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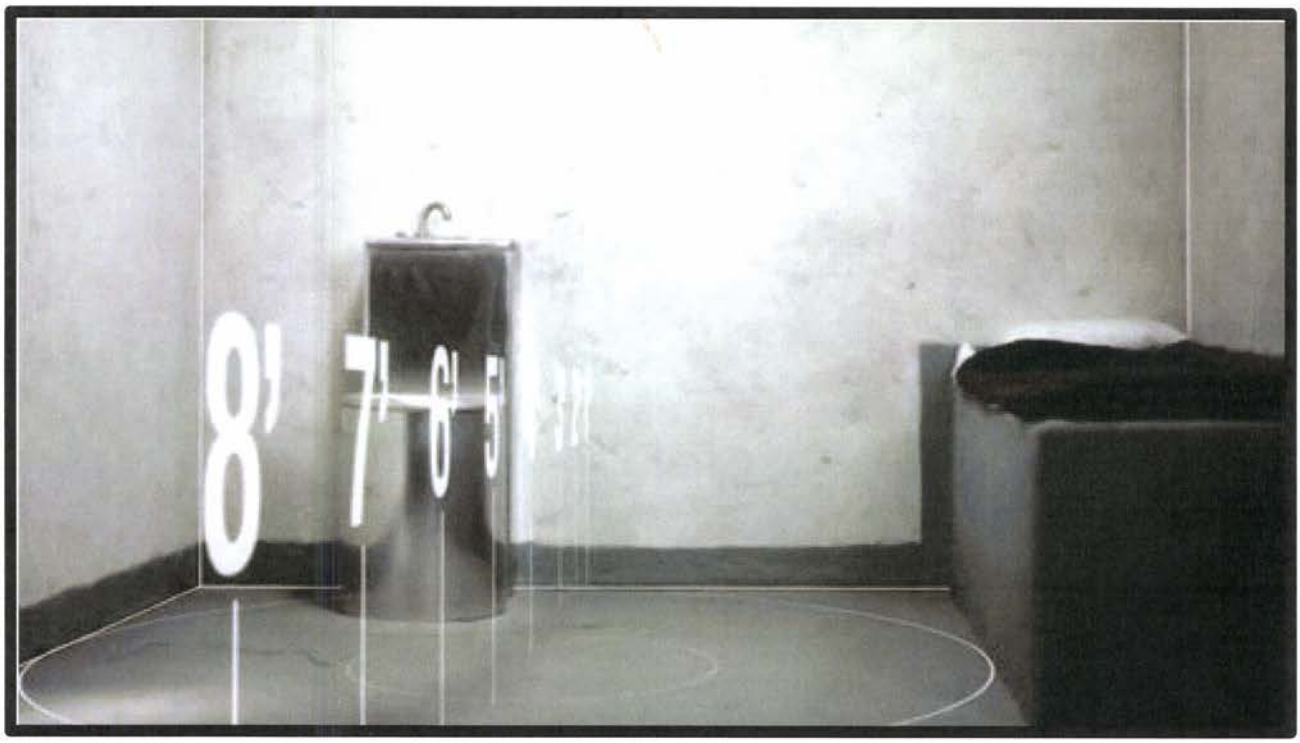
ALONE & AFRAID:

Children Held in Solitary Confinement and Isolation in Juvenile Detention and Correctional Facilities



June 2014 (Revised)

ACLU
AMERICAN CIVIL LIBERTIES UNION

ALONE & AFRAID:
Children Held in Solitary Confinement and Isolation in Juvenile Detention and Correctional Facilities

June 2014 (Revised)

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Introduction

"Being in a room over 21 hours a day is like a waking nightmare, like you want to scream but you can't."

- Lino Silva
On her experience in solitary confinement as a child

Every day, in juvenile detention and correctional facilities across the United States, children are held in solitary confinement and other forms of isolation. Solitary confinement is the most extreme form of isolation, and involves physical and social isolation in a cell for 22 to 24 hours per day.[1] In addition to solitary confinement, juvenile facilities frequently use a range of other physical and social isolation practices, many distinguishable from solitary confinement only in their duration (stretching for many—but fewer than 22—hours). Instead of the terms "solitary confinement" or "isolation," juvenile facilities often adopt euphemisms, including "time out," "room confinement," "restricted engagement," or a trip to the "reflection cottage."[2] These terms mask the fact that, whereas a short amount of alone time may sometimes be necessary to defuse a moment of crisis, hours of isolation can be extremely damaging to young people. Physical and social isolation practices can extend for days, weeks, and even months. Isolation cells often have no window or view of the world outside cell walls. While confined, children are regularly deprived of the services, programming, and other tools that they need for healthy growth, education, and development. Sometimes they are not even provided access to school books. Inside this cramped space, few things distinguish one hour, one day, one week, or one month from the next.

Solitary confinement can cause serious psychological, physical, and developmental harm, resulting in persistent mental health problems or, worse, suicide. Lengthy periods of isolation can be equally traumatizing and result in the same serious risks to health. These risks are magnified for children with disabilities or histories of trauma and abuse.

Federal government agencies and experts agree that the use of isolation on children can be harmful and counterproductive. The U.S. Department of Justice (DOJ) has stated that the "isolation of children is dangerous and inconsistent with best practices and that excessive isolation can constitute cruel and unusual punishment."[3] The U.S. Attorney General's *National Task Force on Children Exposed to Violence* also recently stated, "nowhere is the damaging impact of incarceration on vulnerable children more obvious than when it involves solitary confinement."[4] The National Research Council of the National Academies of Sciences has also concluded that "confinement [of children] under punitive conditions may increase recidivism."[5]

Normal human contact and a range of age-appropriate services and programming are essential to a child's development, education, and rehabilitation. The goals of juvenile justice laws and the results of detaining and confining children should be to protect public safety while promoting rehabilitation. Upon return to the community, children should have the tools to be productive and healthy citizens. Any practice involving physical and social isolation of children can significantly undermine these objectives and should be strictly limited, regulated, closely monitored, and publicly reported.

Solitary confinement and other forms of isolation undermine both healthy child development and, ultimately, community safety. Yet children across the country are subject to such treatment with little public oversight or legal limits.

It is time to abolish the solitary confinement of children and strictly limit and uniformly regulate isolation practices. To this end, state and federal lawmakers, local governments, and administrators of juvenile detention and correctional facilities should immediately embark on a review of the laws, policies, and practices that result in children being held in solitary confinement or prolonged isolation, with the goal of prohibiting all harmful practices.

How Do Solitary Confinement and Isolation Harm Children?

Solitary confinement and other forms of isolation can cause serious psychological, physical, and developmental harm to children who either need age-appropriate services and programming that promotes healthy growth and development, or need to be rehabilitated (if adjudicated delinquent). Solitary confinement and isolation practices can be even more harmful for children with disabilities.

Children grow and change. Adolescence is transitory. As Elizabeth Scott and Laurence Steinberg, experts in adolescent development, have written, "[t]he period is transitional because it is marked by rapid and dramatic change within the individual in the realms of biology, cognition, emotion, and interpersonal relationships."[6]

During adolescence, the body changes significantly, including the development of secondary sex characteristics. Boys and girls gain height, weight, and muscle mass, as well as pubic and body hair; girls develop breasts and begin menstrual periods, and boys' genitals grow and their voices change.[7] The human brain also goes through dramatic structural growth during teen years and into the mid-twenties. The major difference between the brains of teens and those of young adults is the development of the frontal lobe.[8] The frontal lobe is responsible for cognitive processing, such as planning, strategizing, and organizing thoughts and actions.[9] Researchers have determined that one area of the frontal lobe, the dorsolateral prefrontal cortex, is among the last brain regions to mature, not reaching adult dimensions until a person is in his or her twenties.[10] This part of the brain is linked to "the ability to inhibit impulses, weigh consequences of decisions, prioritize, and strategize."[11] As a result, teens'

What Is it Like for Children in Solitary Confinement?

The devastating effects of solitary confinement on children have haunting consequences, as shown by this first-hand account from Lino Silva, written about her experience in solitary confinement in a juvenile facility in California:

> "Being in a room over 21 hours a day is like a waking nightmare, like you want to scream but you can't. You want to stretch your legs, walk for more than a few feet. You feel trapped. Life becomes distorted. You shower, eat, sleep, and defecate in the same tiny room. In the same small sink, you 'shower,' quench your thirst, wash your hands after using the toilet, and warm your cold dinner in a bag. I developed techniques to survive. I keep a piece of humanity inside myself that can't be taken away by the guards . . . There's no second chance here."

Reassessing Solitary Confinement: The Human Rights, Fiscal, and Public Safety Consequences: Hearing Before the Subcomm. on the Constitution, Civil Rights, and Human Rights of the S. Comm. on the Judiciary, 112th Cong. (2012) (statement of Sumayyah Washeed & Jennifer Kim, Ella Baker Center for Human Rights, Books not Bombs Campaign).

decision-making processes are shaped by impulsivity, immaturity, and an under-developed ability to appreciate consequences and resist environmental pressures.[12]

The differences between children and adults make young people more vulnerable to harm, and disproportionately affected by the trauma and deprivations of solitary confinement and isolation.

