

UNDERSTANDING AND ADDRESSING YOUTH VIOLENCE IN THE TEXAS JUVENILE JUSTICE DEPARTMENT

Report to the Office of the Independent Ombudsman

by

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SPECIAL PROJECT REPORT

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Executive Summary

A. Purpose of Report and Methodology

Following numerous reports in 2012 of increased levels of youth violence in secure facilities operated by the Texas Juvenile Justice Department (TJJD), the Office of the Independent Ombudsman (OIO) requested assistance from the Lyndon B. Johnson School of Public Affairs at the University of Texas to analyze the extent and nature of youth misbehavior within TJJD and to identify strategies to effectively address the violence. This report responds to that request and aims to support the OIO in its efforts to understand and address misbehavior in TJJD's secure facilities so that youth and staff are safe and youth receive effective rehabilitative programming.

This report focuses on “major rule violations,” the most serious offenses a youth can commit during his or her time at TJJD. These include a wide range of non-violent and violent infractions, as well as attempted escapes, riots, and other group disturbances. At the OIO's request, TJJD provided information about all of the major rule violations that took place within its six long-term, secure facilities from January 2009 through December 2012. These data were thoroughly analyzed to identify trends in the occurrence of violence. The report also examines youths' and staff members' personal experiences with assaultive behavior based on the results of a survey the OIO administered to youth and staff in five of the secure facilities in August and September 2012. To understand how TJJD manages youth misbehavior, we also analyzed data about current disciplinary practices, reviewed agency policies, and spoke with relevant agency administrators.

In order to identify best practices for managing the behavior of youth within institutional settings, we conducted an extensive literature review and consulted with a wide variety of national experts in the field, including current and former administrators of other state juvenile systems.

The findings presented in this report are timely as Texas legislators, TJJD administrators, and the OIO work to address the chronic challenge of youth misbehavior in TJJD's secure facilities. The persistent nature of violence and other major rule violations has critical implications for juvenile justice system reform efforts during the 83rd Legislature and beyond.

B. Major Findings

1. Violence and disruptive behavior are ongoing problems in TJJD's secure facilities. Equally troubling is the sheer number of *non-violent* major rule violations that occur, suggesting that the agency has a problem managing youth behavior generally, not just a problem with violence.

From 2010 to 2012, the number of major rule violations in TJJD secure facilities grew by 60% despite a relatively stable average daily population during that time period. In 2012, there were 15,501 major rule violations, an average of 14 per youth. However, most major rule violations are non-violent in nature, and the proportion of total major rule violations that are non-violent has increased. All rule violations—not just violent incidents—contribute to facility instability and interfere with rehabilitative efforts.

2. TJJD has treated violence in its facilities as short-term crises that must be “solved” rather than as a chronic problem needing careful, long-term management. A proactive, comprehensive approach to behavior management is essential for long-term improvements of TJJD's secure facilities.

TJJD instituted various reforms in the spring and summer of 2012 in an effort to curb the rise in assaultive behavior that some facilities were experiencing. Major rule violations declined in the months immediately following a policy or program change; however, the incident rates neared or exceeded previ-

ous levels during subsequent months. This band-aid approach to addressing violence does not appear to be successful and more comprehensive strategies for preventing and controlling violence are necessary.

3. Despite large numbers of violent and other serious incidents in TJJD, youth generally report feeling safe in the secure facilities. Most assaultive incidents are not planned, do not involve group or gang violence, do not involve a weapon, and do not result in serious bodily injury. Youth do not report sexual assault to be a significant problem.

Youth violence in TJJD is more nuanced than the numbers of violent incidents might suggest. Eight-five percent of youth report feeling safe from staff and 82% report feeling safe from their peers. Importantly, given the agency's history, youth report that sexual assault is extremely uncommon. Moreover, only 11% of all major rule violations are violent incidents that result in bodily injury. Staff and youth alike report that injuries sustained are very minor, and very few individuals require hospital care. Weapons are rarely involved. While no violence is acceptable, it is important to put the severity of the violence in context.

Most injuries to staff occur in the course of restraining a youth. Only at Evins and Giddings does gang violence appear to be a significant issue. For the most part, youth-on-youth assaults appear to be "crimes of opportunity" brought about by unresolved arguments or spur-of-the-moment fights, rather than premeditated incidents. Throughout the agency, about 50% of youth say they have been the aggressor in a fight. This suggests the need to create a culture of safety and to provide youth with tools to manage their outbursts.

4. Violence in TJJD does not appear to be related to the presence of older youth in secure facilities. Youth aged 17 and 18 are disproportionately *less* likely to be involved in violence and other serious major rule violations than their younger peers. Indeed, 14- and 15-year olds are disproportionately responsible for more violent and serious incidents on TJJD's campuses. Determinate sentenced youth are no more likely than indeterminate sentenced youth to commit serious misconduct.

Although they represented 57% of TJJD's youth population, youth ages 17 and 18 committed only 44% of violations involving violence, escapes, or riots/group disturbances in 2012. In contrast, 14- and 15-year old youth accounted for only 12% of the total population in TJJD's secure facilities in 2012 but were responsible for 25% of violent and other serious major rule violations. Younger youth are also disproportionately referred to the Redirect Program and the Phoenix Program, TJJD's specialized behavior management programs for aggressive youth. Data further show that the type of sentence a youth receives (determinate versus indeterminate) is not a reliable predictor of how he or she will behave in TJJD facilities.

5. Different types of behavioral problems predominate at each TJJD facility. This may suggest that current behavior management strategies are not being applied consistently across the agency.

Even controlling for facility size, each facility experiences youth misbehavior differently. In 2012, Evins and Gainesville reported significant spikes in riots and group disturbances. At Evins and Corsicana, injury-causing violent misbehavior rose in 2012, especially during educational programming. Giddings had a spike in violent, injury-causing incidents in 2011, but brought those numbers down in 2012. Gainesville consistently experiences more incidents in its security unit than do other facilities. McLennan and Ron Jackson have relatively low numbers of violent incidents. Giddings has by far the highest frequency of pepper spray use. Regardless of facility, the vast majority of major rule violations occur in the dorms.

6. The Corsicana Residential Treatment Center for youth with serious mental illness has, by far, the highest levels of violent and disruptive behavior in TJJD. This calls into question not only the safety of youth in the facility but also the effectiveness of the programming taking place there and the appropriateness of this setting for a treatment purpose.

Despite the fact that Corsicana housed only 10% of TJJD's youth in 2012, youth in Corsicana were responsible for 32% of all violent incidents, though most of these incidents did not cause injuries. Moreover, this facility had more than 1.5 times as many major rule violations as any other facility in TJJD. Youth at Corsicana disproportionately report that they do not feel safe, and 75% of staff there indicate that they have been assaulted by a youth. Youth at Corsicana have very severe mental health needs, but these findings suggest that treatment effectiveness may be hindered by these levels of violence.

7. Security units have become the centerpiece of TJJD's behavior management program, despite agency policy to the contrary and consistent evidence that this is an ineffective and counterproductive approach for managing youth behavior.

On average, youth committed to TJJD between January 2009 and August 2012 were referred by staff or referred themselves to a security unit 48 times during their commitment. Not surprisingly, youth who are involved in more major rule violations have dramatically more security referrals than those who break fewer rules. But even youth who did not commit any major rule violations were referred to security 23 times on average. There were 93 youth with more than 300 referrals to security each, suggesting that a substantial portion of their time in TJJD is spent in this punitive setting, with limited access to programming, education, and specialized therapeutic treatment while they are there. The sheer volume of repeat security referrals indicates that the use of security placements is not an effective behavior management tool, and may actually increase misconduct.

8. TJJD disciplinary policies provide for a wide range of possible consequences for youth who misbehave. However, staff rely overwhelmingly on the 30-day suspension of privileges, which seems to have little effect on changing the behavior patterns of youth. Swift and certain consequences, imposed for shorter periods of time and coupled with the opportunity for reinstatement of privileges for improved behavior, has been shown to be more effective. For more serious misbehavior, stage demotion should be considered.

From 2009 through 2012, the most common long-term consequence for youth who commit major rule violations—imposed almost 3,900 times—was the suspension of all privileges (e.g., the opportunity to work, free time in the evenings, etc.) for 30 days. This sanction cannot be applied quickly because it requires a Level II due process hearing. While losing privileges is a good behavior management strategy, this across-the-board 30-day suspension tends to be ineffective because youth need swift and certain consequences that are tied in a more meaningful way to the privileges that are important to them personally. Shorter time frames for removing a youth's privileges (i.e., up to five days), assuming such consequences are imposed immediately, can be more effective for changing a youth's behavior. Moreover, reinstatement of a youth's privileges should be coupled with positive reinforcement for improved behavior. Both rewards for desired behavior and consequences for negative behavior should be individually designed to be consistent with a youth's behavior management plan. An improved system of rewards can also help motivate youth to behave.

9. The rehabilitative aspects of the Redirect and Phoenix programs, designed for youth who are assaultive or engage in other serious misbehavior, are compromised by their location in security units and by the fact that youth can remain in these programs indefinitely. It is difficult to determine the quality and long-term impacts of these programs.

While both the Redirect and Phoenix program are intended to promote behavioral change through intensive therapeutic interventions, many of the opportunities for youth to practice improved behavior skills are limited due to the fact that the programs are housed in tightly controlled correctional environments that rely on segregation and seclusion of the participating youth. Redirect is located within each facility but keeps participants physically separate from the general population; a 42-day maximum stay restriction was removed in June 2012. Phoenix requires the removal of the youth from his or her original facility and placement in a specialized high-security unit at the McLennan facility. In 2012, youth referred to the Phoenix program were kept there for an average of 66 days, but there is no cap on the

allowable time a youth can spend in this controlled setting. These programs may amount to long-term punitive segregation of youth from the general population, rather than a temporary opportunity to deliver intensive services.

It was beyond the scope of this project to evaluate the quality of the therapeutic programming within the Redirect and Phoenix programs. However, it is troubling to note that, despite its strictly regimented environment and shackling of youth, the Phoenix Program continues to experience significant youth misbehavior. Around 50% of major rule violations within the Phoenix program are violent in nature. Moreover, the creation of the Phoenix Program has not quelled violence throughout the rest of the agency. This may suggest the need for an alternative strategy to address serious misbehavior by TJJD youth that does not rely upon punitive segregation.

10. TJJD has the tools it needs to respond to the most serious forms of youth violence. The Special Prosecution Unit routinely prosecutes TJJD youth on new adult charges, and TJJD reviews determinate-sentenced youth for possible transfer to the Texas Department of Criminal Justice (TDCJ).

Youth ages 14 to 16 can be certified and prosecuted on adult charges for certain offenses they commit at TJJD, while those 17 and older are routinely prosecuted as adults. Determinate-sentenced youth as young as 16 may be transferred to an adult prison facility for chronic or serious rule violations in TJJD. These prosecution and transfer options are employed with some frequency. In 2012, more than 100 youth in TJJD were prosecuted as adults or were transferred to an adult prison operated by the Texas Department of Criminal Justice. The average sentence length for those sentenced to additional prison time was 2.5 years.

The placement of youth in adult prisons increases the youths' risk of violent recidivism, and puts the youth at substantial risk of physical and sexual assault by adult inmates, mental illness, and suicide. Research shows that juveniles who spend at least one year in the adult prison system have a 100% greater risk of violent recidivism than those who remain in the juvenile system.

11. Behavior management strategies that rely heavily on the use of seclusion of youth, pepper spray, and mechanical restraints are antithetical to best practices in juvenile justice facility management and counter-productive with respect to violence prevention and control.

Punitive disciplinary measures such as the use of seclusion or segregation, pepper spray, and mechanical restraints have proven to make youth more aggressive. Furthermore, they pose a danger to the physical and psychological health of both youth and staff, and conflict with a positive therapeutic environment. Experts in institutional behavior management recommend that institutions discontinue the use of isolation, pepper spray, and physical restraints. In their place, facilities should implement a comprehensive, multi-tiered, and evidence-based behavior management plan, such as the one described below.

C. Best Practices in Juvenile Behavior Management

Juvenile justice systems around the country have effectively controlled their problems with youth violence through implementation of best practices in behavior management. The most effective strategies are based upon a multi-tiered model with strong similarities to Positive Behavior Interventions and Supports (PBIS), one of the most effective evidence-based approaches to reducing the incidence of misbehavior in school settings.

The three-tiered behavior management model in the context of secure juvenile settings combines implementation of facility-wide preventive measures with youth-specific intervention measures and a graduated disciplinary approach. The model is summarized below. Note that the components should be implemented comprehensively in order to reduce violence successfully. This is not a menu of potential options.

(1) Primary Tier: Prevention

The primary tier incorporates good management practices and provides behavioral support for all youth across all settings within the institution. Eighty to 90 percent of youth will respond successfully to a positive, proactive environment that emphasizes teaching them how to behave and reinforces good behavior rather than simply punishing inappropriate behavior. The following strategies work together to prevent violence institution-wide.

Physical Environment: The physical structure and environment of juvenile institutions have a tremendous impact on the likelihood of violence within that facility. Proper design of a facility can help prevent violence across all youth populations.

- **Small Capacity Facilities:** The capacity of secure facilities should be no larger than 50 beds; 40 beds or fewer is ideal. Multiple smaller secure facilities are preferable to a few larger facilities.
- **Localized Facilities:** Secure facilities should be located strategically around the state, close to the home communities of the youth who are incarcerated.
- **Small Group Living Arrangements:** Youth in secure facilities should be arranged in small groups of 8 to 12 youth per housing unit.
- **Home-like Environment:** Secure facilities should have natural lighting, outdoor spaces, and carpeting and furnishings that promote a home-like environment.
- **Sleeping Rooms:** Sleeping rooms can either be shared or single occupancy, but youth should be allowed to decorate rooms with pictures of family and projects created in treatment programming. If sleeping rooms are single occupancy, staff should avoid using rooms for isolation or confinement of youth.
- **Surveillance:** Security cameras in facilities should not be used as a replacement for direct supervision; they should be used to monitor the perimeter of the facility and areas of low staffing.

Small Group Processes: Youth are better behaved when they participate in small group activities that allow for positive interactions with their peers. The small group structure uses the concept of peer pressure in a positive way by encouraging youth to reinforce the skills learned in therapeutic programming.

- **Facility-wide:** Youth should be placed into small, family-like groups of no more than 12 youth; these groups should participate in every aspect of daily life together during their incarceration.
- **Gang Prevention:** Youth who are deemed at risk for gang membership at intake should be placed strategically in a small group that is most likely to prevent their continued membership in a gang during incarceration. Small group processes will also help prevent youth from joining a gang.

Staffing Practices: Staffing practices such as staff-to-youth ratios, turnover, and deployment directly impact staff members' ability to monitor youth, ensure youth safety, and allow for quality interactions and support. This, in turn, affects the level of violence and number of incidents in a facility.

- **Low Staff-to-Youth Ratios:** There should be one staff member in a direct supervision capacity for every 8 to 10 youth across the facility.
- **Staff Deployment:** Staff should directly supervise circulation between controlled zones, angles, or corners where camera angles might allow youth to hide, and housing areas, where incidents are most likely to occur.

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- **Staff Training:** The number of hours of training is not as important as the quality of training provided to new and continuing employees. New staff should be required to participate in a mentoring program with continuing staff during their first year of employment. Continuing staff should be required to attend frequent education opportunities that provide a space to practice skills or obtain certifications.
- **Staff Training Curriculum:** Curriculum should focus on relationship-building, positive interventions, and the elements of an effective behavior management plan, and should include training on mental health issues and cultural diversity.

Staff-Youth Relationships: Staff members' responses to youth behavior should reinforce skills in youth by redirecting the misguided behavior rather than emphasizing punishment.

- **Positive Interactions:** Staff should always employ positive interactions with youth to support desired behaviors and extinguish undesired behaviors, even when intervening in an escalating confrontation between youth.
- **Line and Treatment Staff:** There should be minimal differences between line staff and treatment staff. Treatment staff should teach youth new skills and line staff should support those new skills by allowing youth to practice them. Line staff should be informed about the skills youth are learning in treatment programming.

Classification Systems: Correctional classification systems are the principal tool administrators have for allocating program resources and minimizing the potential for escape and violence. By classifying youth according to *institutional* risk level (rather than *community* risk level), administrators can make appropriate decisions regarding staffing, bed space, and housing, and thereby prevent violent incidents.

- **Intake:** Classification reviews to assess risk of institutional violence should be conducted at a youth's intake and should be based on clear, stated criteria. Classification reviews should be conducted through semi-structured interviews and behavior checklists, and should include a review of an offender's past behavior.
- **Housing:** A classification system should be used to inform the youth's placement on a housing unit. Housing decisions can be reviewed at any point based on youth needs, serious incidents, or facility security needs.
- **Individualized Behavior Management Plans:** The findings from an intake assessment should be used to develop an individualized behavior management plan that recommends program interventions and meaningful rewards and consequences during a youth's stay at a secure facility. This behavior management plan should be continuously reviewed and revised as a youth progresses through program interventions.
- **Gang Prevention:** An effective classification system can reduce the likelihood of gang formation within a secure facility by placing youth in appropriate housing units and programming. Youth should be assessed for prior gang involvement and for their risk of pursuing gang membership.

Structured Daily Schedules: When youth are kept busy with meaningful activities, they give less thought to harming themselves, others, and property, and more thought to positive behaviors. Down time and idleness have been shown to be associated with violence and misbehavior.

- **Meaningful Daily Activities:** Secure facilities should ensure youth are actively engaged in meaningful daily activities during all waking hours. These activities should promote continued skill-building.

- **Evenings and Weekends:** While a significant portion of waking hours on a weekday will include the time youth spend in school, evenings and weekends present a challenge for keeping youth active and engaged during waking hours. Staff should be creative in developing meaningful activities for youth to participate in during evenings and weekends that continue to promote skill-building.

(2) Secondary Tier: Intervention

The secondary tier of the behavior management model provides consequences for misbehavior as well as more intensive behavioral supports. Approximately 5 to 15 percent of youth will need these more intensive, individualized interventions, as well as continued application of all the preventive elements of the primary tier of the model.

Therapeutic Interventions: Youth involved in confrontations should be provided more intensive, individualized therapeutic programming to continue reinforcing desired behaviors and extinguish undesired behaviors. Cognitively-based programming, such as Aggression Replacement Training (ART), Thinking For Change (T4C), and Dialectic Behavior Therapy (DBT), is most effective at reducing violence between youth.

Managing Behavior through Carrots and Sticks: The “Carrots and Sticks Approach” is a behavior modification strategy that offers a combination of meaningful rewards, incentives, and consequences to elicit desirable behaviors and decrease misbehaviors.

- **Simple and Strengths-based:** A simple point system should be used on a daily basis to reward desired behaviors and to teach youth appropriate skills at the onset of undesired behaviors. The “carrots” and “sticks” of this system should be informed by each youth’s individualized behavior management plan.
- **Rewards:** Effective daily rewards build on a youth’s specific interests. Other effective rewards that should be applied immediately following the desired behavior are material items, activities, or social privileges. A long-term incentive for good behavior should be the application of “good time” that reduces length of stay.
- **Consequences:** Effective immediate consequences for misbehavior include the denial of privileges that have been identified as meaningful for that individual youth (e.g., denial of an opportunity to play a sport). More substantial consequences for aggressive behavior should also be available, but should continue to provide youth with the space to practice skills in managing confrontations with peers. All consequences should be swift and certain so that youth understand their purpose. Punitive measures such as use of isolation and lengthening a youth’s sentence have been shown to be ineffective at changing behavior.
- **Loss of Privileges:** Staff should discuss with youth the connection between their loss of privileges and their misbehavior. Youth should understand the purpose of the removal of privileges and how they can earn back those privileges. To best facilitate a youth’s understanding, staff should remove his or her privileges for misbehavior only for a short period of time, i.e., less than five days.

De-escalation: De-escalation interventions should be employed when tension arises between two youths or when a youth begins to exhibit aggressive behavior, but not once a confrontation between youth escalates to violence.

- **Verbal De-escalation:** Staff should immediately try to talk youth out of confrontations when emotions begin to escalate. Staff should be trained on proper verbal de-escalation techniques that include affirmation statements that validate the youth’s concerns.
- **“Cool-off” Area:** A designated “cool-off” area should be used to calm youth down, while staff

continue to provide direct supervision of the youth and use the opportunity to reinforce effective problem-solving skills.

(3) Tertiary Tier: Discipline

The tertiary tier provides discipline to youth who have engaged in violent incidents at secure facilities, or whose behavior does not respond to earlier levels of interventions. Discipline should include engaging youth in highly individualized and intensive behavioral supports, as well as possible separation from the general population of youth in order to facilitate these intensive interventions. Between one and five percent of all youth will need these intensive services, as well as the elements of the primary and secondary tiers of the behavior management model.

Effective Discipline: Discipline means the effective implementation of strategies to elicit desirable behavior that conforms to acceptable norms. It does not mean the imposition of punitive responses.

- **Graduated Sanctions:** There should be immediate and increasingly serious consequences for misbehavior. Additionally, staff may need to separate an aggressive youth from his or her peers for increasing periods of time. The separation protects the safety of other youth while allowing for the provision of services to the aggressor. Graduated responses to youth violence include the use of “cool-off rooms,” “timeouts” in youths’ rooms, loss of privileges, stage demotion, and placement in Behavior Management Units (BMUs). Regardless of the sanction, youth continue to need opportunities to practice appropriate problem-solving skills.
- **Behavior Management Units:** BMUs are separate wings of secure facilities that allow youth to be separated from the general population and that facilitate more intensive therapeutic interventions. It is important that these units do not become administrative segregation units. Youth should only be kept in their rooms for a maximum of three waking hours per day and should spend the rest of the day engaged in meaningful activities, including education and therapeutic programs.

D. Policy Recommendations

The following recommendations, grounded in our analysis of TJJD-specific data and national best practices, should guide legislators and agency leaders in their efforts to reform TJJD’s approach to behavior management.

Recommendations for TJJD Administrators

- (1) TJJD should appoint a Behavior Management Task Force to plan for short- and long-term implementation of a multi-tiered behavior management model in all secure facilities.
- (2) TJJD should develop an alternative plan for housing and treating youth with serious mental health needs who are currently housed in the Corsicana Residential Treatment Center.
- (3) TJJD should adopt a multi-tiered behavior management plan that emphasizes prevention of misconduct through various strategies for all youth; provides effective interventions as well as meaningful rewards and consequences for youth whose behavior “tests” the rules; and offers intensive interventions and a graduated system of discipline for youth who continue to misbehave despite the earlier efforts to address misconduct.
- (4) TJJD should cease the routine use of disciplinary measures that have been shown to be ineffective and counterproductive with misbehaving youth, including the overuse of security units, pepper spray, and mechanical restraints.

Recommendations for Legislators

- (5) The Legislature should provide adequate funding to allow TJJD to staff its facilities with the appropriate number of qualified staff.
- (6) The Legislature should provide adequate funding to TJJD to enable it to provide effective programming and services to youth in the secure facilities, including interventions that have been shown to reduce violence.
- (7) The Legislature should fund a new option for housing youth with serious mental illness in lieu of the continued use of the Corsicana facility for this purpose. The option should be developed and proposed by TJJD based on the agency's research into effective strategies for treating this population.
- (8) The Legislature should avoid closing additional facilities at this time in order to avoid further destabilizing the remaining campuses by consolidating populations of youth. Having multiple campuses allows for the proper implementation of a multi-tiered behavior management plan that is based on the appropriate classification and housing of youth based on both risk and needs.
- (9) The Legislature should direct TJJD to develop a plan for a regionalized system of campuses around the state that includes small units of no more than 30 – 50 beds. This system should be designed to replace the six existing large secure facilities. TJJD should present this plan to the 84th Texas Legislature.

Recommendations for the OIO

- (10) The OIO should monitor and assist in TJJD's efforts to design and implement a multi-tiered behavior management plan that is based on the best practices described in this report.

List of Findings

CHAPTER III. A Profile of Violence in TJJD's Secure Facilities

Finding 3.1: Major rule violations in TJJD's long-term secure facilities have remained high over the past four years. In 2012, there were more violations than in any of the previous three years, despite an overall reduction in facility populations. The average number of violations per youth has been rising. 17

Finding 3.2: In 2012, TJJD's efforts to reduce incidents of violent major rule violations appeared to correlate with a decline in the number of these incidents in the months during or following those interventions. However, these periods of declines were followed by months with higher numbers of incidents. Monthly incidents of major rule violations varied between 500 and 670 incidents in 2012. 18

Finding 3.3: The extent of major rule violations varies considerably between facilities. 20

Finding 3.4: "Violent" major rule violations made up a smaller proportion of total major rule violations in 2012 than it did in the previous three years. In 2012, "non-violent" major rule violations accounted for 49% of all major rule violations, compared to 39% during the three-year period 2009-2011. 22

Finding 3.5: Different types of rule violations predominate at each TJJD facility, suggesting that different strategies are needed for each facility to address youth misconduct. 23

Finding 3.6: Violent rule violations (injury- and non-injury-causing) were twice as prevalent in Corsicana as they were in any other TJJD facility for every year during the period 2009-2012. 23

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Chapter I. Introduction

A. Origins of the Report

This research was undertaken at the request of the Office of the Independent Ombudsman (OIO) to assist that office in fulfilling its oversight responsibilities. The purpose of the OIO is to investigate, evaluate, and secure the rights of the children who are committed to the Texas Juvenile Justice Department (TJJD).¹ The Texas Legislature established the OIO in 2007 as part of its response to a sexual abuse scandal within the facilities of TJJD's predecessor, the Texas Youth Commission (TYC).² As an independent oversight agency, the OIO reports to the Governor and the Texas Legislature. It has the authority to visit TJJD facilities, speak with staff and committed youth, request data, and produce reports without prior consent of TJJD.

Early in the spring of 2012, the OIO received concerning reports of assaultive behavior from youth in TJJD facilities. It began when the Chief Ombudsman, Debbie Unruh, visited the Giddings State School, one of TJJD's six secure facilities, at the end of March 2012.³ During her visit, the Ombudsman heard stories of youth being threatened with or experiencing assault by other youth. Some youth were so fearful of being assaulted that they were referring themselves to the security unit to avoid being in their dorms. Youth who did not feel insecure told her they attributed their safety to their affiliation with a particular gang and/or to their ability to fight.⁴

When the OIO published these findings in a site visit report dated March 29, 2012,⁵ a variety of stakeholders voiced concerns about what appeared to be an increasing gang and violence problem at Giddings. Throughout the spring and summer, local news media investigated the issue and produced a series of stories on incidents of youth-on-youth and youth-on-staff assaults in TJJD facilities.⁶ These

1. "IO Home," *Independent Ombudsman for the Texas Juvenile Justice Department*, accessed November 20, 2012, <http://www.tjjd.texas.gov/ombudsman/index.aspx>.
2. S. 103, 80th Leg., (Tex. 2007).
3. This was not the first time since the OIO's creation that the agency had received complaints from youth in TJJD facilities regarding the violent and coercive behavior of their peers. See, e.g., "Quarterly Report: September through December 2008," Office of the Independent Ombudsman for the Texas Juvenile Justice Department, accessed December 20, 2012, http://www.tjjd.texas.gov/ombudsman/reports/rpt_FirstQuarter_09.pdf; "Third Quarterly Report FY 09: March 1, 2009 thru May 31, 2009," Office of the Independent Ombudsman for the Texas Juvenile Justice Department, 2009, accessed December 20, 2012, http://www.tjjd.texas.gov/ombudsman/reports/rpt_ThirdQuarter_09.pdf.
4. "Giddings State School Site Visit Report OIO-SV-12-145," Office of the Independent Ombudsman for the Texas Juvenile Justice Department, March 29, 2012, accessed December 20, 2012, http://s3.amazonaws.com/static.texastribune.org/media/documents/Giddings-March_29_2012.pdf.
5. *Ibid.*
6. See, e.g., Brandi Grissom, "Agency Will Investigate Violence in Texas Youth Prisons," *Texas Tribune*, February 27, 2012, accessed November 19, 2012, <http://www.texastribune.org/2012/02/27/agency-will-investigate-violence-texas-youth-priso/>; Brandi Grissom, "Survey: Youths in State Lockup Concerned Over Violence," *Texas Tribune*, March 14, 2012, accessed November 19, 2012, <http://www.texastribune.org/texas-state-agencies/texas-juvenile-justice-department/survey-youths-state-lockup-concerned-over-violence/>; Brandi Grissom, "Reports of Violence Spur Call for Change at Youth Jails," *Texas Tribune*, April 30, 2012, accessed November 19, 2012, <http://www.texastribune.org/2012/04/30/reports-violence-spur-call-change-youth-jails/>; Mike Ward, "Security, Safety Issues Go beyond Giddings, Ombudsman Says," *Austin American-Statesman*, May 3, 2012, accessed November 19, 2012, <http://www.statesman.com/news/news/state-regional-govt-politics/security-safety-issues-go-beyond-giddings-ombudsma/nRnTn/>; Mike Ward, "Seven Youths Referred to Court for Violent Behavior in Lockups," *Austin American-Statesman*, July 19, 2012, accessed November 19, 2012, <http://www.statesman.com/news/news/local/seven-youths-referred-to-court-for-violent-behavior/nRqGM/>.

reports suggested that the problem was not necessarily unique to the Giddings facility nor was it an isolated uptick in violence.

In an effort to better understand what appeared to be an increase in violence within TJJD and the options available to the agency for addressing it, the OIO asked Michele Deitch, a juvenile justice policy expert and Senior Lecturer at the Lyndon B. Johnson School of Public Affairs at the University of Texas, and a team of her graduate students to research and write this report. All work on this project was conducted in collaboration with the OIO, drawing on information provided to that office by TJJD in accordance with the OIO's statutory right to obtain information relevant to its mandate to protect children confined in TJJD.⁷

B. Purpose of the Report

The purpose of this report is to create a fuller picture of the violence occurring in TJJD facilities in the context of TJJD's relevant policies and practices and to offer possible approaches to addressing this violence. This report aims first to provide a clear understanding of the nature and extent of assaultive behavior among TJJD-committed youth and explore how this violent behavior has changed over time. Second, we seek to explain TJJD's current disciplinary strategies and analyze the data showing how those strategies are employed. Finally, our objective is to offer a range of best practices and evidence-based strategies for addressing youth violence in correctional settings.

All of this research is conducted with an eye toward strengthening TJJD's ability to prevent and respond to violent behavior so that agency staff are better equipped to ensure the safety of youth and facilitate their full participation in programming in TJJD's secure facilities. Moreover, improvements on this front should also make the facilities safer for staff. Ultimately, our goal is to provide data, comparative analysis, and broad recommendations that will support the OIO in its oversight capacity with respect to these issues.

C. Methodology

The research team employed a variety of quantitative and qualitative methods to conduct this study. We worked with the OIO to identify which data would be helpful to our analysis. The OIO obtained data from TJJD to which it was statutorily entitled and then asked us to analyze it on the OIO's behalf.⁸ The TJJD dataset provided to us by the OIO includes de-identified information about the TJJD population and all major rule violations and their disciplinary outcomes (when available) from January 2009 through December 2012. We analyzed the dataset using a data analysis and statistical software program called STATA[®] as well as Microsoft Excel. In the report we refer to this data source as "TJJD Major Rule Violations 2009-2012."

In addition to this large dataset, the OIO requested and asked us to analyze additional data from TJJD staff that includes the ages of youth at the time of major rule violations only for calendar year 2012. This dataset is referred to throughout the report as "Major Rule Violations, Calendar Year 2012, TJJD." Finally, for our analysis of youth referrals to TJJD's disciplinary programs, the agency supplied information on youth referred to the Redirect and Phoenix programs for January through November 2012. These data are referred to in this report as "Redirect and Phoenix, January-November, 2012, TJJD."

To obtain information about youths' and staff members' experiences with violence at TJJD, we analyzed responses to two surveys the OIO designed and conducted in August and September 2012, one for youth and one for staff. The paper survey was administered in person in every state-level facility except for Ron Jackson, TJJD's only female facility. All youth (including those in the Security Unit) and all staff

7. Tex. Hum. Res. Code Ann. §§ 261.151, 261.152 (West 2011).

8. Texas Juvenile Justice Department, "TJJD Major Rule Violations 2009-2012," October 23, 2012 (referred to throughout the report as "TJJD Major Rule Violations 2009-2012").

working the day and evening shifts were invited to participate.⁹ The total staff response rate across facilities was 66%, and the total youth response rate was 77%. Participation in the survey was anonymous.

Table 1.1 shows when each facility administered the surveys, how many youth were in the facilities on that date, and how many staff were working in the facility on that date. Responses from the two surveys are included throughout this report and cited as “OIO Survey.”

Facility	Date of Survey Administration	Total Youth Population	Youth Response Rate	Total Number of Staff ¹⁰	Staff Response Rate
<i>Corsicana</i>	8/13/2012	117	86%	54	44%
<i>Evins</i>	9/5/2012	142	65%	63	92%
<i>Gainesville</i>	8/7/2012	265	73%	49	53%
<i>Giddings</i>	8/28/2012	242	74%	82	76%
<i>McLennan</i>	8/21/2012	218	86%	95	59%
Total	n/a	984	77%	343	66%

Source: 2012 OIO Survey of TJJD Youth and Staff

The research team consulted a breadth of primary and secondary resources in order to understand TJJD’s disciplinary approach to assaultive behavior. Our research of TJJD’s disciplinary approach to assaultive behavior and of the evidence-based and best practices for addressing violence in institutional settings is also informed by a variety of sources, including interviews with experts and practitioners, academic and professional literature, and governmental and agency publications. Our sources include:

- Telephone interviews with consultants and national experts on evidence-based and best practices for violence prevention and intervention in state-level secure juvenile facilities;¹¹
- Literature on evidence-based and best practices in violence prevention and intervention in secure juvenile facilities;
- Various government publications, such as reports produced by the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP), resources from professional associations such as the National Juvenile Detention Association, and publications by juvenile justice agencies around the country;
- Interviews and information-gathering at relevant presentations and conferences¹² to collect information about violence prevention practices in secure facilities in 14 different states and Washington, D.C.;

9. There are three shifts; however, the morning shift did not have the option to participate in the survey.

10. This figure represents the number of staff on the day or evening shifts that day, and excludes those who worked the morning shift since they were unable to participate in the survey.

11. A detailed list of the experts we consulted is included in Chapter V of the report.

12. The authors attended two juvenile justice-related events to enrich our research efforts: The National Center for Youth in Custody’s webinar on “Strategies for Effective Facility-Based Behavior Management,” November 14, 2012; and “Juvenile Justice System Solutions for Texas: Things to Consider,” Conference Presentation by Mark Steward and Pili Robinson, Ph.D., TJJD’s “8th Annual Strengthening Youth and Families Conference: Engaging Families, Connecting Communities, Achieving Successful Outcomes,” November 9, 2012: Austin, TX.

- In-person and telephone interviews with managers and supervisors of county-level juvenile facilities in a small sample of Texas counties;
- Consultation with attorneys within the Special Prosecution Unit (SPU) Juvenile Division of the Texas Department of Juvenile Justice and review of the data that office make available to the public on its website;
- In-person and telephone interviews with facility officials and personnel in TJJD's central office;
- In-person and telephone interviews with OIO staff about TJJD's classification and assessment tools and staff training;
- TJJD's General Administrative Policy (GAP) Manual and internal documents describing TJJD policies and procedures; and
- News articles from state and local media sources about TJJD practices.

D. Structure of the Report

Chapter II provides background information about the evolution of TJJD since 2007, when the agency responsible for state-level secure facilities, the Texas Youth Commission (TYC), experienced high-profile scandals related to the treatment of youth. The crisis gave rise to various reform efforts, which are also discussed in this section. The chapter further explores the more recent events in 2012 that led to concerns about an increase in violence within the agency, and it notes the questions this raises about whether the reforms have been working as intended.

Next, Chapter III provides a detailed examination of the occurrence of violent behavior among youth in TJJD's secure facilities using de-identified data provided by the agency. First, we analyze the current extent and nature of major rule violations in TJJD's six secure facilities as a whole as well as within each specific facility, focusing on the time period of January through December 2012. We then explore if and how these trends in misbehavior have changed over time since 2007, and we look for patterns in the occurrence of violent and non-violent major rule violations. We then use the OIO survey to present the perspectives of staff and youth regarding violence in TJJD, including self-reports about youth participation in assaultive behavior and the extent of injuries received if they were victimized. Finally, we use the TJJD data we received from the OIO about the TJJD population and major rule violations to describe patterns in the characteristics of youth who commit major rule violations.

Chapter IV of the report details the ways in which TJJD seeks to respond to misbehavior on the part of youth. In particular, we examine the variety of immediate interventions and disciplinary consequences that can be employed when dealing with youth who are violent. Among the disciplinary strategies discussed in this section of the report are the use of the Security Unit, the Redirect Program, the Phoenix Program, transfers of determinate sentence youth to adult prison, and prosecution of youth for criminal offenses committed while in a TJJD secure facility.

Chapter V explores best practices for addressing youth violence in correctional settings. Guided by a variety of experts and practitioners from around the nation, we identify nine effective strategies for preventing and responding to misbehavior. These strategies have led to a systematic reduction in violence in other states' secure juvenile facilities when they have been implemented comprehensively as a behavior management system. We identify the most effective measures that should be employed agency-wide by administrators to *prevent* youth violence, including security measures, small facility size, better staffing practices and improved staff training, use of a classification system, gang management, heavily structured daily schedules, use of small group processes, improved staff-youth relationships, and therapeutic programs tailored to each youth's needs. Next, we discuss strategies for intervening when rulebreaking

occurs, including establishment of a meaningful system of rewards and consequences, and increased levels of programmatic interventions. Finally, we highlight best practices for disciplining youth who engage in misconduct, as well as ineffective approaches that have been shown to worsen the youths' behavior.

Chapter VI synthesizes our most significant findings from the previous chapters, discusses the implications of these findings, and provides readers with key takeaways from this report. Finally, Chapter VII offers recommendations for consideration by TJJD, the Texas Legislature, and the OIO.

Chapter II. Background

In order to provide context for this report, we offer a brief history of the Texas Youth Commission (TYC) and its successor agency, the Texas Juvenile Justice Department (TJJD), since 2007. Before the creation of TJJD in 2011, two separate agencies were responsible for the state's juvenile justice system. The Texas Youth Commission was responsible for the confinement of youth in the state-run juvenile justice system and operated a system of 15 secure facilities as well as a number of halfway houses. The Texas Juvenile Probation Commission (TJPC) provided oversight, training, and funding for the county-run juvenile probation departments throughout the state but had no direct supervisory responsibilities for youth. Historically, 95% of juvenile offenders in Texas were handled through county-level juvenile probation departments, and only a fraction of youthful offenders (5%) were committed to state-run institutions.¹³

A. TYC Crisis of 2007

In February 2007, the *Texas Observer* helped break a shocking story of sexual abuse of youth by staff in the West Texas State School, a TYC facility.¹⁴ Beyond the violence itself, the scandal brought to light deep-seated problems within the agency's oversight mechanisms, treatment programs, grievance procedures, and fiscal management.¹⁵ TYC's own internal investigation eventually found that two staff members were responsible for molesting at least 13 students on multiple occasions from 2003 to 2005.¹⁶ It also became evident that youth were being kept well beyond their minimum lengths of stay with little accountability, contributing to the ability of staff to elicit sexual favors and abuse their authority.¹⁷ By March, a free hotline was established for the public and incarcerated youth to report allegations of abuse, and calls came flooding in—over 1,500 within the first month.¹⁸ Investigators from the Texas Department of Criminal Justice, Office of Inspector General (TDCJ-OIG); Office of Attorney General (OAG); and Department of Public Safety (DPS) pursued these allegations as well as reports that had been improperly investigated previously.¹⁹

These investigations led to the arrest of some and the firing of many staff members; at the same time, and as a result of the pressure on the agency, the entire TYC Board of Directors resigned.²⁰ Governor Rick Perry put TYC under the conservatorship of Jay Kimbrough in April 2007.²¹ Several other new leaders were brought to

13. Sunset Advisory Commission, "Texas Youth Commission, Texas Juvenile Probation Commission, Office of Independent Ombudsman Final Report," (July 2009), accessed December 20, 2012, http://www.sunset.state.tx.us/81streports/tyc/tyc_fr.pdf.

14. Nate Blakeslee, "Hidden in Plain Sight: How Did Alleged Abuse at a Youth Facility in West Texas Evade Detection for So Long?" *Texas Observer*, February 23, 2007, accessed December 20, 2012, <http://www.texasobserver.org/hidden-in-plain-sight>.

15. Joint Select Committee on the Operation and Management of the Texas Youth Commission, *Preliminary Report of Initial Findings and Recommendations, 80th Sess.*, (2007) (hereinafter, "Joint Select Committee Preliminary Report on TYC"), <http://www.senate.state.tx.us/75r/senate/commit/c885/TYC-Report.pdf>.

16. Jay Kimbrough, "Texas Youth Commission: Report from the Conservator," (May 2007).

17. Joint Select Committee Preliminary Report on TYC.

18. *Ibid.*, attachment 2.

19. *Ibid.*, 3.

