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# Report on San Francisco Youth Guidance Center (Conducted on April 28 & July 9, 2015)

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Dated: February 23, 2016

## EXECUTIVE SUMMARY

Disability Rights California (DRC) is the state and federally designated protection and advocacy agency charged with protecting the rights of people with disabilities in California. DRC has the authority to inspect and monitor conditions in any facility that holds people with disabilities. Pursuant to this authority, DRC conducted inspections of conditions in six county correctional facilities in 2015. One of these facilities was the San Francisco's Youth Guidance Center ("YGC"). On April 28 and July 9, 2015, DRC attorneys and attorneys from our authorized agent the Prison Law Office inspected the YGC.

We observed positive practices and programs at the YGC:

- **No pepper spray or tasers:** YGC does not use these potentially dangerous interventions on youth, and should be a model for other juvenile facilities in this regard.
- **Low youth count:** San Francisco has taken significant steps to reduce the number of juveniles in the facility and the average count was very low for a county of that size.
- **Education:** The school is part of San Francisco Unified School District ("SFUSD"), allowing easier transition to education outside of the facility.

- **Access of Mental Health Services:** All youth are assessed for mental health needs within 72 hours of booking, and there is behavioral health staff on site 7 days a week, 12 hours a day.
- **Youth found Incompetent to Stand Trial:** San Francisco Probation Department has a restoration program called “Aim Higher” for youth found incompetent to stand trial that allows some juveniles to live in the community. We encourage this program to be expanded to reduce the number of youth languishing in YGC.
- **Language Access:** YGC offers prisoner handbooks in various languages that reflect the cultural and linguistic diversity of the county.

Although our inspection revealed practices that were generally positive, we have very serious concerns regarding the facility’s use of room confinement. YGC uses room confinement as punishment, and also places youth on room confinement for months at a time under YGC’s Behavior Management Program. There appears to be little due process or written guidelines for when and how youth are put on room confinement, and how they can come off of room confinement. Although youth are visited by staff, those on room confinement cannot attend school, and are allowed out of cell as little as one hour per day. The consensus of authority is that this constitutes isolation and/or solitary confinement, should never be imposed on youth as discipline, and should be imposed only when a youth is an immediate physical danger to himself/herself or others. Room confinement should last only as long as needed for the young person to no longer present a physical danger. YGC’s policies on room confinement violate these guidelines and place youth, especially those with mental illness, at risk of harm.

We urge YGC to change its policies to limit room confinement to the standards set out in the Juvenile Detention Alternative Initiative (JDAI) discussed later in this report, to review the policies on room confinement recently adopted by Contra Costa County and implement similar limitations, and monitor the use of room confinement closely in the future. Since San Francisco County is a JDAI site, the County has already agreed to abide by their standards, but has not fully implemented them. We plan to continue to monitor YGC in this regard, and look forward to further reforms in this area. YGC has shown statewide leadership in its elimination of the use of

pepper spray. We encourage YGC to show similar leadership regarding the detention of youth in isolation conditions.

## **BACKGROUND**

The San Francisco Juvenile Justice Center or YGC is run by the San Francisco Probation Department. Staff reported the average length of time as 30 days. The facility has the capacity to hold 132 juvenile detainees, but at the time of our visits the counts were between 50 and 60. Because of the low occupancy, although most cells are built to hold two youth, there was only one youth in each cell.

YGC has facilities for housing and education, and multipurpose rooms for attorney visits and Individual Education Plan meetings. Four of the facility's eight housing units are in use. Unit 2 houses all female juveniles. Young males are housed in Unit 5, and Unit 7 holds older males and high security detainees of any age.

## **FINDINGS RE: USE OF ROOM CONFINEMENT**

Youth at YGC may be placed on room confinement as punishment for a variety of offenses. According to YGC's policies, youth may receive up to 4 hours of room confinement for fourteen categories of "minor misbehavior," including defacing property, "horseplay," and refusal to attend school. Additionally, we received reports that YGC imposes room confinement as "group punishment" during which youth in one unit all receive room confinement for the actions of one juvenile.