Psychological Harm

Extensive research on the impact of isolation has shown that adult prisoners generally exhibit a variety of negative physiological and psychological reactions to conditions of solitary confinement, including: hypersensitivity to stimuli;[13] perceptual distortions and hallucinations;[14] increased anxiety and nervousness;[15] revenge fantasies, rage, and irrational anger;[16] fears of persecution;[17] lack of impulse control;[18] severe and chronic depression;[19] appetite loss and weight loss;[20] heart palpitations;[21] withdrawal;[22] blunting of affect and apathy;[23] talking to oneself;[24] headaches;[25] problems sleeping;[26] confusing thought processes;[27] nightmares;[28] dizziness;[29] self-mutilation;[30] and lower levels of brain function, including a decline in EEG activity after only seven days in solitary confinement.[31]

One can reasonably conclude that, at a minimum, children too experience these negative effects.[32] Indeed, given their stage of growth and development, children may be even less able than adults to handle solitary confinement.[33] Psychologically, children are different from adults, making their time spent in isolation even more difficult and the developmental,

psychological, and physical damage more comprehensive and lasting. They experience time differently—a day for a child feels longer than a day to an adult—and have a greater need for social stimulation.[34] The American Academy of Child and Adolescent Psychiatry has concluded that, due to their "developmental vulnerability," adolescents are in particular danger of adverse reactions to prolonged isolation and solitary confinement.[35]

Risk of Suicide

Suicide is strongly associated with isolation—especially for children.[36] Studies have repeatedly shown that children who are or have been held in solitary confinement are more likely to commit suicide, attempt suicide, and engage in other acts of self-harm. Research published by the Department of Justice found that more than 50% of the suicides of children detained in juvenile facilities occurred while young people were isolated alone in their rooms, and that more than 60% of young people who committed suicide had a history of being held in isolation.[37]

Physical Harm

Given that children are still developing physically, they need age-appropriate mental health, medical, and dental services, as well as nutrition adequate to support growing muscles and bones.[38] The most common deprivation that accompanies solitary confinement, denial of meaningful out-of-cell physical exercise, is physically harmful to their health, well-being, and growth.

Developmental Harm

Children held in solitary confinement are typically denied access to programming provided to other youth—treating important educational programming, access to reading materials, and the ability to write, call, or visit with loved ones as privileges rather than rights to which all children are entitled.[39] Denying children access to this programming undermines their ability to develop into healthy adults, able to function in society. In some cases, such as with denial of educational programming, it also violates the law. Holding children in solitary confinement can thus result in long-term harm, undermining their future and the purported goals of the juvenile justice system.

Harm to Children with Disabilities or a History of Trauma and/or Abuse

For many children in the juvenile justice system, the vulnerabilities of developmental immaturity are compounded by disabilities and/or histories of trauma and abuse.[40] These factors, though experienced differently by different children, can significantly exacerbate the harm of solitary confinement. The Americans with Disabilities Act, the Rehabilitation Act, and the Individuals with Disabilities Education Act all require state and local governments to accommodate disabilities when they care for children in custody.[41]

Fighting Youth Solitary in the Courts

Across the country, challenges to the solitary confinement of youth have reached the courts, resulting in policy changes as well as financial settlements.

- In a 2014 settlement with the U.S. Department of Justice and the Children's Law Center, the **Ohio** State Department of Youth Services agreed to dramatically reduce, and eventually eliminate, its use of seclusion on young people in its custody; the Department also agreed to improve individualized mental health treatment. Conditions that DOJ investigated in Ohio included the excessive seclusion of youth with mental health disorders.
- The **Illinois** Department of Juvenile Justice agreed in 2014 to dramatically improve conditions at six state juvenile justice facilities. The agreement, following the 2012 ACLU lawsuit *R.J. v. Jones*, includes a ban on the use of solitary confinement for disciplining youth, and requires a new policy limiting when and how youths' freedom of movement may be restrained.
- In 2013, two boys won a $400,000 settlement against **New Jersey**'s Juvenile Justice Commission; one plaintiff had spent 178 days in solitary confinement at age 16, the other, 50 days at 15. One of the youths, who had been diagnosed with post-traumatic stress disorder and bipolar disorder, attempted suicide and mutilated himself several times while in custody.

See Justice Department Settles Lawsuit Against State of Ohio to End Unlawful Seclusion of Youth in Juvenile Correctional Facilities, Justice News (May 21, 2014), http://www.justice.gov/opa/pr/2014/May/14-crt-541.html; Agreed Order, S.H. v. Reed, Civ. Action No. 2:04-cv-01206-ALM-TPK, Doc. 401 (S.D. Ohio May 21, 2014); Plan Advanced To Improve Conditions in Illinois' Juvenile Justice Facilities, ACLU of Illinois (Mar. 17, 2014), http://www.aclu-il.org/plan-advanced-to-improve-conditions-in-illinois-juvenile-justice-facilities/; Jeff Goldman, N.J. To Pay Half of $400K Settlement Over Solitary Confinement of Juveniles, Star-Ledger (Dec. 10, 2013), available at http://www.nj.com/news/index.ssf/2013/12/nj_to_pay_most_of_400k_settlement_over_solitary__confinement_of__juveniles.html; Second Amended Complaint, Troy D. & O'Neill S. v. Mickens, 1:10-cv-02902-JEI-AMD (D. N.J., Dec. 14, 2011), http://www.jlc.org/legal-docket/td-and-os-v-mickens-et-al.

Why Are Children Held in Solitary Confinement and Isolation?

Department of Justice data suggest that, on any given day, more than 70,000 young people are held in state or federal juvenile detention facilities across the United States[42] and that the use of isolation, including solitary confinement, in these facilities is widespread.[43] Juvenile detention facilities generally justify solitary confinement and other forms of physical and social isolation for one of four reasons:

- DISCIPLINARY ISOLATION: Physical and social isolation used to punish children when they break facility rules, such as those prohibiting talking back, possessing contraband, or fighting;
- PROTECTIVE ISOLATION: Physical and social isolation used to protect a child from other children;
- ADMINISTRATIVE ISOLATION: Physical and social isolation—sometimes for a short period but other times without any limit on duration—used during initial processing at a new

facility, because officials do not know how else to manage a child, or when a child is deemed too disruptive to the safe or orderly operation of an institution, such as when he or she is deemed to be out of control;

- MEDICAL ISOLATION: Physical and social isolation to medically treat children, such as fora contagious disease or for having expressed a desire to commit suicide;[44]

While short periods of isolation—measured in minutes—may be appropriate in rare emergencies, all too often children are placed in isolation unnecessarily, causing grave harm. Physical and social isolation practices are often accompanied by a range of restrictions and deprivations—limits on everything from reading materials to visitation to exercise.[45] Children are frequently subjected to these practices repeatedly and sometimes moved between different forms of isolation time and again while detained.[46]

Most states and the federal government do not regularly publish systematic data showing the number of young people subjected to solitary confinement or other isolation practices while held in juvenile detention facilities, and almost no detention facilities make this data available to the public. The available data, however, suggest that children in the juvenile justice system are routinely subject to solitary confinement and other forms of isolation—and also why greater transparency and data reporting are so desperately needed:

- Department of Justice estimates, based on survey data from 2003, establish that one-third of youth in custody (35 percent and close to 35,000 young people between the ages of 10 and 20) at that time had been held in isolation with no contact with other residents. The vast majority of those young people (87 percent) were held in isolation for longer than 2 hours and more than half (55 percent) were held in solitary confinement for longer than 24 hours. This amounts to more than 17,000 of the approximately 100,000 young people in confinement having been subjected to solitary confinement.[47]
- Data gathered in 2012 by the Performance-based Standards Initiative of the Council of Juvenile Corrections Administrators (from a group of 162 voluntarily participating juvenile detention facilities in 29 states) suggest that, in these facilities (representing fewer than 10 percent of juvenile facilities nationwide), the average duration of isolation was just over 14 hours. The group also reports that the number of youth who reported being held in solitary confinement for longer than 11 days and between 6 and 10 days fell between 2010 and 2012, though the number of children held in solitary confinement for between 1 and 5 days increased.[48]
- Recent state-level data on the use of solitary confinement and isolation in juvenile detention facilities in California,[49] Ohio,[50] and Texas[51] suggest that children spend tens of thousands of hours locked up alone in the United States each year.

How Are Solitary Confinement and Other Isolation Practices Currently Regulated?

National standards and state and federal law and policy address the use of isolation on children and recommend restrictions on its use.

NATIONAL STANDARDS: Every set of national standards governing age- and developmentally-appropriate practices to manage children in rehabilitative or correctional settings strictly regulate and limit all forms of isolation. The Department of Justice Standards for the Administration of Juvenile Justice limit isolation to a maximum period of 24 hours.[52] Another leading set of national standards prohibits any isolation for punitive or disciplinary reasons, and limits isolation in cases of emergency to 4 hours or less,[53] and yet another recommends that isolation be kept to a few minutes, not hours (and, in all cases, be limited to the shortest duration necessary).[54] Standards governing the isolation of children in medical and mental health facilities and in educational settings are even more restrictive.[55]

STATE LAW AND POLICY: With building momentum, state juvenile justice agencies have implemented policy changes in recent years increasingly limiting isolation practices, with a majority of state agencies limiting isolation to a maximum of five days.[56] Some state agencies have become leaders in reforming the use of isolation; notably, the Massachusetts Department of Youth Services enforces a complete statewide ban on isolation of children for punitive or disciplinary reasons, and requires that any isolation used in emergencies be approved by high-level supervisors.[57] Other states, including Missouri and New York, have reformed their entire juvenile justice systems, addressing behavioral issues through more humane, holistic policies and treatments that largely preclude the "need" for isolation.[58] Six states—Alaska, Connecticut, Maine, Nevada, Oklahoma, and West Virginia—by statute have placed reporting requirements and certain limitations on the use of isolation of youth in some or all of their juvenile detention and correctional facilities.[59]

FEDERAL LAW AND POLICY: The *Juvenile Justice and Delinquency Prevention Act (JJDPA)* creates financial incentives for states to treat some young people differently from adults, including by deinstitutionalizing status offenders, diverting those subject to the jurisdiction of the juvenile justice system (and certain categories of misdemeanants) from adult facilities, ensuring sight and sound separation between youth and adults in adult facilities, and reducing disproportionate minority contact with the juvenile justice system.[60] However, no provision of this law—or any other federal law—*prohibits* solitary confinement or isolation of children in juvenile detention facilities. Fortunately, recent comprehensive national regulations implementing the Prison Rape Elimination Act include provisions regulating isolation in juvenile facilities.[61] The regulations require that any young person separated or isolated as a disciplinary sanction or protective measure must receive daily large-muscle exercise; access to legally mandated educational programming or special education services; daily visits from a medical or mental health care clinician; and, to the extent possible, access to other

programs and work opportunities.[62] By statute, state juvenile detention and correctional facilities had until August 2013 to certify compliance with these regulations or potentially lose certain federal funding; assessments of state compliance and determinations as to funding are ongoing.[63] And while DOJ investigations of state juvenile facilities have repeatedly found patterns and practices of excessive isolation and consistently declared them to be unconstitutional,[64] there is still no outright ban on the solitary confinement of children in the custody of the federal government.[65]

U.S. and Human Rights Laws Provide Specific Protections for Children

The U.S. Supreme Court has repeatedly emphasized that young people should be afforded heightened constitutional protections in the context of crime and punishment. The fact that children are particularly vulnerable and deserving of different treatment than adults is also reflected in human rights law, which affords special measures of protection to children who come into conflict with the law.