20. Michele Deitch, "Report on the Texas Youth Commission Soap Opera," *Correctional Law Reporter*, Vol. XIX No. 4, (December/January 2008), 53.

21. Office of the Governor, Rick Perry, "Perry Appoints TYC Special Master, Orders Rehabilitation Plan," Press Release March 2, 2007, accessed December 20, 2012, <http://governor.state.tx.us/news/press-release/2279>.

TYC from the adult prison system, including former Texas Criminal Justice Department administrators Ed Owens as the interim executive director for TYC and Dimitria Pope as his deputy.²²

B. Reform Efforts Since 2007

1. Senate Bill 103

In the wake of the abuse scandal, the 80th Texas Legislature passed Senate Bill 103 (“SB 103”), an omnibus reform bill that sought to make TYC safer for all youth. One of the key goals of SB 103 was to reduce the residential population of TYC facilities. This was accomplished in two ways. First, the bill reduced the maximum age of confinement from 21 to 19. Youth between the ages of 19 and 21 were transferred either to adult prison or to the adult parole system. Second, the bill limited eligibility for commitment to TYC to felony offenders. Youth with misdemeanor offenses could no longer be sent to state-run institutions and were instead directed to county-based programs.²³ Other key reforms of SB 103:

- Established the Office of the Inspector General and the Office of the Independent Ombudsman.
- Reformed the leadership structure to include more direct gubernatorial oversight.
- Increased minimum training required for juvenile correctional officers from 80 hours to 300 hours.
- Lowered the staff-to-youth ratio to 1:12.
- Formed the Release Review Panel to ensure youth were not being held in TYC unnecessarily or longer than beneficial.
- Created a new general treatment program for youth who had not previously been enrolled in one of TYC’s specialized treatment programs.
- Established a permanent hotline for reporting abuse, neglect, or exploitation of youth.
- Mandated that TYC prepare a parents’ bill of rights describing TYC grievance procedures, visitation policies, contact information for oversight and advocacy offices dealing with TYC, and other information.
- Required American Correctional Association accreditation for all facilities operated by or under contract with TYC.²⁴

The Texas Legislature’s response and the resulting reforms demonstrate how seriously the state took the scandal. The safety and rehabilitation of TYC youth was a central concern for legislators and was a frequent topic of hearings at the Legislature. One significant step was the appointment of Will Harrell as the first Independent Ombudsman. Harrell was a well-known child advocate and criminal justice re-

22. Deitch, “Texas Youth Commission Soap Opera.”

23. Sunset Advisory Comm., “Texas Youth Commission, Texas Juvenile Probation Commission, Office of Independent Ombudsman Final Report,” (July 2011), accessed December 20, 2012, http://www.sunset.state.tx.us/82ndreports/tyc/tyc_fr.pdf.

24. Ibid.

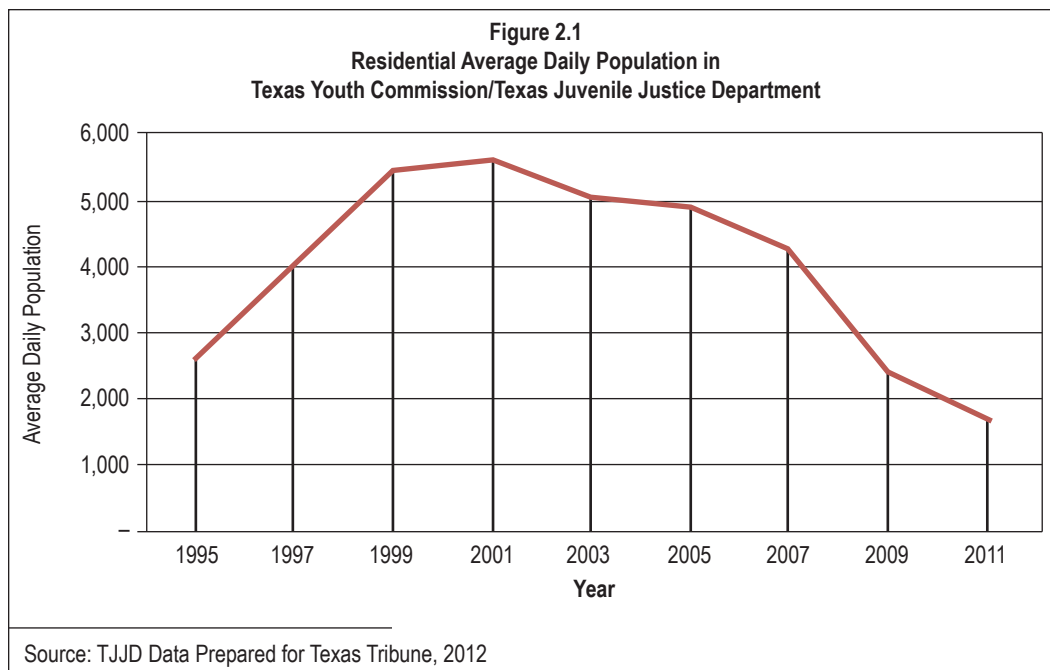
former who had formerly served as the Executive Director of the Texas ACLU.²⁵ Through these reforms, the Legislature clearly demonstrated its concern for the safety of all youth housed in TYC facilities.

2. Reduction in Population and Closure of Facilities

As a direct result of the legislative reforms in 2007 and additional initiatives in 2009 and 2011, TYC’s residential population dropped dramatically, as did the number of new commitments. In 2007, TYC youth capacity was 4,244; in 2012, TJJD had an average population of 1,382.²⁶ **Figure 2.1** illustrates this sharp decline in population.

The shrinking population has allowed the agency to close 9 of its 15 secure residential facilities since 2007. However, the size of the population at each facility that stayed open has remained relatively stable since youth from the facilities that close are consolidated onto existing campuses. The closure of each facility yields an average annual cost savings of approximately \$9.6 million.²⁷ Because of the cost savings and decline in the TYC population, the Legislature made its first substantial cut to the TYC budget in 2009, eliminating approximately \$100 million in funding. Funding was reallocated to the Texas Juvenile Probation Commission (TJPC) to be used for several grant programs to counties. The aim of these programs was to fund county efforts to keep adjudicated youth closer to home and to provide more therapeutic treatment programming.²⁸

As of early 2013, only six long-term secure residential facilities remain part of TJJD. There was some initial concern on the part of advocates that eliminating TYC as a placement option for many youth



25. Office of the Governor Rick Perry, “Gov. Perry Names Harrell Texas Youth Commission Independent Ombudsman,” (February 10, 2009), accessed November 27, 2012 from <http://governor.state.tx.us/news/appointment/11924/>.
 26. Deborah Fowler, “A True Texas Miracle: Achieving Juvenile Justice Reform in a Tough Economic Climate,” First Focus, (October 2012), accessed November 29, 2012 <http://www.firstfocus.net/sites/default/files/BI2012%20-%20JuvenileJustice.pdf>.
 27. Ibid., 7.
 28. For detailed descriptions of these programs, see Fowler, “A True Texas Miracle.”

would result in an increase in county residential placements or an increase in the number of youth certified to the adult system. Those concerns do not appear to have been realized. The number of residential placements at the county level has also declined since 2008,²⁹ and the number of adult certifications has remained relatively stable and even declined after an initial spike in 2008.³⁰

3. Shift Towards Treatment-Oriented Approach

The other lasting effect of the reforms of 2007 has been the agency's overall shift toward more therapeutic and treatment-oriented programming for youth in its custody. SB 103 required TYC to make a rehabilitation plan for each youth from entry to discharge and to assess each youth on entry and periodically during their stay in TYC custody to determine medical, substance abuse, psychiatric, and other treatment needs.³¹

In response to the programmatic requirements, TYC developed CoNEXTions[®]. The program is based on the Risk-Needs-Responsivity Model, which requires providers to target high-risk youth and match services to their assessed needs in a way that is responsive to personal characteristics.³² CoNEXTions[®] functions as a general rehabilitation program for all offenders, which includes academic, behavioral, and therapeutic components as well as providing stages to mark the youth's progress through TYC.³³ The CoNEXTions[®] program remains in place today at TJJD. In addition to CoNEXTions[®], youth also receive specialized programming based on their needs, including the Capital Offenders Program, sex offender treatment, substance abuse treatment, and mental health programming.³⁴

TYC also eliminated its Behavioral Management Program (BMP), which had become a practice of isolating youth as a form of punishment.³⁵ The elimination of the program was partly the result of reports by the Office of the Independent Ombudsman in 2007 and 2008 that TYC was using BMP to isolate youth for days or weeks at a time.³⁶ Specifically, the Ombudsman found that youth in BMP were being placed in these units without due process, had not received psychological evaluations, and lacked individualized treatment.³⁷ The Redirect Program replaced BMP in June 2008; the Redirect program is intended to hold youth accountable for their actions more effectively than BMP.³⁸ The Redirect Program will be discussed in more detail later in this report.

29. Fowler, "A True Texas Miracle," 8.

30. Michele Deitch, *Juveniles in the Adult Criminal Justice System in Texas*, Austin, TX: The University of Texas at Austin, LBJ School of Public Affairs (2011), 9.

31. Sunset Advisory Commission, "Final Report" (July 2011).

32. Texas Juvenile Justice Department, "Strategic Plan, 2013 – 2017," (June 22, 2012), 28–29, <https://www.tjjd.texas.gov/publications/reports/TJJD%20Strategic%20Plan%20-%20FINAL%20-%20JULY%202012.pdf>.

33. Sunset Advisory Commission, "Final Report" (July 2011).

34. Texas Juvenile Justice Department, "Strategic Plan, 2013 – 2017," 30–32.

35. Lisa Sandburg, "Watchdog: Texas holds young offenders in solitary for weeks," *Houston Chronicle*, January 16, 2008, accessed November 19, 2012, <http://www.chron.com/news/houston-texas/article/Watchdog-Texas-holds-young-offenders-in-solitary-1647523.php>.

36. *Ibid.*

37. Will Harrell to Dimitria Pope, November 19, 2007, "Memorandum: Concerns Regarding Increased Utilization of Isolation and Security," accessed November 29, 2012, <https://docs.google.com/document/pub?id=1cn3oc60VZ9lKoVRdHBMiHg10R2bBoUdpSpaoSHB2RXk>.

38. "TYC to Close Aggression Management Program," *KWTX.com*, June 5, 2008, accessed November 15, 2012, <http://www.kwtx.com/news/misc/19570679.html>.

C. Major Operational Changes and Challenges at TYC

Despite the reforms of SB 103 and the decreasing population, TYC continued to face major operational challenges. Many of those challenges and subsequent reform efforts relate to the safety challenges faced by TJJD today.

1. Use of Force and Use of Pepper Spray

In 2007 and 2008, when TYC's leadership ranks were briefly filled with longtime employees of the adult prison system in order to get a handle on the juvenile agency's management problems, a number of secondary crises arose. One of the most troubling issues involved the use of force by staff and the application of control methods more commonly found in adult prisons than in juvenile settings.

After high rates of staff injuries and workers' compensation claims spiked at TYC in 2007, the leadership implemented a policy directing staff to use pepper spray on juveniles prior to physically restraining youth.³⁹ Notably, this directive violated federal court orders in the class action case of *Morales v. Turman* that had been in effect at TYC since 1984.⁴⁰ It was also roundly condemned by a panel of juvenile justice experts appointed to serve on a Blue Ribbon Panel on the Texas Youth Commission.⁴¹ The usage of pepper spray quickly rose to unprecedented levels, causing two youth advocacy organizations to file suit on behalf of youth with mental disabilities who were subjected to the spray.⁴² In settlement of that lawsuit, TYC reverted its policy back to using pepper spray as a last resort.⁴³ However, reports continued of high rates of use despite the settlement; the lawsuit was revived, and there was a court-ordered agreement for TYC to again clarify its procedure and limit the use of pepper spray to emergency situations.⁴⁴

As of February 2008, TYC began to embrace the idea that the agency needed to shift away from pepper spray use—in part because the leadership of TYC shifted back to juvenile professionals.⁴⁵ Currently, TJJD policy states that pepper spray can only be used when “non-physical interventions and other physical interventions have failed or are not practical.”⁴⁶

2. Staffing Shortages

Another major challenge for the agency has been on the staffing front. TYC frequently had difficulty hiring and maintaining highly qualified staff for the agency, due in large part to the fact that its facilities were located in remote parts of the state. Following the crisis of 2007, TYC struggled with both high rates of turnover and open positions; it was particularly difficult for the agency to fill positions when the future of the agency was uncertain and when media coverage of the agency was so harsh. Filling posi-

39. Deitch, “Texas Youth Commission Soap Opera.”

40. *Morales v. Turman*, 569 F. Supp. 322, 345 (E.D. Tex. 1983).

41. David Springer and colleagues, *Transforming Juvenile Justice in Texas: A Framework for Action, Blue Ribbon Task Force Report*, The University of Texas at Austin, School of Social Work, 2007, 49.

42. Texas Appleseed, “Press Release: Texas Appleseed and Advocacy Inc. Reach Compromise with TYC on Pepper Spray Use,” November 28, 2007, accessed December 20, 2012, www.texasappleseed.net/pdf/TYC%20pepper%20spray%20compromise%20November%2028%202007.pdf.

43. *Ibid.*

44. Steve McGonigle, “Texas Youth Commission Shifts Inmate Pepper Spray Policy,” *Morning Dallas News*, November 28, 2007, accessed April 6, 2013, <http://www.texasappleseed.net/pdf/Texas%20Youth%20Commission%20shifts%20inmate%20pepper%20spray%20policy%20%20Dallas%20Morning%20News%20%20News%20for%20Dallas%20Texas%20%20Texas%20Southwest.pdf>.

45. Emily Ramshaw, “Texas Youth Commission Conservator Wants Limit on Pepper Spray,” *Dallas Morning News*, February 23, 2008, accessed December 1, 2012, *Texas Reference Center, EBSCOhost*.

46. 37 Tex. Admin. Code § 380.9723 (2009).

tions for specialized training and educational positions have been particularly challenging for the agency, leaving youth at risk without qualified staff.⁴⁷

3. Sexual Assault Allegations

In 2010, the U.S. Department of Justice issued a report finding that about 20% of TYC youth reported being victims of sexual abuse by staff or other youth, compared with 12% nationwide.⁴⁸ Three years after the 2007 sexual abuse scandal, the report made clear that abuse of youth by their peers and staff was still occurring.⁴⁹ In response, TYC hired the Moss Consulting group, the nation's leading resource on custodial sexual assault, to evaluate the agency's policies, practices, and operational trends to prevent, detect, and respond to sexual abuse. In a detailed report prepared for the agency in 2010, Moss Consulting found that TYC was committed to eliminating sexual abuse and was currently working to implement best practices to achieve this goal.⁵⁰

D. Creation of Texas Juvenile Justice Department (TJJD)

In 2009, the Sunset Commission recommended that TYC and TJPC consolidate into a single agency. The Legislature ultimately chose to maintain them as two separate agencies, to be reviewed again two years later by the Sunset Commission. Following the 2011 Sunset review process, however, the Legislature voted to formally consolidate the two agencies. As of December 1, 2011, TYC and TJPC were abolished and replaced with a new department: the Texas Department of Juvenile Justice (TJJD). The creation of TJJD consolidated the work of both agencies; all programs, staff, policies, and facilities were transferred to the new TJJD.⁵¹ A central goal of the new agency is to “support a county-based continuum of services for youth and families that reduces the need for out-of-home placement.”⁵²

Since the creation of TJJD in December 2011, there have been three leaders of the agency. Cherie Townsend, the former head of TYC, was appointed to lead the new agency when it was created. She served as Executive Director until May 2012 when she retired after repeated reports of violence in TJJD facilities. Jay Kimbrough, who had also served as Conservator of TYC following the 2007 crisis, was then selected as the Interim Executive Director, and he served in that role from May until September 2012. In the fall of 2012, Mike Griffiths was appointed Executive Director and currently holds the position. Griffiths was formerly the Juvenile Services Director for Dallas County.⁵³

The merger of the two agencies and the constant turnover in leadership, set against a backdrop of reduced funding, declining populations, closed facilities, and heightened attention due to reports of increased youth violence, has been an enormous challenge for TJJD.

47. Deitch, “Texas Youth Commission Soap Opera”; Sunset Advisory Commission, “Final Report,” (July 2011).

48. “Sexual Victimization in Juvenile Facilities Reported by Youth,” *Department of Justice* (January 2010), accessed December 20, 2012, <http://bjs.ojp.usdoj.gov/index.cfm?iid=2113&ty=pbdetail>.

49. Emily Ramshaw, “1/5 of Texas Youth Offenders Forced into Sex Acts,” *The Texas Tribune*, January 7, 2010, accessed November 15, 2012, <http://www.texastribune.org/texas-state-agencies/texas-juvenile-justice-department/15-of-tx-youth-offenders-forced-into-sex-acts/>; “Sexual Victimization in Juvenile Facilities Reported by Youth,” *Department of Justice* (January 2010).

50. Moss Consulting Group, Inc, “Systemic Assessment of Texas Youth Commission’s Sexual Safety Reform Strategies,” (November 19, 2010).

51. “Summary of SB 653 by Whitmire,” *Texans Care for Children* (June 2011), accessed November 15, 2012, <http://texanscareforchildren.org/Images/Interior/sb%20653%20jj%20sunset%20bill%20summary.pdf>.

52. Sunset Advisory Commission, “Final Report” (July 2011), 21.

53. “TJJD Executive Bio,” Texas Juvenile Justice Department, accessed November 19, 2012, <http://www.tjjd.texas.gov/docs/TJJDExecutiveBio.pdf>.

E. Recent Reports about Violence in TJJD

In early spring of 2012, the media began reporting about an increase of violence in TJJD facilities, raising serious questions about the success of the various reforms discussed above. *The Texas Tribune* initiated this news coverage with an in-depth analysis of ten years' worth of data on violence in state-run juvenile facilities and found that since the 2007 reforms, youth-on-youth assaults more than tripled statewide.⁵⁴ Attacks on staff also increased over this time period. Notably, however, the *Tribune* analysis also found that sexual assaults decreased, suggesting that some of the reforms specifically targeted at the sexual abuse scandal had been successful.⁵⁵

Soon after this piece appeared in *The Tribune*, the Office of the Independent Ombudsman (OIO) issued an inspection report focused on the Giddings State School suggesting that violence on that campus was increasing.⁵⁶ The OIO noted youth engaging in horseplay while moving around campus, lack of supervision for youth, and a "hierarchy of leadership" among the youth.⁵⁷ The report outlined a facility environment where youth were "bought and owned" by other youth through the purchase of drugs, cigarettes, and money, and where vulnerable youth could earn their way into the groups by carrying out orders to steal food and assault youth or staff. According to the OIO report, the only youth who said they felt safe at Giddings State School were those who belonged to a gang or who could fight off assailants.⁵⁸

In response to this apparent rise in violence and disorder on TJJD's campuses, the agency implemented a number of new programmatic and procedural reforms. In June 2012, TJJD created the Phoenix Program, re-opening a mothballed wing of a facility near Waco to house youth who were deemed to be the ringleaders of the violent incidents. Changes were also made to the Redirect Program and the operations of the Security Units at each facility. Additionally, the agency ramped up its processes for transferring determinate sentence youth to the adult prison system prior to age 19 and for prosecuting other juveniles for crimes committed in the facilities. Each of these strategies is discussed in more detail in Chapter IV of this report. For the most part, the agency's approach to curbing the violence has focused on the removal of misbehaving juveniles from the general population and their transfer to other campuses or to the adult prison system. During his tenure as Interim Executive Director, Jay Kimbrough also conducted a series of security audits on each campus in an effort to tighten up security practices and identify security problems that might be contributing to a rash of reported escapes and disturbances.

Despite these initiatives, subsequent news reports suggest that the violence and disturbances have continued at TJJD. For example, in October 2012, there were media reports of violence and disruption at Gainesville State School when a group of youths broke windows, climbed onto roofs, and gained access to two security control panels. Staff used pepper spray on the youths in order to bring them under control.⁵⁹

This is the complicated and deeply troubling context that led the OIO to approach us with a request that we analyze the current situation regarding youth violence in TJJD and that we identify alternative approaches for addressing the problem. Our report is meant to be forward-looking and does not seek

54. Brandi Grissom and Becca Aaronson, "Despite Reforms, Violence Rises among Youth at Juvenile Lockups," *The Texas Tribune*, February 12, 2012, accessed November 19, 2012, <http://www.texastribune.org/library/data/tjjd-youth-violence-up/>.

55. *Ibid.*

56. "Giddings State School: Site Visit Report," Office of the Independent Ombudsman (March 29, 2012).

57. *Ibid.*

58. *Ibid.*

59. Mike Ward, "Melee at youth lockup underscores stubborn problems at juvenile agency," *Austin American-Statesman*, October 27, 2012.

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to assess blame for the current situation. Rather, our aim is to provide a fuller picture of the violence in TJJD facilities in order to better understand the dynamics at play and to offer strategies for curbing violence that have been successful in other juvenile correctional systems.

Chapter III. A Profile of Violence in TJJD's Secure Facilities

A. Overview of TJJD's Secure Facilities

Beginning in the spring of 2012, incidents of violence within TJJD became the subject of intense public and legislative scrutiny. While TJJD has been under the microscope in the past—particularly during the 2007 sexual abuse scandal that led to the agency's reorganization—this new crisis came to light primarily as a result of reports written by the Office of the Independent Ombudsman (OIO)⁶⁰ and subsequent media reporting.⁶¹ These reports pointed to a pattern of increasing youth-on-youth and youth-on-staff violence in TJJD's facilities from 2001 to 2011.⁶² Using these public data as a backdrop, we seek to contextualize the problem of violence in Texas's secure juvenile facilities historically and in terms of TJJD's current behavior management practices.

As part of TJJD's organizational restructuring and efforts to reduce its residential population since the TYC sexual abuse scandal, nine secure facilities have closed since 2007. In this study, we focus on the state's six remaining long-term, secure institutions: Corsicana Residential Treatment Center (Corsicana), Evins Regional Juvenile Center (Evins), Gainesville State School (Gainesville), Giddings State School (Giddings), McLennan County State Juvenile Correctional Facility (McLennan),⁶³ and Ron Jackson State Juvenile Correctional Complex-Unit 1 (Ron Jackson).⁶⁴ Ron Jackson houses all of the females in the TJJD system; the other five facilities house males. In each of these facilities, TJJD offers a number of therapeutic treatment programs, such as Aggression Replacement Training[®] (ART), Alcohol or Other Drugs (AOD), Sexual Behavior Treatment (SBT), and a variety of Mental Health Treatment Programs (MHTPs).

Several of the facilities also offer special programs for specific populations of youth. Giddings is well known for its Capital and Serious Violent Offenders Program, an intensive therapeutic treatment program for youth who commit murder, capital murder, other serious violent offenses, or an offense involving a weapon or deadly force. TJJD's therapeutic staff carefully selects youth who will participate in this intense and highly regarded 24-week program. The proportion of youth at Giddings enrolled in this program at any given time is small, however; the majority of youth at the facility participate in one or more of the other special treatment programs such as substance abuse treatment or sex offender treat-

60. "Giddings State School: Site Visit Report," Office of the Independent Ombudsman (March 29, 2012).

61. Brandi Grissom, "Inspections Reveal Security Issues at Youth Facilities," *Texas Tribune*, August 7, 2012, accessed November 12, 2012, <http://www.texastribune.org/texas-state-agencies/texas-juvenile-justice-department/inspections-reveal-security-concerns-youth-prisons>; Grissom, "Report: Youths Wield Control at State's Largest Lockup," *Texas Tribune*, April 13, 2012, <http://www.texastribune.org/texas-state-agencies/texas-juvenile-justice-department/report-youths-wield-control-states-largest-lockup/>; Mike Ward, "Officials look to adult prison to help solve juvenile security problems," *Austin American Statesman*, June 3, 2012, accessed November 13, 2012, <http://www.statesman.com/news/news/state-regional-govt-politics/officials-look-to-adult-prison-to-help-solve-juv-1/nRpFc/>.

62. Grissom and Aaronson, "Despite Reform, Violence Rises Among Youths at Juvenile Lockups." *Texas Tribune*, February 12, 2012, <http://www.texastribune.org/library/data/tjjd-youth-violence-up/>

63. McLennan is also commonly referred to as Mart. TJJD records information about the facility under the name McLennan, which is the facility name we use in this report. We include incidents that took place only in the McLennan residential facility, not the McLennan O&A Unit nor McLennan I, which closed in 2008.

64. We do not include Ron Jackson Secure Juvenile Correction Facility Unit II or Ron Jackson O&A in our analysis because these are not long-term secure facilities.

ment. McLennan is home to the Phoenix Program,⁶⁵ a secure 24-bed program that opened in June 2012 to address concerns about rising incidents of assaultive behavior in TJJD. Youth in the Phoenix Program do not interact with the rest of McLennan's general population and are part of an intensive intervention program aimed at reducing violent behavior. Corsicana is TJJD's facility for youth with severe mental and behavioral health problems. While Corsicana's youth have a need for more intensive health care and counseling services than youth in other facilities, it is important to note that the majority of all youth who are committed to TJJD have clinically diagnosed mental health disorders.⁶⁶

In the following section, we provide an in-depth look at behavioral problems within these six secure facilities, in which youth spend anywhere from three months to seven years depending on their sentence and age at the time of sentencing. Youth can spend a significant portion of their adolescence in one of these facilities, and an unsafe environment compromises TJJD's commitment to rehabilitation of these teens.

B. The Extent of Violence in TJJD Facilities

TJJD's General Administrative Policy on Behavior Management⁶⁷ outlines two categories of rule violations for which youth may be disciplined: major and minor. For the purposes of this report, we focus on major rule violations, each incident of which requires staff to complete a formal incident report.⁶⁸ **Appendix 1** provides a list of the infractions TJJD classifies as major rule violations. In order to draw conclusions about categories of major rule violations, we re-grouped these violations into six key categories: non-violent; violent causing injury; violent not causing injury; escape/attempted escape; riots/group disturbances; and injury to self.⁶⁹ It is important to clarify which major rule violations we include in the "non-violent" category. These are violations that do not involve a physical assault in which there is clear potential for bodily injury. This distinction should not imply that the major rule violations classified as "non-violent" for the purposes of this report are not serious. Non-violent major rule violations include behavior such as "chunking bodily fluids," "possession of prohibited items," "tattooing/body piercing," and "sexual misconduct."⁷⁰ These infractions are significant; however, they are different from the assaultive behaviors with which the OIO—and, subsequently, the media, the Texas Legislature, and other stakeholders—specifically became concerned in 2012.

Additionally, these "non-violent" categories encompass a wide range of possible behavior, especially as the definition of these behaviors has changed over time. "Chunking" would be the rule violation included in an incident report regardless of whether the youth spit on a staff member or threw fecal matter. In an effort to not over-inflate the numbers of violent rule violations, we have erred toward a more conservative categorization of TJJD's possible infractions.⁷¹

65. The Phoenix Program will be discussed at length in Chapter IV.

66. Texas Juvenile Justice Department, "Strategic Plan 2013-2017."

67. 37 Tex. Admin. Code § 380.9503 (2012).

68. Ibid.

69. We separated the category of "injury to self" because although this behavior may be considered to be violent behavior, we do not have information about the type or severity of injury. Additionally, this class of major rule violation does not appear in TJJD incident reports after 2009, which leaves us to question how this type of behavior has been classified and dealt with by administrators from a behavior management perspective since then.

70. TJJD formerly used a catch-all category, "sexual misconduct," to denote violations involving any type of sexual misbehavior. Beginning in 2011, the agency began to disaggregate and track specific sub-categories within "sexual misconduct." The new categories it developed and continues to use are: sexual contact (penetration); indecent exposure; kissing for sexual stimulation; and exposing the anus, buttocks, breasts, or genitals.

71. See Appendix 1 for the complete list of infractions.

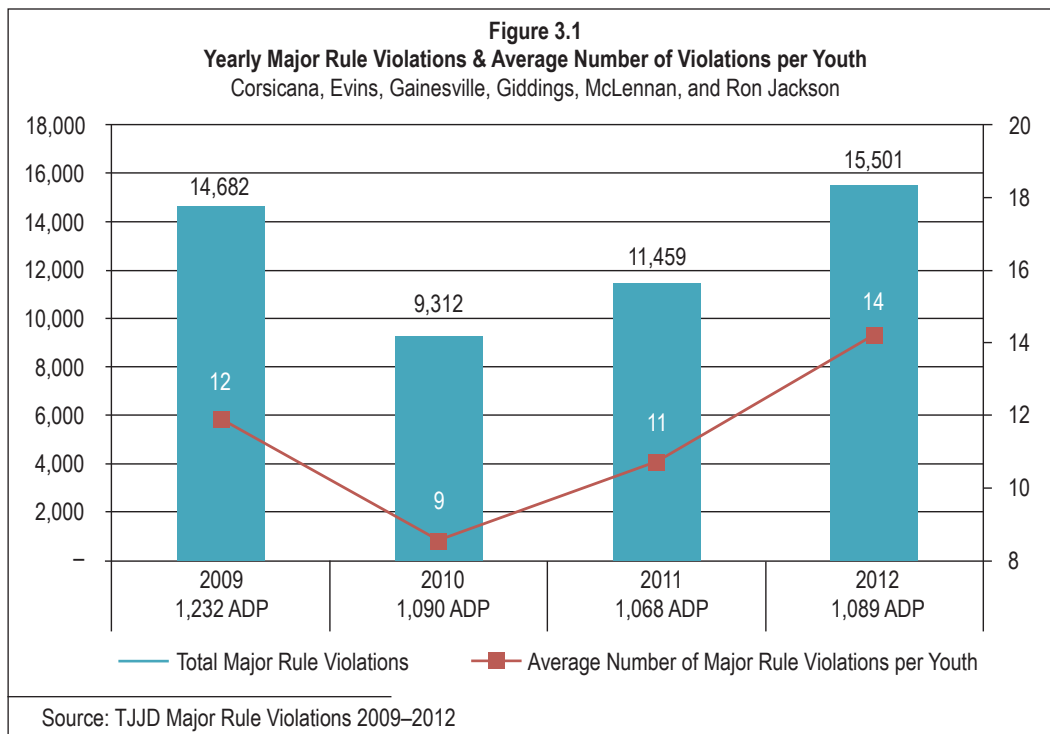
TJJJ tracks major rule violations as components of individual incidents. In many cases, incidents involve multiple (up to ten) rule violations. One 2009 incident report, for example, states that a youth broke five major rules: assaulting a staff member causing bodily injury, fleeing apprehension, possessing a weapon, tampering with safety equipment, and committing vandalism valued over \$50. Throughout this report, we are careful to distinguish the difference between individual rule violations and the incidents of which they are a component.

At the OIO's request, TJJJ provided data on every incident report filed by its staff from January 2009 through December 2012.⁷² Analysis of the data yielded several key findings.

Finding 3.1: Major rule violations in TJJJ's long-term secure facilities have remained high over the past four years. In 2012, there were more violations than in any of the previous three years, despite an overall reduction in facility populations. The average number of violations per youth has been rising.

Major reforms across TJJJ⁷³ in 2007 and 2009 led to a significant reduction in facility populations and a corresponding decrease in major rule violations from 2009 to 2010. From 2010 to 2012, however, rule violations increased 60% across all six facilities combined despite relatively stable average daily populations. The total number of major rule violations agency-wide was higher in 2012 than it was in 2009, despite the fact that TJJJ housed nearly 150 fewer youth in 2012.

Figure 3.1 below shows the annual number of major rule violations for the six secure facilities combined since 2009, as well as the number of violations per youth per year. Reporting the major rule violations per youth allows us to account for reductions in the population of youth confined within TJJJ during those years.



72. "TJJJ Major Rule Violations 2009-2012."

73. Prior to December 2011, the institutional component of TJJJ was known as the Texas Youth Commission (TYC). For clarity, we refer to the institution as TJJJ throughout the remainder of the report.

After a considerable drop in 2010, the number of major rule violations committed agency-wide increased over the next two years. In 2011, TJJD reported a total of 11,459 major rule violations across its six secure facilities, averaging 11 major rule violations per youth. In 2012, the six facilities together reported 15,501 major rule violations, averaging 14 violations per youth.

Finding 3.2: In 2012, TJJD’s efforts to reduce incidents of violent major rule violations appeared to correlate with a decline in the number of these incidents in the months during or following those interventions. However, these periods of declines were followed by months with higher numbers of incidents. Monthly incidents of major rule violations varied between 500 and 670 incidents in 2012.

In response to media attention and legislative concern regarding OIO and *Texas Tribune* reports highlighting a spike in violence in its secure facilities in the spring of 2012, TJJD implemented major reforms to its disciplinary policies related to violent behavior.⁷⁴ **Figure 3.2** depicts the monthly incidents⁷⁵ of major rule violations involving violence (injury and non-injury causing), riots, and escapes/attempted escape by facility for January through December 2012. It also shows when TJJD initiated specific policies, programs, and organizational changes (e.g., hiring a new executive director) aimed at addressing the violence or improving the agency at large.

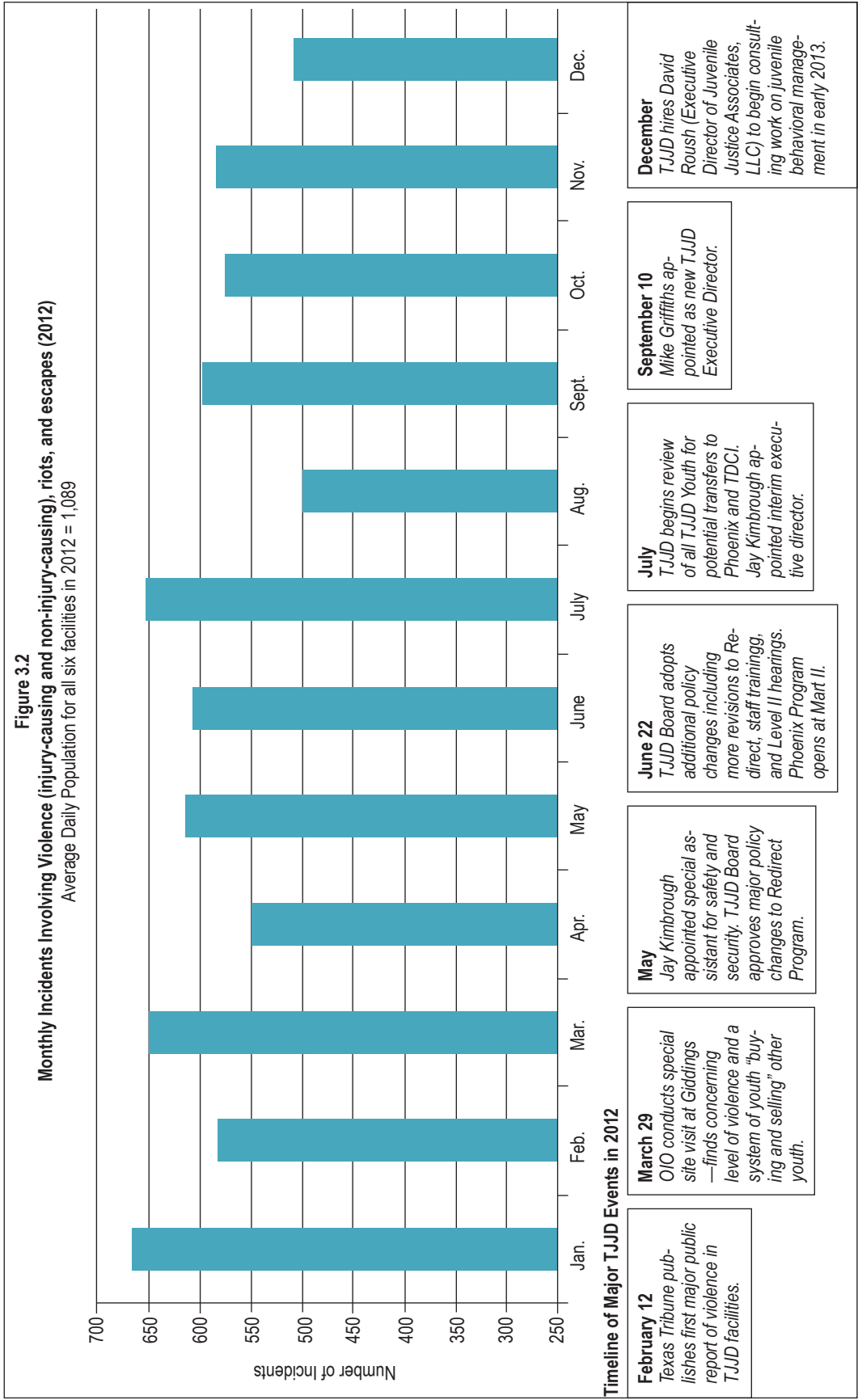
The agency-wide spikes in serious incidents that occurred in March and July of 2012 contributed to the increase in total major rule violations from the previous year. Both of these high-water mark months, however, were followed by months with dramatic decreases in major rule violations. The causes for these declines are difficult to pinpoint without a detailed analysis of the way in which behavior management practices and new policies were being implemented within each facility. However, these data suggest that in the months following what was often labeled as a “crisis” level of violence in media reports, there was an attempt by TJJD to reduce the number of incidents.

The decline in violence from March to April 2012 may be attributed to the agency’s response to the OIO’s report on violence in the Giddings facility. The decline from July to August 2012 may be the result of TJJD’s enforcement of stricter punitive and preventative measures to deal with “high risk” youth, such as the establishment of the Phoenix Program. Of particular significance, however, is that both of these dramatic reductions in violence (in April and in August) were followed by months with increased numbers of incidents. This pattern suggests that the “crackdown” on violence served only a temporary band-aid function and was not effective as a long-term strategy to manage violence in the facilities.

It should be noted that TJJD experienced a slight decline in the incidence of major rule violations toward the end of 2012. In October, November, and December, the agency reported fewer incidents of major rule violations than it did for most of the spring and summer months. However, the volume of incidents is consistently high, fluctuating between approximately 500 and 670 incidents per month. Given the variability we observe in incidents from month-to-month, it is unclear whether this decrease is temporary or indicative of a longer-term downward trend.

74. These reforms are discussed in greater detail in Chapter IV.

75. An “incident” may include multiple (up to ten) major rule violations.



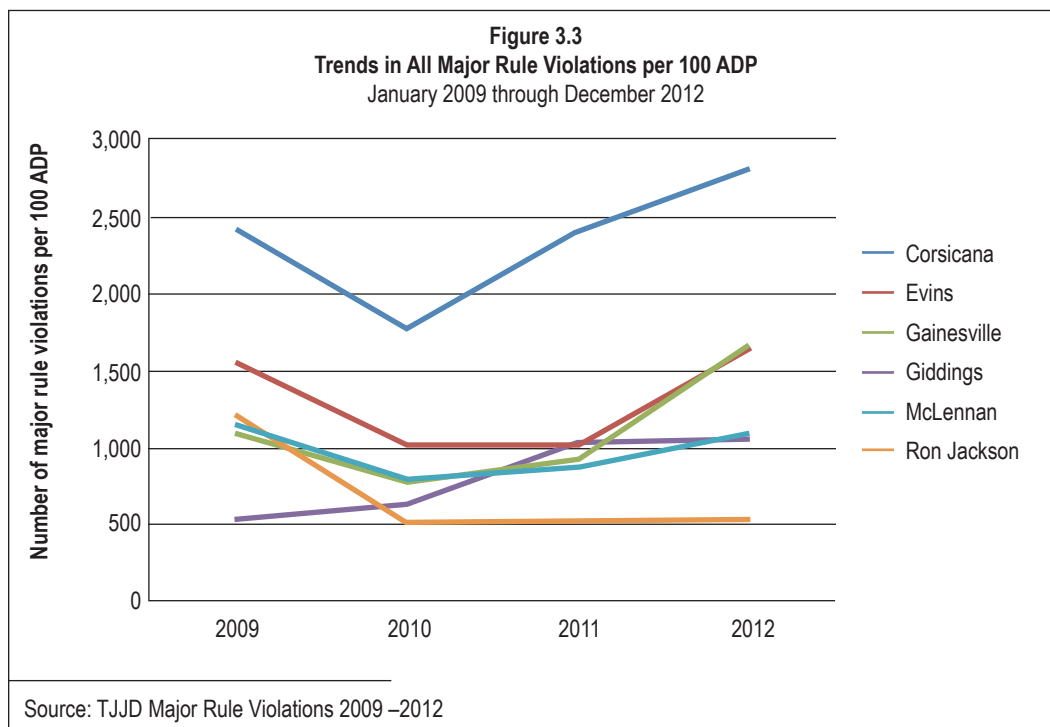
Finding 3.3: The extent of major rule violations varies considerably between facilities.

Similar to the agency-wide trend since 2009, a majority of TJJD’s six secure facilities experienced a drop in major rule violations in 2010, followed by a slight or steep rise in 2011 and 2012.⁷⁶ **Table 3.1** below shows the average daily population (ADP) for each facility and the number of major rule violations per 100 ADP it reported annually. Reporting major rule violations as a proportion of 100 ADP allows us to control for differences in facility population size so that we may compare the volume of major rule violations across facilities.

