

## RESPONSE TO *MOTHER JONES* EDITORS' REPLY

Matthew Israel

*Mother Jones* editors Monika Bauerlein and Clara Jeffery, in their Editors' Reply to my response to Jennifer Gonnerman's "School of Shock" article, rely primarily on a report issued by the New York State Department of Education ("NYSED") on June 9, 2006 as to what is true about the Judge Rotenberg Center ("JRC"). Unfortunately they have placed their reliance on a faulty report that is filled with inaccuracies and that was commissioned by the New York State Education Department in a hasty effort to justify NYSED's (so far) failed attempt to get the New York Board of Regents to remove JRC from its list of approved schools and to ban, immediately and completely, the use of aversives with New York students. This attempt was frustrated due largely to the persuasive letters from JRC's parents (see <http://www.judgerc.org/parentletters.html>.)

### **Reliance on the biased and inaccurate June 9, 2006 NYSED Report**

In September of 2005, members of NYSED's own education staff visited JRC as part of their normal periodic review process and wrote a very positive and favorable review of JRC (see <http://www.judgerc.org/NYSEDNov05report.pdf>) that was issued in November 2005. The visiting team concluded in that report that JRC was doing an excellent job treating and educating New York students.

On March 20, 2006, however, NYSED urged the Board of Regents to reverse its 30-years of approval and use of JRC and to take an anti-aversive position, apparently as a panic reaction to negative media attention about one frivolous claim by a former New York parent. At that point, NYSED's own November 2005 report proved to be a significant embarrassment.

In order to generate a result that would be different from the November, 2005 review, NYSED conducted two new special visits to JRC, in April and May 2006 that were not part of their normal review process. This time NYSED invited, as key members of the new review team, three outside psychologist consultants. Unfortunately for JRC, they were also individuals who had already taken a strong philosophically-based stand against the use of aversives, who had never themselves used aversives, and who, when they visited JRC, refused to receive an explanatory tour of the program with JRC staff or even discuss any of their major concerns with JRC's clinical staff. This new review team visited JRC for parts of only five days. The three psychologist members visited for only 1 ½ days (two of them) or 2 ½ days (the third); however, they claimed to be informed and qualified to make conclusions about the quality and efficiency of the treatment plans and IEPs of over 140 New York students who suffered from the severest forms of behavior disorders in New York State. [JRC complained to NYSED at the time of the visit that the team was obviously biased,](http://www.judgerc.org/LettertoMills51906.pdf) (<http://www.judgerc.org/LettertoMills51906.pdf>) but to no avail.

JRC has discussed the bias of the June 9, 2006 NYSED Report in detail and has

responded to every single inaccuracy at <http://www.judgerc.org/ReplytoJuneReport.pdf>. We provided Ms. Gonnerman with a copy of that response but it is not clear whether she read it before writing her article. We also pointed out to her that three Massachusetts agencies, who visited JRC to investigate the charges in the June 9, 2006 NYSED Report, failed to confirm any of the major charges (see <http://www.judgerc.org/ThreeAgencies.pdf>.)

In hiring a biased, anti-aversive group of consultants to do its June 9, 2006 report, NYSED made the same mistake that two previous state agencies (Massachusetts Office for Children in 1986 and Massachusetts Department of Mental Retardation in 1993) had made. In both cases, this biased selection process came out during a trial. In both cases the judge found that the agency had acted in bad faith in commissioning the review by a consultant group whose members had an anti-aversives bias and whose bias was known to the agency when they were selected. In both cases the judge ruled in favor of the JRC parents who were seeking to preserve the availability of JRC's treatment for their children. NYSED's June 12, 2006 report is currently being challenged, in part for these same reasons, in a federal lawsuit that the current JRC parents have brought against NYSED.

### **Use of rewards/skin shock therapy for other than self-abusive behaviors**

Ms. Bauerline and Jeffery ("the editors") state that "the use of skin shock is not restricted to such 'low functioning' students. Nowhere in my reply did I claim that it is so restricted at JRC. I stated that higher functioning former as well as current students are often eloquent in crediting reward/skin shock treatment with their (sometimes life-saving) recovery and that its use with these students is parallel to the fact that normal adults can request aversive therapy to treat problems such as excessive smoking, gambling and eating.

