**PUBLIC DEFENDER OFFICE**

**BY:**

ADDRESS

PHONE

 Attorneys for [C.S.]

**IN THE INTEREST OF : COURT**

 **: COUNTY**

**[C.S] : FAMILY DIVISION-JUVENILE**

 **: BRANCH**

 **J # :**

 **: PETITION NO.**

 **:**

 **: DC#**

**MOTION TO REMOVE CHILD FROM SOLITARY CONFINEMENT**

**TO THE HONORABLE JANE DOE PRESIDING IN THE COURT OF COMMON PLEAS, FAMILY COURT DIVISION:**

Petitioner, [C.S.], by and through their attorney, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, respectfully files this motion to remove [C.S.] from solitary confinement and in support thereof, avers the following:

 **Factual Background**

1. On [November 11, 20XX], [C.S.] was committed to the **[**the facility] in [City, State].
2. [C.S.] is [fifteen] years old.
3. On [November 11, 20XX], [C.S.] arrived at **[**the facility].
4. Since arriving at **[** the facility], [C.S.] has been placed in solitary confinement on approximately [8] occasions.
5. Include description of facility practice of solitary confinement, including what the practice is called by the facility. Example: C.S. has been confined for 22-23 hours per day in a single cell—for days, weeks or months at a time—locked behind a solid metal door, with no furniture other than a low bed and a combination toilet/sink, with constant illumination, even at night, and with extremely limited access to personal property; hands shackled to a waist belt during the limited times out of the cell; without access to educational and rehabilitative programming; and without access to meaningful exercise and social interaction.
6. Describe each instance of solitary confinement. Include the date, time, reason, duration, and other details including whether client asked for medical or mental health treatment, client’s lack of understanding about why they were in solitary confinement, and how/when they would get out.
7. Include information about treatment and services that client did not receive while in solitary confinement.
8. Include information about the number of visits while in solitary (to highlight that there are none).
9. Include information that client has or qualifies for an IEP and what the IEP requires.
10. Include information about how the facility provided education, if at all. Was it in-person with an instructor or through worksheets? How many hours a day? Did it occur inside or outside the cell?
11. Include any mental health or trauma history.
12. Include compelling details that paint a picture of how horrible the experience of solitary confinement has been. Were the lights on all the time? Was client cuffed or shackled at any point when outside the cell? Size of the cell? Any windows? Were staff able to cover client’s cell door window from the outside? Did client have to wait for staff to let them out to use the bathroom? Did staff fail to respond when client asked to use the bathroom? Or if client was in a wet cell – with a toilet – was the toilet clean? How did the cell smell?

