

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

R.J., B.W., D.F., D.G., and M.D., on )  
behalf of themselves and all others )  
similarly situated, by their next friend )  
Jeffrey Shaman, )

Plaintiffs, )

v. )

ARTHUR D. BISHOP, in his official )  
capacity as Director of the Illinois )  
Department of Juvenile Justice, )

Defendant. )

Case No. 12-cv-7289

Hon. Matthew F. Kennelly

**JOINT SUBMISSION OF EXPERT REPORTS**

Plaintiffs and defendant, by their respective counsel, as required by paragraph 11 of the consent decree in this case (Dkt. No. 33) and this Court’s scheduling order of September 10 (Dkt. No. 50), respectfully submit the following three attached expert reports:

1. Report of Louis Kraus, M.D., on psychiatric and mental health issues;
2. Report of Barry Krisberg, Ph.D., on safety and welfare issues; and
3. Report of Peter Leone, Ph.D., on education service and support issues.

DATED: September 23, 2013

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 23, 2013, I caused true and correct copies of the foregoing **JOINT SUBMISSION OF EXPERT REPORTS** to be served upon all counsel of record via the Court's ECF filing system.

/s/ Adam Schwartz  
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# Attachment 1

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**Psychiatric and Mental Health Report for Consent Decree**

**Date of Report: September 23, 2013**

**R.J., B.W., D.F., D.G., and M.D. on Behalf of Themselves and All Others Similarly Situated by Their Next Friend Jeffrey Shaman, Plaintiffs, v. Arthur D. Bishop, in His Official Capacity as Director of the Illinois Department of Juvenile Justice, Defendant.**

**Introduction**

In September 2012, plaintiffs filed their class action complaint, challenging conditions, services, and treatment provided to youths confined by the Illinois Department of Juvenile Justice (IDJJ). In December 2012, the court entered and approved a consent decree. At that time, I was appointed as a court expert, and instructed to investigate and file a report regarding psychiatric and mental health issues at the IDJJ. After the report, the consent decree requires the preparation of a remedial plan that ensures:

the provision of adequate mental health services to all IDJJ youth, including but not limited to: screening and assessment upon reception; identification of youth whose mental health needs change; appropriate treatment planning; provision to each youth of the particular mental health services set forth in their individualized mental health treatment plan; appropriate, prompt, and confidential access to mental health professionals; appropriate suicide prevention; appropriate prescription and monitoring of psychotropic medications; appropriate and prompt hospitalization of youth when required; appropriate substance abuse diagnosis and treatment; appropriate juvenile sex offender treatment; and appropriate aftercare and discharge planning.

I investigated all of the foregoing mental health issues throughout the entire IDJJ. In April through August 2013, I conducted site visits at all six of the Illinois Youth Centers (IYCs) operated by the IDJJ, spending two to four days at each facility. I visually inspected all pertinent areas of each facility. I conducted confidential interviews with scores of IDJJ youth, comprising a cross-section of the various types of youths, and reviewed scores of individual youth mental health files. At each facility, I also interviewed top facility mental health and other administrators, and myriad mental health and other staff. Further, I interviewed top IDJJ leadership regarding mental health and other issues. Finally, I reviewed thousands of pages IDJJ policies, training documents, and other significant records.

### **Findings and recommendations**

#### **Overview**

It is difficult to fully assess the workings of mental health treatment at the IDJJ, because: 1) they do not have a full complement of services, and 2) even with the groups they have right now, a number of the facilities cannot function because of the paucity of security, and essentially are not getting youth to groups or are getting them there significantly late so they cannot run the program. No matter how many groups are described as evidence-based, and no matter how much support is being described for these groups, they are not actually functioning, consistently. The reality is that many of these youth are not getting the mental health support they need. It is very difficult to fully assess what is happening because of the paucity of groups, the vague variety of groups, and the lack of some youth being able to make groups and getting a sense of mental health stability. In my opinion, unless there is stronger support from the state to get the staff which is needed, these youth's basic mental health needs are not going to be met.

Although I have numerous areas of concern, I want to emphasize that the IDJJ and the youth which are in the facility are complicated. There has been tremendous growth and focus in trying to improve the programming by numerous administrative staff, including Jennifer Jaworski, PsyD, among others. I was quite impressed by the attempts by superintendents to balance some of the complexities of security and mental health, as well as some of the significant problems they have

had with the education system. However, there is still a significant amount of work to accomplish. In my opinion, there needs to be more support from the state to help these youth. The majority of these youth can be helped. However, if comprehensive programming is not put into place, they are going to be at much higher risk for recidivistic behavior.

Below, I separately address:

- Staffing issues, including the insufficient number of mental health professionals, the absence of a child and adolescent psychiatrist anywhere in the IDJJ, the failure of many mental health staff to hold necessary licenses, inadequate salaries for mental health professionals, and an insufficient number of security staff to bring youth to their mental health treatment.
- Mental health screening and assessment, including inadequate identification of youth with significant mental health needs, excessive idle time during the weeks youth spend in the reception and classification units, the need for improved psychiatric review, and the failure in the classification units to separate youth of significantly different ages.
- Solitary confinement, including the need to prohibit confinement for punitive purposes, and the improper use at some facilities of specialized treatment units that confine youth for 22 hours per day.
- The need to hospitalize certain youths outside the IDJJ.
- Psychotropic medication issues, including inadequate consent for medication, improper use of stimulant medications for youths with polysubstance use, and insufficient monitoring of medication consequences.
- Discharge issues, including inadequate discharge planning, improper continued IDJJ confinement of youth solely for lack of a community placement, improper months-long delay in release from IDJJ solely so youth can complete a unit of drug treatment, and insufficient use of Medicaid resources upon discharge.
- Other issues, including insufficient training regarding LGBT youths, the absence of specialized treatment in the specialized treatment units, the need

for the IDJJ to obtain outside accreditation, inadequate mental health training for security staff, the failure to obtain hospital records, deficient family therapy, and inadequate treatment for juvenile sex offenders.

### **Staffing issues**

#### ***The number of mental health professionals***

Essentially every facility in IDJJ is deficient in regards to mental health professionals. It is unclear how well the programs might run if they had a full complement of mental health professionals.

There are no interdisciplinary meetings involving psychiatry at IYC St. Charles and none at IYC Kewanee.

#### ***Leadership and supervision***

Many of the youth within IDJJ have very complicated mental health and behavioral histories. I have a significant background in this area and continue to work with youth with significant behavioral and mental health issues within the community. I enjoyed my meetings with four of the psychiatrists within IDJJ.

But there are no child and adolescent psychiatrists in IDJJ. You must have at least one Board Certified Child and Adolescent Psychiatrist. One solution would be hiring a full time child and adolescent psychiatrist to be at IYC Kewanee. Their position could be two-fold: taking care of the complex youth at that facility; and overseeing any significant mental health concerns in any of the other facilities. The person in this position would assess potential issues at other facilities by visiting those facilities, by having the youth brought to them, or through tele-psychiatry and review of the records. In addition, they could be involved with didactics with the mental health staff in conjunction with others. IYC Kewanee needs additional psychiatric hours for the complex youth they have.

#### ***Mental health licensing***

No mental health program within an IDJJ facility should be supervised and run by a non-licensed mental health professional. They need to have not just the type of background that might fit into an IDJJ job description. Rather, they need to have mental health treatment experience, and they need to be licensed in regards to their profession, which must be a mental health profession. The director of an IDJJ

mental health facility or administrator should not only be responsible for organizing the mental health interventions, but when there is an acute youth or one whose diagnosis is unclear, they should have that fund of knowledge where they can assess the youth and assist in determining an appropriate intervention plan. IYC Harrisburg does not have this.

The issue of what is a competent mental health professional needs to be further discussed. There are all kinds of programs that have been put together, some of which look very good on paper. However, they are difficult to implement, in my opinion, without having well experienced, trained, and licensed mental health professionals. There is a reason that there are Master's programs, PhD program, and PsyD programs – for developing competencies so one can practice their mental health profession. In association with those base competencies there are state licensing requirements, which typically, among other things, require passing a test. Although I am sure there are reasonably good mental health professionals that are unlicensed, there is a reason there is a licensing boards and minimal licensing requirements. This offers a qualifying tool to assess competencies that an individual may have that cares for youth.

For example, in the IDJJ's definition of a psychology 2 position, it requires a Master's level professional who has a Master's degree in psychology who does not have to be licensed. When this position is hired, for example in the Wells program, they have two years to get their license. A typical salary in this position might be around \$35,000 a year. There was not a single psychology 2 professional who I talked to who thought this was a reasonable salary. Some of the psychology 2 professionals stated to me that they had no intention whatsoever of getting a license, but rather were going to stay in the program for two years, or as long as they could, and then leave. Others talked about using the program to get their license and once getting their license, finding a more reasonably paid position.

This lack of stability is not going to offer these youth the qualified mental health professionals they need. This is part of the reason why severe or even chronic mental health issues will be missed. This will be part of the reason why these mental health professionals will not know how to follow up regarding the

mental health issues with the youth, or how to report to the psychiatrist or others regarding the mental health condition of the youth. When speaking to the mental health professionals at IDJJ, the majority of what has been discussed has to do with anger control, stabilization, understanding what brought them to the facility, and release issues. When specific subtleties of mental health issues and potential impairment on behavior or emotions are discussed, there is a general lack of knowledge in many of these mental health professionals.

My recommendation is to have a comprehensive review of the definition of what a mental health professional is, as defined by the state. The IDJJ should call mental health professionals what they are, and not make up names that distort what the professional is.

***Mental health salaries***

Part of the difficulty in my opinion is not just the isolated nature of some of the facilities, but rather the salaries that are being paid. In general, if one salary's are too low, it is going to be far less likely that they are going to find qualified mental health professionals. This is not what these complicated youth need. I say this with the caveat that I do not want to minimize some fine mental health professionals who are involved with the programming. However, as it is not unusual, the best of the mental health professionals are in more administrative positions, whether within the facility or state.

In my opinion, based on some of the salaries which I reviewed, this is one of the limiting factors in being able to hire competent mental health professionals. One needs to look at what the current salaries are within the community and offer salaries at least comparable to this so they can hope to be competitive in hiring competent mental health professionals and have a full complement of staff. No matter what the programming is, it will not meet its goals until a full complement of staff is in place.

***Security staffing***

At IYC Kewanee, the chief of security reported they are having tremendous difficulty regarding transporting youth, and for that matter even allowing youth out of their rooms for free time, because of the lack of security staff. He informed me

that the full security staff on the day shift should be 32, on the second shift should be about 20, and on the third shift about 12. At the present time, they are down 20 security staff, approximately 30 percent of what they need to adequately offer security.

This is not just a safety issue. As with IYC St. Charles, when one is down this level of security, there are other basic rights that youth have which simply cannot occur. Youth will not have a right to treatment because security staff are not going to be able to get them consistently to groups and other interventions. Youth are not going to be able to get their basic educational needs met because staff would not be able to get them to school. Also, staff cannot give youth time outside, or recreation time. Youth are spending excessive amounts of time in their cells, which leads to greater levels of frustration, higher levels of fighting, lower tolerance levels for working with staff, and not surprising greater conflicts with security and staff.

### **Mental health screening and assessment**

#### ***Identifying youth with mental health needs***

I had a difficult time in looking at exactly how IDJJ staff identify youth for mental health levels 1 (the fewest needs) through 4 (the highest needs). It seemed that youth are identified more in regards to the staffing the IDJJ had, and how frequently the youth could be seen, than what the youth's mental health needs actually were. The best example was a youth that I interviewed at IYC Harrisburg who was overtly psychotic. I was told he would be in his fecal smelling room about 22 out of 24 hours a day, was not on any psychotropic medication, and no one had a clear sense of what his diagnosis was. He was a mental health Level 2.

Any youth where there is concern over a possible mental health issue or is on a psychotropic medication should be evaluated by a psychiatrist.

#### ***Screening and assessment tools***

On the positive side, IDJJ is following up with different organizations regarding some of their valid rating scales, such as the MAYSI-2. Tom Grisso, PhD, who created the MAYSI, is coming back in to work with the IDJJ. Their use of the MAYSI-2 in my opinion has been helpful in regards to assessing youth in a variety of contexts. Other assessment tools such as the GAIN and CANS have also been helpful

in assessing the youth. Comprehensive clinical assessments in association with these scales need to then be implemented.

In my opinion, the IDJJ also has done a reasonable job in assessing suicide risk and doing initial screenings in a time efficient way.

***Idle time in the reception and classification units***

There are difficulties in the amount of time that youth have to stay in the reception and classification units, and with that the paucity of staff in these units. These difficulties require youth to remain in their rooms/cells, sometimes for weeks at a time if not longer, with only minimal breaks, and without significant activities, until they are placed into a dorm.

In my opinion, this would be an ideal setting for groups. This would allow staff to begin to get a better understanding of youth, not just from how the youth describe their history in different forms, but by what staff directly observe. Thus, if some youth are not being completely forthright in their forms regarding issues at hand, they can be observed by staff in groups prior to their placement. In short, the weeks that youth spend on the reception and classification units can be used in a more functional and useful way. Staff at the largest of these units, at IYC St. Charles, have expressed significant concern regarding this issue. This needs to be addressed.

In my opinion, it is a good idea to keep youth on Intake for a reasonable period of time, whether two or three weeks. However, this should only be done if there is reasonable programming that can be put into place, including recreational time, and a variety of additional diagnostic and treatment groups in assessing the youth. In association with evidence-based assessment tools which are being used consistently, this will allow staff to better understand the youth and their underlying mental health issues. In turn, this will help staff to make the appropriate recommendations for Cottages, and treatment, prior to release from the reception and classification unit.

***Classification by age within the classification units***

I have strong concern over having young youth, age 13 and 14, in the same environment as 20 or 21-year-old youth. This is essentially like putting a sixth or

seventh grader with a junior or senior in college. It is simply a potentially dangerous thing to do.

**Solitary confinement**

The United Nations (UN) has established minimum standards for juveniles in correction facilities. The UN resolution was approved by the General Assembly in 1990 and supported by the United States. They specifically prohibit the solitary confinement of juvenile offenders. Specifically, Section 67 states: "All disciplinary measure 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 juveniles concerned."

The American Academy of Child and Adolescent Psychiatry concurs with the UN position and opposes the use of solitary confinement in correctional facilities for juveniles.

**Confinement at the IDJJ for punitive purposes must stop.**

Measures to avoid confinement should be implemented, including appropriate behavioral plans, consistent de-escalation techniques, alternatives to confinement, and other interventional plans.

In my opinion, IDJJ has done a reasonable job in differentiating solitary confinement from "time outs." Essentially time outs within the facilities can be initiated either by youth or by staff, and is described as being less than a 1-hour period of time. If this is not a statewide definition, it is a reasonable one that should be implemented.

In addition, if any youth is confined for more than 24 hours on the grounds that they are in crisis and they are an immediate threat to themselves or others, they must be evaluated by a mental health professional, such as a child and adolescent psychiatrist when one is available. The facilities in IDJJ have done a good job in having youth that are on confinement for more than 24 hours evaluated by a mental health professional. However, the evaluations that I reviewed have been quite cursory. A structured format for the evaluation, and expectations of the evaluations, has not occurred. Assessment as to whether or not the youth is at an acute risk to

self or others seems to be made. Typically it is determined that a youth is not an acute risk to self or others, yet they remain on confinement. The concern here is that confinement is being used by the IDJJ a punitive measure, and not one of protection of either the youth or others.

