was especially difficult to provide education to multiple youth who were relegated to their housing units, while also teaching in the classroom.

One 13-year-old girl explained that she has test anxiety and a learning disability. She was upset about the circumstances leading up to her confinement, and she reported that she cried every 5 minutes while trying to complete the test. She estimated that it took her about 27 hours to complete the test and be removed from lock-down status.

Finally, NORCOR allows no more than ten students in the classroom unless a security staff member is present along with the teacher. Due to inconsistent staffing levels during 2017, students were required to attend school in shifts. Hence, the Wasco County school district reports that NORCOR students received on average 3 to 4.5 hours of education per day between January and August 2017. In the community, Oregon requires high school students to receive 6 hours of education per day.⁴²

⁴² Oregon Administrative Rule 581-022-2320 (requiring 990 hours of education per year).

RECOMMENDATIONS

Based on our investigation of NORCOR, interviews with youth in detention, review of national studies, and the findings of local taskforces, Disability Rights Oregon has created the following recommendations:

1. Oregon’s juvenile detention facilities should be licensed and regulated to ensure safe conditions and adequate care and treatment.

A statewide entity should be charged with promulgating comprehensive rules governing treatment and conditions at juvenile detention facilities, investigating allegations of abuse or neglect, and ensuring compliance with the following basic requirements:

- Safe conditions
- Adequate healthcare and programming
- Adherence to trauma-informed and evidence-based practices
- Prevent kids from being held in solitary confinement

2. Oregon needs statewide oversight and leadership to prevent overuse and disparate use of juvenile detention.

Oregon is long overdue for a comprehensive statewide plan to reduce child incarceration. Oregon incarcerates kids at a rate grossly disproportionate to almost any other state, and we’ve splintered responsibility for fixing that problem among dozens of Juvenile Justice Directors, the Oregon Youth Authority, and the Department of Human Services.

In 2016, the Oregon State Court Juvenile Justice Mental Health Task Force recommended the creation of Children’s Cabinet that would spearhead and coordinate juvenile justice system reform. It was proposed that the Cabinet would involve the judicial, executive, and legislative branches of government. Disability Rights Oregon supports this recommendation. The Children’s Cabinet should be charged with leading Oregon towards expanded availability and reliance on community-based interventions, including crisis services and behavioral healthcare for children and families.

3. Oregon should track and make effective use of data regarding youth detention.

The Oregon Youth Authority or the Oregon Youth Development Council should track, monitor, and make public data reflecting the frequency of juvenile detention and length of stay on a statewide basis and at the county level. The data should be broken down to reflect:

- race/ethnicity, age, gender, disability and LGBTQ status (to the extent known),
- reason for the detention
- involvement in the child welfare system (“crossover youth”)
- history of special education eligibility
- history of school discipline/expulsion

These reporting requirements should be mandatory for county Juvenile Justice Departments. The data as a basis for developing targeted strategies to reduce disproportionate incarceration.

4. All child-serving systems should commit to core principles to ensure an evidence-based and trauma informed response.

The Oregon State Court Juvenile Justice Mental Health Task Force recommended that all child-serving systems commit to a common set of principles to ensure that the care kids receive is humane and effective.⁴³ These principles include:

- ensuring that mental health services are available in the community (even without juvenile justice involvement),
- diverting youth with mental health needs to the least restrictive setting whenever possible and appropriate,
- screening for behavioral health needs at the earliest possible point of contact,
- addressing disparities and honoring youth and family identity,
- delivering services through a trauma informed lens,
- utilizing current science regarding child development,
- soliciting and incorporating input from youth and families,
- respectful and compassionate treatment,
- building on youth strengths,
- providing appropriate evidence-based treatment,
- supporting youth attachment to primary caregivers,
- integrating community services, and
- finally, tracking and analyzing data to ensure effectiveness.

⁴³ See *Oregon State Court Juvenile Justice Mental Health Task Force*, *supra* p.5.