	2009 ADP	Violations per 100 ADP 2009	2010 ADP	Violations per 100 ADP 2010	2011 ADP	Violations per 100 ADP 2011	2012 ADP	Violations per 100 ADP 2012
<i>Corsicana</i>	145	2,415	126	1,773	116	2,403	114	2,815
<i>Evins</i>	149	1,554	109	1,019	125	1,024	141	1,657
<i>Gainesville</i>	273	1,102	254	778	241	924	261	1,660
<i>Giddings</i>	309	541	282	630	274	1,033	262	1,056
<i>McLennan</i>	220	1,155	201	779	198	873	213	1,093
<i>Ron Jackson</i>	136	1,211	118	512	114	529	98	537

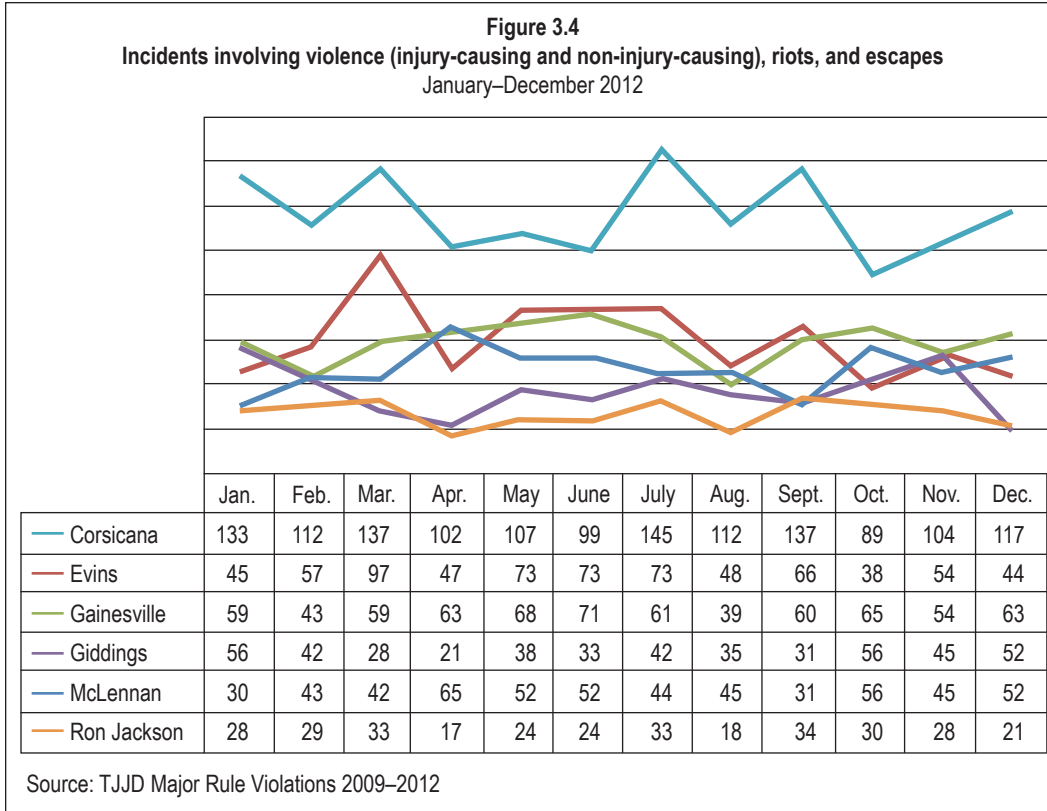
Source: Texas Juvenile Justice Department

The variation between facilities is striking. As indicated in **Figure 3.3**, all facilities except Giddings experienced a decline in major rule violations from 2009 to 2010. However, from 2010 to 2011, we see the number



76. Note that we are discussing major rule violations again as apposed to *incidents* of major rule violations, which were the subject of our previous finding.

77. Average daily population (ADP) represents the average number of youth in each facility for each day in a given year. Using ADP in our calculations allows us to take into consideration the differences in facility size.



of violations rebound in all six facilities, with dramatic increases in Giddings and especially Corsicana. In 2012, Corsicana, Evins, and Gainesville reported a substantially higher number of violations than they did in 2011, whereas Giddings, McLennan, and Ron Jackson experienced very slight increases from 2011 to 2012. A clear outlier among TJJJ's secure facilities, Corsicana consistently reports the highest number of major rule violations. It is worth reiterating here that Corsicana is a specialized facility where TJJJ houses youth who are diagnosed with severe mental health problems or illnesses.

Figure 3.4 above reinforces our finding that the incidence of major rule violations looks very different in each facility. Here we see the number of incidents⁷⁸ of major rule violations involving violence, riots, or escapes on a monthly basis. Again, Corsicana reports an exceptionally high volume of major rule violations relative to other TJJJ facilities. Corsicana and Evins both experience higher fluctuation from month-to-month than other facilities. Ron Jackson appears to be the most stable facility, with a range of 17-34 major rule violations per 100 ADP per month, compared to 30-65 major rule violations per 100 ADP per month at McLennan, for example.

Other data points of interest in this graph include the increase in violations from February to March in all facilities (most notably in Corsicana and Evins) except Giddings and McLennan; the spike in violations at Corsicana in July; the steep decline in violations at Evins from March to April; and the relatively low number of violations reported at Giddings in December—the lowest the facility experienced all year.

Overall, these data lead us to conclude that there are specific best practices that the agency should consider adopting as a whole in order to improve behavior management.⁷⁹ This further suggests that each facility may not be applying TJJJ's current behavior management policies with fidelity. Individual staff members and managers at each facility may need specific training on different aspects of behavior man-

78. Recall that an "incident" may include multiple (up to ten) major rule violations.

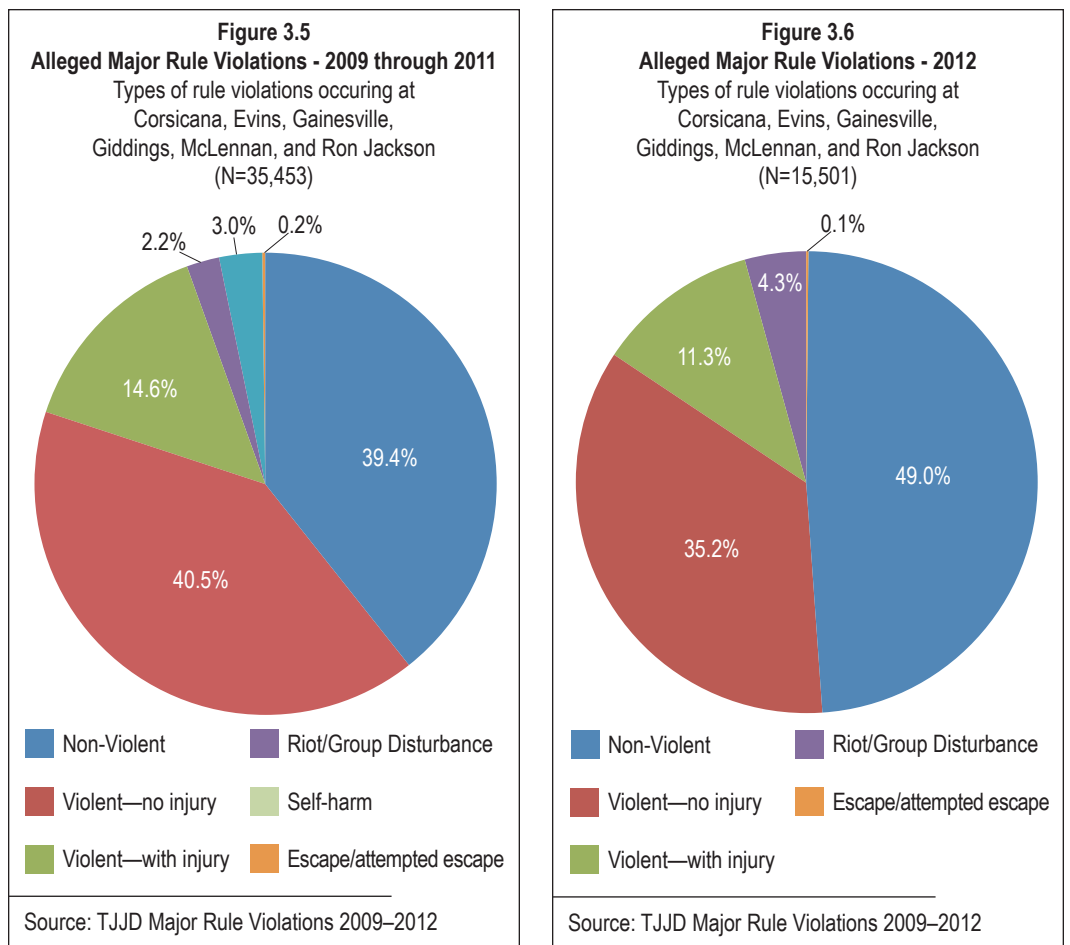
79. See the discussion of best practices regarding behavior management in Chapter V.

agement. The extraordinarily high levels of violence in Corsicana, for example, may require specialized programming, staff training, or interventions.

C. The Nature of Major Rule Violations in TJJJ Secure Facilities

Finding 3.4: “Violent” major rule violations made up a smaller proportion of total major rule violations in 2012 than it did in the previous three years. In 2012, “non-violent” major rule violations accounted for 49% of all major rule violations, compared to 39% during the three-year period 2009-2011.

Figure 3.5 depicts the proportion of each of our six categories of major rule violations relative to all alleged major rule violations for January 2009 through December 2011. Violent major rule violations—those with and without injury combined—made up more than half (55.1%) of all alleged major rule violations during this time period. We offer this graph to provide a point of comparison with the types of major rule violations TJJJ reported in 2012.⁸⁰ Figure 3.6 shows the distribution of major rule violations by category for January through December 2012.



80. It is important to note that as of September 2009, alleged major rule violations required a Level II due process hearing in order to determine whether a youth actually committed a rule violation and presented any extenuating circumstances that might inform disciplinary decisions [37 Tex. Admin. Code § 380.9555 (2009)]. Staff members at TJJJ facilities indicate that these hearings have not occurred reliably, a fact that is confirmed by a July 2012 directive from Interim Executive Director, Jay Kimbrough. The directive was “to ensure consistency at each facility in the implementation of agency policy regarding approval to hold Level II

While the volume of major rule-breaking incidents remains stubbornly high, the types of violations youth committed during 2012 appear to be somewhat less violent in nature than the violations that were committed during the period 2009-2011. Non-violent major rule violations represent about half (49%) of all major rule violations, whereas violent incidents account for roughly 47% of total violations. Although riots and group disturbances continue to be a very small proportion of total major rule violations, they make up a larger proportion of 2012 violations than they did for the previous three-year period. Escape and attempts to escape are very rare. Injury to self does not present in the 2012 data because it only appears in TJJD incident reports dated 2009 or earlier.⁸¹ Overall, the volume of rule violations is very high, however. With approximately 1,089 youth passing through TJJD facility doors in 2012 and 15,501 individual major rule violations, the agency experienced an average of approximately 14 major rule violations per youth over the course of one year. By comparison, there were approximately 11 major rule violations per youth in 2011, 9 in 2010, and 12 in 2009.⁸² It is clear that the volume of behavioral challenges facing TJJD staff has increased over the past four years.

D. Notable Patterns in Incidents of Major Rule Violations in TJJD in 2012

Finding 3.5: Different types of rule violations predominate at each TJJD facility, suggesting that different strategies are needed for each facility to address youth misconduct.

Finding 3.6: Violent rule violations (injury- and non-injury-causing) were twice as prevalent in Corsicana as they were in any other TJJD facility for every year during the period 2009-2012.

Finding 3.7: While Giddings saw a spike in injury-causing violence in 2011, the number of violent incidents resulting in injuries at the facility was significantly lower in 2012. Evins experienced the most dramatic increase in this type of violence from 2011 through 2012.

Finding 3.8: In 2012, Evins and Gainesville experienced a significant rise in incidents of riots and other group behavioral disturbances compared to other facilities.

Table 3.2 shows the breakdown of major rule violations within each facility for January through December 2012. Non-violent major rule violations make up anywhere from 45% to 53% of total violations in each facility, with the exception of Ron Jackson, where non-violent incidents comprise only 32% of total violations. The profiles of violent incidents are more variable, with non-injury violent incidents ranging from 25% (Giddings) to 58% (Ron Jackson) of a facility's major rule violations and injury-causing violent incidents constituting between 5% (McLennan) and 20% (Giddings) of a facility's total violations. Riots and group disturbances are most prevalent at Evins and Gainesville. Across all facilities, escape-related violations are extremely rare.

As seen in **Figure 3.7**, most facilities experienced a decline in injury-causing violent rule violations between 2009 and 2010, followed by a slight decline or increase in 2011. However, Giddings and Evins bucked this trend, with Giddings showing increases in violence until 2011 and then a decrease in 2012 and Evins documenting the reverse—a pronounced downward trend in injury-causing violence from 2009 to 2011 followed by a marked increase from 2011 to 2012.

hearings" (*Administrative Directive #2 FY12 from Jay Kimbrough, Interim Executive Director, July 11, 2012*). Because of the inconsistency with which Level II hearings have been historically employed, our analysis includes all incidences of alleged violations rather than focusing exclusively on incidents that received a Level II hearing. The outcomes of Level II hearings will be discussed in greater detail in Chapter IV.

81. See footnote 69.

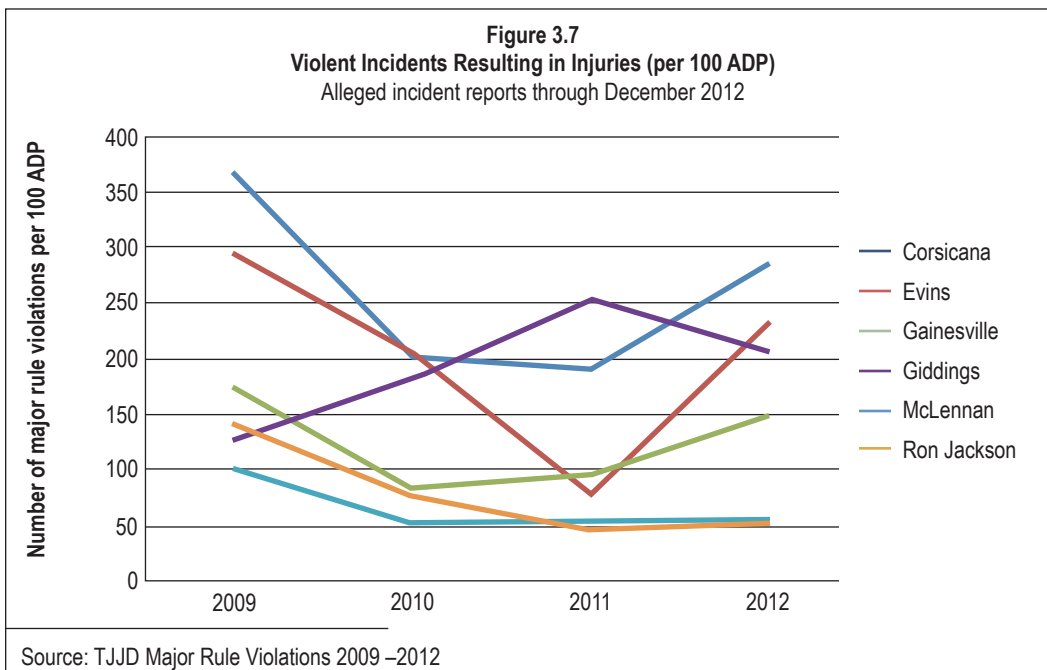
82. TJJD Major Rule Violations 2009-2012.

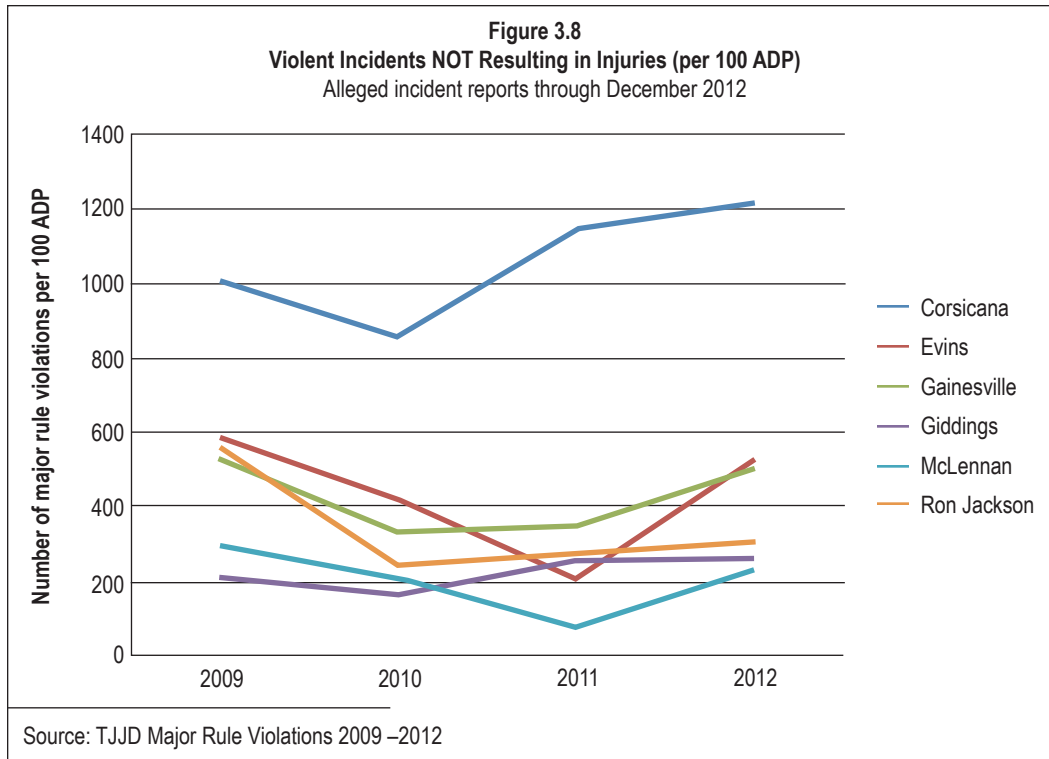
Table 3.2
2012 Major Rule Violations per 100 ADP across Facilities

	Non-violent	Violent (no injury)	Violent (with injury)	Riot or Group Disturbance	Escape or attempted escape	Total
Corsicana	45% (1,264)	43% (1,214)	10% (285)	2% (48)	<1% (4)	100% (2,815)
Evins	49% (805)	32% (522)	14% (233)	6% (95)	<1% (2)	100% (1,657)
Gainesville	53% (876)	31% (508)	9% (149)	8% (125)	<1% (3)	100% (1,660)
Giddings	52% (554)	25% (261)	20% (207)	3% (34)	<1% (1)	100% (1,056)
McLennan	48% (526)	44% (484)	5% (55)	2% (26)	<1% (2)	100% (1,093)
Ron Jackson	32% (169)	58% (309)	10% (53)	1% (5)	0% (0)	100% (537)
AVERAGE for all facilities	46% (699)	39% (550)	11% (281)	4% (56)	<1% (2)	

Source: TJJJ Major Rule Violations 2009–2012

It is important to note here that Giddings began to absorb populations of youth from other facilities in 2009 as those other facilities closed. This change may account for some of the increase in violence in 2010 and 2011 as cultural clashes between youth from different facilities may have led to additional behavioral problems. Evins, on the other hand, was released in 2011 from U.S. Department of Justice (DOJ) supervision at the beginning of 2011, the end of a long settlement agreement issued in 2008 as a result of a lawsuit filed on behalf of youth at the facility in 2006. The release from DOJ supervision may be one explanation for the sudden and dramatic rise in violence in that facility.





Like Evins, Gainesville and Corsicana reported considerably higher numbers of injury-causing incidents in 2012 than they did in 2011. By contrast, Ron Jackson and McLennan looked similar in 2011 and 2012, with only a very small increase in incidents causing injury.

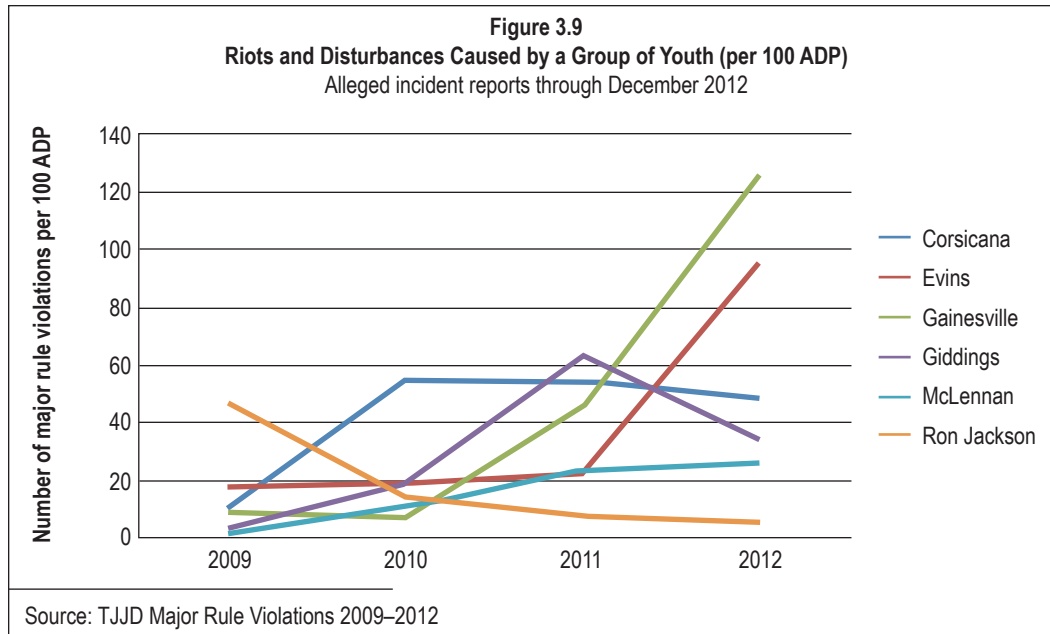
As with violent incidents resulting in injury, we find distinct patterns in the incidence of non-injury-causing violent behavior within facilities. **Figure 3.8** indicates a downward trend in all facilities from 2009 and 2010, followed by anywhere from a slight (McLennan and Gainesville) to dramatic (Corsicana) increase in non-injury violence in 2011 everywhere except Evins. In 2012, we see a slight decline in Giddings and a small increase in Ron Jackson and Corsicana. Evins, McLennan, and Gainesville nearly doubled or more than doubled their 2011 numbers of non-injury causing violent incidents. Again, Corsicana stands out as the facility with the largest violence problem, with nearly double or more than double the number of incidents reported at any other facility in any year.

Despite their infrequency relative to other major rule violations, riots and other “group disturbances” have been a growing problem at TJJJ since 2010. **Figure 3.9** illustrates trends in violations involving groups of youth by facility. From 2010-2012, riots and group disturbances gradually declined or leveled off at three of the six secure facilities (Corsicana, McLennan, and Ron Jackson). The other three facilities experienced more fluctuation. Evins and Gainesville reported dramatically higher numbers in 2012 than they did in 2011.

As demonstrated in these graphs, each facility is unique in terms of the type and frequency of major rule violations it experiences. For some facilities, there is remarkable year-to-year variation in the nature and extent of violations.

Key takeaways from those tables and figures include the following:

- At **Corsicana**, the number of violent incidents not resulting in injuries dwarf the number of such incidents in other facilities. While Corsicana had the second smallest average daily population among TJJJ facilities in 2012, it reported twice as many major rule violations as any other facility



(see **Table 3.2**). It is important to note that 2012 is not an anomalous year for Corsicana; recall from **Table 3.1** that the number of rule violations at the facility are twice the level of any other facility since 2009. Despite this problem, incidents of violence resulting in injuries to youth and staff were a small proportion of overall rule violations in the facility.

- **Evins** experienced a significant spike in violent incidents of all kinds and particularly riots/group disturbances and injury-causing incidents in 2012, not long after it was released from federal oversight.
- **Gainesville**, the second largest of TJJD’s secure facilities with an average daily population of approximately 250, had fewer major rule violations on average than other smaller facilities. Despite this overall trend, Gainesville experienced increases in all types of serious incidents from 2009–2012, particularly riots/group disturbances over the past two years.
- **Giddings** saw the most dramatic jump in injury-causing incidents from 2010 to 2011, but reported relatively few violent incidents overall compared to most other facilities.
- **McLennan**, in contrast to the other facilities, has been somewhat of an anomaly, with far fewer violent incidents causing injuries to staff and youth and fewer fluctuations in major rule violations from year to year.
- **Ron Jackson** experienced a dramatic reduction in major rule violations, especially violent incidents, from 2009 to 2012. While the all-girls facility had fewer incidents overall, the volume of incidents is still notable. Ron Jackson experienced more violent incidents (non-injury) than Giddings from 2009 to 2012, controlling for population size.

These findings suggest that each facility may require a unique approach to addressing behavior management problems. The fact that all six facilities experience different types and severities of violence and rule-breaking every year also indicates that behavior management strategies may not be consistently applied throughout TJJD.⁸³ It also may suggest that certain facility-specific factors, such as housing

83. Behavior management strategies will be discussed in greater detail in Chapter V.

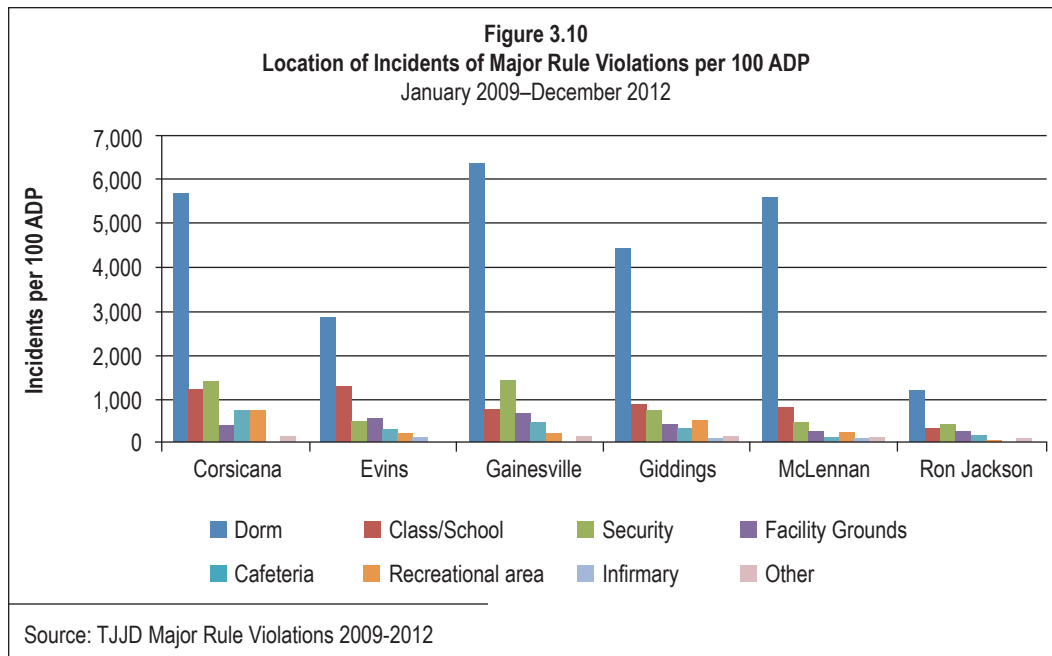
arrangements, youth activity and programming, staffing issues, security considerations, and leadership, may be contributing to misbehavior.

Finding 3.9: The vast majority of major rule violations occur in the dorms.

Given the wide variation in the types of rule violations that predominate in each of TJJJ's secure facilities, it is notable that youth misconduct tends to occur in the same location regardless of facility. Overwhelmingly, dorms are the most common setting in which youth commit violent and non-violent violations. **Figure 3.10** offers a compelling visual representation of this pattern. After dorms, violations are more likely to occur in school facilities or in the security unit, depending on the facility. Other key findings include:

- Corsicana and Evins have noticeably more school-based incidents than the other facilities;
- Corsicana has a higher rate of incidents in recreational facilities than its counterparts;
- Incidents in the security unit are more prevalent in Corsicana and Gainesville than they are in other facilities; and
- It is relatively uncommon for youth to commit major rule violations in the cafeteria, the infirmary, recreational areas, and other parts of the facility grounds.

These data provide insight into where youth are most likely to act out and which settings present the most challenges in terms of staff members' ability to manage youth. The finding also has implications for the most effective deployment of staff.



E. Youth and Staff Reports on Violence

The data presented in Sections B, C, and D, above, provide an overview of the extent, nature, and patterns of violence in TJJD facilities, as recorded in the agency's internal incident reports. It is important to note that TJJD incident reports do not distinguish between the aggressor and the victim of a violent rule violation. In an effort to better understand youth and staff perceptions of violence in TJJD facilities, the 2012 OIO Survey, conducted in five boys' facilities in August and September of 2012,⁸⁴ asked youth a series of questions about their experiences as aggressors and as victims of assaultive behavior at TJJD. Another survey asking about staff experience of violence was administered to staff in the same facilities. The information youth and staff respondents provided to the OIO through the surveys is critical to an understanding of the extent and nature of violence at TJJD.

Finding 3.10: Forty-three percent of youth report being assaulted or jumped by another youth. Half of youth say they have assaulted or jumped one of their peers.

When asked if they had ever been assaulted or jumped by one of their peers, 43% of respondents said "yes." The survey then asked youth if they had ever been assaulted or jumped by a group of their peers (as opposed to by an individual youth). Only 16% responded "yes," suggesting that youth are more likely to be assaulted by individual youth than they are by a group of youth. When asked if they knew in advance that they were going to be assaulted, 38% of the youth who answered the question said "yes." Among youth who responded that they had been assaulted or jumped in the past, a majority said that they had been assaulted or jumped one or two times.

When asked whether they had ever been the aggressor in an assault, 52% of respondents to this question said "yes." More than half of youth in each facility said that they had been the aggressor in a violent incident. Youth in Evins were more likely than youth in other facilities to report being an aggressor, with 64% of respondents saying "yes." When asked a follow-up question about whether or not the assault was planned, 78% of all youth said, "it just happened."

These findings suggest that violent rule violations tend to be spontaneous "acts of opportunity." Furthermore, the youth survey data suggest that youth involvement in violent incidents has become fairly widespread throughout TJJD. In other words, it does not appear to be the case that only a small number of repeat aggressors are responsible for the rise in assaultive behavior. This calls into question the rationale for some of TJJD's major reforms, such as the Phoenix Program, which aims at removing the "most" assaultive youth from facilities. Removing a few youth who seem to be "bad apples" from the TJJD population might not be an effective strategy for controlling violence given that more than half of youth surveyed admit to being the perpetrators of violent behavior.

Finding 3.11: In 2012, more than one-third of youth throughout TJJD reported sustaining an injury as the result of an assault. The most commonly reported injury was being "sore/bruised."

Finding 3.12: Youth reported that injuries are significantly more prevalent at certain TJJD facilities than others. In particular, Giddings youth report a very high rate of injuries.

According to the 2012 OIO Survey, approximately 38% of youth reported being injured as the result of an assault by their peers.⁸⁵ When we analyze survey responses by facility, however, we see great variation in the report of assaults resulting in injuries. Nearly 50% of survey respondents at Giddings report hav-

84. See the Methodology section in Chapter II for a detailed description of the survey.

85. The survey does not distinguish between assaults by staff and assaults by youth. It is reasonable to assume, however, that respondents were referring to assaults by other youth because youth were only asked specifically about assaults by staff in the question about sexual assault, whereas youth were asked multiple questions about their experiences being assaulted "by their peers."

ing been injured as the result of an assault, compared to only 29% of respondents at Gainesville. In the other three facilities, between 31% and 40% of respondents reported injuries.

It is interesting to note that the percentage of youth reporting assault-related injuries in each facility are substantially higher than what TJJD data for 2012 suggest (see Table 3.2). For example, according to TJJD incident reports, only 20% of alleged major rule violations at Giddings from January through December 2012 were violent-with-injury. The discrepancies between these administrative data and youths' self-reported experiences likely stem from the wording of the survey question, which asked youth if they "were injured as a result of the assault." Youth reported the injury outcome of one assault as opposed to all of the assaults (if any) they had sustained at TJJD.

According to youth who reported being injured from an assault, the most common type of injury reported was "sore/bruised," selected by 74% of youth who answered this question. Other answer choices for this question included "steri-strip/stitches," "taken to hospital," and "other." Only 10 youth, 1% of youth who responded to this question, reported being taken to the hospital as the result of an assault-related injury.

Finding 3.13: In 2012, 48% of staff reported that they had been assaulted by a youth at TJJD. Staff rarely reported being assaulted by a group of youth (as opposed to by an individual youth).

Almost half of the staff members surveyed in 2012 report that they have been assaulted by an individual youth at TJJD. However, the vast majority of staff has never been assaulted by a group of youth; only 3.5% responded to the contrary. This finding mirrors our finding in the youth survey data that major rule violations rarely involve group violence.

When we look at responses to these questions by facility, we find that staff experiences vary considerably depending on where they work. Staff at Corsicana are much more likely to be assaulted by a youth than staff in other facilities, with 75% saying they had been assaulted by a youth. More than half of staff at Gainesville (65%) and Evins (57%) have been assaulted by youth. By contrast, a minority of staff at Giddings (42%) and especially McLennan (27%) reported having ever been assaulted by a youth. This variation across facilities may have important implications for how TJJD prepares its staff members to work in different facilities. It also could suggest that staff implement TJJD policies differently and/or to varying extents depending on the facility in which they work.

Approximately 60% of staff members who have been assaulted by youth said they were not injured as a result of the assault. Among those who responded who said they sustained an injury, the most common injury was "sore/bruised." This finding is consistent with youths' experience and suggests that youth-on-staff assaults, while serious, typically do not result in severe bodily injuries.

Finding 3.14: Assaultive incidents are rarely committed with a weapon.

The OIO survey asked youth how they had been assaulted. Youth were given five options from which to choose: pushed, hit with a fist, during a fight, weapon, and other.⁸⁶ The most common response was "hit with a fist" (25%), followed by "during a fight" (14%).⁸⁷ Only 4% of respondents selected "pushed," and less than 1% chose "weapon."

86. For questions in which "other" was an option, the OIO provided a space for youth to elaborate. None of the youth who selected "other" as their response to a question included additional information in this space.

87. Respondents had the option to select multiple answers, so these percentages are not necessarily mutually exclusive. In other words, one respondent could have selected both "hit with a fist" and "during a fight."

Finding 3.15: Youth report that sexual assault is extremely uncommon.

According to the 2012 OIO survey, fewer than 2% of TJJD youth report that they have been sexually assaulted by one of their peers. However, when we analyze responses to this question by facility, nearly 10% of Corsicana respondents said they had been sexually assaulted by another youth. By contrast, only one youth at Gainesville, one youth at McLennan, and no youth at Giddings and Evins said they had been the victims of sexual assault by another youth. Only one youth in the entire sample of youth respondents reported ever being sexually assaulted by a staff member; that allegation arose in the Giddings facility.

These results are notable and impressive given that the 2007 scandal that rocked TJJD's predecessor, the Texas Youth Commission (TYC), was driven by confirmed allegations of sexual assault by staff on youth. Moreover, TYC ranked high in the list of problematic agencies identified in the Bureau of Justice Statistics' report on "Sexual Victimization in Juvenile Facilities Reported by Youth, 2008-09."⁸⁸ That 2010 study, which was based on surveys of youth in custody across the country, identified TYC's Corsicana Residential Treatment Center as one of 13 facilities deemed "high-rate" in terms of youth victimization. Corsicana had the fourth highest victimization rate in the country, with 32.4% of all youth reporting that they had been sexually assaulted while in custody.

To address concerns about sexual abuse at TYC, the agency hired experts on custodial sexual abuse to help assess its prevention measures. At least by measure of the 2012 OIO Survey, these prevention measures appear to have made a difference in the protection of youth from sexual assault.

Finding 3.16: On the whole, most youth report feeling safe from staff and their peers, but youth at Gainesville, Evins, and Corsicana feel the least safe.

Given the variation in violent incidents at different TJJD facilities, it is not surprising that youths' perceptions of their safety vary across facilities. The 2012 OIO Survey asked youth if they feel safe from staff and from their peers. Eighty-five percent of youth reported that they feel safe from staff, while 82% said they feel safe from their peers. However, there was considerable variation in responses by facility. Whereas just over 90% of youth in Giddings reported feeling safe from their peers, only 77% of youth at Gainesville and 78% of youth at Evins said they feel safe from their peers. Among all of the youth who said they do not feel safe from their peers, more than one-third were from Corsicana.

F. Sources of Conflict Leading to Violent Behavior

One of the questions we sought to answer through our research is, "Why are youth committing violent acts?" During a tour of Giddings in November 2012, we heard a number of hypotheses and explanations from both staff and youth. One counselor blames an uncontrolled gang problem in the facility, an assessment supported by many of the youth with whom we spoke.

But not everyone thinks gangs are the explanation. One youth told us that fights are broken up before the participants have an opportunity to resolve the issue at hand. "They'll be friends afterwards," he said. "They just have to work out the issue." Another youth told us that "kids just fight" and that the fighting in Giddings is not different from the fighting in their home schools, a comment also echoed by some facility staff.

We also heard reports of youth assaulting other youth whose committing offense involved a sex crime. According to some of the youth with whom we spoke, juveniles who are committed for sexual offenses are viewed as the "bottom of the totem pole" of Giddings' social hierarchy.

88. "Sexual Victimization in Juvenile Facilities Reported by Youth," *Department of Justice*, (January 2010).

This anecdotal information is supplemented by the results of the 2012 OIO Survey, which provided a snapshot of staff and youth perceptions of violence in August and September of 2012. In addition to gathering more information about the magnitude and nature of violence in TJJD facilities, the OIO surveys were designed to expand the Ombudsman’s understanding of *why* youth are committing assaults. Again, the survey only gathered information from youth in the male facilities.

Finding 3.17: The most common motivation youth cite for assaulting a peer is anger.

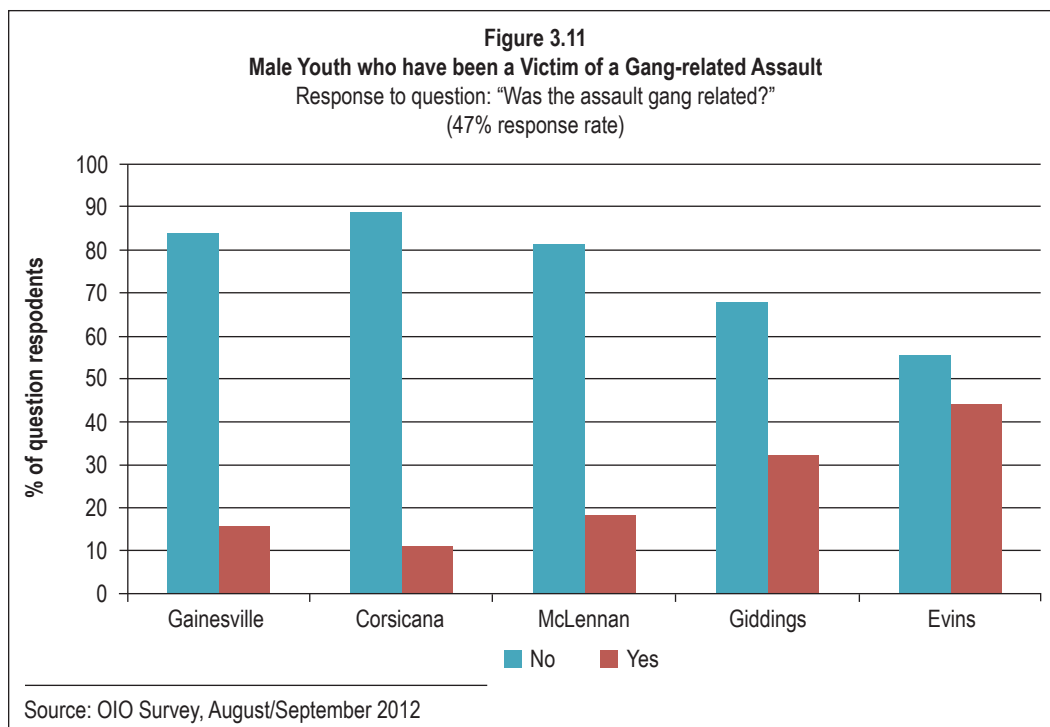
Half of the youth who took the 2012 OIO Survey responded that they had assaulted one of their peers. When asked why they had assaulted another youth, the most common response was “angry,” selected by 50% of youth. The second most commonly selected response was “he was messing with me” (30% of responses), followed by “other.” Only a few youth selected “I was told to” or “part of initiation.” These responses seem to suggest that violent incidents tend to be spontaneous acts of opportunity rather than predetermined or systematic violence.