The only facility at the beginning of the summer of 2013 that has essentially eliminated confinement is IYC Pere Marquette. They developed a 5-day program where youth are not removed from the general population, and they continue with programming, but they still must work with different staff and ultimately with senior security before they can go back to their base status.

IYC Kewanee and IYC Harrisburg have specialized treatment units for behaviorally problematic youth. These youth can end up being in their rooms for as much as 22 out of 24 hours a day. They are being segregated from the general population and this is confinement, regardless of what staff attempt to call it.

At IYC Kewanee, the confinement rooms were noticeably dirty. There was chipped paint, food and other debris on the floor. I spoke with security about this. They stated that essentially they don't have enough staff to clean the rooms. Security would not give the youth a broom to clean the rooms.

### **Hospitalization**

There needs to be better IDJJ assessment of youth that are acute and potentially in need of hospitalization. For example, one particular youth I recently met at IYC Kewanee was acutely psychotic, and in my opinion needed immediate hospitalization. The longer a person stays in a psychotic state, the higher the likelihood of long term and irreversible cognitive deficits, among other risks and difficulties, including violent behavior both to the youth and others. Hospitalization can be avoided if appropriate treatment is put into place and supported at the IDJJ. If not possible, it is necessary to hospitalize such youth. Hospitalizations are extremely rare. It is my opinion that use of hospitalization for those youth who are in need of such treatment should be put into place.

## **Psychotropic medication issues**

### ***Consent for medications***

Appropriate consents are not being obtained for psychotropic medications. The consents do not clearly spell out major side effects, or even specific goals. On occasion they will define the diagnosis, but not always. As such, there is no sense that there are options, and certainly not a clear sense of what the potential side effects and goals are, so the guardian or parent can make informed consent. This is something that is consistent in all of the IDJJ facilities and must be corrected.

### ***Stimulant medications for youth with polysubstance use***

Stimulant medications are being given to youth who have a history of polysubstance use. Although there is research to support that appropriate treatment of ADHD symptoms can decrease polysubstance and alcohol use in youth, it is generally not an accepted practice to use stimulants in youth with a history of polysubstance abuse. There are three different nonstimulant medications that are FDA approved for different types of ADHD symptomatology which should strongly be considered.

### ***Monitoring medications***

I was not impressed with the IDJJ follow up in regards to how treatment is impacting the youth. Most information given to the psychiatrist in follow up is from the youth. Occasionally there is an acute acting out behavior that is shared, but other symptomatology, which might be more subtle, is clearly not.

The use of rating scales, such as the Connors or Vanderbilt scales for ADHD symptoms, should be completed by teachers and potentially other mental health staff and security staff in regards to how the youth is doing. This will give the psychiatrist a much better picture of how the youth is doing. I would also use rating scales to further assess anxiety and mood symptomatology, in particular major depressive symptomatology. In addition, the use of involuntary movement scales needs to be used with all youth in a consistent fashion. This appeared to be used in some facilities, but not all. There are many youth on neuroleptic medications which among other things can cause Parkinsonian (extrapyramidal) side effects, and on rare occasions more significant movement disorders such as tardive dyskinesia,

which potentially is irreversible. I did not find, in the clinical follow up, assessment of these issues.

### **Discharge issues**

#### ***Discharge planning***

A clinician's involvement should include treatment, reassessing a youth's underlying mental health, the need for modification of treatment plans, and reintegration into the community. Yet, when talking to IDJJ clinicians, they expressed a vagueness in regards to community reintegration and a lack of full understanding of what is done. At some point in the near future, a new program for reintegrating youth which is being implemented in Cook County and hopefully statewide, will help with this process. Based on conversations with clinicians in IDJJ facilities, there seems to be a paucity of understanding of how this plan will be implemented and ultimately beneficial to the youth.

#### ***Continued confinement for lack of a community placement***

There continues to be a multitude of youth that are forced to stay at the IDJJ past their Administrative Review Date (ARD). Based on the information which I have reviewed, this is often caused by a lack of community based placements. There continues to be work in regards to this area. This is something that cannot be tolerated. There needs to be designs for community based programming to avoid youth staying longer than their ARD. This type of continued IDJJ confinement, against their will and after they have been rehabilitated, is simply a violation of their human rights.

#### ***Delayed discharge to complete drug treatment***

In my opinion, a youth should not be given additional time within the IDJJ solely to have a certain type of treatment program, such as a substance abuse program. This is particularly true if the youth is refusing the program. Within the community, when a youth is refusing substance abuse treatment, it is not continued. It may not be best for the youth that they don't continue it, but it is not continued because essentially it will fail. To force a youth to enter into a substance abuse program that they are opposed to, and to force on them additional set time in IDJJ for this purpose, violates their rights to refuse treatment.

### ***Medicaid upon discharge***

When youth entitled to Medicaid benefits are placed in IDJJ, they are dropped from their Medicaid. All services are provided through IDJJ. On the other hand, when such children and adolescents are placed in residential facilities in the state of Illinois, their Medicaid is not dropped. In fact, the funding through Medicaid can often be used to assist in funding a variety of medical and mental health services. When the youth leave residential programs, their Medicaid is in place and they are able to set up aftercare appointments. But youth in IDJJ have their Medicaid stopped.

I couldn't be given any examples of IDJJ youth having their Medicaid in place when they were discharged. Some of the rationale included difficulties connecting with families and other logistical concerns. In addition, nobody was able to discuss the questionable aftercare that youth have had in regards to medical health and interventions following release from IDJJ, and whether or not the lack of Medicaid coverage, even if brief, could have impacted this.

### **Other issues**

#### ***LGBT youth***

A mental health and developmental area which consistently occurs within IDJJ is a paucity of understanding of LGBT youth by staff, whether mental health, security or others. There needs to be better training in regards to issues dealing with Gender Identity Disorders. In association with this, a clear plan needs to be put into place which addresses treatment of such youth. I observed some of the difficulties with these youth within the facilities. Yet, their treatment plans are somewhat fragmented and piecemeal, and not clearly understood. A treatment plan can easily be put into place in the timeframe that the youth is in the reception and classification unit.

#### ***Specialized treatment units***

At present there is a special treatment unit at IYC Kewanee and IYC St. Charles. The units at the time of my assessment had no special treatment associated with them. The groups were no different than any groups being offered within the facility.

***IDJJ accreditation***

IDJJ has been quite proud about using Performance-Based Standards in trying to improve a variety of interventions for youth and the operations of the facility. However, there continues to be significant deficits. In my opinion, there should be an outside organization such as the National Commission of Correctional Health Care (NCCHC) or the American Correctional Agency (ACA) that accredits the IDJJ facilities and follows up with them.

***Mental health training for security staff***

There are youth at IDJJ facilities with significant mental health issues. Security has to have a better understanding of the mental health concerns and how to best address these youth. These are longstanding issues and complex ones, but ones that need to be addressed. When one has a youth that is depressed or with ADHD, and inappropriate comments are made to them, they will have a proclivity for impulsive acting out of self-defeating behaviors which can, among other things, result in violent actions. Additional training for security regarding mental health needs must be put into place.

***Hospital records***

There was a need to better attempt to get hospital records for youth who are placed in the juvenile system. This will greatly assist assessment and knowledge of prior medications, psychosocial concerns, and prior mental health diagnoses.

***Family therapy***

Mental health staff reported there is a paucity of family therapy. They reported that families rarely come to the facility and that they have no teletherapy capabilities.

***Juvenile sex offenders***

There did not seem to be any specific differences in regards to sex offender treatment approaches with the youth within the program, even though there was tremendous variability of psychiatric disorders.

Different staff worked in the juvenile sex offender program felt that not only are they using outdated materials, but that they have not been able to get new

material in regards to treatment. They felt the major difficulty with being able to do this is the lack of funding.

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# Attachment 2

**EXPERT REPORT ON SAFETY AND WELFARE ISSUES**

**R.J., B.W., D.F., and M.D., on behalf of all similarly situated persons, by their next friend Jeffrey Shaman vs. Arthur D. Bishop in his official capacity as Director of the Illinois Department of Juvenile Justice (Case No. 1:12-cv-7289)**

**Barry Krisberg, PhD.**

**Distinguished Senior Fellow and Lecturer in Residence, UC Berkeley School of Law**

**September 23, 2013**

**Purpose of This Report**

In January, 2013, I was appointed as a Court Expert in R.J., B.W., D.F., and M.D., on behalf of all similarly situated persons, by their next friend Jeffrey Shaman vs. Arthur D. Bishop in his official capacity as Director of the Illinois Department of Juvenile Justice (Case No. 1:12-cv-7289) (hereafter referred to as *R.J. v. Bishop*).

The areas of concern assigned to me involved issues related to the safety and welfare of inmates in the Illinois Department of Juvenile Justice (IDJJ). The purpose of this report is to summarize my observations of several key issues and to suggest adequate professional practices for the remedial plans in these areas.

In particular, the *R.J. v. Bishop* Consent Decree asked for a review of the use of room confinement and solitary confinement, safety issues including violence and the use of force, and commitments beyond release dates based on the lack of community placements. I will also provide some observations on issues of mental health services such as the adequacy of counseling and treatment services for the majority of youth, especially those with substance abuse and sexual offending. The parties also asked me to review the policies and practices in IDJJ relating to transgender youth. This report will include

observation on contextual factors that directly impact these topics and that must be considered by IDJJ in framing remedial plans.

### **Review Methods**

Beginning in March of 2013, and running through June of 2013 I visited every operating IDJJ facility—including the IYC Kewanee, IYC Warrenville, IYC Chicago, IYC Saint Charles, IYC Harrisburg, and IYC Pere Marquette. Typically my visits would last 1 to 3 days depending on the size of the facility's resident population of the facility. I toured each facility extensively and visually examined all living units and resident rooms, as well as school areas, recreation facilities, dietary facilities, libraries, and medical treatment spaces.

Before each site visit, I requested and received as much of the following information that was available from each facility or from IDJJ Headquarters:

#### Context

1. A review of developments in legal, budgetary, and policy issues impacting IDJJ facilities.
2. Facility population trends in terms of admissions, exits, and one-day snapshot of each IDJJ facility. This included basic descriptions on age, gender, county of commitment, offense type, and prior residential commitments. If possible, we sought data on prior child welfare placements of current IDJJ secure youth
3. Staffing patterns—especially vacancies at each facility—and any added budgeted positions.
4. Number of staff doing required extra shifts.
5. New policies implemented in IDJJ or new laws impacting IDJJ.

#### Violence and Fear

6. Trends in violent incidents, youth-on-youth assaults, youth-on-staff assaults—by facility and by living unit.
7. Trends in arrests of residents in IDJJ facilities, criminal prosecutions, and transfers to Illinois Department of Corrections or local jails of youth by each IDJJ facility.

8. Trends in serious disciplinary offenses by facility and living unit.
9. Use of Force (UOF) incidents by facility, living unit, and type of force utilized.
10. Use of restricted programs including transfer to the confinement units, temporary room detention, and limited programs for individual youth.
11. Group disturbances and facility lockdowns
12. Injuries to youth or staff requiring medical attention
13. Staff days out on disability due to job-related injuries
14. Number of youth requiring medical attention for injuries or illnesses

#### Access to Remedies and Institutional Climate

15. Grievances filed by youth by type, facility, and living unit, and the resolution of these grievances.
16. Trends in complaints to the Office of Ombudsperson.
17. Numbers and resolution of staff misconduct investigations.
18. Trends in Performance-Based Standards (PbS) data on safety, order, and justice measures by facility.
19. Staff and youth institutional climate surveys—trends by facility.
20. Number of youth in various phase and incentive levels over time.

#### Implementing Treatment Programs

21. Number of youth with up-to-date classification and treatment plans.
22. Number of youth with completed Crisis Intervention Plans.
23. Number of youth with treatment team reviews completed in the prior 90 days.
24. Number of youth receiving visits and/or participating in family day events.
25. Number of youth by facility not attending school full time, by reasons.
26. Number of youth with institutions jobs and enrolled in vocational programs.
27. Number of youth by facility and living unit receiving religious services or instruction.
28. Trends in school absences or expulsions.
29. Number of youth in designated mental health or other disability status.
30. Number of hours per day engaged in positive pro-social activities by facility, living unit, and type of activity.

Upgrading Staff Training

31. Training received by staff in treatment components, safe use of force, and other topics—numbers of staff trained by job category and hours of training received.
32. Number of staff certified in trauma-informed treatment.

Public Safety Outcomes

33. Number of youth paroled or discharged.
34. Numbers of youth by facility who participate in leadership activities such as student councils, peer advising, etc.
35. Number of youth released from IDJJ who are returned to state custodial facilities within 12 months.

At each facility, I conducted private and confidential interviews with about 10 percent of the youth resident population, nearly 100 youngsters overall. I selected the youth to be interviewed at random from the daily roster. I attempted to get a fair cross-section of all living units and all youth behavioral phase levels. In a few cases, I also interviewed youth at the suggestion of the Illinois ACLU. These interviews were conversational in nature but covered most of the issues of interest in the *R.J. v. Bishop* Consent Decree. Interviews lasted at least 15 minutes but some were longer if the residents had more to tell me.

I also conducted interviews with facility managers and staff who were directly responsible for key areas of concern in the Consent Decree. When possible, I attended regularly scheduled management meetings and met with facility chaplains.

At the close of each site visit, I offered a brief and informal summary of my observations to IDJJ managers. Soon after the visits, I also provided a short written overview to the parties. In cases in which youth named specific staff and alleged serious misconduct, or raised concerns for their safety, I shared this information with the facility administrator, the plaintiffs' and defendants' attorneys, and with Ron Smith of IDJJ Headquarters.

It is important to note that the interviews captured perceptions of these young people; verifying the accuracy of these observations would require much more in-depth analysis and investigations. Still, the noted Chicago Sociologist W.I. Thomas taught us that "what people perceive as real, is real in their

consequences.” Thus, youth fears and perceptions of the lack of safety and staff neglect color how they respond to adults and how well they respond to rehabilitation efforts by IDJJ.

In addition to the site visits and data review described above, I reviewed a series of reports about IDJJ and several of its facilities that was written by the John Howard Association.<sup>1</sup> I also reviewed pertinent professional standards that help define adequate juvenile corrections practices in the areas of the Consent Decree that have been assigned for my review<sup>2</sup>

### **The Milieu of Juvenile Justice Reform in Illinois**

Powerful and significant forces have been impacting juvenile justice in Illinois. In 2006, the state legislature created the current IDJJ and separated most of its operations from the Illinois Department of Corrections (IDOC). In effect IDJJ needed to create policies and procedures from scratch, while still operating the existing facilities and absorbing most of the existing IDOC staff. The newly created IDJJ needed to absorb and bring about a cultural shift among staff and mid-level managers whose professional perspective was that of running prisons for younger inmates. The continuing legacy of that prison culture is a major challenge faced by IDJJ.

Certain centralized administrative functions remained with the IDOC. Although the transition of IDJJ as a separate agency that was apart from the Illinois DOC was supported by most judges and juvenile justice advocates, by many accounts, the new IDJJ was not given sufficient budgetary support to meet its enhanced mandate to provide treatment and rehabilitation programming. IDJJ continues to receive youth from the juvenile courts as well as some youth convicted in criminal courts under the age of 17. These youth are referred to as “Juvenile Felons” within IDJJ, and these youth may continue to serve their sentence in IDJJ until age 21, although the Director has the discretion to transfer these youth to DOC at age 18.

