

Toward Abolishing the Use of Disciplinary Isolation in Juvenile Justice Institutions: Some Initial Ideas (Revised)

Paul DeMuro
January 22, 2014

Preliminary Note: Perhaps this short paper might be of use to juvenile justice practitioners in their efforts to abolish the use of disciplinary isolation. The ideas expressed below grow out of my more than forty-two years of experience in the field. More recently I have seen a number of these ideas “put to the test” in successfully implemented institutional reforms brought about by condition of confinement consent decrees in Mississippi (MS) and New Orleans.¹

Guiding Principles:

- A. Shared Values About the Use of Isolation.** Everyone who works in or manages a secure unit should share the same value system/thinking regarding the use of isolation; namely that the use of isolation causes more harm than good and, therefore, the use of and the duration of room confinement/isolation should be limited to the absolute minimum degree possible.
- B. Size of living units.** Deep end secure programs should deal with the smallest number of youth possible. The number of youth in any single program/living unit should be limited and the youth in these programs should be broken down even into smaller individual groups. The MS program (YOU) serves 40 youth and has three 8-10 bed dorms and about 10-15 individual sleeping rooms/cells so that youth who have difficulty living or getting along with larger groups of youth can be handled more individually. In the New Orleans’s detention center, 25-30 youth live in three separate living units and in the new center being constructed in New Orleans, staff will have the ability to supervise youth in even smaller groups. Smaller groups of youth can be more safely supervised. Having a number of different/smaller groups gives the staff the ability to move youth who have problems relating to one another to another living group/area without depending on isolation.
- C. Staff.** If youth can become institutionalized/conditioned to violent behavior so can staff. There is little doubt in my mind that much of the violence in secure juvenile institutions occurs because staff often depend on harsh and traditional institutional control

¹ The reforms concerning the use of isolation in MS (The YOU unit) and the New Orleans detention center came about because of consent decrees that the author helped negotiate. See: C.B. v Walnut Grove Correctional Facility, United States District Court for the Southern District of Mississippi, Class ACTION – Civil Action No. 3:10cv663, and J.D., et al v Ray Nagin, United States District Court for the Eastern District of Louisiana, Civil Action No. 01-9755.

methods (like the frequent use of isolation) that they have used over the years. In New Orleans, once the Consent Decree was approved, the newly appointed Superintendent gradually replaced over 70% of the New Orleans staff. In Mississippi, Leander Parker was recruited to run the YOU unit that was developed as a result of a Consent Decree. In MS, an entirely new staff was assembled, trained and given a 20% raise to work in the deep end, YOU program that serves youth eighteen and under. Staff that work with the most difficult youth deserve to be paid a decent salary. Often in secure, back-end programs direct security staff do not feel valued and, consequently, staff morale is often low. In addition direct staffing ratios in both MS and New Orleans meet or exceed a one staff to eight youth ratio on all shifts except when youth are sleeping over night.

- D. Inter-disciplinary training.** Staff who work with the most difficult youth have to all be on the same page, thus the importance of pre-service and intensive in-service training for all staff across all disciplines (security, education, mental health, recreation, social work, etc.).
- E. Strong & Consistent Leadership.** There is no doubt that training is important but most important is the quality of the **Unit Leadership** (in particular the values of the leader). Objective supervision, honest and direct communication among all staff and accurate documentation of all incidents needs to be ensured. The leader sets the tone that makes clear that the purpose of the unit is to protect public safety by helping youth become crime free.
- F. Reduction of Idleness – Robust & Integrated programming.** Youth in deep end programs need to be fully engaged in appropriate youth centered programs 12-14 hours a day, including weekends. Too often professional staff work from 8 AM to 4:30 PM, Monday thru Friday. Appropriate professional staff need to be available from 4 PM – 8 PM daily and on the weekends. Youth who are idle much of the time and/or are locked up in isolation cell much of the time will only find a way to act out. In addition, programming in deep end programs has to be multi-disciplinary and integrated: security, education, social work, recreation and MH staff need to work together – it need not be the Missouri model, but staff should all be on the same page and they need to communicate with each other. Often there is a tendency for a “siloeed” approach to programming (particularly for mental health programming) which has different staff in separate professional boxes. Cross training and strong communication among all staff has to be emphasized. (Here are two relevant examples: Is a youth who sleeps in school showing side effects of his meds? If a youth gets “testy” at the same time every day, is it a med issue? A diet issue?) Particular attention needs to be paid to encouraging line/security staff’s input and interaction with professional staff, especially about helping to manage difficult behavior