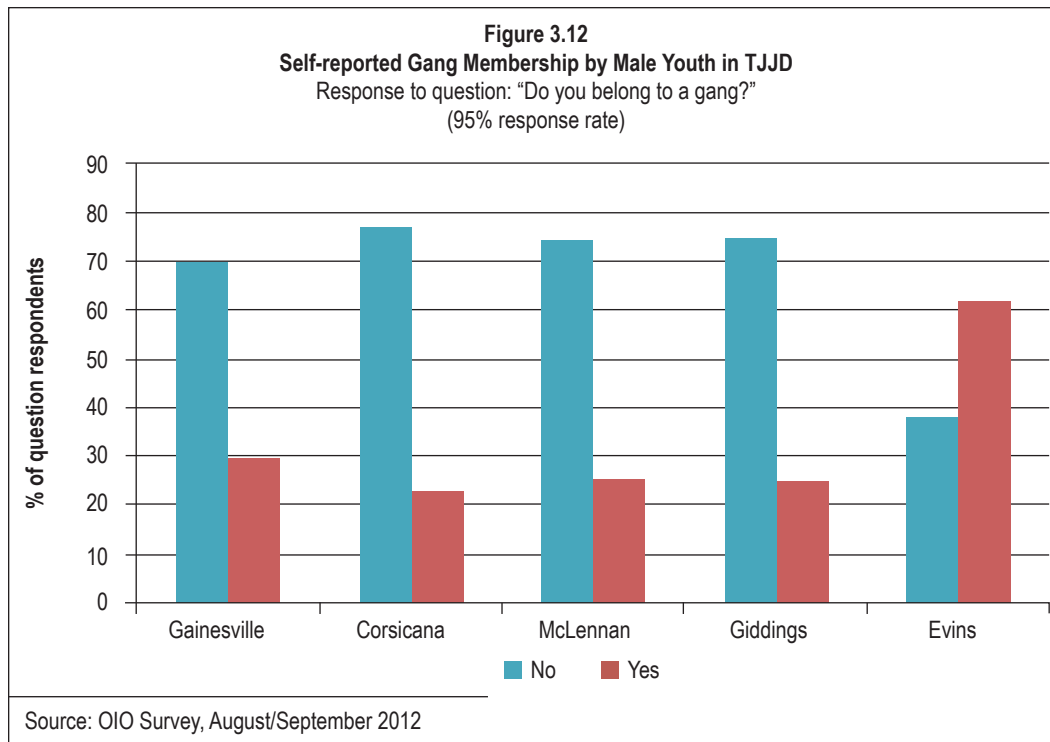
Finding 3.18: Gang-related violence represents only 11% of youth-on-youth assaults throughout TJJD; however, youth in Evins and Giddings report considerably higher incidences of gang-related assaults than youth in other facilities.

When youth were asked if any assault they had experienced was gang-related, a little more than 10% of youth responded “yes” and 35% responded “no.” On the whole, roughly one in ten youth who have been the victims of assault by another youth or youths believes the assault was connected to the presence of gangs in the facility. However, when we analyze the responses by facility, we find that youth in Evins and Giddings were especially likely to attribute assaults to gang activity, with 44% and 32% of respondents reporting a gang-related assault, respectively.

Figure 3.11 below depicts the distribution of yes/no responses to this survey question by facility.

Gang membership is commonly assumed to lead to violence within correctional facilities, and it is extremely difficult to measure. Youth may tend to over-report gang membership while in a facility in order





to appear tough, but intake staff may underreport actual gang membership of youth who fail to disclose their status. The OIO survey captured youths’ self-identification as gang members.

Figure 3.12 illustrates youth responses to an OIO survey question about gang affiliation. Especially notable here is the large number of youths (62% of respondents) who identify as gang members at the Evins facility, the only facility in which more youth identify as gang-affiliated than do not. According to TJJD records for January 2009-August 2012, 52% of committed youth at TJJD belong to a gang. Regardless of the “truth” of gang membership within the Evins facility, the fact that so many youth are self-reporting as gang-affiliated should present a significant concern for TJJD staff and administrators.

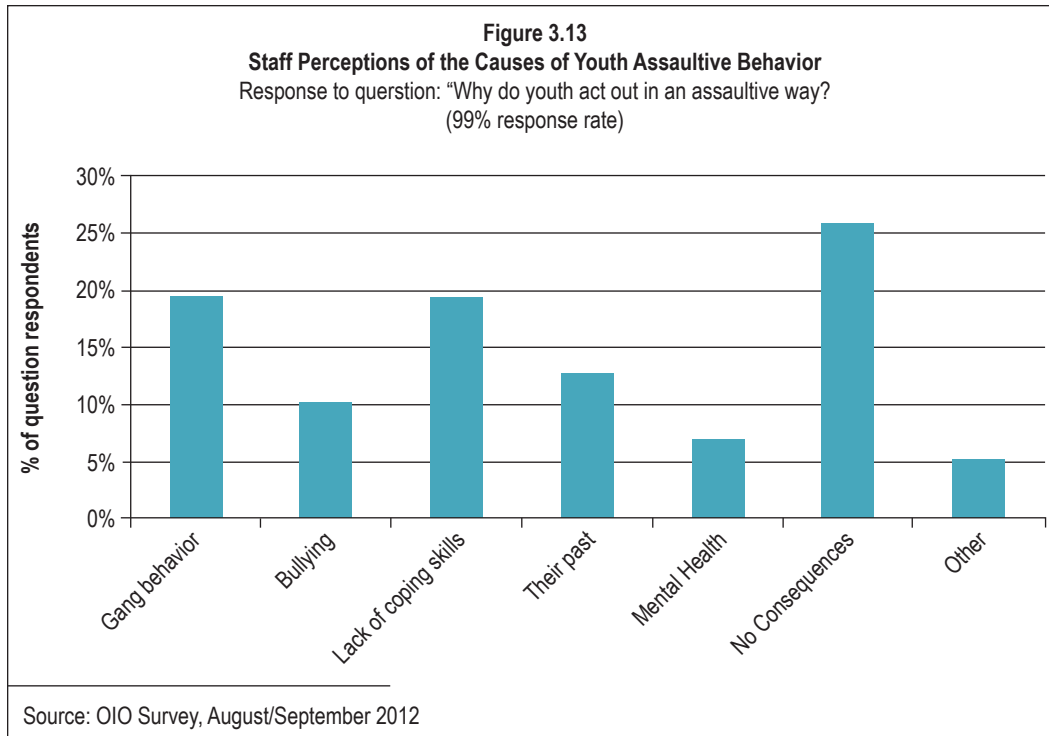
Finding 3.19: The vast majority of staff injuries resulting from youth-on-staff assaults occurred when the staff member was trying to restrain the youth.

The 2012 OIO Survey asked staff who had been injured by an assaultive youth whether the injury occurred as a result of either an attempted restraint or an outright assault. Approximately three-quarters of respondents said they were injured during a restraint. Thus, only one-quarter of the assault-related injuries staff sustain are the result of an “outright assault” by a youth or group of youths. This suggests that if the use of restraints can be reduced, so too can the frequency with which staff sustain injuries in their interactions with youth.

Finding 3.20: Staff members most often attribute behavior problems in facilities to insufficient consequences for youth.

The 2012 OIO Survey asked TJJD staff why they thought youth “act out in an assaultive way.” The most common reason staff chose (among the seven options graphed in **Figure 3.13**),⁸⁹ was “no consequences.” The second and third most common choices were gang behavior and lack of coping skills.

89. Staff could choose more than one answer to this question; therefore, the percentages of respondents who selected each answer add up to more than 100%.



Each of these explanations implies a different motivation or catalyst for assaultive behavior. In Chapter V, we discuss a variety of system-wide practices and behavior management interventions that could address these potential predictors of youth violence.

G. Characteristics of Youth who Commit Major Rule Violations

Understanding the characteristics of youth who commit major rule violations will likely assist TJJJ in targeting behavior management programming to youth who pose the highest risk to staff, other youth, and, in many cases, themselves. From January 2009 through August 2012,⁹⁰ TJJJ housed 6,393 youth within its six long-term facilities. **Remarkably, almost half of these youth (44%) had zero incidents involving major rule violations on their records** (see Table 3.4, page 37). Another 37% were involved in between one and nine major rule violations, and 9% were involved in more than 20 violations. The juvenile with the most extensive disciplinary record at TJJJ was responsible for 163 incidents, but this is an anomaly. Only 117 youth—2% of the total population from 2009 through August 2012—were involved in more than 50 individual incidents involving major rule violations at TJJJ.⁹¹

As noted earlier in the report, more than half of the male youth who participated in the OIO's survey in the fall of 2012 said they had been the aggressor of a physical assault. Here, we find that although a small proportion of youth are the most repetitive rule-breakers, 56% of all youth have broken major TJJJ rules at some point during their stay. This suggests that TJJJ's response to the rise in violence should take into account the fact that "bad behavior" in facilities is widespread. Further, TJJJ should consider

90. With the exception of "age," the youth characteristics described in this section represent all of the youth who were committed to TJJJ and housed in one of its six secure facilities at any point from January 2009 through August 2012. By contrast, what we know about the age of youth committing major rule violations comes from TJJJ population data for the 2012 calendar year.

91. Note that these are individual incidents involving many rule violations, not individual rule violations themselves.

which aspects of its behavior management strategies seem to be working, given that 44% of youth from January 2009 through August 2012 committed zero major rule violations.

In this section of the chapter, we analyze various characteristics of youth to determine whether certain factors may correlate with or serve as a predictor of sorts for youth involvement in violent behavior. The seven youth characteristics for which data was available included: age; type of sentence (determinate versus indeterminate); number of security referrals; minimum length of stay; gang membership; number of mental health diagnoses; and gender.

Finding 3.21: Older youth are no more likely than younger youth to commit the most serious major rule violations in TJJD’s secure facilities. In fact, 17- and 18-year olds were disproportionately less likely to commit violent and other serious major rule violations (escape, attempted escape, group disturbances) in 2012, whereas 14- and 15-year olds were disproportionately more likely to be involved in such incidents.

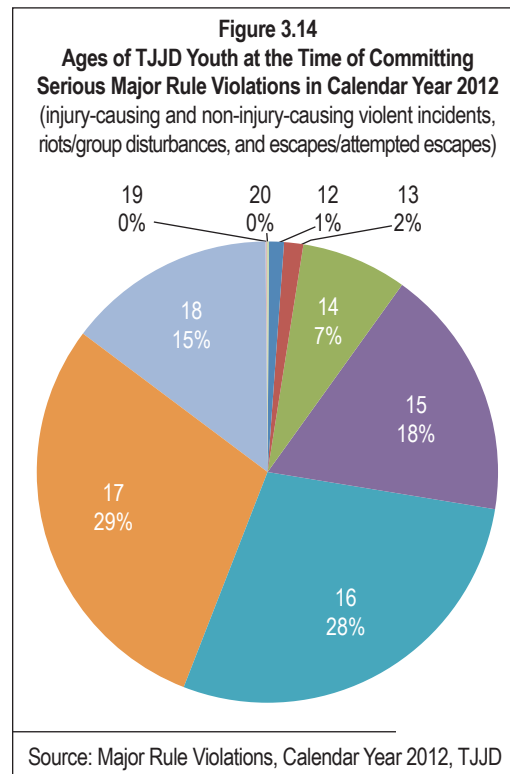
As the 83rd Texas legislative session got underway at the beginning of 2013, a major concern of legislators was whether the incidence of major rule violations at TJJD, particularly violent ones, were connected in any way to the age of the youth committing them. In order to better understand the relationship between age and assaultive behavior, we looked at the age distribution of youth in TJJD’s care during the 2012 calendar year and the age of a youth at the time that he or she committed a major rule violation.

Seventeen-year olds made up the largest group of youth in TJJD’s care in 2012, accounting for between 35 and 39% of the population. Sixteen-year olds made up the next largest group, accounting for approximately 26% of youth in TJJD. **Table 3.3** displays the breakdown of the youths’ ages at two dif-

Table 3.3
Ages of Youth in TJJD Secure Facilities in 2012

Youth Ages	Proportion of population (number of youth) 3/31/12	Proportion of population (number of youth) 12/31/12
12	.7% (7)	.1% (1)
13	.6% (6)	.9% (10)
14	4.2% (45)	3.6% (38)
15	10.8% (116)	12.1% (129)
16	26.9% (289)	26.3% (280)
17	38.8% (396)	34.9% (372)
18	19.7% (211)	22.1% (236)
19	.2% (2)	— (0)
20	.2% (2)	— (0)

Source: Population in Long-Term Secure Facilities, TJJD



ferent points in time during the year: March 31, 2012 and December 31, 2012. Over the course of the 2012 calendar year, approximately 57% of youth in TJJD's secure facilities were 17- and 18-years old. The age distribution on March 31 is very similar to that on December 31; throughout 2012, youth 17-years of age and older represented the majority of youth in TJJD's care.

In order to determine whether youth of certain ages were responsible for the violence seen in TJJD's facilities in 2012, we studied the ages of youth at the time of each major rule violation documented by TJJD. **Figure 3.14** shows the age distribution of youth who committed a serious major rule violation in 2012. We were interested primarily in the youth who were involved in violent incidents (both injury and non-injury causing), as well as riots and other group disturbances. We classify these infractions as the most serious of major rule violations that TJJD staff and administrators are trying to manage.

The data show that 17- and 18-year olds were disproportionately *less* likely to be involved in a major rule violation in 2012 than younger youth, compared to their representation in the TJJD population. While 17- and 18 year-olds made up 57% of TJJD's total population in 2012, they committed only 44% of the most serious major rule violations reported during the year. The other 56% of the most serious major rule violations were committed by youth aged 16 and under.

Strikingly, younger youth (the 14- and 15-year olds) were disproportionately responsible for most of the major rule violations involving violence, riots, and attempted escapes. These 14- and 15-year olds made up only 12% of TJJD youth but they committed 25% of the violent and other serious major rule violations.

These findings are further supported by the age profile of the youth TJJD refers to Redirect and Phoenix, the agency's most intensive behavior management programs.⁹²

Given that younger youth were disproportionately likely to commit the most of the serious major rule violations, it is not surprising that 17- and 18-year olds represented only 44% of the youth referred to the Redirect program (**Figure 3.15**), despite being 57% of the population of TJJD. Only 17% of the youth in TJJD in 2012 were between the ages of 12 and 15, and yet they accounted for 27% of the youth referred to Redirect.

As shown in **Figure 3.16** we observe the same pattern in youth referred to the Phoenix program. In 2012, fewer than half of the youth in Phoenix were 17- and 18-year olds.

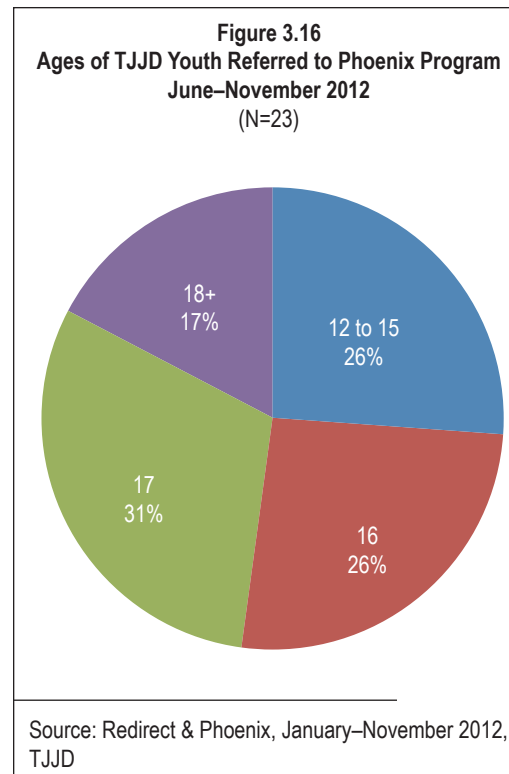
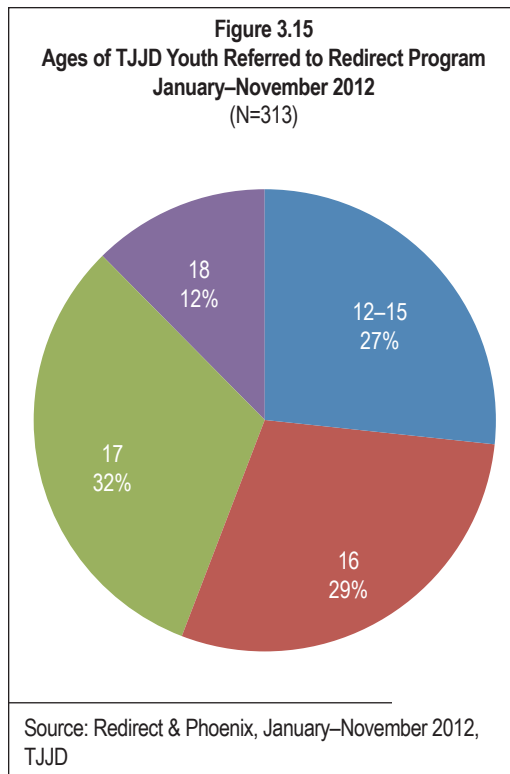
These data tell a very different story than the one commonly heard about youth in TJJD. The oldest youth in TJJD's secure facilities are *not* more likely to commit violent major rule violations than their younger peers; in fact, they are responsible for fewer violations than one would expect given the makeup of TJJD's population. There are several possible explanations for these trends.

One hypothesis is that older youth are more mature than their younger peers and thus more likely to be able to control their impulses and violent acts. Another possibility is that the older youth have benefited from the anger management treatment programs offered by TJJD. Yet another explanation might be that older youth who are close to the end of their sentences have much to lose if their behavior results in a stage demotion⁹³ or possible transfer to the Texas Department of Criminal Justice (TDCJ).

Finally, these findings suggest that TJJD needs to continue to improve its efforts to meet the needs of its youngest charges. According to TJJD, 33% of youth released between ages 10 and 16 are re-incarcerated

92. Redirect and Phoenix will be addressed in detail in Chapter IV.

93. TJJD uses a stage system to measure the progress of individual youth in its rehabilitation program. Youth "earn" their release from secure facility placement by progressing through various stages (GAP.380.8703). TJJD can lower a youth's assigned stage if it is proven through a Level II due process hearing that he or she committed an injury-causing assault, sexual misconduct, or any major rule violation resulting in admission to the Phoenix program (GAP.380.9503).



within one year of release, whereas only 16% of youth released at ages 17 or 18 are re-incarcerated within one year of release.⁹⁴ Effective behavior management for the youngest residents of TJJD’s secure facilities will not only improve the safety of secure facilities but also help ensure public safety upon a youth’s release.

Finding 3.22: Determinate sentence youth were no more likely to commit serious major rule violations than indeterminate sentence youth.

Approximately 20% of youth committed to TJJD have a determinate sentence, also known as a “blended sentence.”⁹⁵ Determinate sentences are imposed for the most serious and violent felony offenses, and this mechanism allows a judge to craft a sentence that begins in the juvenile system and may be followed by time in the adult system if the youth is not found to be rehabilitated by his or her 19th birthday. We were interested in seeing whether there were patterns in behavior related to a youth’s sentencing type.

Table 3.4 offers a breakdown of several key characteristics of TJJD-committed youth who were involved in major rule violations at any point from January 2009 through August 2012 in order to provide a profile of these youth. It also includes youth who never committed a major rule violation during their stay at TJJD; they are captured in the row corresponding to “zero” major rule violation incidents. These data allow us to make some general comparisons between youth who have committed no major rule violations and youth who have committed one or more major rule violations.

As **Table 3.4** shows, only 7% of the youth who are the most persistent repeat major rule violators (50-163 incidents) in TJJD facilities have determinate sentences, while 12% of youth who commit 20-50 rule violations are there on determinate sentences. Recall that 20% of all of TJJD youth have determi-

94. Texas Juvenile Justice Department, “FY 2012 One Year Recidivism by Age at Release,” data provided to Texas Criminal Justice Coalition, February 6, 2013.

95. Texas Juvenile Justice Department, “Sentenced Offenders,” available: http://www.tjjd.texas.gov/about/sentenced_offenders.aspx.

Table 3.4
Characteristics of Youth Involved in Major Rule Violations (January 2009–August 2012)

# of Major Rule Violation Incidents	# of Youth	% of all youth	% with determinate sentences	% in gang	Avg. min. length of stay	Avg. # security referral	Avg. # AXIS 1 ⁹⁶ diagnoses	% female
Zero	2,782	44%	10%	48%	9 months	23	4.0	7.5%
1 to 9	2,340	37%	18%	53%	10 months	40	4.4	9.4%
10 to 20	688	11%	16%	62%	11 months	87	4.5	8.4%
20 to 50	466	7%	12%	60%	12 months	140	4.7	8.6%
50 to 163 (max)	117	2%	7%	56%	14 months	255	5.3	6.8%

Source: TJJD Major Rule Violations 2009–2012

nate sentences, indicating that determinate sentenced youth are disproportionately less likely to be the most serious rule breakers. This finding suggests that the type of sentence a youth receives is not a reliable predictor of how he or she will behave in TJJD facilities.

Finding 3.23: TJJD youth receive a stunningly high number of referrals to security units, even for those who did not commit major rule violations. Those who do commit repeat violations end up spending a substantial portion of their sentences in the security units, where they are placed in isolation and provided with limited services. Repeat referrals to security may be increasing rather than reducing youth misconduct.

Each secure facility has a security unit to provide a space where staff can “temporarily remove youth who engage in certain dangerous or disruptive behaviors from the general campus population.”⁹⁷ In addition, youth may also request a self-referral to the security unit if they think another youth is going to assault them.⁹⁸ Youth committed to TJJD during the January 2009 – August 2012 timeframe were referred to a security unit an average of 48 times per person. Even youth who have committed no misconduct were referred to security an average of 23 times. **Table 3.4** reveals, however, that the already high averages mask an extraordinary usage of the security unit for misbehaving youth.

Unsurprisingly, youth who commit more major rule violations tend to be referred to TJJD’s security units more often than those who commit fewer violations. What is astonishing, however, is the sheer volume of security referrals for these teens. The most persistent rulebreakers go to the security unit an average of 255 times apiece (see **Table 3.4**). For a youth in the midst of a 14-month minimum length of stay to have been referred to security over 200 times means that he or she would have had to have been referred to security at least every other day. One youth had 757 individual security referrals, and 93 of the youth who spent time in TJJD since January 2009, had more than 300 referrals. Although TJJD incident reports and population data do not distinguish between self-referred and staff-referred security visits or the total length of time a youth spends in security, there is no doubt that these numbers indicate that youth in TJJD are spending a significant amount of time in isolation with limited access to therapeutic programming.

96. TJJD uses the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV-TR), to classify youths’ mental health. TJJD’s records allow six possible Axis I diagnoses for each youth. Axis I diagnoses are “clinical syndromes” such as depression, social phobia, certain developmental disorders, etc., which tend to be those considered “treatable” with appropriate therapy, medication, and programming because they may be caused by environmental factors. More information on TJJD’s mental health diagnostic tool can be found: <http://www.tjjd.texas.gov/policies/gap/87/gap8751.htm>.

97. 37 Tex. Admin. Code § 380.9740 (2009).

98. Security referrals will be discussed in greater detail in Chapter IV.

There are three possible explanations for the correlation between frequency of major rule violations and number of security referrals. First, as one might expect, youth who break rules more often are simply being referred more often to security in response to their behavior—in other words, TJJD staff are using security referral as a tool for preventing, interrupting, and/or punishing misbehavior. Alternatively, these numbers may suggest that the use of security as a behavior management technique is not working; youth apparently do not view security referral as a deterrent to breaking major rules. A third possibility is that youth who are referred to security more often may actually become more predisposed to violent or assaultive behavior as a result of the time they have spent in isolation with lessened programming.

Finding 3.24: Youth committed to TJJD generally have multiple mental health needs; however, youth who break major rules tend to have a slightly higher number of mental health diagnoses than their peers.

Table 3.4 above indicates that youth who violate major rules have slightly more mental health diagnoses on average than youth who do not commit violations, suggesting that their mental health needs are greater. However, the difference between the two groups is not as pronounced as might be expected. The typical TJJD youth has a total of 4.3 separate mental health diagnoses; as rulebreaking increases, these youth tend to have more increasingly more diagnoses, and the most persistent rulebreakers have 5.3 separate mental health diagnoses. This finding is a stark reminder that most youth in TJJD have very significant mental health needs.⁹⁹ It is worth noting again that juveniles housed in Corsicana – a facility designed especially for committed youth with the greatest mental health needs – commit dramatically higher numbers of major rule violations than at any other TJJD facility.¹⁰⁰

Finding 3.25: There are slight correlations between minimum length of stay and rulebreaking, and between gang membership and involvement in misconduct. Females are just as likely as males to be involved in major rule violations.

Table 3.4 shows that there exists a positive, if small, correlation between the minimum length of stay required for an individual youth and the number of major incidents that youth commits. It is important to note that the relationship exists only for the minimum length of stay imposed as part of a youth's sentence, not for the actual number of months the youth was in a TJJD facility.

Similarly, gang membership has only a slight correlation with institutional misconduct. Just over half (52%) of youth in TJJD are identified by the agency as belonging to a gang (2009 through August 2012). Of the youth who committed zero major rule violations during their stay, 48% were gang members according to TJJD's records. Of youth who committed 20-50 major rule violations, 60% are gang-identified. This seems to suggest that youth who commit more major rule violations are marginally more likely to be in a gang than youth who commit fewer rule violations, but at the same time, gang membership does not appear to be a reliable predictor for violent behavior in the facilities since so many gang members are well-behaved.

Finally, it is notable that young women in TJJD are as likely to be repeat major rule violators as young men. While there are fewer violent females than males, approximately eight girls were responsible for more than 50 rule violations apiece—roughly 7% of the youth who committed more than 50 rule violations.

H. Conclusion

This section of the report presented data about the nature and extent of major rule violations at TJJD since 2009. Our analysis yields several key findings that the OIO should consider as it continues to track and respond to reports of assaultive behavior in TJJD facilities.

99. Each youth in TJJD custody is evaluated for his/her mental health needs. TJJD records allow for a total of six Axis I clinical diagnoses. See fn. 96.

100. See Findings 3.3 and 3.6.

TJJD incident reports confirm that violent behavior and other forms of serious rule-breaking have been and continue to be a prevalent challenge in its facilities, even after renewed efforts to crack down on serious youth misbehavior in the last year. Indeed, in all facilities, incidents of major rule violations were greater in 2012 than in the previous year. The problem is not limited to violent behavior, though. The pervasiveness of non-violent major rule violations lead us to conclude that behavior management writ large—and not simply the control of violence—is a challenge for TJJD. Thus, the solution to the problem would not lie in simply removing youth from facilities who are the “most violent.” Indeed, there are a number of strategies derived from nationally-recognized best practices—discussed in detail in Chapter V—that the agency should consider as an alternative in order to create secure facilities that encourage rehabilitation and positive behavior and to bring down the number of violent incidents.

There are striking differences among TJJD facilities when it comes to the types and volume of major rule violations they face. It is clear that Corsicana consistently has the most significant volume of incidents, twice the number of other facilities' major rule violations even when controlling for facility population size. This trend raises important questions about the future of the Corsicana facility and the management of youth with serious mental illnesses: Should the youth who are diagnosed with the most serious mental health problems continue to be concentrated in Corsicana? Are there more appropriate options for housing these youth, perhaps in more hospital-like settings? On the more positive side, given the relatively low number of major rule violations in the Ron Jackson and McLennan facilities, are there environmental, management, and/or programmatic strategies in place at those units that other facilities could learn from or adopt? These questions have significant implications for how TJJD assesses youth at intake, the programming it provides, and how it trains and oversees its staff.

It could be that differences in the physical structure and layout of facilities could explain some of the variation between facilities when it comes to the extent and nature of major rule violations. One similarity that facilities share, however, is the preponderance of dorm-based violations. This correlation suggests there are changes that could be made to the dorm setting, including improved supervision by staff, to reduce the occurrence of misbehavior.

Another possibility is that staff members are not implementing TJJD policies uniformly across campuses. This could be a challenge TJJD-wide or in specific facilities. At the same time, there may be certain TJJD management practices or behavioral interventions that simply are not working well and certain facilities may be struggling with this challenge more than others. Or, perhaps there is something systematically different about the way staff members in different facilities interpret TJJD policy and relate to youth. Moreover, the institutional culture of the facilities could differ in important ways.

One of our research questions was whether there are identifiable characteristics of youth who commit major rule violations. Some common assumptions about youthful troublemakers were disproved by our analysis. We found that older youth (17- and 18-year olds) are actually *less* likely to commit major rule violations than younger youth (14- and 15-year olds). Moreover, those who were adjudicated for more serious offenses (those on determinate sentences) are no more likely than other juveniles to commit violent acts in TJJD facilities. We found only slight correlations for some other factors: youth who violate major rules tend to have slightly more clinical mental health diagnoses, have longer minimum lengths of stay, and are more likely to be in a gang. The biggest difference we found between youth who have committed no or relatively few major rule violations and youth who have committed many major rule violations is the sheer number of their security referrals. This suggests that referral to the security unit is not working as a means of deterring future incidents and may even have some “criminogenic” quality that makes these youth more likely to act out.

The absence of a clear “profile” of youth who commit major rule violations suggests that the personal characteristics we studied (e.g., age; number of mental health diagnoses, gang affiliation, type or length of sentence; gender) are not reliable predictors of a juvenile's behavior. However, **Table 3.4** above reminds us that TJJD-committed youth typically bring with them a host of challenges, including mental health issues and/or a history of involvement in systematic violence through gangs. Policies aimed at

preventing and managing misbehavior should take these factors into account, just as TJJD does in its approach to designing rehabilitation programs for youth.

Chapters IV and V explore these issues in more depth and begin to offer some possible avenues for reform. Chapter IV provides a comprehensive discussion and analysis of the disciplinary policies and programs TJJD has implemented in an effort to address problems with assaultive behavior. Chapter V then presents a review of best practices for preventing and controlling misconduct through a range of operational and behavior management strategies, drawing on research studies and on the experience of experts and practitioners around the country.

Chapter IV. Discipline and Punishment in TJJD’s Secure Facilities

The purpose of this chapter is to outline the various approaches TJJD staff take in response to violent behavior and the long-term disciplinary consequences that youth who commit rule violations or new crimes may face. We begin by describing the options staff members have for intervening when youth misbehave, in particular, behavioral interventions, removal of privileges, use of pepper spray, and placement in the security unit. Next, we discuss the long-term disciplinary consequences that can be applied to youth in TJJD, including placement in the Redirect Program or the Phoenix Program, prosecution for new criminal offenses, and transfer of those with persistent disciplinary issues to the adult prison system. Throughout, we provide information about the frequency with which the most significant disciplinary approaches are being used.

A. Responding Immediately to Youth Misbehavior

Finding 4.1: TJJD policy provides for a wide and appropriate range of behavioral interventions when youth misbehave, including verbal de-escalation and removal of privileges. However, some of these interventions appear to be under-utilized given the extremely high numbers of punitive interventions that are employed on a regular basis.

TJJD staff has various options for responding immediately to youth misbehavior and violence in order to restore order and maintain safety in the moments following a disruptive incident. Those options include behavioral interventions, short-term removal of a youth’s privileges, use of pepper spray, and referral to the facility’s security unit. The first two of these approaches are addressed briefly below, while the latter two are discussed in more detail beneath the next two findings.

The agency’s General Administrative Policy (“GAP”) Manual provides TJJD staff members with instructions for conducting behavioral interventions.¹⁰¹ According to this guide, when misbehavior, violence, or disruption are observed, staff members should take account of the situation and, based on their best judgment, employ one of the following “non-disciplinary” tactics to resolve the situation:

- Verbal prompts;
- Discussion with youth away from the group;
- Check-in with the youth and his or her peer group;
- Time-out;
- Directing the youth to a cooling-off period;
- Directing the youth to complete a thinking-report;
- Scheduled or unscheduled behavior group;
- Referral of the youth to the facility’s security unit; or
- Placement in the Redirect Program.¹⁰²

101. 37 Tex. Admin. Code § 380.9501 (2009), <http://www.tjjd.texas.gov/policies/gap/95/gap951.htm>

102. Ibid.

These interventions are intended to be applied progressively, with the goal of implementing the intervention most suited to the violation in question.

Following these interventions, staff may choose an additional disciplinary consequence, “with the goal of imposing only the least restrictive consequences which are effective in correcting the misbehavior and ensuring safety and order.”¹⁰³ Minor disciplinary consequences primarily involve a loss of privileges. Staff have a limited ability to remove a youth’s privileges in the short-term. For example, a supervisory staff member who witnesses a rule violation and decides that removing privileges may be an effective short-term punishment has the ability to remove one privilege for up to seven days and all privileges for up to three days.¹⁰⁴ Additionally, Multi-Disciplinary Staff Teams (MDT) monitor each youth’s behavior throughout the youth’s stay in TJJD, and the MDT has the power to adjust a youth’s short-term privileges based on behavior or to suspend a youth’s privileges for up to 14 days without a due process hearing.¹⁰⁵

Finding 4.2: Use of pepper spray has increased significantly in TJJD facilities since 2010, and usage at the Giddings State School is especially high, with 201 incidents involving pepper spray in 2012. Such usage puts youth at risk and appears to contravene agency policy providing that use of chemical restraints should be a last resort under extreme circumstances.

TJJD first approved the use of pepper spray (oleoresin capsicum, or OC, spray) in its secure facilities in November of 1996, though the agency’s policy has evolved since then.¹⁰⁶ TJJD policy allows staff to use force to control specific disruptive situations, including protecting a youth or others from harm, preventing property damage, and moving a youth to a security unit or within the security unit.¹⁰⁷ The use of pepper spray is only permitted when all the above requirements for use of force have been met, when other interventions are impractical or have failed, and when the use of pepper spray is reasonably believed necessary to:

- Quell a riot or major campus disruption;
- Resolve a hostage situation;
- Remove youth from behind a barricade in a riot or self-harm situation;
- Secure an object that is being used as a weapon and that is capable of causing serious bodily injury;
- Protect youth, staff, or others from imminent serious bodily injury; or
- Prevent escape.¹⁰⁸

Pepper spray not only causes pain, but also carries health risks to those exposed to the chemicals, including other youth in the vicinity who are non-participants in the incident.¹⁰⁹ Each facility nurse manager is

103. Ibid.

104. 37 Tex. Admin. Code § 380.9503 (e)(2)(2012), <http://www.tjjd.texas.gov/policies/gap/95/gap953.htm>. TJJD only permits this consequence after non-disciplinary interventions have been attempted.

105. Ibid.

106. “Looking Ahead: Taking Responsibility & Defining Your Future,” *Texas Juvenile Justice Department*, January 2012, 47, accessed December 20, 2012, http://www.tjjd.texas.gov/programs/TJJD_Youth_Handbook.pdf.

107. 37 Tex. Admin. Code § 380.9723 (I)(h)(2011), <http://www.tjjd.texas.gov/policies/gap/97/gap9723.htm>.

108. Ibid., (I)(n)(2).

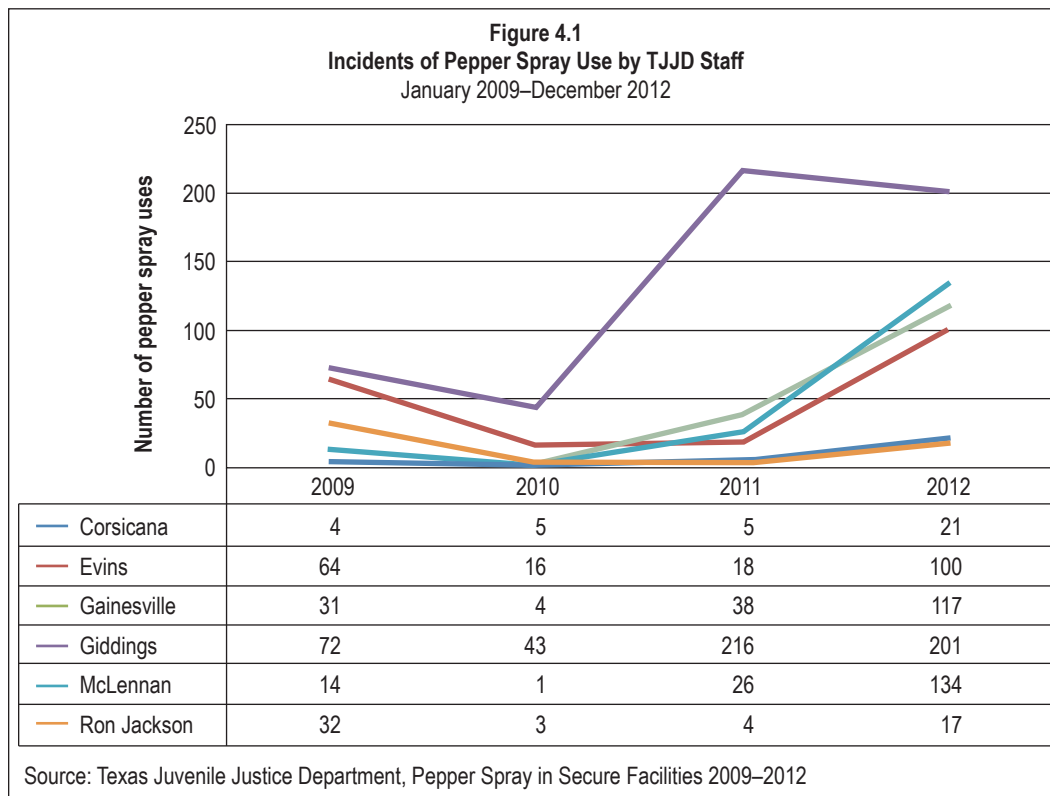
109. Center for Children’s Law and Policy, “Chemical Agents in Juvenile Facilities,” 2. See more detailed discussion of the concerns about using pepper spray *infra* in Chapter V, Finding 5.25.

required to maintain a “no-spray” list of youth who have a health condition that may contraindicate the use of pepper spray. The nurse is required to provide the list to appropriate security and dorm staff.¹¹⁰

As displayed in **Figure 4.1** below, pepper spray use has risen substantially in TJJJ facilities since 2010. The rate of pepper spray use varies considerably among TJJJ facilities, with the Giddings State School posting the highest numbers each year since 2009. In 2009, Giddings reported 72 incidents of pepper spray use; in 2012, there were 201 pepper spray incidents. Such heavy reliance on pepper spray, and the increasing use of this form of force, raises questions about possibly inappropriate or premature use by staff.

This dramatic rise in the use of pepper spray has echoes of the increased usage of chemical agents in the Texas Youth Commission back in 2007-08, a practice that led to a series of lawsuits that forced a change in both policy and practice.¹¹¹

The OIO Survey questioned both youth and staff about the effectiveness of pepper spray in managing youths’ behavior. Interestingly, the survey data revealed that neither youth nor staff believe that pepper spray is effective at controlling youths’ negative behavior. Only 4% of surveyed youth and 18% of staff members believe pepper spray works to achieve this goal.¹¹² In contrast, 33% of staff believes that verbal de-escalation is the best way to manage a violent episode, and 65% of youth state that they simply need time to cool-off.



110. 37 Tex. Admin. Code § 380.9723 (II)(d).

111. See *supra*, Chapter II. C.1, for a discussion of the agency’s recent history of pepper spray usage and the lawsuits spawned by this practice.

112. “Survey of TJJJ Youth and Staff,” Office of the Independent Ombudsman, Texas Juvenile Justice Department (2012) (hereinafter, “OIO Survey”).

Finding 4.3: TJJD staff rely to an extraordinary extent on placement of youth in security units to control their behavior. Despite agency policy to the contrary, youth are spending a significant portion of their time in TJJD locked in isolation and deprived of regular programming.

Each TJJD secure facility has a security unit: a locked wing where disruptive youth are housed in individual cells until they are deemed safe to release back into the general population. TJJD guidelines specify that referring and admitting youth to the security unit should not be used as a tool for punishment; instead, this action is a way to protect youth from harming themselves or others, from escaping, or from disrupting programming.¹¹³ Regardless of these guidelines, removing violent youth to a locked security unit functions in practice as a tool for maintaining both safety and discipline in TJJD facilities. Our analysis reveals that this option is one of the major tools in TJJD's arsenal for coping with youth misbehavior.

Generally, there are two paths to a security unit: staff members may refer a youth to the security unit or a youth may self-refer in order to cool down when emotional or to avoid other youth when threatened. According to the results from the OIO Survey, 64% of youth have self-referred to security, and 60% of youth who self-refer do so to give themselves time to cool down.¹¹⁴ However, for the purposes of this section of the report, we are most interested in youth who are referred to security units by a staff member. It is important to note that staff referrals are much more common than self-referrals; between June 19 and August 28, 2012, TJJD reported 10,516 staff referrals to security and only 1,039 youth self-referrals.¹¹⁵

According to TJJD's General Administrative Policy Manual, a youth should be referred to a security unit by a staff member only if he or she is a serious or continuing escape risk; if he or she is a serious and immediate physical danger to others that cannot be handled without admitting him or her to the security unit; if his or her behavior is so disruptive that programming cannot continue unless he or she is in the security unit; or if he or she is likely to interfere with an ongoing investigation or due-process hearing.¹¹⁶ The policy sets strict guidelines as to when youth should be referred to security units and how long they can be held there.