The editors quote from the NYSED Report to accuse JRC of treating behaviors that are not overtly aggressive, self-abusive or destructive. I answered this in my response where I pointed out that it is often important to treat the earliest forms, the partially-treated altered forms, and the antecedents of problem behaviors, even if those behaviors might seem, when viewed by themselves and out of their total treatment context, to be harmless. Certain behavior problems, if not treated aggressively at their earliest possible stage, can grow quickly into severely problematic forms. A similar approach is taken in the treatment of diseases such as cancer where it is recognized that treatment should be applied at the earliest possible stage.

### **The death, from natural causes, of a student not in JRC's care**

The student in question, at the time of his death, was in the care of Behavior Research Institute of *California*, and *not* in the care of Behavior Research Institute, the forerunner of JRC. Behavior Research Institute of California was never a branch of JRC and never

had any formal connection with JRC. Furthermore, an inquest jury found that the student died from natural causes that had nothing to do with aversives or with his treatment.

### **Dr. Iwata's hostile visit to JRC 12 years ago**

In 1995 Dr. Iwata visited JRC briefly when he was hired as a consultant by the Massachusetts Department of Mental Retardation as part of that Department's effort to close JRC—an effort that ultimately failed. When I wrote the first draft of my reply, I had forgotten that visit which took place when I was not present at JRC. The version of my reply that currently appears on the JRC website (see <http://www.judgerc.org/ResponsetoGonnermanArticle.pdf>.) acknowledges his visit and has done so since September 11.

### **Inaccurate reporting of JRC's policy on student socializing and mischaracterizing a procedure as "isolation"**

The editors quote me as saying that opportunities to socialize at JRC for some students must be earned. They also note that in my reply I stated that there were many opportunities for students to socialize other than when they are in the Big Reward Store. The editors' implication is that these two statements are in conflict. They are not. It is true that many students must earn access to field trips, visits to the Big Reward Store, participation in the weekly barbecue, visits to the Contract Store, opportunities to enjoy the playground, and other opportunities for free and leisure time activities. Once they have earned access to these opportunities, however, they are free to socialize normally while they are enjoying the activity.

The authors of the New York Report asserted that they did not see a lot of students socializing. This is largely because they chose to observe the students in the classroom setting where they are expected to study rather than socialize. Had they observed the students on field trips, in the residences, on the playground, etc., they would have had a very different report. The authors of the New York Report were consultants with an anti-aversive philosophy who were sent to do a negative report of JRC. It is not surprising, therefore, that they tried to characterize the fact that students were busily engaged in their academic work in a negative way—i.e., that they were not socializing sufficiently.

The editors try to justify their sensationalized use of the term "isolation" on the front page of *Mother Jones* in two ways. First, they quote me as stating that JRC students must earn the opportunity to socialize. But earning the opportunity to socialize clearly does not mean that one is in isolation at other times, prior to earning that opportunity. Students who have not earned such opportunities may simply be in their classroom or residence with ten other students. Second, the editors correctly note that disruptive students are sometime shifted to conference rooms where they do their work with a staff member present in the room. But if a staff member or teacher is present in a conference room, supervising the student as he/she does assigned academic work, in what sense can this properly be called "isolation?"

### **Use of mini-meal rewards to teach new skills**

The use of mini-meals to reward desired behaviors is a well-accepted procedure in applied behavior analysis. For example, in teaching new skills to an autistic child, it is desirable to be able to reward the student for imitating speech sounds or displaying other skills with a small portion of food. In order for these food portions to be effective as rewards it is important that the student not be satiated with food when this teaching is conducted.