# SOLITARY CONFINEMENT CAUSES SERIOUS DAMAGE TO INCARCERATED YOUTH

* + 1. The profoundly harmful effects of solitary confinement are well-recognized.[[1]](#footnote-1) Youth, who are still developing physically, psychologically, and socially, are especially vulnerable to the mental and emotional effects of solitary confinement,[[2]](#footnote-2) including depression, anxiety, nervousness, hyper-vigilance, lack of impulse control, psychosis, and re-traumatization if they were previously victimized. [[3]](#footnote-3)
		2. Solitary confinement can increase the risk of suicide and self-harm. In fact, studies show that more than half of suicides inside facilities occur while young people are held in solitary confinement.[[4]](#footnote-4)
		3. Solitary confinement of youth can also lead to long-term erosion of trust with adults, resulting in paranoia, anger, and frustration. Young people emerging from solitary have trouble forming the therapeutic relationships necessary to address any mental health concerns and safely reintegrate to the community.
		4. The risk of harm from solitary is made worse by the disproportionately high incidence of mental health concerns among youth in the justice system. In one study, 70 percent of youth entering juvenile detention met the criteria for a mental health disorder, with 27 percent of detained youth having a disorder severe enough to require immediate treatment.[[5]](#footnote-5) The use of solitary only exacerbates those conditions. For this reason, many mental health associations advocate against its use. For example, the American Academy of Child and Adolescent Psychiatry opposes the use of solitary confinement in correctional facilities for youth, noting that children are “at a particular risk of . . . adverse reactions” including depression, anxiety, psychosis, and suicide.[[6]](#footnote-6) Similarly, the American Psychiatric Association has stated that “[c]hildren should not be subjected to isolation, which is a form of punishment that is likely to produce lasting psychiatric symptoms.”[[7]](#footnote-7) The National Commission on Correctional Health Care (NCCHC) issued a statement establishing that youth should not be placed in solitary confinement for any duration, noting that their brains are still developing, “making their time spent in isolation even more difficult and the developmental, psychological, and physical damage more comprehensive and lasting.”[[8]](#footnote-8)
		5. For those youth with a history of trauma or developmental disabilities, the risk of harm is especially great. Stress from isolation can compound past trauma and exacerbate mental illnesses and disabilities. “The relation between trauma exposure and juvenile justice involvement has been consistently documented.”[[9]](#footnote-9) One study found that over 90 percent of justice-involved youth reported exposure to at least one type of trauma, and that exposure to multiple traumas was the norm.[[10]](#footnote-10)
		6. Not only is it harmful to deprive a youth of meaningful social interaction and mental stimulation,[[11]](#footnote-11) it is also counterproductive to the goals of ensuring community safety, security, and rehabilitation. Research shows that segregating youth can result in increased agitation and an increased risk of misbehavior.[[12]](#footnote-12) Facilities that have reduced their reliance on disciplinary isolation and instead have adopted more appropriate techniques for managing youth have seen reductions in rates of violence and misbehavior.[[13]](#footnote-13) Most of these facilities allow for short-term separation — measured in *hours*, not days, weeks, or months (as is the case in [the facility]) — and then only as a last resort when other options fail to defuse situations that pose an immediate risk of harm to the young person or others.[[14]](#footnote-14)
		7. Similarly, in 1999, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) of the United States Department of Justice (USDOJ) commissioned “the first comprehensive effort to determine the scope and distribution of suicides by youth in our public and private juvenile facilities throughout the country.”[[15]](#footnote-15) The study found that 50 percent of victims were in isolation at the time of their suicide, and 62 percent of victims had a history of isolation, noting “rates of suicidal behavior appeared to be higher for youth who were isolated from their peers or assigned to single room housing.”[[16]](#footnote-16)
		8. The USDOJ’s Office of Juvenile Justice and Delinquency Prevention Standards for the Administration of Juvenile Justice (“JJDPA Standards”) provide that no youth should be placed in room confinement for more than twenty-four hours.[[17]](#footnote-17)
		9. Having recognized in a 2012 report that “[n]owhere is the damaging impact of incarceration on vulnerable children more obvious than when it involves solitary confinement,”[[18]](#footnote-18) the USDOJ subsequently recommended that the use of solitary confinement for youth in federal prisons be prohibited, and President Obama adopted that recommendation in 2016.[[19]](#footnote-19)
		10. National and state standards and guidelines also recognize that it is essential for youth confined in juvenile justice facilities to have a meaningful opportunity to exercise every day. Standards set by various governmental and non-governmental entities, such as OJJDP, the NCCHC, and the American Bar Association (ABA) and the Council of Juvenile Correctional Administrators (CJCA) make it clear that youth must have at least one hour per day of actual, strenuous, large-muscle exercise, with many recommending two or more hours per day, for both physical and mental health needs.
		11. The international community has also condemned the placement of children in solitary confinement. Acknowledging the high risk of mental illness as well as the higher rates of suicide and self-harm for youth in solitary confinement, the United Nations (U\N\) has condemned solitary confinement of children for any duration as torture. Specifically, the U.\N.\’s Rules for the Protection of Juveniles Deprived of their Liberty declare that “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.”[[20]](#footnote-20) Furthermore, long-term solitary confinement can be a form of psychological torture, which international law strictly prohibits.[[21]](#footnote-21) The World Health Organization (WHO), the UN, and other international bodies have also recognized that solitary confinement is particularly harmful to a child’s psychological well-being and cognitive development.

**[THE FACILITY]’S USE OF SOLITARY CONFINEMENT VIOLATES NATIONAL BEST PRACTICES FOR JUVENILE JUSTICE FACILITIES**

* + 1. The most widely recognized set of national best practices on the practices and conditions inside juvenile justice facilities is the Juvenile Detention Facility Standards created by the Annie E. Casey Foundation as a part of its Juvenile Detention Alternatives Initiative (JDAI), which operates in more than 300 sites across the country. The Standards provide that solitary confinement can never be used for purposes of punishment or discipline and must be limited to periods of less than 4 hours.[[22]](#footnote-22)
		2. The Council of Juvenile Correctional Administrators (CJCA), the leading professional association of state juvenile justice agency directors, developed Performance-based Standards (PbS) as well as a “Toolkit: Reducing the Use of Isolation.”[[23]](#footnote-23) Under the PbS Standards, isolation should be used only in cases where youth behavior poses a risk of immediate physical harm and, if used, should be brief and supervised.[[24]](#footnote-24)
		3. The National Partnership for Juvenile Services (NPJS), the professional organization of youth detention facility superintendents, has also released a position statement that supports these limitations.[[25]](#footnote-25) Together, CJCA and NPJS represent the directors of the majority of youth detention *and* commitment facilities in the United States.