U.S. Constitutional Law

The U.S. Constitution protects persons deprived of their liberty, both before and after conviction. It also provides extra protections for children charged with crimes. In a string of recent cases, the Supreme Court has ruled that the Constitution's protections apply differently to children who come into conflict with the law because *kids are different* from adults. In cases involving the juvenile death penalty,[66] juvenile life without parole,[67] and custodial interrogations,[68] the Court held that punishing or questioning children without acknowledging their age, developmental differences, or individual characteristics is unconstitutional.

The Fifth- and Fourteenth-Amendment protections against deprivation of liberty without due process of law establish the contours of the protections generally applicable to conditions of confinement for children.[69] Children in confinement have a "liberty interest in safety and freedom from [unreasonable] bodily restraint."[70] Conditions of confinement are unreasonable when they are "a substantial departure from accepted professional judgment, practice or standards."[71] The Supreme Court has also held that government conduct violates substantive due process when it "shocks the conscience."[72] As with evaluation of the most extreme sentences, efforts to determine when extreme isolation practices breach professional standards and shock the conscience must take into account the developmental differences and individual characteristics of children.

Additionally, over the years, a small number of federal courts have ruled that solitary confinement and isolation practices used in juvenile detention facilities are unconstitutional.[73] Few courts have considered the issue recently.[74] However, a number of federal district courts have recently found that the solitary confinement of adults with serious mental health problems violates the Eighth Amendment because such persons are more likely than others

to have great difficulty adjusting to and tolerating time in solitary confinement, and because solitary confinement can even make the symptoms of mental health problems worse.[75] Similar to persons with mental disabilities, and because they are still growing and developing, children are especially vulnerable to the negative consequences of solitary confinement and other harmful isolation practices.

Solitary confinement is extreme—well outside of the range of acceptable best practices for caring for and managing children—and it carries a high risk of physical, developmental, and psychological harm, and even death. Laws and practices that subject children to this inherently cruel and punitive treatment shock the conscience and may violate the Constitution.

Human Rights Law and Practice

U.S. courts, including the Supreme Court, have repeatedly relied on international law and practice on children's rights to affirm their reasoning that certain domestic practices violate the Constitution.[76] International human rights law, which identifies anyone below the age of 18 years as a child, recognizes that "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth."[77] The International Covenant on Civil and Political Rights (ICCPR), a treaty ratified by the United States, acknowledges the need for special treatment of children in the criminal justice system and emphasizes the importance of their rehabilitation.[78] The Convention on the Rights of the Child (CRC), a treaty signed by the United States, also addresses the particular rights and needs of children who come into conflict with the law.[79]

A number of international instruments and human rights organizations have declared that the solitary confinement of children violates human rights laws and standards prohibiting cruel, inhuman or degrading treatment and called for the practice to be banned, including: the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines),[80] the Committee on the Rights of the Child,[81] the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Beijing Rules),[82] and the Inter-American Commission on Human Rights.[83] Based on the harmful physical and psychological effects of solitary confinement and the particular vulnerability of children, the Office of the U.N. Special Rapporteur on Torture has repeatedly called for the abolition of solitary confinement of persons under age 18.[84]

The Need to Ban the Solitary Confinement of Children

Solitary confinement and isolation are not safe for children. There are a range of alternatives to manage and care for young people safely—without resorting to harmful physical and social isolation practices. There is broad consensus that the most effective and developmentally appropriate techniques for managing youth and promoting their healthy growth and development while they are detained require abolishing solitary confinement, strictly limiting

and regulating the use of other forms of isolation, and emphasizing positive reinforcement over punishment.[85]

Best practices recognize that it is acceptable to separate individual youth from the general population to accomplish a limited range of legitimate objectives. Youth can be *separated* from the general population to interrupt their current acting-out behavior; to discipline them; to keep them safe; to manage them; and to medically treat them. But separation policies and practices must further distinguish between practices which *do not* involve significant levels of physical and social isolation and those which *do.* Below we suggest the steps necessary to improve both policy and practice:

- **Prohibit Solitary Confinement and Strictly Limit Other Forms of Isolation of Children.**

Solitary confinement of children under 18 should be banned. This practice can be ended by state legislators, local officials, and juvenile facility administrators. Other, shorter-term isolation practices should be strictly limited and regulated because of their harmful and traumatic effect on children and because they are often accompanied by other serious deprivations (like denial of education).Children should never be subjected to any practice that involves significant levels or durations of physical or social isolation. Isolation should only be used as an emergency measure and for as short a duration as necessary. Separation practices to protect, manage, or discipline youth should be used sparingly and should never rise to the level of solitary confinement.

- **Require Public Reporting of Solitary Confinement Practices in Juvenile Detention Centers.**

Governments rarely systematically collect data on the use of solitary confinement or other isolation on young people in juvenile detention facilities—or make public what is available. Reforms to solitary confinement and isolation practices must be accompanied by monitoring of isolation practices, recording of data, and public reporting about policies and practices as well as data about their use. Such transparency is necessary to give public and elected officials, and the general public, the information required to meaningfully engage in debate and appropriate oversight.

Conclusion

Solitary confinement and isolation of children in juvenile facilities is psychologically, developmentally, and physically damaging and can result in long-term problems and even suicide. Laws, policies, and practices must be reformed to ensure that more effective, safer alternatives are utilized with children in the juvenile system, and that our priority is their proper protection and rehabilitation.

Endnotes

[1] HUMAN RIGHTS WATCH & THE AMERICAN CIVIL LIBERTIES UNION, GROWING UP LOCKED DOWN: YOUTH IN SOLITARY CONFINEMENT IN JAILS AND PRISONS ACROSS THE UNITED STATES (2012), *available at* http://www.aclu.org/growinguplockeddown. This is also the definition used by the United Nations Special Rapporteur on Torture. Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Interim Rep. of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, ¶ 26, U.N. Doc. A/66/268 (Aug. 5, 2011) (by Juan Mendez), *available at* http://solitaryconfinement.org/uploads/SpecRapTortureAug2011.pdf. Although isolation practices in many facilities do not rise to the level of solitary confinement, because the conditions and effects of various segregation practices are substantially the same, the ACLU uses a single term – solitary confinement – based on the level of social isolation and environmental deprivation to describe the most extreme forms of physical and social isolation.

[2] Bridget Clerkin, *Trenton-based corrections union pushes for new image of solitary confinement*, NJ.COM (Aug. 19, 2013, 7:15 AM), *available at* http://www.nj.com/mercer/index.ssf/2013/08/trenton_pba_union_pushes_for_new_image_of_solitary_confinement.html; Keila Parks, *"Reflection Cottages": The Latest Spa Getaway or Concrete Solitary Confinement for Kids?*, ACLU BLOG OF RIGHTS (Apr. 29, 2013), *available at* http://www.aclu.org/blog/prisoners-rights-criminal-law-reform/reflection-cottages-latest-spa-getaway-or-concrete.

[3] Letter from Robert L. Listenbee, Administrator, US Department of Justice, to Jesselyn McCurdy, Senior Legislative Counsel, American Civil Liberties Union 1 (Jul. 5, 2013), *available at* https://www.aclu.org/sites/default/files/assets/doj_ojjdp_response_on_jj_solitary.pdf.

[4] ATTY' GEN.'S NAT'L TASK FORCE ON CHILDREN EXPOSED TO VIOLENCE, REP. OF THE ATTY' GEN.'S NAT'L TASK FORCE ON CHILDREN EXPOSED TO VIOLENCE, DEFENDING CHILDHOOD: PROTECT, HEAL, THRIVE 178 (2012), *available at* http://www.justice.gov/defendingchildhood/cev-rpt-full.pdf; *see also* Letter from Robert L. Listenbee, *supra* note 3, at 3.

[5] Letter from Robert L. Listenbee, *supra* note 3, at 3.

[6] ELIZABETH S. SCOTT & LAURENCE STEINBERG, RETHINKING JUVENILE JUSTICE 31 (2008).

[7] Sedra Spano, *Stages of Adolescent Development*, ACT FOR YOUTH UPSTATE CENTER FOR EXCELLENCE (May 2004), http://www.actforyouth.net/resources/rf/rf_stages_0504.pdf; *Adolescent Development*, NAT'L INSTS. OF HEALTH, http://www.nlm.nih.gov/medlineplus/ency/article/002003.htm (last visited Aug. 26, 2013).

[8] Laurence Steinberg et al., *The Study of Development Psychopathology in Adolescence: Integrating affective neuroscience with the study of context*, *in* DEVELOPMENTAL PSYCHOPATHOLOGY 710 (DANTE CICCHETTI & DONALD J. COHEN EDS., 2d ed. 2006).

[9] *Id.*; Jay N. Giedd, *Structural Magnetic Resonance Imaging of the Adolescent Brain*, 1021 ANNALS N.Y. ACAD. SCI. 83 (2004), *available at* http://intramural.nimh.nih.gov/research/pubs/giedd05.pdf.

[10] Jay N. Giedd, *Structural Magnetic Resonance Imaging of the Adolescent Brain*, *supra* note 9, at 1021.

[11] *Id.*

[12] Matthew S. Stanford et al., *Fifty Years of the Barratt Impulsiveness Scale: An Update and Review*, 47 PERSONALITY & INDIVIDUAL DIFFERENCES 385 (2009); Elizabeth Cauffman & Laurence Steinberg, *(Im)maturity of Judgment in Adolescence: Why Adolescents May Be Less Culpable Than Adults*, 18 BEHAV. SCI. & L. 741, 744-745

(2000).

