

Solitary Confinement and its Effects on Juveniles

Juveniles, or adolescents, are one of the most vulnerable populations within society and their rights are to be protected at all costs. While the juvenile system is designed to be closed in order to protect juveniles' identities, its discretion creates room for injustice (Clark). Often during a juvenile's incarceration they are subjected to solitary confinement (Dierkhising, Lane, and Natsuaki). The United State's Eighth Amendment applies to juveniles and prohibits "cruel and unusual punishments" from being inflicted (US Const. amend. VIII). The placement of juveniles within solitary confinement is a direct violation of the Eighth Amendment as it is cruel and unusual punishment because it is detrimental to an individual's mental health, and directly opposes the rehabilitative purpose of juvenile detention centers, hence the need for abolition of the practice within facilities.

Solitary confinement, commonly known as segregation, is the practice of placing an individual in a small cell, alone, for up to twenty-three hours per day, creating sensory deprivation of sights and sounds (Cyrus and Williams). Often this is used as a method of further controlling individuals by removing all external stimulus, such as contact with peers or reading materials (Clark). Correctional staff implement the use of segregation as a tool to more easily control their juvenile correctional facilities, it serves as a simple fix to a complex problem (Clark). A total of twenty-nine states, as well as the federal government, have either completely banned the use of solitary confinement in juvenile facilities or at least placed stringent restrictions on it (Clark). The Bureau of Justice Statistics' National Survey of Youth in Custody determined that of the youth from the survey, 55% had been in solitary confinement for more than twenty-four hours (Dierkhising, Lane, and Natsuaki). A study conducted within New York City's jail system between 2010 and 2012 determined the two strongest correlates for self

harming behavior were being under the age of 19 and being held in solitary confinement (Clark). Furthermore, researcher Lindsay Hayes concluded in a study of 100 completed suicides in juvenile detention facilities that a staggering 50% were completed in instances where the juvenile was confined to their room (Clark). At the time of their passing, only 17% of the 100 individuals were on suicide precaution status (Clark).

Adolescent brains are extremely different than those of adults (Clark). It is not until an individual's mid-twenties that their brain is fully developed (Lee). During this period of growth, adolescents also begin to place greater importance on relationships with their peers and a desire to be included can lead to irrational and risky behaviors, which may include criminal activity (Tang). This is part of the reason it is imperative to have a criminal justice system which understands the differences between juveniles and adults. Thus, it is important to have not only a system which tries juveniles accordingly, but punishes them in a manner that recognizes their innate differences. Solitary confinement is often used by staff within detention facilities to control juveniles and their behavior, an action which fails to acknowledge the detrimental effect doing so has on their minds (Clark). The Bureau of Justice Statistics' National Youth Survey in Custody found that youth with mental health issues, who were also victims of maltreatment prior to their incarceration, are at an increased risk of falling victim to the stress of solitary confinement as it often reminds the juvenile of previous trauma endured (Dierkhising, Lane, and Natsuaki). Additionally, Dierkhising, Lane, and Natsuaki's study determined more frequent reports of abuse, in the form of abuse from staff or peers, as well as time spent in solitary confinement during the period of incarceration, increased the likelihood of the juvenile having post-traumatic stress reactions, symptoms of depression, and most importantly, continued involvement with criminal activity after their release. There is very little benefit to placing

juveniles in segregation if it not only causes a detriment to their mental health, but in fact increases the chance they will continue engaging in criminal activity. Since the juvenile system was created as a closed system where juveniles could be rehabilitated and given the opportunity to begin anew as a productive citizen in society, it is absolutely illogical to treat them in such a way that would in fact increase their likelihood of recidivism, this also places citizens around the individual at a greater risk of being victimized.

New Jersey case *T.D. and O.S. v Mickens et. al.* emphasizes the need for the abolishment of solitary confinement, as it demonstrates the incredibly detrimental effect it has on juveniles. Complainant Troy alongside O'Neill filed a civil lawsuit against the New Jersey Juvenile Justice Commission for the damage done to him from his excessive time in solitary (*T.D. and O.S. v Mickens et. al.*). As an adjudicated juvenile with prior mental health issues, he was confined to a facility for 225 days, 178 of which, due to his mental illnesses, were in isolation (*T.D. and O.S. v Mickens et. al.*). Despite previous recommendations for treatments which would benefit him, the juvenile's status in segregation led to the denial of these treatments as well as contact with other juveniles (*T.D. and O.S. v Mickens et. al.*). The deplorable conditions to which Troy was kept led to continued self harm out of desperation and further suicide attempts (*T.D. and O.S. v Mickens et. al.*). Even after the juvenile attempted suicide and was brought to a hospital, medical staff did nothing, despite knowing the detrimental effects further isolation would have (*T.D. and O.S. v Mickens et. al.*). Troy's situation is exemplary of the solitary confinement of juveniles being "cruel and unusual" (US Const. amend. VIII).