**[THE FACILITY]’S USE OF SOLITARY CONFINEMENT VIOLATES [C.S.]’s FOURTEENTH AMENDMENT RIGHT TO REHABILITATION**

* + 1. The Fourteenth Amendment of the United States Constitution protects the substantive due process rights of [C.S.], including a right to a rehabilitative environment and rehabilitative treatment.
		2. **[**The facility] has a policy, pattern or practice of use of solitary confinement, described above, which interferes with [C.S.]’s rehabilitation and harms [C.S.] emotionally, psychologically, physically, and educationally.
		3. This use of solitary confinement deprives [C.S.] of their substantive due process right to rehabilitative treatment and a rehabilitative environment, in violation of the Fourteenth Amendment.
		4. The Eighth Amendment to the United States Constitution forbids state actors to impose cruel and unusual punishment on convicted prisoners, including acting (or failing to act) with deliberate indifference to a substantial risk of serious harm to prisoners’ health or safety.

**[THE FACILITY]’S USE OF SOLITARY CONFINEMENT VIOLATES [C.S.]’s EIGHTH AMENDMENT RIGHT AGAINST CRUEL AND UNUSUAL PUNISHMENT**

* + 1. The Eighth Amendment of the United States Constitution forbids state actors from imposing cruel and unusual punishment on convicted prisoners, including acting (or failing to act) with deliberate indifference to a substantial risk of serious harm to prisoners’ health or safety.
		2. **[**The facility]’s practice of solitary confinement subjects [C.S.] to, among other harmful conditions: [conditions]. This solitary confinement creates a substantial risk of serious emotional, psychological and physical harm to [C.S.]
		3. **[**The facility] has used solitary confinement against [C.S.] with deliberate indifference, in that it is or should be aware of the substantial risk of serious harm to [C.S.] caused by excessive use of solitary confinement, but continues to subject [C.S.] to such confinement and has failed to take reasonable steps to prevent the harm.
		4. There is broad consensus among the scientific and professional community that youth are psychologically more vulnerable than adults.[[26]](#footnote-26)
		5. The Supreme Court has continued to stress that these fundamental differences are consequential in the Eighth Amendment context.[[27]](#footnote-27)
		6. In a series of Eighth Amendment cases involving the death penalty and life without parole sentences, the Supreme Court has held that the Constitution requires that children not be punished like adults without first accounting for the unique traits that make them children.[[28]](#footnote-28)
		7. Solitary confinement poses greater risks of serious harm to youth than to adults, given that youth are more vulnerable to long-term, or even permanent, psychological damage.
		8. By imposing solitary confinement, **[**the facility] has subjected [C.S.] to cruel and unusual punishment, in violation of the Eight Amendment.

**[THE FACILITY]’S USE OF SOLITARY CONFINEMENT IS IN VIOLATION OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)**

* + 1. **[**The facility]’s use of solitary confinement violates [C.S’s] rights under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.
		2. Originally enacted in 1975, the purpose of the IDEA is “to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.”[[29]](#footnote-29)
		3. “The IDEA offers federal funds to States in exchange for a commitment: to furnish a ‘free appropriate public education’—more concisely known as a FAPE—to all children with certain physical or intellectual disabilities.”[[30]](#footnote-30) “As defined in the Act, a FAPE comprises ‘special education and related services’—both ‘instruction’ tailored to meet a child’s ‘unique needs’ and sufficient ‘supportive services’ to permit the child to benefit from that instruction.”[[31]](#footnote-31)
		4. The IDEA applies to both a Local Educational Agency (LEA) such as the [School District] as well as a correctional facility like **[**the facility].[[32]](#footnote-32) And with specific, limited exceptions for children with disabilities “who are *convicted* as adults under State law and incarcerated in adult prisons,” all age-eligible students with disabilities are entitled to a FAPE.[[33]](#footnote-33)
		5. The IDEA provides myriad procedural and substantive protections for qualifying

youth, two of which are relevant here. First, [describe the way that the facility provides education to client, if at all, while in solitary] fails to satisfy the IEP requirements of the IDEA, the primary method by which educational instruction and related support services are tailored to a qualifying student's needs.[[34]](#footnote-34) [provide examples of the type of education client received/was supposed to receive under the IEP].

