City of Philadelphia
OFFICE OF THE YOUTH OMBUDSPERSON

Use of Seclusion at the Philadelphia Juvenile Justice Services Center

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Signature of Inspector General:	Signature of Youth Ombudsperson:
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I. Introduction

In November 2022, former Mayor Jim Kenney established the Office of the Youth Ombudsperson (OYO) via Executive Order 5-22. in response to a long-documented history of Philadelphia youth facing abuse and harm in residential placements. As established, the OYO's primary responsibilities are to drive youth engagement and complaint activity, and then monitor and evaluate the action taken by the City in response. Working together with its agency partners – the Department of Human Services (DHS), the Department of Behavioral Health and Intellectual disAbility Services (DBHIDS) and its contractor, Community Behavioral Health (CBH) – the OYO ultimately seeks to improve the City's various complaint resolution processes, compliance with applicable laws, efficiency, impartiality, and transparency, all in the interest of providing the best possible care to Philadelphia youth in child welfare, juvenile justice, or behavioral health residential placements. Accordingly, the OYO has been in a unique position to evaluate one such residential site, the Philadelphia Juvenile Justice Services Center (PJJSC), the DHS-operated secure youth detention facility.

Based on substantial evidence – including (i) notable complaint activity; (ii) direct OYO observations; (iii) youth interviews; (iv) departmental policy flaws; and (v) questionable practice and documentation – it is apparent that youth "seclusion" at the PJJSC has been overly employed and not in strict compliance with applicable laws that are designed to ensure the safety and well-being of youth in detention. The OYO offers this report in an effort to elevate this concern and call for targeted and swift reform to bring the PJJSC's use of seclusion into compliance with the law.

It is important to note that since its inception, the OYO has been in close and continuous communication with DHS, where leadership and staff have shown a commitment to our collective mission, sharing information and openly working to integrate the OYO into new and existing internal control functions. As such, this report represents several months of real-time collaboration and a joint commitment to the best interests of our youth population.

II. Background: The Philadelphia Juvenile Justice Services Center & Regulatory Authority

The PJJSC is Philadelphia's DHS-operated secure youth detention facility. In this capacity, the PJJSC is designed to securely house youth who have been arrested and court-ordered to remain in secure detention while their case is processed or while awaiting transfer to a juvenile placement facility. While at the PJJSC, these youth attend school and participate in recreational, therapeutic, and life skills programming.

Chapter 3800 of the Pennsylvania Code Title 55 (often referred to as the "3800 Regulations") governs the operation of child residential and day treatment facilities in the Commonwealth of Pennsylvania. The 3800 Regulations note that for most residential facilities, "Seclusion, defined as placing a child in a locked room, is prohibited. A locked room includes a room with any type of door-locking device, such as a key lock, spring lock, bolt lock, foot pressure lock or physically holding the door shut."

*The primary evaluator of the cases and issue in this report was former Associate Youth Ombudsperson, Ciara Sheerin. The majority of the report was completed/written prior to her departure from the OYO, but was finalized after her departure. This report and her contribution does not reflect her new place of employment.

However, secure detention facilities like the PJJSC may employ "seclusion" under very limited and heavily regulated conditions, as defined in §3800.274:

§3800.274. Additional Requirements

(17) The following requirements apply to the use of seclusion *[in qualifying secure facilities]*:

(i) Oral or written authorization by supervisory staff is required prior to each use of seclusion.

(ii) The use of seclusion may not exceed 4 hours, unless a licensed physician, a licensed physician's assistant or registered nurse examines the child and gives written orders to continue the use of seclusion. Reexamination and new written orders are required for each 4-hour period the seclusion is continued. If seclusion is interrupted for any purpose and reused within 24 hours after the initial use of seclusion, it is considered continuation of the initial seclusion period.

(iii) A staff person shall observe a child in seclusion at least every 5 minutes.

(iv) The physical needs of the child shall be met promptly.

(v) A child in seclusion shall be checked and observed by a supervisory staff person who is not continually observing the child as required in subparagraph (iii), at least every 2 hours the seclusion is used.

(vi) The use of seclusion for any child may not exceed 8 hours in any 48-hour period without a written court order.

(vii) A room used for seclusion shall meet the conditions as specified in § 3800.212(e) (relating to exclusion).

(18) Mechanical restraints and seclusion may not be used simultaneously for any child.

(19) The use of any combination of mechanical restraints and seclusion for any child may not exceed 6 hours in any 48-hour period without a written court order.