[13] Stuart Grassian, *Psychopathological Effects of Solitary Confinement*, 140 AM. J. OF PSYCHIATRY 1450, 1452 (1983) (reporting, among prisoners subjected to solitary confinement, dysesthetic responses to external stimuli).

[14] *Id.*; Craig Haney, *Mental Health Issues in Long-Term Solitary and "Supermax" Confinement*, 49 CRIME & DELINQ. 124, 134 (2003) (reporting that 44% of Pelican Bay SHU prisoners experienced perpetual distortions and 41% experienced hallucinations); Richard Korn, *The Effects of Confinement in the High Security Unit at Lexington*, 15 Soc. Just. 8, 15 (1988) (observing that several prisoners in isolation at Lexington Prison experienced an onset of hallucinatory symptoms).

[15] Grassian, *supra* note 13, at 1452-53 (prisoners reported feelings of "massive, free-floating anxiety" during their incarceration in solitary confinement); Haney, *supra* note 14, at 130, 133 (noting that 91% of Pelican Bay SHU prisoners experienced anxiety or nervousness); Holly A. Miller, *Reexamining Psychological Distress in the Current Conditions of Segregation*, 1 J. OF CORRECTIONAL HEALTHCARE 39, 48 (1994) (finding increased levels of psychological distress in more restrictive environments).

[16] Grassian, *supra* note 13, at 1453 (prisoners in solitary reported the emergence of aggressive revenge fantasies against prison guards); Holly A. Miller & Glenn R. Young, *Prison Segregation: Administrative Detention Remedy or Mental health Problem?*, 7 CRIM. BEHAV. & MENTAL HEALTH 85, 91 (1997) (inmates housed in disciplinary segregation reported more feelings of anger, including aggression, irritability, and rage than those housed in administrative detention or general population); Haney, *supra* note 14, at 130, 134 (reporting that 88% of Pelican Bay SHU prisoners experienced irrational anger and 61% reported having violent fantasies); *see generally* HANS TOCH, MOSAIC OF DESPAIR: HUMAN BREAKDOWN IN PRISON (1992) (describing the variety of stress transactions that occur in the prison setting).

[17] Grassian, *supra* note 13, at 1453 (prisoners in solitary reported ideas of reference and paranoia associated with persecutory fears).

[18] *Id.*; Miller & Young, *supra* note 16, at 92 (finding that specific psychological distress symptoms including irresistible impulses increase with levels of housing restriction).

[19] Miller & Young, *supra* note 16, at 90 (finding that prisoners in restrictive housing commonly experience depression); Haney, *supra* note 14, at 131, 134 (finding that 77% of Pelican Bay SHU prisoners experienced chronic depression); Korn, *supra* note 14 at 15 (observing that the force and pressure of rage experienced by prisoners in isolation is turned inward and manifests as low-level to severe depression).

[20] Haney, *supra* note 14, at 130, 133 (noting that 63% of Pelican Bay SHU prisoners reported loss of appetite); Korn, *supra* note 14 at 16 (prisoners held in isolation at Lexington reported loss of weight varying from 10-20 pounds and unpalatability of food).

[21] Haney, *supra* note 14, at 133 (reporting that 63% of Pelican Bay SHU prisoners experienced heart palpitations).

[22] Miller & Young, *supra* note 16, at 91 (prisoners housed in disciplinary segregation reported significantly more feelings of withdrawal and isolation than prisoners in less restrictive housing); Korn, *supra* note 14 at 15 (prisoners in isolation at Lexington reported defensive psychological withdrawal as a coping mechanism).

[23] Korn, *supra* note 14, at 15 (reporting that "a commonly noted adjustment to unbearable environments is a form of protective withdrawal and desensitization by means of which one decreases one's feelings of suffering").

[24] Haney, *supra* note 14, at 134 (noting that 63% of Pelican Bay SHU prisoners reported talking to themselves).

[25] *See id.* at 133 (noting that 88% of Pelican Bay SHU prisoners experienced headaches).

[26] *See id.* (finding that 84% of Pelican Bay SHU prisoners had trouble sleeping).

[27] *See id.* at 137 (noting that 84% of Pelican Bay SHU prisoners reported confusing thought processes).

[28] *See id.* at at 133 (reporting that 55% of Pelican Bay SHU prisoners experienced nightmares).

[29] *See id* .(finding that 56% of Pelican Bay SHU prisoners experienced feelings of dizziness).

[30] Grassian, *supra* note 13, at 1453 (prisoners subjected to solitary confinement reported experiencing " impulsive self-mutiliation"); Eric Lanes, *The Association of Administrative Segregation Placement and Other Risk Factors with the Self-Injury-Free Time of Male Prisoners*, 48 J. OFFENDER REHABILITATION 529, 539-40 (2009) (finding that prisoners in administrative segregation housing experienced shorter self-injury-free periods than prisoners housed in general population).

[31] Paul Gendreau, N.L. Freedman, G.J.S. Wilde & G.D. Scott, *Changes in EEG Alpha Frequency and Evoked Response Latency During Solitary Confinement*, 79 J. OF ABNORMAL PSYCHOL. 54, 57-58 (1972) (finding that one week of solitary confinement produced significant changes in EEG frequency and visual evoked potentials that parallel those reported in studies of sensory deprivation).

[32] For detailed narrative descriptions of the experiences of youth who were subjected to solitary confinement, see HUMAN RIGHTS WATCH & THE AMERICAN CIVIL LIBERTIES UNION, GROWING UP LOCKED DOWN, *supra* note 1.

[33] The Court has described how youth have a "capacity for change," and that they are therefore "in need of and receptive to rehabilitation." *Graham v. Florida*, 130 S.Ct. 2011, 2017 (2010).

[34] Laurence Steinberg et al., *Age Differences in Future Orientation and Delay Discounting*, 80 CHILD. DEV. 28 (2009), *available at* http://www.wisspd.org/htm/ATPracGuides/Training/ProgMaterials/Conf2011/AdDev/ADFO.pdf; Jennifer Woolard et al., *Juveniles in Adult Correctional Settings: Legal Pathways and Developmental Considerations*, 4 INT'L J. OF FORENSIC MENTAL HEALTH 1 (2005), *available at* http://www.policyarchive.org/handle/10207/bitstreams/20668.pdf; Deborah Laible et al., *The Differential Relations of Parent and Peer Attachment to Adolescent Adjustment*, 29 J. OF YOUTH & ADOLESCENCE 45(2000), *available at* http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1050&context=psychfacpub; David E. Arredondo, *Principles of Child Development and Juvenile Justice Information for Decision-Makers*, 5 J. CTR. FOR FAMILIES, CHILD & COURTS 127 (2004).

[35] AM. ACAD. OF CHILD & ADOLESCENT PSYCHIATRY, POLICY STATEMENTS: SOLITARY CONFINEMENT OF JUVENILE OFFENDERS (Apr. 2012), *available at* http://www.aacap.org/cs/root/policy_statements/solitary_confinement_of_juvenile_offenders.

[36] LINDSAY M. HAYES, DEP'T OF JUSTICE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, JUVENILE SUICIDE IN CONFINEMENT: A NATIONAL SURVEY (2009), *available at* https://www.ncjrs.gov/pdffiles1/ojjdp/213691.pdf; Seena

Fazel, Julia Cartwright, et al., *Suicide in Prisoners: A systematic review of Risk Factors*, J. CLIN. PSYCHIATRY 69 (2008); CHRISTOPHER MUOLA, U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, SUICIDE AND HOMICIDE IN STATE PRISONS AND LOCAL JAILS (2005), *available at* http://bjs.ojp.usdoj.gov/content/pub/pdf/shsplj.pdf. Adults in solitary confinement also account for a disproportionate number of suicides among people in prisons. In California, for example, although less than 10 percent of the state's prison population was held in isolation units in 2004, those units accounted for 73 percent of all suicides. Expert Report of Professor Craig Haney at 45-46, n.119, *Coleman v. Schwarzenegger*, *Plata v. Schwarzenegger*, No. 90-0520 LKK-JFM P, No. C01-1351 TEH (E.D.Cal, N.D. Cal. filed Aug. 15, 2008); for information on adult suicide rates in jails and prisons, see generally MARGARET NOONAN & E. ANN CARSON, U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, PRISON AND JAIL DEATHS IN CUSTODY, 2000-2009 - STATISTICAL TABLES (2011), *available at* http://bjs.ojp.usdoj.gov/content/pub/pdf/pjdc0009st.pdf (providing detailed statistics on suicide rates nationally in adult jails and prisons.

[37] DEP'T OF JUSTICE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, JUVENILE SUICIDE IN CONFINEMENT: A NATIONAL SURVEY, *supra* note 36.The study suggests that, "When placed in a cold and empty room by themselves, suicidal youth have little to focus on – except all of their reasons for being depressed and the various ways that they can attempt to kill themselves." *Id.* at 42, *citing* LISA M. BOESKY, JUVENILE OFFENDERS WITH MENTAL HEALTH DISORDERS: WHO ARE THEY AND WHAT DO WE DO WITH THEM? 210 (2002).

[38] The US Ctrs. for Disease Control and the US Dep't of Health and Human Services both recommend that youth between the ages of six and seventeen engage in one hour or more of physical activity each day. Ctrs. for Disease Control and Prevention, *How Much Physical Activity do Children Need?*, http://www.cdc.gov/physicalactivity/everyone/guidelines/children.html; Dep't of Health and Human Services, *Physical Activity Guidelines for Americans*, http://www.health.gov/paguidelines/factsheetprof.aspx.

[39] *See Reassessing Solitary Confinement: The Human Rights, Fiscal, and Public safety Consequences: Hearing Before the Subcomm. on the Constitution, Civil Rights, and Human Rights of the S. Comm. on the Judiciary*, 112th Cong. 4 (2012), *available at* http://solitarywatch.com/wp-content/uploads/2012/06/youth-law-center2.pdf. (statement of Youth Law Center).

