



**OFFICE OF THE INDEPENDENT JUVENILE OMBUDSMAN**  
Illinois Department of Juvenile Justice

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To the Honorable JB Pritzker, Governor of the State of Illinois

To the Honorable Juliana Stratton, Lt. Governor of the State of Illinois

To the Honorable Members of the Illinois General Assembly

Dear Governor, Lt. Governor and Members of the General Assembly,

I am pleased to present the FY2020 Annual Report from the Office of the Independent Juvenile Ombudsman for the Department of Juvenile Justice (OIJO) pursuant to 730 ILCS 5/3-2.7-35. The OIJO functions independently within the Department of Juvenile Justice for the purpose of securing the rights of youth committed to the Department of Juvenile Justice. This report summarizes the activities of the OIJO, recounts some actual incidents which highlight areas that need to be addressed, provides recommendations to address them, and contains data both aggregated and disaggregated by individual facility for state fiscal year 2020.

The OIJO is grateful for the support of the Lieutenant Governor's Office, Governor's Office, and DJJ's leadership, which permit us to continue to identify issues within the Department and make recommendations to address those issues. We look forward to continuing to work with all stakeholders to resolve the issues impeding the Department from successfully fulfilling its mission.

Thank you for the continued honor of serving in this capacity.

Respectfully submitted,

Karima Douglas

Acting Independent Juvenile Ombudsperson

## **Introduction: An Inflection Point**

FY2020 was a year of transition- progress and turmoil- for the world. DJJ and the work of this Office was no exception. At the beginning of the year, July 2019, DJJ held a total of 264 youth in its five secure facilities. By the end of the year, June 2020, there was a total of 103 youth in custody. Looking at those numbers and the swift response to the relatively uncharted territory of a global pandemic, we genuinely applaud progress. FY2020 also ended in the midst of widespread protest against racism and police violence spotlighting the voices of young people in desperate need for justice. DJJ's Director, Heidi Mueller, called this time an "inflection point" for the Department and we agree. As the numbers of youth in custody decreases, we call attention to the voices of the youth who remain, and the youth released home to uncertainty. Their needs, their grievances, their calls for justice are louder and clearer now and we owe it to them to listen. Our work, our responsibility at this inflection point is to not just listen, but to amplify and respond.

This is the annual report submitted by the Office of the Independent Juvenile Ombudsperson (OIJO) to the Honorable JB Pritzker, Governor of the State of Illinois, Honorable Juliana Stratton, Lieutenant Governor of the State of Illinois and the Illinois General Assembly, summarizing the activities done in furtherance of the purpose of the OIJO pursuant to 730 ILCS 5/3-2.7-35. This report covers state fiscal year 2020 (July 1, 2019 - June 30, 2020) the period hereafter known as FY2020.

## **Office of the Independent Juvenile Ombudsperson**

### **Background**

The Office of the Independent Juvenile Ombudsperson was created by statute in 2014. In 2015, Governor Bruce Rauner appointed the first and only Ombudsperson for the first term ending in February 2017. Kathleen Bankhead continued to serve in that capacity through Fiscal Year 2020. The Office of the Independent Juvenile Ombudsperson was created as a parallel entity with the Department of Juvenile Justice for the purpose of securing the rights of youth committed to the Department.<sup>1</sup> The Ombudsperson reports directly to the Governor and "may only be removed by the Governor for incompetency, malfeasance, neglect of duty, or conviction of a felony."<sup>2</sup> Cases of severe abuse or injury of a youth, serious misconduct by staff, as well as other special circumstances identified by the Ombudsperson must immediately be reported to the Governor and Director of IDJJ.<sup>3</sup> The Independent Juvenile Ombudsperson provides an Annual Report summarizing the activities and findings of the Office to the General Assembly and the Governor.<sup>4</sup>

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<sup>1</sup> 730 ILCS 5/3-2.7-5

<sup>2</sup> 730 ILCS 5/3-2.7-15

<sup>3</sup> 730 LCS 5/3-2.7-25 (c)

<sup>4</sup> 730 ILCS 5/3-2.7-35

## **Duties of the Office of the Independent Juvenile Ombudsperson**

- Review and monitor the implementation of rules and standards established by the Department of Juvenile Justice.
- Evaluate the delivery of services to youth.
- Provide assistance to a youth or family who are determined to be in need of assistance.
- Investigate and attempt to resolve complaints when a youth or family is in need of assistance or a systemic issue regarding the provision of services is raised.
- Review and periodically inspect the facilities and procedures of any facility in which a youth is placed.
- Be accessible to and meet confidentially and regularly with youth to inform them about pertinent laws, rules and policies, and their rights.
- Report certain types of serious concerns immediately to the Director of DJJ and the Governor.<sup>5</sup>
- Refer alleged criminal behavior and violations of the State Officials and Employee Ethics Act to the Illinois State Police, and the Executive Inspector General respectively.
- The Ombudsperson is a mandated reporter and reports allegations of abuse and/or neglect to the Department of Children and Family Services Hotline.
- Promote awareness of the Ombudsperson's Office among the public and youth.
- Develop and make available a complaint process for youth and anyone complaining on behalf of a youth.
- Notify the guardian ad litem and attorney, parent or guardian of a critical incident involving a youth and provide a copy of the critical incident report upon request.

## **Rights of the Office of the Independent Juvenile Ombudsperson**

- Review court files of youth.
- Recommend policies, rules, and legislation designed to protect youth.
- Make appropriate referrals.
- Attend internal administrative and disciplinary hearings and advocate for the best interest of youth when necessary.
- Contact or consult with an administrator, employee, youth, parent or expert.
- Have confidential and privileged communication initiated by youth in person, by phone, by mail or any other means at any time.
- Have full and unannounced access to youth and Department facilities at any time.
- Have appropriate meeting space in the facility that preserves confidentiality.
- Participate in professional development and appropriate professional training.
- Receive copies of critical incident reports.

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<sup>5</sup> 730 ILCS 5/3-2.7-25(c)(1) – (5)

## Language and Methodology

Issues are generally problems or topics of concern for youth wherein they need help seeking a resolution. Inquiries are questions posed by youth that may not rise to the level of a problem but where they need a specific answer or reference. Complaints are formal written memos from the Ombudsperson's Office to the IDJJ Director and Executive Leadership regarding serious issues that were ongoing and could not be resolved informally, presented a systemic problem and/or a complainant requested that a written complaint be filed. Formal complaints were typically investigated by the Office and discussed with DJJ leadership before they issued a written response. When necessary, a few complaints were forwarded to and investigated by external entities.<sup>6</sup> Most complaints were addressed and resolved in less than 30 days.