United States Supreme Court Case *Atkins v Virginia* is applicable to the topic of solitary confinement. In the case, Daryl Atkins was sentenced to death for the murder of Eric Nesbitt before appealing the decision due to his impaired cognitive ability (*Atkins v VA*). The Supreme

Court sought to determine whether sentencing a mentally ill individual to death is a violation of the Eighth Amendment (*Atkins v VA*). The Court ultimately ruled in *Atkin's* favor, using the Eighth Amendment as the basis for their decision (*Atkins v VA*). The reasoning behind the Court's decision was due to the lessened moral culpability of a mentally disabled individual for their actions since it was inappropriate to treat an individual with an impaired cognitive ability the same as those who can take more responsibility for their actions (*Atkins v VA*). *Atkins* had a low IQ of 59 and the mental ability of a child aged nine to twelve, leading him to "have diminished capacities to understand and process information, to communicate, to abstract from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others" (*Atkins v VA*). This is absolutely applicable to juveniles whose developing brains also lead them to act more irrationally and impulsively, with judgement different than that of fully developed adults (Tang). Furthermore, the Court states their decision stems from the concept of "evolving standards of decency" to determine what types of punishment are deemed unjust (*Atkins v VA*). Placing Troy in isolation due to his mental illnesses and self harming behavior, was absolutely unjust as not only did it have extremely negative effects on his psyche but it ignores our nation's "evolving standards of decency" which should not allow for the continuation of such barbaric solitary confinement practices (*T.D. and O.S. v Mickens et. al*, US Const. amend. VIII).

Clearly, segregation is not simply used as a tool for control of delinquents who act in a disorderly manner. Several juveniles turn to solitary confinement for protection as they may be unfairly targeted by other juveniles for their sexuality, gang affiliation, or lack thereof. Additionally, as seen in *T.D. and O.S. v Mickens et. al.*, it is used by staff as a method of controlling mentally ill juveniles. It is a complete violation of the Eighth Amendment to place

juveniles in a situation where their mental health could begin to further deteriorate simply because they are escaping further “cruel and unusual punishment” from other juveniles who wish to inflict harm upon them (US Const. amend. VIII). While a juvenile is in custody, the detention centers fulfill the role as parents for the juvenile under *Parens Patriae*, caring for the juveniles while they are a danger to others (Abram). For this reason, it makes it completely irresponsible of courts and correctional facilities to inflict segregation as a cruel and unusual punishment upon the juveniles.

The state of Ohio’s Department of Youth Services was investigated by the Department of Justice for using solitary confinement inappropriately, relying on it as a tool to deal with primarily disabled juveniles (The United States Department of Justice). Their inappropriate practice, which violated the rights of the juveniles within their custody, was restrained by a motion filed by the Department of Justice (The United States Department of Justice). This motion was filed under the Violent Crime Control and Law Enforcement Act of 1994 which grants the department authority in mandating a remedy for practices which violate either constitutional or federal statutory rights of juveniles in institutions (The United States Department of Justice). This was one instance where the Department of Justice recognized and created change within a facility. However, there are several other facilities nationwide that continue to use segregation as a form of abuse within their facilities, seriously violating juvenile’s Eighth Amendment rights.

Finally, following Ohio's example, the practice of segregation should not only be abolished, but it is also absolutely necessary to alter the toxic culture within detention facilities that promotes the use of solitary confinement as a weapon against juveniles to protect from further violations of Eighth Amendment rights (Stickrath and Blessinger). As suggested,

“Leaders must hire, retain and promote staff who are driven by agency mission” (Stickrath and Blessinger 2). In juvenile facilities, the mission is to rehabilitate offenders. Staff who understand this should not resort to using segregation as a tool for control (*T.D. and O.S. v Mickens et. al.*). Thus, staff should not only be trained, but include specialists in the development of adolescents and trauma-informed care as, sadly juveniles within the state system have experienced trauma three times more than most average adults will ever experience within their lifetime (Stickrath and Blessinger). Creating a culture where juveniles in detention facilities are treated with care, taught how to cope with their emotions, and rewarded for acting well is much more beneficial than one which resorts to detrimental practices to “deal” with aggressive or disorderly juveniles (Stickrath and Blessinger).