In order for JRC to be able to use mini-meal rewards in this way or as rewards for behavioral contracts in which student refrains from problem behaviors for a pre-set period of time, JRC must obtain approval from a Probate Court for this aspect of the treatment program. Numerous safeguard measures are taken to make sure that the student enjoys good nutrition and maintains good health and weight when such procedures are used. To characterize this court-authorized use of mini-meal rewards as “food deprivation” is to sensationalize and falsely portray this procedure as an extreme disciplinary punishment rather than as the carefully monitored and medically supervised motivating program that it really is.

### **Use of other positive-only therapies before adding skin shock to a student’s program**

The editors quote me correctly as stating that the average student, with whom skin shock is employed at JRC, is first tried on a program that consists only of positive rewards and educational procedures for an average of eleven months before JRC considers adding skin shock to the student’s program. The editors then note, again correctly, that JRC might sometime decide, based on the severity of a prospective student’s problems, that it is very likely that JRC will need to employ supplementary aversives shortly after the student arrives. These two statements are not in conflict. In some cases, it might be two or three years before the need to supplement with aversives is recognized. In other cases we might recognize the need much more quickly. The average amount of time before aversives are supplemented is eleven months. In either case—whether JRC’s clinicians recognize the need shortly after admission or only after several years of trying positive-only procedures—JRC must obtain permission from the parent (who can withdraw permission at any time), a probate court, a physician, a psychiatrist, a Human Rights Committee and a Peer Review Committee before aversives can be employed.

### **Safeguards**

The editors denigrate the safeguards that JRC has put in place by asserting that they “are apparently required as the result of JRC’s settlement with the State of Massachusetts.” The Settlement Agreement we entered with Massachusetts requires us to go to court for the use of any aversives. It does not require the pre-approval by a physician, psychiatrist,

Human Rights Committee, Peer Review Committee, and parent. And even if it did, isn't the important thing that the safeguards are in place and working rather than that they might be required by regulation or court settlement?

Regarding the statement from the NYSED Report questioning JRC's level of professional monitoring, the statement quoted was made without factual basis. JRC employs fourteen Doctoral and Masters level clinicians, (in addition to myself,) each of whom oversees the treatment of the 5-20 students in their case load. Each has been trained in behavioral psychology, some are licensed psychologists and many are Board Certified Behavior Analysts.

### **Fading out rewards/skin shock treatment**

The editors quote correct statistics of students currently at JRC; however, they neglect to inform the reader that most of the students who have progressed to the point where they no longer need skin shock have also graduated from JRC and therefore are not included in the statistics that they cite. This criticism is like criticizing a hospital because it does not have many patients who no longer need to be in the hospital. Those whom the hospital served successfully have already left the hospital. Those who are still in the hospital are obviously still there because they continue to need its services. JRC is essentially a behavior hospital.

As for the fact that some students do need the continued availability of skin shock on a more than temporary basis, this is just an unfortunate fact of life. Some impairments require a "prosthetic" type of treatment that may be needed on a long-term basis. This is true, for example, for persons who have require an artificial limb, need eyeglasses to correct their vision, need a hearing aid, need insulin for diabetes treatment or require the long-term use of psychiatric medication.

### **Omitted Portion of My Response to "School of Shock"**

In publishing, online, my reply to the School of Shock article, the editors omitted the following email which appeared at the very end of my reply:

-----Original Message-----

**From:** website@judgerc.org [<mailto:website@judgerc.org>]

**Sent:** Thursday, September 27, 2007 3:53 PM

**To:** Burt, Sarah

**Subject:** Comments Submitted by Prefer to be Anonymous

**Comments:** Dear Judge Rotenberg Center,

I am glad that you exist. I became aware of your organization from an article critical of your organization forwarded to me by my son. The author's

intent in this "Mother Jones" article was quite clear but I'm afraid it had the opposite effect; I'm a parent of an autistic child and I know things about children like these that most people just don't understand.

Please let Dr. Israel know that even if his work isn't understood and appreciated by everyone, those of us who have been there understand.

Submitted by: Prefer to be Anonymous

Title:

Agency: N/A

Interested in:

Learned of JRC from: News article

Address: PO Box 0

City: Wichita

State: KS

Zip Code: 67202