Most of the issues reported to the Ombudsperson were addressed informally by referral to Illinois Youth Center administrators or DJJ Executive Staff. This approach generally resulted in prompt resolutions. Youth and/or family members were advised of the responses in person, by letter, email or telephone call.

The OIJO has no authority to order DJJ to change a decision or alter a policy or practice. Rather, the Ombudsperson brings to the attention of DJJ leadership issues involving the rights of committed youth, fairness in the access and application of services, policies and practices and other matters that warrant the Office's involvement. Finally, the annual report is a tool for the OIJO to reveal complaints of violations of youth rights, unfair practices and systemic issues to the Governor, Lt. Governor, General Assembly and the public.

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<sup>6</sup> Illinois Department of Corrections, Illinois State Police, Illinois Department of Children and Family Services, etc.

## **Fiscal Year 2020 Summary of Activities**

### **Visits**

In-person youth facility visits are critical to the work of the OIJO. Over the course of FY2020 the Ombudsperson and Deputy Ombudsperson met regularly with youth in person at each of the five Illinois Youth Centers. Visits often include one-on-one conversations between the OIJO staff and young people on their living units or in small office settings. These visits serve as opportunities for the Ombudsperson and Deputy Ombudsperson to introduce the Office, its roles and responsibilities to new youth shortly after they are admitted to IDJJ. Visits also provide opportunities for OIJO staff to privately learn about and follow-up on issues, inquiries and complaints initiated by phone call or via voicemail. An in-person visit allows for more in-depth conversation between youth, Ombudspersons, facility staff and administrators. During these visits OIJO staff continue to build safe relationships with youth face to face, open up the lines of communication for more sensitive issues youth may not be comfortable discussing by phone or in writing, and allows OIJO staff to observe, in real time, the youth's living, working and learning conditions. During FY2020, the OIJO made a total of 80 trips to Illinois Youth Centers and made 1,176 one-on-one contacts with youth. Additionally, the Ombudsperson and Deputy Ombudsperson regularly attended special programs at Illinois Youth Centers such as graduation ceremonies, youth performances and the grand openings of the barber/cosmetology schools at IYC Warrenville and IYC Chicago. Please see pages 5-6 for the detailed breakdown of these visits by date and facility. From March through June 2020, as a precaution due to COVID-19, the Ombudsperson conducted virtual visits via WebEx with youth at IYC Harrisburg and IYC Pere Marquette. The calls were done with youth alone on camera in a private conference room or counselor's office.

### **Calls**

Over the course of FY2020, we took a total of 1,048 calls from youth in IDJJ facilities as well as youth out in communities on aftercare. Youth in DJJ custody and on aftercare, their family members and others calling on their behalf could reach the OIJO by telephone seven days a week. All calls from Illinois Youth Centers remain free, unmonitored, and unrecorded to maintain the confidentiality of the Office. Youth have access to Securus operated phones in common areas of each of their living units. Many of the issues detailed in this report span phone calls and in-person visits. For the purposes of this report and to limit duplicate statistics, our Office records the number of issues based on our formal and informal inquiries and complaints to the Department rather than how often the issues are discussed by phone.

### **Community Outreach and Support**

The Ombudsperson's Office is also tasked with promoting awareness of the Office and supporting youth and their families in community. The staff make a point of engaging with communities where youth most often return like Cook County, Winnebago County, Central and Southern Illinois. The Ombudsperson and Deputy Ombudsperson supported youth at their court appearances twelve times in FY2020 in Chicago, Rockford, and Mount Vernon, Illinois. The OIJO also presented to the incoming IDJJ interns at their academy, educating them about the function of the Office twice during the year. The Ombudsperson presented to Kennedy King College and Northwestern Law students about the work of the Office and the integral role restorative justice can play in juvenile justice system reform. The Ombudsperson and Deputy Ombudsperson also participated in several restorative justice peacekeeping circles in Chicago at Precious Blood Ministry of Reconciliation.

FY2020 Visits

IYC Chicago

Date	Number of Contacts
1. 7/17/19	15
2. 8/15/19	11
3. 9/20/19	6
4. 10/18/19	4
5. 11/8/19	17
6. 12/13/19	8
7. 12/19/19	6
8. 12/20/19	15
9. 1/17/20	3
10. 1/24/20	10
11. 3/4/20	6
12. 3/31/20	12
13. 4/27/20	2
14. 5/20/20	13
15. 6/19/20	11
<b>Total Visits</b>	<b>15</b>
<b>Total Youth</b>	<b>139</b>

IYC Warrenville

Date	Number of Contacts
1. 7/11/19	8
2. 8/21/19	9
3. 10/17/19	4
4. 12/5/19	12
5. 12/17/19	15
6. 2/26/20	6
7. 3/12/20	5
8. 4/14/20	10
9. 6/11/20	10
<b>Total Visits</b>	<b>9</b>
<b>Total Youth</b>	<b>79</b>

IYC Harrisburg

Date	Number of Contacts
1. 7/17/2019	10
2. 7/18/2019	13
3. 7/29/2019	33
4. 7/30/2019	47
5. 7/31/2019	2
6. 8/14/2019	19
7. 8/29/2019	21
8. 9/9/2019	17
9. 10/10/2019	31
10. 11/20/2019	36
11. 11/21/2019	23
12. 12/4/2019	79
13. 12/5/2019	6
14. 12/23/2019	16
15. 12/24/2019	7
16. 1/7/2020	23
17. 1/29/2020	22
18. 1/30/2020	22
19. 2/10/2020	32
20. 2/11/2020	30
21. 2/13/2020	4
22. 4/1/2020*	18
23. 4/23/2020*	18
24. 5/29/2020*	11/8 <sup>7</sup>
25. 6/24/2020*	13
26. 6/30/2020*	9
<b>Total Visits</b>	<b>26</b>
<b>Total Youth</b>	<b>514</b>

<sup>7</sup> Youth on quarantine – phone call check-in (not counted in total)