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<sup>2</sup> These standards include those promulgated by the Council of Juvenile Court Administrators, the American Corrections Association, the Annie E. Casey Foundation Juvenile Detention Alternatives Initiative, and the United States Department of Justice.

Generally the DOC has continued to handle parole for most IDJJ youth, although youth from Cook County are now supervised by IDJJ Aftercare Specialists under a pilot program, and DJJ has plans and funding to take the Aftercare program statewide and assume all responsibilities from DOC for all juveniles on parole status. Separately, there are youth who are referred to in DJJ as “Court Evaluation” youth or “Callback” youth. These are youth who were previously under local county juvenile probation supervision. The juvenile court judge retains jurisdiction over the case and after violations of probation may commit the youth to IDJJ, which is legally a permanent indefinite commitment (which generally lasts under Illinois law until age 21 with the possibility of parole at any time but with parole required by age 20), The judge, however, will set a follow up court date to receive a report on the youth from IDJJ and may at that time vacate the commitment to IDJJ returning the youth to county probation supervision. The judge may also elect to return the youth to IDJJ on the indefinite commitment.

Cook County settled lawsuits on crowding and poor conditions of confinement in its Secure Detention Center. These settlements meant that some youth who traditionally would be housed at the Cook County Detention Center were now going to be handled, at least on a temporary basis, in IDJJ facilities. The operational complexities of this arrangement will be discussed later in this report.

As all these organizational shifts were occurring, the arrest rate in Illinois continued to decline, even as the media reported a major upsurge in youth violence in Illinois’ urban areas, especially Cook County. From 1997-2007, the Illinois Criminal Justice and Information Authority reported that the statewide violent arrest rate declined by 24 percent and arrests for serious property crime went down by 30 percent. These downward arrest trends appear to be continuing, although later statewide figures are somewhat incomplete.<sup>3</sup>

For IDJJ, this trend and other sentencing reforms led to a major drop in the average daily population in Illinois state juvenile corrections facilities. For example, during 1997-2010, commitments to juvenile residential facilities in Illinois declined by 40 percent; Cook County dropped its number of state commitments by 45 percent. Counties were sending fewer youth to IDJJ and the length of stay was also declining.<sup>4</sup>

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<sup>3</sup> The best source of Illinois crime and arrest statistics is available from the Illinois Criminal Justice Authority at [www.ICJIA.state.Illinois.us](http://www.ICJIA.state.Illinois.us)

<sup>4</sup> Barry Krisberg et al., *JDAI Sites and States; An Evaluation of the Juvenile Detention Alternatives Initiative*, Berkeley, Ca: Chief Justice Earl Warren Institute, UC Berkeley Law School. March 2012.

In turn, the decreasing IDJJ resident population created intense fiscal and political pressures to close existing facilities and to reduce staffing levels throughout IDJJ. In 2013, IDJJ closed a major youth facility in Joliet and a smaller facility in Murphysboro in 2013. The maximum security population from Joliet was moved to IYC Kewanee. Kewanee has housed, since its opening in 2001, the statewide population of youth with acute mental health treatment needs, and juvenile sex offenders. Kewanee was built to maximum security specifications. During my site visit to Kewanee, a large number of youth who had violated parole were transferred to Kewanee from Joliet.

During my round of site visits, it was unclear if there would be more facility closures or where various specialized programs would be located in the near future. For example, IYC Warrenville had been co-ed, but was now a female-only facility; however that might change in the future.

IDJJ facilities and programs are still very much works in progress. Youth residents and programs had to be relocated quickly in the past year, with minimal to no time for planning these movements. Staff from closed institutions were assigned to open ones, and each facility had to develop plans to train and acculturate the new staff.

With a grant from the MacArthur Foundation, IDJJ is now taking an objective look at its existing facilities and programs and determining the appropriate missions and functions of each one. During my visit, several of the facilities were experiencing a significant increase or decrease in their resident population. There were also major repairs and renovations going on at some facilities, especially Kewanee, Pere Marquette, IYC Warrenville, and IYC St Charles. The sense of uncertainty and the potential issues of job security with IDJJ have led to requests for transfers to other state agencies from IDJJ, increased rates of retirements and generally low morale at virtually all of the IDJJ facilities that I visited.

## **MAJOR FINDINGS**

### **Strengths and Positive Developments**

IDJJ has produced a very complete set of operational policies covering safety and welfare issues. These policies cover most of the major concerns of this consent decree. I have compared these policies to those now being developed or utilized in several major states. In my opinion, these policies are consistent with the thinking the juvenile justice field. The key next step is to ensure that all staff have

received up-to-date training in these policies, that, where appropriate, policies are revised and amended subject to new federal and state laws, and that management has built a monitoring system to gauge the extent that the policies are being followed in practice.

IDJJ has a reliable and valid custody classification system for assigning youth to various living units; this system needs to be augmented by a needs-based or dynamic classification process. IDJJ is moving towards building a classification process that is primarily based on youth behavior.<sup>5</sup>

Other findings include the following:

- The vast majority of IDJJ employees are concerned for the well being of the youth and want to help them succeed.
- IDJJ facilities are implementing a multi-disciplinary team management approach that includes the mental health staff, educators, living unit staff, and counselors.
- Living unit sizes are currently well within existing professional norms with the exception of the Intake Units; double-celling is rare, and there are few open dorm settings.
- Most youth residents report that the majority of the staff act in professional manner, however there are some staff that are engaging in troubling abusive verbal behavior of the youth.
- IDJJ is moving aggressively to learn about and begin implementation of the PREA requirements.
- IDJJ is committed to the PbS standards and collects these data on a regular basis.
- Most of the IDJJ facilities possess substantial space for outdoor recreational activities.
- IDJJ has excellent administrative staff at each of its facilities that support management and monitor compliance with key policies.

IDJJ has been open to ongoing monitoring and inspections by the John Howard Association (JHA); the regular round of JHA reviews is often answered by IDJJ top managers in a timely, constructive, and responsive manner. The JHA has noted that Warrenville has made strides to reduce the use of confinement and has made some cosmetic improvements to soften the prison-like environment of this 44-year old facility. At Kewanee, where mental health services are hampered due to radical understaffing, the JHA credits the managers there for providing some additional online educational and vocational services.

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<sup>5</sup> S. Christopher Baird et al., A Comparison of Risk Assessment Instruments in Juvenile Justice, Oakland, CA: The National Council on Crime and Delinquency, August 2013.

## **Ongoing Concerns and Areas of Needed Improvement**

### Staffing Shortages

IDJJ faces significant staffing problems in terms of direct care staff, educators and mental health staff. This means that many youth especially at IYC Saint Charles, IYC Kewanee, and IYC Harrisburg spend many hours in their rooms. School programs, counseling, visiting, and recreation and education programs are often curtailed due to staffing problems. Idleness is endemic. The youth express their extreme boredom and feeling that they are receiving virtually no educational, recreational, and counseling services. IDJJ youth at these understaffed facilities are not getting an adequate amount of pro-social activities during a typical day. When out of their rooms, the standard activities for most IDJJ youth involve sitting in the day rooms, playing card games or dominos or watching television. The lack of staff also creates a perception of lack of safety on the part of the youth and the staff. Inadequate staffing inhibits the delivery of training to existing direct care staff, and this creates even more pronounced staffing shortages.

A 19-year old at IYC Harrisburg reported that he gets 4 hours of school but is otherwise locked in his room. Many youth complained that the corrections officers “beat them out of rec” because they are too busy to provide sufficient out-of-room recreation time.

Youth perceive the staff to be too busy to really listen to and engage with the IDJJ youngsters. The staff have the same complaint. A 17-year old said, “The staff act like they care, but they don’t really care about us.” On many living units, the ratio of youth to direct care staff can be as high as 18 to 1 during the day. While there are no agreed upon national staffing standards in juvenile justice, according to reports from the Council of Juvenile Corrections Administrators, the largest juvenile corrections systems are aiming at a ratio of 12 to 1 or even lower levels for high-risk youth and mental health units. The new federal PREA standards establish a staffing goal for secure facilities of 8:1 during waking hours and 16:1

during sleeping hours.<sup>6</sup> Youth advocates are argued that these ratios should be lower — 6:1 during the day for residential facilities and 12:1 during waking hours.<sup>7</sup>

A clear exception to this finding of inadequate staffing exists in the specialized Drug Treatment Units, such as the Wells Center, where grant funding has enabled IDJJ to provide additional staffing. At Warrenville the staffing ratios are much better due the transfer of many staff who formerly were assigned to IYC Joliet. Staff youth ratios are better at IYC Chicago and IYC Pere Marquette, but these are much smaller facilities that generally manage low-risk youth who are transitioning home.

Staffing problems are created by a number of factors, including inadequate budgets, a temporary state hiring freeze, union rules regarding staff assignments, lack of unit management teams, and paid leave for health and injury reasons that limit the amount of staff that can be actually deployed on the living units. Further, past limits on the training academy offerings also limit the number of newly hired staff that can be assigned to the living units and are adequately prepared for these assignments.

Staffing shortages are also created by Illinois policies and practices of housing youth who are involved in daily court activities or parole hearings in several of the larger counties, especially Cook County. Every day, a number of IDJJ direct care staff are diverted from providing direct care to youngsters in the facilities so that they can transport youth who have writs in various counties. This can sometimes mean multiple moves for youth who are housed at IYC Saint Charles and IYC Kewanee and who are moved to different locations before being taken to court hearings in northern counties. This problem of writs also occurs at IYC Harrisburg. Staff involved in transporting youth to court hearings are often tied up for entire days with those youth who are awaiting hearings. In most jurisdictions across the Nation, these youth would be transferred to local juvenile detention centers or jails (for adults) pending court processes.

A long standing consent decree in Cook County regarding jail conditions and population, created motivation for Cook County to take all steps possible to keep its jail population down. One approach utilized was to ensure that all youth with active parole violation warrants are returned to IDJJ, even though they may have local charges pending. In most counties outside of Cook, where severe jail overcrowding is not an issue, the county would simply hold the arrested parolee in the local jail pending

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<sup>6</sup> 28 C.F.R. Subsection 115.313(c), 2112 or [www.prearesourcecenter.org](http://www.prearesourcecenter.org)

<sup>7</sup> The Prison Rape Elimination Act Standards: Comments from Youth Advocates on Minimum Staffing Ratios in Juvenile Facilities, Center for Children's Law and Policy, Washington D.C. August 20, 2012.

trial and the parole violation warrant served as a “hold” so the individual could not be released on bond. However, Cook County “executes” the warrant by returning the youth to IDJJ despite the pending new charges. IDJJ issues a warrant based on the arrest, asking for return to IDJJ of the youth, as it is required by law to do in many cases for many offenses. While IDJJ staff historically referred to these youth as “Consent Decree” youth, it was not because of any consent decree involving IDJJ or by any agreement by IDJJ.

This population for the most part are older, (aged 18-20) returned DJJ parole violators facing new adult criminal case charges, mostly from Cook County. Many of these youth face serious felony charges and their cases often may take a year or two to go to trial or resolve by plea. This creates frequent court writs for a large population of youth now housed at Kewanee to return frequently to Cook County, and for logistical purposes they are moved via a transfer to St. Charles.

Other Illinois counties prefer that IDJJ handle these writs because it saves local resources that might otherwise be expended in transporting youth. As of my site visit, IDJJ did not have a separate or dedicated transportation unit, meaning that IDJJ facility staff were drawn into these responsibilities.

The issue of writs and of significant and frequent movements of youth between facilities puts some IDJJ young persons in “visitor” status, which means they are receiving no school, no counseling and few if any other programs. These youth get fed, get showers, and receive minimum recreation time.

Moreover, there are three facilities where IDJJ operates intake units that conduct diagnostic workups. During intake, the youth are receiving no schooling, no resource groups, and they get only minimal recreation time. Youth in the intake units spend most of their days in their rooms or in the day rooms.

#### Excessive Use of Confinement and Inadequate Living Conditions

Increasing concern has been expressed by a number of groups about the adverse mental health effects of solitary confinement and isolation on adolescents. Human Rights Watch and the American Civil Liberties Union assert that while very short periods of isolation might be needed as an emergency security measure, these groups advocate that states eliminate longer durations of solitary confinement

for juveniles. The Youth Law Center and the Annie E, Casey Foundation has provided a series of very strict guidelines of the use of room confinement, isolation and “time outs”<sup>8</sup>

A United Nations Investigator on torture, Juan Mendez urged a complete ban on the practice of solitary confinement and isolation and the American Academy on Child and Adolescent Psychiatry endorsed this view. Young people are believed to especially suffer from extreme isolation and this experience may accelerate their mental deterioration.

The ACLU and the Southern Poverty Law Center won a settlement from Mississippi to refrain from holding youth in isolation for more than 20 hours. West Virginia juvenile authorities have reached a similar conclusion and Montana and California have also responded to litigation to greatly reduce the use of isolation.

Many correctional practitioners do not believe that isolation of juveniles is a valid practice. One view is that such practices may increase youth suicides or self harming behavior. Others assert that youth who are “acting out” need more attention from adult caretakers, not less.<sup>9</sup>

Illinois DJJ leaders have already expressed their interest in limiting the use of isolation and solitary confinement. The JHA has noted that there has been progress on the issue at IYC Saint Charles and IYC Kewanee. Stays in confinement are generally very short, often less than 24 hours, but some youth remain in confinement for longer periods.

IDJJ makes extensive and varied use of its confinement units. There are living units dedicated to confinement at each of the larger IDJJ facilities and at IYC Chicago. At Pere Marquette confinement is accomplished in one section of the regular living unit. During my visit, IYC Warrenville was using the youths’ own rooms as its confinement program, but I was told that after the renovations at Warrenville, there would be a separate confinement wing.

The living conditions in the confinement units were often harsh and of substandard quality. The rooms at IYC Kewanee, IYC Saint Charles and IYC Harrisburg were generally unclean, with the noticeable smell of feces and trash in the room and in the unit corridors. The youth were required to wear orange

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<sup>8</sup> Youth Law Center Juvenile Detention Standards, [www.ylc.org](http://www.ylc.org) and Juvenile Detention Alternatives Initiative, Detention facility Self Assessment: A Practical Guide to Juvenile Detention Reform. Baltimore, Md: Annie E Casey Foundation, 2006.

<sup>9</sup> These developments are summarized by David Creary in “Solitary Confinement for Youth Should be Banned, Makes Juvenile Go Crazy” Huffington Post, Oct 10, 2012.

jumpsuits without undergarments. Young people sleep on very thin mattresses with one small cover. Almost all of the youth that I interviewed at IDJJ who had been assigned to these living units complained bitterly that the confinement units were cold and unsanitary.

Youth in confinement status receive no schooling, no resource groups, and only about 90 minutes per day of recreation. In confinement, recreation often means that youngsters are being placed in a holding room by themselves with a bench, and minimal to no exercise or sports equipment. For example, at IYC Kewanee, youth could watch a television from a cage-like recreation area. Youth in confinement complain that they are given very small meals and not permitted commissary except for basic hygiene items. Youth complained that they were required to have cold showers while in confinement.