Initially, when a staff member refers a youth to the security unit, the youth is put in a secure location until the unit's onsite counselor can evaluate him or her.¹¹⁷ Where a youth is kept until this evaluation depends on which facility he or she is in and the level of danger his or her behavior presents. Depending on the juvenile's behavior, he or she may be kept in a locked cell in the security unit even prior to the admittance hearing.¹¹⁸ Youth may wait up to one hour for a security admissions hearing. Once a youth's hearing is held to determine if he or she meets the criteria for admittance, the youth may then be admitted into the security unit for up to 24 hours.¹¹⁹ To remain beyond 24 hours, additional hearings are necessary to determine if the youth poses a continuing risk.¹²⁰ Once a youth no longer meets the criteria for being held in the security unit, he or she is released into the general population at a point in the day where the transition will be smooth; for example, security staff members may choose to release youth into the general population during transition periods or early in the morning before the school day starts.¹²¹

113. 37 Tex. Admin. Code § 380.9740 (e) (2009), <http://www.tjjd.texas.gov/policies/gap/97/gap9740.htm>.

114. OIO Survey.

115. "Weekly Safety and Security Reports," Office of the Independent Ombudsman Texas Juvenile Justice Department, June 19–August 28, 2012; September 26–October 2, 2012.

116. 37 Tex. Admin. Code § 380.9740 (e) (2009), <http://www.tjjd.texas.gov/policies/gap/97/gap9740.htm>.

117. Rebecca Thomas (Texas Juvenile Justice Department Director of Integrated and State-Operated Programs and Services), interview by Lauren Waters, Trevor Sharon, and Stephanie Glover, November 30th, 2012.

118. *Ibid.*

119. 37 Tex. Admin. Code § 380.9740 (f) (2009), <http://www.tjjd.texas.gov/policies/gap/97/gap9740.htm>.

120. *Ibid.*

121. Thomas, interview.

Additionally, youth may be held in the facility's security unit while awaiting a court date, transfer hearing, or Level II hearing. Level II hearings are administrative hearings conducted by TJJD staff. The purpose of the hearing is to ensure that a youth is afforded due process regarding allegations against him or her before receiving any disciplinary consequences. Youth in this category may be held in security up until the time of their hearing or court date. For these youth to be held in a security unit, they must be disruptive in any alternate placement, be likely to interfere with the judicial process, present a danger to others, or have a history of attempting escape.¹²² Along with youth who are referred to security units for misbehavior, this group of youth makes up the population of TJJD secure facility's security units.

When a youth is in the security unit, he or she does not necessarily receive the same programming opportunities available to the general population, despite agency policy. TJJD policy outlines several program requirements in the security units: the security program is supposed to adhere to a standard schedule approximating that of the general population and including at least four hours outside of the locked room if the youth's behavior permits.¹²³ Recent reports from the OIO raise concerns about whether this programming is actually occurring,¹²⁴ and the OIO Survey found that only 20% of youth report receiving specialized therapeutic treatment while in security.¹²⁵

During a visit to the Giddings State School on November 2, 2012, we had the opportunity to observe a security unit firsthand and speak with unit staff. This visit allowed us to discuss, in particular, how the required 330 minutes of daily education is given to the youth housed in a security unit.¹²⁶ Staff members at the Giddings State School confirmed that while youth in security should be given education and large muscle exercise daily, the delivery of these services is dependent on how calm a youth is at any given time.¹²⁷ If a youth is disruptive enough, he or she can be kept in a locked individual cell for 24 hours or more.¹²⁸ It should also be noted that for youth in security units, education consists of time alone with class materials to do individual work—these youth do not receive classroom instruction or tutoring.¹²⁹ Of youth who responded to the 2012 OIO Survey, only 45% indicated that they received education during their time in a security unit.¹³⁰

Despite the strict guidelines set by TJJD about when youth can be referred and admitted to a security unit, the data indicate that these locked facilities are used with stunning frequency, and that some youth are referred regularly.¹³¹ We also reported on this high usage of security units in Chapter III, when we found that individual youth were, in some cases, being referred to security units more than 200 times during their time in the facility.¹³² But the data also show that overall usage of the security units—and not just its use in individual cases—is extraordinarily high. Indeed, the total number of referrals in some weeks exceeds the total number of youth in the TJJD population. For example, from June 19 – June 26, 2012, staff made 1,395 referrals to security, while the average daily population for June in secure facili-

122. 37 Tex. Admin. Code § 380.9559 (d) (2009), <http://www.tjjd.texas.gov/policies/gap/95/gap9559.htm>.

123. 37 Tex. Admin. Code § 380.9740 (j) (2009), <http://www.tjjd.texas.gov/policies/gap/97/gap9740.htm>.

124. "Response to the Independent Ombudsman Third Quarter Report, FY 2012," *Texas Juvenile Justice Department* (July 9, 2012).

125. OIO Survey.

126. 37 Tex. Admin. Code § 380.9740 (j)(6)(G) (2009), <http://www.tjjd.texas.gov/policies/gap/97/gap9740.htm>.

127. Interview with Security Unit Staff Members, Giddings State School, conducted by Lauren Waters, Kate Vickery, and Alycia Welch, November 2, 2012.

128. *Ibid.*

129. *Ibid.*

130. OIO Survey.

131. *See infra* Figure 4.2.

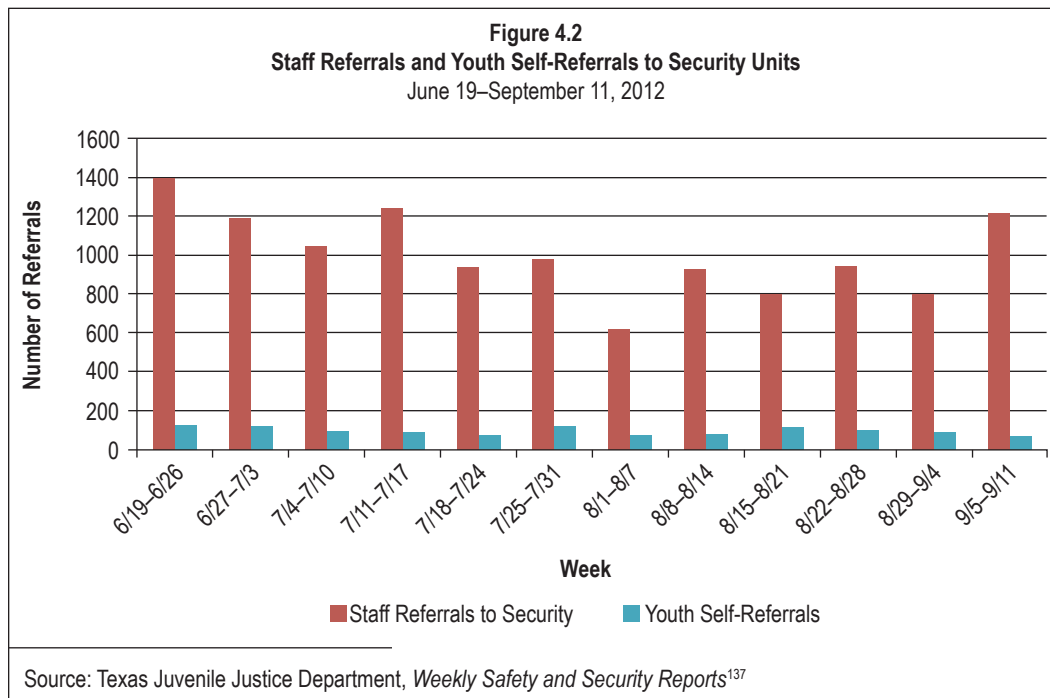
132. *See supra* Chapter III, Table 3.4.

ties was only 1,067 youth.¹³³ More information about the frequency of security referrals within TJJD facilities can be found in **Figure 4.2** below.

The data displayed in **Figure 4.2** come from TJJD’s Weekly Safety and Security Reports. These reports include information regarding the number of youth referred to each facility’s security unit in the previous week. It is important to note that not all youth who are referred to security units are ultimately admitted. TJJD does not consistently report numbers of referrals and admissions in weekly reports. For the two weeks we have data available, September 19 through October 2, 2012, roughly 40% of all youth referred to security units were ultimately admitted; the rest were returned to their facility’s general population following their admission hearing because they did not meet the criteria to be kept in the security unit any longer than 24 hours.¹³⁴ However, the total number of referrals to security can provide us with a strong indicator of how frequently staff members are using this tool to address misbehavior. **Figure 4.2** illustrates how the weekly number of referred and self-referred youth varied from June 19 to September 11, 2012.

As **Figure 4.2** illustrates, each week between June 19 and September 11, 2012, an average of 1,021 youth were referred to security units across all of TJJD’s secure facilities, almost the size of the total TJJD population. It is important to note that this data may include youth who were referred to a security unit multiple times in a given week. As noted in Chapter III, TJJD youth are referred to security units an average of 48 times each while they are incarcerated.¹³⁵ Astoundingly, one youth has acquired 757 referrals to security while in a TJJD facility.¹³⁶

The data indicate that rather than emphasizing non-punitive behavioral interventions, TJJD staff members are relying heavily on placement in the security unit as a tool to stop misbehavior and curtail



133. *Weekly Safety and Security Reports*, June 19 – September 11, 2012, Texas Juvenile Justice Department.

134. *Weekly Safety and Security Reports*, September 19 – October 2, 2012, Texas Juvenile Justice Department.

135. *See supra*, Chapter III, Finding 3.23.

136. *Ibid.*

137. *Weekly Safety and Security Reports*, June 19 – September 11, 2012, Texas Juvenile Justice Department.

violence.¹³⁸ This tendency to isolate disruptive youth is similar to the behavior management strategies employed by the Texas Youth Commission (TYC) following the scandals of 2007,¹³⁹ and the concerns raised about that approach still apply. A 2008 *Houston Chronicle* article reported the concerns of then-TYC Ombudsman Will Harrell regarding the increased use of security and isolation as a form of punishment for disruptive youth. Harrell observed that sending youth to locked security units where they are kept in isolation and are deprived of regular programming does not improve the youth's behavior—it worsens it.¹⁴⁰ Though these concerns arose during a different era in the history of the Texas juvenile justice agency, they are no less relevant today.

Relying on security units and confinement to quell misconduct fails to address the underlying issues driving the youths' misbehavior. For example, youth are not provided with additional services to address their aggression or to control their anger. What's more, while youth are in security units, they miss out on the valuable programming and educational activities in which they were engaged. At the very least, this "stop and start" approach disrupts the continuity of the youth's education and treatment. Thus, there is a real risk that overuse of the security units is a counter-productive approach that exacerbates misbehavior rather than controls it. It may also perpetuate a culture of punishment within secure facilities.

B. Discipline within TJJD Facilities

Finding 4.4: Youth can receive a wide range of disciplinary consequences in response to misbehavior, including suspension of privileges, stage demotion, increased length of stay, placement in the Redirect or Phoenix Programs, prosecution on criminal charges, and disciplinary transfer to TDCJ.

Once a misconduct situation is brought under control, TJJD has a number of options for punishing youth with longer-term consequences. For long-term consequences to be applied, however, a youth's rule violation(s) must be confirmed through a Level II due-process hearing to determine whether a youth actually committed a rule violation and to present any extenuating circumstances that might inform disciplinary decisions.¹⁴¹ A Level II hearing is now required for all assaultive violations that occur in any TJJD secure facility.¹⁴² Following a rule violation, a TJJD staff member (other than the person who reported the violation) must begin an investigation into that violation within 24 hours of the alleged offense and complete the investigation within 24 hours. A decision on whether to pursue a Level II hearing must be made within 24 hours of the completion of the investigation. There may be exceptions to this timeline if an investigation is impractical, but this must be documented.¹⁴³

The hearing itself must begin within seven days of the investigation, unless the youth in question is being held in the security unit while awaiting a hearing, in which case the hearing must take place within

138. "Solitary confinement at Texas youth prisons: A brief history," *Grits for Breakfast*, May 25, 2012, accessed December 20, 2012, <http://gritsforbreakfast.blogspot.com/2012/05/solitary-confinement-at-texas-youth.html>; *Weekly Safety and Security Reports*, June 19- Aug. 25, 2012.

139. Lisa Sandberg, "Watchdog: Texas holds young offenders in solitary for weeks," *Houston Chronicle*, January 16, 2008, <http://www.chron.com/news/houston-texas/article/Watchdog-Texas-holds-young-offenders-in-solitary-1647523.php>.

140. *Ibid.*, quoting Will Harrell, internal quotations omitted.

141. 37 Tex. Admin. Code § 380.9555 (d) (2009), <http://www.tjjd.texas.gov/policies/gap/95/gap9555.htm>.

142. Prior to this change in July 2012, only 21% of assaults led to a Level II hearing. Texas Juvenile Justice Advisory Council, "Meeting Minutes," (July 24, 2012), accessed November 3, 2012, <http://www.tjjd.texas.gov/docs/AdvisoryCouncil/TJJJAdvisoryCouncilMeeting72412.pdf>.

143. 37 Tex. Admin. Code § 380.9555 (e) (2009), <http://www.tjjd.texas.gov/policies/gap/95/gap9555.htm>.

five calendar days of the violation.¹⁴⁴ Staff have indicated that these timelines are not always followed; youth who are not held in the security unit normally wait much longer.¹⁴⁵

Possible formal consequences following a Level II hearing include suspension of privileges, stage demotion, and referral to the Redirect or Phoenix Program.¹⁴⁶ In serious cases, youth may also be recommended for disciplinary transfer to the TDCJ-ID. Of the 40,806 incidents of major rule violations in the six secure facilities from January 1, 2009 to August 31, 2012, only 6,227 (15%) include the results of a Level II hearing, confirming the fact that these have not be used with fidelity over the past four years.¹⁴⁷ Of those that do have Level II hearings, only 10% are resolved after fact-finding with no further action taken.¹⁴⁸ This indicates that the majority of youth who enter the Level II hearing process do in fact receive some form of disciplinary consequence. The most common outcome by far, as displayed in **Table 4.1** below, is a suspension of all privileges for a period of 30 days.¹⁴⁹

In addition to the formal consequences that a youth can receive following a Level II hearing, youth who have broken major rules can also be subjected to other outcomes. For example, the youth's length of stay in TJJD may be extended. Additionally, youth who display a sustained pattern of misbehavior or commit new crimes while in TJJD may also be transferred to the TDCJ-ID or have new charges pressed against them.

Consequence Assigned	Frequency	Percentage of Cases
<i>Suspension of All Privileges for 30 days</i>	3870	62.1%
<i>Redirect</i>	725	11.6%
<i>Fact Finding Only</i>	614	9.9%
<i>Privilege Suspended</i>	544	8.7%
<i>Behavior Management Program</i>	194	3.1%
<i>30-Day Extension to Earliest Eligibility Date</i>	116	1.9%
<i>Transfer of Contraband Money to Student Benefit</i>	48	0.8%
<i>Corsicana Stabilization Unit</i>	43	0.7%
<i>Stage Demotion</i>	26	0.4%
<i>Phase Demotion</i>	18	0.3%
<i>Phoenix Program</i>	16	0.3%
<i>Disciplinary Transfer</i>	12	0.2%
<i>Non-disciplinary Transfer</i>	1	0.0%
Source: Major Rule Violations 2009-2012		

144. Ibid.

145. Thomas, interview.

146. 37 Tex. Admin. Code § 380.9503 (e) (2012), <http://www.tjjd.texas.gov/policies/gap/95/gap9555.htm>.

147. TJJD Major Rule Violations 2009-2012.

148. Ibid.

149. Ibid.

The most significant of these types of consequences will be discussed in detail in the findings that follow.

Finding 4.5: Following a Level II due process hearing, the most common disciplinary consequence for youth misconduct is suspension of privileges for 30 days. Stage demotion is rare. A substantial number of youth have their length of stay increased either directly or indirectly as a result of misconduct in TJJD facilities. To avoid the risk of abuse, decisions to increase length of stay are made at the Central Office level as opposed to the Level II hearing level.

While in a TJJD secure facility, youth receive privileges based on their stage, their record of recent behavior, and their progress through TJJD's treatment program.¹⁵⁰ A youth's Multi-Disciplinary Team generally allots these privileges on a daily and weekly basis.¹⁵¹ Privileges include being allowed to wear different clothing, the opportunity to work, free time in the evenings, and participation in sports or other extracurricular activities.¹⁵² Some privileges are tied to a youth's stage while others may be given or taken away each day based on behavior. Additionally, following a Level II hearing, all privileges may be removed from a youth for a period of 30 days. This punishment takes away a youth's privileges regardless of his or her stage in the program as a direct response to his or her major or minor rule violations.¹⁵³

As shown in **Table 4.1** above, loss of privileges is by far the most common outcome of a Level II disciplinary hearing.¹⁵⁴ Stage demotion, however, is a rare outcome following a Level II hearing. Finally, it is important to note that TJJD often combines suspension of privileges with other outcomes following a Level II hearing: for example, it is typical to see a youth sent to Redirect or the Phoenix Program also have all privileges suspended for 30 days.¹⁵⁵

Staff may make the decision to extend a youth's length of stay as a consequence of misbehavior or failure to progress through TJJD's program, even though this is not a consequence that can be assigned at a Level II hearing. Both indeterminate and determinate sentence youth are given a minimum length of stay as part of their disposition and commitment to TJJD. This length of stay is primarily tied to the seriousness of the underlying crime, but other factors may be considered as well.¹⁵⁶ Once a youth has completed his or her minimum length of stay, he or she becomes eligible for release based on behavior and program compliance.¹⁵⁷

The decision to extend a youth's stay is made by the Release Review Panel (RRP)—a team of administrators located at the TJJD Central Office.¹⁵⁸ Keeping this decision separate from staff with direct supervisory roles over the youth helps prevent potential abuses such as those that arose during the 2007 crises in TYC.¹⁵⁹

150. 37 Tex. Admin. Code § 380.9502 (2009), <http://www.tjjd.texas.gov/policies/gap/95/gap952.htm>.

151. *Ibid.*

152. Interview with a youth residing at Giddings State School, conducted by Trevor Sharon, November 2, 2012.

153. TJJD Major Rule Violations 2009-2012.

154. *Ibid.*

155. *Ibid.*

156. "Determining how long youth stay in TJJD," *Texas Juvenile Justice Department*, accessed December 20, 2012, http://www.tjjd.texas.gov/about/how_class.aspx.

157. *Ibid.*

158. 37 Tex. Admin. Code § 380.9535 (d)(1) (2011).

159. In 2007, a disproportionate number of youths' stays were extended with little or no documentation. Further, because on-site staff held the power to extend a youth's stay, youth were vulnerable to both sexual and physical abuse. Emily Ramshaw, "Hundreds may be freed from TYC; Panel concentrating on inmates who had sentences extended." *Dallas Morning News*, March 24, 2007, accessed November 23, 2012, <http://www.nospank.net/tyc-12.htm>; see also, Deitch, "Texas Youth Commission Soap Opera," 49–64.

Youth may also have their length of stay extended indirectly if they receive a stage demotion in the TJJD treatment program. Stage demotions can occur as a result of a Level II hearing, when it is shown that a youth assaulted a youth or staff member causing serious bodily injury or committed sexual misconduct. Additionally, any youth who is sent to the Phoenix Program is automatically demoted back to the first stage in TJJD's treatment program.¹⁶⁰ A stage demotion or referral to the Phoenix Program are serious consequences that can be dispensed following a Level II hearing and they effectively result in an extension of the youth's length of stay. Youth cannot leave a TJJD secure facility until they have either progressed to the highest level of the agency's treatment program (Stage YES), or aged out; stage demotion results in delayed progress through the treatment program and thus delayed eligibility for release. Our data indicate that very few youth (only 26) had their stage demoted between January 1, 2009 and August 31, 2012, despite the significance of this sanction.

Finding 4.6: The rehabilitative aspects of the Redirect Program may be compromised by the location of this program in the security wing of each facility, by its high staff-inmate ratio, and the youths' lack of access to specialized programming while on Redirect. Importantly, the agency is currently seeking funding from the legislature for additional staff for this program.

Redirect is a specialized program designed for youth who engage in certain serious rule violations.¹⁶¹ Each TJJD secure facility runs its own Redirect Program, which places these youth in a setting away from the rest of the population until they successfully advance through the curriculum.¹⁶² Even though the Redirect Program is housed in a wing in each facility's security unit,¹⁶³ it is not classified as a punishment but as a specialized treatment program.¹⁶⁴ Many of the TJJD staff with whom we spoke thought that the security unit wings were not the best place to house these youth, given that the focus of the program is treatment. Nevertheless, Redirect programs are currently being housed in these locations due to convenience and staffing issues.¹⁶⁵

The Redirect Program's mission is to provide youth with skills to prevent problematic behaviors. On July 1, 2012, TJJD implemented a 16-hour schedule for youth in Redirect, which provides daily therapy groups for behavioral and social skills, Aggression Replacement Training (ART), 5.5 hours of education, large muscle exercise, and limited free time.¹⁶⁶ Some youth in Redirect may be given the privilege of interacting with the general population of TJJD youth once they have completed the earlier levels of the program and entered the transition phase back to general population.¹⁶⁷

Redirect has undergone some notable changes in the last 6 to 12 months as it has evolved to become a more central piece of TJJD's treatment and discipline structure. Redirect was initially designed as a short-term program and youth were permitted to stay in it for only up to 42 days; however, this time restriction has now been lifted. As an alternative, an Executive Multi-disciplinary Committee, which includes members of TJJD's Central Administrative Staff, monitors any youth who have been in Redirect for more than 60 days.¹⁶⁸ This change was made to remove pressure on staff to promote youth

160. 37 Tex. Admin. Code § 380.9503 (e)(1)(D) (2012), <http://www.tjjd.texas.gov/policies/gap/95/gap953.htm>.

161. For a list of these violations, see 37 Tex. Admin. Code § 380.9517 (d) (2012), <http://www.tjjd.texas.gov/policies/gap/95/gap9517.htm>.

162. Debbie Unruh, Independent Ombudsman for TJJD, interview by Lauren Waters, November 2, 2012.

163. Thomas, interview.

164. Ibid.

165. Ibid.

166. Executive Director, "Message to All Staff," *Texas Juvenile Justice Department*, May 3, 2012, accessed November 3, 2012, <http://www.tjjd.texas.gov/docs/EDMessages/May3.pdf>.

167. For more detail about the four levels of the Redirect program, see Texas Juvenile Justice Department, *Case Management Standards*, 03.61 (d)(6) (July 1, 2012).

168. Thomas, interview.

quickly through the Redirect curriculum.¹⁶⁹ Additionally, the case management standard for Redirect was strengthened to give these youth more time with their designated counselors, and the Redirect level system was reworked to add a transition phase.¹⁷⁰ Looking forward, the next changes TJJD anticipates making to Redirect include reducing the staff to youth ratio to 1:4 and increasing staff training on ART to ensure quality in Redirect programs across all TJJD facilities.¹⁷¹ The agency has requested additional funding from the 83rd Legislature to cover the costs of more staff for this program.¹⁷²

From January 1 to November 30, 2012, a total of 210 youth were sent to the Redirect Program following a Level II hearing; 44 youth were referred multiple times.¹⁷³ In a snapshot on November 30, 2012, there were 55 youth in Redirect across the state, 32 (58%) of whom had been in Redirect for more than 30 days.¹⁷⁴ The Executive Multi-Disciplinary Team, per updated policy, monitors any youth that has been in the program beyond two months.¹⁷⁵

Two primary critiques have been raised about the Redirect Program. While the 42-day cap on participation was lifted to allow youth to stay longer and ensure that the ultimate goal of Redirect was treating youth and not simply advancing them through the curriculum as quickly as possible, concerns have arisen about indefinite lengths of stay in the program.¹⁷⁶ Some fear that Redirect can become a permanent way to separate “trouble-makers” from the general population for months on end.¹⁷⁷ Additionally, while Redirect has a 16-hour a day program, there are questions about whether these services are on par with the service that other TJJD youth receive. For example, during a tour of the Giddings State School’s Redirect wing, we learned that youth in the earliest stages of Redirect are not allowed to participate in the facility’s renowned Capital Offenders Program.¹⁷⁸ Participants in Redirect may actually lose a spot in other important therapeutic behavioral groups, thereby compromising the effectiveness of their treatment programs during their time in TJJD.

Finding 4.7: The Phoenix Program, designed to serve the most persistently violent youth in TJJD, continues to have relatively high levels of serious misconduct despite its tightly controlled environment. Moreover, the creation of the Phoenix Program has not served to reduce sustainably the level of violence in the rest of TJJD.

The Phoenix Program was created in July 2012 to house those youth with a sustained pattern of violent misbehavior. The program is designed to help address and resolve the youths’ underlying challenges that are leading to violence. According to TJJD officials, in the first three quarters of 2012, 5% of youth accounted for 50% of assaults on staff, 9% of youth accounted for 54% of assaults on youth, and 4% of youth accounted for 40% of assaults resulting in bodily injury to both youth and staff.¹⁷⁹ While it

169. Ibid.

170. Ibid.

171. Ibid.

172. Texas Juvenile Justice Department, “Legislative Appropriations Request for Fiscal Years 2014 and 2015,” August 30, 2012, 143, <http://www.tjjd.texas.gov/about/LAR2014-2015.pdf>.

173. TJJD Major Rule Violations 2009-2012; Texas Juvenile Justice Department, “Redirect & Phoenix Program: Jan. 1- Nov. 30, 2012.”

174. Texas Juvenile Justice Department, “Redirect & Phoenix Program: Jan. 1- Nov. 30, 2012.”

175. Thomas, interview.

176. Ibid.

177. Ibid.

178. Interview with Redirect staff member at Giddings State School and Debbie Unruh, conducted by Lauren Waters, Kate Vickery, and Alycia Welch, November 2, 2012.

179. “Public hearing handout,” *Texas Juvenile Justice Department*, August 3, 2012, accessed December 20, 2012, www.tjjd.texas.gov/docs/August3rdPublicHearing.pdf.

is important to keep in mind that our research has shown that 56% of youth in TJJD have committed a major rule violation during their stay in a secure facility, TJJD's leadership concluded from these numbers that there was a "small group of youth who demonstrate significantly aggressive behavior that requires their removal from the general environment."¹⁸⁰ In response, the agency created the Phoenix Program, a self-contained unit at the McLennan County State Juvenile Correctional Facility (commonly referred to as Mart) with 24 single-bed rooms in a previously mothballed security unit wing, to separate these assaultive youth from the general population and serve their needs. All youth in Phoenix are kept in the locked security unit at all times (unless they need medical treatment) and, they wear mechanical restraints when moving around the wing.¹⁸¹

Because Phoenix is a small program designed to provide intensive services to the participating youth, eligibility is currently limited to males with a pattern of aggressive behavior substantiated through Level II hearings.¹⁸² A youth who has been referred to the Phoenix Program through a Level II hearing must also be accepted by an Admissions Review Committee; if he is not accepted, he will not enter the Phoenix Program and will instead be kept in his home facility's Redirect Program.¹⁸³ According to agency policy, when deciding which youth to admit to the Phoenix Program, the Admissions Review Committee considers the following factors:

- The level of aggression displayed in the referring offense;
- The youth's prior aggression history;
- Prior interventions already attempted by staff at the youth's current facility;
- Any pending adult charges against the youth;
- Requirements that would need to be met to house the youth safely given individual special needs and space in program housing; and
- Any mental health issues the youth may have.¹⁸⁴

TJJD identifies youth admitted to the Phoenix Program as a high-need population, with significant aggression control issues. Additionally, 50% are qualified as having special education needs, and 75% have a high to moderate need for alcohol or other drug treatment.¹⁸⁵ Youth typically enter the Phoenix Program with significant histories of misbehavior in other secure facilities. Every youth referred to the Phoenix Program through a Level II hearing process was given this consequence after being found responsible for assault or fighting, causing bodily injury to another, or, in one case, chronic assaultive behavior.

The Phoenix Program is designed to reduce the youth's aggression through intensive therapy; participating youth attend skill development groups that meet five days per week. The groups are generally based on evidence-based principles drawn from either an Aggression Replacement Training or Cognitive Life

180. Ibid.

181. Thomas, interview.

182. 37 Tex. Admin. Code § 380.9535 (f) (2012), <http://www.tjjd.texas.gov/policies/gap/95/gap380.9535.html>.

183. Texas Juvenile Justice Department, *Case Management Standards*, 03.75, (October 15, 2012), <https://www.tjjd.texas.gov/policies/CMS/03/cms0375.html>.

184. Ibid., at (2)(E).

185. "Response to Office of the Independent Ombudsman Fourth Quarter Report, FY 2012," Texas Juvenile Justice Department, October 4, 2012, accessed December 20, 2012, http://www.tjjd.texas.gov/ombudsman/reports/rpt_FourthQuarter_12_Comments.pdf.

Skills Curriculum.¹⁸⁶ However, a TJJD administrator characterized the Phoenix Programming as mixing components of ART with social skills development to form a hybrid curriculum.¹⁸⁷ The Phoenix Program curriculum is devoted to teaching youth skills that can be carried with them back to the TJJD facilities where they were originally housed.¹⁸⁸

Once a youth has successfully completed the Phoenix Program, policy states that he will be assigned to a TJJD secure facility appropriate for his treatment needs. At the new facility, the youth is assigned to the Redirect Program's transition stage and eventually reintegrated back into the general population.¹⁸⁹

Between its inception in July 2012 and November 30, 2012, the Phoenix Program admitted a total of 23 youth; as of November 30, 2012, it had an on-hand population of 10 youth with an additional 4 youth waiting in Redirect Programs to be approved for transfer into the Phoenix Program.¹⁹⁰ Key findings regarding the youth in Phoenix as of November 30, 2012 include:

- On average, youth spend 66 days in the Phoenix program; as of November 30, 2012, three youth had been in the program for more than 100 days.¹⁹¹
- One of the longest-term youth had been there 109 days, due to an assaultive incident in the Phoenix Program that further delayed his graduation.¹⁹²
- Of the youth admitted to the Phoenix Program between July and November of 2012, roughly 75% had previously spent time in Redirect at their home facility.
- Twelve of the 23 youth who had entered the Phoenix Program had graduated. Of these 12, 11 were returned to TJJD secure facilities while 1 was sent directly to TDCJ-ID for additional crimes he committed while in TJJD prior to being accepted to the Phoenix Program.¹⁹³
- Once Phoenix youth were returned to the original facility, they initially entered the Redirect Program. They continued to receive transition assistance and supervision from Phoenix Program staff.¹⁹⁴
- Only one Phoenix Program graduate had committed an additional assault upon returning to his original facility as of November 30, 2012.¹⁹⁵

One way to gauge the effectiveness of the Phoenix Program is to examine the number of serious incidents that have occurred in this facility. **Figure 4.3** displays the number of major rule violations, including violent causing injury, violent not causing injury, and non-violent rule violations, reported from the Phoenix Program from August 2012 (soon after it opened) through December 2012.

186. "Response to Fourth Quarter Report, FY 2012," Texas Juvenile Justice Department.

187. Thomas, interview.

188. "Public hearing handout," *Texas Juvenile Justice Department*, August 3, 2012, accessed December 20, 2012, www.tjjd.texas.gov/docs/August3rdPublicHearing.pdf.

189. 37 Tex. Admin. Code § 380.9535 (m)(2) (2012), <http://www.tjjd.texas.gov/policies/gap/95/gap380.9535.html>.

190. Redirect & Phoenix, January – November 2012, TJJD.

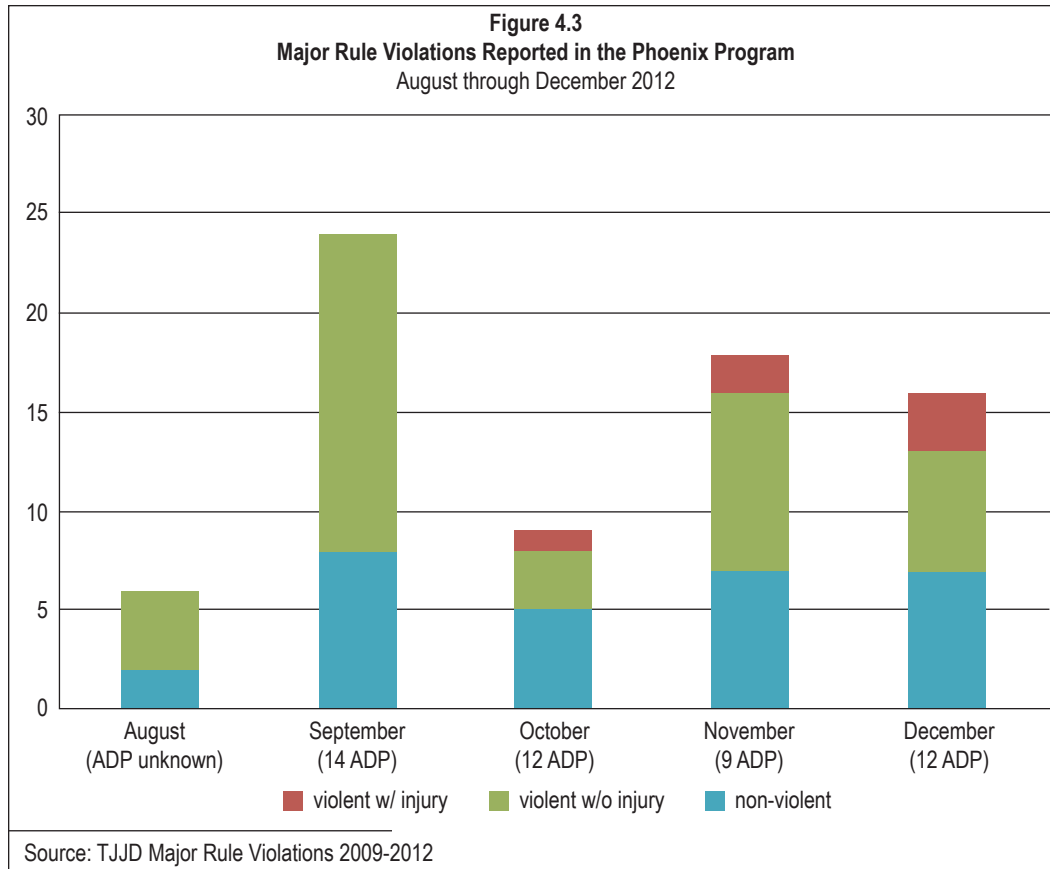
191. Ibid.

192. Thomas, interview.

193. Ibid.

194. "Response to Fourth Quarter Report, FY 2012," Texas Juvenile Justice Department.

195. Thomas, interview.



As **Figure 4.3** indicates, the number of major rule violations indicates that this high-intensity program is not immune from the behavior management challenges seen in all of the other TJJD facilities. The average daily population for the Phoenix program ranges between 9 and 14 youth. Out of the 23 total youth who spent time in the Phoenix program through November 30, 2012, 20 of them were involved in incidents of major rule violations while in this heavily structured and controlled program. Incidents of violence, both with and without injury, account for approximately 50% of the major rule violations in Phoenix, and the number of violations remains relatively high several months after the program’s start. The youth being referred to Phoenix are undoubtedly a particularly challenging group of youth and have shown a proclivity for violent behavior. The program’s success, however, should be measured in part by its ability to quell this type of behavior, especially given the amount of time spent in highly-structured programming, the 4-to-1 staff-to-youth ratio, the amount of time youth spend in their cells, and the fact that they are shackled during movement through the facility.

Another gauge of the level of violence is the number of incidents that result in referrals and admittance to security. Incidents involving violence are more likely to result in a youth being referred and admitted to security. It is important to note that, since Phoenix is a stand-alone program housed in a security unit, youth who are referred to security from the Phoenix Program do not actually leave their building for another housing assignment. The Phoenix Program essentially functions as its own security unit. Youth who are referred to security are locked in their individual rooms until they are released from that status. However, the same due process protections apply; for example, a Phoenix Program youth cannot be confined in his locked room beyond the one-hour evaluation window without a hearing to determine if he meets the criteria for referral to security. From July through October 2012, 36% of the incidents of major rule violations in Phoenix resulted in a youth being admitted to security.¹⁹⁶

196. Texas Juvenile Justice Department, “Total CCFs 225 at McLennan I Over the Last Year,” Provided to the Office of the Independent Ombudsman, last updated: October 29, 2012.

Three primary concerns have been raised about the Phoenix Program. First, the frequency of incident reports and security referrals among this small group of youth suggests that the Phoenix Program's concentration of seriously disruptive youth in a small, closed, high-security facility may exacerbate rather than solve their behavioral issues. Second, the Phoenix Program lacks a cap on how long youth can remain in the program, raising the specter that these youth may be permanently separated from the rest of the general population and permanently deprived of the programs and services to which these other youth have access. Finally, some observers fear that removing disruptive youth from TJJD facilities and putting them in the Phoenix Program does not solve the agency's underlying problem with controlling youth misconduct, a concern bolstered by the fact that the level of violence across TJJD as a whole rebounded soon after the creation of the Phoenix Program. The removal of a few disruptive youth may simply open up new opportunities for other juveniles to take their places when it comes to asserting power over others or creating disturbances, while not resolving the underlying causes of the violence. Each of these three critiques should be taken into account when evaluating the success of the Phoenix Program and its approach to addressing violence in TJJD's secure facilities.

Finding 4.8: Youth 17 and older are routinely prosecuted on new adult charges for violent offenses committed while in TJJD. Most receive relatively short prison sentences. Younger youth tend to be prosecuted on juvenile charges rather than being certified as adults.

Sometimes a youth's misbehavior in TJJD rises beyond the level of a major or minor rule violation and fits the criteria for criminal charges. When youth commit crimes while in a TJJD secure facility, they become subject not just to the agency's Level II disciplinary process but to prosecution by the state's Special Prosecution Unit (SPU). Youth 14 and older can be certified and tried as an adult for first-degree felonies, aggravated drug crimes, or capital murder, while youth over the age of 15 can be certified and tried as an adult for any felony offense. Youth 17 and older can receive new adult charges for any felony offense they commit while in a TJJD secure facility without going through the certification process since the maximum age of juvenile jurisdiction in Texas ends on a youth's 17th birthday.¹⁹⁷

When acts that potentially amount to criminal behavior occur in a TJJD secure facility, these incidents are initially referred to the Office of the Inspector General (OIG), which then makes a decision about whether to refer the case to the SPU.¹⁹⁸ Once the SPU has received a case, that office evaluates the facts and relevant laws to decide how to proceed. Gina DeBottis, who served as the director of the SPU during the period of our research, reports that the office typically files adult charges only for youth who are 17 or older at the time a new offense is committed; by the SPU's account, certification is a rare occurrence.¹⁹⁹

Data from the SPU confirm that the very few of the youth receiving adult charges for offenses committed in TJJD secure facilities are under 17. These youth are receiving new juvenile charges rather than being certified as adults in the majority of cases.²⁰⁰ The SPU's quarterly reports, which list all cases handled by the office in each quarter and the latest legal development for each case, supports the assertion that certifying youth as adults for offenses committed in TJJD is a rare disciplinary response. Between January 1 and August 2012, SPU records indicate that certification as an adult was pursued in only five cases for youth under age 17.²⁰¹ These five resulted in the youth being successfully certified and eventually sentenced to TDCJ-ID. In these cases, one youth received a sentence of four years, two youth

197. Tex. Family Code, Ann. 54.02 (West) (2007).

198. Gina DeBottis and Allyson Mitchell, interview by Trevor Sharon, November 5, 2012.

199. *Ibid.*

200. "Special Prosecution Unit, Quarterly Reports: Fiscal Year 2012," Texas Juvenile Justice Department, accessed December 20, 2012, <http://www.tjjd.texas.gov/oig/index.aspx>.

201. *Ibid.*

received sentences of five years, and two received sentences of seven years.²⁰² It appears from both the data we collected and interviews we conducted with members of the SPU that certification of younger youth is rare.

In this same time period, 38 youth aged 17 and older were sentenced on adult charges for offenses committed while they were being housed in a TJJD secure facility.²⁰³ While they are awaiting trial, youth with pending charges continue their programming with the general population at TJJD or are held in a security unit, depending on their behavior. A youth may be held in a security unit while awaiting charges if he meets the criteria for admittance.²⁰⁴ If admitted into the security unit, the youth may remain there until his hearing is held.²⁰⁵ From January 1 through September 1, 2012, in cases where youth were sentenced to TDCJ-ID, the average sentence was 2.52 years; however, in six of these cases, youth did not spend any time in TDCJ-ID but were instead placed on adult community supervision, granted deferred adjudication, or sentenced to community service.²⁰⁶ Overall, the sentences of youth sent to TDCJ-ID for new crimes committed in TJJD secure facilities are relatively short (mostly under six years).²⁰⁷

Finding 4.9: TJJD routinely reviews determinate sentenced youth for possible disciplinary transfer to TDCJ, and at least 58 youth age 16 and older were approved for transfer to prison in 2012.