"Major misbehavior" may result in room confinement for up to three days. Before this is imposed, youth are referred to the Disciplinary Review Board ("DRB"), where youth have a right to a hearing before the punishment of room confinement is imposed. Acts that qualify as "major misbehavior" include battery, attempted escape, and possession of serious contraband. Pencils are considered serious contraband (apparently because of their potential use as a weapon), and we reviewed logs citing youth because a pencil was found in his or her cell. We received complaints that the discipline process as arbitrary and overly punitive, that there was little due process, and that hearings are not always offered.

In addition to the use of room confinement as discipline, YGC also violates youth correctional standards by imposing room confinement for from one to

three months at a time under its Behavior Management Program (“BMP”). According to the San Francisco Juvenile Probation Department, BMP is a “therapeutic response to the youth’s individual needs,” not a disciplinary measure. Nevertheless, youth report placement in the program as punishment for their actions. Additionally, all juveniles are supposed attend class every day, regardless of BMP status, yet we received reports that youth on the BMP are not permitted to attend school. Instead, teachers are supposed to bring homework to them to do, which youth reported does not always happen. Mental health staff are also supposed to visit youth daily, but youth reported that this was also inconsistent. BMP is not described in YGC’s youth handbook and appears to be largely unregulated and impossible to challenge.

Youth may also end up in effective isolation because they are placed on “splits.” YGC uses this term to refer to its practice of isolating youth who are co-defendants or a threat to one another. Because of desire to keep these youth separated, each must take half their meals in their cells and is put in a special classroom for their education.

### **IMPACT OF ROOM CONFINEMENT AND ISOLATION ON YOUTH WITH DISABILITIES**

Although higher courts and the Supreme Court have not directly considered the constitutionality of solitary confinement of children, recent decisions limiting severe punishments on children in the criminal justice system outline the practical and constitutional significance of the developmental differences between children and adults. See *Roper v. Simmons*, 543 U.S. 551 (2005) (banning death sentence for juveniles); *Graham v. Florida*, 130 S.Ct. 2011 (2010) eliminating the life without parole for juveniles who commit non-homicide offenses); *Miller v. Alabama*, 132 S.Ct. 245 (2012) (eliminating mandatory sentences for life with parole for any offense committed by a juvenile). These decisions highlight the belief that children have greater capacity for reform and are “in need of and receptive to rehabilitation.” *Graham* at 2030.

The Juvenile Detention Alternatives Initiative (JDAI) provides a leading set of standards for youth in correctional settings. In California, four

jurisdictions -- including San Francisco -- have become JDAI sites, agreeing to implement and abide by the facility [standards](#).<sup>1</sup> Under JDAI standards, facilities limit isolation conditions to four hours in duration and never use for [punishment](#).<sup>2</sup> Other leading authorities have also called for reform of room confinement policies for juveniles. The American Correctional Association has proposed a limit of 5 days and noted that youth should be visited at least once each day by personnel from administrative, clinical, social work, religious, and/or medical units, during which staff must actually enter the room for the purpose of discussion or counseling.<sup>3</sup>

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<sup>1</sup> Other sites include Orange County, Santa Cruz County (Model Site), and Ventura County. See <http://www.jdaihelpdesk.org/SitePages/jdai-sites.aspx> ["Return to Main Document"](#)

<sup>2</sup>Juvenile Detention Alternatives Initiative (JDAI), A Guide to Juvenile Detention Reform: Juvenile Detention Facility Assessment, 2014 Update 177-80 (2014), available at <http://www.aecf.org/resources/juvenile-detention-facility-assessment/>. ["Return to Main Document"](#)

