

Resolution Regarding Standards for the Secure Care of Youth

WHEREAS when secure confinement is needed for public safety, guiding principles and practices for the conditions and care of youth that meet the developmental and treatment needs of such youth exist, including those in the Annie E. Casey Foundation's *Eight Principles to Transform Care for Young People in the Justice System*,¹ these principles and practices shall be followed; and

WHEREAS when secure confinement is being considered, its use should be limited to youth whose behavior poses a serious and immediate threat to public safety, and where other options have been exhausted or determined not to be feasible for the youth and/or public protection; and

WHEREAS secure confinement is disproportionately used as a response to the alleged and adjudicated delinquent acts of youth of color;² and secure care exacerbates the disadvantages that youth of color experience due to the systemic bias and structural racism present in every segment of society; and

WHEREAS the National Council of Juvenile and Family Court Judges (NCJFCJ) has enacted resolutions that call for judges to provide strong leadership on matters concerning independent oversight of youth confinement facilities and reducing the use of solitary confinement of juvenile and the shackling of children in court;³ and

WHEREAS numerous behavioral and social science studies indicate that youth who are not at high risk to reoffend, who remain in the community and are provided evidence-based treatment in the community setting, have better short-term and long-term outcomes, including healthier adolescent development, stronger community integration, and lower recidivism.⁴

NOW THEREFORE BE IT RESOLVED THAT

The National Council of Juvenile and Family Court Judges (NCJFCJ) urges judges to promote equity and justice for all youth by regularly reviewing data for disparity based on youth characteristics, including race, ethnicity, sexual orientation (as lesbian, gay, bisexual, transgender, or queer - LGBTQ), and gender identity or expression (including gender non-conforming GNC) in programming and treatment and at significant decision points in their jurisdiction's juvenile justice process, particularly at points that may lead to and result in secure placement decisions.

The NCJFCJ encourages judges to foster relationships with community partners, including secure facility administrators and staff, to ensure that the daily care of youth in secure care or confinement in a youth facility uses evidence-based or promising practices for effective mental health, trauma, and substance use disorder treatment, positive youth development, family engagement, and rehabilitation opportunities.

The NCJFCJ urges judges to have current knowledge of the policies and practices of secure facilities for youth in their jurisdiction, and to monitor such facilities as follows:

- By touring them and regularly meeting with facility management and the youth housed there; and
- By ensuring that relevant data, as required by the Juvenile Justice and Delinquency Prevention Act (JJDP), are collected and published on a public website, including data on equity in access to and outcomes of programs, data on overall positive youth development and successes, and data on recidivism; and
- By routinely reviewing the data collected and discussing with relevant staff and stakeholders as appropriate.

The NCJFCJ urges judges to regularly engage youth in secure confinement in a way that meets the particular circumstances of confinement, using written communication, FaceTime, virtual hearings, or other creative avenues for contact.

The NCJFCJ urges judges to ensure that secure institutions promote opportunities for youth to have regular contact with family, including in-person, virtually, or other family-friendly strategies to involve family members in treatment, programs, and reentry plans.

When incarceration is required, it should provide trauma-responsive rehabilitation for youth, with the expectation that incarceration is for the shortest period necessary to complete a program.

Placement of youth in secure care should follow practices and principles that reflect an elevated standard of care for young people. These practices and principles consist of:

- Basing interventions on the Risk-Needs-Responsivity (RNR) Approach that 1) uses secure placement for youth who are at a high risk to reoffend and have high criminogenic needs requiring intense treatment; 2) matches interventions to a youth's age, development, culture, mental health, and other needs to ensure programming and treatment are individualized to the youth; and 3) uses evidence-based or promising treatment methods including cognitive-based therapies such as Dialectical Behavioral Therapy (DBT) and Trauma-Focused Cognitive Behavioral Therapy (TF-CBT);