**IYC St Charles**

<b>Date</b>	<b>Number of Contacts</b>
1. 7/11/19	16
2. 8/5/19	35
3. 9/10/19	34
4. 9/16/19	12
5. 9/24/19	39
6. 11/1/19	13
7. 11/13/19	8
8. 12/4/19	10
9. 1/16/20	8
10. 1/30/20	6
11. 2/19/20	29
12. 3/24/20	29
13. 4/14/20	16
14. 4/28/20	21
15. 5/13/20	19
16. 5/29/20	18
17. 6/11/20	7
<b>Total Visits</b>	<b>17</b>
<b>Total Youth</b>	<b>320</b>

**IYC Pere Marquette**

<b>Date</b>	<b>Number of Contacts</b>
1. 7/10/2019	7
2. 7/31/2019	12
3. 8/15/2019	10
4. 9/10/2019	12
5. 10/11/2019	11
6. 12/5/2019	19
7. 1/8/2020	12
8. 2/6/2020	18
9. 4/2/2020*	6
10. 4/24/2020*	5
11. 5/28/2020*	3
12. 6/19/2020*	4
13. 6/30/2020*	5
<b>Total Visits</b>	<b>13</b>
<b>Total Youth</b>	<b>124</b>
<b>Total Facility Visits</b>	<b>80</b>
<b>Total Youth Visits</b>	<b>1,176</b>

## Spotlight on Facility Specific Issues

### IYC Chicago

Of the 67 discrete issues youth at IYC Chicago brought to our attention in FY2020, two issues encapsulate most of the calls or complaints the Office received - staff/youth relationships and phone restrictions. There were several times throughout the year when youth drew our attention to circumstances where staff mistreated them verbally or physically, demonstrated biased decision-making and general hostility between security staff and the youth in their care. Some youth complained that staff wrote tickets (disciplinary reports) on them that were unjustified for behavior that they did not do and/or they were given discipline (curfews, behavior level drop, set time) that was undeserved. Our Office participated in administrative hearings for tickets when invited by youth and we observed the process to make sure that it was fair and youth were heard. The administrative process was procedurally fair in that youth were given the opportunity to state their side of the story, provide evidence and request witness interviews. The difficulty was that in many instances there was very little objective evidence to prove a youth's guilt or to disprove staff's allegations. Although this issue came up repeatedly at IYC Chicago this year, it was prevalent across all DJJ facilities. When it's youth's words against staff's words, typically the written witness statements by staff are all the evidence necessary to discipline a youth. Our Office recognized that where there was tension between certain staff and youth, and youth believed their complaints about staff and unfair treatment were unaddressed, that tension turned to resentment and disorder.

The other standout issue at IYC Chicago was complaints about the phone system and rules regarding phone use. This system DJJ uses is Securus Technologies, a paid system where loved ones must add money to an account for youth to make timed, monitored calls from their living units. Youth complained that the rules around using the phones in the facility were too restrictive. At one point in the fiscal year, youth were allowed only two 30-minute calls a day with an exception for youth in the Honors Unit who had unlimited calls. If one of those calls was dropped or disrupted for some reason, youth had only one call left for the day. There was no way in the system to recover the lost time. Youth explained how important the phone was to them to stay connected to their family and friends at home and two calls a day were insufficient. Staff explained that these restrictions were put in place to ensure there was equal time for all youth to access the limited phones on the unit. Later in the fiscal year, the administration at the facility did amend the rule, doubling the phone time from two 30-minute calls a day to four.

### IYC Harrisburg

What this Office called "the lamentable relationship" between staff members and youth at IYC Harrisburg in last year's report, persists. Of the 390 issues we documented from the facility, 60 of them included requests to transfer out of the facility and over 50 reflected complaints of staff mistreatment and unprofessionalism. Youth continued to complain about the racist treatment by staff acted out through physical, verbal and emotional abuse. Youth either expressed feeling helpless in the face of this dynamic or pressed all who would listen for a transfer to another facility where things might be better. Of the 15 formal complaints filed by the OIJO to the IDJJ executive staff, 12 were from youth at IYC Harrisburg and 8 were about staff misconduct.

Jackson\*, a young person at IYC Harrisburg, was escorted to another building to cool down after getting in a fight. The staff escort was a person who has had repeated complaints against him from multiple youth over the years. This staff person helped bring Jackson to the ground, landing with his full weight on top of the young man. Jackson complained that he couldn't breathe, and the staff person adjusted his knee from the youth's back to his neck. The youth was then handcuffed tightly, walked with his handcuffed wrists held up high behind his back so that he was bent over

with his face toward the ground and placed into a filthy room covered in toilet paper and feces. The staff then called Jackson, a black youth, a racist for fighting a white youth.

Each year this Office observes considerable improvement in the morale among youth due to the good work of the facility administrators. Despite these improvements, and fewer complaints, the cruelty shown to the youth by the brutishness of certain staff remains consistent.

### **IYC Pere Marquette**

As DJJ's smallest, least prison-like facility, this Office rarely received calls from youth at IYC Pere Marquette. There were no clear trends in issues and complaints coming from youth there. On visits, most youth express(ed) no complaints and just hopes for returning home. When there were complaints, youth referenced staff members taking their behavior points unfairly or treating some youth more favorably than others. Other issues included missing property after a facility transfer and delays in aftercare/release planning. Most often, these few issues, were resolved in the youth's favor after this Office referred to the facility administration for response.

### **IYC St. Charles**

At IYC St. Charles, youth often reached out to the OIJO to transfer to another facility. They made these requests for two key reasons. One, in search of better programming opportunities. Two, in search of safe refuge from negative or dangerous relationships.

First, several of the youth at IYC St. Charles had longer commitments, which gave them more time in DJJ to participate in and complete beneficial programs. An issue that arose was that quite a few youth completed the available programming at IYC St. Charles and were left restless and disengaged. Programming opportunities can be educational (eg. school attendance), or treatment based (eg. anger management) or centered on life skills (eg. parenting) and all of these opportunities can be linked to time off youth's sentences. Many youth complained that there wasn't enough fruitful programming opportunities at IYC St. Charles. Sometimes they completed all of them. Sometimes the programs were defunct due to lack of instructors. Sometimes the youth complained that they weren't receiving sufficient cut time for the activities or that the cut time they did receive didn't meet expectations. Youth reached out to the Ombudsman's Office for assistance in transferring to other facilities where they believed they could enroll in available programming. In early March 2020, DJJ celebrated the grand opening of barber programs at IYC Chicago and IYC Warrenville, and a cosmetology program at IYC Warrenville. These programs were highly sought after by the high school graduates at all five youth centers eager for post graduate opportunities.