Implementing these child-centered principles at NORCOR requires three fundamental changes:

a. A clinically driven program designed to teach and heal, rather than punish

- NORCOR leadership must ensure that policies and staff interactions are rooted in genuine respect for the humanity of incarcerated youth.
- Staff training and increased involvement of licensed, clinical staff.
- Implementation of an evidence-based program that teaches coping skills and incentivizes pro-social behavior.

b. Expanded behavioral healthcare, programming, education, and community connection:

- Kids in detention should have access to mental health care (including counseling and therapeutic groups), substance abuse treatment, vocational programming, recreation, and six hours per day of appropriate education.
- Kids should remain as connected as possible to their communities, their families, and their futures outside jail walls. Visitation and phone calls should be liberally permitted, “reach in” services by community providers should be facilitated, and youth should be involved in meaningful opportunities outside the facility whenever possible.

c. An end to solitary confinement:

- Staff should receive training on de-escalation and crisis intervention.
- Kids should not be deprived of human contact during waking hours, except for a brief (10-15 minute) cooling down period.
- Any use of lock down should be carefully documented through an incident report that is reviewed up the chain of command and a log entry.
- Concerns about suicide risk or self-harm should result in immediate attention from clinical staff and an appropriate therapeutic intervention.

5. Oregon’s Department of Education should guarantee an appropriate education to all students in juvenile detention.

Access to education benefits youth and their communities. Students should be guaranteed access to the classroom, even in juvenile detention and notwithstanding staffing shortages and disciplinary hurdles.

The Oregon Department of Education should provide statewide oversight to ensure quality, appropriate education for youth in detention facilities. The Department should work with local school districts to implement the Legal Center for Youth Justice and Education’s “Blueprint

for Change: Education Success for Youth in the Juvenile Justice System.”⁴⁴ This blueprint includes specific benchmarks to ensure that:

- Youth educational needs are adequately assessed identified
- Youth with disabilities receive the services and accommodations they need to succeed
- Youth with limited English proficiency receive English for Speakers of Other Languages (ESOL) instruction and interpretation/translated materials
- Access to education is not impeded by security and disciplinary policies

⁴⁴ *Blueprint for Change: Education Success for Youth in the Juvenile Justice System*, The Legal Center for Youth Justice and Education, Available at: <https://www.jjeducationblueprint.org/>



EXHIBITS

One youth spent 51 consecutive shifts on disciplinary "Special Program." His record of pass/fail decisions:

6/09	FAIL		
6/10	FAIL	6/25	PASS
6/10	PASS	6/25	FAIL
6/11	FAIL	6/26	FAIL
6/11	FAIL	6/26	FAIL
6/12	PASS	6/27?	Pass
6/12	PASS	6/27?	Pass
6/13	PASS	6/28?	Pass
6/13	PASS	6/28	FAIL
6/14	PASS	6/29	Pass
6/14	PASS	6/29	Pass
6/15	PASS	6/30	Pass
6/15	PASS	6/30	Pass
6/16	Fail	6/30	
6/16	PASS FAIL		
6/17	PASS	7/1	P
		7/1	P

NORCOR JUVENILE DETENTION FLAG

The purpose of this flag is to notify staff of a non-emergency need. The blue side is for general room requests or the yellow side for medical requests. The flag can be taken away at any time for excessive use or misuse. To use this flag, place it on the floor, ½ of the way out, underneath your door. Wait for staff to respond. Do not bang on your door or use your intercom UNLESS it's an emergency.

JUVENILE RIGHTS

While detained in Detention you have basic rights.

1. A safe and secure environment.
2. Medical treatment.
3. Education after 5 judicial days.
4. Send and receive mail.
5. Be provided with three meals a day.
6. Exercise on a daily basis.
7. Be disciplined in a fair and legal manner.
8. A grievance hearing.

GENERAL RULES

You are to follow all staff directives, and failure to follow Detention rules will result in a consequence.

1. You are NOT to leave or enter any room without staff permission.
2. When asking a question, put your hand out to your side, but not above your waist.
3. You will be charged restitution for any damaged property in Detention.
4. You will say, "Excuse me Sir or Ma'am" before walking past staff.
5. Do NOT walk behind staff.
6. There will be NO physical contact with other detainees or staff.
7. Contraband is NOT allowed in Detention. Contraband is any illegal substance, food item, paper clip, staple, or any other item not used in the manner it is designed for.
8. NO vulgar, abusive language or name-calling will be allowed.
9. You will respect all staff and peers.
10. NO manipulation of staff or peers will be allowed.
11. War stories or negative topics are not permitted.
12. Racial harassment and intimidation will not be allowed.
13. You will sit up straight at the table/desk at all times with your feet flat on the floor.
14. Requests to see the nurse MUST be BEFORE the nurse arrives.
15. You will not share, trade, or take items from anyone without staff permission.
16. Do NOT look out any windows.
17. You will not ask what time it is.
18. You will give a full effort in all activities.

LINE MOVEMENTS:

1. During line movements, you will be on SILENCE and keep your hands down to your side.
2. You will look forward at all times. Do NOT look into any other rooms.
3. Do NOT move or touch any doors.