Counselors visit the youth briefly, and a mental health professional typically spends less than five minutes asking the youth if they were experiencing any stress. The youth called this “drive-by” counseling. These contacts would generally occur in the morning, and the youth residents claimed that they typically not see or talk to mental health staff or counselors for the rest of the day.

Confinement living unit staff are supposed to conduct a visual contact with youth every 15 minutes. However, the log books documenting these contacts were often incomplete. According to IDJJ managers, these visual checks were being accomplished but some IDJJ facilities would find it difficult to document this practice. Likewise, the living unit logs did not always record visits to the youth by counselors, mental health staff, medical personnel or chaplains.

IDJJ utilizes its confinement units for multiple purposes. Some youth are housed there briefly for disciplinary reasons; others are there pending further investigations of potentially serious disciplinary infractions, and still others are placed in the confinement units pending transfer to other facilities.

IDJJ also uses the confinement unit for mental health youth who are determined to be in crisis. Young people who were assigned to mental health units told me that they were very hesitant to tell counselors or mental health staff that they were in crisis, since this would mean moving from regular units or mental health programs to the unsavory and harsh conditions in the confinement units. The JHA noted this problem in its audit of IYC Kewanee in 2012. Youth are sometimes placed in confinement for other health reasons such as potentially communicable diseases or injuries that might require limited programming for a short period of time.

Some youth were “guests” on the confinement units—these youth occupied a bed on the confinement unit but attended school and participated in the regular programming with their assigned living units. This practice occurred when the regular living units exceeded their design capacity or if construction reduced the number of available rooms on the regular units.

As noted earlier, IDJJ uses confinement for very short durations—often less than 24 hours. Some youth have been in confinement for over 72 hours. Based on my interviews, it seems that a large proportion of youth in IDJJ have experienced a stay in confinement for some period of time of their commitments. Some IDJJ youth have had many repeated placements in IDJJ confinement. The population of these units varies widely on a daily basis subject to incidents that occur among the youth, or inter-facility transfers.

Residents of confinement are often cuffed and wear leg shackles when not locked in their rooms. These extreme physical constraints are applied to youth without regard to the risk of harm that they present to themselves, to other youth, or to staff. At each facility there are listings of the youth who are in confinement each day and the principle reasons for their assignment to these places. Several of the youth in mechanical restraints were in confinement due to “defying staff instructions,” arguing with staff, or “disrupting the regular daily schedule.”

In effect, the confinement units in IDJJ are a “catch all” for a wide range of youth who present unique, troublesome, and specialized issues. Staff assigned to confinement units are on “high alert” and react to most of the youth as if they pose imminent threats of engaging in violence or other serious rule infractions.

When I visited the confinement units at IYC Saint Charles and IYC Harrisburg unannounced, these units were often very chaotic in nature. Youth were screaming, banging on doors, or throwing lighted matches through day slots. I did not observe staff attempting to calm these situations. When these units are at capacity, there were not enough staff on duty to resolve many individual youth problems with dialogue and conflict resolution approaches.

Chemical restraints were sometimes utilized in the confinement units to quell group disturbances, fights, and other acting-out behavior. During my site visits, facility administrators, mental health staff, and middle-level managers were not very visibly present in the confinement units.

It was hard to discern the valid penological purpose of confinement in IDJJ other than delivering a short dose of punishment to troublesome youth. There was no real treatment, education or counseling in

these units, and many staff explained to me that the harshness of the conditions of the rooms and the stark daily schedule served as a deterrent to youth to not misbehave.

Rules governing who enters confinement and when youth are permitted to return to regular living units seem largely arbitrary and not connected to treatment plans for individual youth. The initial placement decision is usually made by a correctional officer and signed off by the Chief of Security at each facility. One to three days later, the initial placement decision to confinement is reviewed by a multi-disciplinary team. Youth are generally released from confinement right after these multi-disciplinary reviews. Placement in confinement often means a drop in the youth's behavioral phase level, lost privileges, as well as additional time added to the youth's expected release date. The risk level of youth in the confinement unit are often determined by the original or supposed offense that led to the youth's initial commitment to IDJJ, not to their behavior while in IDJJ facilities. All sex offenders and many mental health youth were considered as "threats to escape," although youth being AWOL from most IDJJ facilities was very rare.

#### Responding to Staff Misconduct

IDJJ faces a very serious problem in terms of living unit staff verbally abusing the youth with demeaning, racial and sexualized insults. A 19-year old complained that a staff person called him a "bitch." He filed a grievance but received no response. Other youth reported that staff cursed all the time, calling them "bitches," "whores," and the "N word." Another youth told me that many staff say "gay stuff" such as "I can't wait 'til you turn 18 so I can get in your butt hole" One youth told me that it was fairly common that staff "wrestle around with youth." A 21-year old at Harrisburg reported that staff say racist and disrespectful things all the time. A corrections officer at Harrisburg told one youth, "I get my rocks off fucking with guys." This same youth claimed that a corrections officer told him to assault another youth. Some youth asserted that staff use bad language and some touch the youth inappropriately. Some youngsters at IYC Saint Charles also alleged that staff were touching them in sexual manners. One youth at IYC Kewanee claimed that he was sexually abused by youth and staff in the confinement unit.

Youth do not claim that staff are physically mishandling them, except in very rare instances. The females at IYC Warrenville did complain that there were some staff, especially the transferred IYC Joliet personnel, who treated them too roughly. There were assertions that some staff assigned to the Phoenix Program at IYC Harrisburg were too rough with the youth and, at least, often threatened them with bodily harm.

The IDJJ young residents describe daily verbal assaults by some staff that question their gender identities, threaten physical violence, attack the integrity of their families, and suggest that these youth will continue as criminals. This problem was reported to me by the majority of youth who I interviewed at IYC Saint Charles, IYC Kewanee, IYC Warrenville, and especially at IYC Harrisburg. The youth referred to staff as “playing the gay role”, which entailed highly sexualized, homo-erotic threats to the youth. Managers seemed unaware of the magnitude of this problem. Under my promise of confidentiality and privacy, the youth repeatedly named the specific staff that engaged in this behavior and quoted their phrases exactly as they recalled them.

The youth suggested that this verbal abuse was a daily occurrence. Although it is probable that only a small number of staff engage in this serious misconduct, others who observe this illegal behavior do not appear to intervene or file formal reports. Youth have complained through various methods and sometimes the allegedly offending staff are reassigned to other living units. However, it appears that only rarely are strong disciplinary personnel actions taken. IDJJ managers expressed concerns that adverse actions against allegedly offending employees would be met with strong union opposition and difficult state personnel policies. IDJJ managers attempt to thoroughly investigate every single alleged reportable incident that comes to their attention. The staffing problems at IDJJ also limit the number of personnel that can be assigned to these inquiries. The complication for IDJJ Central Office is if facility staff are aware of staff misconduct but fail to report these events up the chain of command.

Staff sometimes minimized the seriousness of this behavior as “teasing or horseplay,” but it was my strong impression that many youth were frightened and upset by this staff behavior. A survey of youth by the US DOJ on sexual abuse of youth found that Illinois had one of the highest percentages of residents that reported being sexually abused or molested, mostly by staff. Fully 15 percent of IDJJ youth said that they had been victimized in a sexual manner. In this federal survey, IYC Harrisburg had a substantial number of youth who complained about staff sexual misconduct. IYC Joliet, now closed, was rated one of the worst ten juvenile correctional facilities in the nation.<sup>10</sup>

Youth do not have confidence that the existing complaint or grievance system is sufficient to resolve serious problems. The youth often believe that the staff destroy the grievance reports and that the staff always take the side of another staff member and never the youth. At IYC Kewanee, IYC Saint Charles,

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<sup>10</sup> Allen Beck, Paul Guarino and Paige Harrison, *Sexual Victimization in Juvenile Facilities Reported by Youth 2008-2009*, Washington, D.C.: United States Bureau of Justice Statistics, NCJ 228416, January 2010.

and IYC Harrisburg the youth even reported that staff members would pay residents to attack other youth who the staff did not like. Other youth reported that staff would organize fights among residents for their own entertainment. These adverse reports came from youth in virtually all living units, from youth with very positive behavior records, and those going home very soon.

Generally, the youth have positive impressions of the top facility administrators, counseling, education, and mental health staff. The very negative youth attitudes towards IDJJ employees are directed at the corrections staff. Youth believe that the top administrators and middle level managers do not know, or want to know, what is happening to them. Some staff confidentially confirmed with me the youth reports of verbal abuse. The explanation given was that this conduct was a legacy of the days when IDJJ was run by IDOC. The current top leadership of IDJJ does not condone this staff misconduct but feel that a change in traditional adult prison staff culture was difficult to achieve very quickly.

#### Fear and Safety Concerns among IDJJ Residents

Many IDJJ youth express concern for their personal safety. Approximately two-thirds of the IDJJ youth that I interviewed said that they did not feel safe. Concern over safety was especially high at IYC Chicago, IYC Saint Charles, IYC Warrenville, and IYC Harrisburg. There were far less safety concerns expressed at IYC Kewanee and IYC Pere Marquette. The physical plant at Kewanee creates more structured movements, but the transfer of youth from IYC Joliet did lead to an increase in fighting. Youth report that there are many fights every day but they believe that staff try very hard to intervene quickly to stop escalation of these physical confrontations. Most of the fighting involves one-on-one scuffles, with few multiple youth fights. Fights occur during movement to programs, in the day rooms, and in the school areas. A particular safety concern among residents was expressed about the intake units, where there is a broad range of youth (in terms of risk level) living in close proximity and a fair amount of testing of new residents by more seasoned and aggressive youngsters. Also. Youth violence tends to peak as large numbers of youth are moved between IDJJ facilities.

Current monthly reports that are produced for each IDJJ facility show a very small number of youth –on-youth assaults, and virtually no group disturbances. The number and seriousness of assaults in IDJJ institutions is lower than I have observed or reviewed in other states such as New York, Ohio, Texas, and California

IDJJ managers express doubts as to the accuracy of existing agency data on youth violence; however the PbS data show a low level of serious youth injuries due to assaults by other residents. The low numbers of fights and assaults reported in recent IDJJ monthly data may also be a function of the extensive use of room confinement and limited out-of-room programming. The free movement of youth is extremely curtailed and thus there are far fewer opportunities for aggressive and assaultive misconduct.

As noted earlier, IDJJ responds quickly to facility violence, but the response is primarily oriented towards creating a very fast response time for security staff and around disciplinary steps for offenders. There are few specific violence-prevention programs for IDJJ youth being implemented. IDJJ does not have crisis intervention plans for each youth to help staff identify the cues for violent behavior. The after-action process by IDJJ staff tends to be “tactical,” and correctional staff do not appear to have a clear sense of the causes of upsurges in fighting. Many IDJJ correctional officers told me that much of the fighting is related to youth residents trying to define the institutional “pecking order.” There is fighting between youth from different home communities and among some clique members, but IDJJ staff do not view gangs as a major cause of fighting in IDJJ facilities.

Some youth expressed the view that it was the staff that made them feel unsafe. This is related to the issue of verbal abuse discussed above. There are a few IDJJ employees that allegedly tell the youth that the residents are powerless and that there will be retaliation for complaining. One staff supposedly told several youth that he would claim a work-related injury and get a “paid vacation” if the residents attempted to defend themselves.

Youth also complain that some staff are extremely strict about minor violations. Residents would try to avoid these staff, fearing that disciplinary checks would lead to loss of privileges, transfer to the confinement unit, or time added to their sentences.

IDJJ has a number of excellent policies governing the appropriate use of force (UOF) and the process of investigating its use. The IDJJ relies on daily reviews of video recordings in each facility to monitor force incidents. Full camera coverage in all IDJJ facilities will require additional investments, but would be an excellent investment.

Typically, IDJJ managers review unusual incident reports that are submitted daily and then the managers watch the appropriate video recordings, if available. The review of UOF incidents is generally handled by the facility chiefs of security under the guidance of the Deputy Director of Operations Ron K.

Smith. UOF incidents are determined to be in compliance with policy, or not, in which case, a range of sanctions are available to discipline IDJJ staff.

Based on IDJJ's own data and the PbS reports, rates of the use of restraints have been trending downward in recent years at IDJJ. Staff have received some training in resolving conflicts with youth without resorting to force. As noted earlier, mechanical restraints (such as handcuffs, and jackets) are still utilized on a routine basis, but chemical restraints (such as OC spray) are rarely employed, usually only in the case of rare group disturbances. IDJJ policy prohibits the use of chemical restraints with mentally ill or disabled youth. There have been some recent incidents in which chemical restraints were utilized in transporting youth to court hearings, and IDJJ is presently reviewing their policies and practices in this area.<sup>11</sup>

IDJJ could increase its training of staff on avoiding the UOF incidents and using conflict resolution strategies instead. It is suggested that more incidents could be avoided by including other staff—especially mental health staff—in resolving these issues. In addition, there should be a mandatory follow-up interview with the youth after UOF events.

Correctional staff also should receive supplementary training in writing behavior reports on UOF incidents to improve the level of detail and the quality of these reports. IDJJ needs to commit to improving the reliability and validity of data collected on UOF. IDJJ should to collect data on the time of, location of and reasons for incidents. Both the youth and staff who are repeatedly involved in UOF incidents should be reviewed by IDJJ managers to identify required intervention plans. IDJJ should publicly and consistently reward staff for avoiding UOF in appropriate situations.<sup>12</sup>

#### Need to Strengthen and Enrich IDJJ Rehabilitation Services

Although the leadership of IDJJ is committed to building a strong education and treatment model, the current systems and practices in IDJJ are inadequate and in need of major reforms. As noted earlier, facility staff do not consistently evaluate youth with a valid needs assessment tool that can direct

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<sup>11</sup> There is growing a growing consensus that chemical restraints should be eliminated or greatly restricted in juvenile facilities. Chemical restraints should never be used except in life threatening situations and not use for mentally ill and other disabled youth. Morgan Lewis, "Memorandum to Barry Krisberg on Chemical Agents in Juvenile Facilities" Chief Justice Earl Warren Institute, UC Berkeley Law School, September 6, 2013.

<sup>12</sup> The California Division of Juvenile Justice conducted a comprehensive review of UOF in its facilities using a multi-disciplinary team of staff and court experts. The resulting policy is similar to what is described above and forms of the basis for training and headquarters review of all UOF incidents.

treatment planning. Very few youth (outside of the Ida B. Wells Center) receive regular and consistent rehabilitative interventions. Though the IDJJ youngsters told me that they value the resource groups that are offered, these groups are provided in an inconsistent and haphazard manner. Many IDJJ young people reported to me that they do not participate in any resource groups.

The last significant study of the recidivism rates of IDJJ releases was conducted based on cohorts of youngsters who exited IDJJ facilities in 2005-2007. The results were very disheartening. Over 85 percent of youngsters who went through IDJJ programs were re-arrested on the following 36 months, most for serious and violent felonies. Of these former IDJJ residents, approximately two thirds were re-incarcerated in a state correctional facility within three years of leaving IDJJ facilities. These recidivism data should be updated and utilized by IDJJ leaders based on more current information on youth leaving IDJJ facilities.<sup>13</sup>

IDJJ is not currently employing evidence-based treatment models with the exception of the substance abuse programming offered by the Ida B. Wells Center and the Family Integration Therapy (FIT) program. I have significant concerns about the fidelity of most IDJJ rehabilitation programs as they are implemented, compared to proven or tested models.