Second, an abundance of requests for transfers out of IYC St. Charles were because youth felt unsafe. Many young men reached out to the OIJO for assistance when they knew their safety was at risk due to conflicts with their peers. IYC St. Charles consistently has the most fights and assaults among youth. Youth contacted the OIJO when they were aware that staying at the facility would mean imminent harm for them or they would be provoked into fighting. Our Office would referred their requests to administrators or sometimes IDJJ executive staff members, but youth's requests were too often denied or weren't acted upon with enough urgency. The same was true for unit transfer requests. Youth knew best what environments were safe for them and they knew who they could securely spend most of their days around. Their input into their facility and unit assignments were deprioritized. This Office recommends that DJJ listen to the youth first when it comes to their safety and perceived threats because transferring a youth after a fight or an assault does more harm than good.

Another common issue among youth at St. Charles were complaints about the phone. For youth across DJJ, access to the phone for calls outside to loved ones is of prime importance every day. Youth complained that

there were not enough phones on the unit for everyone to use them freely. Many units had two phones for the youth to share but phones often broke and repairs too often delayed for a week or more. When this happened, youth were forced to share one phone which caused tension among cottage mates. Youth also contacted the OIJO to complain about who they were allowed to speak to on the phones and how often. Each youth was required to submit lists of names and numbers of those they'd like to call regularly. DJJ staff were to collect these lists, investigate the validity and appropriateness of those listed and then enter into the system approved call lists for each youth. Youth contacted the OIJO to complain that it would take weeks for IDJJ staff to approve their phone lists or to make changes to their lists. They would complain that the process was too restrictive and there should be more freedom in who they could call. The OIJO agreed that many of the phone issues could be resolved if youth were given more flexibility in their access to friends and loved ones in community. Youth and their families were still unfairly required to pay for Securus phone calls. Those who couldn't afford those calls could only have monitored calls arranged by their counselors on a weekly basis and only to a select group of approved people. Calls were also restricted based on behavior levels. These restrictions and obstacles led to tension between youth and staff and rarely were the rules in service of youth successfully transitioning back into communities.

### **IYC Warrenville**

Like IYC Pere Marquette, the OIJO did not receive a large volume (number) of complaints and issues from youth at IYC Warrenville in FY2020. The average population at the facility was about 30 young men and women at the start of the fiscal year and about 10 youth by the end. The two issues that came up most often were about facility conditions and restrictions around phone usage. Youth reported to the OIJO several times about basic facility conditions. Youth complained it was too hot on their units and they were finding insects. Youth also complained that they did not have a tv on their unit with working cable<sup>8</sup> or available DVDs. DVDs were regularly donated to the facility for youth to use but even with rotating those movies around the facility, youth often watched and rewatched the same movies multiple times before they were refreshed. Facility or unit conditions are important to the young people in DJJ because their rooms and community spaces are where they spend most of their time. They rely on tv to pass the time on the weekends and after school. Temperature conditions varied widely depending on the weather and regular maintenance of facility systems, but youth felt those fluctuations most acutely as they had no control over those settings or the timeline for repairs. All issues and requests were referred to facility administrators to address.

There were also a few instances where youth complained about the facility's use of phone restriction as discipline. Youth complained that the facility was generally too restrictive with the enforcement of their phone usage. Youth had to earn the highest behavior level and stay on that level for weeks to add loved ones to their phone lists who weren't biologically family. Youth expressed that their calls were monitored more closely at this facility than any other and they lost phone privileges more easily there than at any other facility. While restrictions on phone usage don't violate youth's rights, they contradict the spirit of DJJ's reforms. Restrictive phone lists and revoking phone privileges as punishment sound like relics of corrections/prison culture and are antithetical to typical adolescent culture and normal development.

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<sup>8</sup> Most TVs on units have no functioning channels without cable. When the cable is down, those TVs are only used for DVDs.

## Spotlight on Systemic Issues:

### COVID-19 [March 2020-June 2020]

On April 9, 2020, the Ombudsperson's Office published "A Special Report on COVID-19." This special report provided a brief snapshot in time of how the COVID-19 pandemic affected the youth in custody at IDJJ, the IDJJ staff, and the decisions made by IDJJ at the time to manage operations in the face of the disease. The special report detailed the total number of youth in IDJJ custody statewide at the time (159), the number of youth with indeterminate release dates or whose releases could be determined solely by the IDJJ Director (107) and the number of youth with determinate release dates or who whose releases were determined by statute or by an adult court conviction (52). The situation at that time for IDJJ and across the state was fluid and uncertain. The general routine for everyone stopped almost overnight and there was little information available for youth or their families about how things could change day to day. The Special Report was meant to inform the public (as best as possible) of what IDJJ was doing to keep youth and staff safe in the Illinois Youth Centers and precautions taken to minimize exposure and spread of COVID-19. We highlighted new practices like: a screening protocol for people going in and out of the facilities, universal masking, conversion of most in-person visits and programming to virtual status (when possible), and consistent education of youth and staff about the virus and monitoring of youth and staff that they were following all the necessary risk reduction procedures.

Most significantly IDJJ worked diligently to reduce the likelihood of COVID-19 infection and spread by reducing the number of youth in custody. In Mid-March 2020, DJJ halted all new intakes. Then, DJJ increased the frequency of release reviews for youth especially prioritizing youth who were already close to their projected release dates or who met release criteria. These expedited measures could only benefit those young people who were adjudicated delinquent in the juvenile justice system and whose releases were within the IDJJ Director's discretion.

As for the operations of the Ombudsperson's Office, both the Ombudsperson and Deputy Ombudsperson retained access to all IDJJ facilities. We continued visiting with youth in IDJJ custody both in person and virtually using video conference technology. Youth in custody and on aftercare could also reach the Office by telephone. Shortly after the state and local stay at home orders went into effect, the Ombudsperson's Office and IDJJ Director agreed to daily check in calls to stay informed of all COVID-19 updates. Those continued through the end of FY2020.