A final tool available to TJJD in coping with violence and misbehavior in secure facilities is the ability to transfer determinate sentence youth to adult prison or parole. Determinate sentence youth are those who were adjudicated for certain serious, violent offenses and received fixed sentences of varying lengths up to 40 years. Determinate sentence youth begin serving their sentence in TJJD facilities and may be transferred to adult prison to complete their sentence at age 19 following a hearing before the juvenile judge who sentenced the youth. However, that transfer decision may be made earlier than age 19 if a youth fails to make adequate progress or commits serious violations while in TJJD custody.²⁰⁸ In dealing with determinate sentence youth, TJJD officials have the option of recommending a youth for early transfer out of TJJD and into adult prison if they are at least 16 years old, have been in a TJJD secure facility for at least 6 months, and meet one of the following behavioral criteria:

- The youth has committed a felony or Class A misdemeanor while in a TJJD secure facility;
- The youth has committed major rule violations confirmed through a Level II hearing on three or more separate occasions;
- The youth has chronically disrupted the program as indicated by five security admissions or extensions²⁰⁹ in one month or ten security admissions or extensions in three months (not including youth self-referrals); or

202. Ibid.

203. Ibid.

204. See *supra*, Chapter IV, Section A (4).

205. Thomas, interview.

206. Texas Juvenile Justice Department, “Special Prosecution Unit, Quarterly Reports: Fiscal Year 2012, Second Quarter, Third Quarter, Fourth Quarter,” <http://www.tjjd.texas.gov/oig/index.aspx>.

207. Ibid.

208. “Sentenced Offenders,” *Texas Juvenile Justice Department*, accessed December 20, 2012, http://www.tjjd.texas.gov/about/sentenced_offenders.aspx.

209. A 24-hour security extension may be authorized to allow a youth to remain in security longer than the initial 24-hour period. Certain criteria must be established through a Level III hearing and no more than 4-extensions may be authorized by facility staff. 37 Tex. Admin. Code § 380.9740 (g) (2009), <http://www.tjjd.texas.gov/policies/gap/97/gap9740.htm#ext>.

- Following alternative interventions, the youth has demonstrated a failure to progress in his or her rehabilitation program.²¹⁰

The decision to transfer a youth to TDCJ-ID represents a decision on the part of TJJD officials that public safety demands that the juvenile serve out the remainder of his sentence in the adult system, given the youth’s long-term pattern of misbehavior.²¹¹

Once supervisory staff at a youth’s secure facility have recommended a youth for transfer, the youth’s file is then sent to the TJJD Central Office in Austin where the Department of Sentenced Offenders reviews the file and makes a recommendation to the agency’s Executive Director who determines whether TJJD believes a youth should be kept in TJJD, transferred to adult prison, or released.²¹² In cases where the Executive Director supports the transfer recommendation, a hearing date is requested and confirmed with the youth’s committing court.²¹³ The case then goes to the committing juvenile judge, who has final authority to decide whether the youth will be transferred out of TJJD.²¹⁴ Ultimately, after the lengthy review process, the youth’s TJJD facility receives the final decision affirming, denying, or modifying the original recommendation (i.e. recommending a youth gets placed on adult parole rather than be sent to adult prison).²¹⁵ Youth whose transfer recommendation is approved by the court will go to adult prison to complete the original sentence imposed by the juvenile judge and will have no further ties to TJJD.

Based on information received from TJJD through the Office of the Independent Ombudsman, we determined how frequently determinate sentence youth were recommended and approved for transfer to TDCJ in 2012. We also assessed whether there is a consistent demographic profile of these youth. Between January 1 and November 19, 2012, 58 youth were recommended for transfer to adult prison by administrators at the youths’ TJJD secure facility. Once these cases went through the TJJD and court approval process outlined above, 50 of them were approved for transfer. Notably, 11 of these youth approved for transfer were under age 18, including 3 who were 16 at the time of transfer.²¹⁶ Demographic information about all youth included in this dataset is in **Table 4.2**.

Table 4.2
Demographic Information for Youth with a Final Transfer Decision, January 1-November 1, 2012

Transfer Decision	Number of Youth	Average Age at Transfer	Percent African American	Percent Hispanic	Percent White	Percent Male
Transfer to TDCJ-ID	50	18.6	50%	42%	8%	90%
Transfer to TDCJ-Parole	6	18.9	50%	16.6%	44.4%	100%
Return to TJJD	2	n/a	50%	0%	50%	50%

Source: Texas Juvenile Justice Department, *Sentenced Offenders Recommended for Transfer*, Jan. 1-Nov. 19, 2012.

210. 37 Tex. Admin. Code § 380.8565 (d) (2010), <http://www.tjjd.texas.gov/policies/gap/85/gap8565.html>.

211. Ibid.

212. 37 Tex. Admin. Code § 380.8565 (f) (2010), <http://www.tjjd.texas.gov/policies/gap/85/gap8565.html>.

213. Texas Juvenile Justice Department, *Case Management Standards*, 02.58, (July 1, 2011), <https://www.tjjd.texas.gov/policies/CMS/02/cms0258.html>.

214. 37 Tex. Admin. Code § 380.8565 (f) (2010), <http://www.tjjd.texas.gov/policies/gap/85/gap8565.html>.

215. Ibid.

216. Texas Juvenile Justice Department, “Sentenced Offenders Recommended for Transfer, Jan. 1-Nov. 19, 2012.”

While awaiting an official transfer date, these youth were kept in locations decided by facility-level officials. Under General Administrative Policy 380.9559, youth may be held in their facility's security unit while awaiting transfer if an alternate placement within the facility is unavailable, if they are likely to interfere with the transfer process, if they represent a danger to themselves or others, or if they have escaped or attempted to escape.²¹⁷ During our visit to the Giddings State School, supervisory staff expressed a preference for keeping youth awaiting transfer in the general population so they can continue receiving programming and treatment.²¹⁸ However, this approach is not mandated by official agency policy.

During the summer of 2012, increased violence in TJJD led to the decision by the agency to review a large number of determinate sentence youth for transfer to adult prison. As a result of this special review, as of August 15, 2012, 40 youth had been recommended by facility staff for transfer to prison and were awaiting a decision by Central Office on whether to refer the cases to the committing judges, while 74 youth were in the process of being reviewed for transfer by their secure facility.²¹⁹ Given that our data from TJJD shows that only 58 youth have been recommended for transfer this year by TJJD secure facilities,²²⁰ it is unclear what ultimately happened to the 74 youth that were being reviewed for possible transfer. Of the 114 youth either approved for transfer or under consideration for transfer, 27 were 16 years old or younger and 2 were under the age of 16 and technically too young to be considered for transfer.²²¹ The ultimate outcomes of all those transfer recommendations and decisions are unclear at this time.

C. Assessing the Strategy of Transferring Youth to Adult Prison

Finding 4.10: Removing youth from TJJD and placing them in adult prisons compromises public safety by increasing the youths' risk of violent recidivism, and puts the youth at substantial risk of physical assault, sexual assault, mental illness, and suicide.

As agency officials look to reduce the incidence of violence in TJJD, one approach has been to seek ways to remove certain youth from TJJD; it was this approach to violence that led to a high volume of youth being reviewed and recommended for transfer to adult prison in the summer of 2012.²²² During this period, then-Executive Director of TJJD Cherie Townsend reported, "When all factors in an assault meet the requirements for criminal prosecution and/or a request for early transfer to the TDCJ, we're doing that."²²³ However, evidence suggests that early transfers to TDCJ and criminal prosecution are both practices that are potentially detrimental to youth.

Some of the most compelling evidence against placing youth in adult prisons comes from the report of a Task Force on violence prevention appointed by the Centers for Disease Control and Prevention (CDC). This CDC Task Force investigated the effects of transferring youthful offenders to the adult criminal justice system and found that the policy was counterproductive, resulting in a 34% increase in

217. 37 Tex. Admin. Code § 380.9559 (2011), <http://www.tjjd.texas.gov/policies/gap/95/gap9559.htm>.

218. Interview with Giddings State School Supervisory Staff, conducted by Lauren Waters, November 2, 2012.

219. Texas Juvenile Justice Department, *Response of Open Records Request 20033*, provided to Deborah Fowler, August 15, 2012.

220. Texas Juvenile Justice Department, "Sentenced Offenders Recommended and/or Transferred to TDCJ-ID, Jan. 1 - Nov. 19, 2012."

221. Texas Juvenile Justice Department, *Response of Open Records Request 20033*, provided to Deborah Fowler, August 15, 2012.

222. Ibid.

223. Information Packet, TJJD Board Meeting, May 4, 2012, 4.

recidivism.²²⁴ One study cited by the CDC found juveniles who serve at least one year in adult prison have a 100% greater risk of *violent* recidivism than those who stay in the juvenile system.²²⁵ The Task Force reached a stark conclusion that it presented to policymakers around the country: “To the extent that transfer policies are implemented to reduce violent or other criminal behavior, available evidence indicates that they do more harm than good.”²²⁶ Indeed, the Task Force found that “transfer of juveniles to the adult criminal justice system generally results in increased rather than decreased subsequent violence compared with violence among juveniles retained in the juvenile system.”²²⁷

One reason behind this increased propensity for future violence is the risk that arises when housing youth among adults. First, juveniles in adult facilities are 500% more likely than their counterparts in juvenile facilities to become victims of sexual abuse and rape.²²⁸ This is in part due to their vulnerability and smaller physical stature. Furthermore, they are 50% more likely to be physically attacked with a weapon by a fellow inmate.²²⁹ Finally, juveniles housed in adult facilities experience higher rates of mental illness and are 36 times more likely to commit suicide than youth in juvenile facilities.²³⁰

In addition to concerns about their safety and mental health, juveniles in adult prisons are deprived of crucial educational and rehabilitative programming. First, juveniles placed in adult prisons lack the educational opportunities found in juvenile facilities. Unlike TJJD, where education is the primary focus of a juvenile's programming, TDCJ provides only minimal education services.²³¹ While TDCJ offers a Youthful Offender Program (YOP) for those youth 17 and under, the available educational and therapeutic programming in the YOP is very limited compared to that offered in TJJD.²³² Once youth turn 18, they are no longer eligible for housing in the YOP and are placed among the general population of adult prisoners, where the educational options are even more constrained.²³³ Juveniles housed in adult prisons are also deprived of proven rehabilitative programs such as the Capital and Serious Violent Offenders Program at the Giddings State School.²³⁴ The Capital and Serious Violent Offenders Program, which includes youth who have perpetrated the most violent of crimes, has a remarkable three-year

224. Angela McGowan, et al., Centers for Disease Control Task Force on Community Preventive Services, “Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services,” *MMWR* (November 30, 2007), 7, accessed March 18, 2013, <http://www.cdc.gov/mmwr/pdf/rr/tr5609.pdf>.

225. Angela McGowan, et al., Centers for Disease Control Task Force on Community Preventive Services, “Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services,” 32 (4S) *American Journal of Preventive Medicine* (April 2007), S13 (citing Jeffrey Fagan, “The comparative impacts of juvenile and criminal court sanctions on adolescent felony offenders,” 18 *Law and Policy* 77-119 (1996)), accessed March 18, 2013, <http://www.thecommunityguide.org/violence/mcgowanarticle4.pdf>.

226. McGowan, “Effects on Violence,” *MMWR*, 9.

227. McGowan, “Effects on Violence,” *American Journal of Preventive Medicine*, S20.

228. Michele Deitch, Anna Lipton Galbraith, and Jordan Pollock, *Conditions for Certified Juveniles in Texas County Jails*, Lyndon B. Johnson School of Public Affairs, (May 2012), 4-5 (citing Prison Rape Elimination Act of 2003, PL 108-79, 117 Stat. 972 (2003)).

229. *Ibid.*, 5 (citing Jeffrey Fagan, et al., “Youth in Prisons and Training Schools: Perceptions and Consequences of Treatment-Custody Dichotomy,” *Juvenile and Family Court*, no. 2, 1989, 10).

230. *Ibid.*, 5 (citing Campaign for Youth Justice, *Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America*, Washington, DC, November 2007, 10).

231. Michele Deitch, *Juveniles in the Adult Criminal Justice System in Texas*, Lyndon B. Johnson School of Public Affairs, (March 2011), 25-26.

232. *Ibid.*, 25-30.

233. *Ibid.*, 25-26.

234. *Ibid.*, 27-30.

success rate of 95% in preventing recidivism.²³⁵ Youth in the adult system, even those in the YOP, are denied this proven, highly-effective therapeutic intervention.

Ultimately, the compromised safety and lack of access to meaningful programming for youth in the adult prison system produce citizens who are more violent and more likely to reoffend. Notably, most youth who get transferred to adult prison from TJJD are serving relatively short sentences. As our data showed, those TJJD youth who were prosecuted as adults and sentenced to TDCJ received an average sentence of just 2.52 years.²³⁶ And the vast majority of those with determinate sentences, including those who are transferred to TDCJ, are serving sentences of 10 years or less.²³⁷ These short sentences mean that these transferred juveniles are getting out of prison while still young, and they are coming back to their home communities with little to no education, skills training, or treatment. Thus, there are serious public safety concerns about the approach of using prosecution or transfer to solve TJJD's problem with violence in the secure facilities.

Finding 4.11: An influx of TJJD youth into TDCJ would face practical space limitations and would severely compromise TDCJ's ability to provide services to youth in the Youthful Offender Program.

Beyond the substantial concerns about risks to youth and public safety, the strategy of transferring TJJD youth to adult prison faces practical limitations. To begin with, TDCJ houses its Youthful Offender Program for youth age 17 and under in the Clemens Unit, an unusually small and old facility in the TDCJ prison system. One cellblock of this facility is dedicated to housing youth in the Youthful Offender Program; the remainder of the facility is used for general population prisoners 18 and older.²³⁸ There is limited space in this cellblock for housing additional youthful inmates. Moreover, the limited programming that exists for these juveniles through the YOP—consisting of basic educational classes and some group therapy—would be compromised if there were an influx of new youth from TJJD. These group therapy sessions, by their nature, are designed to be small groups and there are only a few staff members available to work with these groups.²³⁹ Finally, any 18-year olds transferred from TJJD to TDCJ would not even pass through the YOP but would instead be housed with general population prisoners throughout the prison system, due to federal law requiring the separation of juvenile and adult prisoners in adult prisons.²⁴⁰

D. Conclusion

Since the summer of 2012, TJJD has adopted a number of strategies for dealing with youth misbehavior and violence in secure facilities. Unfortunately, our analysis has revealed that these practices have done little to reduce in any sustained way the incidence of violence thus far: as highlighted in Chapter III of this report, violence and major rule violations in TJJD facilities continued to rise in 2012, with only short-term decreases that appear to correlate with implementation of some of the disciplinary measures.²⁴¹ Moreover, the data raise concerns about the frequency with which TJJD youth are referred to security units, the increasing use of pepper spray at certain TJJD facilities, the level of disruption occurring in the Phoenix Program, the increased numbers of prosecutions of youth in TJJD, and the transfers of determinate sentence youth to adult prison. We also note that the Redirect Program may not be functioning as intended, especially given its placement in the security units. In the next section of this report, we will examine a range of other operational and behavior management strategies that may offer alternative and more effective approaches to addressing TJJD's violence problem.

235. *Ibid.*, 28-29.

236. *See supra*, Finding 4.8.

237. Deitch, *Juveniles in the Adult Criminal Justice System in Texas*, 23 (tbl. 8).

238. Visit to Clemens Unit by author, Texas Department of Criminal Justice, April 5, 2012.

239. *Ibid.*

240. Prison Rape Elimination Act National Standards, 28 C.F.R. Sect. 115.14 (2012) ("Youthful Inmates").

241. *See supra*, Chapter III, Finding 3.2.

Chapter V. Strategies and Best Practices for Addressing Violence in Secure Juvenile Settings

A. Overview of the Multi-Tiered Approach to Behavior Management

As reported in Chapters III and IV, despite the introduction of operational changes to address violence throughout 2012, there has not been a consistent decrease in the level of violence at TJJD's secure facilities. Indeed, the data reflect that the agency knows how to "crackdown" on violence through highly restrictive measures and achieve short-term declines in violent incidents, but any results are short-lived. That is because violence is a chronic problem that needs to be managed on an ongoing basis; it is not something to be fixed with a one-time change in policy or practice. Violence control must be thought of as "behavior management" and effective behavior management is a comprehensive effort that includes changes to facilities and programs as well as changes in the interactions between youth and staff.

This chapter provides a comprehensive analysis of strategies and best practices for reducing violence in secure juvenile facilities. Our analysis is grounded in relevant literature on best practices for managing and operating secure facilities, including evidence-based practices and programs that focus on changing the behaviors that lead to violence between youth at these facilities. We also consulted numerous nationally-regarded experts and practitioners from other state and local juvenile systems on methods for reducing violence in juvenile institutions.²⁴²

Research shows that violence within secure facilities is a symptom of a systemic failure to meet the criminogenic needs of incarcerated youth.²⁴³ Criminogenic needs are strongly correlated with the skill deficits of this population.²⁴⁴ These deficits can reduce youths' ability to address problems in a calm and reasoned fashion, provoking impulsive responses to stressful situations and emotional or violent reactions to perceived disrespect or danger.²⁴⁵ Because incarcerated youth arrive at secure facilities with a

242. The list of experts consulted for this research includes: David Roush and Orlando Martinez, national experts on juvenile justice reform; Mark Steward, former director of Missouri's Department of Youth Services, current director of the Missouri Youth Services Institute, and founder of the "Missouri Model;" Karen Albert, Senior Associate, Pulitzer/Bogard & Associates, LLC; Bob Dugan and Steve Martin, Correctional Consultants; Rebecca Thomas, Director of Integrated State-Operated Programs and Services at the Texas Juvenile Justice Department, Andrea Weisman, Mental Health Monitor Consultant and Trainer for the Treatment Implementation Collaborative that monitors secure juvenile facilities around the country; Amanda Yurick, Associate Professor of Special Education at Cleveland State University and board certified behavior analyst that specializes in analyzing the behaviors of incarcerated youth in the context of their environments; Terry Schuster, Special Assistant to the Federal Court Monitor who helped reform Ohio's Department of Youth Services; Kelly Dedel, mental health expert of incarcerated youth; Brenda Scheuermann, Special Education Programs Coordinator at Texas State University and expert in Positive Behavioral Interventions and Supports (PBIS); Vincent Schiraldi, former director of the Department of Youth Services in the District of Columbia and the current Commissioner of New York City's Department of Probation; and Sheila Mitchell, Chief Probation Officer of Santa Clara County. Numerous county-level probation officials around Texas were also consulted on this project.

243. Latessa, Edward J., and Christopher T. Lowenkamp. "What are criminogenic needs and why are they important," *For the Record* 4 (2005), 15.

244. *Ibid.*

245. *Ibid.*

multitude of skill deficits,²⁴⁶ experts emphasize the need for staff to shift away from traditional punitive approaches to managing this population. Experts say that increased disciplinary sanctions can simply mask the aggressive behaviors of youth.²⁴⁷ Instead, experts recommend using a range of strategies for preventing, intervening, and responding to misbehavior that elicit desired behaviors, promote long-lasting behavioral change in youth, and lead to a systematic reduction in violence in secure juvenile facilities.²⁴⁸

This chapter identifies nine major categories of strategies and best practices for addressing violence in institutional settings:

- Physical environment
- Small group processes
- Staffing practices
- Staff-youth relationships
- Classification
- Structured daily schedules
- Therapeutic interventions
- Managing Behavior Through “Carrots” and “Sticks”
- Discipline and graduated sanctions

In the course of our research, experts consistently emphasized the comprehensive nature of these nine elements; there are no data reflecting the outcome of a single approach. Implemented as a comprehensive strategy, however, these approaches consistently lead to a reduction in violence among incarcerated youth.

Our research shows that across the country the most effective comprehensive behavior management systems in secure juvenile facilities are structured on this premise, that best practice elements work together to create a culture of non-violence. We believe that these nine elements can best be understood within a multi-tiered framework for a comprehensive behavior management system, illustrated in **Figures 5.1** and **5.2** below. Our framework is modeled after Positive Behavioral Interventions and Supports (PBIS), an incentive-based behavior modification system that teaches and strengthens appropriate behavior and reduces challenging behaviors.²⁴⁹ While PBIS is typically applied to classroom settings, research supports its effectiveness with all types and ages of students in all types of settings, including in secure juvenile facilities.²⁵⁰ In fact, we found the individual and systemic strategies used in the PBIS system for reducing violence in schools analogous to the nine best practice elements experts identified for secure juvenile facilities. Therefore, our multi-tiered model tailors the structure of PBIS to the unique nuances

246. Texas Juvenile Justice Department, “Sentenced Offenders Recommended for Transfer, Jan. 1-Nov. 19, 2012”

247. E.g., Vincent Schiraldi, telephone interview by Alycia Welch, Austin, TX, November 6, 2012.

248. Juvenile Court Judge’s Commission et al., “Pennsylvania’s Juvenile Justice System Enhancement Strategy: Achieving Our Balanced and Restorative Justice Mission Through Evidence-Based Policy and Practice,” 24.

249. Brenda Scheuermann and Judy Hall, *Positive Behavioral Supports for the Classroom 2* (New Jersey: Pearson, 2012), 18.

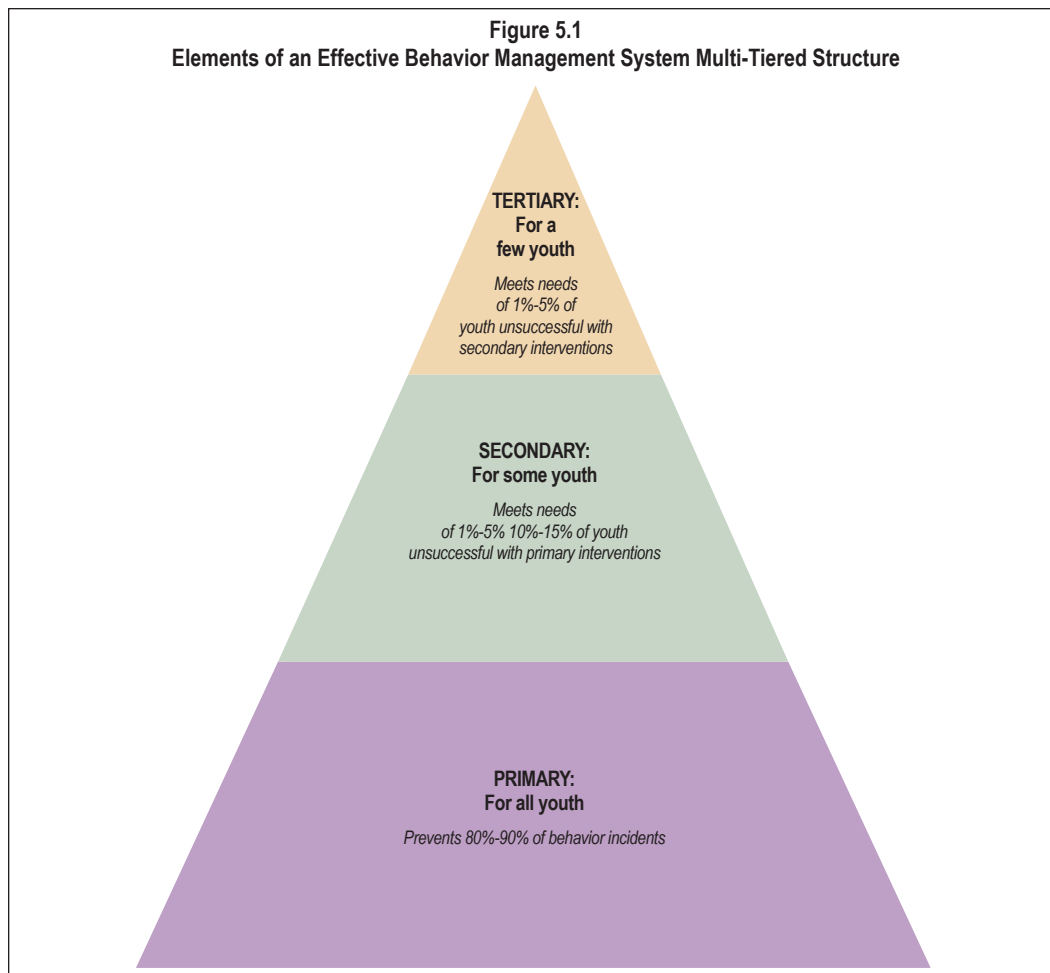
250. Ibid.

of secure facilities as a framework for analyzing best practices for reducing violence and misconduct in TJJD secure facilities.

Figures 5.1 and **5.2** provide a visual image of this behavior management system, and the specific elements of the model are discussed in detail in the rest of this chapter.

First, it is important to understand the logic of the multi-tiered structure of such a system. The purpose of the tiers is to establish a continuum of behavior support interventions and systems designed specifically to prevent the development of new problem behaviors, the triggering of occurrences of problem behaviors, and the exacerbation of existing problem behaviors.²⁵¹ **Figure 5.1** shows the structure of the continuum of behavior support and **Figure 5.2** identifies the types of best practices that should be applied at each tier. The primary tier provides preventive strategies and behavioral support for all youth across all settings within the institution. Eighty to 90 percent of all youth will respond successfully to a positive, proactive environment that emphasizes teaching students how to behave and ensuring that attention is paid to appropriate behaviors rather than simply punishing inappropriate behavior.²⁵²

The secondary tier provides more intensive behavioral supports and interventions for students whose behaviors are not responsive to primary-tier strategies. Another 10 to 15 percent of youth will need



251. Brenda Scheuermann, telephone interview by Patrick Lopez and Alycia Welch, Austin, TX, October 30, 2012.

252. Scheuermann and Hall, *Positive Behavioral Supports for the Classroom*, 18.

Figure 5.2
Elements of an Effective Behavior Management System
Best Practice Elements by Tier

Elements of Primary	Elements of Secondary	Elements of Tertiary
<ul style="list-style-type: none"> • Physical environment: <ul style="list-style-type: none"> – Small facilities – Single rooms – Security measures • Small group processes • Staffing practices • Staff-youth relationships • Classification: <ul style="list-style-type: none"> – Assessments – Safe housing plan – Gang prevention • Structured daily schedules: <ul style="list-style-type: none"> – Education – Therapy – Programs – Activities 	<ul style="list-style-type: none"> • Therapeutic interventions • Security measures • Consequences • Verbal de-escalation • Use of “cool off” area • Managing behavior through “carrots” and “sticks” • Change behavior management plan 	<ul style="list-style-type: none"> • Discipline and graduated sanctions • Safe crisis management procedures for rapid de-escalation • Security measures, use of behavior management unit • Consequences • Increased frequency of therapeutic intervention • Change behavior management plan

these structured and individualized interventions.²⁵³ The tertiary tier provides highly individualized and even more intensive behavioral supports for students whose behaviors are not responsive to primary or secondary tier interventions.²⁵⁴ One to five percent of all youth will need these intensive services.²⁵⁵ Youth move in and out of these tiers as their behavior changes so that youth who were responsive at the secondary tier can move back to the primary tier, removing secondary tier interventions from their behavior management plan.²⁵⁶

This multi-tiered approach is the most effective way to structure a system of discipline in a secure juvenile setting. Discipline means changing behaviors to accord with rules of conduct, and the multi-tiered approach provides a model for how to change those behaviors. As such, the structure of the tiered system is a discipline model that emphasizes the importance of preventing minor misbehaviors from becoming significant problems and managing behaviors effectively so that they do not escalate or become chronic problems.²⁵⁷

This chapter describes in detail the nine categories that are essential elements of an effective behavior management system, and includes relevant examples of best practices within each category as they are employed in secure facilities in other states and in county-level detention centers in Texas. These examples highlight the ways in which each category of best practices addresses the behaviors of incarcerated youth and reduces youth-on-youth violence in these facilities.

253. Ibid, 15.

254. Scheuermann, interview.

255. Ibid.

256. Ibid.

257. Ibid.

B. Elements of the Multi-Tiered Model of Behavior Management

1. Preventative Elements of the Primary Tier

a. The Physical Environment of Secure Juvenile Facilities

Finding 5.1: Secure facilities should be no larger than 50 beds; larger capacities increase the risk of violence occurring between youth. Regionalized facilities that keep youth close to home can help promote a safer environment. However, downsizing that requires transitioning youth to new facilities or merging the populations of existing facilities can destabilize the culture of an institution, which can lead to youth violence.

The physical structure and environment of juvenile institutions have a tremendous impact on the likelihood of violence within that facility. Experts concur that the size and design of the spaces where youth are confined can impact the behavior of youth.²⁵⁸ Proper design of a facility can help prevent violence across all youth populations.

According to The Annie E. Casey Foundation, the superiority of small, community-based juvenile corrections facilities over larger, conventional training schools is widely recognized in the juvenile justice field.²⁵⁹ There are two ways in which smaller secure juvenile facilities prevent the development of aggressive behaviors. First, smaller facilities create an environment more hospitable to treatment. This is important because in a restrictive environment youth are likely to engage in actions designed to exert control over their situation.²⁶⁰ According to David Roush, Director of the National Juvenile Detention Association (NJDA) Center for Research and Professional Development, and Michael McMillen, a specialist in design and planning of juvenile justice facilities, a severely institutional, restrictive juvenile facility may cause youth to attempt to exert control through aggressive, confrontational behaviors that endanger staff or other youth.²⁶¹

Therefore, Roush and McMillen recommend facilities with physical settings that project an image of positive expectations for juveniles.²⁶² Specifically, they suggest natural lighting and physical access to outdoor spaces to reduce impressions of confinement as well as carpeting, furnishings, and other spatial configurations designed to reduce noise and create the perception of a calm and controlled setting.²⁶³

Similarly, according to Mark Steward, founder of the “Missouri Model” and former director of the Department of Youth Services in Missouri, small facilities are easier to design with homelike features that reflect this type of therapeutic community. For example, Hogan Street Youth Facility in Missouri is the highest security level facility in the state and yet it looks no different than the state’s other group home

258. Andrea Sedlak and Karla McPherson. Office of Juvenile Justice and Delinquency Prevention. “Conditions of Confinement: Findings from the Survey of Youth in Residential Placement.” *Juvenile Justice Bulletin* (May 2010), 1.

259. Richard A. Mendel, “No Place for Kids: The Case for Reducing Juvenile Incarceration,” (The Annie E. Casey Foundation: Maryland, 2011), 1-47.

260. David Roush and Michael McMillen, Office of Juvenile Justice and Delinquency Prevention, “Construction, Operations, and Staff Training for Juvenile Confinement Facilities,” *Juvenile Accountability Incentive Block Grants Program Bulletin* (January 2000), 10.

261. *Ibid.*

262. *Ibid.*

263. *Ibid.*, 10-11.

settings because it, too, is designed to resemble a home.²⁶⁴ Dorm rooms at this facility contain comfortable, wooden beds and colorful comforters. Walls are decorated with pictures, murals, and craft projects from treatment group sessions. Day rooms have couches, coffee tables, plants, and wooden furniture, resembling the comfort of a home living room. This stands in stark contrast to the typical corrections-based day room of white walls and hard, plastic bus station seating that reflect a more restrictive living environment.²⁶⁵ Missouri's use of small, non-restrictive facilities has been successful by many measures. Notably, for the past 25 years, the Missouri Department of Youth Services has not been investigated or sued over incidents of violence among incarcerated youth because the frequency of violent incidents remains low.²⁶⁶

According to Vincent Schiraldi, former director of the Department of Youth Services in the District of Columbia and the current Commissioner of New York City's Department of Probation in New York City, it is easier for staff to run the facility in a positive way when there are fewer juveniles in the facility. Juvenile facilities should be small enough that the facility administrator knows the life story of every youth housed in these facilities.²⁶⁷ This creates an environment that is more personal and relationship-oriented and lends itself to an environment in which the youth and staff function as a community.²⁶⁸

The second way in which smaller secure juvenile facilities prevent the development of aggressive behaviors between youth is that smaller facilities are typically incorporated into a regionalized plan for locating these facilities close to the communities of incarcerated youth.²⁶⁹ According to Roush, keeping a youth close to home is important because families play a critical role in supporting changes in a youth's behavior.²⁷⁰ The strain on a family's relationship during a youth's incarceration can alienate that youth from his or her family.²⁷¹ The proximity of a facility to a youth's family can increase the frequency of familial interactions with youth. With the encouragement of staff at the facility, these interactions can lead to positive behavior in youth and long-term, healthy relationships with their family.²⁷²

Missouri DYS is able to engage the families of confined youth because of its localized regionalization plan for facilities, which allows most youth to stay close to home.²⁷³ Since closing its long-troubled training schools in the early 1980s, Missouri has divided the state into five regions and built 33 small, residential facilities in each region to ensure that youth are no more than two hours from their homes.²⁷⁴ None of the facilities holds more than 50 youth, and each of the state's six secure care facilities houses just 30 to 36 youth.²⁷⁵ Since restructuring, Missouri has experienced a 97% reduction in violence within its juvenile facilities.²⁷⁶

264. Mark Steward and Pili Robinson, Ph.D. "Juvenile Justice System Solutions for Texas: Things to Consider." Conference Presentation, 8th Annual Strengthening Youth and Families Conference: Engaging Families, Connecting Communities, Achieving Successful Outcomes from TJJD, Austin, TX, November 9, 2012.

265. *Ibid.*

266. *Ibid.*

267. Schiraldi, interview.

268. Terry Schuster, telephone interview by Alycia Welch, Austin, TX, November 6, 2012.

269. Mark Steward, telephone interview by Alycia Welch, Austin, TX, October 29, 2012.

270. David Roush, telephone interview by Alycia Welch, Austin, TX, November 14, 2012.

271. Mendel, "No Place for Kids: The Case for Reducing Juvenile Incarceration," 34.

272. *Ibid.*

273. Steward and Robinson, "Juvenile Justice System Solutions for Texas: Things to Consider." Conference Presentation.

274. Richard A. Mendel, "The Missouri Model: Reinventing the Practice of Rehabilitating Youthful Offenders," (The Annie E. Casey Foundation: Maryland, 2010), 1-55.

275. Mendel, "No Place for Kids: The Case for Reducing Juvenile Incarceration," 34.

276. Mendel, "The Missouri Model: Reinventing the Practice of Rehabilitating Youthful Offenders," 5.

Other juvenile justice systems are beginning to follow suit. North Carolina shifted to housing no more than 25 youth in its facilities, and since restructuring its system the state's juvenile justice agency has experienced a 40% reduction in violent incidents.²⁷⁷ Over a two-year period, Maryland closed all eight training schools in the state, which at the time housed approximately 1000 youth, and placed them instead into 30-bed facilities.²⁷⁸ Louisiana's Office of Youth Detention is implementing a five-year strategic plan based on the Missouri model of localized facilities.²⁷⁹ The state is working to move juveniles out of large, distant state institutions with a correctional custodial feel and to instead re-situate them in home-like settings where there is a focus on a therapeutic, youth-centered environment.

However, according to Terry Schuster, a federal court monitor working on the Ohio juvenile facility case, deinstitutionalization, while important, can be destabilizing.²⁸⁰ Downsizing the number of youth in facilities often requires merging youth from differing facilities to new environments. This can lead to culture clashes between youth who are not yet fully equipped with the skills needed to manage this type of change.²⁸¹ At the same time, staff members are also forced to transition to different facilities. This can also be destabilizing because staff are challenged by a learning curve as they enter a new environment at a time in which consistency is most crucial. Schuster cautions that this instability can lead to increased levels of violence between youth.²⁸²

Nevertheless, experts and practitioners seem to agree that when it comes to the size of a secure facility, size matters and smaller is better. Specifically, the capacity of any single secure facility should be no larger than 50 beds in order to prevent behavior problems between youth.

Finding 5.2: Violence between youth can be prevented through the use of single-occupancy sleeping rooms in secure juvenile facilities.

Even with intensive supervision by staff, shared sleeping spaces for youth are often a source of increased violence, intimidation, and other undesirable behaviors. As reported in Chapter III, in TJJD secure facilities, the vast majority of major rule violations occur in the dorms.²⁸³ TJJD is not unique in this way. Expert David Roush links increased youth-on-youth injuries to large dormitories with 11 or more residents in one large sleeping space, and he therefore recommends eliminating congregate sleeping arrangements in juvenile facilities.²⁸⁴ Also, a King County, Washington, court held that having three or more youth in one sleeping room was a dangerous, unconstitutional threat to individual safety and ordered a stop to multiple-occupancy sleeping rooms in that jurisdiction.²⁸⁵ Similarly, American Correctional Association (ACA) standards require juvenile living spaces to be designed primarily for single-occupancy sleeping.²⁸⁶

277. North Carolina Department of Public Safety, "Juvenile Justice Division." www.ncdps.gov.

278. Vincent Schiraldi, Marc Schindler, Sean J. Goliday. "The End of the Reform School?" *Juvenile Justice: Advancing Research, Policy, and Practice* (John Wiley & Sons, Inc.: New Jersey, 2011), 409-432.

279. Steward, interview.

280. Schuster, interview.

281. Ibid.

282. Ibid.

283. See *supra*, Chapter III, Figure 3.10 and Finding 3.9.

284. Roush and McMillen, "Construction, Operations, and Staff Training," 12.

285. Ibid., citing *T.I. et al. v. Delia et al.*, No. 90-2-16125-1 (King County Super. Ct. filed Aug. 10, 1990).

286. Roush and McMillen, "Construction, Operations, and Staff Training," 12. See also American Correctional Association. 1991a: *Standards for Juvenile Detention Facilities*, 3d ed. 1991b: *Standards for Juvenile Training Schools*, 3d ed. 1991c: *Standards for Small Juvenile Detention Facilities*.

Moreover, single-occupancy sleeping rooms can help staff manage complications caused by the sleep problems typical for adolescents. Important changes in sleep patterns occur during adolescence since teens generally shift to later circadian cycles, making the traditional early morning start more difficult.²⁸⁷ National surveys on youth in custody report even more sleep problems than teenagers in the general population.²⁸⁸ Therefore, quiet and private single-occupancy sleeping rooms are better suited to the needs of incarcerated youth than are the dormitory-style sleeping spaces.²⁸⁹

Although single-occupancy sleeping rooms are preferable to open-bay dormitories, they are difficult areas to supervise. For this reason, Roush and McMillen believe that sleeping rooms need to be durable and abuse-resistant spaces.²⁹⁰ For example, they recommend that sleeping rooms include stainless steel sanitary fixtures and durable windows and frames. Doors should have vision panels. Rooms should also include audio communication systems that allow residents to contact staff, and for staff to contact and monitor residents.²⁹¹

Other experts and practitioners caution against making single-occupancy rooms overly institutional. If the rooms appear too institutionalized or restrictive, youth may try to exert control by acting out.²⁹² The restrictiveness of sleeping rooms can be reduced by, for example, including carpeted floors to reduce noise or having windows/lighting to reduce the sense of physical confinement.²⁹³ Moreover, single-occupancy rooms must be used in a manner that promotes privacy without becoming a form of isolation or excessive confinement. Decorating rooms with pictures of family members or craft projects completed in therapeutic treatment groups creates a personalized space for youth that encourages positive behavior. Structured this way, single-occupancy rooms can be used as a space for youth to retreat to at the onset of negative feelings. However, when youth retreat to their rooms, staff should keep the doors to the room unlocked so that youth do not associate the space with punishment. Because of the tendency of single-occupancy rooms to promote restrictive living environments, Missouri uses dormitory settings, which provide a shared space so youth learn to live in community with one another.²⁹⁴

To our knowledge, the Giddings facility is the only TJJD facility that continues to have open-bay dormitories. Some of these dormitories at Giddings are in the process of conversion to single cells. On a recent visit, we noted that the partially completed cells have a strong institutional quality to them and lack the amenities that could help make youth feel less restricted when confined in these spaces at night. The degree to which facility policies will limit the ability of staff to restrict youth to their cells is unclear at this time. Also, our youth tour guides raised the point that when the teens are locked in their cells overnight, they do not have the ability to control access to toilets, raising the potential for conflicts with staff who refuse to grant access or fail to respond to repeated requests.

Finding 5.3: Properly employed security measures, including appropriate placement of surveillance cameras, can serve as a deterrent to violent behavior by youth.

It is important that administrators and staff not overlook the importance of following basic security measures, since the security of facility features such as doors, windows, and cameras can affect the staff's ability to manage youth. Specifically, security breaches often occur when staff members accidentally leave windows or doors unlocked. Indeed, security audits conducted at TJJD during the summer of

287. Sedlak and McPherson, "Conditions of Confinement," 4-5.

288. Ibid.

289. Ibid.

290. Roush and McMillen, "Construction, Operations, and Staff Training," 12.

291. Ibid.

292. Ibid., 10-11.

293. Ibid.

294. Steward, interview.

2012 revealed that numerous state vehicles in parking lots had been left unlocked.²⁹⁵ Staff should physically check that each door and window is secure each time they walk by.²⁹⁶

The *Desktop Guide to Good Juvenile Detention Practice*, published by the National Juvenile Detention Association, suggests that surveillance cameras can be helpful in supplementing direct supervision of youth by staff.²⁹⁷ But the *Desktop Guide's* authors also point out that cameras can lull staff and administrators into a false sense of security unless they are properly deployed and monitored.²⁹⁸

Therefore, experts suggest five ways that cameras should be employed to help ensure the security of the facility. First, the cameras should be placed so that they can monitor perimeter security as well as areas with low staffing.²⁹⁹ Administrators need to ensure that there are no blind spots or areas with no camera visibility in the facility since these locations tend to be prime spots for violent incidents or illegal activity.³⁰⁰ If there are unavoidable blind spots, staff should take additional security precautions in these areas. Second, these cameras must be a supplement to staffing, not a substitute for direct supervision staff.³⁰¹ As the warden of a juvenile facility points out, offenders will break rules when they know cameras are in place, but will not engage in the same behavior in front of staff.³⁰² Third, there need to be staff members assigned to monitor the footage from these cameras, ideally in real time. As security devices, cameras are only as good as the human beings who are observing the camera feed and using the cameras to enhance their presence throughout the facility.³⁰³ Fourth, the security tapes should be maintained for a reasonable length of time rather than wiped clean after a short period in order to support investigations of any incidents that occur. Finally, monitoring systems need to include both audio and visual input.³⁰⁴ *New York Magazine* reported in 2011 that an increase in youth-on-youth violence at the Riker's juvenile facility in New York City was due in part to the fact that the facility's cameras had no audio component. This made it difficult for investigators reviewing the footage of an incident to determine the circumstances involved and to assess appropriate disciplinary responses.³⁰⁵

b. Small Group Processes

Finding 5.4: Small group living environments and activities promote positive behavior between youth residing in secure juvenile facilities.