Some facilities are using treatment models such as the Phoenix Program at IYC Harrisburg or Self Improvement Inventory at Pere Marquette, but there is little central quality control, oversight, and ongoing research on the efficacy of these programs. Indeed, some of the youngsters in these programs view them essentially as added punishment and report receiving little value from these interventions. For example, many youth reported to me that they spent most of the day in their rooms or in the day room with limited educational offerings and few other programs.

There may be some general research supporting the concepts underlying these programs, however, neither the Phoenix Program or the Self Improvement Inventory have been rigorously tested with an institutionalized juvenile population. While the Phoenix Program had a preliminary process assessment, the numbers that were enrolled in Phoenix at that time were very small.<sup>14</sup> IDJJ is not presently collecting systematic data about the positive or negative results of these programs. Training of the staff who lead

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<sup>13</sup> Lindsay Bostwick, Jordon Boulger and Mark Powers, *Juvenile Recidivism in Illinois: Exploring youth re-arrest and re-incarceration*. Chicago, Illinois: Illinois Criminal Justice Information Authority. August 2012.

<sup>14</sup> Robert Kirchner, *Illinois Youth Center Harrisburg: Implementing a New Strategy*, Glacier Consulting, November 2012.

these programs is spotty, at best. The sex offender treatment program in IDJJ is not well documented, and there is little information about its efficacy.

Facility staff who offer counseling and mental health services are genuinely trying to help the IDJJ residents, but their efforts are not well integrated, and these treatment staff do not appear to coordinate their treatment plans. Counselors meet with the youth one or two times per month, primarily to arrange visits, phone calls, and handle other administrative matters. Counseling notes are very brief and rarely discuss treatment goals or progress.

Mental health assessments or interventions are not recorded in an electronic format. One needs to review large and cumbersome individual files to determine individual treatment plans and progress. There are weekly staff meetings about youth at each facility, but the membership of these committees varies, and the decisions are not always documented or explained. It is virtually impossible to determine from IDJJ information the priority treatment needs for each youth, whether treatment needs are being met, and if there has been observable progress on such needs. Success in treatment seems separate from the behavioral ratings or phase levels.

IDJJ does not possess an official agency-wide treatment model or an agreed-upon set of services that almost all youth residents will receive. Release decisions are not necessarily based on defined rehabilitation objectives. Training of staff in the core concepts of the agency's treatment model does not exist. IDJJ managers have only incidental knowledge of the innovative treatment approaches—including cognitive behavioral therapy—are being implemented in Missouri, New York, California, and Ohio, among other jurisdictions.

Youth report that they do not get many hours of treatment programming, with the exception of youth in that participate in the FIT program and the Ida B. Wells Center. In a September, 2012, site visit, the JHA reported that youth at Kewanee were receiving less than 30 minutes of mental health programming per week. Youth residents complained to me that they are asked to take the same treatment courses over and over again. Many youth report that they are doing "dead time"—they have finished all the available treatment courses and are still awaiting release. Other youth complain that their stay in IDJJ facilities is unduly lengthened by requirements that the youth complete substance abuse programs that they have already finished. Group sessions and counseling are often cancelled due to staff shortages and lockdowns.

Decisions made to move youth into various living units or to extend their time at IDJJ are often made by corrections officers, with more passive input by teachers, counselors, or mental health professionals. As discussed below, there are many youth who have passed their Administrative Review Date (ARD) and are awaiting a placement bed. Some youth who are passed their ARDs have parole violation for new criminal charges that may not be directly related to barriers to placement. Most youth in IDJJ frequently think of their ARD as a release date.

Other youth are in various states of the parole violation process and may not be willing to participate in or eligible for treatment and rehabilitation services. It is unclear whether the courts, probation, or the paroling authorities possess even minimal information about each youth's progress in IDJJ treatment programs. Clarification of IDJJ treatment and rehabilitation goals is especially crucial for those youth that have been convicted in criminal courts, those who are challenging their alleged parole revocations, and those who have "maxed out". Young people in IDJJ who are "maxed out" have reached their Maximum Discharge Date, usually at age 21, and are released by IDJJ, even if this discharge is to a homeless shelter on rare occasions.

Few youth or their families have a major role in planning and assessing the rehabilitation progress. In general, family engagement has not been a major priority for IDJJ in recent years. Very few of the youth receive regular visits from family members, in part because of the long distances that families must travel to the facility where their child is confined. Phone contacts are more frequent, but indigent youth cannot afford the very expensive phone rates. There are no regular, organized family events at IDJJ facilities. There are no staff who are specifically tasked to connect with youth families and to encourage their active involvement in the IDJJ rehabilitation approach. Some staff are ambivalent about the family members of residents, seeing them as sources of contraband in the facilities, or connections between the residents and criminal behavior in the community. Youth in confinement units or other restrictive custody programs receive even fewer and shorter visiting privileges than other youth.

IDJJ top leaders acknowledge the need to provide trauma-informed interventions for many of their youth, but there is minimal knowledge within IDJJ about adequate approaches across the nation. IDJJ has enrolled several youth in the Structured Psychotherapy for Adolescents Responding to Chronic Stress (SPARCS) program, but there is little information about the actual functioning or results of this program.

IDJJ staff, especially those at IYC Warrenville, express the need for enhanced gender-responsive programming. However, there has been minimal recent investment in staff training or specific program content in this area in recent years.

There is also a desire expressed by some top IDJJ managers for greater cultural sensitivity in dealing with youth of varying ethnic backgrounds. This is an area in which investments in training and greater community involvement would be very helpful. One of the practical problems for IDJJ is that most of its facilities are located in rural areas with a largely white population, making it very difficult to attract staff or volunteers who understand the cultural background of many of the residents.

Similarly, IDJJ needs to focus more policy and procedural attention to LGBT youth, especially those who self-identify as transgender. IDJJ does not have a consistent policy for classifying or housing these youngsters. I interviewed four transgender youth who were temporarily housed in mental health units, sex offender programs, confinement units, medical infirmaries, and regular housing units. IDJJ needs to better define its policies and practices on topics such as cross-gender strip searches, privacy considerations (especially in showers), verbal abuse by staff, and medical care for youth who are HIV positive. For example, one transgender youth expressed his preference to be housed at IYC Warrenville. While the youth that I interviewed felt that staff were trying to protect them from assaults by other youth, these youth did not feel entirely safe. There are also questions about the appropriate medical treatment for transgender youth that must be defined by IDJJ in ways that are consistent with the requirements of federal PREA legislation (Prison Rape Elimination Act) and an emerging body of law protecting the rights of these young people.

Transgender youth find it very hard to find suitable post-release placements and thus may spend extra time in IDJJ even if their behavior is excellent. I shared with IDJJ leaders policies from other corrections agencies, including the Cook County Secure Detention Center that is considered appropriate. Most important, transgender youth need advocates from the community to help them review their options and articulate their needs and preferences. IDJJ staff at every level need training on the adequate best methods of safely managing transgender youth in correctional facilities.

### Inadequate Assistance for Youth Who Are Returning Home

Reentry planning and services for youth in IDJJ are virtually non-existent. Many youth report that they first meet their parole officers after their release from IDJJ institutions. Parole staff often do not seem to be informed about the rehabilitation plan and progress of the youth in their caseloads. When questioned, the IDJJ residents say that preparation for going home is their number one priority and the service that they would value the most. A recent report by the John Howard Association on IYC Chicago questioned the value of existing reentry services and called for an evaluation of the Halfway Back program that is one of the main missions of IYC Chicago.<sup>15</sup>

An area of heightened concern for IDJJ is the large number of youth who are extended past their Anticipated Release Date (ARD) due to the inability to locate a placement. For some youth, this waiting process can take years. The JHA monitoring reports have documented many youth in IDJJ on relatively minor parole violations that are past their ARDs.<sup>16</sup>

The reasons for insufficient placement opportunities are complex and varied. Many IDJJ residents have no home to return to or have not had positive family relationships for years. Other youth—especially sex offenders—find it difficult for their family members to welcome them back due to fears of further victimization of younger siblings, or potential loss of public benefits such as foster care or subsidized housing. Schools may not be willing to re-enroll registered sex offenders due to local school board policies. Still other youth have become legal adults and would prefer to live independently. IDJJ top managers are well aware of this problem and are actively exploring solutions. But, it is important to mention that youth who are being incarcerated past release dates solely due to lack of “suitable” placements have a powerful liberty interest in their release. Moreover, these youth are angry, because they have done all that has been asked of them and are still confined. These residents have no rehabilitative options, few vocational opportunities other than food service, and very limited educational opportunities in IDJJ. These youth are frustrated and may engage in behavior that will escalate their legal problems, possibly propelling them into the adult criminal system. This problem requires urgent attention by IDJJ.

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<sup>15</sup> John Howard Association, Monitoring Visit to IYC Chicago, [www.thejha.org](http://www.thejha.org) 2013.

<sup>16</sup> John Howard Association, Moving Beyond Transition: Ten Findings and Recommendations on the Illinois Department of Juvenile Justice—A Special Report, [www.thejha.org](http://www.thejha.org), 2013.

A parallel issue involves youth that are returned to IDJJ on parole violations and for whom the parole board determined that their violations did not warrant further incarceration. These youth and their families are informed that they are “continued on parole.” However, the lack of a suitable placement means that the youth remains in secure custody at an IDJJ facility.

### **Safety and Welfare Indicators from the Illinois IDJJ Performance-based Standards Data**

IDJJ has made a significant investment in implementing the Performance-based Standards (“PbS”) system developed by the Council of Juvenile Corrections Administrators and the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP). PbS consists of a set of reportable data used by juvenile justice facilities in the following categories: (1) safety; (2) security; (3) order; (4) health and mental health services; (5) justice and legal rights; (6) programming; and (7) reintegration planning.

The definitions created by PbS were developed by some of the top experts and professionals in the juvenile justice field under the guidance of OJJDP and these standards have been refined over time. PbS standards represent the most comprehensive and complete attempt to accurately categorize and record the operation of juvenile corrections institutions. In my view, the PbS standards, while not perfect, are superior to any other professional standards that I have reviewed in the juvenile justice field.<sup>17</sup>

The benefits of PbS are many. In addition to establishing pre-defined and less subjective definitions for incidents, participation in PbS connects the individual facility to a larger community of juvenile justice jurisdictions, institutions, and professionals. When an agency joins PbS, for example, a PbS consultant is assigned to each site to guide implementation of the standards. After each bi-annual report to the national organization, jurisdictions can evaluate their performance over time and compare it to other similarly-situated facilities with the goal of evaluating progress and in determining where improvements need to be made. The PbS consultant then works with staff at each site and facilitates the development of local action plans to respond to selected PbS items.

The latest PbS data collection for IDJJ facilities was completed in April, 2013, and can help shape an understanding of some of the key issues in the *R.J. v. Bishop* case. There are scores of individual PbS

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<sup>17</sup> Declaration of Barry Krisberg in *Jerry M. vs. District of Columbia*, June, 2013.

items, and these can be examined over the past several years, there are also summary tables that highlight the key findings of each facility.

The PbS data show the key indicators that are above or below the PbS field average—which consists of about 200 juvenile facilities that participate in PbS data collection. This is not a random sample of all juvenile facilities in the United States, and being at the average does not mean meeting a national professional standard. Indeed, the cohort of PbS sites often joined the program after litigation or other challenges, and so the field average may reflect an average of troubled places. Further, the PbS Omnibus Outcome Measures tables show whether the indicator improved or worsened at each facility since the last measurements, six months prior

It is important to note that PbS data were never intended to be used to directly compare facilities or to even to compare special living units within a facility. Many of these measures are dependent on the size of living units, the types of youth who are confined there, lengths of stay, and the different missions of the facilities. This limitation is especially true for IDJJ, which is in the middle of repurposing facilities, transferring large number of youth from closed institutions to open ones, and changing its programs and policies. The PbS data are very helpful in terms of generating a snapshot of facility problems and strengths at a fixed point in time. PbS is also very useful in focusing management attention on areas of needed remedial action.

All of the available Omnibus Outcome tables can be obtained via the IDJJ Central Office. No PbS data were provided to me for the General Population living units at Kewanee for April 2013, due to staff turnover that affected the consistency of PbS data for that part of the facility. Below are some of the important findings for each IDJJ facility

#### IYC Harrisburg

In the General Population units, there were several areas that were well below the PbS field average. Many of these items pertained to the use and duration of isolation, room confinement, and segregation or special management units. The PbS data also raised concerns about the very low ratio of direct care staff to youth in the living units. One area in which Harrisburg had lowered its ratings over the prior six months was the proportion of youth that felt unsafe, which may be a direct result of staffing shortages. Harrisburg did much better on the low number of youth injuries that were occurring, the low incidence of suicidal behavior by youth, and the low level of assaults by youth on other youth or staff members.

Responses of youth in the Harrisburg Reception Unit highlighted the short staffing and the amount of waking hours that the Reception youth spend in their rooms. Areas at the Reception Center that were at the field average involved the presence of contraband. Much better PbS scores at IYC Harrisburg reflected the very low level of youth and staff injuries and the rare nature of assaults by youth.

#### IYC Kewanee

PbS data for April, 2013, are available for the Mental Health and Sex Offender units at Kewanee. Worrisome findings were related to the lack of staffing and the amount of idle time spent by youth. The Kewanee Mental Health Unit had an average higher than the PbS field average for observed suicidal behavior. Several measures of PbS standards involving safety and order concerns were well above the national field average but had improved over the past six months.

The Kewanee Sex Offender unit scored poorly on staff-to-youth ratios and the excessive idle time that youth spend during their waking hours. Suicidal behavior at the Kewanee sex offender unit was slightly below the PbS field average. There had been improvements in the Mental Health Unit in the frequency of assaults by youth over the past half year. The use of restraints and of injuries to youth or staff was well below the PbS field average at the IYC Kewanee Sex Offender Unit.

#### IYC Saint Charles

Data from the General Population Units reveal significant problems in the areas of use and duration of isolation, room confinement, and the amount of idle time during waking hours. The General Population data also is well below the PbS average in staffing ratios and the use of mechanical restraints. Both youth and staff report levels of fear for their safety that are worse than the PbS average. Although not part of my review, the IYC Saint Charles PbS data showed major problems in almost all aspects of health care and that these issues had gotten worse over the past six months.

On a positive note, the IYC Saint Charles General Population units had low rates of youth and staff injuries or suicidal behavior. IYC Saint Charles showed rates of youth assaults on other youth or staff that were below the PbS field averages. Although not part of my review, the IYC SC data showed major problems in almost all aspects of health care and that these issues had gotten worse over the past six months.

The IYC Saint Charles Reception Unit was well below the PbS average of staffing ratios and youth and staff expressing fear for their safety and the extent of youth idleness during waking hours. Several other safety and order issues were at the PbS field average. The Reception Unit did better on the limited use of restraints and a relatively low level of injuries to staff and youth during the application of restraints. The Saint Charles Parole Readjustment Unit had staffing rations that were well below the PbS national average, but it scored better on most other PbS measures.

#### IYC Warrenville

PbS data on the IYC Warrenville general population units support the perceptions of the females that there are significant safety issues at the facility. The residents and staff report higher levels of fear for their safety, but there are also higher than the field average reports of youth assaults and fighting and contraband. The higher fear levels for staff and youth are also seen in the IYC Warrenville Reception Unit.