As detailed, there are strict and well-defined legal limitations on the amount of time that a youth may be placed in seclusion, as well as specific requirements outlining the need for medical evaluations, vigilant staff observations, supervisory approval, and court orders in some cases. These limitations and requirements are in place to ensure that youth are locked alone in their rooms only when absolutely necessary. This is in response to research and practice findings that have demonstrated that lengthy periods of isolation, such as seclusion, do not reduce violence, may increase recidivism, have negative psychological effects, and may carry other penalties such as losing phone calls or visitation.[1] Therefore, these provisions contemplate a serious intervention that must be closely controlled.

[1] As cited in: Council of Juvenile Correctional Administrators. (2015). Council of Juvenile Correctional Administrators Toolkit: Reducing the Use of Isolation [Toolkit] Retrieved from https://nicic.gov/series/cjca-toolkit.

III. Complaint Activity & Direct OYO Observations

Within a period of six months, the OYO received four (4) official complaints regarding the use of seclusion at the PJJSC.

Complaint 1. In February 2024, the OYO received a complaint from a confidential source alleging that several youth at the PJJSC were being held in seclusion following a fight in their housing unit. At the time of the complaint, it was reported that at least one youth was on day eight (8) of seclusion, in potential violation of §3800.274(17)(ii) and (vi).

Complaint 2. In April 2024, the OYO received a second complaint from a confidential source regarding the use of seclusion in two housing "pods" (used to describe a housing area within a unit) at the PJJSC following a fight. The complainant alleged to the OYO that two full pods of youth were placed on seclusion for extended periods. The complainant stated that the youth were told they would be on "lockdown" for 30 days and that the youth were not attending school and were eating in their rooms during their period of seclusion. The complainant believed that the youth were on their third day of seclusion, in potential violation of §3800.274(17)(ii) and (vi).

Complaint 3. In May 2024, the OYO was conducting programming at the PJJSC when a youth asked to speak to an OYO staff member. The youth reported that he and other youth were often held in seclusion in their rooms following altercations, and that seclusion was used at least monthly on his pod. He reported that he had personally experienced this once, for a 24-hour period. He stated that other youth involved in the same altercation were held in seclusion for three (3) days, but he was held for less time due to his lesser role in the altercation. He stated that during his 24-hour seclusion, he was permitted to leave his room to shower, but he did not attend school and ate his meals in his room. The youth's allegations indicate potential violation of §3800.274(17)(ii)[2] and (vi).

Complaint 4. In June 2024, the OYO was conducting programming at the PJJSC when a youth asked to speak to an OYO staff member. The youth reported that since being at the PJJSC, he had been placed in seclusion on up to five (5) distinct occasions. He reported that he was typically held in seclusion for three to four (3-4) days. However, on one occasion he was locked in his room for seven (7) days, and another period lasted ten (10) days, in potential violation of §3800.274(17)(ii) and (vi).

Upon receiving each complaint, the OYO promptly notified DHS for review and potential corrective action, as required by Executive Order 5-22. The OYO also requested that DHS provide all documentation governing the use of seclusion in connection with these specific allegations and as a matter of general policy and practice.

Direct OYO observations are notably consistent with these reports. Starting in April 2024, the OYO began a series of site visits to the PJJSC to deliver engagement and educational programming to the youth population. Each week, the OYO delivers a two-hour presentation for up to twelve (12) youth living in a designated pod. During these site visits, OYO staff has frequently observed at least one youth who was in seclusion – locked in their room – prior to the presentation and throughout its duration, with no notable staff or supervisory interaction, in possible violation of §3800.274(17)(iii) and (v).

[2] Upon notifying DHS of this complaint, the OYO and DHS decided to group it with the second complaint from April 2024 so that DHS could investigate them simultaneously. Interview notes were provided to DHS.

IV. Agency Response & Youth Interviews

Prior to the OYO, as a matter of DHS general practice, complaint activity at the PJJSC was addressed directly by staff in DHS' Juvenile Justice Services (JJS) unit – essentially the same group of personnel responsible for the administration of the PJJSC. After the OYO raised concerns about the independence of this process, DHS leadership promptly reassigned the review process to the Performance Management & Technology (PMT) unit of DHS – a system reform that must be recognized.

In response to the complaint activity between February and May 2024, PMT personnel conducted a series of youth interviews at the PJJSC, seven (7) of which were conducted in the presence of an OYO staff member. In each of these seven (7) cases, without prompting, the youth openly spoke about seclusion, expressing that they had either experienced it themselves or witnessed other youth subjected to the practice.

One youth reported that "room time" is typically for one to two (1-2) days and that youth can only leave their room to use the bathroom. Another youth stated that "lockdown" can last for weeks, and food is slid under the door. A third youth reported that that if you refuse to go to court, you are placed on a three-day "lockdown." That youth also stated that everyone gets phone calls on Mondays, Wednesdays, and Fridays, but if you are placed on "lockdown" on Wednesday and remain in there until Friday, you do not receive your Wednesday and Friday phone call, resulting in an extended period between any outside contacts.