<sup>3</sup> ACLU, Summary of National Standards Restricting the Solitary Confinement of Youth, available at <https://www.aclu.org/files/assets/5%202%20National%20Standards%20Restricting%20the%20Solitary%20Confinement%20of%20Youth.pdf>, citing Am. Corr. Ass'n, Performance Based Standards Juvenile Corr. Facilities 52 (4th ed. 2009) (Standards 4-JCF-3C-03; 4-JCF-3C-04). Additionally, the UN Special Rapporteur on Torture found that solitary confinement for juvenile offenders - for any duration - constitutes cruel, inhuman, or degrading treatment and violates article 7 of the International Covenant on Civil and Political Rights and article 16 of the Convention against Torture. Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, 5 August 2011, p. 21, available at <http://solitaryconfinement.org/uploads/SpecRapTortureAug2011.pdf>; see also, Section 67 The United Nations Rules for the Protection of Juveniles Deprived of their Liberty, which states ""All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or *solitary confinement* or any other punishment that may compromise the physical or mental health of the juvenile concerned." (emphasis added).. ["Return to Main Document"](#)

Furthermore, the use of physical and social isolation in most educational, medical, and mental health facilities is permitted only in limited circumstances and is widely viewed as inconsistent with the best interests of the child.<sup>4</sup> The American Academy for Child and Adolescent Psychiatry issued a public statement opposing isolation as punishment for minors and proposing that any minors kept in isolation for 24 hours be evaluated by a mental health professional, evidencing the potential effects of solitary confinement on youth with mental health issues.

### **Prohibitions in Other Jurisdictions**

Other states and counties have recognized the harmful effects of isolation of youths and changed their policies, often as a result of litigation. In 2014, the U.S. Department of Justice and the State of Ohio reached an agreement to end solitary confinement in the state's juvenile facilities after finding that prolonged isolation was inappropriate for inmates under 18. That same year, New York City decided to end isolation of 16- and 17-year-olds at the city's Rikers Island jail complex.

Just across the San Francisco Bay, a similar policy has been approved as a result of a lawsuit against Contra Costa County. That agreement had several requirements:

- Room confinement for punishment, discipline, staff shortages, etc. is prohibited.
- Staff can only isolate a youth in room as a temporary response to behavior that threatens immediate harm to the youth or others.
- Staff may only segregate the youth for four hours. After four hours, the department must remove the youth from confinement, develop specialized individualized programming for the youth in coordination

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<sup>4</sup> For example, Children's Health Act of 2000, which protects the rights of residents of any health care facility receiving federal funds limits the use of involuntary segregation to ensure the physical safety of the resident, staff, or other and requires a written order of a licensed practitioner that specifies duration. Children's Health Act of 2000, Pub. L. 106-310, 114 Stat. 1101 §591(a) (2000). ["Return to Main Document"](#)

with the office of education, or assess whether the youth should be transported to a mental health facility.<sup>5</sup>

These limits on isolation for youth were adopted because of the especially damaging effects on adolescents. Adolescence is a period of significant and dramatic biological, emotional, and physiological change, which is marked by a malleability of their brain development.<sup>6</sup> For this reason, experts in child and adolescent psychology have found that prolonged isolation can cause or exacerbate mental disabilities or other serious mental health problems in adolescents.<sup>7</sup> For many juveniles in detention facilities, “developmental immaturity is compounded by mental disabilities and histories of trauma, abuse, and neglect” and “can exacerbate the mental health effects of solitary confinement.”<sup>8</sup>

Former Attorney General Eric Holder, Jr. noted that isolation affects juveniles’ ability to re-enter society: “Solitary confinement can be dangerous, and a serious impediment to the ability of juveniles to succeed once released.”<sup>9</sup> Further, a review by the Department of Justice found that

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<sup>5</sup> Class Action Settlement Agreement, *G.F. et al. v. Contra Costa County et al*, Case No. C13-3667 MEJ, (N.D. Cal. 2015) p. 5. “Return to Main Document”

<sup>6</sup> Laurence Steinberg et al., “The Study of Developmental Psychopathology in Adolescence: Integrating Affective Neuroscience with the Study of Context,” in Dante Cicchetti and Donald Cohen, eds., *Developmental Psychopathology* (Oxford: John Wiley & Sons, 2006), p. 710. “Return to Main Document”