[40] American Academy of Pediatrics, Policy Statement: Health Care for Youth in the Juvenile Justice System, 128 PEDIATRICS 1219, 1223-24 (2011), *available at* http://pediatrics.aappublications.org/content/128/6/1219.full.pdf (reviewing the literature on the prevalence of mental health problems among incarcerated youth).OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, NATURE AND RISK OF VICTIMIZATION: FINDINGS FROM THE SURVEY OF YOUTH IN RESIDENTIAL PLACEMENT 4 (June 2013), *available at* http://www.ojjdp.gov/pubs/240703.pdf (finding that 56 percent of youth in custody experience one or more types of victimization *while in custody,* including sexual assault, theft, robbery and physical assault).

[41] NATIONAL COUNCIL ON DISABILITY, ADDRESSING THE NEEDS OF YOUTH WITH DISABILITIES IN THE JUVENILE JUSTICE SYSTEM: THE CURRENT STATUS OF EVIDENCE-BASED RESEARCH 23-21 (May 2003), *available at* http://www.ncd.gov/rawmedia_repository/381fe89a_6565_446b_ba18_bad024a59476?document.pdf.

[42] Press Release, Annie E. Casey Foundation, Youth Incarceration Sees Dramatic Drop in the United States (Feb. 27, 2013), http://www.aecf.org/Newsroom/NewsReleases/HTML/2013/YouthIncarcerationDrops.aspx. This rate has declined in recent years. Youth Incarceration in the United States, ANNIE E. CASEY FOUNDATION (Feb. 27, 2013), *available at* http://www.aecf.org/~/media/Pubs/Initiatives/KIDS%20COUNT/R/ReducingYouthIncarcerationInfo/YouthIncarcerationInfographicPrint13.pdf. Notably, Department of Justice data also suggest that close to 100,000 children are held in *adult* jails and prisons each year. Human Rights Watch and the American Civil Liberties Union recently estimated that in each of the last 5 years, between 93,000 and 137,000 young people under 18 were held in adult jails and that, in 2011, more than 2,200 young people under age 18 were held in

adult prisons. HUMAN RIGHTS WATCH & THE AMERICAN CIVIL LIBERTIES UNION, GROWING UP LOCKED DOWN, *supra* note 1.

[43] DEP'T OF JUSTICE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, CONDITIONS OF CONFINEMENT: FINDINGS FROM THE SURVEY OF YOUTH IN RESIDENTIAL PLACEMENT (May 2010), *available at* https://www.ncjrs.gov/pdffiles1/ojjdp/227729.pdf. The study, based on a nationally-representative sample of more than 7,000 young people ages 10-20, finds that in 2003 more than one-third (35 percent) of youth in juvenile facilities reported being isolated as a punishment and that more than half of those children were held for longer than 24 hours –amounting to more than 17,000 young people held in solitary confinement. *Id.* at 9. In response to a 2010 Department of Justice census (the most recent year for which there is data) of close to 4,000 juvenile facilities, more than 850 facilities indicated that they locked young people in their room in certain circumstances and more than 430 facilities reported locking young people alone for more than 4 hours at a time in certain circumstances. JUVENILE RESIDENTIAL FACILITY CENSUS CODEBOOK, US DEP'T OF JUSTICE, INTER-UNIVERSITY CONSORTIUM FOR POLITICAL AND SOCIAL RESEARCH 42, 156-57 (2010), *available at* http://www.icpsr.umich.edu/cgi-bin/file?comp=none&study=34449&ds=1&file_id=1097802.

[44] *See, e.g., Reassessing Solitary Confinement: The Human Rights, Fiscal, and Public safety Consequences: Hearing Before the Subcomm. on the Constitution, Civil Rights, and Human Rights of the S. Comm. on the Judiciary*, 112th Cong. 4 (2012) (statement of Youth Law Center), *supra* note 39.

[45] *Id.*; *Reassessing Solitary Confinement: The Human Rights, Fiscal, and Public safety Consequences: Hearing Before the Subcomm. on the Constitution, Civil Rights, and Human Rights of the S. Comm. on the Judiciary*, 112th Cong. (2012) (statement of Center for Children's Law and Policy), *available at* http://www.cclp.org/documents/Conditions/Testimony%20of%20the%20Center%20for%20Children's%20Law%20and%20Policy%20-%20Reassessing%20Solitary%20Confinement.pdf. Department of Justice research found that half of young people held in isolation for 2 hours or longer reported that they had not spoken with a counselor or mental health professional while incarcerated (including while in isolation). DEP'T OF JUSTICE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, CONDITIONS OF CONFINEMENT: FINDINGS FROM THE SURVEY OF YOUTH IN RESIDENTIAL PLACEMENT, *supra* note 42, at 19.

[46] Sandra Simkins, Marty Beyer, &Lisa M. Geis, *The Harmful Use of Isolation in Juvenile Facilities: The Need for Post-Disposition Representation*, 38 WASH. U. J.L. & POL'Y 241, 242 (2012), *available at* http://digitalcommons.law.wustl.edu/cgi/viewcontent.cgi?article=1019&context=wujlp.

[47] DEP'T OF JUSTICE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, CONDITIONS OF CONFINEMENT: FINDINGS FROM THE SURVEY OF YOUTH IN RESIDENTIAL PLACEMENT, *supra* note 43, at 19.

[48] PERFORMANCE-BASED STANDARDS, REDUCING ISOLATION AND ROOM CONFINEMENT 4-6 (Sept. 2012), *available at* http://pbstandards.org/uploads/documents/PbS_Reducing_Isolation_Room_Confinement_201209.pdf; PERFORMANCE-BASED STANDARDS, SAFETY AND ACCOUNTABILITY FOR JUVENILE CORRECTIONS AND DETENTION FACILITIES 10 (2012), *available at* http://pbstandards.org/uploads/documents/PbS_Li_MarketingPacket.pdf.

[49] In California, many of the revelations have been brought about through litigation in *Farrell v. Cate*. In 2011, the California Office of Audits and Court Compliance issued a report on the Ventura Youth Correctional Facility in response to the Office of the Special Master's concerns related to the *Farrell* case. The report found that from January 1 through January 31, 2011, 184 juveniles were in restricted programs. They reported receiving between thirty minutes and three hours of out-of-room time, with one hour a day being the most commonly reported. From February 1 through February 28, 2011, ninety-three juveniles were placed in a restricted program, with sixteen of them there for three or more days. The average number of out-of-room minutes for these wards was seventy-four, well below the 180 that was required. MICHAEL K. BRADY, OFFICE OF AUDITS AND

COURT COMPLIANCE, REVIEW OF THE OFFICE OF SPECIAL MASTER'S IDENTIFIED CONCERNS: VENTURA YOUTH CORRECTIONAL FACILITY 2, 5-6 (Mar. 25, 2011), *available at* https://s3.amazonaws.com/s3.documentcloud.org/documents/203430/djj-audit.pdf.

[50] In Ohio, many of the revelations have been brought about through litigation in *S.H. v. Stickrath* (now *S.H. v. Reed*). In 2008, an expert in the case issued a report with data regarding multiple facilities, finding that: at Scioto Juvenile Correctional Facility, from May 1 through June 30, 2007, there were 267 "seclusion intervention events" that added up to 3,485 hours; at Indian River Juvenile Correctional Facility, from May to July of 2007, there were 143 youth in seclusion, each for at least seventy-two hours, for a total of 17,271 hours; at Mohican, which is now closed, four juveniles were in seclusion for more than seventy-two hours, for a total of 383 hours from May to July 2007; at Circleville, "[o]ver a recent, three-month period, only five events resulted in seclusion for over 36 hours and the incident reports show that serious misbehavior precipitated the event." On the system as a whole, Cohen reported that "[f]or DYS as a whole however, the unwarranted and excessive use of force along with questionable isolation/seclusion practices remains of serious concern." FRED COHEN, FINAL FACT-FINDING REPORT: S.H. V. STICKRATH 23-24, 29, 30, 38, 40 (Jan. 2008), *available at* http://www.dys.ohio.gov/DNN/LinkClick.aspx?fileticket=lDovnn7P96A%3D&tabid=81&mid=394. A settlement in the case was approved on May 21, 2008, which has led to annual reports on compliance with the stipulation. The most recent report was issued in 2012, which noted the number of "pre-hearing seclusion hours" in each facility: At Indian River, there was an average of 2,500 hours per month; at Circleville, there were 20,000 hours from July through September of 2011 and 6,500 for October through December of the same year; at Scioto, there were 2,300 hours from June through August of 2011 and 6,000 from September through November. WILL HARRELL & TERRY SHUSTER, S.H. V. REED 2012 ANNUAL REPORT 3, 7, 32 (Dec. 20, 2012), *available at* http://www.gbfirm.com/litigation/documents/28_S.H.v.Reed2012AnnualReport.pdf.

[51] In Texas, the revelations have come as a result of state records requests. According to the Texas Criminal Justice Coalition, in 2011, juveniles in Texas were secluded more than 37,000 times. These estimates are based on facility registry data provided by the Texas Juvenile Justice Department. While the underlying registry data did not specify the length of seclusion, other data provided suggest that thousands of seclusion events exceed twenty-four hours. BENET MAGNUSON, TEXAS CRIMINAL JUSTICE COALITION, HEAL THE INVISIBLE WOUNDS OF TRAUMATIZED YOUTH IN THE JUVENILE SYSTEM 2 & nn.5-6 (2012), *available at* http://texascjc.org/sites/default/files/publications/Healing%20Trauma%20and%20Reducing%20Seclusion%20for%20Youth%202012%20Fact%20Sheet_0.pdf. *See also* Cat McCulloch, *Youth Solitary Confinement in Texas: A Two-Step in the Right Direction*, ACLU BLOG OF RIGHTS (Apr. 23, 2013), http://www.aclu.org/blog/prisoners-rights-criminal-law-reform/youth-solitary-confinement-texas-two-step-right-direction.

[52] DEP'T JUSTICE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, STANDARDS FOR THE ADMINISTRATION OF JUVENILE JUSTICE, Standard 4.52 (1980), *available at* http://catalog.hathitrust.org/Record/000127687 ("juveniles should be placed in room confinement only when no less restrictive measure is sufficient to protect the safety of the facility and the persons residing or employed therein ... Room confinement of more than twenty-four hours should never be imposed.")