Youth who tested positive for COVID-19 were immediately quarantined to their room and monitored closely. IDJJ provided them with activities, games and books, etc. to keep them engaged throughout the quarantine period. Other youth who were exposed to the virus were quarantined to their unit with similar access to limited programming and activities throughout the necessary quarantine period. Many of the calls, inquiries and complaints related to the pandemic were about the restlessness and isolation of quarantine. Many youth missed the routine movements of going to the cafeteria for meals or the gym for group activities and of course, the time spent in person with their families and loved ones. The things they looked forward to most in this custody setting were taken away from them for weeks at a time or so materially altered they felt that those things were gone too. The youth expressed that even though they'd already lost their freedom, they somehow felt even less free. They understood that COVID-19 wasn't necessarily any one person's fault, but it didn't make their complaints any less significant. Another common issue during this time were youth concerned that COVID precautions and changes in programming would affect their ability to earn cut time off their commitments. Many youth earn days off their time in custody by completing certain programs (education, mental health, behavior, etc.). Some of those programs often led by staff, contractors and volunteers, were reduced or

postponed due to the stay at home orders or when there were COVID-19 exposures. Many youth were in the middle of completing these programs when things halted and they worried that their progress would be fruitless for reasons out of their control. Our Office brought these concerns to the attention of the IDJJ executive staff and suggested options that would align with COVID safety procedures but would still give the young people their promised opportunities for early release. IDJJ made adjustments to allow youth to continue earning program credits and over time, many programs were successfully converted to virtual settings so there were limited interruptions.

### **Juvenile Sex Offender Treatment**

Back in the FY2018 Annual Report, this Office highlighted the issue of juvenile sex offender treatment in IDJJ. Most specifically we described the issue of young people adjudicated delinquent for committing sexual offenses were mandated to participate and complete a treatment program that seemingly never ended. Youth, and our Office in advocating for them, struggled to understand the clinical benchmarks necessary for successfully completing the treatment program. Most of the youth who required jsj treatment in IDJJ custody did not successfully complete the program during their time in custody, so they had to continue treatment in a locked residential treatment center while on aftercare. The programs offered by residential treatment providers also came with uncertain timelines and the concept of “successful completion” was a difficult concept to pin down. We offered two recommendations to address our primary concerns then: provide youth with more clearly defined long and short terms goals for achieving progress in treatment and immediate authorized absence for youth requiring treatment so as to avoid duplication and contradicting treatment goals between DJJ and outside treatment providers. While we didn’t receive a direct response to the FY2018 report or to those recommendations, we didn’t receive complaints or inquiries from youth in FY2019 about JSO treatment.

In FY2020, however, our Office saw JSO treatment rise again as an issue for the youth mandated to complete it. This time youth complained about how their treatment in residential treatment settings. Youth adjudicated delinquent of juvenile sex offenses and referred for treatment in Illinois residential treatment settings usually receive treatment from one or more of these providers: Nexus-Indian Oaks Family Healing in Manteno, IL (“IOA”), Nexus-Onarga Family Healing in Onarga, IL (“Onarga”); and Riveredge Hospital in Forest Park, IL (“Riveredge”). The first issue is a lack of options.

Several young people were placed at IOA for treatment on aftercare and/or authorized absence during FY2020. They complained of the treatment there to this Office, their families and their IDJJ aftercare specialists. Youth complained that the staff mistreated them both physically and emotionally, that the treatment was ineffective, food was inadequate and their complaints to treatment staff were ignored. When the issues became too great for them, one youth ran away and a few youth were removed from the program. When that happened, they were returned to IDJJ custody. Once returned, these youth still required JSO treatment and were left with the same limited set of options. They might be told to return to IOA where they struggled and IOA can refuse to accept them back. If that path is blocked, they’d be offered to Riveredge or Onarga who could also deny them based on their background, level of need, past experience, lack of available bed space or some combination of those things. Then, it’s just a waiting game for the youth who have to sit in custody waiting to be accepted to a place they likely don’t want to be that is only slightly less carceral than DJJ custody. To be clear, this Office isn’t staffed with specialized clinicians and we aren’t second guessing the decision of such clinicians or the local courts who say that these youth need treatment. We do question the process and the availability of resources to match the obligations these youth and their families face. Where the state says these youth have these needs and they need to be met in very specialized ways, then the state should be held to the high standard of meeting these high needs. The options as they stand right now are inadequate.

The issue of limited options also applies to IDJJ facility assignment. Currently, IYC Harrisburg is the only facility designated for providing juvenile sex offender treatment. Every young man committed to IDJJ for a juvenile sex offense or otherwise required to complete JSO treatment are automatically assigned to IYC Harrisburg regardless of the length of their commitment, where they're from in the state and if it's otherwise the right fit for that youth. Youth in IDJJ who don't feel safe at their assigned facility because they have been harmed by staff or their peers or are experiencing threats of harm can typically request a transfer to a new facility where they'll feel safer. Youth in IDJJ who graduate high school and want to enroll in one of the newly opened barber colleges at IYC Chicago or IYC Warrenville can typically request a transfer to one of those facilities to begin their studies. JSO youth are not given any of these options. No other category of offense is as restrictive and limiting to IDJJ youth as the JSO category. This kind of blanket policy is out of step with the Department's intentions of treating youth as individuals with individual needs and strengths.

### **Delayed Release**

The process for discharge of a minor from DJJ supervision begins upon his/her commitment to DJJ by the committing court. Typically, the minor is assigned to reside at one of DJJ's five youth centers for a period of time. Eventually, the minor is released to aftercare (formerly called parole). After successful completion of a term of aftercare, the minor is discharged from DJJ's correctional supervision.

Generally, minors committed to DJJ have an indeterminate sentence. With the exception of minors committed to DJJ as Habitual Juvenile Offenders<sup>9</sup>, Violent Juvenile Offenders<sup>10</sup>, or for the offense of First Degree Murder<sup>11</sup>, a minor does not have a court ordered or statutorily mandated date of release to aftercare or date of discharge from DJJ. However, the commitment terminates and the minor must be discharged from DJJ on or before their 21st birthday<sup>12</sup> or after serving the maximum time an adult would serve for the same charge, whichever occurs first.<sup>13</sup> Youth with Extended Jurisdiction Juvenile sentences are committed to DJJ with both a juvenile sentence and an adult sentence. The juvenile sentence is indeterminate, and the adult determinate sentence is held in abeyance. However, if the youth trigger the adult sentence by committing a new offense or violating conditions of their juvenile sentence they will have to serve the adult determinate sentence.<sup>14</sup> Minors prosecuted and sentenced as adults also have determinate sentences.

