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Delivered via e-mail

Dear Mr. Rosenbaum,

We are writing to inform you of recurrent, systemic problems in the Texas Juvenile Justice Department's (TJJD) five state secure facilities that violate federal Constitutional standards as well as jeopardize the health, safety, and rehabilitation of young people. We are aware of these problems through visits to the facilities, reports from the Office of the Independent Ombudsman (OIO), open records requests to TJJD and the Office of the Inspector General (OIG), and direct communication with TJJD-involved young people and families. This complaint details the following issues:

- Inability to ensure safety of young people (ex. staff turnover, reports of safety issues, and excessive restraints);
- Abuse, including sexual victimization, within the facilities (sex abuse, inappropriate use of force, etc.);
- Inadequate mental health care; and
- Over-reliance on short-term security and lack of programming for youth in security (segregation).

While much has changed since we last highlighted issues at the state secure facilities in Texas, including the closure of many of them, the same issues persist in the remaining facilities. We are writing to bring them to your attention.

The Texas Juvenile Justice Department

Texas has worked toward making progress in reforming its juvenile justice system since 2007 by closing state secure facilities, moving money into the probation budget, and reducing the number of children housed in the state's remaining facilities. These changes were first spurred

by media reports documenting sexual and physical abuse in the state facilities.¹ However, while facilities have closed, efforts to reform the remaining facilities have never taken root, leaving children in the remaining state facilities in unsafe conditions that violate federal Constitutional standards. The five secure facilities, which on any given day house a total of 800 to 900 youth, are:

- Evins Regional Juvenile Center - Edinburg, Texas
- Gainesville State School - Gainesville, Texas
- Giddings State School - Giddings, Texas
- McLennan County State Juvenile Correctional Facility (Mart) - Mart, Texas
- Ron Jackson State Juvenile Correctional Complex - Brownwood, Texas.

In 2019, the average daily population of youth in these state facilities was 800, the average daily population for each facility ranges from 123 youth in Gainesville to 221 youth in Giddings. In total, 2,640 youth spent at least one day in these state facilities in 2019.

Average Daily Population (CY 2018-2019)

Facility	CY 2018	CY 2019
Evins Regional Juvenile Center	106.0	122.7
Gainesville State School	196.6	121.9
Giddings State School (total)	214.3	220.6
McLennan County SJCF (total)	226.5	197.5
Ron Jackson SJCC (total)	166.2	137.7
Total	909.5	800.4

History of Signing Organizations’ Advocacy with TJJD

Disability Rights Texas (previously known as Advocacy, Incorporated) and Texas Appleseed have been working together in advocating for reform of the juvenile justice system since 2007. Disability Rights Texas is the protection and advocacy (P&A) organization for Texans with disabilities; they have provided direct representation to some youth in TJJD custody and have access to the five state secure facilities. Texas Appleseed is a public interest law center working for systemic policy reform on issues including juvenile justice.

¹ See Dallas Morning News, Investigative Reports – TYC, <http://www.dallasnews.com/investigativereports/tyc/>. See also, Doug Swanson, *Officials Indicted in Abuse at TYC*, Dallas Morning News (April 10, 2007), available at <http://www.dallasnews.com/sharedcontent/dws/news/texasouthwest/stories/041107dntextyc.be59c6b.html>; Holly Becka et al., *Young Inmates Endured “Deplorable Conditions,”* Dallas Morning News (Oct. 3, 2007), available at http://www.dallasnews.com/sharedcontent/dws/news/texasouthwest/stories/DNtyc_03tex.ART0.State.Education2.42910b9.html; Doug J. Swanson & Steve McGonigle, *Seven TYC Workers Fired After Inmates Found Living in Filth*, Dallas Morning News (Oct. 4, 2007), available at <http://www.dallasnews.com/sharedcontent/dws/news/dmn/stories/100407dntextycfirings.368cc6e.html>.

Our early advocacy focused on addressing punitive practices that we felt had to be eradicated in order to make way for a culture of reform. These practices included the escalating use of Oleoresin Capsicum (OC) spray in facilities and placement of youth in long-term isolation, culminating in the rewrite of the agency's rules related to use of force and use of security in 2009. Since 2009, there have been structural changes to the Texas juvenile system, with the consolidation of the two former state agencies (the Texas Youth Commission and Texas Juvenile Probation Commission) into TJJD. While these changes as well as others made by the agency have been positive steps, problems persist inside the facilities.

Many of these problems are caused or exacerbated by an inability to adequately staff the facilities. These problems are not new and are not due to a particular director, but rather are part of the system itself. In fact, Texas Appleseed and Disability Rights have raised these problems with each of the directors of TYC and TJJD² and with state leadership since we began our advocacy. While each new director has outlined a "new" plan for reform, none have achieved change. This complaint outlines the persistent issues, many of which were highlighted in a 2010 letter to the Justice department from Texas Appleseed, Advocacy Incorporated, Center for Public Representation, and the National Center for Youth Law (NCYL).³

Outside advocacy groups are not alone in raising concerns: the Office of the Independent Ombudsman (OIO) and media reports have repeatedly documented problems. The most recently appointed Independent Ombudsman, a former Texas ranger, has filed report after report, many discussed here, raising egregious and disturbing conditions across TJJD's secure facilities.

Systemic Issues

The systemic issues plaguing the five secure state facilities are not new. Worse, these facilities' outcomes run counter to the precise goal of the Texas juvenile justice system -- rehabilitation. In 2015, the Council on State Governments (CSG) released the report *Closer to Home* to examine the impact of the post-2007 Texas reforms to the juvenile justice system.⁴ CSG found that youth committed to Texas' state-run facilities were twenty-one percent more likely to recidivate when they are released than youth with similar treatment needs and offense histories who instead were kept in their community.⁵ Further, data showed that when youth leaving state facilities do reoffend, they are three times more likely to reoffend with a felony than similar youth who were placed on probation.⁶ The report concluded that commitment to a state facility

² Executive leadership of TYC/TJJD has changed nine times since the scandals erupted in 2007.

³ Letter to US Department of Justice from Texas Appleseed, Advocacy Incorporated, National Center for Youth Law, and Center for Public Representation (Aug. 24, 2010), available at <https://www.texasappleseed.org/sites/default/files/50-JJLettertoUSDepartmentofJusticereTYC.pdf>.

⁴ Council on State Governments and Public Policy Research Institute, *Closer to Home: An Analysis of the State and Local Impact of the Texas Juvenile Justice Reforms* (Jan. 2015), available at <https://csgjusticecenter.org/wp-content/uploads/2015/01/texas-JJ-reform-closer-to-home.pdf>.

⁵ *Id.* at 57.

⁶ *Id.* at 60.

increased the likelihood that a youth would reoffend.⁷ As this letter will outline, these same systemic issues persist today.

