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TESTIMONY OF THE OFFICE OF THE CHILD ADVOCATE FOR THE STATE OF CONNECTICUT

JUDICIARY COMMITTEE
PUBLIC HEARING
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Senator Winfield and Representative Stafstrom and all other distinguished members of the Judiciary Committee:

This testimony is being submitted on behalf of the Office of the Child Advocate ("OCA") in support of Senate Bill 1109, An Act Concerning Solitary Confinement.

The obligations of the OCA are to review, investigate where necessary, and make recommendations regarding how our state-funded systems meet the needs of vulnerable children. This Legislature granted the OCA broad authority regarding access to information about children and state-funded facilities and programs, which provides this Office with a insight into the needs of at-risk, abused, neglected and special needs children and the agencies that serve those children.

IN SUPPORT OF SENATE BILL 1109: AN ACT CONCERNING SOLITARY CONFINEMENT

The OCA supports the intent of Senate Bill 1109, An Act Concerning Solitary Confinement, which seeks to ban the use of solitary in correctional facilities. The OCA respectfully notes that members of the state's Juvenile Justice Policy and Oversight Committee are continuing to work on language that will ensure a uniform and developmentally appropriate standards prohibiting the use of solitary confinement for all youth in the juvenile and adult criminal justice systems.

In January 2019, the OCA published an investigative report regarding conditions of confinement for juveniles across the state. OCA found that the practice of maintaining juveniles in prolonged isolation, both physical and social, as a form of security management or discipline, persists despite state legislative efforts to limit and prohibit these practices. OCA found that youth in the adult correctional system were routinely placed in solitary confinement for days and sometimes months at a time, meaning that youth were confined in their cells for 21 to 23.5 hours per day. Youth in

solitary had limited and sometimes no access to education and rehabilitation services/supports, despite youth's significant history of treatment and special education needs. OCA also concludes that these practices violate youth's legal rights, subject them to unreasonable and unlawful conditions of confinement and deny them access to critically needed services.[1]

OCA Investigative Findings Regarding Conditions of Confinement for Incarcerated Youth

OCA's investigation found the following practices regarding solitary confinement of boys in the DOC. At any given time there are approximately 50 boys under the age of 18 at Manson Youth Institution.

- From January 1, 2018 through July 1, 2018 there were 96 incidents of youth placed on what the facility calls "Confined to Quarters Extended" (CTQ), a status that youth refer to as "the Box." Youth are placed on CTQ as a disciplinary sanction. This means that youth are confined to their cells for 23.5 hours per day, coming out only for a half an hour to make phone calls or take a shower. The range of youth's CTQ confinement per incident was three to thirty days, though half of youth were placed on such status on multiple occasions. Youth on CTQ were not provided with school or rehabilitation programming. One youth, profiled by OCA in its investigative report, was placed on this solitary confinement status for more than 70 days in a 9 month period of time. Many youth placed in solitary have significant histories of mental health treatment needs.

- Youth were also placed in long term solitary confinement (Security Risk Group) if they were deemed to be active gang members. Long term solitary can last for several months, even more than a year. Just under 10% of youth admitted to MYI during OCA's investigation (14 youth) were placed on this long term solitary confinement status. While youth are placed on this status due to security concerns, no youth had an individual behavior plan, and youth were denied access to rehabilitation services. Youth were provided very limited education services. Virtually all youth have histories of significant mental health and special education needs. Youth received few or no visits while on solitary confinement. OCA meets with youth who have received no visits in a year or even two years of confinement.

OCA found that with regard to youth in juvenile detention facilities:

- The Judicial Branch has been working with national experts to reduce reliance on isolation/room confinement for juveniles.
- Rates of room confinement for juveniles has been decreasing in the detention centers over the last several years.
- A smaller number of youth may still experience greater periods of physical and social isolation while in detention, particularly youth with aggressive behaviors deemed to pose a security risk to the facility. These youth may have sharply diminished access to educational services and spend most of the day in their cell.
- Room confinement may still be used as a sanction for behavior, and is not reserved to emergency situations.

Use of Solitary confinement of juveniles is universally condemned as a harmful and ineffective practice, placing youth at significant risk of mental health deterioration and suicide.

- National Commission on Correctional Health Care Calls for Ban on Solitary Confinement of Juveniles

  The National Commission on Correctional Health Care ("NCCHC") issued a 2016 Position Statement on Solitary Confinement.[2] NCCHC defines solitary confinement as the housing of an adult or juvenile with minimal meaningful contact with others and with access to few or no programs. NCCHC, like other national organizations, acknowledges that terminology varies by jurisdiction, and that solitary confinement may be referred to by a number of terms, including isolation; administrative, protective, or disciplinary segregation; security housing; and restrictive housing units (such as in the proposed bill).

  The NCCHC states that "prolonged (greater than 15 consecutive days) solitary confinement is cruel, inhumane, and degrading treatment, and harmful to an individual's health;" and that "**Juveniles, mentally ill individuals, and pregnant women should be excluded from solitary confinement of any duration.**" The NCCHC further states that "[h]ealth staff must not be involved in determining whether adults or juveniles are physically or psychologically able to be placed in isolation," as is the practice in DOC facilities.

- United States Department of Justice Taskforce Descries "Damaging Impact" of Solitary Confinement

  In 2012, a task force appointed by the U.S. Attorney General concluded, "Nowhere is the damaging impact of incarceration on vulnerable children more obvious than when it involves solitary confinement. . . . Juveniles experience symptoms of paranoia, anxiety, and depression even after very short periods of isolation. Confined youth who spend extended periods isolated are among the most likely to attempt or actually commit suicide. One national study found that among the suicides in juvenile facilities, half of the victims were in isolation at the time they took their own lives, and 62 percent of victims had a history of solitary confinement."