- Ensuring staff utilize trauma-responsive care, such as Trauma-Based Relational Intervention (TBRI);
- Ensuring case-by-case considerations are made with LGBTQ-GNC and intersex youth regarding housing and facility placement; whenever possible the youth should be housed with the appropriate preferred gender; youth's views of their own safety must be given serious consideration in this process; if it is determined to not be in the best interest of the youth to be housed with the preferred gender, it should be communicated to the youth why and the reasoning communicated to the youth documented; placements need to be reassessed at least twice a year and include a review of any threats to safety experienced by these individuals; additionally, transgender and intersex youth must be given an opportunity to shower separately;⁵ LGBTQ-GNC youth should be referred to by the appropriate personal pronouns and given access to mental health advocates who specialize in gender fluid youth and access to therapy that is medically safe, prescribed, and appropriate;⁶
- Ensuring the facility is in compliance with the JJDP A and the Prison Rape Elimination Act (PREA) and that it provides in writing its PREA protocol and an annual compliance report;⁷ and
- Encouraging, at the earliest possible stage, re-entry planning that uses structured community and family-based support for the youth to plan for a smooth and successful return to the community.

Adopted March 12, 2022 by the NCJFCJ Board of Directors, Pittsburgh, PA.

Endnotes

- ¹The Annie E. Casey Foundation. (2019). *Eight Principles to Transform Care*. <https://assets.aecf.org/m/resourcedoc/aecf-eightprinciplestotransformcare-2019.pdf>
- ²Rovner, J. (2021). *Racial Disparities in Youth Incarceration Persist*. Washington, D.C: The Sentencing Project. <https://www.sentencingproject.org/publications/racial-disparities-in-youth-incarceration-persist/>. See also The Office of Juvenile Justice and Delinquency Prevention. (2019). *Statistical Briefing Book Juveniles in Corrections: Related FAQs*. <http://www.ojjdp.gov/ojstatbb/corrections/faqs.asp>.
- ³<https://www.ncjfcj.org/wp-content/uploads/2019/08/regarding-reducing-the-use-of-solitary-confinement-for-youth.pdf>
<https://www.ncjfcj.org/wp-content/uploads/2019/08/regarding-the-need-for-independent-oversight-of-youth-confinement-facilities.pdf>; See also <https://www.ncjfcj.org/wp-content/uploads/2019/08/regarding-shackling-of-children-in-juvenile-court.pdf>
- ⁴National Research Council. (2013). *Reforming Juvenile Justice: A Developmental Approach*. Washington, D.C.: The National Academies Press; Seigle, S., Walsh, N. & Weber, J. (2014). *Core Principles for Reducing Recidivism and Improving Other Outcomes for Youth in the Juvenile justice System*. New York: Council of State Governors Center. <https://csgjusticecenter.org/publications/juvenile-justice-white-paper/>; Lambie, I. & Randell, I. (2013). The impact of incarceration on juvenile offenders. *Clinical Psychology Review*, 33(3), 448–459. <https://doi.org/10.1016/j.cpr.2013.01.007>
- ⁵The National PREA Resource Center. (2021). *Committing to Safety and Respect for LGBTI Youth and Adults in Confinement: Lessons From Two Agencies*. <https://www.prearesourcecenter.org/node/2868>
- ⁶The National Juvenile Defender Center and the National Council of Juvenile and Family Court Judges. (2017). *Access to Juvenile Justice Irrespective of Sexual Orientation, Gender Identity, and Expression (SOGIE)* <https://www.ncjfcj.org/publications/access-to-juvenile-justice-irrespective-of-sexual-orientation-gender-identity-and-gender-expression-sogie/>.
- ⁷National PREA Resource Center. (2012). *Prison Rape Elimination Act Juvenile Facility Standards* <https://www.prearesourcecenter.org/implementation/prea-standards/juvenile-facility-standards>; The National Juvenile Defender Center. (2019). *Juvenile Facilities*

Checklist for Defenders: Advocating for the Safety and Well-Being of Transgender, Gender Nonconforming, and Intersex Young People. https://njdc.info/wp-content/uploads/Facilities-Checklist_TGNCl_Digital-FINAL.pdf. <https://njdc.info/wp-content/uploads/Juvenile-Facilities-Checklist-compressed.pdf>