The Due Process clause of the Fourteenth Amendment governs the standards for conditions of confinement of juvenile offenders.⁸ Subjecting confined juveniles to undue restraint or excessive force violates the Due Process clause.⁹ The Due Process clause also requires TJJD to keep juveniles reasonably safe from harm inflicted by third parties, including by other juveniles in the facility, and such minimally adequate training as reasonably may be required by these interests.¹⁰

The five state secure facilities fail to ensure these due process standards are met. The high staff turnover and lack of staffing in general both lead to a lack of programming and supervision, with kids often on lockdown in their dorms which in turn leads to unrest and acting out by kids, higher use of force including restraints and OC spray, higher use of security, and a generally unsafe environment where rehabilitation, the primary goal of the juvenile system, is nearly impossible.

This complaint was drafted during a time when COVID-19 affected the five state secure facilities significantly. High percentages of youth and staff tested positive for the virus, with at least one staff fatality.¹¹ Because of this public health crisis, all in-person visits to the facilities were suspended, including visits from the agency's independent ombudsman. Instead, the independent ombudsman conducted investigations virtually. Because of this, our efforts to connect with incarcerated youth have been significantly hampered, as has our ability to learn about conditions in the facilities ourselves or through others who normally make visits. We were able to connect with one youth who was shuffled between at least 3 facilities and 1 halfway house during his almost 8 months of custody with TJJD. He will be referred to by the initials, M.C., which have been changed to protect his identity.

M.C.'s Experience

M.C. was in TJJD's custody for about eight months, entering as a 15-year-old and turning 16 while in custody. M.C. loves animals and has always felt the need to stand up for peers who were the target of bullying. Since returning from TJJD, he has found a knack for welding and is seeking dual program college certification for welding. He recounted his experience a week after he was released from custody.¹² M.C. said he was having trouble recovering from being in custody, with difficulty sleeping and readjusting being out of a setting where he felt unsafe and was subjected to trauma on a regular basis. He said he still was jumpy when other people got too close to him.

⁷ *Id.* at 55-64.

⁸ See *Gary H. v. Hegstrom*, 831 F.2d 1430, 1432 (9th Cir. 1987).

⁹ See *Youngberg v. Romeo*, 457 U.S. 307, 73 L.Ed 2d 28, 102 S. Ct. 2452 (1982).

¹⁰ *Id.*; see also *J.H. ex rel. Higgin v. Johnson*, 346 F.3d 788, 791 (7th Cir. 2003).

¹¹ Texas Juvenile Justice Department, COVID-19 Response, available at <https://www.tjjd.texas.gov/index.php/covid19> (accessed Sept. 25, 2020).

¹² Information from several interviews with M.C. conducted in July 2020.

During his time in TJJD custody, he was housed at Mart, Giddings, and Tamayo House along with an orientation at Ron Jackson. Because of these frequent moves, his education was frequently interrupted, putting him a semester behind when he was released. M.C. told us that “gangs ran the facility”, putting “hits” on kids and stealing food from other youth; he said this happened all the time, “day after day.” He said it was hard for him to stay out of trouble because he did not feel safe and youth were constantly trying to provoke him. M.C. felt the experience was “setting me back further” and “at no point did I feel at peace.” M.C. said people gave each other tattoos all the time, including gang symbols.

M.C.’s mental health suffered greatly during his time in TJJD. He met with a counselor while at Mart, but not at Giddings, and described feeling like he “was going crazy.” He felt unsafe and like he constantly had to watch his back to fend off attacks from other youth. His alcohol and drug counseling was also interrupted because the staff member failed to show up “half the time.” In addition to these interruptions, M.C. said he rarely got “rec” which meant he often did not have physical activity at all, which he was told was because they were understaffed.

The situation felt out of control to M.C. He said staff often said that TJJD was worse than the Texas Department of Criminal Justice (TDCJ) because the youth were constantly fighting and disruptive. M.C. said that some staff seemed to be bullied by the kids, and that at Giddings, one staff member quit in the midst of his shift after discovering the youth had trashed the dorm, including flooding the back area. The staff responded by pepper spraying all of the youth. The staff member then got so enraged, he screamed he was quitting and left. While at Mart, there was more than one incident when staff used OC spray simply because they were outnumbered due to short staffing. Also at Mart, M.C. was attacked by four other youth and sustained a head injury; staff also used OC spray on him in the process of breaking up the attack. His mother was contacted about his injuries. TJJD staff told his mother that there were only two staff members trying to break up the attack and they used OC spray because they had no other way to control the situation.

M.C.’s experience is emblematic of many of the problems highlighted in this complaint. His description is consistent with the findings of the CSG report: TJJD custody exposed M.C. to trauma and offered little in terms of rehabilitation.

Sexual Victimization

Sexual abuse scandals have plagued the state facilities due to sexual victimization by youth on youth as well as staff on youth. In fact, reports of sexual victimization along with abuse and misconduct by youth guards prompted Governor Abbott to replace TJJD’s Director at the end of 2017¹³ and to launch an investigation by the Texas Rangers of all youth lockups. This investigation followed a 2017 report in the Dallas Morning News of problems including youth being paid by staff with drugs and cash to assault one another, a guard sharing porn with youth offenders, and another guard impregnated by a youth in custody.¹⁴ An OIO report found that

¹³ Paul J. Weber, *Texas youth prison guards allegedly choked teen unconscious*, Associated Press (Feb. 3, 2018), available at <https://apnews.com/ab84381bbf074c788477c6b882a2a67b>.

¹⁴ Brandi Grissom and Sue Ambrose, *Fights, sex, drugs: Texas juvenile lockup on the verge of crisis, reports show*, Dallas Morn. News (Nov. 16, 2017), available at

one of the staff members who was later arrested for sexual abuse remained in contact with youth during the investigation. In fact, the OIG report said that an additional 129 youth were exposed to potential victimization.¹⁵ These incidents all prompted a change in leadership at TJJD, the eighth change in leadership since scandals first erupted in the state secure facilities in 2007.¹⁶

Reports of the same issues continued even after the change in leadership. In an analysis released by the federal Bureau of Justice Statistics (BJS), an estimated seven percent of youth in juvenile lockups nationwide reported sexual victimization in 2018. However at three state secure facilities in Texas, the rate was significantly higher. At the Ron Jackson State Juvenile Correctional Complex in Brownwood, fourteen percent of children reported being coerced or forced into sexual activity by staff or other youth. And this rate was even higher at the Gainesville State School and Mart, where one in six youth detained reported abuse.¹⁷

Some of these incidents include:

- In an incident report from April 2018 the superintendent of Giddings was accused by a female offender as well as several staff members of sexual misconduct. The superintendent allegedly made numerous inappropriate comments, grabbed fellow staff and spoke about their bodies.¹⁸
- In October 2018 at Mart, a program supervisor was accused of downloading a picture of a youth's penis that was exposed in a video and printing the photo. A case manager confirmed that she also saw the photo.¹⁹
- In August 2019, a 34-year-old corrections officer was fired for allegedly having sex with a female youth inmate at Ron Jackson.²⁰ She claimed she was two and half months pregnant; it was also alleged that the corrections officer asked the youth to marry him. The officer was promptly fired and arrested; he was also later booked on three charges of possession of child pornography in addition to a sexual performance on a child charge.
- In October 2019, another TJJD employee was arrested and charged with sexual assault of a child at Mart.²¹ The incident was discovered after the boy tied a shirt around his

<https://www.dallasnews.com/news/investigations/2017/11/17/fights-sex-drugs-texas-juvenile-lockup-on-the-verge-of-crisis-reports-show/>.