Connecticut law does not provide a clear definition of solitary confinement.

Across the country, juvenile and criminal justice experts acknowledge the lack of consistency in defining the practice of physically isolating incarcerated youth. Experts agree regarding the potentially significant harms associated with physically and socially isolating any juvenile in an enclosed space or room other than for the purpose of sleeping or as a temporary response to behavior that threatens immediate harm to the youth or others.[3]

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[2] NCCHC Policy Statement on Solitary Confinement in Correctional Facilities, available on the web at: https://www.ncchc.org/solitary-confinement.

[3] Council of Juvenile Correctional Administrators Toolkit: Reducing the Use of Isolation (Mar. 2015), available on the web at: http:// cjca.net/ attachments/ article/751/ CJCA%20Toolkit%20 Reducing%20the%20Use%20of%20Isolation.pdf; see also Performance-Based Standards for Juvenile Correctional Facilities ("PBS") "PBS standards are clear: isolating or confining a youth to

Connecticut law prohibits the use of solitary confinement of juveniles in detention facilities, but does not define the prohibited practice.[4] New law passed in 2017 prohibits the use of "administrative segregation" for incarcerated youth in the custody of the DOC. The statute defines "administrative segregation," as the "practice of placing an inmate on restrictive housing status following a determination that such inmate can no longer be safely managed within the general inmate population of the correctional facility." This new law constitutes the only state statutory prohibition on the use of physical isolation of minors in the DOC.

New Federal Law Prohibits Solitary Confinement of Juveniles in Federal Facilities

The First Step Act on Solitary Confinement, Sec. 613 – S.3747
Amends Title 18, Chapter 403 § 5043.

In December 2018, Congress passed the First Step act which prohibits use of solitary as punishment and permits room confinement[5] only when youth behavior poses a risk of immediate physical harm that cannot otherwise be de-escalated. Youth must be released as soon as they are calm and always within three hours. If the youth cannot be calmed to exit confinement after 3 hours, the facility must transfer the youth to another facility or an internal location where services can be provided without room confinement or initiate a referral if a qualified mental health professional believes the youth needs a higher level of crisis service than the facility can provide.

Reforms to End Solitary Succeeding Around the Country

According to the Children's Center for Law and Policy, a nationally-focused organization dedicated to juvenile justice reform:

> Youth corrections systems in Ohio, Indiana, Massachusetts, and Oregon have improved the safety of facilities and decreases violence involving youth and staff by reducing the use of solitary confinement. The Massachusetts Department of Youth Services rarely uses solitary confinement for more than 2 hours and does not use solitary confinement as punishment. The Ohio Department of Youth Services has reduced solitary confinement to an average of under 3 hours.[6]

Connecticut Can Being To Address Conditions for Incarcerated Youth—Ban Harmful Solitary Confinement

The state needs to do the following to address the urgent matters discussed herein:

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his/her room should be used only to protect the youth from harming himself or others and if used, should be brief and supervised. Any time a youth is alone for 15 minutes or more is a reportable PBS event and is documented;" and "isolation . . . should not be used as punishment."

[4] Conn. Gen. Stat. Sec. 46b-133(e).

[5] The First Step Act defines room confinement as "involuntary placement of a covered juvenile alone in a cell, room, or other area for any reason."

[6] http://www.stopsolitaryforkids.org/

1. Ensure a uniform definition of prohibited isolation practices with regard to juveniles, consistent with recommendations from national and international experts and federal law.
2. Provide staff working with youth in juvenile and adult correctional settings adequate tools: including training, services, and programming to meet youth's rehabilitative and mental health treatment needs, utilizing outside technical assistance where needed to implement appropriate practices.
3. Implement a rigorous quality assurance framework to ensure elimination of harmful practices such as solitary confinement and provision of appropriate programming and services.

Respectfully Submitted,

Sarah Healy Eagan, JD, Child Advocate

PROFESSIONAL ASSOCIATIONS OPPOSING SOLITARY CONFINEMENT[7]

In light of the significant risks of harm to youth who experience solitary confinement, a growing number of professional associations and other organizations have condemned the practice or called for significant reforms, including:

National Task Force on Children Exposed to Violence: Recommends abolishing solitary confinement for youth.

American Academy of Child & Adolescent Psychiatry: Policy statement approved in April 2012 opposes disciplinary solitary confinement for youth, noting that the majority of suicides in juvenile facilities occur when a youth is isolated or in solitary confinement.

American Correctional Association: Opposes disciplinary solitary confinement for youth, permitting solitary only "to prevent immediate harm to the youth or others."

American Medical Association: Opposes disciplinary solitary confinement for youth, permitting solitary confinement only in extraordinary circumstances such as those that involve protection of the juvenile, staff, or other detainees.

American Psychological Association: Supports efforts to eliminate youth solitary confinement, including the bipartisan MERCY Act, which would prohibit disciplinary solitary confinement and limit solitary confinement to three hours if there is a serious risk that a youth may harm another person, or 30 minutes if there is serious risk that the youth may engage in self-harm.

American Public Health Association: Issued a policy statement opposing solitary confinement for youth under age 18 in juvenile or adult correctional facilities.

National Commission on Correctional Health Care: 2016 position statement opposes all solitary

[7] Juvenile Law Center, *Unlocking Youth: Legal Strategies to End Solitary Confinement in Juvenile Facilities*, https://jlc.org/sites/default/files/publication_pdfs/JLC_Solitary_Report-FINAL.pdf