

## 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.

---

<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>

---

<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.

---

<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

---

<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

---

<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,

---

<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 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

---

<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

---

<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.

---

<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

---

<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 ratios 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

---

<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, reading "Barry Kusch". The signature is written in a cursive style with a long, sweeping tail on the final letter.