Several factors contribute to the fact that solitary confinement in juvenile correctional facilities is absolutely inappropriate. First, the juvenile brain is not fully developed, meaning the detrimental effects of segregation have an even more negative impact upon them (Lee). It is absolutely unreasonable to continue the practice of segregation when it has proven to lead to increased involvement in criminal activity after release which completely negates the rehabilitative purpose juvenile facilities have (Dierkhising, Lane, and Natsuaki). Furthermore, the practice is a violation of the Eighth Amendment which prohibits “cruel and unusual punishment” (US Const. amend. VIII). As many juvenile correctional facilities maintain negative cultures which aim to use segregation as a weapon of control against juveniles to control them, it avoids other serious issues which need to be addressed by the facility (Stickrath and Blessinger). Seeing as the practice of solitary confinement in juvenile correctional facilities is an Eighth Amendment violation, it is absolutely necessary that the practice is abolished and juveniles are treated in a way meant to rehabilitate, not harm, them.

Works Cited

- Abrams, Douglas E. "A Primer on Juvenile Protective Legislation." *Juvenile & Family Court Journal*, vol. 65, no. 3, June 2014, pp. 1–26. *EBSCOhost*, doi:10.1111/jfcj.12020.
- Atkins v. Virginia, 536 U.S. 304 (2002)
- Clark, Andrew B. "Juvenile Solitary Confinement as a Form of Child Abuse." *The Journal of the American Academy of Psychiatry and the Law*, vol. 45, no. 3, Sept. 2017, jaapl.org/content/45/3/350#page.
- Cyrus, Ahalt, and Brie Williams. "Reforming Solitary-Confinement Policy — Heeding a Presidential Call to Action." *The New England Journal of Medicine*, vol. 374, no. 18, 2016, pp. 1704-1706. *ProQuest*, <http://proxyau.wrlc.org/login?url=https://search.proquest.com/docview/1787134964?accountid=8285>, doi:<http://dx.doi.org/10.1056/NEJMp1601399>.
- Dierkhising, B., Carly, et al. "Victims Behind Bars: A Preliminary Study of Abuse During Juvenile Incarceration and Post-Release Social and Emotional Functioning". *Psychology, Public Policy, and Law*, vol. 20, no. 2, May 2014, pp. 181–190. doi: 10.1037/law0000002.
- "Eighth Amendment - U.S. Constitution." *Findlaw*, constitution.findlaw.com/amendment8.html.
- "Justice Department Settles Lawsuit Against State of Ohio to End Unlawful Seclusion of Youth in Juvenile Correctional Facilities." *The United States Department of Justice*, 16 Sept. 2014, www.justice.gov/opa/pr/justice-department-settles-lawsuit-against-state-ohio-end-unlawful-seclusion-youth-juvenile.

Lee, Jessica. "Lonely Too Long: Redefining and Reforming Juvenile Solitary Confinement,"

Fordham Law Review vol. 85, no. 2 (November 2016): p. 845-876. *HeinOnline*,

<https://heinonline.org/HOL/P?h=hein.journals/flr85&i=882>.

Stickrath, Thomas, and Christine Blessinger. "Reducing Use of Restrictive Housing In Juvenile

Facilities through a Change In Staff Culture." *Corrections Today*, vol. 78, no. 2, Mar. 2016.

EBSCOhost, web.a.ebscohost.com/ehost/pdfviewer/pdfviewer?vid=7&sid=2f56df48-5878-4704-8506-ac15aaf1aff3@sessionmgr4006.

Tang, Alva, et al. "Neurodevelopmental Differences to Social Exclusion". *Emotion*, vol. Publish

Ahead of Print, May 21, 2018, doi: 10.1037/emo0000456.

Troy D. and O'Neill S. v Mickens, et al., Civil Action No. : 1:10-cv-02902-JEI-AMD, (US

District Court, NJ Dec. 14, 2011).