¹⁵ Independent Ombudsman for the Texas Juvenile Justice Department, First Quarter Report FY 17 (1).

¹⁶ An additional OIG incident report obtained through a PIA to TJJD reported that a female JCO would drop disciplinary infractions if youth would masturbate in front of her as well as grab her breasts and hug her.

¹⁷ Michael Barajas, *Federal Report Flags High Rates of Sexual Abuse in Juvenile Lockups*, Texas Observer (Dec. 13, 2019), available at <https://www.texasobserver.org/federal-report-flags-high-rates-of-sexual-abuse-in-texas-juvenile-lockups/>.

¹⁸ Incident Report obtained from PIA request to TJJD (PIA Response) (August 2020).

¹⁹ *Id.*

²⁰ Keri Blakinger, *Juvenile prison guard fired, arrested for allegedly having sex with female inmate*, Houston Chronicle (Aug. 22, 2019), available at <https://www.houstonchronicle.com/news/houston-texas/houston/article/Juvenile-prison-guard-fired-arrested-for-14372082.php>.

²¹ Keri Blakinger, *Texas juvenile prison officer charged with sexual assaulting teenage inmate in his cell*, Houston Chronicle (Oct. 30, 2019), available at <https://www.houstonchronicle.com/news/houston-texas/houston/article/Texas-juvenile-prison-officer-charged-with-14574549.php>.

neck in a suicide attempt the day after the incident.²² In the incident, the officer had the boy perform oral sex on him. The officer admitted going into a boy's cell and sexually assaulting him.

- In May 2020, a 26-year-old corrections officer was arrested for an improper relationship with a teenager on parole from TJJJ.²³ The two met while the youth was in custody at Mart; the officer was fired and arrested for "violation of civil rights of a person in custody."
- In July 2020, a 37-year-old corrections officer at Ron Jackson was also arrested for improper sexual activity with a person in custody or under supervision.²⁴
- In addition to incidents documented by media reports, between September 2017 and April 2020, the Office of the Inspector General (OIG) investigated 16 complaints involving child-on-child or sexual misconduct among youth, six of which were sustained.

As the above examples show, the violations of young people in custody by the very people who should be there to help them is disturbing and all too common at the five state secure facilities.²⁵

High Staff Turnover and Understaffing

At the root of many of ongoing safety issues in the facilities is the chronic understaffing and high staff turnover at the five secure state facilities. In a 2018 OIO report, this connection was explicitly recognized.²⁶ "Concerns involving the safety and security of youth offenders remains a high priority. Staff shortages continue to be a significant concern."²⁷ The report then highlighted the shortages at three facilities starting with Gainesville, which was operating with 60-70 percent less staff than the authorized capacity with 54 vacant juvenile correctional officer (JCO) positions.²⁸

This shortage contributed to a lack of supervision and was cited as the cause for youth assaults, youth being unsupervised for long periods of time, and safety/welfare checks not being conducted for extended periods.²⁹ Staffing issues have also resulted in shift logs being pre-filled out on youth's locations. Because of the staffing shortages, often youth in dorms are not

²² Open Records Response from TJJJ.

²³ Waco Tribune-Herald, *Mart juvenile corrections officer fired, charged with improper relationship with paroled teen*, (Jun. 4, 2020), available at https://wacotrib.com/news/local/crime-and-courts/mart-juvenile-corrections-officer-fired-charged-with-improper-relationship-with-paroled-teen/article_7ed5bed8-2061-5516-ac53-126ee4b7fcbc.html.

²⁴ Brownwood News, *TJJJ Issues Statement On Arrest Of Ron Jackson State Juvenile Correctional Complex Staff Member* (Jul. 20, 2020), available at <https://www.brownwoodnews.com/2020/07/20/tjjd-issues-statement-on-arrest-of-ron-jackson-state-juvenile-correctional-complex-staff-member/>.

²⁵ From 2018-2019, there were seven complaints from youth about inappropriate staff and youth relationships at the Gainesville, McLennan, and Ron Jackson facilities. There were four complaints of human trafficking at Ron Jackson. Open Records request by Texas Appleseed to TJJJ.

²⁶ The OIO is limited in its ability to effect change and is a reporting and monitoring entity under its authorizing statute. See Texas Human Resources Code Sec. 261, available at <https://statutes.capitol.texas.gov/Docs/HR/htm/HR.261.htm>.

²⁷ Independent Ombudsman for the Texas Juvenile Justice Department, Second Quarter Report FY 18 (10).

²⁸ *Id.*

²⁹ *Id.*

allowed to go outside, to the gym, or participate in other recreational activities due to the reassignment of recreational specialists to cover other jobs.³⁰

At Evins, there were 63 school days that were shortened or let out early in 2019 (26 due to behavior, 17 due to “waiting on gatehouse approval to move,” 6 for staff meetings and the rest for miscellaneous reasons).³¹ At Ron Jackson State Juvenile Correctional Complex (SJCC), which houses girls as well as boys for orientation, there was an average of 48 unfilled positions over 2018. At the end of 2018, the OIO reported this short staffing “leaves youth in the individual rooms for extended periods of time” and “prevent[s] them from participating in certain programs.”³² Lastly, the report noted that short staffing “creates challenges for available staff to provide the required level of supervision for youthful offenders on suicide alert.”³³

The shortages at Mart lead to youth tattooing one another, a lack of monitoring and documentation of residents on suicide alert, and youth in dorms not going outside or participating in other recreation because of the reassignment of recreational specialists.³⁴ A later report continued to note issues within Mart of gang related graffiti and gang tattoos coupled with continued JCO shortages and recommended that TJJD “strive for a ratio of one JCO to every eight youth offenders as is the recommendation of the Prison Rape Elimination Act.”³⁵ In the Fourth Quarter of 2018, Mart was only 61% staffed and JCO’s were continually asked to work back-to-back shifts without adequate time off and increases in overtime.³⁶

Staffing Rate (FY 2018, 2019)

Staff	As of Date	Positions	Filled	Rate of Staffing
Juvenile Correctional Officers (Youth Development Coaches)	December 2018	1,353	1,029	76%
	December 2019	1,307	857	66%
Case Manager	December 2018	141	116	82%
	December 2019	108	91	84%

³⁰ Independent Ombudsman for the Texas Juvenile Justice Department, Second Quarter Report FY18 (11).

³¹ Data from Open records request by Texas Appleseed.

³² Independent Ombudsman for the Texas Juvenile Justice Department, Fourth Quarter Report FY 18 (9).