<sup>7</sup> “Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States,” Human Rights Watch and ACLU, 2012, p. 24 available at: <https://www.hrw.org/sites/default/files/reports/us1012ForUpload.pdf>; see also, Sandra Simkins, Marty Beyer, Lisa Geis, “The Harmful Use of Isolation in Juvenile Facilities: The Need for Post-Disposition Representation,” 38 Wash. U. Journal of Law and Policy, pp. 241, 257-259, (2012), available at: [http://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1019&context=law\\_journal\\_law\\_policy](http://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1019&context=law_journal_law_policy) “Return to Main Document”

<sup>8</sup> *Growing Up Locked Down*, Human Rights Watch, ACLU, Oct 2012, p. 24. “Return to Main Document”

<sup>9</sup> Department of Justice Office of Public Affairs *Attorney General Holder Criticizes Excessive Use of Solitary Confinement for Juveniles with Mental Illness* (2014),

more than half of the suicides in juvenile prisons occur during solitary confinement.<sup>10</sup>

## INITIAL RECOMMENDATION

Due to the potential for serious negative consequences when room confinement is used, we recommend that YGC implement and abide by the JDAI standards that it agreed to when it became a JDAI site. YGC should also monitor when and why room confinement is used, including the type of incident and length of use, so that patterns can be seen.

### Additional Concerns

In addition to our serious concern regarding isolation and room confinement, we observed the following problems, where YGC was out of compliance with state regulations and JDAI standards:

- **Reliance on prescription sleeping pills:** Youth reported that virtually everyone is prescribed sleeping pills. This is extremely problematic and may reduce the quality of mental health care. The need for medications must be supported by appropriate assessment and diagnosis, and is not allowed for convenience of the staff. 15 C.C.R. § 1439(d); JDAI Standards, Health and Mental Health Care (G)(5)(g), p.41.
- **Limited Access to Telephone:** Many youth complained that they were only allowed non-legal calls on weekends and those calls were of very short length. Youth should have at least two calls a week of ten minutes in length. JDAI standards, Access (B)(2), p.49.

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*available at* <http://www.justice.gov/opa/pr/2014/May/14-ag-509.html>; see also, Stuart Grassian, "Psychiatric Effects of Solitary Confinement," Wash. U. Journal of Law and Policy, 325, 332-333 (2006), available at: [http://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1362&context=law\\_journal\\_law\\_policy](http://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1362&context=law_journal_law_policy) "Return to Main Document"

<sup>10</sup> New York Times, "Lawsuit Leads to New Limits on Solitary Confinement at Juvenile Prisons in Illinois," May 4, 2015, available at: [http://www.nytimes.com/2015/05/05/us/politics/lawsuit-leads-to-new-limits-on-solitary-confinement-at-juvenile-prisons-in-illinois.html?\\_r=0](http://www.nytimes.com/2015/05/05/us/politics/lawsuit-leads-to-new-limits-on-solitary-confinement-at-juvenile-prisons-in-illinois.html?_r=0) "Return to Main Document"

- **Clothing:** Many youth complained that the clothes provided to them were old and dirty, that they had to wash their clothes with shampoo, and they needed additional socks. Clothing for juveniles should be clean and in good repair. 15 C.C.R. § 1480(a).
- **Outdoor Recreation:** Although the YGC has a large, open outdoor recreation area, youth in Units 2 and 5 do not have access to this area. They are limited to a small, walled courtyard, and were told this is because of insufficient staffing. Youth should have at least one hour a week of outdoor activity, weather permitting. 15 C.C.R. § 1371(b).
- **Temperature:** Youth on multiple units described their cells as very cold at night. Standards require that temperatures indoors be appropriate with no unhealthy extremes. Staff must also provide additional blankets for youth who are cold. JDAI Standards, Environment (D)(1), p. 83.
- **Visitation:** Although YGC claims to allow family visits, we received reports that youth who are parents are not allowed visitation with their own children. Staff should encourage this visitation “through visitation in child-friendly visiting spaces, telephone and mail.” JDAI standards, Access (C)(1), p. 49.