After receiving additional PJJSC complaint activity in June 2024, PMT personnel interviewed a random sample of six (6) PJJSC youth. Once again without prompting, all six (6) youth reported times in which they were sent to their rooms for extended periods of time, typically up to four (4) days.

V. PJJSC Policy Manual Flaws

In April 2024, the OYO received and reviewed the then-active PJJSC policy manual, which included some instruction on the use of seclusion. Notably, however, there were a number of significant discrepancies between the PJJSC's internal seclusion policy and the applicable 3800 Regulations cited above.

For example, while the PJJSC seclusion policy required that a youth be observed by staff every five (5) minutes and that this observation be logged; it did not mention that a second-level supervisory observation should occur every two (2) hours, as expressly required by §3800.274(17)(v).

The PJJSC seclusion policy also stated that medical staff must provide a written order for any use of seclusion beyond eight (8) hours in a 48-hour period, but §3800.274(17)(ii) imposes this requirement upon any use of seclusion beyond four (4) hours in a 24-hour period. Additionally, the PJJSC seclusion policy did not mention the need for a court order to authorize seclusion lasting more than eight (8) hours in a 48-hour period, as outlined in §3800.274(17)(vi).

Notably, the PJJSC policy manual prohibited seclusion beyond four (4) hours. But there was no additional guidance to staff about how to calculate that time and/or toll this limitation over several days, as contemplated in §3800.274(17)(ii).

Shortly following the initial review of the PJJSC policy manual, OYO staff communicated these discrepancies to DHS and the PJJSC leadership, who acknowledged some misalignment and indicated that the manual would be revised and reissued at a later date. On October 29, 2024, the OYO received a revised seclusion policy from the PJJSC.

VI. Questionable Practices & Documentation

In August 2024, the OYO received the observation logs for all documented uses of seclusion at the PJJSC between April 2024 and July 2024. Review of these logs showed some glaring inconsistencies, which raised questions about the integrity of these records as well as questions about the use of seclusion within the PJJSC.

First, there was one documented instance during this time period when staff openly noted that a youth was placed in seclusion while also subject to mechanical restraints. This is a direct violation of §3800.274(18), which expressly bans the simultaneous use of these practices. When informed of this issue, PJJSC leadership reflected that this was very concerning and counter to their written internal seclusion policy. This raises concerns that written PJJSC policies may not always translate to practice. Examples such as this one indicate that line staff may not be implementing seclusion in accordance with PJJSC policy, and supervisors may not be doing a thorough review of the seclusion logs before signing off on them.

Second, although the seclusion logs recorded line staff observations, there was no indication of supervisory observation every two (2) hours, as required by §3800.274(17)(v). The OYO spoke to PJJSC leadership about this issue, who verbally reported that supervisory staff should be initialing the logs each time they observe the youth. While the OYO did find a few instances in the logs of this occurring, the majority of them did not demonstrate this in practice.

Third, there were numerous documentation issues in the seclusion logs, including conflicting and duplicative accounts, which raised credibility concerns. For example, seclusion logs for April 22nd, 2024, documented at least 20 youth – two full pods – who were placed in seclusion for several hours. But for each of these cases, there were two different logs – one reporting the seclusion period as occurring between 1:30PM and 4:50PM and a second recording the seclusion period as 2:00PM to 4:00PM. On all the associated seclusion logs, there were also conflicting statements about the youths' behaviors – one documenting youth as "calm" and another documenting those same individuals as "irate" at the same recorded time. Further, many of these records just repeated the exact same information for several different youth who were in seclusion at the same time. For example, the aforementioned logs for April 22nd, 2024, reported that an entire pod – nine (9) different children – were secluded for the exact same time period until they all fell asleep at precisely 4:50PM, raising concerns about the credibility of the logs. It is highly unlikely that each of these nine (9) youth, who were placed in seclusion in individual rooms, would all simultaneously fall asleep at 4:50PM. This suggests that the seclusion documentation may not accurately reflect each use of seclusion.

VII. Changes to PJJSC Policy & Practice

DHS and the PJJSC have made several changes to their policies and practices in order to correct the flaws noted by the OYO, which demonstrates their ongoing commitment to collaboration and upholding the rights of youth in their care.

As previously mentioned, DHS has committed to adding greater independence to the investigation of complaints at the PJJSC by having the PMT unit conduct interviews with random samples of youth, as opposed to the JJS unit being solely responsible for handling complaint activity.