³³ *Id.*

³⁴ Independent Ombudsman for the Texas Juvenile Justice Department, Second Quarter Report FY 18 at 11.

³⁵ Independent Ombudsman for the Texas Juvenile Justice Department, Third Quarter Report FY 18 (19); see *also*, Independent Ombudsman for the Texas Juvenile Justice Department, Fourth Quarter Report FY 18 (9).

³⁶ Independent Ombudsman for the Texas Juvenile Justice Department, Fourth Quarter Report FY 18 (9).

Treatment Services*	December 2018	118	98	83%
	December 2019	122	66	54%
Education* Services	December 2018	237	208	88%
	December 2019	232	188	81%

*Treatment services include positions such as administrative assistant, program specialist, health specialist, psychologist, substance abuse counselor, and social worker. We separated case managers from treatment services to highlight those positions. Education services include positions such as administrative assistant, teacher aide, education specialist, teacher, and program specialist.

As the table above demonstrates, staffing issues continued into and throughout 2019. The OIO’s Report from the 4th quarter of 2019 noted “[t]he secure State facilities continue to struggle with the availability of staff to adequately provide sufficient coverage.”³⁷ At Mart, “corrections personnel continue to report working 12 hour shifts or longer without relief, due to shortages.” Further, the report noted Evins had “marked increases in restraints, youth on youth assaults and youth on staff assaults as compared to the same time period in the fourth quarter of 2018.”³⁸ In February 2019, guards at Mart worked 14 to 17 hour shifts with one guard reporting that she urinated on herself because she could not leave her post to use the restroom.³⁹ For December 2019, there were 29 positions for substance abuse counselors, and 15 were filled, leaving a rate of 52%.⁴⁰

Turnover Rates (FY 2019)

Facility	Youth Development Coach (JCO)	Case Manager	Mental Health Employee	Teacher
Evins Regional Juvenile Center	48%	47%	27%	23%
Gainesville State School	64%	43%	31%	27%
Giddings State School (total)	43%	22%	18%	7%
Mart (total)	42%	17%	22%	27%

³⁷ Independent Ombudsman for the Texas Juvenile Justice Department, Fourth Quarter Report FY 19 (10-16).

³⁸ Independent Ombudsman for the Texas Juvenile Justice Department, Fourth Quarter Report FY 19 (10-16).

³⁹ Tommy Witherspoon, *Report: Sex abuse persists in Texas juvenile lockups, including Mart’s*, Waco Tribune-Herald (Dec. 23, 2019), available at https://www.wacotrib.com/news/report-sex-abuse-persists-in-mart-juvenile-lockup-across-texas/article_a48c6edb-4427-52a9-ba37-38bea688439f.html.

⁴⁰ Data from Open records request by Texas Appleseed.

Ron Jackson SJCC (total)	48%	33%	51%	22%
Total	48%	30%	30%	21%

Note: turnover rates came from the State Auditor's Office for case managers, mental health employees, and teachers.

The average staff training compliance rate across all five facilities was 84%. Gainesville had the lowest overall rate of staff training compliance, with 78% of staff in compliance. Evins had the highest rate of staff training compliance, with 93% of staff in compliance.

Staff Training Compliance	
Facility	Compliance Percentage
Evins	93.2%
Gainesville	78.4%
Giddings	86.7%
Mart	79.8%
Ron Jackson	80.4%

The above table does not include the training compliance of any private or contract staff hired to fill in due to absences and short staffing as a result of COVID-19. With COVID-19, the facilities continued to experience the staffing shortages documented in OIO reports consistently over the past couple of years, even with a reduced population of youth. Staffing was even more challenging with COVID-19 as the virus spread throughout the state facilities causing staff to self-quarantine.⁴¹ In addition, many staff simply stayed home due to their fear of catching the virus through their exposure at work.⁴² The population of youth was already declining, but became even smaller when TJJJ halted admissions from counties with active cases of COVID-19 in their detention facilities. With ongoing staffing issues plus staff quarantined because of COVID-19, TJJJ had no choice but to contract with private companies to provide coverage.⁴³

Chaos caused by Inadequate Staffing and Supervision

Without appropriate supervision of youth, there is increased chaos inside the facilities. One clear result of the staffing shortages and lack of supervision are residents tattooing themselves

⁴¹ TJJJ July Meeting Board Minutes, available at <https://www.tjjd.texas.gov/index.php/doc-library/send/629-july-2020/2468-meeting-minutes-july10-2020>; see also, Meeting with Camille Cain, current Executive Director of TJJJ in July 2020 with Texas Appleseed and DRTx.

⁴² Meeting with TJJJ officials during Spring and Summer of 2020.

⁴³ TJJJ Board Minutes July 2020, available at <https://www.tjjd.texas.gov/index.php/doc-library/send/629-july-2020/2468-meeting-minutes-july10-2020>.

while at the facilities.⁴⁴ At Mart, youth offenders used gel pens to tattoo each other with gang tags.⁴⁵ In one instance, one teen tattooed a penis on another resident's forehead.⁴⁶ The chaos seems commonplace. In January of 2019, oversight officials were at a facility when a teen cursed and took a swing at a staffer. Other teens "swarmed in with threats and obscenities, eventually throwing water on an officer. When one staffer tried handcuffing the instigator, the others tried pulling the officer away."⁴⁷

At Gainesville, there was a "six-day mass disturbance stemming from gang tensions in which teens escaped from their cells, planned "hits" on guards, hid in trees and assaulted each other."⁴⁸ The OIO report on the 2018 disruption at Gainesville identified three main causes of the facility disruptions: gang issues, boredom, and protest.⁴⁹ In discussing the youth's boredom, the OIO said "[y]outh indicated they were in their rooms the majority of the time from after school (4 pm or 5 pm) until the next morning, except to shower." And many also reported that they spend most of the weekend in the rooms. There are limited outlets for them to "exert any energy; therefore they took the opportunity to run around campus and climb trees."⁵⁰ One youth said that "being in your room all day - every day is like a hamster in a cage without a wheel to run on. You can only handle it so long." Many youth also reported the disruption was a form of protest and a way of getting "people's attention." The gang issues were the result of tensions that had been brewing for some time according to interviews with youth.

At Evins, there was a "gang war" that included a 33-person fight and "bad behavior so widespread that officials were forced to put some of the dorms on 'shut-down' status."⁵¹ One dorm was dubbed "the Jungle" due to frequent behavior and safety violations.⁵² TJJD maintains that they did not have a gang war; however, oversight officials used that term in their reports.⁵³

⁴⁴ Independent Ombudsman for the Texas Juvenile Justice Department, Second Quarter Report FY18 (11).

⁴⁵ Independent Ombudsman for the Texas Juvenile Justice Department, Third Quarter Report FY18 (9).

⁴⁶ Keri Blakinger, *'The place is a jungle': Texas youth prisons still beset by gangs, violence, abuse*, Hous. Chron. (Dec. 30, 2019), available at <https://www.houstonchronicle.com/news/houston-texas/houston/article/The-place-is-a-jungle-Texas-youth-prisons-14938409.php>.