[53] *See, e.g.*, JUVENILE DETENTION ALTERNATIVES INITIATIVE (JDAI), A GUIDE TO JUVENILE DETENTION REFORM: JUVENILE DETENTION FACILITY ASSESSMENT 2014 UPDATE 177 (2014), *available at* http://www.aecf.org/m/resourcedoc/aecf-juveniledetentionfacilityassessment-2014.pdf.

[54] PBS LEARNING INST., PBS GOALS, STANDARDS, OUTCOME MEASURES, EXPECTED PRACTICES AND PROCESSES 10 (2007), *available at* http://sccounty01.co.santa-cruz.ca.us/prb/media%5CGoalsStandardsOutcome%20Measures.pdf; PERFORMANCE-BASED STANDARDS, REDUCING ISOLATION AND ROOM CONFINEMENT, *supra* note 48, at 2 ("PbS standards are clear: isolating or confining a youth to 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").

[55] 42 C.F.R. 482.13(e) (2012) (implementing 42 U.S.C. 1395x § 1861(e)(9)(A)), *available at* http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=5ba18485f8033f30fb496dba3e87c626&rgn=div8&view=text&node=42:5.0.1.1.1.2.4.3&idno=42 (Prohibiting isolation used for coercion, discipline, convenience or retaliation and allowing involuntary isolation only (1) when less restrictive interventions have been determined to be ineffective, (2) to ensure the immediate physical safety of the patient, staff member, or others, and (3) must be discontinued at the earliest possible time. The regulations also limit involuntary isolation to a total maximum of 24 hours and limit individual instances of involuntary isolation to 2 hours for children and adolescents age 9 to 17); NAT'L COMM. ON CORR. HEALTH CARE, STANDARDS FOR HEALTH SERVICES IN JUVENILE DETENTION AND CONFINEMENT FACILITIES, Standard Y-E-09 (2011); NAT'L COMM. ON CORR. HEALTH CARE, STANDARDS FOR HEALTH SERVICES IN JUVENILE DETENTION AND CONFINEMENT FACILITIES, Standard Y-39 (1995), *available at* http://www.jdcap.org/SiteCollectionDocuments/Health%20Standards%20for%20Detention.pdf (Requiring that segregation policies should state that isolation is to be reserved for incidents in which the youth's behavior has escalated beyond the staff's ability to control the youth by counseling or disciplinary measures and presents a risk of injury to the youth or others); DEP'T OF EDUCATION, RESTRAINT AND SECLUSION: RESOURCE DOCUMENT 11-23 (2012), *available at* http://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf (Stating that isolation should not be used as a punishment or convenience and is appropriate only in situations where a child's behavior poses an imminent danger of serious physical harm to self or others, where other interventions are ineffective, and should be discontinued as soon as the imminent danger of harm has dissipated).

[56] *See* PERFORMANCE-BASED STANDARDS, REDUCING ISOLATION AND ROOM CONFINEMENT, *supra* note 48 ("[V]ery few state agency policies permit extended isolation time for youths and the majority limit time to as little as three hours and a maximum of up to five days.").

[57] *See* Massachusetts Dept. of Health & Human Services, Policies, § 3.03 Room Confinement, *available at* http://www.mass.gov/eohhs/gov/laws-regs/dys/policies/chapter-03-daily-living-policies.html.

[58] *See generally* ANNIE E. CASEY FOUNDATION, THE MISSOURI MODEL: REINVENTING THE PRACTICE OF REHABILITATING YOUTHFUL OFFENDERS (2010), available at http://www.aecf.org/~/media/Pubs/Initiatives/Juvenile%20Detention%20Alternatives%20Initiative/MOModel/MO_Fullreport_webfinal.pdf (describing the "Missouri Model" for juvenile justice and explaining why it has been successful); *Sanctuary in Juvenile Justice Settings*, THE SANCTUARY MODEL, http://www.sanctuaryweb.com/juvenile.php (providing links to descriptions of the implementation of the "Sanctuary Model" for juvenile justice in New York State).

[59] While no law is perfect, and there is still much work to be done, some states have taken steps toward limiting isolation in the juvenile justice system. In particular, the reporting requirements of the Nevada law comprise an excellent model for creating more accountability, while the statutes in Oklahoma and West Virginia provide examples of statutory language either banning punitive isolation or restricting its use, although in policy and practice at the agency level the West Virginia law has unfortunately been interpreted loosely. *See* Okla. Admin. Code, 377:35-11-4, Solitary Confinement. In Oklahoma solitary confinement is a "serious and extreme measure to be imposed only in emergency situations." Okla. Admin. Code § 377:35-11-4; W.V. Code §49-5-16a, Rules governing juvenile facilities; *cf.* W.V. Div. Juvenile Serv., Pol'y No. 330.00, Institutional Operations, at 9, *available at* http://www.wvdjs.state.wv.us/Portals/0/Files/330.00%20-%20Resident%20Discipline.pdf (permitting room confinement of up to ten days as a sanction for some offenses). Oklahoma's juvenile solitary confinement statute provides the most substantive protection of all existing state statutes on this issue. In West Virginia, solitary confinement may not be used to punish a juvenile and except for sleeping hours, a juvenile may not be locked alone in a room unless that juvenile is "not amenable to reasonable direction and control." *See* W. Va. Code §

49-5-16a; W.V. Div. of Juvenile Serv., Pol'y No. 330.00, Resident Discipline, Procedure 6, Category I Sanctions, *available at* http://www.wvdjs.state.wv.us/Portals/0/Files/330.00%20-%20Resident%20Discipline.pdf (permitting up to 10 days of room confinement for certain rule violations). Unfortunately, the implementation and enforcement of the punitive isolation ban in West Virginia is an ongoing challenge, as the state's administrative policies continue to permit children to be held in solitary confinement for disciplinary purposes. In Nevada, a child who is detained in a local or regional facility for the detention of children may be subjected to "corrective room restriction" only if all other less-restrictive options have been exhausted and only for listed purposes, and no child may be locked alone in a room for longer than 72 hours (though the law also requires thorough reporting of any incident that does exceed 72 hours). See Nev. Rev. Stat. § 62B. Alaska bans the isolation of juveniles for "punitive" reasons, but defines "secure confinement" as permissible for "disciplinary" reasons and when there is a safety or security risk. See Alaska Delinquency Rule 13 (Oct. 15, 2012). In Connecticut, officials supervising children who have been arrested may not place "any child at any time" in "solitary confinement," but the statute does not define "solitary confinement," and reports of children being held in room confinement in juvenile detention facilities in Connecticut continue to surface. *See* Conn. Gen. Stat. Ann. § 46b-133 (d)(5). For post-adjudication youth in Connecticut, the use of "seclusion" is governed by a statute and corresponding regulations requiring periodic authorizations and thirty-minute checks; while this law helps to protect children from unfettered use of solitary confinement and isolation, it still permits officials to hold children in isolation essentially indefinitely. *See* Conn. Gen. Stat. Ann. § 17a-16(d)(1) (West 2014); Conn. Agencies Regs. § 17a-16-11 (2014). Maine's statutory scheme includes segregation in the list of permissible punishments for adults, but not in the list for children; state law prohibits "confinement to a cell" and "segregation" as punishment in juvenile correctional facilities, but the state's rules permit "room restriction" for juveniles, even for minor rule violations. See Me. Rev. Stat. tit. 34-A § 3032 (5).

Other states have placed legislative, administrative, or court-ordered limits on the solitary confinement of youth, either in adult or juvenile facilities. *See, e.g., supra* note 57 and accompanying text (discussing sweeping policy restrictions on the use of room confinement in Massachusetts); supra note 58 and accompanying text (describing the holistic and more humane management systems of the juvenile justice programs in New York State and Missouri); "Fighting Youth Solitary in the Courts" text box, p. 6. *See also* Consent Decree, C.B., et al. v. Walnut Grove Corr. Facility, No. 3:10-cv-663 (S.D. Miss. 2012) (prohibiting solitary confinement of children); Settlement Agreement, Raistlen Katka v. Montana State Prison, No. BDV 2009-1163 (Apr. 12, 2012), *available at* http://www.aclumontana.org/images/stories/documents/litigation/katkasettlement.pdf (limiting the use of isolation and requiring special permission); Mo. Sup. Ct. Rule 129.04 app. A § 9.5-9.6 (2009) (placing limits on "room restriction" exceeding twenty-four hours).

Other states have seen legislation introduced that would place limits and requirements on the isolation of children. Texas recently passed a bill that will require a statewide review of the state's use of solitary confinement in youth and adult facilities. *See* 2013 Tex. Sess. Law Serv. Ch. 1184 (S.B. 1003) (West). Legislators in New Hampshire also recently considered a study bill on the use of solitary confinement, which was introduced in 2013 and reintroduced the following year. See N.H. H.B. 480-FN (2014), http://www.gencourt.state.nh.us/bill_status/Bill_docket.aspx?lsr=794&sy=2014&sortoption=&txtsessionyear=2014&txttitle=solitary%20confinement. A proposed bill in California would have imposed stricter substantive limits on the use of isolation in juvenile facilities, with a focus on mental health. See Cal. S.B. 61 (2013), http://www.leginfo.ca .gov/pub/13-14/bill/sen/sb_0051-0100/sb_61_bill_20130528_amended_sen_v96.pdf. *See also* Appendix 1 (providing a chart that describes existing state statutes limiting juvenile solitary confinement).

[60] Coalition for Juvenile Justice, The JJDPA: Federal Juvenile Justice and Delinquency Prevention Act, 2007, available at: www.juvjustice.org/media/.../CJJ%20Hill%20Packet--Handouts.doc.

[61] The regulations include detailed requirements for the prevention, detection, and investigation of sexual abuse in both adult and juvenile correctional facilities. *See* Press Release, Department of Justice, Justice Department Releases Final Rule to Prevent, Detect and Respond to Prison Rape (May 17, 2012), *available at*

http://www.justice.gov/opa/pr/2012/May/12-ag-635.html (summary of regulations).

[62] *Compare* 28 C.F.R. § 115.342(b) (2012) *with* 28 C.F.R. § 115.378(b) (2012), *available at* http://www.ojp.usdoj.gov/programs/pdfs/prea_final_rule.pdf.