ROOM RULES

1. When lights are turned on and you hear the chimes, roll up your bedding and place it on your bunk.
2. When staff comes to your door, you will be seated on your bunk with your feet on the floor, awaiting staff instructions.
3. When the flag, books or sweatshirt are not in use, they will be placed on your bunk.
4. Your intercom is for EMERGENCIES only. Excessive non emergency use will result in a consequence.
5. You will keep your room neat and clean at all times.
6. Do NOT cover the door, windows or intercom with anything.
7. Do NOT plug your toilets with anything or take the water out of it.
8. Do NOT flush paper towels down the toilet.
9. Do NOT push anything under your door except your flag.
10. Do NOT write or scratch anything on the walls, mirrors, windows, bunks, etc.
11. Do NOT touch the fire alarm or sprinkler systems.
12. Do NOT talk to other youth in your wing, while in your room or at the wing table.
13. Do NOT cover your head with your blanket, or any other object.
13. Except for showering, youth are to keep t-shirt and pants on at all times.
14. Do NOT lie down on your bunk, or sleep during the day.
15. You will be consequence for excessive room noise.
16. Depending on your status, you may be allowed 1 book in your room. (Excluding a Bible). At no time are magazines or hardback books allowed in your room.

NORCOR JUVENILE DETENTION FLAG

PROGRAMMING/EDUCATION AREAS

1. You will remain on silence until staff gives you permission to speak.
2. You will always put your hand out to your side and have staff permission before you speak or ask a question.
3. You will not get out of your seat or change seats, without staff permission.
4. You will return all material that staff assigns to you. If your pencil or any other item breaks, you will alert staff.
5. Do NOT put your feet on the furniture. Your feet must remain on the floor at all times.
6. When staff approaches you while you are performing a task, i.e. sweeping or mopping the floor, you will stop, face the wall and continue only after staff directs you to.

MEAL TIME

1. You will wash your hands before each meal.
2. You will remain on silence until staff gives you permission to speak.
3. You will NOT share, trade or take food from anyone.
4. Quiet conversation is allowed at staff discretion.
5. All utensils will be returned to staff and accounted for.
6. Do not place your elbows on the table during meals.

EXERCISE RULES

1. There will be NO physical contact.
2. Any misconduct will result in removal from the exercise area and you will be dealt with accordingly.
3. You will wear detention shoes to participate in exercise.

GANG ACTIVITY

Detention is a neutral territory to all gang members. Therefore, gang activity is NOT tolerated in Detention.

1. You will NOT "throw" gang signs to any person.
2. NO colors, graffiti, or nicknames will be allowed.

VISITATION

1. Visitation is a privilege.
2. Visitors must be approved by the Probation Officer.
3. Visitations can be terminated any time.
4. Phone visits will be offered during structured quiet time, if time permits, at staff discretion.
5. You must receive staff approval before using the telephone.
6. Visitations will be monitored by staff.
7. Visitation consists of 15 minutes. When there are more than two visitors, they will be divided equally per visit.
8. Staff will NOT contact your Probation Officer; however you can contact your attorney, if requested, during normal business hours.

DOWN ON THE GROUND

When staff yells "DOWN", you are expected to immediately drop to the ground on your stomach with your hands covering your eyes, your arms tucked tight into your body, your legs spread apart with the inside of your feet flat on the ground. This procedure is to benefit all staff and youth's safety. If you do not respond immediately, staff will assume you are participating in a negative activity and you will be dealt with accordingly.

LEVEL STATUS

Eval-You will be on a minimum 24-hour lockdown. There will be no privileges, (phone calls, visits, etc.) until you take the orientation test and pass. You will be able to have a bible in your room, if requested.

Level 1- Below 32 points - You are allowed 1 book in your room. You will be able to have exercise, school, and daily activities with the group. You will be allowed a 15-minute phone call per staff availability.

Level 2- 32 points and Above-You will have all the above privileges and others such as movies, if available, structured free time, and can volunteer for daily chores. All privileges are with staff availability.

Individual Program (IP) - You will have a loss of privileges for seven days. After four days of IP you may be eligible to have one privilege returned per day at the discretion of staff. Failure to pass shifts or further rule violations while on IP may result in not getting privileges returned, loss of returned privileges and/or being placed on Special Program

Special Program (SP) - Detention Manager and or Supervisor will write up a program for you.

I HAVE A MEDICAL REQUEST

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