Discussion: a seven-day a week robust program effort is critical for several inter-related reasons. (1.) It reduces the amount of time a youth can be locked into a

cell in any given day. (2.) If done correctly, effective programming can help youth learn three critical life-skill “lessons”: (a.) How to relate to adults in a pro-social manner. Many of our youth distrust adults, particularly adults in authority; many of them really have not experienced adults who are “on their side”. (b.) How to have constructive fun. The YOU program in MS does a great job with this with spelling bees, youth concerts in which YOU youth perform; other contests at school (awards for the best book reports) and of course athletic competitions. (c.) How to experience success. Some examples: passing the GED, getting an award for performing, seeing your book review poster being displayed, designing a handout for a special event, handling the tasks of usher at a special event, assisting with the lighting and sound at a special event. If staff really work creatively, they can design low cost program activities that allow each youth to experience success. Such an effort pays off because it helps teach youth that they can succeed and do not have to accept a view of themselves as hardened inmates.

- G. Mental Health: The need for strength based, multi-disciplinary treatment approaches with “youth-friendly” team meetings held regularly for youth and for the staff who deal with them, particularly for those youth who are subject to repeated disciplinary isolation. The need for individualized, strength based treatment planning and specific, individualized crisis management planning for the most difficult to manage youth.** Obviously many institutionalized young people do have mental health needs, but traditional mental health approaches in juvenile justice institutions often do not work in a specific enough fashion with other staff to reduce the occurrence of disciplinary isolation.

Discussion: With overly traditional mental health diagnostic & treatment approaches there often occurs a resurgence of the flawed "medical model" of treatment within juvenile justice institutions: Traditional diagnosis identifies deficits, not strengths. Labeling does not increase the understanding of a youth’s needs or issues. The over pathologizing of delinquent behavior often undermines building on strengths and limits the role that the youth himself, his family, other staff and the community can play in a youth's treatment and behavior in an institutionalized setting. And overly pathologizing acting out behavior in institutions can and often does lead to the apparent need for harsher sanctions, including periods of isolation.

Assessing and meeting delinquents' needs requires a shared philosophy among the important adults in his/her life and the development of at least one trusting relationship. Building on strengths is the most effective way to meet a youth’s needs, yet most mental health diagnosis and treatment in probation and juvenile corrections is deficit-driven. Building on strengths is a way of approaching and

involving the youth, his family, other staff and the community -- this philosophy is often not reflected in problem-focused mental health "assessments" and treatment in secure institutions.²

Adolescents are more cooperative if they are included in the decision-making about their lives, thus the importance of strength based treatment planning and treatment team meetings in which the youth actively participates. If adolescents do not want what adults think they need, little is likely to change in their lives. Increased punitiveness results in increased aggression. Increased control often results in a higher degree of defiance. Most juvenile correctional institutions are authoritarian and do not attempt to reach genuine agreement with each youth about his/her needs. In my relatively long career I have often seen MH programs in juvenile correctional institutions which overly depend on locked isolation to "encourage" youth to participate in therapy; that still use locked isolation cells (with the youth in paper gowns, suicide "smocks" or in underwear) to monitor depressed/suicidal youth, and/or over use psychotropic medication to control behavior, with insufficient monitoring by knowledgeable child psychiatrists. Some of the commonly used psychotropic medications can cause kidney and liver damage as well as other dangerous side effects, especially for youth exercising in hot conditions.

The diagnostic tools themselves can often be culture, class, and gender-biased leading to inaccurate classification of minority youth and females based on norms for middle class white youth. Growing up in a violent, racist or sexist environment may cause a young person to feel threaten much of the time. A fearful response on a personality inventory, thus, might be more understandable and does not necessarily make a youth paranoid.

H. Positive Behavior Management. Attention has to be paid to the development and implementation of a concrete and detailed system of positive incentives for good behavior – a positive behavior management system. Secure programs often have emphasized only one side of Skinner's Box: Negative reinforcement. Concrete incentives for positive behavior (later bed time, more phone calls to home, access to computer games and music, etc.) encourage good behavior. The MS YOU program has done a particularly fine job with this.

² The interventions demonstrated to have the greatest success work with youth within the context of their families and communities by strengthening the parental role, changing peer relationships, and helping to arrange for youth success in school and other pro-social activities. Pathologizing delinquents encourages their removal from the community (with the growth of both the private and public Residential Treatment Industry) despite the fact that a behavior disordered young person usually deteriorates around other behavior disordered youth.