* + 1. Second, [the facility] has routinely placed [C.S.] in solitary confinement in violation of the “manifestation hearing” requirement of the IDEA, which requires a determination regarding whether the “behavior that gave rise to the violation” is causally related to the child's qualifying disability before any “change in placement that would exceed 10 school days” can take place.[[35]](#footnote-35) Even where a change in placement is appropriate, the education provider must continue to provide the services necessary to “enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP.”[[36]](#footnote-36)
		2. Finally, a statement of interest submitted by United States Department of Education (DOE) and the USDOJ on behalf of the United States to the U.S. District Court for the Northern District of California states that juvenile facilities “have a legal obligation to avoid placing students with disabilities in restrictive security programs on the basis of their disabilities,” and are “required to provide special education and related services to youth with disabilities in restrictive security programs.”[[37]](#footnote-37)

**[THE FACILITY]’S USE OF SOLITARY CONFINEMENT IS IN VIOLATION OF THE AMERICANS WITH DISABILITIES ACT (ADA)**

* + 1. Under Title II of the ADA, facilities must ensure that their services, programs, and activities do not discriminate against qualified youth with disabilities.[[38]](#footnote-38) Facilities must consider and implement reasonable modifications that would prevent qualified youth with disabilities from being placed in disciplinary room confinement because of their disability-related behaviors.[[39]](#footnote-39)
		2. Because [the facility] failed to do this, it has further violated [C.S.]’s rights under the ADA.

**[C.S.]’s RIGHTS TO STATE-MANDATED EDUCATIONAL SERVICES WERE DENIED WITHOUT DUE PROCESS WHILE IN ISOLATION**

* + 1. Youth detention centers, along with the county’s local school district, must provide [insert state educational requirements, minimum number of hours]. Placement in disciplinary isolation alone is never a justification for shutting a young person out of the classroom.
		2. It is [the facility]’s policy and practice to deny access to education solely because [C.S.] was placed in isolation.
		3. The educational materials [list any provided] plainly fail to meet the state educational requirements.

**[THE FACILITY]’S USE OF SOLITARY CONFINEMENT IS IN VIOLATION OF THE PRISON RAPE ELIMINATION ACT (PREA) JUVENILE FACILITY STANDARDS**

* + 1. [The facility]’s use of solitary for C.S. violates the Prison Rape Elimination Act (PREA).[[40]](#footnote-40) The Juvenile Facility Standards explicitly state that isolation shall be used only as a last resort and even then only until an alternative arrangement can be made. Additionally, the Standards state that “[d] uring any period of isolation, agencies shall not deny residents daily large-muscle exercise and any legally required educational programming or special education services. Residents in isolation shall receive daily visits from a medical or mental health care clinician. Residents shall also have access to other programs and work opportunities to the extent possible.”[[41]](#footnote-41) The Standards also note that “(c) [l]esbian, gay, bisexual, transgender, or intersex residents shall not be placed in particular housing, bed, or other assignments” such as solitary confinement “solely on the basis of such identification or status.” [[42]](#footnote-42)
		2. LGBTQI-GNC youth are particularly vulnerable to harassment and abuse when incarcerated.[[43]](#footnote-43)
		3. Some facilities automatically isolate LGBTQI-GNC youth for their “protection” or due to a completely erroneous belief that LGBTQI-GNC youth are sexual predators based on their sexual orientation or gender identity alone. Isolating LGBTQI-GNC youth solely based on sexual orientation or gender identity not only violates their constitutional rights, but also harms their emotional wellbeing.[[44]](#footnote-44)
		4. At least one federal court has found that isolating LGBTQI-GNC youth was likely a violation of their due process rights. In R.G. v. Koller, a groundbreaking case against the Hawai’i Youth Correctional Facility (HYCF), the court granted the plaintiff (a group of LGBT and LGBT-perceived youth)’s motion for a preliminary injunction, finding that the youth would likely prevail at trial in showing that HYCF violated their due process rights by putting them in isolation. Specifically, the court found that HYCF (1) failed to protect the plaintiffs from physical and psychological abuse, (2) used isolation as a means to protect LGBT youth from abuse, (3) failed to provide policies and training necessary to protect LGBT youth, (4) did not have adequate staffing and supervision or a functioning grievance system, and (5) failed to use a classification system that protects vulnerable youth.[[45]](#footnote-45)
		5. In a declaration by the medical expert in R.G. v. Koller, Dr. Robert Bidwell made a statement about the well-known negative psychological impact of long periods of isolation: “With respect to LGBT[Q] youth, isolation may be perceived as punishment for being LGBT[Q], which evokes feelings of rejection and depression and may manifest itself through a variety of physical symptoms ranging from headaches to self-mutilation.”[[46]](#footnote-46)