Similarly, other than those excepted above, there is no minimum time that committed youth must spend in DJJ's physical custody. The Director of DJJ determines when youth are released from custody to aftercare.<sup>15</sup> According to DJJ, the Target Release Date (TRD) is the anticipated date on which the minor will be released from custody to aftercare. The TRD is based upon a formulaic calculation devised by DJJ. The type of offense and number of prior findings of delinquency are the primary considerations in determining the TRD.

The TRD is not an immutable date. It may move up or back depending on factors from the youth's behavior to his/her programming needs. The TRD and process for setting it is transparent. Youth review the original TRD calculation sheets and are told how they can earn an earlier TRD or later one. According to DJJ, the TRD is a target date established for the purpose of setting consistent guidelines in determining youth release dates.

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<sup>9</sup>705 ILCS 405/5-815

<sup>10</sup>705 ILCS 405/5-820

<sup>11</sup>705 ILCS 405/5-750(2)

<sup>12</sup> The Juvenile Court Act only applies to minors. A minor is a person under the age of 21 years old. When a minor reaches the age of majority (21 years), the juvenile court system loses jurisdiction over him/her.

<sup>13</sup>705 ILCS 405/5-750(3)

<sup>14</sup> A fixed court ordered prison term prescribed by statutorily mandated sentencing guidelines.

<sup>15</sup>730 ILCS 5/3-2.5-20; 705 ILCS 405/5-750(3.5)

“There is no requirement to hold [youth] until their TRD date and there is no right to be released [to aftercare] on the TRD date.”

Though it is not a fixed sentence term, the TRD creates an expectation of release for youth, parents, guardians, staff members and external partners and stakeholders. DJJ has the authority to thwart those expectations either before or after the TRD. Once a youth has met all of the conditions for release and the Director either approves a youth or should approve a youth for release, an expectation of prompt release is justified. The OIJO believes that a right to release is created.<sup>16</sup>

### **Lack of Approved Housing**

The primary reason why youth were held past their approval date or TRD was lack of housing. Occasionally, when housing was an issue, the Director delayed release approval for youth otherwise eligible for release. Most of the youth that suffered this delay were youth with both DJJ and DCFS involvement in their lives - dually involved youth. The dual involvement was too often a hinderance to release rather than a help.

When DCFS was the youth’s guardian, DJJ did not take primary responsibility to determine his/her housing while on aftercare. DCFS was responsible for the housing portion of pre-release or aftercare planning. Even though DJJ had a no decline option for residential placement, they did not immediately step in on behalf of youth to provide housing. Because of lengthy delays in providing housing for youth and numerous complaints by the Ombudsperson’s Office described in earlier annual reports<sup>17</sup>, DJJ and DCFS began working more closely in planning for youth housing post release. To be sure, the housing situation improved. However, youth remained in custody past their TRD or would-be release approval dates.

Both DCFS and DJJ struggled to find appropriate residential placement and residential treatment for “difficult to place” youth. These were youth with a history of running away from residential placement; juvenile sex offender (JSO) designations or alleged incidents of sexual acting out behavior; allegations of setting fires; intensive mental health treatment needs; and a history of behavioral challenges. Investigations by the Ombudsperson’s Office revealed that some of the concerns that hindered or barred residential placement were remote, exaggerated or questionable.

Terry\* served about 14 months in custody on a class 2, 3 and 4 offenses. She completed substance abuse treatment and thereby earned a release review. Terry was deemed appropriate for release on June 24, 2019. Her release was conditioned on approval of her interstate compact. On August 1, 2019, DJJ’s interstate compact and her placement with her parents was approved. DCFS also required an approved interstate compact, and court approval for Terry to go home. The decision on DCFS’s interstate compact was due in mid-August 2019, but the court date wasn’t scheduled until late September 2019. The OIJO recommended DCFS ask for an earlier court date

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<sup>16</sup>It is analogous to the situation that resulted in a five million dollar settlement against Cook County Jail for the practice of holding detainees after they were ordered released by a judge. It is also much like the hundreds of youth under DCFS care who the former DCFS Director referred to as “stuck kids.” Stuck kids floundered in restrictive psychiatric hospitals long after they were cleared for discharge as they waited to be placed in homes or residential treatment facilities. Unfortunately, for some youth it can be days, weeks and even months after they are or should be approved for release before they are actually released to aftercare.

<sup>17</sup>We reported in our FY2018 and FY2019 Annual Report the systemic issue of youth held in custody after they are approved for release, or eligible for release but continued primarily for housing reasons. Most of those youth were DCFS wards, but not exclusively. The issue precipitated DJJ’s contracting with no-decline residential facilities for youth that are deemed difficult to place.

to request that the judge order Terry's return home and give permission for an extended visit with her parents while the DCFS interstate compact was pending. The OIJO noted that DJJ was the agency responsible for supervising Terry while on aftercare and further recommended that if DCFS needed separate monitoring of Terry's out of state visit with her parents a CASA could be appointed. None of the OIJO recommendations were implemented. Terry was not released to her parents until December 2019.

Caleb\*, 16 years old and under the guardianship of DCFS, complained that he was denied an opportunity to live with family. He was past his TRD despite his efforts to make sure he would be released when approved. Caleb was in DJJ for over 15 months on a Class 3 offense. His original TRD was June 12, 2019. His final TRD was June 25, 2019. He earned a release review in March 2019 but was continued to June 2019 primarily because of lack of DCFS placement. In May 2019, after contact from and extensive communication with his grandparent, who lived out-of-state with a partner and a cat, and who went fishing every day, the OIJO recommended that DCFS investigate the possibility of placing Caleb with his grandparent while they sought residential placement, if not permanently. DCFS refused to entertain the possibility of placement with his grandmother because of past serious intra-family issues between him and his siblings that did not involve his grandmother. In early July 2019, DJJ approved Caleb for release. Caleb was not released to residential placement until late July 2019. That was more than three weeks after his release approval, four months after his earliest possible release and over two months after he communicated the mutual desire that he live with his grandparent.