⁴⁷ Keri Blakinger, *'Worse than the Wild West': State reports reveal 'gang war' at Texas juvenile prison*, Hous. Chron. (Mar. 11, 2019), available at https://www.houstonchronicle.com/news/houston-texas/article/Worse-than-the-Wild-West-State-reports-reveal-13677865.php?utm_source=facebook.com&utm_medium=referral&utm_campaign=socialflow&utm_term=news&utm_content=briefing.

⁴⁸ Keri Blakinger, *'The place is a jungle': Texas youth prisons still beset by gangs, violence, abuse*, Hous. Chron. (Dec. 30, 2019), available at <https://www.houstonchronicle.com/news/houston-texas/houston/article/The-place-is-a-jungle-Texas-youth-prisons-14938409.php>. The OIO report described how the youth learned to trigger the smoke alarms to release the doors inside the facility.

⁴⁹ OIO Site Visit Report OIO-SV-19-068 (Dec. 12-13, 2018).

⁵⁰ *Id.* at 5.

⁵¹ Keri Blakinger, *'Worse than the Wild West': State reports reveal 'gang war' at Texas juvenile prison*, Hous. Chron. (Mar. 11, 2019), available at https://www.houstonchronicle.com/news/houston-texas/article/Worse-than-the-Wild-West-State-reports-reveal-13677865.php?utm_source=facebook.com&utm_medium=referral&utm_campaign=socialflow&utm_term=news&utm_content=briefing.

⁵² *Id.*

⁵³ *Id.*

Reports of gang activities run throughout the OIO reports as a problem leading to disruptions, assaults between youths, and constant tensions.

In October 2019, 17 youths and one employee at Mart were indicted on a variety of felonies, including charges that arose from violent beatings during robberies inside the state-run facility. Nine youths were charged with engaging in organized criminal activity, a first-degree felony offense; and three were charged with assault on public servants. The employee was charged with official oppression, after allegedly allowing the assaults to occur. TJJJ said that the violent incident occurred in June 2019 when the youths were “left unsupervised in a day room.”⁵⁴

In 2019, there were 2,620 instances of youth assaults on youth and 1,465 instances of youth assaults on staff. Mart had the highest number of youth assaults on youth, accounting for 32% of all youth assaults on youth; whereas Evins accounted for the highest number of youth assaults on staff, accounting for 34% of all youth assaults on staff.⁵⁵ Additionally, 1,900 youth were referred to security for a violation a total of 30,044 times - a rate of 16 referrals per each youth. Giddings and Evins had the highest rate of youth referred to security for a violation, each with a rate of 21 referrals per each youth referred. Ron Jackson had the highest total number of youth referred with 569 youth referred to security for a violation in 2019. Across all facilities, there were 2,140 instances where youth spent more than 24 hours in security for a violation, and a third of those youth (34%) came from Giddings.

This lack of safety and perceived lack of safety by youth leads many youth to believe that they are safer in long-term isolation than in the facility and so they self-refer to security. Self-referral for safety has been anecdotally reported; however, TJJJ does not track referrals to security to include self-referrals for specifically for safety, though it does track whether a referral was made for a violation of the facility’s rules or non-violation and whether it was for danger to self/suicide.

In 2019, 1,231 youth were referred to security for a non-violation a total of 6,403 times — a rate of 5 referrals per each youth. Self referrals were the most common reason for referral to security for a non-violation.⁵⁶ Of the referrals for non-violations, at least 918 youth self-referred for a total of 4,963 times — a rate of 5 referrals per each youth. Across all facilities, there were 435 instances where youth spent more than 24 hours in security not due to a violation and a third of those youth (34%) came from Gainesville.

The chart below shows referrals to security for danger to self/suicide, which includes attempted suicide, injury to self, suicidal behavior, and suicidal ideation. In 2019, 138 youth were referred to security for a non-violation due to danger to self or suicide a total of 271 times, a rate of almost two referrals per each youth. The rate of referrals was similar in 2018, with 186 youth

⁵⁴ Paul J. Gately, *Mart: Corrections officer, 17 juvenile offenders indicted*, KWTX (Oct. 10, 2019), available at <https://www.kwtx.com/content/news/Mart--Officer-17-juvenile-offenders-indicted-562751521.html>.

⁵⁵ Data from Open Records Request by Texas Appleseed.

⁵⁶ Self-referrals include self-referral for safety, self-referral for mental health, and self-referral for other reasons.

who were referred to security for a non-violation due to danger to self or suicide a total of 417 times, a rate of two referrals per each youth.

Referrals to Security for Danger to Self/Suicide

Facility	CY2018	CY2019
Evins	38	37
Gainesville	68	29
Giddings	28	22
Mart	187	103
Ron Jackson	96	80
Total	417	271

Mart had the highest number of youth who were referred to security for a non-violation due to danger to self or suicide followed by Ron Jackson.

Security Admissions for 24 Hours or Longer (CY 2019)

Facility	Type of Admission	Length of Stay	Admissions	Percent of Total Admissions
Evins	Related to Violation	24-48 hours	283	8.8%
	Related to Violation	More than 48 hours	114	3.5%
	Not Related to Violation	24-48 hours	13	0.4%
	Not Related to Violation	More than 48 hours	29	0.9%
Gainesville	Related to Violation	24-48 hours	122	8.5%
	Related to Violation	More than 48 hours	77	5.4%
	Not Related to Violation	24-48 hours	49	3.4%
	Not Related to Violation	More than 48 hours	99	6.9%
	Related to Violation	24-48 hours	500	13.0%
	Related to Violation	More than 48 hours	218	5.7%

Giddings	Not Related to Violation	24-48 hours	10	0.3%
	Not Related to Violation	More than 48 hours	28	0.7%
	Related to Violation	24-48 hours	384	12.8%
	Related to Violation	More than 48 hours	187	6.2%
Mart	Not Related to Violation	24-48 hours	53	1.8%
	Not Related to Violation	More than 48 hours	85	2.8%
	Related to Violation	24-48 hours	198	5.4%
	Related to Violation	More than 48 hours	57	1.6%
Ron Jackson	Not Related to Violation	24-48 hours	27	0.7%
	Not Related to Violation	More than 48 hours	42	1.2%
	Related to Violation	24-48 hours	1,487	9.8%
	Related to Violation	More than 48 hours	653	4.3%
Total	Not Related to Violation	24-48 hours	152	1.0%
	Not Related to Violation	More than 48 hours	283	1.9%

Note: a youth was counted each time they were referred to security.