The response of City and County of San Francisco Juvenile Probation Department's is below.



**City and County of San Francisco**  
**Juvenile Probation Department**

Allen A. Nance  
Chief Probation Officer

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January 21, 2016

Ms. Ana Hadreas  
Disabilities Rights California  
330 Broadway, Suite 500  
Oakland, CA 94612

Dear Ms. Hadreas:

As of the last visit in August 2015 by Disability Rights California, the San Francisco Juvenile Justice Center continues to take strides in addressing the use of room confinement in a progressive manner. Our approach to addressing the issue of room confinement includes understanding the role that trauma plays on both detained youth, as well as our staff. Proof of our commitment to understanding trauma is the fact that all San Francisco Juvenile Probation Peace Officers as well as all SFJPD support staff have completed Trauma-Informed Systems Training. We are updating the JJC Discipline Policy and launching new incentive-based programs which includes a new multi-functional Youth Merit Center which will serve as the basis of our new merit program.

In response to some of the other misconceptions reported in your January 12, 2016 Executive Summary:

- The report mistakenly brands youth in custody by referring to them as "prisoners."
- Please note pepper spray and tasers have NEVER been used at the SF YGC.
- Regarding youth who are found incompetent" to stand trial, the San Francisco Juvenile Probation Department has a restoration program in partnership with the San Francisco Department of Public Health's Children, Youth and Family System of Care called the Competency Attainment Program (CAP) that is facilitated by AIIM Higher (Assess Identify Needs Integrate Information Match to Services) for youth who are found competent to stand trial which allows juveniles to remain in the community pending competency attainment if ordered by the Court.

Other misconceptions cited include youth on BMP. Paragraph one, page four reads as follows:

*In addition to the use of room confinement as discipline, YGC also violates youth correctional standards by imposing room confinement for from one to three months at a time under its Behavior Management Program (BMP). Youth on BMP are not permitted to attend school; instead, teachers are supposed to bring homework to them to do, although youth reported that his does not always happen. Mental health staff are also supposed to visit youth daily, but youth reported that his was also inconsistent. BMP is not described in YGC's youth handbook and appears to be largely unregulated and impossible to challenge.*

The Behavior Management Program, (BMP) is not a disciplinary tool, rather it is a therapeutic response to the youth's individual needs. The BMP is vetted through Mental Health and accompanied by a treatment plan. The length of a BMP is not predetermined but is reviewed weekly and either terminated, modified or extended based on the needs of the individual youth.

All youth, including those on BMP, DRB or any variation of split program are required to attend the full school program taught by the San Francisco

Unified School District (SFUSD) teachers, either in the SFUSD Education Center (EC) or in the SFUSD satellite classroom in Unit 8.

In early 2015, in partnership with the SFUSD, we expanded the school program by opening the classroom in Unit 8 to provide the full school curriculum education to all youth. For over a year, we have had every youth going to school all day every day including all DRB and BMP youth. All youth are encouraged to attend school with their assigned unit. At no time are BMP youth, or any other youth, required to attend school in Unit 8. The Unit 8 program was designed, and was vetted through, the SFUSD School Department to allow youth full access to the SFUSD education program, many of whom in the past would have received inadequate school access and curriculum. JJC is steadfast in its position that education is the key to breaking the cycle of crime and incarceration.

Regarding Page 3, *"We received reports that YGC (JJC) imposes room confinement as group punishment"*:

Group punishment, disciplining youth not directly involved in a misbehavior, is not an accepted nor authorized form of discipline. There are times when the excitement level of the group as a whole may become unruly and making it difficult, if not impossible, to determine who may be causing a disturbance. A group time out is sometimes necessary just to re-group and settle down for safety reasons. The youth are then counseled individually and as a group. This is not discipline.

Listed under "Additional Concerns" on Page 8, there are other areas which need clarification. *(Language in italics is quoted from the report.)*

Limited access to Telephone: Many youth complained that they were only allowed non-legal calls on weekends and those calls were very short length. Youth should have at least two calls a week of ten minutes in length.

