$400K awarded to settle lawsuit over solitary confinement of 2 N.J. boys

TRENTON — New Jersey’s Juvenile Justice Commission and Rutgers University have agreed to pay $400,000 to settle a federal lawsuit over the solitary confinement of two troublesome teenage boys who were locked away for long stretches while in state custody.

Some advocates for children hope the case will become a flash point in the debate over solitary confinement. Corrections officials consider the practice a needed tool, while others say it makes it harder for juvenile detention centers to achieve their goal of helping kids get better.

“I’m hopeful the settlement is an opportunity to revisit the issue and take it seriously,” said Sandra Simkins, a Rutgers professor who initially represented one of the boys in her role at the Rutgers Children’s Justice Clinic. “The JJC is supposed to rehabilitate kids. And there’s a tons of evidence that isolation harms kids.”

Guards at New Jersey’s juvenile detention facilities are allowed to use such confinement for many reasons, often without any administrative hearing. State rules permit the indefinite confinement of juveniles when necessary to keep others safe or to maintain “the orderly operation of the facility.”

The justice commission is currently discussing possible reforms with a coalition of advocacy groups, including the American Civil Liberties Union of New Jersey.

In the case of T.D., the juvenile Simkins represented, those rules meant weeks spent in an empty cell under “special observation status,” when he was watched closely but rarely allowed out of his cell, according to court papers.

The boy, who had been in the custody of the Division of Youth and Family Services since he was 3 years old, was sentenced to two years in juvenile detention for aggravated assault, criminal sexual contact and other charges.

He was mentally ill before he arrived at the first in a series of state-run detention facilities in February 2009, a month prior to his 16th birthday. He had post traumatic stress, bipolar disorder and psychosis, among other problems, according to court papers.
In the state facilities, T.D. proved a danger to himself and others, and was often placed in confinement, court papers show. He was kept in isolation for at least 178 of the 225 days he was in the custody of the justice commission, the suit claimed. At one point, he was locked in his cell for 22 consecutive days, allowed out only for hygiene.

T.D. had no personal effects — not even a book. According to the lawsuit, he said he imagined a “lady” who told him to hurt himself. He used caulk and tile from the walls of his cell to cut himself. He sometimes banged his head against the wall.

“Children can live in rooms of all sizes. They can have bedrooms of all sizes. I think the issue is this was a barren cell, a concrete slab to sleep on,” said Marsha Levick, deputy director of the Juvenile Law Center in Philadelphia, a nonprofit that filed the lawsuit on T.D.’s behalf.

“There’s no question there were occasions when he had no mattress, no blankets or sheets.”

50 days in isolation

The other juvenile who brought the lawsuit, O’Neill Santiago, was confined to a cell on 14 occasions in 2009 and 2010, for a total of 50 days, according to the lawsuit. He was 16 when he was sentenced to juvenile detention after escaping from a residential program.

Under the settlement, approved by U.S. District Court Judge Joseph Irenas in late November, T.D., now 20, will receive a $130,000 payment and the mother of Santiago will receive $20,000. Santiago was killed in Philadelphia at age 20 last January in an unrelated homicide. The remaining $250,000 will cover attorney and expert witness fees.

The justice commission and Rutgers denied any wrongdoing as part of the settlement. Spokespersons for both declined to comment.

Rutgers became involved because T.D. sued several mental health professionals who worked for a division of the University of Medicine and Dentistry of New Jersey, which is now part of Rutgers. All the individual employees named in the lawsuit were removed from having legal action taken against them under an order filed Dec. 24.

The mental health professionals who treated T.D. had previously denied doing anything wrong, saying they worked hard to find the best ways to deal with a very troubled boy.

“No one was ever indifferent to (T.D’s) needs,” Michael Lunga, a lawyer for those defendants, wrote in an August brief.

“He was simply an extremely difficult case who had never been successfully treated by any of the many professionals who treated him in the four years prior to his commitment to the JJC.”
Banned in 5 states

The justice commission does not maintain any data on how often it uses forms of solitary confinement at its facilities. Simkins estimates about 60 percent of the juvenile offenders the Rutgers clinic represents have spent time in isolation.

Most states permit the isolation of minors, and the American Correctional Association, which sets standards and accredits detention facilities in the United States, allows for the practice as a tool to keep order and maintain safety.

The practice has been banned entirely in five states, and three others have significantly limited its use, according to the petition filed with the state by the ACLU last year.

Mental health experts warn that solitary confinement of anyone can lead to anxiety, depression and even psychosis. The American Academy of Child and Adolescent Psychiatry and the United Nations both oppose the solitary confinement of children.

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