IYC Warrenville has relatively higher rates of the use of mechanical restraints and a greater use of isolation and room confinement than other PbS facilities. Due to the infusion of staff from IYC Joliet, IYC Warrenville has a staffing ratio close to the PbS field average. Rates of suicidal behavior at IYC Warrenville are above the PbS national average, but injuries to youth from assaults or the use of restraints are reported as relatively low. Other safety and security matters at IYC Warrenville are closer to the PbS field average.

#### IYC Chicago

This is a small facility that mostly houses youth with short-term stays for parole violations or those who are returning home soon. IYC Chicago staffing ratios are below the PbS averages, and this contributes to lots of idleness for youth during waking hours. There were several safety concerns reported at IYC Chicago including youth fighting and injuries to youth. The PbS data suggests problems with the use and duration of isolation or room confinement. The PbS data suggest that there have been a range of healthcare concerns at IYC Chicago but that there has been steady progress in many of these areas. There has been a recent reduction in the rate of youth assaults.

### Pere Marquette Step Down Unit

This facility reports moderate problems in terms of staff and youth expressing fear for their safety. IYC Pere Marquette staffing levels are improving and are close to the PbS field average. Idleness of youth during waking hours remains an issue at IYC Pere Marquette. Most other safety and order issues are well above the PbS field averages.

### **Emerging Principles of Adequate Practices in Juvenile Corrections**

Last year, the National Research Council (NRC) of the National Academy of Sciences produced a comprehensive and thorough review of the best research on effective juvenile justice programs.<sup>18</sup> This prestigious study described the core ingredients of a successful juvenile corrections system. This report provides detailed descriptions of successful programs based on sound research and evaluations. The NRC report should be the touchstone of meaningful reforms in the IDJJ

The first principle of this approach is accountability. Youth are expected to take responsibility for their actions and the foreseeable consequences of their actions. This process of youth accepting responsibility for proven wrongdoing must be consistent with their legal rights. The NRC also emphasized the value of the constructive engagement of family members in this process to help the youth accept responsibility and to help carry out the court's requirements.

Most important, the NRC urged that incarceration be used very sparingly and only in response to serious offending or reoffending. Alternatives to incarceration, such as community service and restitution to victims and the community, are preferred. The NRC also discouraged the public release of juvenile records or any other policies that reduced youth opportunities to transition to a successful law abiding life.

To prevent reoffending, the NRC urged that the juvenile justice system adopt structured risk and needs assessment instruments that identify those youngsters who can be safely managed in the community and which allow facilities to focus on more intensive interventions on higher-risk youth. These tools are

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<sup>18</sup> National Research Council. (2012), *Reforming Juvenile Justice: A Developmental Approach*. Richard J Bonnie, Robert L Johnson, Betty Chemers and Judy Schuck, Eds. Committee on Law and Justice, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press.

also vital in matching specialized treatments to youth needs. The NRC urged that juvenile corrections employ well defined interventions that are based on scientific principles of adolescent development and that are responsive to each youth's unique needs and social backgrounds. Programs that have been shown by rigorous research to be ineffective or harmful should be eliminated. These include programs such as punitive "boot camps," "scared straight" programs, and interventions based on the principles of "tough love." Although these approaches have a good deal of popular support in the community and in the justice system, there is mounting evidence that they do more harm than good. Juvenile justice agencies are urged to collect accurate data on the type and intensity of treatment interventions that are provided and the outcomes that are achieved.

The NRC advocated the expansion of principles of fairness throughout the juvenile justice system. This includes ensuring that all youth are properly represented by trained counsel. It is also expected that youth must be capable of understanding juvenile justice proceedings and that they can actively participate in all proceedings. The NRC highlighted that youth need to perceive that they are treated fairly and with dignity. Also, the NRC spoke to the need to reduce racial and ethnic disparities in the juvenile justice system, as well as unequal treatment of females and LBTGQ youth. The NRC urged the creation of objective measures of fairness based on legal criteria as well as the perceptions of youth, their families, and victims.

There are many other very valuable descriptions of successful juvenile corrections programs that have been published by the Annie E. Casey Foundation, the Pew Trusts, the Vera Institute of Justice, and the Justice Policy Institute. Closer to home, IDJJ can draw on the excellent research and policy materials on corrections programming and reentry produced by the John D. and Catherine T. MacArthur Foundation, the Chicago Community Trust, the John Howard Association, the Northwestern University Children and Family Justice Center, and the University of Chicago Chapin Hall. IDJJ already is tapping into these excellent juvenile justice resources and should broaden its efforts in this area.

#### **Priority Areas for Remedial Plans and Actions for IDJJ**

There are many areas of needed remedial action for IDJJ. Here are some suggestions for areas that require immediate attention:

### Agency/Facility/Operations

- Develop accurate forecasts of the size and characteristics of the IDJJ resident population, given possible alternative law and policy changes over the next five years.
- Review existing IDJJ bed capacity and determine the appropriate missions for or repurposing of existing IDJJ facilities.
- Conduct an objective staffing analysis for IDJJ facilities for direct care staff, counselors, MH staff, parole staff, and teachers.
- Confer with courts, probation, the Department of Public Welfare and the IDOC on ways to limit the adverse effects on IDJJ operations of writs, parole policies, and impediments to successful reentry.
- Eliminate the current practices of confinement; develop least restrictive alternatives for youth requiring special treatment; develop evidence-based interventions for IDJJ youth manifesting serious behavioral problems.
- Create home-like environments in IDJJ facilities as much as possible.
- Reduce the prison-like feel of IDJJ facilities and allow youth to wear clothing that is more appropriate for students.
- Strengthen and adequately fund IDJJ internal investigations of alleged staff misconduct.
- Develop realistic plans and request budgetary support to repair and improve existing substandard IDJJ institutions.
- Build a comprehensive, research-based and well-funded IDJJ approach to community reentry for all residents.

### Addressing Youth Needs

- Eliminate the numbers of youth who stay in IDJJ facilities beyond their release dates due to lack of suitable community placements. Create dedicated staff who expedite return home of youth who are past their ARDs or who are on parole awaiting release pending a suitable placement.
- Provide non-custodial sanctions for those youth in IDJJ who do not pose a serious threat to public safety, and who could be better rehabilitated with their families or in the community.
- Expand the number of work and vocational opportunities for youth in IDJJ facilities.
- Create a comprehensive approach to expand the involvement of the family members in IDJJ programs.

- Strengthen and improve the existing youth grievance system and provide the services of an Ombudsperson to IDJJ youth.
- Establish clear standards for the timeliness and effective delivery of medical, dental, and mental health services.
- Ensure that access to religious services is respected and provided to all IDJJ youth who request these services.
- Expand opportunities for youth to exercise leadership skills in IDJJ programming.
- Upgrade the quantity and quality of healthy food offered to IDJJ residents, especially increasing the availability of fresh vegetables and fruit, while reducing excessive fat, carbohydrates, and starch.
- Develop clear policies and practices for meeting the needs of LGBTQ and transgender youth.

#### Data

- Implement accurate data collection systems that are useful to management and that assess the extent of violence in IDJJ facilities and the use of force.
- Conduct systematic, rigorous follow-up studies on the outcomes of youth who exit IDJJ facilities.

#### Treatment/Activity

- Increase the amount and quality of treatment programs for youth suffering from childhood and adolescent trauma issues, chemical dependency, anger management, and other mental health issues.
- Expand educational and vocational offerings for IDJJ residents, especially for those youngsters with GEDs or high school diplomas.
- Develop a comprehensive Illinois Rehabilitation Model based on evidence-based programs.
- Implement a standard program service day that ensures that all IDJJ youth spend most of their waking hours out of their rooms and involved in education and other pro-social activities.
- Expand recreational, sports and exercise opportunities for all IDJJ youth.

#### Staff Training

- Enhance staff and management training on the requirements PREA, the Americans for Disability Act, and other pertinent Illinois civil and criminal codes.

- Expand training and programming of IDJJ staff and managers in gender-responsive and culturally sensitive programs.

### **Next Steps**

I would encourage a meeting of the court experts with top IDJJ managers after the expert reports have been formally submitted to the Court. It would be helpful to arrange a three-day retreat where the IDJJ staff that will meet with the Court Experts and be responsible for developing remedial action plans. This retreat would allow that plans and schedules for the remedial plans to be developed with significant participation with the court experts. It may make sense to organize a separate meeting with the plaintiffs' counsel and court experts to clarify issues and address their concerns.

Because additional resources will be needed to accomplish many of the goals of the remedial plans, it is suggested that potential funding sources including the philanthropic community, OJJDP, other relevant Illinois state agencies, the Governor's Office, and the legislature be brought into these discussions at an early stage. If the support is feasible, IDJJ staff should conduct site visits of exemplary juvenile corrections programs in other locations.

Those juvenile justice and criminal justice leaders including judges, law enforcement, state's attorneys, public defenders, probation, and parole leaders should also be invited in early to learn about the findings of the Court Experts and suggested remedial strategies. Attention should be paid to educating the media on the positive role that can be played to inform the citizenry on the benefits of improving IDJJ.

A handwritten signature in black ink, appearing to read "Barry Kusch". The signature is written in a cursive, flowing style with a long, sweeping tail on the final letter.

# Attachment 3

# Education Services and Supports for Students in the Illinois Department of Juvenile Justice

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September 20, 2013

Peter E. Leone, Ph.D.

## Organization of the Report

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## Executive Summary

The education program in the Illinois Department of Juvenile Justice (IDJJ) facilities is inadequate. The program operates far below minimally accepted standards at comparable facilities across the country, does not appear to meet minimal standards for education as specified in the Illinois School Code, does not meet the needs of students with disabilities, and appears to violate both State regulations and Federal legislation. At most facilities, students receive less than a full-time education program because of teacher vacancies and lack of support staff. With few exceptions, all students' education services are provided via an on-line, digital education program; while this meets the needs of some students, particularly those who are highly motivated, it is insufficient as a primary mode of instruction for all students.

During the past six months, I visited five of the six facilities operated by IDJJ. During these visits I interviewed students and staff, observed classrooms, and reviewed documents. I also met with facility leadership and support staff and conferred with the other experts appointed by the Court. There are systemic problems at IDJJ facilities that interfere with the ability of youth to receive services to which they are entitled, to prepare for careers and post-secondary education, and successfully return to their community. More specifically, I found:

- Inadequate instruction and inadequate opportunities for students to learn,
- Inadequate special education services,
- Minimal career and technical education,
- Absence of post-secondary education and preparation for post-secondary education,
- Inadequate transition services and supports,
- Frequent use of punitive and ineffective responses to student behavior,
- Inefficient management of human and fiscal resources,
- Inconsistent collaboration between education and custody staff,
- Demoralized teaching and support staff, and
- Inadequate infrastructure and support for education services.

During my visits I also found students who were enrolled in school and who had not received their high school diploma or GED, mowing lawns and performing other institutional work during the school day. Recreation services were not available for all youth on a regular basis. Students reported that entire units lost recreation time when one student on the unit acted out.

The prior school history and achievement levels of many students in the IDJJ present challenges to the development and sustainability of a quality education program that meets the needs of all youth committed to the IDJJ. However, a number of juvenile facilities across the country have designed and delivered high quality education services to incarcerated adolescents with history of school failure, educational disabilities, and mental health problems that meet statutory and regulatory requirements.

Fixing the education program at IDJJ facilities and ensuring that youth receive services to which they are entitled will not be easy. Ensuring that the education program helps youth develop academic, vocational, and technical skills that increase the likelihood that they will successfully reenter the community and not reoffend is imperative. Following the presentation of findings specific to each facility, I discuss student interviews, the adequacy of infrastructure supporting education, and make summary statements about the education program. The report outlines six broad areas of reform: Leadership, Autonomy, & Accountability; Fiscal Structure; Professional Culture and Support; Services, Instruction, and Programs; External Support and Partnerships; and Quality Assurance and Sustainability. I conclude with a discussion and an approach to transform the education and recreation services at the IDJJ facilities.

## Introduction

This report was authorized by the *R.J. et al. v. Bishop Consent Decree* approved by the U.S. District Court on December 6, 2012. The Court-appointed experts in this case were asked to “investigate IDJJ mental health services, general and special education services, room confinement, safety, and commitment beyond release dates for lack of a community placement.”<sup>1</sup> This report addresses the adequacy of education services and supports in the IDJJ facilities and recommends a course of action to address shortcomings. Some of the concerns and problems identified can be addressed through personnel development, hiring, and changes in supervision and collaboration between custody staff, treatment staff, and educators. Other problems identified will require changes in infrastructure to support education and changes in institutional culture.

This report was developed following multi-day site visits to IYCs at Chicago, Harrisburg, Kewanee, St. Charles, and Warrenville.<sup>2</sup> During my visits to the facilities I observed activities in 37 classrooms, interviewed 51 students, as well as teachers and administrators individually and in small groups. I also reviewed segregation unit logs, records of school cancellations, and students’ Individualized Education Programs (IEPs).

Incarcerated youth are among the least academically proficient individuals in society. While incarcerated, youth must have the opportunity to develop knowledge and skills that will assist them in remaining crime free and out of the juvenile and criminal courts following their release. Further, the skills they develop while in custody can increase the likelihood that they will continue their education or training and enter the workforce as productive citizens.<sup>3</sup>

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<sup>1</sup> Paragraph 6, *R.J. et al. v. Bishop Consent Decree*, Case No. 1:12-cv-7289.

<sup>2</sup> IYC Chicago (3/5, 3/6), IYC Harrisburg (6/3, 6/4), IYC Kewanee (7/9-7/12), IYC St. Charles (5/7-5/9), and IYC Warrenville (3/6, 3/7). I did not visit IYC Pere Marquette; it was flooded and youth had been evacuated at the time I planned to visit the facility.

<sup>3</sup> See Lockner, L., & Moretti, E. (2004). The effect of education on crime: Evidence from prison inmates, arrests, and self-reports. *American Economic Review*, 94 (1), 155-189; Lee, S., Aos, S., Drake, E., Pennucci, A., Miller, M., & Anderson, L. (2012). Return on investment: Evidence-based options to improve statewide outcomes, April 2012

In all states, eligible incarcerated youth are also entitled to special education and related services under the Individuals with Disabilities Education Act (IDEA) and corresponding state laws and regulations. Youth are also entitled to the protections and supports associated with Section 504 of the Vocational Rehabilitation Act and the Americans with Disabilities Act (ADA). In many states including Illinois, juvenile justice agencies have the authority to provide education services and related supports and function in some respects like school districts. In other states local school districts operate education programs (OK, OR, UT, WA) and in other jurisdictions charter schools or private contractors operate education program in juvenile detention and commitment facilities (FL, DC). Other states have a combination of public and private agencies provide education services (MA, MD). While there is no one best model for providing services, professional autonomy, accountability, fiscal support, and transparency are key elements of quality programs.