Additionally, DHS and JJS staff and leadership have already begun much of the work needed to address the identified flaws in the facility's internal seclusion policy and practice. They have completed initial revisions to the facility's seclusion policy and have implemented more immediate changes to the facility's actual practice of seclusion.

For example, PJJSC leadership has shared that supervisors have been making rounds to all of the units to communicate instructions directly to line staff and observe compliance to these changes in practice, such as correctly employing seclusion and limiting its duration when it must be used. They have also created and shared an updated medical document that will be used along with the seclusion logs when seclusion lasts longer than four hours. Additionally, they report that they are working with staff to reduce the use of seclusion overall.

VIII. Analysis & Recommendations

DHS deserves credit for taking these initial steps and engaging with the OYO in good faith throughout this process. However, viewing the evidence on the whole – (i) notable complaint activity; (ii) direct OYO observations; (iii) youth interviews; (iv) departmental policy flaws; and (v) questionable practice and documentation – it is readily apparent that youth at the PJJSC are routinely subject to seclusion that is not in compliance with the law.

The OYO has received and reviewed the updated internal PJJSC seclusion policy. Although we acknowledge that important revisions were made, more changes are needed to ensure full compliance with the 3800 Regulations. To this end, we expect to have ongoing conversations with PJJSC leadership and DHS. Staff should also be retrained on the revised policy, and PJJSC leadership should create and disseminate written materials documenting expectations for full compliance with the 3800 Regulations. Once the PJJSC policy manual is finalized, it is the OYO's recommendation that the City Law Department conduct regular reviews to ensure ongoing compliance with the applicable laws.

In addition to finalizing the PJJSC policy manual, PJJSC leadership should also explicitly inform youth when their seclusion period is officially over. This practice will ensure that youth know when they can leave their rooms. It also ensures that youth can accurately report on the use of seclusion, such as how often it is employed and how long it is used for.

There continue to be issues of legal interpretation surrounding the practice of seclusion at the PJJSC that indicate a need for ongoing conversations between DHS, the PJJSC, the OYO, and the City Law Department. Some of these conversations have already been happening.

For example, the PJJSC's practice thus far has been to consider seclusion officially ended if a youth takes a nap or if nighttime sleeping hours begin because the youth is no longer considered to be a danger to themselves or others when asleep. This position is reflected in the seclusion observation logs as, in many of them, the final observation that staff members recorded indicated the youth had fallen asleep or that bedtime hours had started. The OYO has opined that seclusion is defined in the 3800 Regulations as placing a youth in a locked room and is not premised on the youth's presenting behavior. Additionally, the PJJSC leadership team has relayed in conversations with the OYO that if seclusion is reused for a new incident, then the seclusion clock is restarted for each new use of seclusion, even if it is within 24 hours of the last use. The OYO's interpretation of the 3800 Regulations in this matter is that if seclusion is interrupted and then continued within 24 hours of the initial use of seclusion, it should not be considered a separate and new period of seclusion. Both of these examples pose issues of legal interpretation that are being collectively discussed so that the finalized PJJSC policy manual can reflect the law accurately.

DHS and PJJSC leadership have also raised some operational concerns about the transaction costs of strict compliance with the 3800 Regulations, citing safety concerns regarding youth who are in seclusion and still pose a threat to themselves or others, but who cannot legally remain in seclusion any longer without a court order. Specifically, the concern is that it will not be possible to obtain required court orders to continue the use of seclusion past eight hours due to judge availability during non-business hours. The OYO recognizes that this poses a potential barrier to implementation. Despite this, it seems difficult to justify any deviation from statutory requirements that are very specific and clear. For our youth, the risk associated with stretching the acceptable practice of seclusion – as defined by the policymakers – far outweighs possible operational concerns.

The OYO recommends that the PJJSC and DHS consider alternatives that may mitigate this issue without compromising the statutory requirements around seclusion. Such alternatives could include moving youth to an area where they will not engage in fighting and are supervised by a staff member, such as an empty unit or a recreation area (like a gym or classroom). However, these alternatives require that the PJJSC remain under capacity so that alternative areas are open for youth, and staff are available for one-on-one supervision as needed. This emphasizes the need for all system stakeholders to prioritize solutions that address overcrowding so that the PJJSC can utilize the practice of seclusion safely and in compliance with the law.

Ultimately, we must do a better job of listening to our youth, crediting their experiences, and responding accordingly. We believe that the OYO is an important new tool that can do this, and trust that, together with DHS, we can collectively amplify youth voices and initiate change.

For more information about the Office of the Youth Ombudsperson – including complaint forms and educational resources for youth, parents, and family – please visit our City website at https://www.phila.gov/departments/office-of-the-youth-ombudsperson/.