- I. **Sanctions.** In addition to encouraging positive behavior with positive incentives and establishing positive norms in a unit, major negative acting out needs consequences. But we don't need too many rules with onerous and lengthy consequences. Most sustained rule violations in the New Orleans and MS programs are sanctioned by a youth losing access to some of the positive incentives he has earned. In any event, staff and youth need to be kept safe and both need to understand what the consequences are for a major rule violation (e.g., physically attacking a staff, masturbating in front of a women staff, group disturbances/fights, etc.). Clear, short and humane sanctions need to be enforced when youth break major rules. The point is that the sanctions should be short in duration, and staff should immediately work with the youth on an on going basis to re-integrate him into the program. A specific behavioral plan aimed at safely reintegrating a youth into his living unit needs to be put into place as soon as possible. Both the MS and New Orleans programs do this well. In the New Orleans facility there is an eight hour limit on disciplinary isolation (initially mandated by the consent decree). The Superintendent has told me that staff now often use only 2 or 4 hours of room confinement to sanction major acting out. In the MS YOU settlement 24 hours of disciplinary isolation has been abolished. Youth on a disciplinary status have to be out of their cells for at least 4 hours in any 24 hour period engaged in positive programming. And staff (education, medical, mental health, executive staff) must regularly see, talk with and work with a youth who has been disciplined. Monthly I review the YOU stats and can attest that in the majority of cases, youth who have broken major rules are sanctioned by a loss of privileges that were "earned" in the positive behavior management process. After a viable due process hearing major rule violations (a major fight) can be sanctioned by a youth being removed from the program for a very limited time.
- J. **Due Process.** A thorough and objective due process protections need to be in place before major sanctions are imposed. Youth should have the right to appeal any disciplinary decision to an objective, non –involved, competent staff.
- K. **Voice & Choice for youth and families.** If youth are to learn to act responsibly, youth and their families must be treated with respect, and they must be able to voice their concerns. Once again the MS program offers a concrete example. The Director of that program shares his cell phone number with parents so they can easily contact him to get information about their son. A seriously disturbed young man who ingests batteries and self mutilates has become much calmer because the Director of the unit allows the young man to call his mother and grandmother whenever he becomes agitated, and the Director has set up regular, special visits for the mom and grandmother – when this youth was held at Walnut Grove, his family was prohibited from visiting and the youth could not call them. When the unit planned and held a special Martin Luther King/Black History event, this young man proudly served as an usher. Over 80 people (staff and family members) attended the event that featured a play written and performed by the YOU youth as well as a performance by a MS Blues musician. Much more needs to be

done to involve parents and relatives in a youth's life and program while he is in a program, and particularly when the youth is preparing to return to the community. Concrete questions need to be raised and answered: where will a youth live? How will he support himself? What are the opportunities for his education, especially vocational? How can the youth avoid problems that have plagued him in the past (drug issues, gang issue, family issues etc)? Parents and family need to be involved in this discussion. And they need to be helped to prepare for the return of their loved one.

- L. Independent and objective grievance system/process.** An objective grievance system has two essential purposes: If implemented properly, it allows the leader of the facility to learn of the youths' concerns and to address them in a timely manner, addressing youths' concerns and issues that are legitimate. It also demonstrates to a youth that his concerns can be resolved in a peaceful manner and that his opinion is respected.
- M. Robust quality assurance/quality improvement process – on going objective program monitoring.** This does not have to be complicated. But accurate data regarding major disciplinary events (and their consequences) needs to be maintained and regularly reviewed, with the goal of decreasing the incidents (and duration) of room confinement.

And finally here is a relevant quote from Lloyd Ohlin, from *The Politics Of Secure Care In Youth Correctional Reform*, by Alden D. Miller and Lloyd E. Ohlin:

"If it is true that the basic contradictions of a society are most clearly reflected in its jails and prisons, then the inherent conflicts of a correctional system may be most obvious in its secure facilities. Even in a community-based youth correctional system, the secure care programs lay bare problems in the entire service system that are far out of proportion to the numbers of youths actually contained.

Within a youth correctional system, secure care [or isolation] is the threat or sanction of final resort short of waiver to the adult system. We can learn much about the larger system from the nature, frequency, and duration of that sanction. A system that truly emphasizes therapy and reintegration will have a secure care system that does also. Conversely, if the secure care begins to look custodial, it is likely that the rest of the system is becoming that way too. Our most severe sanctions are thus likely to be our smaller ones writ large. A system that begins to use secure care more frequently and with longer duration is making a statement about its assessment of youthful offenders that colors for youths and staff the underlying assumptions of all the other programs as well." (Crime and Delinquency, vol. 27:4, 1981)