

STIPULATION FOR CONSENT DECREE AND PERMANENT INJUNCTION

DIVISION OF JUVENILE CORRECTIONS

Summary – 6/1/2018

Below is a brief summary/interpretation of those sections of the agreement which may impact or change current operations at LHS/CLS:

DEFINITIONS:

Room confinement. Room confinement shall be defined as the involuntary restriction of a youth alone in a cell, room, or other area, excluding the confinement of a youth to such an area during normal sleeping hours. This definition includes but is not limited to pre-hearing segregation, disciplinary or punitive segregation, and administrative confinement.

This definition includes all forms of confinement with the exception of Observation Status all of which are addressed in this agreement. It does not include sleeping hours, voluntary confinement or those youth in an area or room with another person or youth.

CONFINEMENT

Punitive Confinement.

Consistent with the temporary injunction, no punitive room confinement shall exceed seven (7) days.

This is effective immediately upon approval from the court and is consistent with the terms of the temporary injunction. The seven day limit on punitive room confinement includes any pre-hearing time spent in confinement.

Punitive room confinement shall be limited to three days, including both pre-hearing and post-hearing room confinement.

This becomes effective 7 months from the court's order.

Effective ten months after entry of the Court's order incorporating this Agreement, punitive room confinement shall be prohibited.

Administrative Confinement.

Administrative confinement may only be used for a youth who poses a serious risk of imminent physical harm to others. An initial period of administrative room confinement may not exceed four hours for a youth posing imminent risk of physical harm to others. Time in administrative room confinement may exceed four hours if certain conditions exist and certain steps are taken.

Administrative room confinement time limits may be tolled from 8 pm to 8 am.

Administrative room confinement may only be extended beyond 24 hours to effectuate transfer of the youth to another facility under a commenced plan.

The provisions of this section shall apply to all situations involving any youth at risk of harming others, and shall supersede any rule or policy to the contrary.

The above provisions regarding time frames for Administrative Confinement are effective six months after entry of the court's order. Each 4 hour extension up to 12 hours must be recommended by either a psychologist or psychiatrist. A plan to return the youth to general population or transfer them to another facility must be developed after four hours if they are to be held in administrative confinement and continue to pose imminent risk of physical harm to another.

Hours between 8 pm and 8 am (12 hours) do not count toward the administrative confinement time. Visual checks of these youth must be made and documented at least every 30 minutes.

Youth at Imminent Risk of Serious Self-harm

Effective immediately upon entry of the Court's order incorporating this Agreement, DJC will amend DJC Policy #500.70.24 and will treat youth at risk of self-harm in compliance with that amended policy.

No significant changes to current practice. Changes are effective immediately after court's order.

Conditions of Room Confinement

Effective immediately upon entry of the Court's order incorporating this Agreement, the following conditions shall apply to youth in any form of room confinement:

Youth in room confinement will have prompt access to water, toilet facilities, and hygiene supplies, either in their rooms or upon request to a staff member via intercom or some other accessible and constantly monitored form of communication within approximately 15 minutes of such request.

This is a change for confinement regarding the “approximately” 15 minutes to give access to water, toilet, hygiene supplies etc. upon request.

Staff must notify a PSU staff member as soon as possible, and no later than two hours after placement, when a youth is placed in room confinement.

This is effective immediately upon entry of the court’s order. PSU must be contacted any time a youth is placed in any form of confinement within two hours. Notification, crisis intervention techniques and PSU interventions must be documented.

Youth in room confinement shall receive in part: Meals out of the cell, absent an immediate and substantial threat of physical harm to another person from the youth eating that meal out of the cell; Minimum “out time” from the cell of at least 30 hours per week and at least three hours per day. Time in general population on a given day shall be credited to those hours.

The other provisions in the agreement were previously outlined in the temporary injunction with the exception of minimum out time being three hours per day and time being spent in general population on a given day being credited to those hours whether being placed in confinement or being released. This is effective immediately after entry of the court’s order.

Notification of Rights.

Within 15 minutes of a youth’s placement in room confinement, facility staff shall orally inform the youth of his or her rights regarding grievances and appeals. Within one hour of a youth’s placement in room confinement, facility staff shall provide the youth with written notice of his or her rights regarding grievances and appeals.

This is effective immediately after entry of the court’s order.

Documentation.

Whenever a youth is placed in room confinement, facility staff shall create a written report documenting the necessity of room confinement, the less restrictive measures attempted before placement in room confinement, and the length of time the youth spent in room confinement. The youth must be promptly provided with this report immediately upon its completion.

This is effective immediately after the entry of the court’s order. Recommend developing a form and given to the youth upon release as it cannot be completed until the length of time is documented.

OC-Spray and Other Chemical Agents

DJC will continue to implement OC-Spray reduction plans as outlined in the preliminary injunction.

This is effective immediately and outlined in the preliminary injunction.

Within twelve (12) months of this Agreement, the use of OC spray and other chemical agents will be prohibited.

The elimination of OC is effective 12 months after entry of the court's order.

Mechanical Restraints

Restraints may only be used if staff determine that they are the least restrictive means of addressing an imminent threat of physical harm to self or others, and must be removed immediately when the youth regains control and when the threat of harm or the safety concern has abated.

Any use of mechanical restraints in excess of 45 minutes must be approved by the superintendent, security director or designee and approved by PSU staff, and reviewed every 45 minutes thereafter.

There have not been many changes to the use of or presumptions surrounding restraints from the temporary injunction except the involvement of PSU. Documentation continues to be a key element.

Strip Searches

Facility staff may not conduct a strip search of any youth unless there is probable cause to believe that the individual youth possesses drugs or weapons that could not be discovered through less intrusive means.

Less intrusive searches, including using a metal detector, pat down, or allowing the youth to change into a tank top or other clothing, must be attempted before a strip search is conducted, unless it is determined by PSU in consultation with the youth that less intrusive searches, which may include physical contact, would cause greater trauma to the youth.

Training has already started and will continue in this area regarding proper searches and when to utilize different types of searches. Policy/procedures will also reflect this.