WHEREFORE, Petitioner, respectfully, requests that Your Honor order [the facility] to immediately remove [C.S.] from solitary confinement and not to place [C.S.] in solitary confinement or any type of involuntary isolation except during sleeping hours.

 Respectfully Submitted,

1. Cf. Peoples v. Annucci, 180 F. Supp. 3d 294, 299 (S.D.N.Y. 2016) (“After even relatively brief periods of solitary confinement, inmates have exhibited systems such as . . . hallucinations, increased anxiety, lack of impulse control, severe and chronic depression, . . . sleep problems, and depressed brain functioning.’). [↑](#footnote-ref-1)
2. Juvenile Justice Reform Comm., *Policy Statement: Solitary Confinement of Juvenile Offenders*, Am. Academy of Child & Adolescent Psychiatry (Apr. 2012), http://www.aacap.org/aacap/policy\_statements/
2012/solitary\_confinement\_of\_juvenile\_offenders.aspx. [↑](#footnote-ref-2)
3. Brief of Medical and Other Scientific and Health-Related Professionals as Amici Curiae in Support of Respondents and Affirmance at X, Ziglar v. Abbasi, Nos. 15-1358, 15-1359 & 15-1363 (U.S. Dec. 22, 2016), http://solitaryconfineent.org/uploads/Istanbul\_expert\_statement\_on\_sc.pdf. [↑](#footnote-ref-3)
4. Lindsay M. Hayes, *Juvenile Suicide in Confinement: A National Survey*, Office of Juvenile Justice and Delinquency Prevention, Dep’t of Justice at 27 (Feb. 2009), https://www.ncjrs.gov/pdffiles1/ojjdp/213691.pdf. [↑](#footnote-ref-4)
5. Jennie L. Shufelt & Joseph J. Cocozza, *Youth with Mental Health Disorders in the Juvenile Justice System: Results from a Multi-State Prevalence Study* 2 (Nat’l Ctr. for Mental Health & Juvenile Justice, Delmar, N.Y. June 2006). [↑](#footnote-ref-5)
6. American Academy of Child and Adolescent Psychiatry, Juvenile Justice Reform Committee, *Solitary Confinement of Juvenile Offenders* (Apr. 2012),