[63] *See* 42 U.S.C. 15607 (c)(2) (2003). States must also audit state facilities every three years. *See* 28 C.F.R. §§ 115.93, 115.193, 115.293, 115.393, 115.401, 115.402, 115.403, 115.404, 115.405, 115.501 (2012), *available at* http://www.ojp.usdoj.gov/programs/pdfs/prea_final_rule.pdf. States must also audit state facilities every three years. *See* 28 C.F.R. §§ 115.93, 115.193, 115.293, 115.393, 115.401, 115.402, 115.403, 115.404, 115.405, 115.501 (2012), *available at* http://www.ojp.usdoj.gov/programs/pdfs/prea_final_rule.pdf. *See also* 28 C.F.R. §§ 115.89, 115.189, 115.289, 115.389 (2012), *available at* http://www.ojp.usdoj.gov/programs/pdfs/prea_final_rule.pdf. PREA compliance and state governor certification, and the resulting withholding of funds, is an ongoing process. In February 2014, the Department of Justice issued a letter to state governors reminding them of the upcoming first deadline for this required certification, May 15, 2014, and of the Fiscal Year 2014 funds that could be cut off if certification is not received. *See* Letter from Karol V. Mason, Assistant Attorney General, Office of Justice Programs, to State Governors (Feb. 11, 2014), *available at* http://www.prearesourcecenter.org/sites/default/files/library/preagovlettersigned2-11-14.pdf. For recent status updates on PREA compliance in the states, see, for example, Rebecca Boone, *Some States Opt Out of Federal Prison Rape Law*, ASSOCIATED PRESS, May 23, 2014, *available at* http://www.wral.com/some-states-opting-out-of-federal-prison-rape-law/13671389/.

[64] Letter from Robert L. Listenbee, *supra* note 4, at 3; Letter from Thomas E. Perez, Assistant Att'y Gen., to Hon. Mitch Daniels, Governor, State of Indiana, Investigation of the Pendleton Juvenile Correctional Facility 8 (Aug. 22, 2012), *available at* http://www.justice.gov/crt/about/spl/documents/pendleton_findings_8-22-12.pdf. (Finding excessively long periods of isolation of suicidal youth. Stating that, "the use of isolation often not only escalates the youth's sense of alienation and despair, but also further removes youth from proper staff observation. . . . Segregating suicidal youth in either of these locations is punitive, anti-therapeutic, and likely to aggravate the youth's desperate mental state."); Letter from Thomas E. Perez, Assistant Att'y Gen., to Hon. Chairman Moore, Leflore County Board of Supervisors, Investigation of the Leflore County Juvenile Detention Center 2, 7 (Mar. 31, 2011), *available at* http://www.justice.gov/crt/about/spl/documents/LeFloreJDC_findlet_03-31-11.pdf. (Finding that isolation is used excessively for punishment and control, and the facility has unfettered discretion to impose such punishment without process.); Letter from Thomas E. Perez, Assistant Att'y Gen., to Hon. Michael Claudet, President, Terrebonne Parish, Terrebonne Parish Juvenile Detention Center, Houma, Louisiana 12-13 (Jan.18, 2011), *available at* http://www.justice.gov/crt/about/spl/documents/TerrebonneJDC_findlet_01-18-11.pdf. (Finding excessive use of isolation as punishment or for control – at four times the national average – and that the duration of such sanctions is far in excess of acceptable practice for such minor violations, and violates youths' constitutional rights. Stating, "Isolation in juvenile facilities should only be used when the youth poses an imminent danger to staff or other youth, or when less severe interventions have failed."); Letter from Thomas E. Perez, Assistant Att'y Gen., to Hon. Mitch Daniels, Governor, State of Indiana, Investigation of the Indianapolis Juvenile Correctional Facility, Indianapolis, Indiana 21-22 (Jan. 29, 2010), *available at* http://www.justice.gov/crt/about/spl/documents/Indianapolis_findlet_01-29-10.pdf (finding that facility subjected youth to excessively long periods of isolation without adequate process and stating, "generally accepted juvenile justice practices dictate that [isolation] should be used only in the most extreme circumstances and only when less restrictive interventions have failed or are not practicable"); Letter from Grace Chung Becker, Acting Assistant Att'y Gen., to Yvonne B. Burke, Chairperson, Los Angeles County Board of Supervisors, Investigation of the Los Angeles County Probation Camps 42-45 (Oct. 31, 2008), *available at* http://www.justice.gov/crt/about/spl/documents/lacamps_findings_10-31-08.pdf. (Finding inadequate supervision of youth isolated in seclusion or on suicide watch); Letter from Wan J. Kim, Assistant Att'y Gen., to Marion County Executive Committee Members and County Council President, Marion County Juvenile Detention Center, Indianapolis, Indiana 10-12 (Aug. 6, 2007), *available at* http://www.justice.gov/crt/about/spl/documents

/marion_juve_ind_findlet_8-6-07.pdf. (Finding that isolation practices substantially departed from generally acceptable professional standards and that use of isolation was excessive and lacked essential procedural safeguards. Stating, "Regardless of the name used to describe it, the facility excessively relies on isolation as a means of attempting to control youth behavior" and that "Based on the review of housing assignments in January and February 2007, on any given day, approximately 15 to 20 percent of the youth population was in some form of isolation."); Letter from Bradley J. Scholzman, Acting Assistant Att'y Gen., to Hon. Linda Lingle, Governor, State of Hawaii, Investigation of the Hawaii Youth Correctional Facility, Kailua, Hawaii 17-18 (Aug. 4, 2005), *available at* http://www.justice.gov/crt/about/spl/documents/hawaii_youth_findlet_8-4-05.pdf (finding excessive use of disciplinary isolation without adequate process); Letter from Alexander Acosta, Assistant Atty Gen., to Hon. Jennifer Granholm, Governor, State of Michigan, CRIPA Investigation of W.J. Maxey Training School, Whitmore Lake, MI 4-5 (Apr. 19, 2004), *available at* http://www.justice.gov/crt/about/spl/documents/granholm_findinglet.pdf (finding excessive use of isolation for disciplinary purposes, often without process and for arbitrary reasons and durations); Letter from Thomas E. Perez, Assistant Att'y Gen., to Janet Napolitano, Governor, State of Arizona, CRIPA Investigation of Adobe Mountain School and Black Canyon School in Phoenix, Arizona; and Catalina Mountain School in Tuscon, Arizona (Jan. 23, 2004), *available at* http://www.justice.gov/crt/about/spl/documents/ariz_findings.pdf (finding that youth are kept in isolation for extended and inappropriate periods of time that fly in the face of generally accepted professional standards).

[65] Ian Kysel, *Ban Solitary Confinement for Youth in the Care of the Federal Government*, THE HILL (Apr. 11, 2013), *available at* http://thehill.com/blogs/congress-blog/judicial/293395-ban-solitary-confinement-for-youth-in-care-of-the-federal-government.

[66] *Roper v. Simmons*, 453 U.S. 551 (2005).

[67] *Graham v. Florida*, 130 S.Ct. 2011 (2010); *Miller v. Alabama*, 132 S.Ct. 2455 (2012).
[68] *J.D.B. v. North Carolina*, 564 U.S. __ (2011).

[69] *Schall v. Martin*, 467 U.S. 253, 269 (1984) (Holding that the state has a legitimate interest in detaining youth prior to delinquency proceedings but that their conditions of confinement must not amount to punishment.). Notably, some courts apply both the Substantive Due Process protections as well as the prohibition against Cruel and Unusual punishment to conditions claims of post-adjudication youth. *Morgan v. Sproat*, 432 F.Supp. 1130, 1135 (S.D.Miss. 1977).

[70] *Youngberg v. Romeo*, 457 U.S. 307, 323 (1982) (the case, while focused on the treatment of persons held in mental health facilities, has repeatedly been used to evaluate conditions of confinement for youth).

[71] *Id.*

[72] *County of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

[73] *See, e.g., D.B. v. Tewksbury,* 545 F.Supp. 896, 905 (D.Or.1982) (ruling that "[p]lacement of younger children in isolation cells as a means of protecting them from older children" violates plaintiffs' Due Process rights under the fourteenth amendment."); *Inmates of Boys' Training School v. Affleck*, 346 F.Supp. 1354 (D.C.R.I.1972); *Lollis v. N.Y. State Dep't of Soc. Servs.*, 322 F.Supp. 473, 480-82 (S.D.N.Y.1970).

[74] *R.G. v. Koller*, 415 F. Supp. 2d 1129, 1155-56 (D. Haw. 2006) (Concluding that, "The expert evidence before the court uniformly indicates that long-term segregation or isolation of youth is inherently punitive and is well outside the range of accepted professional practices... Defendants' practices are, at best, an excessive, and therefore unconstitutional, response to legitimate safety needs of the institution."); *Hughes v. Judd*, 8:12–cv–

568-T-23MAP, 2013 WL 1821077 (M.D.Fl. 2013); *Troy D. and O'Neill S. v. Mickens et al.,* Civil Action No.: 1:10-cv-02902-JEI-AMD (D. N.J. 2013).

[75] *See, e.g., Ruiz v. Johnson*, 37 F. Supp. 2d. 855, 915 (S.D. Tex. 1999), *rev'd on other grounds, Ruiz v. Johnson*, 243 F.3d 941 (5th Cir. 2001), *adhered to on remand, Ruiz v. Johnson*, 154 F. Supp. 2d 975 (S.D. Tex. 2001) ("Conditions in TDCJ-ID's administrative segregation units clearly violate constitutional standards when imposed on the subgroup of the plaintiff's class made up of mentally-ill prisoners); *Coleman v. Wilson*, 912 F. Supp. 1282, 1320-21 (E.D. Cal. 1995); *Madrid v. Gomez*, 889 F. Supp. 1146, 1265-66 (N.D. Cal. 1995); *Casey v. Lewis*, 834 F. Supp. 1477, 1549-50 (D. Ariz. 1993); *Langley v. Coughlin*, 715 F. Supp. 522, 540 (S.D.N.Y. 1988) (holding that evidence of prison officials' failure to screen out from SHU 'those individuals who, by virtue of their mental condition, are likely to be severely and adversely affected by placement there' states an Eighth amendment claim).