## **IDJJ Site Visits**

### **IYC Chicago**

On the days I visited IYC Chicago, there were approximately 92 students in the facility. Of that number, 68 were enrolled in school and 42 students or 62% of those in school were identified as needing special education services. The school staff consisted of a principal, a diagnostician, a librarian, a secretary, and six teachers. Academic instruction at IYC-Chicago is primarily based on the Pearson Florida Virtual School program with few exceptions. During my visit I found students in most classes completing coursework on-line. I found group instruction in the life skills class and in social studies where students were taking notes and preparing for a quiz on the American Revolution. In the special education class, I found students working in pairs studying for a spelling test. In contrast to some of the other facilities, most students who were enrolled in school attended for a full day.

One group of students at IYC Chicago who did not attend school was parole violators. Observations and an interview with one youth indicated that parole violators who may have been returned to custody for failure to keep curfew or attend school, received no education services when returned to IYC Chicago. Students placed in “Unit D”, the parole violators unit, appeared to spend their time completing crossword puzzles, watching TV, and playing cards. While the intent of the parole violators’ program was to place students “half-way back” into the system, I found no rational justification for failure to provide education services to these youth, many of whom were enrolled in high school or alternative school in the Chicago Public Schools.

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(Document No. 12-04-1201). Olympia: Washington State Institute for Public Policy,  
<http://www.wsipp.wa.gov/rptfiles/12-04-1201.pdf>

## IYC Harrisburg

At the time of my visit there were 210 youth at Harrisburg. Of this number, 188 were enrolled in school. Twenty teachers including six from Southeastern Illinois College (SIC)<sup>4</sup> provided instruction at Harrisburg. Because of staff shortages, not all living units attended school fulltime. According to staff, during any given week several units are held back from school because of an insufficient number of teachers. Students in the confinement unit as well as those in reception receive no education services. Students who have received their high school diploma as well as those with a GED certificate do not attend school.

With the exception of the career and technical education classes, all instruction at Harrisburg is web-based. Several teachers interviewed during my visit estimated that about half of the students benefited from the on-line instruction and their ability to accelerate their high school credit accumulation. While some students during interviews reported that they liked being able to work at their own pace, others complained bitterly about the lack of direct instruction and their teachers' inability to assist them. Typical responses from students who did not feel that they were benefiting from the web-based instruction were, "teachers don't know the content we're studying" and "we don't learn nothin', we're just on computers all day." Because students can work on any course modules in any class and at their own pace, their claim that teachers don't know the content they (the students) are working on has validity.

In addition to intake, segregation, and general population units, Harrisburg has a behavioral unit referred to as the Phoenix Program. Based on Moral Reconciliation Therapy (MRT), this program is designed to decrease recidivism among juveniles by increasing moral reasoning. The Phoenix Program at Harrisburg has the capacity for 15 youth and is designed to last 9-12 weeks. Students move through several stages while in Phoenix and earn increasing privileges. Students in the Phoenix Program do not attend school with youth in the school building. Rather, a maximum of five students in Phoenix can attend a class in a small room on their living unit that is devoid of any instructional materials or displays. Until recently, according to the teacher, students were shackled to the floor next to their desks during class. I was assured that this was no longer occurring. During my visit I observed three students in the classroom in the Phoenix living unit completing MRT worksheets under the direction of the teacher. Students in the Phoenix program did not receive the regular curriculum during the time they were on the unit and they did not attend school every day.

Boys I interviewed who had received their high school diploma or GED certificate had very limited options. Because there is no librarian at Harrisburg, students who are not in school had very limited access to books. Most of these students had jobs in the facility but were not enrolled in coursework or programs that led to certification or completion of college credits.

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<sup>4</sup> According to staff I interviewed, on June 30, 2013, SIC terminated a long-standing contract with the IDJJ. Six teachers who provided career and technical education classes and one program coordinator from SIC were terminated.

Several students commented on vocational and career interests but indicated that there was no instruction and no access to books or counseling relative to their post-institutional interests.

While the focus of my interviews with youth was the education program, youth offered unsolicited comments on the language used by custody staff. Several boys, independently of one another, said that staff regularly swore at them and used homophobic slurs. Several youth reported that staff regularly took away shower and recreation time for an entire unit because one or two youth used foul language or because they were talking in line.<sup>5</sup>

## IYC Kewanee

There were approximately 220 youth at IYC Kewanee at the time of my visit. Of this number, 140 were enrolled in school. Those not attending school included high school graduates and GED certificate recipients as well a few youth over age 18 who did not want to attend school. The education staff included nine teachers, a librarian, an office coordinator, and a school principal. There were eight teacher vacancies at the time of my visit. Students at Kewanee attended school from six to twelve hours each week depending upon their living unit; this has been the practice since February 2013 according to staff. None of the students enrolled in special education were receiving the services as specified on their IEPs or Individualized Education Programs and only 25 of the approximately 90 students' IEPs were up to date.

Like other IDJJ facilities, nearly all instruction was individualized and web-based. I observed no group instruction and no warm up or concluding activities during my classroom visits. Students reported to me during interviews that some students complete work for others in the virtual classroom; they reported that it was not difficult to get help from other students. During my observations I found some students engaged and working diligently at their computers and others waiting for videos that were embedded in the instruction to load.<sup>6</sup> I also observed students chatting with other students and not engaged in educational activities.

During my visit to Kewanee I met with a group of teachers and discussed the status of the education program with them. They were concerned about the long-term status of the facility, about the challenges associated with the virtual classroom instruction, and the feasibility of having post-secondary education available for students at Kewanee. The teachers appeared to be committed to their work but they were frustrated by the lack of support for instruction and their inability to provide full-time school for their students.

There was only one vocational class available at Kewanee and the teacher was out on medical leave at the time of my visit. Like other facilities in the IDJJ, there are no substitute teachers at Kewanee and when teachers are absent, most often classes are cancelled and students return to

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<sup>5</sup> Students reported that this occurs regularly on Unit 6 and on Unit 9, second shift at Harrisburg.

<sup>6</sup> At Kewanee, adequate bandwidth for the web-based education program was a serious problem.

their living units. Kewanee has four vocational classrooms but two of the four classrooms have been converted to offices for custody staff.

### **IYC St. Charles**

At the time of my visit there were approximately 160 youth at IYC St. Charles. All students enrolled in school attended either mornings or afternoons. Students in the intake unit as well as those in Taylor, the segregation unit receive no schooling. Because of staff shortages, training activities, and other events, school also has been cancelled at St. Charles on a regular basis. For example, in March 2013 school was cancelled for five full days and three half days. In April 2013 school was cancelled four full days and three half days. Because students only attend class in the morning or afternoon, under a best case scenario, students received the equivalent of six to eight full days of school during each of these two months.<sup>7,8</sup>

The teaching staff at St. Charles consists of six general education teachers, five special education teachers, and a vocational education instructor. Two of the teachers are on long-term medical leave and like other IDJJ facilities there are no substitute teachers to cover their classes. Currently there are eight teacher vacancies at St. Charles. In contrast to the other facilities, the instruction at St. Charles was a mix of web-based and traditional instruction. During my classroom observations I found most students in the digital classrooms actively engaged in instruction. In a traditionally taught English class, I found a group of eight students reading and discussing a text about Malcolm X. The students in the class were asking and responding to questions and listening respectfully to the teacher and each other.

During the half day that students are not in class, many are brought to the library, a spacious room with books lining the walls, 12-15 tables in the center of the rooms, and no librarian. I spent several hours one day in the library interviewing students and observing. A few students were reading independently, many were playing cards or talking, and periodically, a few were running around the room. These youth would return to a seat after a custody staff member directed them to do so.

St. Charles has one vocational program in building trades. However, at the time of my visit students were engaged in production work for the facility. A team of six students lead by their teacher and supervised by custody staff was building shelves for the institution. While there is some benefit associated with learning to work as a team and follow directions, this was not a class with a curriculum in which students learned a set of skills and progressively become more

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<sup>7</sup> Students in public school systems attend class on average, 20 or 21 days each month.

<sup>8</sup> Security staff shortages continue to have an adverse impact on the education program at St. Charles. On September 4, 2013, school was cancelled at the facility because there was not a sufficient number of security staff available.

competent at measuring, cutting, and finishing a set of projects.<sup>9</sup> Near the building trades program was vacant greenhouse that was used at one time for instruction but that currently was vacant.

## **IYC Warrenville**

On the days I visited IYC Warrenville there were approximately 42 students, six teachers, and one vocational instructor at the facility in addition to the principal. Seven of the 42 students or about 17% had received a high school diploma or GED. Some of these students worked in the kitchen others came to school and participated in a computer technology program though only one youth was enrolled in a post-secondary school program. Several students were enrolled in an on-line Spanish class and had a tutor 4-6 hours each week. The principal indicated that the students at this facility, the only girls' institution in the IDJJ, participated in field trips off grounds each quarter.

Similar to the other IDJJ facilities, instruction at IYC Warrenville was primarily web-based, on-line instruction. Staff reported that while the average length of stay at this girls' facility was six months, some girls are confined there for more than a year. Classroom observations showed students working independently at computer terminals often on coursework outside of the area of expertise of the teacher in the classroom. In one class, I was asked if I knew anything about social studies. One student was having difficulty and the teacher assigned to the class, a certified math teacher, was not able to respond to the student's question.

## **Student Interviews<sup>10</sup>**

During my site visits I interviewed 51 youth including some in the intake and segregation units, those who were high school diploma or a GED recipients, and students on general and specialized housing units. Students' comments indicate that while a few feel very positive about on-line instruction, the virtual school, and their ability to accelerate the rate at which they earn high school credits, the majority of youth are bored or feel overwhelmed by current instructional arrangements.

When asked about interests and aspirations, a few students spoke about specific careers and post-secondary programs. Many expressed an interest in playing sports professionally or working in a profession that required a college diploma or post-graduate degree. While some of these youth appeared to have the ability to enter these occupations, they were uninformed about how to pursue these aspirations. Some youth, when I asked about what they anticipate doing five years

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<sup>9</sup> Most likely the teacher in this class would differ with my assessment of the value of the work the students were doing on the day of my visit and whether or not it is appropriate to have students engaged in production work in lieu of learning new skills. Given the dearth of other career and vocational activities and the half-day school schedule, the students appeared to be enjoying the building trades program.

<sup>10</sup> Profiles of a representative set of student are presented in the Appendix.

from now, responded by saying things like “I have no idea,” “I have to think about that,” and “I’ll be working a good job.” In response to this last comment, I would ask “what type of job?” and would often hear in reply, comments like “maybe construction” or “maybe work in a restaurant.” Many youth commented on the lack of career and technical education courses. High school graduates and GED certificate recipients in particular, indicated that they would like to have coursework that led to certification and entry-level employment.<sup>11</sup>

## **Personnel and Infrastructure**

A serious problem with the education program is the lack of infrastructure to support the education program. Inadequate infrastructure contributes directly to the lack of compliance by the IDJJ with State regulations and Federal legislation. At the facility level, the absence of school counselors, librarians, substitute teachers, and administrative assistants has a profound impact on the quality of services.<sup>12</sup> For example without school counselors, obtaining prior school records, updating transcripts, and ensuring students are enrolled in appropriate courses does not happen in a timely basis if at all before students are transferred from the facility.<sup>13</sup> In the absence of librarians, students have difficulty obtaining books that are not provided to them by their teachers.<sup>14</sup> Students who have received their high school diploma or received their GED certificate reported that they were not able to obtain books unless they borrowed them from other students. In the absence of librarians, it appears that custody staff makes decisions about what constitutes appropriate reading material for youth. For example while some youth reported that their favorite author was James Patterson, other youth at the same facility indicated that they were not allowed to read Patterson’s books.<sup>15</sup>

In the absence of administrative assistants, school principals and teachers make requests for school records including IEPs. Staff at several facilities stated that they do not receive school records in a timely manner and do not receive prior school records for about half of their students. Another consequence of not having support staff is that when students who have left the facility request copies of transcripts or evidence a high school diploma, they often wait months to receive them. This delay has a major impact on the ability of youth to enroll in community college, other post-secondary programs, or obtain jobs. Lack of support personnel at the school level makes it virtually impossible for the principal to function as an instructional

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<sup>11</sup> At the time of my visits, one student at IYC Warrenville was enrolled in an independent study course at the College of DuPage that was being paid for by a Board member from Story Catchers. A number of students at Harrisburg were enrolled in courses at the facility taught by Southeastern Illinois College until June 30, 2013.

<sup>12</sup> Harrisburg and Kewanee had administrative assistants in the school at the time of my visit; the administrative assistant at Kewanee was recently promoted and this position in the school is currently vacant.

<sup>13</sup> A student at Harrisburg commented that he was enrolled in a course that he had already completed. Teachers at Kewanee spent a good deal of instructional time updating students’ transcripts and performing some of the tasks performed by school counselors.

<sup>14</sup> IYC Kewanee has a librarian though students reported difficulty obtaining books. IYC Chicago has a librarian.

<sup>15</sup> In other juvenile facilities, the librarian in collaboration with custody staff, reviews books and determines which ones are acceptable in the facility.

leader. Because principals have by default assumed many administrative and support functions, they are infrequently in classrooms supporting teachers.

At the school district level, there is a dearth of professionals to handle the range of activities associated with the operation of a school district. The superintendent of schools,<sup>16</sup> a special education coordinator, several psychologists, and a career and technical education coordinator appear to manage the core functions for the school district. Given the size, geographical dispersion of the facilities, and the need to manage student transfers, records, and coordinate special education services, the number of central office education staff is insufficient.<sup>17</sup>

Another significant challenge is the current system for hiring teachers and other education staff. Currently, all teachers as State employees are hired through a centralized system that is cumbersome and inefficient. Principals stated that it takes from 6 to 8 months to replace teachers. Further, notices of teaching vacancies at IDJJ facilities are not advertised through the State Board of Education. Many of the best and most highly qualified teachers who have applied for IDJJ have found jobs by the time that the IDJJ staff is able to interview prospective candidates.

### **Summary Statements about the Adequacy of Education Services**

The education programs at the facilities operated by IDJJ are grossly inadequate. Most students do not receive services to which they are entitled under federal and state laws and regulations. At no IDJJ facility I visited, did all students receive a full day of instruction in part because of unfilled teacher vacancies. At each facility, students on isolation units, those on special housing units, and parole violators received no education or considerably less education than other youth in the institution. At some facilities, even when students received a half day of instruction, school was cancelled frequently because of an insufficient number of security staff.

For students eligible for special education services, inadequate resources have created a one-size-fits-all model for many students. While some students receive some of the services as specified on their IEPs (individualized education programs), many others who needed more intensive supports do not receive them. In some instances special education students did not receive any services because of laborious, centralized hiring practices and lengthy delays in filling teaching vacancies.<sup>18</sup> The dominant mode of instruction for all youth at all facilities is the Pearson Florida Virtual School program. While this meets the needs of some students, problems with its implementation and the lack of group interaction with other students and teachers does not facilitate a host of essential social skills and collaborative learning opportunities. During

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<sup>16</sup> The IDJJ Superintendent of Schools resigned in August 2013 as this report was being written. A teacher from IDJJ Harrisburg has been assigned as the Acting Superintendent.

<sup>17</sup> Insufficient staff makes it difficult to coordinate special activities, pursue grants and other supplemental funding opportunities, and provide adequate supervision.