<http://www.aacap.org/cs/root/policy_statements/solitary_confinement_of_juvenile_offenders>. [↑](#footnote-ref-6)
7. Press Release, American Psychiatric Association, Incarcerated Juveniles Belong in Juvenile Facilities (Feb. 27, 2009), <http://www.psych.org/MainMenu/Newsroom/NewsReleases/2009NewsReleases/IncarceratedJuveniles.aspx>. [↑](#footnote-ref-7)
8. Nat’l Comm’n on Correctional Health Care, *Position Statement on Solitary Confinement* 2 (Apr. 2016) (citations omitted). *See also* Am. Med. Ass’n, *Policy Statement: Solitary Confinement of Juveniles in Legal Custody* (Nov. 2014) (opposing solitary confinement of juveniles for disciplinary purposes). [↑](#footnote-ref-8)
9. Carly B. Dierkhising, et al., *Trauma histories among justice-involved youth: findings from the National Child Traumatic Stress Network*, 4 European J. Psychotraumatology at 2-3 (2013) (citing extensive research). [↑](#footnote-ref-9)
10. *Id*., (citations omitted). [↑](#footnote-ref-10)
11. Morales v. Turman, 364 F. Supp. 166, 172 (E.D. Tex. 1973) (“Experiments in sensory deprivation have shown that the absence of many and varied stimuli may have a serious detrimental effect upon the mental health of a child.”). [↑](#footnote-ref-11)
12. Wanda K. Mohr et al., *A Restraint on Restraints: The Need to Reconsider the Use of Restrictive Interventions*, 12 Archives of Psychiatric Nursing 95, 103 (1998) (citations omitted). [↑](#footnote-ref-12)
13. As part of litigation with the U.S. Department of Justice, the Ohio Department of Youth Services reduced the use of isolation drastically. The length of isolation went down 89 percent while violent acts decreased by 22 percent. *Abandon outdated practice of juvenile seclusion: Harvey J. Reed*, Cleveland Plain Dealer (May 1, 2016), http://www.cleveland.com/opinion/index.ssf/2016/05/why\_its\_time\_to\_abandon\_the\_ou.html. The vast majority of seclusion episodes ended within 4 hours, with the average length of seclusion being 2.83 hours. Will Harrell, Kelly Dedel, and Terry Schuster, *The Ohio Model: A Report on the Transformational Reform of the Ohio Department of Youth Services, 2007-2015* (Dec. 2015), http://www.justice.gov/opa/file/799466/download. [↑](#footnote-ref-13)
14. The Massachusetts Department of Youth Services has drastically reduced the use of solitary by prohibiting isolation as punishment. *See* Massachusetts Department of Youth Services, Policy #03.03.01(a): Involuntary Room Confinement (Mar. 15, 2013), http://www.mass.gov/eohhs/docs/dys/policies/030301-involuntary-room-confine.doc. In data reported in 2013, Massachusetts DYS facilities rarely used isolation for more than 2 hours. *See* Presentation of Nancy Carter, Director of Residential Operations, Massachusetts Department of Youth Services, Juvenile Detention Alternatives Initiative Intersite Conference (Apr. 18, 2013). [↑](#footnote-ref-14)
15. Lindsey M. Hayes, Nat’l Ctr. on Inst. & Alternatives, *Juvenile Suicide in Confinement: A National Survey* 42 (2004). [↑](#footnote-ref-15)
16. Lindsey M. Hayes, Nat’l Ctr. on Inst. & Alternatives, *Juvenile Suicide in Confinement: A National Survey* 42 (2004); *see also* Steven H. Rosenbaum, Chief, Special Litig. Section, U.S. Dep’t of Justice, Remarks before the Fourteenth Annual National Juvenile Corrections and Detention Forum (May 16, 1999) (“The use of extended isolation as a method of behavior control, for example, is an import from the adult system that has proven both harmful and counterproductive when applied to juveniles. It too often leads to increased incidents of depression and self-mutilation among isolated juveniles, while also exacerbating their behavior problems. We know that the use of prolonged isolation leads to increased, not decreased, acting out, particularly among juveniles with mental illness.”) [↑](#footnote-ref-16)
17. Standards for the Admin. of Juvenile Justice § 4.52 (Nat’l Advisory Committee for Juvenile Justice and Delinquency Prevention 1980). [↑](#footnote-ref-17)
18. Report of the Attorney General’s National Task Force on Children Exposed to Violence, Office of Juvenile Justice and Delinquency Prevention, Dep’t of Justice (2012), https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf. [↑](#footnote-ref-18)