Excessive Use of Force

Youth in TJJJ facilities are subject to unnecessary and excessive use of force, a practice that is counterproductive to rehabilitation. The GAP Manual allows appropriate use of force at TJJJ facilities when “youth behavior threatens safety and order,” but it is meant to be used as a “last resort.”⁵⁷ TJJJ defines “use of force” as “physical measures used to direct, compel, or restrain

⁵⁷ See TJJJ Website, GAP Manual 380.9723, available at <http://www.tjjd.texas.gov/index.php/component/jdownloads/send/498-ch380f-security-control/1744-380-9723-use-of-force>.

bodily movement of a noncompliant youth.”⁵⁸ In the state facilities, the following methods are considered permissible under the use of force policy: mechanical restraints, manual restraints, OC spray, physical escort, and planned team restraint.⁵⁹

Though use of force is meant to be used as a last resort, the numbers below show the high rate at which the use of force is deployed.⁶⁰ In 2019, 1,236 youth were subjected to use of force a total of 6,884 times, a rate of nearly 6 use of force instances per youth. Evins had the highest rate of use of force instances, with 257 youth subjected to use of force 2,409 times, producing a rate of 9 use of force instances per youth. In fact, at Evins of the 317 youth who spent at least one day in the facility, at least 257 were subject to use of force, amounting to 81% of youth. Across all facilities, nearly half (47%) of all youth were subjected to use of force.⁶¹

Use of Force per Facility (CY 2019)

Facility	Count of Youth Subject to Use of Force	Count of Referrals with Use of Force	Referrals per Youth
Evins	257	2,409	9.4
Gainesville	169	659	3.9
Giddings	280	1,191	4.3
McLennan	257	999	3.9
Ron Jackson	273	1,626	6.0
Total	1,236	6,884	5.6

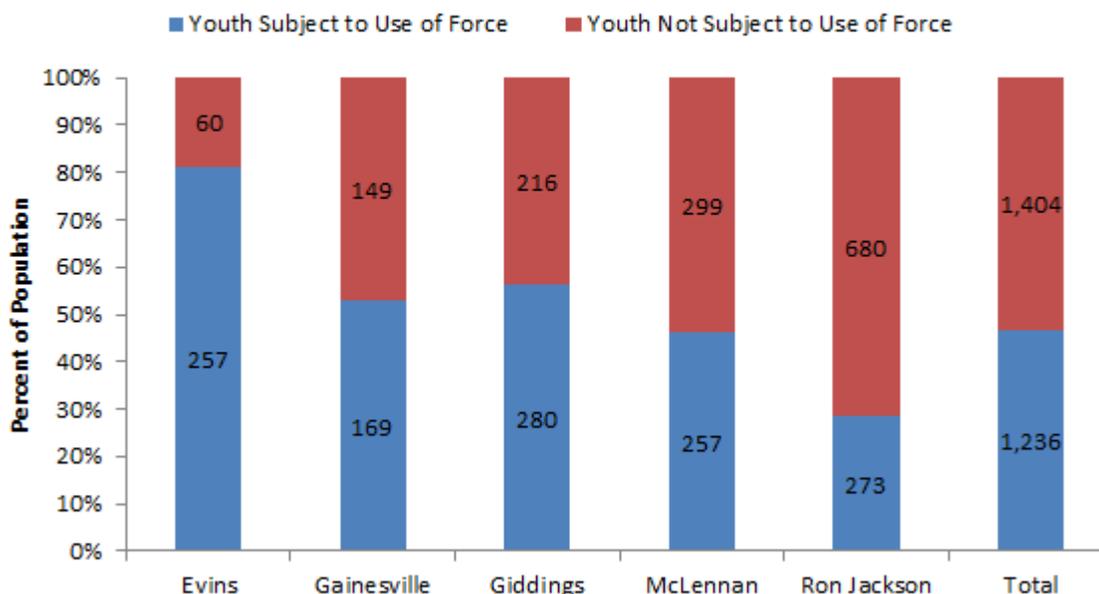
⁵⁸ See TJJJD Website, GAP Manual 380.9723, available at <http://www.tjtd.texas.gov/index.php/component/jdownloads/send/498-ch380f-security-control/1744-380-9723-use-of-force>; see also 37 TAC Sec. §380.9723.

⁵⁹ 37 TAC §380.9723.

⁶⁰ This data does not include the use of mechanical restraints for medical or mental health purposes as it is not considered “use of force”. 37 TAC §380.9723(b)(3)

⁶¹ From 2018-2019, there were eight complaints from youth about use of force across all five state facilities. Additionally, there were 2,550 complaints from youth about staff misconduct across all facilities, accounting for almost a quarter of all youth complaints. Open Records request by Texas Appleseed to TJJJD.

Youth Subject to Use of Force (CY 2019)



Note: Youth not subject to use of force calculated out of total youth who spent at least one day in a facility.

Excessive uses of force are indicative of the lack of control at facilities and the general chaos that keeps young people at risk of injury and harm. In 2019, in data from TJJJ on three categories of use of force, OC, mechanical, and manual⁶², a total of 2,685 youth were restrained a total of 10,802 times, amounting to 4 uses of force per youth. The most commonly used form of use of force was manual restraints, accounting for 54% of all three uses of force. Evins had the highest overall number of youth and rate of use of force, with 6 uses of force per youth.

OC spray is particularly “detrimental to young people with emotional and behavioral disorders or those with histories of maltreatment” which undercuts the goal of rehabilitation.⁶³ OC spray can lead to a number of painful conditions including swelling of mucous membranes of eyes, nose, and throat; coughing, shortness of breath, painful burning of the skin, and hyperventilation.⁶⁴ Juvenile facility staff may inappropriately use OC spray to respond to non-threatening conduct and behaviors that in fact are manifestations of mental illness or developmental disabilities,

⁶² In TJJJ’s response to our open records request, they grouped all restraints into three categories: chemical, mechanical, and personal. Personal restraints are not defined in the Texas Administrative Code regulations covering state secure facilities (see 37 TAC Sec. §380.9723). We requested clarification on the term “personal restraint” from TJJJ; they indicated that the term personal restraint refers to a manual restraint, which is defined in TJJJ’s GAP as “use of hands-on techniques as a means of restricting a youth’s freedom of action.” See TJJJ Website, GAP Manual 380.9723, available at <http://www.tjjd.texas.gov/index.php/component/jdownloads/send/498-ch380f-security-control/1744-380-9723-use-of-force>.

⁶³ Mental Health Association, *Privatization and Managed Care in the Juvenile System* 25 (2007), <http://www1.nmha.org/children/justjuv/juvenilejustice-privatization.pdf>.

⁶⁴ Center for Children Law and Policy Factsheet, *Chemical Agents in Juvenile Facilities* (July 2019).

even when staff are trained to use OC spray as a last resort.⁶⁵ In fact, the Special Litigation Section of the U.S. Department of Justice’s Civil Rights Division has found the inappropriate and excessive use of chemical agents on youth with disabilities, among other groups.⁶⁶ OC spray does not need to be used in the juvenile facilities at all and the usage in the tables below indicate its excessive use.

