

CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2015, I caused true and correct copies of the foregoing **JOINT SUBMISSION OF MONITORS' STATEMENT** to be served upon all counsel of record via the Court's ECF filing system.

/s/Adam Schwartz
Adam Schwartz

Statement of Barry Krisberg, Louis Kraus, and Peter Leone
Regarding the draft IDJJ confinement policies

We are the Court-appointed monitors in the *R.J. v. Jones* lawsuit.

We have reviewed the draft IDJJ confinement policies. In our opinion, they fall within the range of acceptable professional practices in juvenile justice facilities.

This opinion rests in part on two related principles. First, juvenile justice facilities must make every effort to avoid any kind of restrictive and solitary confinement of youth, and whenever possible must first attempt less restrictive techniques. Second, there are critical differences between two distinct practices in juvenile justice facilities: isolation, which is never the least restrictive alternative; and separation, which sometimes is warranted in rare cases involving the protection of the life and safety of youth and staff.

Isolation, often called “solitary confinement,” involves placing a youth alone in a locked room without human contact, for the purpose of punishment, often for an extended period of time. Isolation falls outside the range of acceptable professional practices in juvenile justice facilities to prevent grave harm to youth and staff. The overwhelming weight of research and professional experience demonstrates that isolation is harmful to adolescents, and especially to those with mental health issues. Moreover, isolation has been shown to undermine the rehabilitative mission of juvenile justice facilities, and to not advance any security or other government interests. Also, isolation usually involves the deprivation of a youths’ ordinary education, mental health, and other rehabilitative programming.

Separation, on the other hand, involves removing a youth from the general population but not from all human contact, for the purpose of safety, for shorter periods of time. If properly regulated and supervised, separation can fall within the range of acceptable professional practices in juvenile justice facilities. Examples of allowable separation might include: removal

from the general population of a youth who is out-of-control and dangerous, until they can regain their self-control; temporary seclusion of a youth who is acutely mentally ill and suicidal; and brief “time out” for a youth, as part of a behavioral management program, until the youth is prepared to return to the general population without further incident. Separated youths continue to receive their full education, mental health, and other rehabilitative programming, to the extent that this is consistent with life and safety concerns.

This critical distinction between forbidden isolation and potentially allowable separation is demonstrated by the policy statement on “Solitary confinement of juvenile offenders” adopted in 2012 by the American Academy of Child & Adolescent Psychiatry. It provides in pertinent part:

- “Solitary confinement is defined as the placement of an incarcerated individual in a locked room or cell with minimal or no contact with people other than staff of the correctional facility. It is used as a form of discipline or punishment. The potential psychiatric consequences of prolonged solitary confinement are well recognized and include depression, anxiety and psychosis. Due to their developmental vulnerability, juvenile offenders are at particular risk of such adverse reactions. Furthermore, the majority of suicides in juvenile correctional facilities occur when the individual is isolated or in solitary confinement. . . . The American Academy of Child and Adolescent Psychiatry . . . opposes the use of solitary confinement in correctional facilities for juveniles.”
- “Solitary confinement should be distinguished from brief interventions such as ‘time out,’ which may be used as a component of a behavioral treatment program in facilities serving children and/or adolescents, or seclusion, which is a short term emergency procedure, the

use of which is governed by federal, state and local laws and subject to regulations developed by the Joint Commission, CARF and supported by the National Commission of Correctional Healthcare (NCHHC), the American Correctional Association (ACA) and other accrediting entities.”

Numerous features of the draft IDJJ confinement policies filed in February 2015 forbid isolation while closely regulating and supervising separation. The draft IDJJ confinement policies are responsive to almost of all of the principles that have been articulated by national juvenile justice organizations and summarized by national juvenile corrections expert Paul Demuro in his essay “Towards Abolishing the Use of Disciplinary Isolation in Juvenile Justice Institutions: Some Initial Ideas” (January 22, 2014). The IDJJ draft policies closely track the standards on juvenile detention centers proposed by the Annie E. Casey Foundation.

Here are some of the examples of positive reforms being proposed by IDJJ in the use of confinement:

- Six forms of confinement are authorized and closely regulated. “Confinement status” is allowed for a youth who is out-of-control and dangerous, ends when the youth regains self-control, and cannot last longer than twenty-four hours. “Crisis confinement” is allowed for youths at risk of self-harm, as promptly determined by a licensed mental health professional. “Behavioral hold,” or time out, is allowed until a youth is ready to return to program participation without further incident, and cannot last longer than four hours. “Medical hold” is allowed when a physician finds it medically necessary. “Administrative hold” is allowed, as determined by the facility superintendent, for youths temporarily present at a facility. “Investigative status” is allowed when the IDJJ’s

Deputy Director of Operations finds confinement of a youth necessary to ensure they can be effectively investigated for their own alleged major offense.

- Each of these six authorized forms of confinement has necessary limits and well defined supervisory controls.
- All other forms of confinement are explicitly prohibited. This includes confinement for punitive reasons.
- Each IDJJ youth's ordinary education and mental health services are provided to them while in confinement.
- Safety checks are provided every five to fifteen minutes, depending upon the youth's risk of self-harm.
- Youths confined for 24 hours or more receive eight daily out-of-room hours.
- Across-the-board supervisory controls include: documentation of every confinement decision; immediate notice to the facility superintendent of all decisions to confine a youth; notice as soon as possible to the IDJJ's Deputy Director of Operations of every confinement for 18 hours or longer, and of every accumulation of ten confinement episodes of a particular youth during a single 30-day period; and maintenance of cumulative confinement data.
- Finally, in May 2015, the IDJJ will promulgate an additional policy that explicitly requires staff to make every effort to avoid any kind of confinement, and when possible to first attempt less restrictive techniques. IDJJ is committed to providing sufficient training to its entire staff on the regulations governing the use of confinement and other forms of restrictive housing.