Research shows that youth are better behaved when they participate in small group activities that allow for positive interactions with their peers. Experts have found that within secure facilities, youth should be placed into small, family-like groups of no more than 12 youth and that members of these small groups should

295. Brandi Grissom, "Inspections Reveal Security Issues at Youth Facilities." *The Texas Tribune*, August 7, 2012.

296. David Roush and Shay Bilchik, "Desktop Guide to Good Juvenile Detention Practice," National Juvenile Detention Association, October 1996: 79.

297. Ibid.

298. Ibid.

299. Ibid.

300. Ibid.

301. Ibid.

302. Mark Saunders, "Security in the Round," *Corrections Today* (October 2008): 1, accessed December 20, 2012 <http://www.aca.org/publications/ctarchives3.asp>.

303. Ibid., 1.

304. Roush and McMillen, "Construction, Operations, and Staff Training," 11.

305. Geoffrey Gray, "The Lord of Rikers," *New York Magazine*, January 30, 2011.

participate in every aspect of daily life together during their incarceration.³⁰⁶ Structured grouping of youth within facilities is a strategy and best practice for both prevention and early intervention tiers of behavior management for two reasons. First, the cohesiveness of a group is essential to achieve treatment gains and is an important condition for a change in behavior.³⁰⁷ In every Missouri facility, youth are placed in small groups that participate together in all education, treatment, meals, recreation, and free time.³⁰⁸ Throughout their stays in Missouri's juvenile institutions, youth are challenged in these groups to discuss their feelings, gain insights into their behaviors, and build their capacity to express their thoughts and emotions clearly, calmly, and respectfully—even when they are upset or angry.³⁰⁹ The consistency of the group does not allow young people to hide or withdraw, and when aggressive feelings arise, a youth's peers challenge them to confront those feelings in meaningful and productive ways.³¹⁰ This dynamic is very similar to the approach used in TJJD's Capital and Serious Violent Offenders Program, a highly successful and intensive therapeutic program that relies on group support to encourage changes in behavior.³¹¹

The small group structure uses the concept of peer pressure in a positive way by encouraging youth to reinforce the skills learned in therapeutic programming that youth attend together.³¹² In small, family-like groups, youth come to recognize each other's triggers for aggression, which can prevent violence.³¹³ This is another reason that the violence that plagues many juvenile prisons is nearly absent in Missouri's secure facilities. Furthermore, in Missouri's facilities, staff are 11.5% less likely to be assaulted by youth than in other states.³¹⁴ The Washington D.C. juvenile system also instituted a small group structure in the secure juvenile facilities and improved the conditions of a system plagued by chronic violence.³¹⁵ According to Sheila Mitchell, Chief Probation Officer of Santa Clara County (CA), the Santa Clara County Probation Department was also advised by Missouri's experts to structure secure facilities in a group-oriented way. This has reduced violent gang activity there by 78%.³¹⁶

The second reason the internal structure of small groups can reduce violence in secure facilities is because youth are safer when the youth-to-staff ratio is low. Roush and McMillen suggest that housing units should support no more than 8 to 12 residents because this is the most a single staff person can manage effectively and with a high level of safety. Youth may also be separated into even smaller housing groups for programming purposes or for certain categories of offenders.³¹⁷ Furthermore, Roush and McMillen point out that it is harder for staff to provide immediate support to individual youth when they are arranged in large groups, and it is more difficult to move large groups from place to place for various

306. Steward, interview.

307. William L. Marshall and David L. Burton. "The importance of group processes in offender treatment," *Aggression and Violent Behavior*. (2010), 143.

308. Mendel, "No Place for Kids: The Case for Reducing Juvenile Incarceration," 34.

309. Ibid.

310. Steward, interview

311. See generally John Hubner, *Last Chance in Texas: The Redemption of Criminal Youth*, (Random House: New York, 2005).

312. Steward, interview.

313. Ibid.

314. Steward and Robinson. "Juvenile Justice System Solutions for Texas: Things to Consider." Conference Presentation.

315. Solomon Moore, "Missouri System Treats Juvenile Offenders With Lighter Hand," *New York Times*, 26 Mar. 2009, http://www.nytimes.com/2009/03/27/us/27juvenile.html?pagewanted=all&_r=0

316. Sheila Mitchell, Chief Probation Officer, Santa Clara County, California, telephone interview by Alycia Welch, Austin, TX, November 8, 2012.

317. Roush and McMillen, "Construction, Operations, and Staff Training," 11.

program activities.³¹⁸ To address this problem, Missouri conducts treatment and education programs in cottages or dormitory settings.³¹⁹

Missouri's DYS assigns a single case manager to oversee each youth from the time of commitment through release and into aftercare, and it provides youth with extensive supervision and support throughout the critical reentry period.³²⁰ This means there is always a case manager watching what the youth is doing while at the same time providing positive encouragement, which serves as a deterrent to violent behavior.³²¹

c. Staffing Practices

Staffing practices such as staff-to-youth ratios, turnover, and deployment directly impact staff members' ability to monitor youth, provide for youth safety, and allow for quality interactions and support.³²² This, in turn, affects the level of violence and number of incidents in a facility. Appropriate staffing practices are key to ensuring a safe environment for all youth and staff members.

Finding 5.5: Small staff-to-youth ratios promote positive behavior among youth and help prevent violence.

The higher the staff-to-youth ratio, the more staff interactions will help prevent behavior problems in secure facilities. According to Roush and McMillen, higher staff-youth ratios allow staff additional opportunity to work with youth and help staff identify and resolve problems before violence escalates.³²³ Moreover, high staff-youth ratios allow juveniles to feel safe, making them less likely to act out.³²⁴

Roush and McMillen suggest an overall minimum staff-to-youth ratio of one staff person to every 8 to 10 youth, but ideally one staff person should directly supervise only about 6 to 10 youth at a time.³²⁵ These ratios are so widely considered a measure for reducing violence in secure facilities that the Department of Justice's (DOJ) included them in newly-issued regulations for enforcing the Prison Rape Elimination Act (PREA). The PREA Standards, designed in part to prevent youth-on-youth sexual violence, mandate that by October 2017, juvenile facilities maintain staff-to-youth ratios of 1 to 8 during waking hours and 1 to 16 during sleeping hours.³²⁶ The PREA ratios include security or direct-care staff only.³²⁷

TJJD has previously identified low staffing ratios as a concern for the agency. Indeed, in July 2012, Acting Director Jay Kimbrough found one TJJD staff member (including non-security staff) for about 8 to 12 youth.³²⁸ He recommended that each TJJD facility hire 10 to 20 additional part-time workers in

318. *Ibid.*, 9.

319. Steward, interview.

320. Steward and Robinson, "Juvenile Justice System Solutions for Texas: Things to Consider." Conference Presentation.

321. Steward, interview.

322. Roush and McMillen, "Construction, Operations, and Staff Training," 17.

323. *Ibid.*

324. *Ibid.*

325. *Ibid.*, 17. Sheila Mitchell, Chief Probation Officer of Santa Clara County, California, believes such low staff-to-inmate ratios are so important in preventing violence that her agency reduced staff ratios in half to 1 staff per 6 youth during the day and 1 staff per 10 to 15 youth at night.

326. 28 C.F.R. § 115.313(c).

327. *Ibid.*

328. Grissom, "Inspections Reveal Security Issues."

order to reduce the ratio to 6 youth per staff member.³²⁹ To our knowledge, some but not all of these positions have been filled.³³⁰ Notably, the agency has requested funding for additional security staff positions in its Legislative Appropriations Request to the 83rd Legislature.³³¹

Finding 5.6: High rates of staff turnover can destabilize a facility, contributing to the risk of youth violence.

Staff members who are inexperienced or unqualified can have trouble adequately supervising youth and providing for their safety. Detention facilities experiencing frequent staff turnover have consistently high numbers of new, inexperienced staff members who are less familiar with the individual youth, security procedures, and crisis de-escalation techniques; as such, these staff are less effective in managing the youth and preventing violence.³³² Indeed, high staff turnover means that these staff members often do not have meaningful relationships with the youth, which may contribute to the youths' willingness to act out and to assault staff members.

Compounding the problem of frequent turnover is the difficulty detention facilities face in attracting qualified candidates for vacated positions. Uncompetitive salaries and remote locations may discourage skilled candidates.³³³ For example, skilled nurses choosing the private sector over juvenile correctional institutions can make \$15,000 to \$20,000 more and do not have to move to remote or rural locations.³³⁴

Some jurisdictions have found mentorship programs to be helpful in both reducing staff turnover and increasing staff preparedness. For example, the Southwest Idaho Juvenile Detention Center recently developed a program that pairs new employees with staff mentors (separate from supervisors).³³⁵ The mentors demonstrate skills for trainees and debrief with trainees at the end of each shift to help address problems and encourage persistence. The program has improved staff retention rates and has also helped new staff quickly develop preparedness and necessary skills.³³⁶ Another best practice for preventing staff turnover and addressing staff preparedness is to provide high quality training for new staff. When staff feel adequately prepared for their jobs, they experience more success and are less likely to leave the job quickly. Staff training will be discussed in more detail below.

TJJD facilities report high staff turnover rates and difficulty in recruiting skilled workers. TJJD experienced a 25% turnover rate among all staff in 2010.³³⁷ Though this is a marked decrease since 2007, when TJJD experienced 41% turnover, the 2010 rate is still among the highest turnover rates of all state agencies.³³⁸ Turnover remained a problem in 2012; indeed, TJJD Executive Director Mike Griffiths

329. Ibid.

330. Debbie Unruh, Chief Ombudsman, Office of the Independent Ombudsman for TJJD, email message to author, November 27, 2012.

331. Texas Juvenile Justice Department, *Legislative Appropriations Request: For Fiscal Years 2014 and 2015*, (Governor's Office of Budget, Planning and Policy and the Legislative Budget Board: 2012), 143.

332. Roush and McMillen, "Construction, Operations, and Staff Training," 17-18, 20.

333. Joyce Fogg, "Face the Facts: We Need to Focus on Recruitment," *Corrections Today* (August 2008): 1, accessed December 20, 2012, <http://www.aca.org/publications/ctarchives3.asp>.

334. Ibid.

335. Sean Brown, "Training Program Holds Officers Accountable," *Corrections Today* (June 2010): 74.

336. Ibid., 74-75.

337. Sunset Advisory Committee, "Final Report" (July 2011).

338. Ibid., 15.

blamed an incident of rock-throwing and violence among juvenile offenders on the high staff turnover that has resulted in less experienced guards “on the front lines.”³³⁹ As for recruiting qualified staff, the agency finds it difficult to recruit specialized treatment and education professionals to remote locations like Giddings or Brownwood. In 2010, several substance abuse treatment positions at the Al Price Facility in Beaumont and mental health provider positions at the Residential Treatment Center in Corsicana remained vacant for months.³⁴⁰

Finding 5.7: Staff should be deployed in a way that allows staff to maintain a high degree of supervision in housing and activity spaces, since these are the areas where violence among youth most commonly occurs.

According to Roush and McMillen, another best practice for maximizing safety and minimizing altercations is to deploy staff across housing and activity spaces in a way that allows staff to maintain a high degree of supervision.³⁴¹ Specifically, staff should always be present to supervise any youth circulation between physically controlled zones and to supervise youth in their housing areas. After all, youth are most prone to disobeying rules when they are in close proximity to one another while traveling to the next activity or when in housing areas.³⁴² Indeed, the data presented in Chapter III showed that major rule violations overwhelmingly occur in the housing areas of TJJD’s secure facilities.³⁴³ Staff should also be strategically deployed to supervise any areas where camera angles, corners, or building layouts might allow youth to hide or engage in negative behaviors.³⁴⁴ Youth should not be able to conceal themselves in unsupervised rooms or corners.³⁴⁵

Roush and McMillen also recommend that staff supervisors remain highly visible; youth are less likely to engage in negative behaviors if they know they are being monitored at all times.³⁴⁶ Youth should know that even during periods of low staffing, remote audio and visual monitoring systems are supplementing direct supervision.³⁴⁷ Finally, staff seniority should be taken into account in determining how, where, and when staff will be deployed. The most inexperienced staff should not be assigned to what is determined to be the most dangerous shift.³⁴⁸

TJJD may in fact suffer from staff deployment issues. Security audits conducted at TJJD during the summer of 2012 revealed important gaps in staff monitoring of youth. Specifically, youth at Giddings were moving around campus unescorted or left to work alone outside.³⁴⁹ During our research team’s visit to Giddings, youth with whom we met also indicated that some staff are not punctual and even sleep on the job. For example, when they try to contact staff at night to get permission to use the restroom, staff members often do not respond because they are asleep.

339. Mike Ward, “Melee at Youth Lockup Underscores Stubborn Problems at Juvenile Agency,” *Austin American-Statesman*, October 26, 2012.

340. Sunset Advisory Committee, “Final Report” (July 2011), 15-16.

341. Roush and McMillen, “Construction, Operations, and Staff Training,” 11.

342. *Ibid.*

343. *See supra*, Chapter III, especially Figure 3.10 and Finding 3.9.

344. *Ibid.*

345. *Ibid.*

346. *Ibid.*

347. *Ibid.*

348. Gray, “The Lord of Rikers.”

349. Grissom, “Inspections Reveal Security Issues.”

Finding 5.8: Staff training is the most important source of prevention of misbehavior in juvenile facilities. New staff should receive as many hours of training as possible, and ongoing in-service training should be required for experienced staff. TJJD exceeds the recommended numbers of pre-service training hours.

Agencies often limit the time and resources devoted to staff training, citing scarce funding and scheduling difficulties. Yet juvenile corrections staff consistently rank additional training as their highest need.³⁵⁰ Experts say that staff training is the single most important contributor to the quality of juvenile detention services.³⁵¹ David Roush highlights the links between inadequate staff training and serious problems like youth suicide and youth-on-youth violence.³⁵²

The National Juvenile Detention Association recommends that juvenile detention workers receive 40 hours of pre-service training and 40-80 additional hours of in-service training during the first year.³⁵³ The American Correctional Association (ACA) standards go further, recommending a full 160 hours of training for new juvenile corrections staff during their first year.³⁵⁴ Karen Albert, a consultant on staff training for state juvenile facilities nationwide, says that an agency can never provide too many training hours.³⁵⁵ In fact, the exact number of hours does not matter as much as quality, content, and delivery of that instruction.³⁵⁶ During the first year on the job, staff should engage in the training hours necessary for preparation. For example, staff coming in with bachelor's degrees in relevant fields like psychology and criminal justice may not need as much training as staff without that background knowledge.³⁵⁷

According to Albert, after the first year, staff should continue to receive training. The total number of hours does not matter as much as the opportunity to refresh and practice skills in a safe environment.³⁵⁸ Many facilities provide yearly in-service training that goes over the same procedures, such as search procedures, every year. The “annual in-service” model is ineffective because staff tune out anything but new information.³⁵⁹ Rather than one annual session that reviews the same skills each year, continuing staff should have access to short and frequent sessions that provide information on new legislation and research and gives them the opportunity to practice new or weak skills.³⁶⁰

By state law, TJJD is required to provide juvenile correctional officers with at least 300 hours of training before the officers can assume sole supervision of youth.³⁶¹ TJJD's Agency Training Plan calls for 320

350. Roush and McMillen, “Construction, Operations, and Staff Training,” 20.

351. David Roush and Michael Jones. “Juvenile Detention Training: A Status Report.” *Federal Probation Journal* 60 (1996), 54.

352. Roush and McMillen, “Construction, Operations, and Staff Training,” 20.

353. Roush and Bilchik, “Desktop Guide,” 59.

354. Roush and McMillen, “Construction, Operations, and Staff Training,” 20.

355. Karen Albert (Senior Associate, Pulitzer/Bogard & Associates, LLC.), telephone interview by Therese Edmiston, September 26, 2012. Note: The principal author of this report, Michele Deitch, has worked with Pulitzer/Bogard & Associates and Karen Albert on several projects outside of Texas.

356. Albert, interview. See also Huerta-Garcia, Silvia. “Staff Training and the Impact on Institutional Culture.” *Corrections Today* (December 2005): 3, accessed December 20, 2012, <http://www.aca.org/publications/ctarchives3.asp>.

357. Albert, interview.

358. Ibid.

359. Ibid.

360. Ibid.

361. Tex. Hum. Res. Code Ann. § 242.009(b); 37 Tex. Admin. Code § 105.1(a).

hours of pre-service training, well above recommended best practices and the state requirement.³⁶² TJJD should be commended for its commitment to thorough training of new officers.

Finding 5.9: The quality of training and scope of curriculum is more important than the number of hours of training staff receive. Staff must be trained on relationship-building, adolescent mental health issues, and cultural awareness issues, among other topics. TJJD’s training curriculum includes most recommended subject areas, but does not appear to cover mental health issues.

According to training expert Karen Albert, the content of the training curriculum is even more important than the number of hours staff spend being trained.³⁶³ Training on certain subjects is essential from the standpoint of improving facility safety. The OJJDP recommends training juvenile facility staff in all of the following subjects:

- Job skills (security procedures, supervision of youth, report writing, and key control);
- Suicide prevention (signs of suicide risk and precautions);
- Emergency procedures (fire procedures and use of force regulations and tactics);
- Relationship building (communications skills, social and cultural lifestyles of youth, and adolescent growth and development);
- Juvenile rules and regulations; and
- Juvenile rights and responsibilities.³⁶⁴

Albert suggests that training in relationship building is most important in preventing misbehavior and maximizing safety in a juvenile facility.³⁶⁵ Experts agree at least a quarter of the therapeutic change observed can be directly attributed to the nature of the relationship formed between the client and the treatment provider.³⁶⁶

Many juvenile offenders have complicated family and educational histories that lead them to mistrust adults. Training in relationship building should cover effective use of authority, expressions of disapproval that redirect a youth’s behavior, and appropriate ways to reinforce problem-solving skills in youth.³⁶⁷ Staff members who understand how their job influences relationships with youth are most successful at preventing misbehavior between youth. For example, training in relationship building might help staff understand that youth want to feel in control and might refuse to respond to a directive if the youth feels it is just another order from an authority figure. Staff members who understand the reason for noncompliance are more likely to effectively promote positive behavior response among youth.³⁶⁸

362. TYC Human Resources Division, “2012 Agency Training Plan,” revised November 15, 2011.

363. Albert, interview.

364. Roush and Bilchik, “Desktop Guide,” 60.

365. Albert, interview.

366. Andrew Day and Patrick Doyle, “Violent offender rehabilitation and the therapeutic community model of treatment: Towards integrated service provision?” *Aggression and Violent Behavior* 15 (2010), 382.

367. Ibid.

368. Ibid.

According to Roush, staff must also be trained in diversity awareness as part of their training in relationship building.³⁶⁹ Staff professionals and juvenile offenders often come from different cultures. This can result in cultural misunderstandings whereby staff or youth perceive disrespect or inappropriate behavior where none is intended, in turn leading to conflicts between staff and youth.³⁷⁰ To prevent such conflict, experts agree that staff training should highlight the differences in culture, socialization, and race between staff and youth that will affect staff members' ability to relate to juveniles and respond to crisis situations.³⁷¹ Staff training should help staff members become aware of their own issues and prejudices and also to gain an accurate working knowledge about the youths' varying cultures.³⁷²

Staff training must also include mental health issues training, according to Dr. Lisa Boesky, an expert in mental health training for juvenile justice and educational professionals.³⁷³ The majority of youth involved with the juvenile justice system have special mental health needs; in fact, studies estimate that anywhere between 65 and 70 percent of juvenile offenders have at least one diagnosable mental health disorder.³⁷⁴ Indeed, our own findings in Chapter III indicate that TJJD youth have on average 4.3 mental health diagnoses.³⁷⁵ Boesky notes that certain supervision and management strategies are more effective with mentally ill youth.³⁷⁶ Also, when a crisis situation occurs, staff who do not understand the youth's mental illness may unintentionally escalate the situation.³⁷⁷ Finally, staff may inadvertently reward angry outbursts or violence if they have not learned how to reinforce pro-social ways of coping.³⁷⁸

Boesky believes that the best mental health training includes information that makes clinical material understandable, is tailored to staff members' specific job duties, provides realistic management and supervision recommendations, and includes real-life case examples.³⁷⁹ She also believes that it is beneficial to send entire staff teams to the same outside mental health training so the entire team is exposed to the same information. Juvenile staff teams frequently report that after they work together to learn about mental health issues, they experience decreased episodes of self-injury and aggression or violence.³⁸⁰

Assessment of the detailed content or quality of TJJD's training curriculum is beyond the scope of this project. However, a cursory review of TJJD's 320-hour training schedule for new officers reveals that this training does cover many subjects recommended by the OJJDP, including job skills ("wake up procedures"; "shift change"; etc.); suicide prevention; emergency procedures ("emergency situations"; "first aid"); and juvenile rights and regulations ("youth rights"; "PREA and preventing sexual misconduct").³⁸¹

369. Roush and Bilchik, "Desktop Guide," 184-85. See also Crisis Prevention Institute. "Cultural Competence in Crisis Intervention," accessed September 23, 2012, <http://www.crisisprevention.com>.

370. Ibid.

371. Crisis Prevention Institute, "Cultural Competence."

372. Ibid.

373. Lisa Melanie Boesky, "Mental Health Training in Juvenile Justice," *Corrections Today* (August 2001): 98.

374. Kathleen Skowrya and Joseph Cocozza. "A Blueprint for Change: Improving the System Response to Youth with Mental Health Needs Involved with the Juvenile Justice System," *National Center for Mental Health and Juvenile Justice- Research and Program Brief* (June 2006): 1.

375. See supra, Chapter III, especially Finding 3.24.

376. Boesky, "Mental Health Training," 99.

377. Ibid., 98.

378. Ibid., 99.

379. Ibid., 100-101.

380. Ibid.

381. TYC Human Resources Division, "2012 Agency Training Plan," revised November 15, 2011.

As part of the 320 hours, TJJD also offers “cultural diversity.”³⁸² However, one subject that does not seem to be directly covered in TJJD’s 320-hour training program is mental health.

In terms of content delivery, Karen Albert emphasizes that new staff should never begin work before completing basic training.³⁸³ Otherwise, new staff may learn procedures or skills incorrectly and have to “unlearn” and then relearn the correct methods during training. However, if new staff members begin training without *any* exposure to the juvenile detention environment, they will have trouble relating to the information presented.³⁸⁴ Therefore, Albert believes the best practice is for new staff to participate in an orientation to get to know the facility and its population and then to take part in classroom training that encourages the new staff to relate the orientation experiences to the lessons.³⁸⁵ Albert also points out that training delivered in lecture format is less effective than training that facilitates discussion among new staff about their experiences and the learned skills.³⁸⁶

Albert believes that the Virginia Department of Juvenile Justice’s (VDJJ) approach to staff training can serve as a model for the nation.³⁸⁷ VDJJ requires new juvenile corrections officers to engage in a two-week orientation during which they observe the juvenile facility environment and daily interactions between staff and residents.³⁸⁸ The two-week orientation is followed by a four-week academy program that allows new officers to learn about the juvenile justice system, as well as how to communicate with adolescents and those with special needs in particular, and how to handle emergency situations.³⁸⁹ After the classroom component, new officers are fully integrated into the care of juvenile offenders under the guidance of experienced officers as mentors.³⁹⁰ Albert confirms the importance of mentors for new staff. She believes it is important for new staff to be able to ask mentors about the skills they are learning while still in training and about handling situations they encounter once on the job.³⁹¹

TJJD’s 320-hour training calls for an orientation on the first day of training, but it is unclear whether new staff have the opportunity to observe the juvenile facility during that time. Also, anecdotal evidence suggests that TJJD training is often lecture-focused, with trainees remaining unengaged and distracted from lessons.

d. Staff-Youth Relationships

Finding 5.10: Positive staff-youth relationships reduce incidents of violence in secure juvenile facilities.

According to Vincent Schiraldi, Commissioner of New York City’s Probation Department and the former head of DC’s juvenile system, youth who exhibit aggressive behaviors are the youth who are most in need of supportive relationships to prevent misbehavior.³⁹² But unfortunately, these youth often receive

382. Ibid.

383. Albert, interview.

384. Ibid.

385. Ibid.

386. Ibid.

387. Ibid.

388. Virginia Department of Juvenile Justice, “Training Calendar and Knowledge Center Resources,” accessed October 30, 2012, <http://www.djj.virginia.gov>.

389. Ibid.

390. Ibid.

391. Albert, interview.

392. Schiraldi, interview.

the least programming because staff members' responses to youth behavior typically emphasize punishment rather than reinforcing skills in the youth by redirecting the misguided behavior.³⁹³ In Missouri, Mark Steward has coined the term "eyes on, ears on, hearts on" to describe the level of supervision and interaction with youth that all staff must maintain while on duty.³⁹⁴ This approach is informed by the notion that when youth know staff members are there to help them, not hurt them, a change in behavior is more likely to occur.

At Long Creek Youth Development Center in South Portland, Maine, staff members are required to provide a minimum of ten positive statements to residents each day that reinforce desired behaviors and redirect negative ones.³⁹⁵ Line staff members are informed of the behaviors youth learn in specialized programming and are directed to emphasize these behaviors. In this way, there is no differentiation between line staff and treatment staff. Both groups of staff are able to help residents cultivate alternative coping strategies when aggressive feelings arise.³⁹⁶ While treatment staff members specialize in skill training, line staff can provide practical application of the skills residents learn in programs.³⁹⁷ Conversely, line staff can help determine the type, severity, and frequency of a resident's violent behavior in the institution so that the treatment team can tailor plans to meet the individual needs of the youth.³⁹⁸

According to Amanda Yurick, a nationally renowned board-certified behavior analyst who works with incarcerated youth in the context of their environments, positive relationships between youth and staff can prevent violence from occurring in the first place.³⁹⁹ Positive relationships provide staff a foundation upon which to intervene when aggressive behaviors begin to escalate. Line staff who have a positive relationship with youth can more effectively use verbal skills to de-escalate a confrontation between youth. Yurick found that verbal techniques are important tools for use in the early stages of violent episodes.⁴⁰⁰ Counter-intuitively, though, verbal tools should not be used to intervene once violence has occurred because such comments may inadvertently cause an escalation in violence.⁴⁰¹ Therefore, the timing of the use of these techniques is important and should be clearly defined for staff during training sessions.⁴⁰² However, verbal de-escalation techniques will not be effective without the foundation of a positive relationship between staff and youth.

Yurick also believes that staff must continue to maintain positive interactions when intervening in an escalating confrontation between youth. Often, well-intentioned staff members may respond to misbehaving youth with phrases such as "calm down" or "be patient" or by using gentle reminders for youth to use breathing techniques they were taught in anger management.⁴⁰³ However, when youth are showing signs of aggression, these verbal responses actually serve to heighten the aggression. Instead, Yurick instructs staff members to reflect the emotion of what the youth is communicating by first validating youths' emotions with phrases such as, "yeah, you are right, that is terrible," and then investigating the

393. Schuster, interview.

394. Mendel, "The Missouri Model: Reinventing the Practice of Rehabilitating Youthful Offenders," 45.

395. National Center for Youth in Custody, "Strategies for Effective Facility-Based Behavior Management." Webinar, November 14, 2012.

396. Cellini, "Management and Treatment of Institutionalized Violent Juveniles," 98.

397. National Center for Youth in Custody, "Strategies for Effective Facility-Based Behavior Management." Webinar, November 14, 2012.

398. Cellini, "Management and Treatment of Institutionalized Violent Juveniles," 98.

399. Amanda Yurick, telephone interview by Alycia Welch, Austin, TX, November 14, 2012.

400. Yurick, interview.

401. Ibid.

402. Ibid.

403. Ibid.

source of the aggression with phrases such as, “tell me what he did.” Responses need to be authentic and not contrived, so staff should be provided with extensive training on the use of these techniques to intervene and de-escalate youth before they resort to violence.⁴⁰⁴

e. Classification Systems

Finding 5.11: An objective and validated classification system that assesses facility placement, custody level, programmatic needs, and the appropriate housing assignment for each youth is a critical tool for preventing violence in a secure juvenile facility. Unlike in adult correctional settings, however, juvenile classification systems should leave some room for professional judgments to inform and override the classification assessments in limited circumstances. An effective management information system should allow classification data to be stored, retrieved, and updated on a continuing basis in order to address potential safety risks.

Correctional classification systems are the principal tool administrators have for allocating program resources and for minimizing the potential for escape and violence.⁴⁰⁵ Classification systems are commonly considered “the brain” of correctional management because classification allows individuals to be categorized based on individual risk to commit violence as well as vulnerability to violence. By classifying youth according to risk level, administrators can make appropriate decisions regarding staffing, bed space, and housing, and thereby prevent violent incidents.⁴⁰⁶

Classification systems are based on the theory that inmates have varying levels of vulnerability and aggressiveness, which can be measured by objective, validated techniques. Once an individual is classified, the classification status determines housing, programming, and recreation within the facility. The staff assigned to housing, programming, or general supervision for different classified groups must be fully aware of the types of youth under their care and trained in management techniques appropriate for dealing with that group.⁴⁰⁷

There is an important distinction between internal and external classification systems. External classification systems influence facility placement of offenders and the appropriate custody level.⁴⁰⁸ Internal classification systems determine appropriate housing and program interventions within a particular facility.⁴⁰⁹ This is an important distinction because internal classification systems were designed to complement external classification; both types of systems are important but internal classification is more connected to the safety of a single facility.

Classification systems used to be based on the professional but subjective judgment of correctional administrators; today’s best practices, however, rely on *objective* systems that are based on clear, stated criteria, with well-documented decisions that are stored for later analysis or reclassifications. Longitudinal studies of prisoners and offenders have identified attributes associated with misconduct, escapes, and recidivism. These risk factors are translated in a numeric scoring system used to assess individuals upon entry or transfer to a correctional facility. The numeric value is converted into a risk category or level,

404. Ibid.

405. Patricia Hardyman, et al., *Internal Classification Systems: Case Studies in their Development and Implementation*, (Washington, DC: U.S. Department of Justice, National Institute of Corrections, 2002), 1.

406. Ibid.

407. Austin & McGinnis, *Classification of High-Risk and Special Management Prisoners: A National Assessment of Current Practices*.

408. Hardyman, et al., *Internal Classification Systems: Case Studies in their Development and Implementation: 2*; James Austin & Patricia Hardyman, *Objective Prison Classification Systems*, (Washington, DC: U.S. Department of Justice, National Institute of Corrections, 2004): x.

409. Hardyman, et al., *Internal Classification Systems: Case Studies in their Development and Implementation: 2*.

which determines many facility decisions including housing placement, programming, and staffing.⁴¹⁰ The predictions of *validated* classification instruments are supported by research showing the predictions are accurate for a specific population.⁴¹¹

Internal objective classification systems directly affect the safety of the facility. Ideally, an objective and validated classification system reduces violence and escape attempts by housing inmates according to their risk level as determined by the system.⁴¹² The primary objective of classification should be to identify aggressive inmates who need higher security settings as well as those who are low risk or who could be subject to victimization.⁴¹³ Classification is frequently conducted through semi-structured interviews, behavior checklists, or based on the offender's past behavior.⁴¹⁴ An inmate's offense is not determinative of his or her classification status; the interviews or checklists address many factors and the offense committed is only one factor among many.

Most research on classification and its critical importance to institutional safety has been conducted with regard to adult prisoners in adult prisons and jails. Thus, there may be limits to the application of best practices regarding classification in juvenile settings.⁴¹⁵ According to correctional expert Steve Martin, the classification or reclassification of juveniles, as opposed to adults, may require a more holistic approach that allows youth to be assessed on a case-by-case basis.⁴¹⁶ Adult classification systems are based on the premise that classification should be objective, which can be overly rigid when there is no room for professional judgment to play a role in decision-making.⁴¹⁷ Although objective classification tools aim to remove discretion by forcing administrators to make decisions based on known and objective criteria, it is important not to eliminate professional judgment entirely.⁴¹⁸ Classification tools are based on research that identifies risk factors in the aggregate but might not anticipate individual differences. Thus, allowing for limited professional overrides, particularly in juvenile settings, is an important component of any classification or assessment system.⁴¹⁹

The National Institute of Corrections identifies an effective Management Information System (MIS) as essential for the implementation of a good classification system.⁴²⁰ An MIS is a system or process that provides and stores information necessary for organizational decision-making. Correctional consultant Bob Dugan has also pointed to the importance of MIS, particularly in juvenile settings, as a way to ensure facility safety by providing a mechanism for accurately collecting, updating, and referencing information about youth housed in secure facilities.⁴²¹

410. James Austin & Kenneth McGinnis, *Classification of High-Risk and Special Management Prisoners: A National Assessment of Current Practices*, (Washington, DC: U.S. Department of Justice, National Institute of Corrections, 2004).

411. Ibid.

412. James Austin, "Objective offender classification is key to proper housing decisions," (1994) *Corrections Today* 56, no. 4: 94, *Military & Government Collection*, EBSCOhost, accessed November 12, 2012.

413. Austin, "Objective offender classification is key to proper housing decisions."

414. Hardyman et al., *Internal Classification Systems: Case Studies in their Development and Implementation*: 2-6.

415. Bob Dugan, Correctional Consultant, telephone interview by Stephanie Glover, November 5, 2012.

416. Steve Martin, Correctional Consultant, telephone interview by Stephanie Glover, October 22, 2012.

417. Austin & McGinnis, *Classification of High-Risk and Special Management Prisoners: A National Assessment of Current Practices*.

418. Edward Latessa, *The Ohio Youth Assessment System: Final Report*, (University of Cincinnati: Center for Criminal Justice Research, 2009): 3.

419. Ibid, 3.

420. Tim Brennan, *Enhancing Classification System: The Emerging Role of Management Information Systems* (Washington, DC: U.S. Department of Justice, National Institute of Corrections, 2004), xix.

421. Dugan, Interview.

Classification systems should collect data and information from a youth as he or she enters a facility, and an MIS system can help organize, analyze, and retrieve the information that is collected. Effective classification depends on accurate, timely, and relevant information. MIS can store that information and provide it to correctional administrators when they need it.⁴²² Essentially, an effective MIS depends on the quality of computerized data that the agency collects on a youth housed in its facilities and the ability both to input and to retrieve the information easily. The system should support staff's ability to monitor whether classification decisions are implemented in accordance with policy and provide data with which to evaluate the general impact of classification decisions on the overall functioning of the facility.⁴²³

In juvenile facilities, accurate and reliable data should provide management staff with a greater accuracy of identifying potential safety risks and reflect a more comprehensive report of events after incidents have occurred. This allows management to reevaluate and update the status of youth if classification needs change.⁴²⁴

Finding 5.12: The PREA Standards offer important guidance regarding the identification and housing of potentially aggressive or potentially vulnerable youth.

In lieu of evidence-based best practices directly applicable to the classification of juvenile offenders, the Prison Rape Elimination Act (PREA) Standards⁴²⁵ offer useful guidance on the placement of youth in housing units. The goals of PREA are to reduce sexual violence in correctional facilities, and the regulations outline best practices for identifying potential victims or perpetrators of violence. Because juvenile classification systems should also aim to identify potential safety risks among the population, the best practices of information gathering at intake could be applied to general classification systems. PREA recommends that, at a minimum, staff should:

Attempt to ascertain information about: prior sexual victimization or abusiveness; any gender nonconforming appearance or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to abuse; current charges and offense history; age; level of emotional and cognitive development; physical size and stature; mental illness or mental disabilities; intellectual/developmental disabilities; physical disabilities; the resident's own perception of vulnerability, and any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents.⁴²⁶

To meet PREA standards, the information gathered should be the basis for housing decisions. PREA further recommends that this information also be used for purposes of education, programming, and work assignments in order to keep youth safe throughout the day.⁴²⁷

Although jurisdictions vary in the factors considered during classification and assessment, a national survey by the National Institute of Corrections found that most systems screen for some basic inmate

422. Brennan, *Enhancing Classification System: The Emerging Role of Management Information Systems*: xix.

423. *Ibid.*, 1-2.

424. Dugan, interview.

425. U.S. Department of Justice, *Prison Rape Elimination Act: National Standards to Prevent, Detect, and Respond to Prison Rape*, 28 C.F.R. Part 115, OAG-131, RIN 1105-AB34 (Washington, DC: Department of Justice, 2012) (hereinafter "PREA Standards").

426. PREA Standards, "Juvenile Facility Standards: Final Rule for 28 C.F.R. Part 115" (Washington, DC: Department of Justice, 2012): 18-19.

427. *Ibid.*

characteristics including membership in a gang or security threat group, escape risk, violent behavior, and suicide risk.⁴²⁸

Finding 5.13: TJJD uses a “safe housing plan” that is similar but not identical to a formal, validated classification system when it comes to making housing placement decisions.

According to Rebecca Thomas, TJJD’s Director of Integrated State-Operated Programs and Services, TJJD’s assessment and placement processes seek to evaluate each youth’s needs and ensure that the youth is placed in the best setting for rehabilitation.⁴²⁹ The assessment occurs over four weeks at the intake facility. Youth participate in a series of assessments structured to identify specific needs as laid out in TJJD policy:

- Immediate safety, medical, mental health, and housing needs
- Specialized treatment needs
- Case planning issues, to include individual risk and protective factors
- Risk and restriction level for initial placement.⁴³⁰

TJJD staff uses the assessment information to determine youth placement in a particular facility, a decision based on factors such as gender, treatment needs, risk assessment, and proximity to home.⁴³¹

Once a youth is assigned to a facility, TJJD determines the appropriate housing assignment for youth and the level of supervision required based on the TJJD “safe housing plan.”⁴³² National surveys of adult prison systems have shown that there is no widely accepted timing of housing decisions. About two-thirds of states have personnel at intake facilities recommend a specific housing unit or cell assignment. The remaining states defer the task of housing assignment to the facility where the inmate is assigned once released from the intake center.⁴³³ TJJD’s policy is to recommend a specific housing unit prior to transfer to the facility, consistent with about two-thirds of state prison systems, which also recommend housing assignments within a facility.

Although neither TJJD staff nor the governing policies refer to the safe housing plan as a classification system, the purpose of the plan is largely aligned with the goals of an objective classification system: “Youth housing assignments are made by the use of an objective system to assess the threat of harm posed by the youth to others and the youth’s potential vulnerabilities.”⁴³⁴ The superintendent of each facility is responsible for developing a campus-wide housing plan that specifies housing levels allowed, staffing requirements, security level, and programming schedule of each housing unit.⁴³⁵ The safe housing plan is based on:

428. Austin & McGinnis, *Classification of High-Risk and Special Management Prisoners: A National Assessment of Current Practices*: 42.

429. Rebecca Thomas, Texas Juvenile Justice Department, telephone interview with Stephanie Glover and Lauren Waters, November 30, 2012.

430. 37 Tex. Admin. Code § 380.8505 (2011).

431. 37 Tex. Admin. Code § 380.8521 (2011).

432. Thomas, interview.

433. Patricia Hardyman, et. al., *Prisoner Intake Systems: Assessing Needs and Classifying Prisoners*, (Washington, DC: U.S. Department of Justice, National Institute of Corrections, 2004).

434. Texas Juvenile Justice Department, *Case Management Standards*, 03.75 (November 21, 2012).

435. Ibid.

- Evidence-based criminogenic factors in a youth's history that indicate level of risk to others;
- Age and physical stature of youth;
- Potential vulnerability to sexual victimization or likelihood of sexually aggressive behavior;
- Special needs including medical needs, suicide risk, disabilities, mental health, or other placement concerns.⁴³⁶

Information about gang affiliation is also gathered during the assessment process. However, according to Rebecca Thomas at TJJD, there is no consistent policy for how gang affiliation plays into housing or programming decisions.⁴³⁷

The safe housing plan determines the housing unit that the youth is placed in and may also determine placement within the unit, but it is not specified in policy how roommates or dorm mates are determined.⁴³⁸ The policy provides only that male and female youth may not sleep in the same room, a youth under 14 cannot be housed with a youth over 17, and that any youth convicted of a sex offense must be placed in an open bay dorm in direct line of a supervisor or in a single occupancy room.⁴³⁹

Housing assignments are subject to review while youth are housed at TJJD. Housing decisions can be reviewed at any point based on youth needs, serious incidents, or facility security needs.⁴⁴⁰ Automatic reviews are triggered by suicide attempts, a youth's 17th birthday, completion of a dorm-based specialized treatment, major rule violations, and penal code offenses.⁴⁴¹ Decisions based on the objective system are subject to override by facility administrators. However, this can only occur in rare circumstances and only the facility superintendent or the director over residential facilities may approve an override.⁴⁴²

The safe housing plan does not appear to be validated to show that it works effectively with any specific population.