Katina\* lingered in custody awaiting a DCFS approved placement after a history of running from placement to her mother. As Katina approached her 18th birthday, she refused residential placement and determined she would wait in custody until she turned 18 years old or DCFS approved return home to her mother. Katina chose months of locked custody over further involvement with DCFS.

### **Administrative processing delays**

Administrative processing delays at the Illinois Youth Centers resulted in some youth spending up to a week or more in custody after they were approved for release to aftercare. The administrative process for youth seemingly required only the signing of prepared paperwork by youth and parents or guardians, warrant checks and finalizing travel arrangements. While many youth were released within a couple of days after approval. When there were delays, it was the most opaque portion of the release process. The precise reason for delays in release was often shrouded in mystery, required several follow up questions and emails and resolved too late for timely release.

### **Transitioning from Detention Centers to DJJ**

The pandemic and other circumstances of some youth cases exposed an unfair process. Safety measures required because of the pandemic meant that youth remained in detention centers for sometimes lengthy periods after court ordered commitment to DJJ. Furthermore, DJJ had no mechanism for assessing youth at detention centers to determine whether placement in an IYC was appropriate.

The extended stay in detention centers also revealed that DJJ's minimum 90-day stay and custody calculation adjustment that began at the date of admission rather than the date of commitment to DJJ was inequitable. The 90 days minimum TRD policy required that if the youth's calculated TRD was less than 90 days, DJJ assessed a 90 days TRD date. Thus, youth that were held in county detention centers for longer periods of time after commitment to DJJ could have TRD dates that resulted in those youth spending more total time in custody than similarly situated youth who were admitted to DJJ facilities more quickly. This was particularly applicable for youth with relatively minor offenses, lengthy stays in detention, or substantial pre-sentence credit. DJJ revamped the procedure to ensure that for youth who remained in detention because of the pandemic, calculations began at the day of commitment rather than the date of admission.

The collateral but more complicated issue for the same subset of youth was that the current method for calculating TRDs is misaligned with the research showing the harm caused by lengthy stays in correctional settings. The TRD calculation method assigned a specific length of stay number to certain offenses. Presumably, the more serious the offense, the longer the length of stay. However, the method did not consider how long a youth was in custody prior to arriving at DJJ's door.

If DJJ determined that it was appropriate for a youth to spend 16 months in custody based on a new Class 2 offense, plus prior adjudications, youth who spent less time in detention prior to commitment to DJJ could have an overall shorter length of stay than a youth who spent so much time in detention before commitment that their TRD calculation triggered the 90-day minimum stay add on. Additionally, not infrequently, judges would grant no pre-sentence credit days or a reduced number of pre-sentence credit days for the time youth spent in detention or on electronic monitoring. DJJ is reviewing this issue for possible restructuring of the TRD calculation model.

Bart\* was found delinquent and subsequently committed to DJJ on April 4, 2020, after spending eight months in custody for an offense he committed on August 9, 2019. It would be a Class 4 felony if committed by an adult. Because of Covid-19 precautions, he was not admitted into an IYC until July 29, 2020. After his commitment to DJJ, but prior to his admission, his mother requested that Bart receive an assessment and be released from the detention center to aftercare when pandemic protocols allowed. DJJ did not have a protocol in place to assess and, if appropriate, send a youth directly from detention to aftercare, even though there was a statute that permitted it.

Because of the lower-class offense, pre-sentence credit<sup>18</sup> and minimal previous adjudications, Bart was admitted to DJJ with a TRD calculation date of May 7, 2020 (over 2 months prior to his actual admission date and less than the 90-days minimum). When the 90-days add on was calculated, his TRD date was October 27, 2020. Agreeing with the OIJO position, DJJ recalculated the 90 days add-on from the date of commitment. Bart's new TRD date of July 3, 2020 was still prior to his actual admission date. Because there was no assessment procedure in place, Bart could spend 11 months in custody for an offense DJJ deemed a 3- or 4-month length of stay appropriate.

### **Pre-sentence Credit**

As in Bart's case, occasionally, local judges failed to give any or all of the pre-sentence credit to youth committed to DJJ. After commitment to DJJ, youth had little to no access to the attorneys that represented them. DJJ did not reach out to the committing courts for correction of pre-sentence credit. Most youth did not know that they were entitled to pre-sentence credit and other youth were unaware that they did not get it. When discovered,

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<sup>18</sup>Bart did not receive pre-sentence credit for the total number of days he spent in pre-trial detention.

the OIJO reached out to youths' former attorneys on their behalf to advise them of the error and request corrections. During the Covid-19 shutdowns, it was difficult to reach attorneys and more difficult to get the cases corrected. Consequently, an unspecified number of youth had TRD dates calculated without regard to the amount of time they spent in custody prior to their commitment to DJJ.

### **Lock-out Situations**

Occasionally, a youth and DJJ found out after release approval that the parent or guardian refused to allow the youth to return home. There were no friends or relatives willing or appropriate to provide housing for them. They were locked out and DCFS was called. It was a process fraught with confusion and delay. The Ombudsman's Office learned that DCFS and DJJ leadership were working on improving the coordination between both agencies on how to manage the releases of "locked out" youth.

#### **Recommendations:**

- 1) A review of the efficacy of DHS's Comprehensive Community-Based Youth Services (CCBYS) and youth serving residential placement and treatment providers in Illinois, paying particular attention to their staff's capacity to adequately serve youth with high mental health and/or behavioral needs; youth that may act out aggressively against authority; youth that have extensive delinquency backgrounds; older youth under DCFS guardianship requesting to return to family; youth that are homeless; and other youth with unique and complex issues.
- 2) Development of community-based, non-custodial housing units in the youth's communities similar to transitional or independent living programs (TLP/ILP) with connections to academic, vocational and social service resources for youth whose release is delayed due to lack of housing options, and for older youth preparing to transition from DJJ back to community or age out of DJJ/DCFS.
- 3) Establishment of emergency beds at the "no-decline" residential facilities that allow for immediate placement of youth, including youth under DCFS guardianship.
- 4) Elimination of the 90-days minimum TRD calculation by DJJ.
- 5) Calculation of youth TRDs that include the number of days a youth spent in custody prior to commitment to DJJ to ensure the youth's total length of stay is consistent with what DJJ determined was appropriate for the offense committed and prior background.
- 6) Creation of a protocol for assessing youth prior to admission to a DJJ facility to calculate the appropriate TRD date, placement or aftercare status.