<sup>18</sup> For example, the IDJJ has just begun to contact candidates for positions that were posted last April on the State website. Needless to say, well-qualified candidates have taken positions during the past four months and have begun employment with other school districts.

interviews, students shared with me the ease with which it is possible to complete modules and earn credits with minimal effort. These comments confirmed some of what I saw during my classroom observations.<sup>19</sup>

None of the facilities I visited had guidance counselors and few had librarians. While each facility had library space, regular student access to the libraries and support for literacy activities was a serious problem. The facilities had very few volunteers working with students.<sup>20</sup> In general, the quality of instruction and the infrastructure to support the academic and vocational programs at the IDJJ facilities was inadequate. Under current arrangements, many students do not receive services to which they are entitled and many do not experience normative adolescent high school activities associated with positive leisure time and recreation activities and successful transition to their home communities. My observations and interviews with youth indicated that many students are not challenged intellectually by the academic program.

The career and technical education program (CTE, or vocational education) is wholly inadequate. Several sites have one or two classes but student access is limited to only a handful of students and in one instance, the CTE class was doing production work for the facility. Students who have received their high school diploma or GED certificate have literally nothing to do. They spend long hours mostly in their living units playing cards and watching TV. While some have jobs and participate on work crews, these assignments are not structured in a way that enables youth to earn certification and prepare for transition to the community and competitive employment. High school graduates and GED certificate recipients with a few exceptions do not have access to community college courses, career guidance, and adequate transitional support.

## Strategies for Reform

Transforming the education program for adolescents and young adults in the IDJJ facilities will require bold action. Incremental steps such as filling vacant teaching positions more rapidly, doubling down on staff development activities, or upgrading technology for classrooms are laudable actions; however, in the absence of a strategic plan that includes both short-term and long-term steps and regulatory or statutory reform many of the structural problems in the current system will not be fixed. The recommendations presented below are organized into five broad areas that provide a framework for the education reform. Other states and local jurisdictions including the District of Columbia, Delaware, Hawaii, and Los Angeles County to name a few,

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<sup>19</sup> I have observed well-implemented web-based instruction in juvenile corrections. Used as a part of a blended approach to learning, this approach can meet the needs of some learners and enabled them to accelerate the accumulation of high school credits. In the IDJJ facilities, the web-based program is unevenly implemented, not properly monitored, and used as the only means of instruction for most students.

<sup>20</sup> Several facilities had volunteers who supported the education program at worked 1:1 with individual youth. Staff reported difficulty and lengthy delay in getting volunteers screened and approved. The numbers of volunteers bear this out; Warrenton had one or two tutors and Kewanee had one tutor supporting the school program. In Delaware and New York for example, community partners provide scores of volunteers – often retired citizens – who visit facilities on a weekly basis and provide support to students and the school program.

have made significant changes to the operation of their school programs in recent years. Administrators, policy makers, and politicians have discovered that reforming education in juvenile corrections to resemble services and supports that would be acceptable for their own children does not compromise institutional security and can lead to better post-institutional outcomes.

Six broad areas and recommendations for reform include:

**1. Leadership, Autonomy, and Accountability**

- a. Publically commit to the transformation of education in the facilities. Convene a stakeholders' advisory group to support the efforts of the Director of IDJJ and staff in making critical changes.
- b. Establish a mission and vision for the education program.
- c. Develop a timeline for transformation of the education program
- d. Review the operations of IDJJ School District #428; ensure that it can function in most respects like a local education agency.
  - a. Obtain authority to control the hiring and job posting for IDJJ teaching and other professional position. Current arrangements directly contribute to IDJJ's high rate of teacher vacancies and failure to provide services consistent with state regulations and federal legislation.
- e. Pursue enabling legislation or regulations that enable IDJJ to operate an education program comparable in quality to those available to other adolescents and young adults in the State.
  - a. Consider transforming the current school calendar and contract terms for teachers to an annual 9 + 2 month arrangement.<sup>21, 22</sup>
- f. The Illinois State Board of Education should exercise its responsibility to evaluate the special education services in IDJJ facilities.<sup>23</sup> The current program appears to be in violation of both State regulations and Federal legislation.

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<sup>21</sup> The current school schedule enables teachers to take vacation days nearly any time during tradition school semesters. Under a 9 + 2 arrangement, all teachers would have the same vacation days, similar to the operation of the public schools. This arrangement could give teachers the option of working 9 or 9 ½ months rather than 12 and would provide IDJJ with a stream of well-qualified summer school teachers who might be interested in full-time employment with IDJJ in the future.

<sup>22</sup> In 2012, the Los Angeles County Office of Education, the education agency that provides education services to youth in 15 long-term juvenile facilities in the County, renegotiated its contract with teachers to a 10 + 1 contract in order to provide more stability to the education program and eliminate a high rate of absenteeism during the school semesters due to teacher vacations.

<sup>23</sup> See IL Administrative Code, TITLE 23: EDUCATION AND CULTURAL RESOURCES, SUBTITLE A: EDUCATION, CHAPTER I: STATE BOARD OF EDUCATION, SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS PART 226 SPECIAL EDUCATION, SECTION 226.760, Evaluation of Special Education.

- g. Ensure that funding mechanisms and plans for transformation of the education program provide access to all coursework, examinations, and experiences required for high school graduation.
- h. In the event that the IDJJ is unable to obtain authority and autonomy for the education program that enable it to comply with IL State Board of Education regulations and federal legislation, the IDJJ should establish the legal and political framework to establish,
  - i. Charter school status,
  - ii. Purchase of services agreements, and/or
  - iii. Contracts for service delivery by an outside organization or group to operate the education program in IDJJ facilities.<sup>24</sup>
- i. Pursue accreditation for school programs through North Central Commission on Accreditation and School Improvement.<sup>25</sup> If contractors or charter schools operate education in facilities, require that they pursue accreditation.

## **2. Fiscal Structure**

- a. Develop per-pupil funding mechanisms to ensure adequate fiscal support for the education programs.
  - i. The high percentage of youth eligible for special education services and the mobility associated with institutional placements require a weighted funding above the average per-pupil costs for the State.
  - ii. Explore school district of origin as a source of funding as well as other options.

## **3. Professional Culture and Support**

- a. Link the mission and vision developed for the education program to the development of professional learning communities at each facility.
- b. Use professional learning communities to support instructional excellence.
- c. Align activities recommended by the Courts' experts for general conditions and mental health with education to create a positive youth development culture with each facility.

## **4. Services, Instruction, and Programs**

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<sup>24</sup> At the Wayne County, Michigan Juvenile Detention Facility, a charter school operates the education program. At New Beginnings, the long-term juvenile corrections facility for the District of Columbia, the See Forever Foundation operates the Maya Angelou Academy under contract with the DC Department of Youth Rehabilitation Services.

<sup>25</sup> See <http://www.ncacasi.org/>. During the past 25 years, an increasing number of education programs in juvenile corrections have become accredited by professional associations. Juvenile correctional facilities in Alabama, California, Delaware, Hawaii, and the District of Columbia are accredited and meet many of the same standards associated with the operation of the public schools.

- a. Develop an instructional model that provides both traditional classroom instruction as well as web-based credit recovery options.
- b. Develop data systems to support instruction. The current Pearson Virtual School program could be linked to a new system that included special education, career and technical education, and post-secondary education.
- c. Revise the curriculum and improve instruction.
- d. Hire a curriculum specialist who can provide professional development activities and support and participate in the teacher evaluation process.
- e. Develop elective coursework; develop a unique summer school program.
- f. Deliver special education services to eligible youth
  - i. Ensure that services and supports comply with federal and state law.
  - ii. Implement IEPs as written.
  - iii. Provide related services as specified on students' IEPs.
- g. Hire para-professionals to support classroom instruction
- h. Hire clerical staff or paraprofessionals to assist in managing paperwork, scheduling IEP meetings, and retrieving and sending school records.
- i. Develop literacy activities and supports
  - i. Hire media specialists and/or librarians to ensure that all youth have access to the library on a regular basis.
  - ii. Develop intensive reading program that serves students with low literacy levels though regularly scheduled support from reading specialists.
  - iii. Develop facility-wide literacy activities and contests.
- j. Develop a career and technical education (CTE) program
  - i. Ensure that all residents have access to CTE (or post-secondary) education
  - ii. Ensure that CTE courses enable students to earn certificates recognized by industry, trade associations, or the Department of Education.
- k. Review and revise the behavior management system
  - i. Develop a system of positive behavioral supports<sup>26</sup>
  - ii. Work with security, direct care staff, and facility leadership to ensure school and facility behavior management programs are aligned.
- l. Develop a Systematic Plan for student access to post-secondary education
  - i. Develop options for post-secondary education. Develop partnerships with community college programs, and other post-secondary institutions.
  - ii. Expand post-secondary distance learning; include options like CLEP testing and use of on-line post-secondary instruction.

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<sup>26</sup> While PBIS (Positive Behavioral Intervention and Supports) exists at some IDJJ facilities, discussions with students and staff indicated that there are often no positive outcomes for students such as special events or activities available to students who perform well.

- iii. Provide support for students preparing for the SAT, ACT, and preparing college applications. Assist students in completing the FAFSA and identifying and applying for college scholarships.
  
- m. Expand Students Access to Technology<sup>27</sup>
  - i. Improve youth access to and use of instructional and communication technology
  - ii. Ensure that software and hardware meets current standards
- n. Provide Extra-curricular Activities
  - i. Expand facility-wide recreational and cultural activities
- o. Provide Guidance Services. Hire guidance counselors who can assist youth in making academic decisions, tracking credits, and preparing for graduation or program completion.
- p. Support Education Aspects of Students' Transition. Designate staff to assist youth in transition planning for graduation and return to the community.

## **5. External Support and Partnerships**

- a. Expand and strengthen the use of community advisory boards to support special activities
- b. Further develop community partners in the arts, industry, education, & public service
- c. Expand partnerships with faculty in colleges and universities at each facility.

## **6. Quality Assurance and Sustainability**

- a. Develop a system of quality assurance that provides internal feedback on the operation of the education program.
- b. Ensure that key features and elements of the program as described above are measured
- c. Promote a culture of accountability through public dissemination of key indicators of program performance.

## **Education, Disadvantage, and the Future of Marginalized Youth**

In a number of states and the District of Columbia, education services in juvenile corrections have been transformed in recent years.<sup>28</sup> Coupled with changes in mental health services and

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<sup>27</sup> At the Challenger Memorial Youth Center in Los Angeles County, students belong to Kindle clubs and read e-books; others are enrolled in community college course work via local area networks.

conditions of confinement, these reforms have transformed facilities into places where youth strive to do well in school, have hope for the future, and where staff feel more energized and hopeful about their ability to help youth prepare for successful return to the community. With adequate support, many of the recommendations listed in this report can be implemented at minimal cost. Other changes will require legislative or administrative changes that will take time. Phasing in recommended changes over time and across facilities provides the opportunity to generate staff support for changes, fine tune operations, and demonstrate the feasibility of new ways of operating education within the IDJJ. Finally, evidence suggest that evidence-based options including well-designed and implemented education programs, can promote better outcomes for youth as well as fiscal benefits to the State.<sup>29</sup>



September 20, 2013

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<sup>28</sup> Juvenile correctional facilities in Hawaii, Los Angeles County, California, and the District of Columbia have all made major changes to the operation of their education programs in recent years in order to comply with state or federal legislation and the terms of settlement agreements.

<sup>29</sup> See Lee, S., Aos, S., Drake, E., Pennucci, A., Miller, M., & Anderson, L. (2012). Return on investment: Evidence-based options to improve statewide outcomes, April 2012 (Document No. 12-04-1201). Olympia: Washington State Institute for Public Policy, <http://www.wsipp.wa.gov/rptfiles/12-04-1201.pdf> Lockner, L., & Moretti, E. (2004) at 3 above; and Leone, P., & Weinberg, L. (2012). Addressing the Unmet Educational Needs of Children and Youth in the Juvenile Justice and Child Welfare Systems. Washington, DC: Georgetown University, Center for Juvenile Justice Reform, <http://cjjr.georgetown.edu/pdfs/ed/edpaper.pdf>

## Appendix: Profiles of IDJJ Youth<sup>30</sup>

WT is a 20 year-old GED recipient from Chicago. At the time he was interviewed, he had spent 7 months at Kewanee and much of the time he was locked down on his unit or cell because there were no post-secondary school programs and no vocational programs available. He reported spending time on the segregation unit where he had no socks, no underwear, and no eating utensils. While on segregation, he stated that he used pieces of Styrofoam to eat some of his meals. During his time at Kewanee he had never been to the library and had only been to the teen center (a recreation area) once.

SK, an 18 year old from Chicago, had been at St. Charles for 5 months at the time I interviewed him. He complained during our interview that students at the facility only went to school for half days. His favorite subject was math and his least favorite was history. He didn't know how many high school credits he had but he wanted to finish school. After he leaves the IDJJ, he said he wanted to get a job but he didn't know what type of work he wanted to do. He reported that he had been enrolled in the wood shop at St. Charles making shelves.

MN, a 17 year-old from Springfield, had been at Kewanee for 9 months when I interviewed him. He felt that the teachers were not teaching him much at all; everything is done on the computer. His favorite author is William Dean Meyers and he is able to get books from the school library. He's interested in becoming a mechanic after finishing high school or getting his GED. He indicated that he has had no experience or opportunity to learn about becoming a mechanic at Kewanee. When asked what changes to the school program he would recommend, he said make the classes into "book classes; some of the kids here can't read."

TD, a 14 year-old from Rock Island, had been at Kewanee for 5 months when I interviewed him. He reported that he didn't like school at Kewanee at all. He said "I'm not good at computer class. I was in special education. There is no special education here." He recommended that the school schedule change so that all students could go to school full time. He's interested in becoming a welder, like his older brother, when he is out of the system. He indicated that he would like to participate in vocational courses if they were available.

AB, a 16 year-old from Kankakee, had been at Harrisburg 6 months when I interviewed him. He said school is "decent" but he claimed that teachers "don't help us." He said, "Teachers say, I don't know, I can't help you."

RT, a 17 year-old from DeKalb, had been at Warrenville 15 months when I interviewed her. Her favorite subject was math; she said that biology and history were her most difficult subjects. She

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<sup>30</sup> In order to protect the confidentiality and anonymity of youth, the initials and some identifying information in the Appendix were changed.

likes the web-based instruction and being able to work at her own pace. She said that some other girls do not like the on-line instruction. She belonged to a book club at Warrenville that meets monthly; when I interviewed the group was reading *The Other Wes Moore*. She recommended that the facility have student government and more speakers. She said that the best part of her day was going back to her cottage and going to sleep.

CA, a 17 year-old from Joliet, arrived at Harrisburg in December 2012. He has a high school diploma and is interested in taking business management courses after he leaves the IDJJ. He is an avid reader and said James Patterson and Dan Brown were his favorite authors. He complained that it was very difficult to get books at Harrisburg because there is no librarian and because he is not in school.

TK, a 17 year-old from East St. Louis, was interviewed in the confinement unit at Harrisburg. He claimed that this was his fourth placement at Harrisburg. He was in confinement nearly two weeks because there were not enough beds on Unit 2; while on confinement he was locked down 24/7 and stated that he was only out of his cell once each day for a shower.

PD, a 19 year-old from Peoria, had been at St. Charles for two months when I interviewed him. He claimed that he learned “stuff” in school but that school was just a half day. When there is no teacher, “we just get placed in the library or gym.” He said that school was boring and that he doesn’t know why students don’t get any homework. His recommendations for improving the school included more fun activities, full-time school, recess time in gym, and homework.