[76] *Graham v. Florida*, 130 S.Ct. at 2034; *Roper v. Simmons,* 543 U.S. at 575 (citing *Trop v. Dulles*, 356 U.S. 86, 102-103 (1958)). These cases start from the supposition that, whether a punishment is "cruel and unusual" is a determination informed by "evolving standards of decency that mark the progress of a maturing society." *Trop v. Dulles,* 356 U.S. 86, 101 (1958) (plurality opinion).

[77] United Nations Declaration on the Rights of the Child, G.A. Res. 1386 (XIV), U.N. Doc. A/4354 (Nov. 20, 1959). Similarly, The American Convention on Human Rights ("Pact of San José, Costa Rica"), Article 19, states, "Every minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state." Organization of American States, American Convention on Human Rights, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123 (entered into force July 18, 1978), *reprinted in* Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992).

[78] International Covenant on Civil and Political Rights, Arts. 10, 14(4), *opened for signature* Dec. 16, 1966, S. Exec. Rep. 102-23, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976) (ratified by U.S. June 8, 1992) ("ICCPR"). The Human Rights Committee has interpreted the ICCPR's provisions on child offenders to apply to all persons under the age of 18. UN Human Rights Comm., 44th Sess., General Comment No. 1, U.N. Doc. HRI/GEN/1/Rev.1 at 155 (1994), *available at* http://www1.umn.edu/humanrts/gencomm/hrcoim20.htm. Treaties signed and ratified by the United States are the "supreme Law of the Land." U.S. CONST. art. VI cl. 2.

[79] Convention on the Rights of the Child (CRC), *opened for signature* Nov. 20, 1989, 1577 U.N.T.S. 3 (entered into force Sept. 2, 1990) ("CRC"). The United States signed the CRC in 1995 but has not ratified.

[80] U.N. Guidelines for the Prevention of Juvenile Delinquency, G.A. Res. 45/112, Annex, 45 U.N. GAOR Supp. (No. 49A), U.N. Doc. A/45/49, at 201 (Dec. 14, 1990) ("The Riyadh Guidelines").

[81] U.N. Comm. on the Rights of the Child, 44th Sess., General Comment No. 10, Children's rights in juvenile justice, U.N. Doc. CRC/C/GC/10 (2007).

[82] U.N. Rules for the Protection of Juveniles Deprived of their Liberty, G.A. Res. 45/113, Annex, 45 U.N. GAOR Supp. (No. 49A), U.N. Doc. A/45/49, ¶ 67 (Dec. 14, 1990) ("The Beijing Rules").

[83] Press Release, Annex to the Press Release Issued at the Close of the 147th Session (Apr. 5, 2013), *available at* http://www.oas.org/en/iachr/media_center/PReleases/2013/023A.asp (incorporating the definition of the United Nations Special Rapporteur on Torture, Mr. Juan Mendez, into the IACHR *corpus juris*).

[84] Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Interim Rep. of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, ¶¶ 78-85, Annex (Istanbul Statement on the Use and Effects of Solitary Confinement), U.N. Doc A/63/175 (July 28, 2008) (by Manfred Nowak), *available at* http://www.unhcr.org/refworld/pdfid/48db99e82.pdf; Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Interim Rep. of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, ¶ 77, U.N. Doc. A/66/268 (Aug. 5, 2011) (by Juan Mendez), *available at* http://solitaryconfinement.org/uploads/SpecRapTortureAug2011.pdf.

[85] ATT'Y GEN.'S NAT'L TASK FORCE ON CHILDREN EXPOSED TO VIOLENCE, REP. OF THE ATT'Y GEN.'S NAT'L TASK FORCE ON CHILDREN EXPOSED TO VIOLENCE, DEFENDING CHILDHOOD: PROTECT, HEAL, THRIVE 178 (2012), *available at* http://www.justice.gov/defendingchildhood/cev-rpt-full.pdf ("nowhere is the damaging impact of incarceration on vulnerable children more obvious than when it involves solitary confinement."); DEP'T OF JUSTICE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, STANDARDS FOR THE ADMINISTRATION OF JUVENILE JUSTICE, Standard 4.52, *supra* note 52 ("[i]solation is a severe penalty to impose upon a juvenile, especially since this sanction is to assist in rehabilitation as well as punish a child ... After a period of time, room confinement begins to damage the juvenile, cause resentment toward the staff, and serves little useful purpose."). The most up-to-date national standards are consistent on this point. *See, e.g.*, JUVENILE DETENTION ALTERNATIVES INITIATIVE (JDAI), A GUIDE TO JUVENILE DETENTION REFORM: JUVENILE DETENTION FACILITY ASSESSMENT 2014 UPDATE 177 (2014), *available at* http://www.aecf.org/m/resourcedoc/aecf-juveniledetentionfacilityassessment-2014.pdf (prohibiting isolation of juveniles except in cases of imminent threats to safety and security, and then never for longer than four hours).

Appendix 1: The Statutory Landscape on Isolation and Solitary Confinement of Children in Juvenile Facilities

States Which Prohibit Juvenile Solitary Confinement by Statute		
State	**Status**	**Text**
Alaska	Apparent ban on punitive juvenile solitary confinement	"A juvenile may not be confined in solitary confinement for punitive reasons." Alaska Delinq. R. 13 (Oct. 15, 2012). However, the Alaska Administrative Code defines "secure confinement" as including isolation "for the purposes of safety, security, or discipline." Alaska Admin. Code tit. 7 §§ 52.900(16).
Connecticut	• Ban on juvenile "solitary confinement" of youth in detention (but no definition of the term, allowing for ambiguity in agency policy) • Limits on/checks required for "seclusion" in post-adjudication juvenile facilities except when youth is out of control and/or dangerous	• Children in detention after arrest: "...nor shall any child at any time be held in solitary confinement." Conn. Gen. Stat. Ann. § 46b-133 (2012). Unfortunately, the statute does not define "solitary confinement," and reports of children being held in room confinement in juvenile detention facilities in Connecticut continue to surface. • Children in juvenile correctional facilities, post-adjudication: "Seclusion" must be authorized periodically; youth must be checked every thirty minutes. However, with proper repeated authorization officials may continue to hold children in isolation. *See* Conn. Gen. Stat. Ann. § 17a-16(d)(1) (West 2014); Conn. Agencies Regs. § 17a-16-11 (2014).
Maine	Prohibition on "confinement to a cell" and "segregation" as punishment at juvenile correctional facilities	"A. Punishment at *all correctional facilities, except juvenile correctional facilities*, may consist of warnings, loss of privileges, restitution, monetary sanctions, labor at any lawful work, *confinement to a cell, segregation* or a combination of these. B. Punishment at *juvenile correctional* facilities and any detention facility may consist of warnings, restitution, labor at any lawful work and loss of privileges." Me. Rev. Stat. tit. 34-A § 3032 (5) (2006) (emphasis added).
Nevada	Juvenile solitary confinement requires special approval and monitoring, is only allowed in limited circumstances after alternatives have been exhausted, and may not last longer than 72 hours	"1. A child who is detained in a local or regional facility for the detention of children may be subjected to corrective room restriction only if all other less-restrictive options have been exhausted and only for the purpose of: (a) Modifying the negative behavior of the child; (b) Holding the child accountable for a violation of a rule of the facility; or (c) Ensuring the safety of the child, staff or others or ensuring the security of the facility." Nev. Rev. Stat. § 62B (2013). The statute also prohibits any "corrective room restriction" longer than 72 hours and establishes a monthly reporting regime.

Oklahoma	Ban on punitive juvenile solitary confinement	"A child shall not be punished by . . . solitary confinement" in facilities operated by or contracted by the Office of Juvenile Affairs. Okla. Stat. tit. 10A, § 2-7-603(A) (2013). Solitary confinement is defined as "the involuntary removal of a juvenile from contact with other persons by confinement in a locked room, including the juvenile's own room, except during normal sleeping hours." Okla. Admin. Code § 377:35-11-4(a) (2014). The state Administrative Code elaborates on the emergency conditions under which solitary confinement of a juvenile is permissible.
West Virginia	Apparent statutory ban on punitive solitary confinement of juveniles and on "lock[ing a youth] alone in a room unless that juvenile is not amenable to reasonable direction and control" (though state administrative policy permits room confinement as a sanction).	"(1) A juvenile may not be punished by physical force, deprivation of nutritious meals, deprivation of family visits or imposition of solitary confinement," and "(3) Except for sleeping hours, a juvenile in a state facility may not be locked alone in a room unless that juvenile is not amenable to reasonable direction and control." W. Va. Code § 49-5-16a (1998). *But see* W.V. Div. of Juvenile Serv., Pol'y No. 330.00, Resident Discipline, Procedure 6, Category I Sanctions (permitting room confinement of a juvenile for up to 10 days as a sanction for certain offenses).

Other State Legislative Initiatives and Pending Legislation		
State	**Status**	**Text**
California	Legislation introduced in 2013 would ban juvenile solitary confinement except in limited cases.	"This bill would provide that a minor or ward who is detained in, or sentenced to, any juvenile facility or other secure state or local facility shall not be subject to solitary confinement, as defined, unless the minor or ward poses an immediate and substantial risk of harm to others or to the security of the facility, and all other less-restrictive options have been exhausted." Cal. S.B. 61 (2013).
New Hampshire	Legislation reintroduced in 2014 would place an absolute ban on solitary confinement of people younger than 18.	"(c) Solitary confinement shall not be used as a form of housing for inmates under the age of 18 years." N.H. H.B. 480-FN (2013).
Texas	Amidst several proposed reforms, Texas passed legislation to review the use of solitary confinement in adult and juvenile facilities.	"SECTION 2. DUTIES OF TASK FORCE. The task force shall: (1) conduct a comprehensive review of administrative segregation and seclusion policies and practices in facilities in this state." A Review of and Report Regarding the Use of Adult and Juvenile Administrative Segregation in Facilities in this State, 2013 Tex. Sess. Law Serv. Ch. 1184 (S.B. 1003) (West).