Use of Force by Type and Facility (CY 2019)

Type of Use of Force	Facility	Count of Youth Subject to Use of Force	Count of Referrals with Use of Force	Rate of Use of Force
OC Spray	Evins	198	533	2.7
	Gainesville	101	198	2.0
	Giddings	214	461	2.2
	Mart	159	236	1.5
	Ron Jackson	81	121	1.5
	Total		753	1,549
Mechanical Restraint	Evins	244	1,820	7.5
	Gainesville	118	306	2.6
	Giddings	226	692	3.1
	Mart	151	428	2.8
	Ron Jackson	74	207	2.8
	Total		813	3,453
Manual Restraint	Evins	253	2,159	8.5
	Gainesville	153	542	3.5

⁶⁵ *Id.*

⁶⁶ *Id.* (citing various Findings Letters from the U.S. Department of Justice, Civil Rights Division).

	Giddings	233	825	3.5
	Mart	220	720	3.3
	Ron Jackson	260	1,554	6.0
	Total	1,119	5,800	5.2
Total	Evins	695	4,512	6.5
	Gainesville	372	1,046	2.8
	Giddings	673	1,978	2.9
	Mart	530	1,384	2.6
	Ron Jackson	415	1,882	4.5
	Total	2,685	10,802	4.0

Note: youth were counted once per calendar year per facility per type of restraint, therefore youth could be counted multiple times in the combined total number of restraints.

Prevalence of Staff on Youth Physical Abuse

Physical abuse of youth is described in multiple media reports, as well as incident reports obtained through open records requests. The below are incidents which we are aware of via the media and open records requests, but may not encompass all instances of physical abuse of youth by TJJJ employees.

In 2017, a Texas guard choked a youth until he lost consciousness while asking him if he was “ready to go to sleep” at Gainesville while another guard put his leg across the youth’s neck.⁶⁷ A third guard at the same facility was accused of “punching [a teen] in the face, tackling him and then pummeling his head and body” with a closed fist.⁶⁸ Following an investigation, the guards were charged with official oppression. Also in 2017 at Gainesville, a JCO hit the youth with a closed fist several times and then used his OC spray canister to assault the youth after the youth struck him.⁶⁹ In another instance at Giddings in 2017 resulting in an OIG investigation, a JCO picked up a youth, “folded him in half and tossed into the van.”⁷⁰

⁶⁷ Paul J. Weber, *Texas youth prison guards allegedly choked teen unconscious*, Assoc. Press (Feb. 3, 2018).

⁶⁸ *Id.*

⁶⁹ Incident Report from PIA to TJJJ (August 2020).

⁷⁰ Incident Report from PIA to TJJJ (August 2020).

In the second quarter of FY18, the OIO noted that “youth on youth assaults as well as youth offenders assaulting staff [had] become an increasing concern.”⁷¹ For example, the assaults on staff at Evins resulted in some serious injuries requiring medical attention. At Mart in February 2018, a youth struck a JCO and in response the JCO struck the youth five times to the face and body.⁷² In the OIG incident report, it noted that the youth might have sustained a concussion. At the end of 2018, a JCO at Gainesville kicked a youth who was passively resisting going to his room and removed his body camera before then going into his room.⁷³ What happened after that was not reported in the incident report.

As the Houston Chronicle reported, between July 2018 and July 2019 Evins had “a seven-fold increase in the use of OC spray, a five-fold increase in the youth-on-staff assaults and a 10-fold increase in gang-related incidents reported.”⁷⁴ The Houston Chronicle also noted that records show over the past two years, “dozens of juvenile prison workers have been fired for violations that include failing drug tests, choking teenage inmates, falling asleep and letting kids fight without bothering to intervene.”⁷⁵ At Giddings, a guard taunted a youth, calling his mother names, and then “side slammed him to the ground while his arms were restrained behind his back and laid on top of him.”⁷⁶ This behavior appears to be part of a pattern; the article continued noting that “[t]wo months earlier, at the same facility, when a teen came in the office asking for a ball, a different guard said she would “kick his ass,” adding, “It’s not a threat, it’s a promise.” In other instances, she threatened to break kids’ arms and hands and gave one youth permission to knock another out.”⁷⁷

In an incident report from January 2019, a JCO at Giddings used OC spray on a youth running throughout the dorm with a t-shirt wrapped on his head like a mask.⁷⁸ After spraying the youth, the JCO hit the youth in the back of the head with the OC canister and then punched him in the face. The youth ran to a corner and the JCO continued dispensing the OC spray and the JCO hit him again with the OC canister.

Inadequate Mental Health Care

Children within TJJD facilities are not receiving the mental health care they require. Across all five state facilities, just over half of all youth in 2019 were on at least one psychotropic medication.⁷⁹ This lack of mental health care is critical; in a report to the TJJD board, the Executive Director of TJJD noted that the percentage of youth with moderate to severe mental

⁷¹ Independent Ombudsman for the Texas Juvenile Justice Department, Second Quarter Report FY18 (2).

⁷² Incident Report from PIA to TJJD (August 2020).

⁷³ Incident Report from PIA to TJJD (August 2020).

⁷⁴ Keri Blakinger, *‘The place is a jungle’: Texas youth prisons still beset by gangs, violence, abuse*, Hous. Chron. (Dec. 30, 2019), available at <https://www.houstonchronicle.com/news/houston-texas/houston/article/The-place-is-a-jungle-Texas-youth-prisons-14938409.php>.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Incident Report from PIA to TJJD (August 2020).

⁷⁹ Open records request to TJJD by Texas Appleseed.

health needs has grown significantly. Specifically, in 2014, at the point of intake, TJJD identified 21% of youth as having moderate to severe mental health needs; in 2019 that percentage had grown to 53%.⁸⁰

In 2017, a 12 year old boy hung himself and subsequently died in a state facility.⁸¹ While the OIO found that TJJD followed all applicable procedures and guidelines with respect to the incident, it also learned of the troubling practice of abruptly stopping a youth's medication after the youth refuses the medication three times, even after the youth complained of side effects from the medication before refusing to continue on the medications. Abruptly stopping mental health medications can have severe mental health effects and is not a recommended practice.

In May 2018, at Evins a 16 year old was found unresponsive in his cell and was unable to be revived.⁸² In August 2019, also at Evins, there was also a suicide attempt where a child tried to kill himself twice within roughly an hour.⁸³ As reported by the Houston Chronicle, "staff failed to check on one teen for just over 21 minutes, and when another child alerted them to a possible problem, officers realized they couldn't get into the cell because they didn't have a key. When they finally got in, they found the boy unresponsive with a ligature around his neck. After they cut him down, the youth went to the infirmary and was sent back to his dorm — where officers found him wrapping a shirt around his neck 15 minutes later. It was only at that point, he was placed on one-to-one observation."

From 2018-2019, there were 100 complaints from youth about suicidal behavior across all five facilities.⁸⁴ In CY2018, 14 youth had serious self injuries, most of which came from Mart (6). In CY2019, 33 youth had serious self injuries, most of which again came from Mart (14). There were 8 mental health hospitalizations in 2018 and 12 in 2019 - most of which came from Mart (5 in 2018, and 8 in 2019). In one OIO report, the staffing shortage issues at Mart were linked to an inability to monitor and document residents on suicide alert per policy.⁸⁵ Further, about 5% of the boys in the state secure facilities are 14 years old and younger and of this group, 56% have been placed on suicide alert at least once and average 4.3 suicidal behaviors.⁸⁶

Youth with suicidal or self-injurious behavior can often benefit from counseling; however there is a lack of counselors in TJJD facilities. There were approximately 17 youth per every counselor.