Response: Youth are granted phone calls at least three (3) days a week. Often those calls exceed 10 minutes in length.

*Outdoor Recreation: Although the YGC has a large, open outdoor*

*recreation area, youth in Units 2 and 5 do not have access to this area, they are limited to a small walled courtyard, and were told this because of insufficient staffing. Youth should have at least one hour a week of outdoor activity, weather permitting.*

Response: The youth in Units 2 and 5 are afforded the same privileges as all of the other units. In addition, to access to the regular outdoor activity, weather permitting, Units 2 and 5 also have access to the outdoor recreation area for the Garden Program.

*Clothing: Many youth complained that the clothes provided to them were old and dirty, that they had to wash their clothes with shampoo and they needed additional socks. Clothing for juveniles should be clean and in good repair.*

Response: JJC clothing meet the standards set by the BSCC Title 15. The youths' clothing is washed on a daily basis by our in-house laundry staff. Additionally, we allow youth to wash smaller items in the unit washers and dryers. We are constantly resupplying the living units with replacement clothing items.

*Visitation: Inmates who are parents are not allowed visitation with their own children. Staff should encourage their visitation "through visitation in child-friendly visiting spaces, telephone, and mail.*

Response: Juvenile Justice Center detainees who have children of their own are afforded the right to visit with, and/or to call, their families (including their own children) through their Probation Officer. Family visits occur on a regular basis in the facility.

*Sleeping Pills: Youth reported that virtually everyone is prescribed sleeping pills. This is extremely problematic and may reduce the quality of mental health care. The need for medications must be supported by appropriate assessment and diagnosis, and is not allowed for convenience of the staff.*

Response: Before a referral can be made for medication evaluation, the youth must be in detention for at least three (3) weeks and/or exhibiting significant symptoms of problematic behavioral health.

Behavioral health clinician will first work with youth on sleep hygiene techniques and developing coping strategies. If sleep disturbances persist and impact functioning (irritability, difficulty staying awake in school, or focusing) youth will be referred to the Psychiatrist who completes a comprehensive evaluation including diagnosis. The Psychiatrist will then prescribe sleep medications if appropriate. In December 2015, of 33 males and 5 females receiving services, five (5) youth were being followed by psychiatry staff and were prescribed over-the-counter sleep medication; one youth requested but was not prescribed.

*Temperature: Youth on multiple units described their cells as very cold at night. Standards require that temperatures indoors be appropriate with no unhealthy extremes. Staff must also provide additional blankets for youth who are cold.*

Response: Building temperatures are centrally controlled and monitored by our Engineering Department on a regular basis. Most recent temperature readings on each unit last Sunday did not indicate any temperature out of the ordinary. It is noted that the west facing wall can be subject to cold ocean breezes, and attempts have been made to include funding in our budget to assess and further insulate the juvenile hall units in order to better regulate the temperature. Additionally, youth may have additional blankets, sweat pants, socks or whatever they choose to sleep in at night. As with most people, personal temperature fluctuates and we accommodate each youth who complains of being cold.

We are very appreciative of the DRC's recognition of the positive steps the San Francisco Juvenile Probation Department has taken thus far. We have made our position clear to the Youth Law Center, Board of State Community Standards (BSCC), Juvenile Detention Alternative Initiative Inspectors, Juvenile Probation Commission and the Juvenile Justice Commission that youth cannot be denied access to school unless there is an immediate safety and security risk of harm to self or others. During a recent visit by Senator Mark Leno, I again

reiterated the Department's support for various concepts reflected in SB 124.

We are still working hard on completing our Policy Project and expanding our use of evidence- based practices. We appreciate your support and any suggestions or guidance you have to offer and we look forward to your next visit in June, 2016.

Sincerely,



Allen A. Nance

Chief Probation Officer

Cc: Assistant Chief Paula Hernandez  
Juvenile Hall Director Luis Recinos

*Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>.*