19. Office of the Press Secretary, The White House, FACT SHEET: Department of Justice Review of Solitary Confinement (Jan. 25, 2016), https://obamawhitehouse.archives.gov/the-press-office/2016/01/25/fact-sheet-department-justice-review-solitary-confinement?utm\_source=youth.gov&utm\_medium=federal-links&utm\_campaign=reports-and-resources. [↑](#footnote-ref-19)
20. G.A. Res. 45/113, Annex ¶ 67 (Dec. 14, 1990). [↑](#footnote-ref-20)
21. *See*, *e.g.*, United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46 (Dec. 10, 1984). *See also* Atul Gawande, *Hellhole*, The New Yorker (Mar. 30, 2009). [↑](#footnote-ref-21)
22. Juvenile Detention Facility Assessment Standards Instrument, 2014 Update: Juvenile Detention Alternatives Initiative, Annie E. Casey Foundation, http://www.cclp.org/documents/Conditions/JDAI%20Detention%20Facility%20Assessment%20Standards.pdf. [↑](#footnote-ref-22)
23. Council of Juvenile Correctional Administrators Toolkit: Reducing the Use of Isolation (Mar. 2015), http://cjca.net/attachments/article/751/CJCA%20Toolkit%20Reducing%20the%20Use%20of%20Isolation.pdf. [↑](#footnote-ref-23)
24. PbS Learning Institute, “Reducing Isolation and Room Confinement” 2 (Sept. 2012), http://pbstandards.org/uploads/documents/PbS\_Reducing\_Isolation\_Room\_Confinement\_201209.pdf. [↑](#footnote-ref-24)
25. National Partnership for Juvenile Services (NPJS), *Position Statement: Use of Isolation* (Oct. 2014), http://npjs.org/wp-content/uploads/2012/12/NPJS-Use-of-Isolation.pdf. [↑](#footnote-ref-25)
26. *See, e.g.*, Graham v. Florida, 560 U.S. 48, 68 (2010) ("[D]evelopments in psychology and brain science continue to show fundamental differences between juvenile and adult minds."); Roper v. Simmons, 543 U.S. 551, 569 (2005) (recognizing the "comparative immaturity and irresponsibility of juveniles). [↑](#footnote-ref-26)
27. *See, e.g.*, Miller v. Alabama, 132 S. Ct. 2455 (2012) (observing that youth “is a moment and condition of life when a person may be most susceptible to influence and to psychological damage”). [↑](#footnote-ref-27)
28. *See* Roper v. Simmons 543 U.S. 551 (2005); Graham v. Florida 130 S. Ct. 2011 (2010); Miller v. Alabama, 132 S. Ct. 2455 (2012). [↑](#footnote-ref-28)
29. 20 U.S.C. § 1400(d)(1)(A). [↑](#footnote-ref-29)
30. Fry v. Napoleon Cmty. Schs., 580 U.S. ­­\_\_, No.15-497, slip op. at 2 (2017). [↑](#footnote-ref-30)
31. *Id*. (citations omitted). [↑](#footnote-ref-31)
32. 34 C.F.R. §§ 300.2(b)(1)(ii)-(iii). [↑](#footnote-ref-32)
33. Cf. 34 C.F.R. §§ 300.101-102; 34 C.F.R. § 300.324(d)(1) (emphasis added). [↑](#footnote-ref-33)
34. 20 U.S.C. § 1414(d). *See also* Honig v. Doe, 484 U.S. 305, 311 (1988). [↑](#footnote-ref-34)
35. 20 U.S.C. § 1415(k). [↑](#footnote-ref-35)
36. 20 U.S.C. § 1415(k)(1)(i). [↑](#footnote-ref-36)
37. Statement of Interest of the United States of America, *G.F. v. Contra Costa County*, No. 3:13-cv-03667-MEJ at 1 (N.D.Cal. Feb. 2, 2014), https://www.justice.gov/sites/default/files/crt/legacy/2014/02/14/contracosta\_soi\_2-13-14.pdf. The case was ultimately resolved by settlement in November 2015. [↑](#footnote-ref-37)
38. Americans with Disabilities Act, Title II, 42 U.S.C. § 12132;Pa. Dep’t of Corr. v. Yeskey, 524 U.S. 206, 210 (1998);Lee v. City of Los Angeles*,* 250 F.3d 668, 691 (9th Cir. 2001). [↑](#footnote-ref-38)
39. 28 C.F.R. § 35.130. [↑](#footnote-ref-39)
40. U.S. Dep’t of Justice, Prison Rape Elimination Act Juvenile Facility Standards (2012), https://www.prearesourcecenter.org/sites/default/files/content/preafinalstandardstype-juveniles.pdf [↑](#footnote-ref-40)
41. PREA Juvenile Facility Standards § 115.342 (b) [↑](#footnote-ref-41)
42. PREA Juvenile Facility Standards § 115.342 (c) [↑](#footnote-ref-42)
43. *See* Katayoon Majd et al., Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts 102 (2009). [↑](#footnote-ref-43)
44. *Id.* [↑](#footnote-ref-44)
45. R.G. v. Koller, 415 F. Supp.2d 1129, 1133 (D. Haw. 2006). [↑](#footnote-ref-45)
46. Declaration of Robert J. Bidwell, M.D., R.G. v. Koller, 415 F. Supp. 2d 1129 (2006) (Civ. No. 05-566 JMS/LEK) (Sept. 2005). [↑](#footnote-ref-46)