### **Double Supervision**

Some youth released to aftercare were supervised by both a state paid aftercare specialist and a county paid probation officer. The OIJO has termed this occurrence "double supervision." Several county juvenile court systems engage in this practice.<sup>19</sup> Double supervision occurred when youth released from DJJ custody to aftercare were still on probation for another case. Others were placed on probation for a pending or new offense (typically less serious) after they were released to aftercare.

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<sup>19</sup> The OIJO met youth from Johnson County, Christian County, Ogle County, Champaign County and Peoria County on double supervision and learned that it was common in many other counties.

Courtney\* was arrested on a new charge while on probation. The probation department filed a petition to revoke the probation. The judge committed Courtney to the Department of Juvenile Justice on the new case. Rather than terminate the probation unsatisfactorily and close the old case, the probation department withdrew the petition to revoke and continued the probation case even though Courtney was in DJJ custody. Courtney will be on both aftercare and probation when released from DJJ custody. Surveillance by both an aftercare specialist and a probation officer all but guarantees that Courtney will not successfully complete aftercare or probation and cycle in and out of DJJ custody on aftercare or probation violations with all the collateral consequences attended thereto.

There is no evidence that paying two adults to supervise one youth reduces recidivism or enhances public safety. There is a history in juvenile justice of repeatedly putting a tremendous amount of resources into services and interventions that bring us no closer to protecting the public or helping youth abstain from committing crimes and live safe and law-abiding lives. Aftercare and probation often share parallel supervision models and goals. In some jurisdictions, probation officers supervise youth on aftercare. Therefore, the rational applied to probation has applicability to aftercare. The roles need not be duplicated in the lives of a young person and his/her family.

There is also ample research that shows traditional probation models focused on surveillance and control have a limited impact on youth recidivism. "Probation terms should be only as long as is necessary to connect youth with any needed supports and services in their communities and should be designed to minimize disruption to young people's lives and development. In the long run, probation agencies should be working to bolster and reinforce community capacity to meet the needs of youth and their caregivers, and to promote public safety without relying on the juvenile justice system and its associated risks for youth."<sup>20</sup> This admonition aimed at probation departments has particular applicability to aftercare as well.

Three reasons to limit juvenile probation terms:

- Minimize harm to youth. Juvenile probation can impose onerous requirements on youth and families, subject youth to harmful biases, and lead to deeper entrenchment in the juvenile justice system.
- Use limited resources inside and outside the justice system efficiently. Reducing probation caseloads by shortening terms creates time for probation officers to forge stronger connections with community-based service providers and frees up resources that can reinforce community capacity outside the justice system.
- Advance racial equity. Prioritizing youth access to the community-based supports and services they need can minimize the likelihood of justice system entrenchment for youth of color.<sup>21</sup>

The reasons sighted for reduced terms of probation corresponds to the reasons why two surveilling correctional officers is more worrisome than reassuring. Having two correctional authorities surveilling and controlling a young person naturally heightens the risks associated with juvenile and criminal legal system involvement and diminishes public safety.

DeSean\* was back in DJJ custody for a violation of probation. He was previously committed to DJJ for one of two cases he committed within two months of each other. He successfully completed aftercare and was discharged from DJJ. He was

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<sup>20</sup>According to a guide titled, TRANSFORMING JUVENILE PROBATION; RESTRUCTURING PROBATION TERMS TO PROMOTE SUCCESS, published on The Annie E. Casey website on April 27, 2021.

<sup>21</sup><https://www.aecf.org/resources/transforming-juvenile-probation-terms>.

subsequently arrested on a violation of probation warrant for the other case. He said that he didn't even know he was on probation. He thought he was free.

Both probation and aftercare should be focused on connecting youth and their families with the scarce, effective skill building, recreational, educational and other community-based resources that exist in the community. If each is focused on building trusting relationships and supports for the youth in their care, then there is no justification or necessity for two correctional agents to be assigned to a single youth. The other agent's time would be better spent establishing deeper relationships and more robust support for the fewer youth on his/her caseload and advocating for more and better resources in the vulnerable communities where most of DJJ's youth reside.

In the cases where the youth on double supervision were on probation prior to their commitment to DJJ, the probation intervention was ineffective. The aftercare specialist presumably has developed a more recent relationship with a now older teen and his/her family and knows their needs. Consulting with the probation department may assist the DJJ aftercare specialists in successfully connecting the youth and his/her family with effective community supports. This assistance can be sought without subjecting the youth and his family to double supervision.

DJJ does not keep records regarding youth on double supervision. According to DJJ, the individual aftercare specialist works with probation when a youth is dually supervised to ensure youth services needs are being met and the youth is supported. While anecdotes and research suggest that double supervision would not effectively serve the needs of youth under correctional supervision. The actual impact on the lives of those youth and their families is unknown.

Mary\*, a 17-year-old youth, was on double supervision. She spent most of her adolescence, 13-17 years old in custody. As a result, her social and emotional maturity was stunted and her level of functioning was more like a 12 year old. She struggled to comply with her probation and aftercare requirements. Initially, she was required to meet with her probation officer weekly at the probation office. She did not have transportation. Since Mary was also required to meet weekly with her aftercare specialist, the probation officer eventually consented to twice monthly meetings with him. Her aftercare specialist drove to Mary for their visits. She also drove Mary to her meetings with the probation officer when she could. The probation officer refused to meet with Mary closer to her home stating that he had provided bus passes for Mary and Mary would not utilize them. Mary was required to provide drug screens for both probation and aftercare. Probation would not rely on aftercare's tests. The aftercare specialist assisted Mary in getting to school more often. The probation department attempted to violate her for not attending more regularly. Mary trusted her aftercare specialist and knew she was trying to help her. The OIJO attempted to discuss the concerns with Mary's probation officer and ACS. Probation did not respond. Probation's role appeared to be merely surveillance and control. However, the ACS stated, "my goal is to work with Probation [and community resource providers] as a team and help Mary. [] My goal is helping [her] become successful as a young adult long after Probation and Aftercare."

Every youth entangled with the juvenile and criminal legal systems needs every adult in their life working to help and support them in becoming and remaining successful law-abiding citizens long after they are free from correctional supervision. What they don't need, and what we can scarcely afford is more costly surveillance and ineffective punishment.