⁸⁰ TJJD January 2020 Board Minutes, available at <https://www.tjjd.texas.gov/index.php/doc-library/send/590-january-2020/2351-meeting-minutes-jan24-2020>.

⁸¹ Independent Ombudsman for the Texas Juvenile Justice Department, Third Quarter Report FY 17.

⁸² Jolie McCullough, *Rare death inside Texas juvenile lockup being investigated as a "possible suicide"*, Texas Tribune (May 21, 2018), available at <https://www.texastribune.org/2018/05/21/rare-death-inside-texas-juvenile-lockup-being-investigated-possible-su/>.

⁸³ Keri Blakinger, *'The place is a jungle': Texas youth prisons still beset by gangs, violence, abuse*, Hous. Chron. (Dec. 30, 2019), available at <https://www.houstonchronicle.com/news/houston-texas/houston/article/The-place-is-a-jungle-Texas-youth-prisons-14938409.php>.

⁸⁴ Open Records request by Texas Appleseed to OIG.

⁸⁵ Independent Ombudsman for the Texas Juvenile Justice Department, Second Quarter Report FY18 (11).

⁸⁶ Legislative Appropriations Request Draft from TJJD September 2020 Board Meeting, available at <https://www.tjjd.texas.gov/index.php/doc-library/send/632-september-2020/2492-board-packet-092520>.

Evins had the highest overall ratio of youth to counselors, with approximately 31 youth per every counselor.

Ratio of Counselors to Youth (CY 2018-2019)

Facility	2018			2019		
	Total Counselors	ADP*	Ratio of Youth to Counselors	Total Counselors	ADP*	Ratio of Youth to Counselors
Evins	4	106.0	27:1	4	122.7	31:1
Gainesville	7	196.6	28:1	6	121.9	20:1
Giddings	10	214.3	21:1	8	220.6	28:1
Mart	18	226.5	13:1	16	197.5	12:1
Ron Jackson	13	166.2	13:1	13	137.7	11:1
Total	52	909.5	17:1	47	800.4	17:1

*ADP is the average daily population.

Not only is there a shortage of counselors for youth in TJJD facilities, a high percentage of the counselors working in the facilities are not licensed. The lack of adequate counselors is highlighted by a case investigated by Disability Rights Texas (DRTx). In the course of the investigation, DRTx learned that a youth while at Mart, then the designated mental health facility for juveniles, was recommended by the facility psychologist to receive trauma-based counseling services. Although he did receive counseling services nearly every week, it was provided by case managers who were not licensed professional counselors and also lacked any specialized training in trauma-informed counseling. The facility psychologist also recommended Dialectical Behavior Therapy and increased counseling as the youth continued to be put on suicide alert and to be sent to security for self-harming behavior.⁸⁷ Despite these recommendations, the youth did not receive these these therapies from licensed professionals for six additional months. When he finally did begin to receive trauma-based counseling, it was not provided by a licensed professional counselor. When DRTx submitted a grievance on behalf of the youth asking that a licensed professional counselor be used to conduct counseling, TJJD responded they are not required to use licensed professional counselors.

Unlicensed Counselors (CY 2018-2019)

⁸⁷ He went to Security many times during these months. In June 2019, he went to Security nine times; in July 2019, he went to security six times and had suicide assessments completed eight times; in August 2019, he went to security seven times and had suicide assessments completed thirteen times; in September 2019, he went to security twice; in October, he went to security six times and had suicide assessments completed six times.

Facility	2018		2019	
	Total Counselors	Total Unlicensed (%)	Total Counselors	Total Unlicensed (%)
Evins	4	1 (25%)	4	1 (25%)
Gainesville	7	2 (29%)	6	2 (33%)
Giddings	10	7 (70%)	8	4 (50%)
Mart	18	10 (56%)	16	8 (50%)
Ron Jackson	13	1 (8%)	13	1 (8%)
Total	52	21 (40%)	47	16 (34%)

Conclusion

Information from regular reports from the TJJJ ombudsperson, conversations with youth formerly incarcerated at TJJJ, OIG reports, investigations, and data and incident reports from open records requests all indicate serious risks to the safety and well-being of youth in the five TJJJ operated state secure facilities. The TJJJ ombudsperson is a former Texas ranger who has repeatedly highlighted grave problems within the facilities in his reports since the beginning of his tenure; however, his office lacks an ability to change facility conditions and his primary function is to investigate individual complaints, monitor the facilities, and report to TJJJ and the public on facility conditions and issues.⁸⁸

The current director has outlined a plan known as the “Texas Model” to address the ongoing problems within the state facilities as well as county facilities which she noted at the beginning of this year had a three to four year implementation timeline and which began in September 2019.⁸⁹ The Texas Model is defined as a “risk and needs-based strategy with greater resources for probation to build what is needed to best serve as many youth as possible and a more tailored approach at the state level, especially for youth with special needs.”⁹⁰ Even with the best of intentions and a revised approach, the Texas Model cannot change the issues inherent to the facilities that we highlight in this report; these issues and the ensuing constitutional violations detailed in this complaint are endemic to the facilities and persisted throughout years of attempts to change them from various state actors. Further, the Texas Model is based on

⁸⁸ See Texas Human Resources Code Chapter 261, available at <https://statutes.capitol.texas.gov/Docs/HR/htm/HR.261.htm>.

⁸⁹ TJJJ Board Materials (January 2020), available at <https://www.tjjd.texas.gov/index.php/doc-library/send/590-january-2020/2301-info-packet-board-jan24>.

⁹⁰ Administrator’s Statement, TJJJ Draft Legislative Appropriations Request 2020, available at <https://www.tjjd.texas.gov/index.php/doc-library/send/632-september-2020/2492-board-packet-092520>.

lower staff-to-youth ratios than currently required for TJJD state secure facilities.⁹¹ As this complaint outlines, the facilities are plagued with chronic staffing issues.⁹²

Our concerns have only deepened since facilities have been closed due to COVID-19, since this limits the ability of outside monitors like the OIO and DRTx to have a presence in facilities. We are confident that there are further problems we have not been able to uncover. The constitutional violations that youth in the custody of TJJD at the five state secure facilities are well-documented, on-going, and in need of further investigation. We are happy to answer any questions and assist your investigation in any way that we can.

Sincerely,



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⁹¹ *Id.* at 4-8.

⁹² See also *id.* at 1 (acknowledging that staffing issues are an obstacle to the implementation of the Texas Model in stating “[t]he 5 existing secure facilities face extraordinary difficulties in maintaining adequate, sustained staffing levels for current populations.”)