Finding 5.14: The small number of TJJD secure facilities that remain open after the restructuring efforts of the last five years means that administrators have fewer options on where to place youth initially or where to move them should their behavior warrant a transfer to another campus or another security level.

Since 2007, TJJD has closed nine secure facilities and more youth are being treated in their home communities, leading to a higher concentration in TJJD of youth who have committed violent crimes. In such a setting, classification systems and accurate data on each youth may become even more important for the overall safety of the facility. Understanding the risk factors specific to these groups and making housing and programmatic decisions based on classification will ensure the youth are housed according to their security needs. However, the limited number of TJJD secure facilities that remain open—only four facilities for males and one for females, not including the specialized Corsicana facility—means that administrators have fewer options on where to place youth initially or where to move them should their behavior warrant a transfer to another campus or another security level.

436. 37 Tex. Admin. Code § 380.8524 (2009).

437. Thomas, Interview.

438. 37 Tex. Admin. Code § 380.8524 (2009).

439. Ibid.

440. Ibid.

441. Texas Juvenile Justice Department, *Case Management Standards*, 03.75.

442. Ibid.

As discussed above in Finding 5.1, having a larger number of smaller facilities (facilities holding fewer than 50 youth) is an approach that allows both for depopulation of state-secure facilities and for the safe housing of youth in these facilities using an effective classification plan.

Finding 5.15: Classification systems can be used to prevent youth from joining gangs and participating in gang activities while in secure juvenile facilities. Also, effective gang management may require relying on small group processes that mix members of different gangs.

Gangs are highly prevalent in juvenile corrections facilities and present a security threat to juvenile correctional facilities due to their proclivity towards violent behavior.⁴⁴³ While little is known about best practices for reducing the presence of gangs in juvenile facilities, according to former gang member and current gang management consultant George Vasquez, appropriate classification of youth and strategic interventions can help prevent gang violence in the secure facilities.⁴⁴⁴

The root factors leading youth to gang membership are well-documented and include a need for identity, a sense of belonging, protection, feeling of self worth, and money.⁴⁴⁵ Staff members can identify gang members or youth at risk for becoming gang members, knowing these risk factors. Classification systems can then be used to group youth in a way that discourages the reliance on gangs. By organizing youth in small groups in much the same way as a gang or fraternity uses grouping techniques, youth feel a sense of belonging, and facilities can turn that into a very positive mechanism for reducing gang violence.⁴⁴⁶

For instance, Santa Clara County in California reduced Hispanic gang activity by 78% by placing youth of opposing gangs in the same group to force them to learn to live in close quarters together.⁴⁴⁷ The county followed the advice of the Missouri Division of Youth Services, which looked to the primary causes of gang affiliation as a way to prevent the formation of gangs within their secure facilities.⁴⁴⁸ Mark Steward, the former head of the Missouri juvenile system, indicates that small groups provide youth with a sense of belonging and leadership that gangs also provide.⁴⁴⁹ When youth are new to the group, they immediately find their place within the group's hierarchy and find incentives for doing well to move into leadership positions within the group.⁴⁵⁰ There is pride in being the leader of this type of group and as a result, tend to avoid aggression or behaviors that elicit aggression, such as gang rivalry.⁴⁵¹ Steward has found that the small group process reduces the likelihood of assaultive behavior between youth by a factor of four.⁴⁵²

Interestingly, staff at Tarrant County in Texas use a classification approach to gang management that is diametrically opposed to the one described above. Whereas the Santa Clara County facility and the Missouri Division of Youth Services both place youth of opposing gangs into the same small groups,

443. Roush, *Desktop Guide to Good Juvenile Detention Practice*, 53.

444. Vasquez, George. "Gangs: The Inside Story," Conference presentation, 8th Annual Strengthening Youth and Families Conference: Engaging Families, Connecting Communities, Achieving Successful Outcomes, TJJD, Austin, TX November 8, 2012. See also Roush, *Desktop Guide to Good Juvenile Detention Practice*, 53.

445. Howell, James. "Youth Gangs: An Overview." *Juvenile Justice Bulletin* (August 1998), 12.

446. Steward, interview.

447. Mitchell, interview.

448. Ibid.

449. Steward and Robinson, "Juvenile Justice System Solutions for Texas: Things to Consider," Conference Presentation.

450. Ibid.

451. Steward, interview.

452. Ibid.

staff at Tarrant County's juvenile facility put opposing gang members on what they call "DNA" ("do not associate") status. A youth who associates with those on the restricted list is cited for severe misconduct.⁴⁵³ Staff members reinforce this classification system by taking preventive steps to insure the youths' separation.⁴⁵⁴

Steward cautions that staff-to-youth ratios and positive staff-youth relationships are important in employing both the gang management strategy used in Tarrant County and the opposing strategy used in Santa Clara County's facility and the Missouri Division of Youth Services.⁴⁵⁵ Staff should ensure gang members are not participating in gang-related activity. However, Steward maintains that, in the long run, youth will benefit from being placed into small groups with opposing gang members because they will learn to live in community with one another.⁴⁵⁶ Separating opposing gang members from one another can actually perpetuate hostilities along gang membership lines.

f. Structured Daily Schedules

Finding 5.16: Heavily structured schedules that keep youth busy with meaningful activities throughout the days, evenings, and weekends help prevent youth from becoming bored and finding ways to engage in negative behaviors.

According to expert David Roush, a key to preventing violence in juvenile secure facilities is the provision of daily programming and activities that engage youth at all times of the day.⁴⁵⁷ Most violence occurs when youth are provided too much down time.⁴⁵⁸ The value of keeping juveniles busy is that they give less thought to harming themselves, others, and the building and equipment and more thought to the positives that are an outgrowth of the program.⁴⁵⁹

Furthermore, Roush believes programming and activities offer the structure, organization, and predictability that are important in reducing situations of conflict and stress for both youth and staff, preventing the need for subsequent physical interventions.⁴⁶⁰ Roush identifies education as the primary mode for providing a structured schedule to incarcerated youth.⁴⁶¹ It may also be the single most important service institutions can provide because many youth in institutions are behind in their studies or have dropped out of school.⁴⁶² Federal court monitor Terry Schuster notes that agencies have an obligation to educate children even if they are being confined in their rooms for disciplinary reasons, and detention staff and school personnel should work together to formulate an educational program so youth can participate while in a disciplinary setting.⁴⁶³ Providing education and activities to youth needing disciplinary interventions will be discussed in a later section, but it is important to note that experts emphasize the need to provide structured daily schedules to all youth in secure facilities as a means of reducing violence.

453. Benny Medlin and Ron Lewis, telephone interview by Stephanie Franco, November 8, 2012.

454. Ibid.

455. Steward, interview.

456. Ibid.

457. Roush, interview.

458. Kelly Dedel, Ph.D., telephone interview by Alycia Welch, Austin, TX, November 7, 2012.

459. Ibid.

460. Ibid., 41.

461. Roush, *Desktop Guide to Good Juvenile Detention Practice*, 58.

462. Ibid., 59.

463. Schuster, interview.

Beyond education, experts agree that staff members have a responsibility to provide other forms of structured programs or activities that keep youth busy and safe from harm, regardless of whether the youth is in a disciplinary setting.⁴⁶⁴ For example, a federal court in Ohio recently issued a consent order stipulating that structured programming must be provided to incarcerated youth in seclusion.⁴⁶⁵ The order defines structured programming as “adequate, structured Rehabilitative Services, including an appropriate mix of physical, recreational, or leisure activities, during non-school hours and days . . . at each facility from the end of the school day until youth go to bed, and on weekends.”⁴⁶⁶

According to Kelly Dedel, consultant to juvenile justice systems across the country on the behavior of incarcerated youth, after-school hours and weekends present particular challenges when it comes to keeping incarcerated youth engaged in activities.⁴⁶⁷ Therefore, staff members should be creative in finding activities for youth. For example, staff may choose to schedule routine and specialized cleaning of the facility during those times.⁴⁶⁸ This behavior management strategy requires that staff engage with youth throughout their shift. Consistent and continued staff involvement—and minimal down time—will help prevent aggressive behavior incidents from occurring.⁴⁶⁹

Recreation is another important activity that provides youth access to fresh air as well as to exercise and structured recreation, all of which are useful for preventing misbehavior.⁴⁷⁰ According to David Roush, children need to have access to fresh air for at least one hour on a daily basis, and they need to have large-muscle exercise as a part of their daily routine.⁴⁷¹ Not only is this important for the health and development of children, but it also enables them to relieve tension and frustration that otherwise might result in violent behavior.⁴⁷²

According to Orlando Martinez, a nationally renowned juvenile justice expert and former Commissioner of the Georgia Department of Juvenile Justice, other activities that staff members can provide at secure facilities to keep youth busy include: vocational training; religious opportunities; individual and family counseling; medical, dental, mental health, and other specialized programs; and services such as substance abuse treatment, AIDS counseling, and sex offender treatment.⁴⁷³ David Roush suggests staff members take caution in transitioning youth from activity to activity, as these are times in which there is a greater likelihood of instability. He further recommends that staff should ensure routine daily activities so that youth know what to expect during that day; routines help to prevent physical altercations in secure juvenile facilities.⁴⁷⁴

County detention facilities in Texas also minimize downtime as a prevention strategy. In 2003, the Cameron County Juvenile Detention Center implemented numerous vocational programs and increased

464. *Ibid.*, 55.

465. Consent Order, *United States of America v. The State of Ohio, et al.*, (No. 2:08-cv-00475-ALM-MRA, December 19, 2012), available as document no. 107-1: 1.

466. *Ibid.*, 1-2.

467. Dedel, interview.

468. Roush, *Desktop Guide to Good Juvenile Detention Practice*, 83.

469. *Ibid.*

470. *Ibid.*, 59.

471. *Ibid.*

472. *Ibid.*

473. *Ibid.*, 71.

474. *Ibid.*, 42

youths' daily activities. Since then, the facility dramatically reduced the number of worker's compensation claims filed as a result of staff injuries occurring during violent incidents.⁴⁷⁵

2. Intervention Elements of the Secondary Tier

The secondary tier of the three-tiered behavior management system provides interventions for students whose behaviors are not responsive to the preventative approaches on the primary tier discussed thus far in this chapter. Approximately 5 to 15 percent of youth will need these more individualized interventions to address their rule breaking and violent behaviors.⁴⁷⁶ Note that the inclusion of these interventions in the secondary tier is not meant to suggest that most youth in the facility do not receive specialized treatment or programming. However, we discuss these interventions as part of the secondary tier because these types of programs need to be intensified to deal with misbehaving youth in order to prevent additional incidents of violence in secure facilities.

a. Therapeutic Interventions

Finding 5.17: Therapeutic interventions based on cognitive behavioral restructuring are highly effective for youth in the juvenile justice system, and the use of such therapeutic interventions should be increased in the case of youth engaging in misbehavior in order to target cognitive deficits that lead to violence.

According to Pennsylvania's Models for Change, youth arrive at secure juvenile facilities with a myriad of challenges, but none are as prevalent or present as great a risk for aggressive behavior as cognitive skill deficits.⁴⁷⁷ Experts agree that therapeutic interventions in secure juvenile facilities are a necessary component of service provision at these facilities, but therapeutic interventions must specifically target the cognitive deficits that lead to violent behavior.⁴⁷⁸ In a multi-tiered behavior management system, therapeutic interventions can be applied to youth at all levels in order to prevent violence from occurring or as a mechanism for individual interventions.⁴⁷⁹

However, while these interventions may be used at all levels of a multi-tiered behavior management system, as an area of best practice for reducing aggression, research shows that therapeutic interventions must be individualized and tailored to the unique needs of youth.⁴⁸⁰ During the intake process, staff should conduct a needs assessment that indicates the most appropriate therapeutic interventions for youth during their incarceration.⁴⁸¹ These interventions are best applied when they are grounded in cognitive restructuring methods that are designed to redress problematic thinking patterns and attitudes.⁴⁸² These cognitive interventions teach youth to monitor their patterns of thoughts in situations that would

475. Tommy Ramirez and David Tomlinson, Cameron County Juvenile Probation Department, telephone interview by Stephanie Franco, Austin, TX, November 15, 2012.

476. Scheuermann and Hall, *Positive Behavioral Supports for the Classroom*, 15.

477. Models for Change-Pennsylvania and Family Involvement Workgroup of the Pennsylvania Council of Chief Juvenile Probation Officer's Balanced & Restorative Justice Implementation Committee, "Family Involvement in Pennsylvania's Juvenile Justice System," (Pennsylvania, 2009), 1-25.

478. Dedel, interview.

479. Scheuermann, interview.

480. Dedel, interview.

481. Ibid.

482. Ibid.

otherwise lead to antisocial behavior and violence.⁴⁸³ On average, evidence-based cognitive-behavioral programs reduce aggressive behaviors by 20 to 30%.⁴⁸⁴

There are three evidence-based programs that use cognitive restructuring to reduce aggressive behaviors in youth in secure juvenile settings. One is Aggression Replacement Training (ART). ART is a cognitive behavioral intervention program designed to reduce aggression and violence among youths by providing them with opportunities to learn prosocial skills in place of aggressive behaviors.⁴⁸⁵ According to Shana Fox, trained ART provider, the program has shown that youth who develop skills in these areas are far less likely to engage in a wide range of aggressive and high-risk behaviors.⁴⁸⁶ Bexar County, among many other facilities, implemented ART in 2006 to prevent violence at its detention center.⁴⁸⁷

The second evidence-based program is Thinking for a Change (T4C), which integrates cognitive restructuring, social skills, and problem-solving to increase offenders' awareness of themselves and others.⁴⁸⁸ It provides youth with a process for examining their ways of thinking and their feelings, beliefs, and attitudes.⁴⁸⁹ T4C trains youth in social skills as an alternative to antisocial behaviors, and it culminates by integrating skills with problem-solving steps necessary to handle difficult situations without relying on aggressive behavior.⁴⁹⁰ It is currently used at Gardner-Betts Juvenile Detention Center in Travis County, Texas, and in several states across the country. Psychologists at Gardner-Betts indicate that T4C's techniques have led to a reduction in violence among youth at its facility.⁴⁹¹

The third evidence-based approach to cognitive restructuring involves Dialectical Behavior Therapy (DBT). DBT is recognized as a program with an established framework and curriculum that may increase the likelihood of success for youth displaying aggressive behaviors.⁴⁹² It is a support-oriented cognitive-behavioral approach that teaches skills to help people cope with sudden, intense surges of emotion.⁴⁹³ According to Terry Schuster, a number of youth housed in Behavior Management Units in Mississippi's secure juvenile facilities were diagnosed with Intermittent Explosive Disorder or were otherwise easily provoked, and providing DBT with mindfulness training was successful in delaying those reactions.⁴⁹⁴ Also, the Los Angeles County Day Treatment Intensive program utilizes an adapted DBT

483. Ibid.

484. Ibid.

485. National Center for Mental Health Promotion and Youth Violence Prevention. *Aggression Replacement Training*. <http://www.promoteprevent.org/publications/ebi-factsheets/aggression-replacement-training%C2%AE-art%C2%AE> (accessed 6 Oct. 2012).

486. Ibid.

487. Michael Martinez, telephone interview by Stephanie Franco, Austin, TX, November 16, 2012.

488. "Thinking for a Change and Cognitive-Behavioral Programs Annotated Bibliography," U.S. Department of Justice, National Institute of Corrections, December 2012, 1.

489. Ibid.

490. Ibid.

491. Dr. Erin Foley, Psychiatrist at Gardner-Betts Juvenile Detention Center, Travis County, Texas, interview by Alycia Welch, October 5, 2012.

492. National Center for Mental Health Promotion and Youth Violence Prevention. *Aggression Replacement Training* <http://www.promoteprevent.org/publications/ebi-factsheets/aggression-replacement-training%C2%AE-art%C2%AE> (accessed 6 Oct. 2012).

493. Terry Schuster, "13 Good Ideas from Other Jurisdictions That May Help Improve Outcomes on the PROGRESS Units," (2012) (unpublished report on file with author), 1-13.

494. Schuster, interview.

model to manage both violent and self-injurious behavior and relies upon trained probation and mental health staff to facilitate DBT groups.⁴⁹⁵

b. Managing Behavior Through “Carrots” and “Sticks”

Finding 5.18: A behavior modification system should be based on rewards and consequences designed to increase desirable behavior and decrease undesirable behavior. The specific rewards and consequences used should be based on a youth’s behavior management plan as well as on individual interests and strengths.

The “Carrots and Sticks Approach” is an idiom that refers to a behavior modification system of offering a combination of rewards and incentives to elicit desirable behaviors and decrease the occurrence of undesirable behaviors.⁴⁹⁶ The Carrots and Sticks approach is grounded in strengths-based positive reinforcement as a way to prevent violence from occurring in secure juvenile facilities and to provide consequences when misbehavior does occur.⁴⁹⁷ A reward system of this nature can provide the methodology for transitioning youth between levels in a multi-tiered behavior management system.

Furthermore, experts concur that a youth’s behavior management plan should inform a youth’s movement within this type of rewards system. The behaviors that are targeted for change must be identified and documented so that staff members understand where to direct their efforts, and so that the tangible incentives used as reinforcers, the “carrots” and “sticks,” should be identified by the youth and based on his or her areas of strengths.⁴⁹⁸

Former Commissioner of Georgia Department of Juvenile Justice Orlando Martinez believes that the most effective disciplinary measures applied in response to negative behaviors are informed by a youth’s behavior management plan.⁴⁹⁹ Consequences should involve a loss of privileges that are uniquely applied to an individual youth based on his or her strengths or interests.⁵⁰⁰ The behavior plan should also detail disciplinary measures that will be enforced should a youth participate in undesirable behaviors.

A strengths-based incentive means that if a youth is motivated by recreational activities, that youth should be provided increased opportunities to participate in sports or provided an extra hour of recreation time for appropriate behaviors or for using a new behavioral skill he or she learned.⁵⁰¹ Other effective incentives could be movie nights, pizza parties, dinner with the Superintendent, or extra time in the game room.⁵⁰² When rewards are based on the strengths or desires of the individual youth, the youth places a premium on receiving that reward, thereby changing behaviors to do so.⁵⁰³

As with the “carrots,” the most effective “sticks” in any rewards-based behavior management system are defined by the individual youth’s strengths and motivations and should be determined by his or her behavior plan at intake.⁵⁰⁴ Defining the consequences in this way ensures that the consequences are

495. Schuster, “13 Good Ideas from Other Jurisdictions That May Help Improve Outcomes on the PROGRESS Units,” 13.

496. Models for Change, “Family Involvement in Pennsylvania’s Juvenile Justice System,” 26.

497. Scheuermann, interview.

498. Scheuermann, interview.

499. Orlando Martinez, telephone interview by Alycia Welch, Austin, TX, November 13, 2012.

500. Yurick, interview.

501. Schuster, interview.

502. Ibid.

503. Martinez, interview.

504. Yurick, interview.

meaningful to the individual youth. An effective discipline system should complement a rewards system in juvenile secure facilities in order to reduce aggressive behaviors among youth. For example, for a sports-oriented youth, this may mean that requiring a series of pushups rather than allowing the youth to play basketball with friends would be an effective disciplinary technique.⁵⁰⁵

Finding 5.19: The use of “good time” that reduces length of stay is a reward that has been found to be an effective behavior management tool for youth. Consequences should be proportional to the seriousness of the misbehavior.

Perhaps the most effective incentive that can be offered by a rewards system is the use of “good time,” or a reduction in sentence length for a youth who meets or exceeds behavior management goals.⁵⁰⁶ This reduction should not be allowed to conflict with the timeline provided by the youth’s treatment plan, but a reduction in time served of even a day or two for meeting certain goals can provide enormous incentive for positive behavior by a youth during his or her stay in a secure facility.⁵⁰⁷ This approach of awarding good time has been used effectively by the highly regarded Florida Environmental Institute (FEI).

FEI has a long track record of changing the behaviors of violent youth, due in part to a well-developed rewards-based behavioral management system.⁵⁰⁸ Participants are ranked five times per day on their behavior and work to earn enough “point cards” to progress through all of the six required levels of the FEI program.⁵⁰⁹ The primary incentive of FEI’s rewards-based system is to earn credit toward going home.⁵¹⁰ Using violence against peers is one of the behaviors that would stymie the accumulation of point cards and therefore inhibit youths’ progress toward early release.⁵¹¹ FEI youth are released from the program only after they have earned enough “point cards.”⁵¹² Remarkably, only 15.8% of serious juvenile offenders released from FEI have been convicted for a new offense, indicating that this strategy helps youth learn to control their behavior outside in the community as well as inside the institution.⁵¹³

According to Orlando Martinez, the consequences, or “sticks,” provided in a rewards-based behavior management system help deter negative behaviors, such as aggression and violence.⁵¹⁴ Consequences have to be meaningful, but that does not mean they need to be punitive. Rewards systems must include things that can be taken away from the youth so that they feel the consequence of their negative behavior by either not receiving the reward or having the reward taken away.⁵¹⁵ Privileges that can be taken away to produce a change in behavior include extra phone calls or visitation, though it is important to note that activities such as these do have to be provided at some level so as not to violate the constitutional rights of the youth.⁵¹⁶

505. Dedel, interview.

506. Ibid.

507. Dedel, interview.

508. Richard Mendel, “Less Cost, More Safety: Guiding Lights for Reform in Juvenile Justice,” *American Youth Policy Forum* (2001), 42.

509. Ibid., 43.

510. Ibid.

511. Ibid., 42.

512. Ibid.

513. Ibid., 43.

514. Martinez, interview.

515. Ibid.

516. Roush, *Desktop Guide to Good Juvenile Detention Practice*, 112.

The National Center for Youth in Custody has indicated that disciplinary measures ought to match the severity of the violation.⁵¹⁷ Minor violations should typically receive a removal of points from the daily total for the misbehaving youth whereas more serious violations could receive more serious and direct consequences, such as the use of use of timeouts.⁵¹⁸ However, timeouts should occur in the open, where youth are not locked behind a cell door and where staff and peers remain visible. Overly harsh responses, such as the lengthening of a youth's sentence, are counterproductive because it does not address the feelings that led to the aggressive disturbance.⁵¹⁹

Finding 5.20: The behavior management system should use points that accumulate or are deducted immediately as behaviors are observed. Effective rewards and consequences should be applied in a swift and certain manner so that youth understand the impact of their behavior.

According to expert Kelly Dedel, the most effective rewards systems are based on the give and take of a certain number of points for every observed behavior.⁵²⁰ Youth acquire points for displaying a good or acceptable behavior and points are either charged for negative behaviors or are simply not given.⁵²¹ Points can be calculated over a week or points can be totaled for the day, but incentives and consequences must be provided immediately and in a meaningful way.⁵²²

Terry Schuster agrees, noting that the most effective point system applies immediate and meaningful disciplinary measures to discourage negative behavior.⁵²³ Waiting to apply disciplinary measures even a few hours after the incident will not be as impactful as the application of immediate consequences for undesired behaviors.⁵²⁴ Similarly, youth are more likely to repeat and adopt prosocial behaviors, as opposed to antisocial or aggressive behaviors, when those behaviors and attitudes are recognized, acknowledged, and affirmed in a swift and meaningful way.⁵²⁵

An important lesson can be learned from the highly acclaimed HOPE program in Hawaii. While HOPE is an adult probation program, its focus on swift and certain sanctions in response to misbehavior on the part of probationers, preceded by a clear and direct warning, has yielded impressive results.⁵²⁶ If probationers exhibit an undesired behavior, they are immediately placed in jail for exactly 72 hours, and no exceptions to this sanction are permitted. Research has found that participants are less likely to be arrested during the three, six, and twelve months after they are released from probation.⁵²⁷ The HOPE program is currently being replicated in numerous jurisdictions around the country, and it provides powerful evidence that applying swift and certain consequences leads to a change in negative or unwanted behaviors.

517. National Center for Youth in Custody, "Strategies for Effective Facility-Based Behavior Management." Webinar, November 14, 2012.

518. Dedel, interview.

519. Models for Change, "Family Involvement in Pennsylvania's Juvenile Justice System," 29.

520. Dedel, interview.

521. Ibid.

522. Ibid.

523. Schuster, interview.

524. National Center for Youth in Custody, "Strategies for Effective Facility-Based Behavior Management." Webinar, November 14, 2012.

525. Models for Change, "Family Involvement in Pennsylvania's Juvenile Justice System," 29.

526. Angela Hawken, "Managing Drug Involved Probationers with Swift and Certain Sanctions: Evaluating Hawaii's HOPE," 5. <https://www.ncjrs.gov/pdffiles1/nij/grants/229023.pdf> (accessed November 11, 2012).

527. Ibid.

3. Intensive Intervention Elements of the Tertiary Tier

The premise of the multi-tiered behavior management model is that most youth exhibit appropriate behaviors when provided with the kinds of across-the-board preventative measures described earlier in Subsection B.1 of this chapter. A small proportion of youth, about 10 to 15 percent, need some additional interventions and supports in order to adjust their behaviors, as described in Subsection B.2.⁵²⁸ And only a very small number of youth—estimated by experts at about one to five percent—are so challenging or violent that they require the most intensive and individualized level of interventions available.⁵²⁹ This is what we call the “tertiary tier” of the behavior management model.

Most youth needing this third level of support will need to receive intensified versions of the therapeutic interventions described as being part of the secondary tier of the behavior management model and discussed in detail above.⁵³⁰ However, the disciplinary consequences associated with this level of misbehavior also need to be enhanced. It is important that these disciplinary consequences reinforce a culture of non-violence. Our analysis of the tertiary tier of the behavior management model will focus on these disciplinary approaches, differentiating those that have been shown to be effective from those that have been found to be counter-productive in addressing youth violence.

a. Discipline and Graduated Sanctions

Finding 5.21: Disciplinary measures should include a set of graduated sanctions incorporating appropriate and immediate consequences for serious misbehaviors while still providing youth a space in which they can practice positive behaviors.

Experts believe that disciplinary responses are most effective when they are applied immediately and in proportion to the behavior that elicited the intervening response.⁵³¹ For instance, assaulting a peer warrants heavier disciplinary responses than failing to make the bed in the morning.⁵³² A recently released Human Rights Watch report indicated that the application of disciplinary measures in juvenile secure facilities should follow a system of graduated sanctions to respond most effectively to violent or aggressive behaviors and incidents.⁵³³ The term “graduated sanctions” refers to the continuum of discipline options that staff at these facilities should use to manage and respond to aggressive behavior.⁵³⁴ According to Andrea Weisman, a leading expert on juvenile incarceration and mental health, graduated sanctions are most effective when additional programming is applied at every level so that youth can learn more appropriate skills for managing aggressive behaviors.⁵³⁵ Youth who rely on aggression to solve problems need to learn more appropriate problem-solving skills and also need to be provided the space to practice those skills.⁵³⁶ This requires continued interaction with staff and peers even after engaging in an aggressive exchange with other youth.⁵³⁷

528. Scheuermann and Hall, *Positive Behavioral Supports for the Classroom*, p.16.

529. *Ibid.*; see also Schuster, “13 Good Ideas from Other Jurisdictions That May Help Improve Outcomes on the PROGRESS Units,” 1.

530. See Finding 5.17.

531. Human Rights Watch, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States*, 85; see also Finding 5.20.

532. Yurick, interview.

533. Human Rights Watch, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States*, 85.

534. National Council of Juvenile and Family Court Judges, “A Practical Approach to Linking Graduated Sanctions with a Continuum of Effective Programs,” *Juvenile Sanctions Center* 2, no. 1 (2004).

535. *Ibid.*

536. *Ibid.*

537. Dedel, interview.

b. Behavior Management Units

Finding 5.22: Separation of youth from peers should be for as short a period as possible, encouraging “cooling off” rather than punitive seclusion. Disciplinary confinement should not last more than a few days. Special Management Units designed for longer-term separation of more violent youth should incorporate a plan for returning the youth to general population. Youth removed from the general population should spend most of their day engaged in activities rather than in seclusion.

Research shows that an effective system of graduated sanctions may require the separation of an aggressive youth from the general population when a youth fails to respond to initial interventions in violent incidents.⁵³⁸ In secure juvenile facilities, these sanctions may range from an immediate separation of aggressive youth to disciplinary confinement to longer-term separation and placement in special housing units.⁵³⁹

According to a recent Human Rights Watch report, most physically aggressive conflicts start small and simply require an immediate separation of the youth.⁵⁴⁰ At this point in the conflict, cool-off rooms or temporary placement of youth in their rooms may be a sufficient intervening response, requiring no additional discipline.⁵⁴¹ The length of time youth spend in room restriction should be based on the youth’s behavior.⁵⁴² It is important to note concerns that “cool-off” rooms can easily become a punitive response to negative behaviors in secure facilities, if overused or if the time apart from peers is prolonged. Once calm and ready to talk about feelings, the youth should be released from his room and provided the space to talk about his aggression.⁵⁴³ Travis County’s Gardner-Betts facility uses a “cool off” room for youth who start to exhibit aggressive behavior. According to the detention center’s lead psychologist, the cool-off room is used to prevent youths’ behavior from escalating and is used for only a short period of time.

Whereas very short-term use of room confinement for “cooling off” purposes is often appropriate at the start of a violent incident or in its immediate aftermath, it should not be confused with disciplinary confinement. Disciplinary confinement of a youth to his or her room is often used as a formal sanction for misbehaving youth, but its use must be carefully monitored and should be limited to no more than a few days. According to experts at the Annie E. Casey Foundation, youth should never be placed in a restricted room for 24 hours or more as a punishment method.⁵⁴⁴ While isolation provides relief to staff who often need a break from aggressive youth, the use of seclusion does not address the underlying causes of that youth’s behavior.⁵⁴⁵ In fact, the Juvenile Detention Alternatives Initiative (JDAI) suggests that best practices for juvenile facilities include prohibiting room confinement in excess of four hours as a response to current misbehavior and prohibiting disciplinary room confinement in excess of 72 hours.⁵⁴⁶ Furthermore, the American Bar Association Task Force on Youth in the Adult Criminal Justice System proposed that room confinement for any purpose should never exceed ten days.⁵⁴⁷ The American Bar Association Guidelines for Juvenile Facilities suggests that

538. Yurick, interview.

539. Schuster, “13 Good Ideas from Other Jurisdictions That May Help Improve Outcomes on the PROGRESS Units” 1.

540. Human Rights Watch, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States*, 86.

541. *Ibid.*

542. Dedel, interview.

543. *Ibid.*

544. Mendel, “No Place for Kids: The Case for Reducing Juvenile Incarceration,” 34.

545. Dedel, interview.

546. Human Rights Watch, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States*, 82.

547. *Ibid.*

best practices for juvenile facilities should include limiting protective custody to eight hours and prohibiting room confinement for suicide risk, as well as limiting disciplinary confinement to five days for minor infractions and ten days for major infractions.⁵⁴⁸

Longer-term management of violent youth may require ongoing separation of these teens from their peers in the facility through use of special housing units. The risk of these units, however, is that they may become forms of punitive segregation rather than a therapeutic housing placement designed for safe operation of the facility. For example, the Ohio Department of Youth Services operates a Special Management Unit (SMU) in its secure juvenile facilities for sanctioning youth who engage in violent behaviors.⁵⁴⁹ When created, the SMU was intended to be an extension of a “cool off” room, using an entire wing of cells as “cool off” rooms for youth who needed temporary separation from general population. However, over time the unit came to operate as a more punitive segregation unit, similar to those commonly seen in adult prisons; this led to a federal civil rights lawsuit filed in 2011. Federal court monitor Terry Schuster documented best practices around the country for use of these types of units to manage the behavior of the most violent and disruptive youth in secure custody.⁵⁵⁰ His research showed that a youth should be able to progress through phases of the SMU more quickly (within eight weeks) to prevent long-term seclusion. He also found that these units are safer for youth when there are fewer occupied beds in the SMU during a youth’s stay.⁵⁵¹ Finally, Schuster found that managing the behavior of youth while they are housed in these units is more likely to result in a reduction in aggression when youth spend more time out of their rooms rather than locked in cells. He recommends that during the day, youth should only spend a maximum of three hours in their rooms.⁵⁵² The rest of the day should be spent in activities, even if the youth is separated from the general population of youth in the facility.

In his analysis of best practices in operating SMUs, Schuster warns that facilities should have a clear vision and purpose for the SMUs, have adequate, qualified staff, and provide diligent supervision of the program, in order to avoid the SMU’s deterioration into a lockdown unit in which youth spend significant lengths of time locked in their rooms.⁵⁵³ To the extent that SMUs—or any other kind of separation units—become punitive in nature, they do not have positive outcomes, and youth commonly exhibit more aggressive behavior under these conditions.⁵⁵⁴

A recent consent order issued by the United States District Court for the Southern District of Ohio Eastern Division ruled that seclusion in juvenile facilities should be applied such that structured programming is provided to youth even in closed-cell environments. The court further ruled that seclusion must be designed to ensure that youth are not confined in locked cells during waking hours, and the use of seclusion must follow an adequate disciplinary hearing.⁵⁵⁵ The court also required structured programming to be designed so that it modifies behaviors, provides rehabilitation, addresses general health and mental health needs, and is coordinated with youths’ individual behavioral and treatment plans.⁵⁵⁶

548. American Bar Association, *Standards for Juvenile Justice: A Summary and Analysis 2* (Massachusetts: Ballinger, 1982), cited in Human Rights Watch, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States*, 82.

549. Schuster, “13 Good Ideas from Other Jurisdictions That May Help Improve Outcomes on the PROGRESS Units,” 2.

550. *Ibid.*, 1.

551. *Ibid.*, 2.

552. *Ibid.*, 3.

553. *Ibid.*, 3.

554. Weisman, interview.

555. Consent Order, *United States of America v. The State of Ohio, et al.*, (No. 2:08-cv-00475-ALM-MRA, December 19, 2012), available as document no. 107-1: 1.

556. *Ibid.*

C. Use of Force, Seclusion, and Restraint

Finding 5.23: The use of isolation, mechanical restraints, and other corrections-based responses make youth more aggressive, can traumatize youth, and can cause injuries to both youth and staff. Such punitive types of responses can promote a culture of fear and violence, and are counter-productive as responses to aggressive behavior.

The best practices involved in de-escalating aggressive conflicts are changing as increasing evidence shows that the use of isolation, mechanical restraints, and other corrections-based responses are actually making children more aggressive.⁵⁵⁷ According to the Hogg Foundation, this is because the use of seclusion and restraint is traumatic and dangerous to youth and staff.⁵⁵⁸ It can cause severe physical and psychological harm, and it can also lead to mistrust and power struggles that conflict with a positive therapeutic environment, hindering a change in behavior.⁵⁵⁹ For this reason, many experts believe the use of physical restraints and isolation can and should become obsolete in juvenile facilities.⁵⁶⁰ Contrary to the standard practices of the last several decades in juvenile correctional settings, a reduction in the use of physical restraints and isolation will in fact reduce the incidence of violence in secure facilities.⁵⁶¹

According to expert Amanda Yurick, proper training in physical restraints is difficult because the level of resistance of the youth in a violent incident is often underestimated.⁵⁶² Furthermore, youth often physically fight one another in locations that are not conducive to using restraints in the manner that staff have been taught.⁵⁶³ For instance, to remain out of sight of cameras, youth will often fight one another underneath the stairways on the unit, which makes it difficult for staff to properly place themselves behind the aggressive youth to apply restraints.⁵⁶⁴ Furthermore, the Council of Juvenile Correctional Administrators found that facilities with high numbers of restraint incidents are more likely to have higher rates of safety problems.⁵⁶⁵ These findings lend support to our earlier finding in Chapter III that most staff injuries occur in the course of restraining a youth.⁵⁶⁶

According to a recently released Human Rights Watch report on the use of seclusion to manage the behavior of incarcerated youth, locking down teenagers for increasing amounts of time becomes counterproductive because the less the juveniles have to do, the more trouble they get in.⁵⁶⁷ Indeed, Human Rights Watch found that the longer teenagers were kept in isolation, the fewer activities and programs they were provided.⁵⁶⁸

557. Andrea Weisman, telephone interview by Alycia Welch, Austin, TX, November 12, 2012.

558. Hogg Foundation for Mental Health, “Reducing Seclusion and Restraint in Texas.” http://www.hogg.utexas.edu/initiatives/seclusion_restraint.html (accessed January 25, 2012).

559. *Ibid.*

560. Weisman, interview.

561. *Ibid.*

562. Dedel, interview.

563. *Ibid.*

564. Weisman, interview.

565. Council of Juvenile Correctional Administrators, “Pepper Spray in Juvenile Facilities,” <http://cjca.net/attachments/article/172/CJCA.Issue.Brief.OCSpray.pdf>, May 2011, 1-4 (accessed January 25, 2012).

566. *See supra*, Chapter III, Finding 3.19.

567. Human Rights Watch, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States*, 87.

568. *Ibid.*

Finding 5.24: Quality training for staff on proper use of force and restraint techniques is essential for those occasions when verbal de-escalation techniques are proving ineffective at stopping a violent incident.

Despite striking evidence that use of punitive measures can be counterproductive as a strategy for reducing violence, use of restraints is sometimes necessary when violent incidents break out, especially in large facilities. Therefore, according to former juvenile administrator Orlando Martinez, staff must be trained in proper use of force and restraint techniques as an intervention strategy to protect themselves.⁵⁶⁹ Use of improper techniques have caused serious injury and, in some cases, death.⁵⁷⁰ However, Martinez emphasizes the importance of training staff in restraints as a last resort option, when other de-escalation techniques are no longer viable interventions.⁵⁷¹

Handle With Care is a curriculum that teaches a system for restraining aggressive youth.⁵⁷² It is used across the country, including at TJJD secure facilities and in many county-level detention centers in Texas. However, according to Vincent Schiraldi, the former head of juvenile corrections in the District of Columbia and the current head of probation in New York City, there is growing concern that Handle With Care encourages staff to rely too heavily on physical restraints without exhausting verbal de-escalation techniques.⁵⁷³ Another expert, Kelly Dedel, believes that Handle With Care often creates more problems than it solves because of the program's overreliance on the use of physical intervention, and high frequency use can inadvertently cause youth to behave even more aggressively.⁵⁷⁴

Schiraldi believes that the best curriculum for training staff on proper intervention techniques is Safe Crisis Management.⁵⁷⁵ He believes that the training on both verbal de-escalation and physical restraints surpasses the training in any other program on the market.⁵⁷⁶ Schiraldi further notes as a positive that this curriculum does not rely on the use of pain compliance techniques such as a focus on pressure points or joint manipulation, which should never be used to restrain youth, and it does not condone the use of Oleoresin Capsicum (OC) pepper spray.⁵⁷⁷

Finding 5.25: The use of pepper spray has been found to be both dangerous for youth and ineffective at controlling violence in juvenile facilities.

Numerous recent lawsuits and investigations have concluded that not only is OC pepper spray dangerous but it also has not decreased the rate of violent incidents at juvenile secure facilities.⁵⁷⁸ OC pepper spray is dangerous because chemical agents generate adverse physical reactions that can be exacerbated in secure settings with poor ventilation, causing potential harm to youth and staff even if they are not direct targets of its use.⁵⁷⁹ While the use of OC pepper spray has never been tested on youth, staff cannot predict which youth are likely to have severe or lethal reactions to chemical agents.⁵⁸⁰ Most impor-

569. Martinez, interview.

570. Dedel, interview.

571. Martinez, interview.

572. Schiraldi, interview.

573. Ibid.

574. Dedel, interview.

575. Schiraldi, interview.

576. Schiraldi, interview.

577. Ibid.

578. Center for Children's Law and Policy, "Chemical Agents in Juvenile Facilities," 1.

579. Ibid, 2.

580. Yurick, interview.

tantly, administrators and staff can preserve the safety and security of youth and staff without relying on chemical agents.⁵⁸¹ In fact, a 2011 issue brief from the Council of Juvenile Correctional Administrators reported that juvenile justice agencies in just 15 states permit the use of chemical agents, and only 6 of the 15 permit staff to carry pepper spray in secure facilities.⁵⁸² Most agencies have found the use of OC pepper spray to be an ineffective method of managing violent behavior in juvenile secure settings.⁵⁸³ Such evidence led North Carolina and Santa Clara County, California to eliminate the use of OC pepper spray in their juvenile secure facilities.⁵⁸⁴

D. Conclusion

The multi-tiered behavior management structure described in this chapter is a model for implementing nationally recognized best practices and strategies for preventing and responding to misbehavior and violence in secure juvenile facilities. Implemented properly and comprehensively, these nine overarching strategies can elicit desired behaviors, promote long-lasting behavioral change in youth, and lead to a systematic reduction in violence in secure juvenile facilities. The model incorporates an effective discipline system based on a meaningful set of rewards, incentives, and consequences that is effective at controlling behavior without being punitive. It also relies on cognitive behavioral restructuring to address the many cognitive deficits that lead youth to act aggressively and to break rules.

This model provides a framework for disciplinary reform in TJJD facilities that can help the agency move towards a culture of non-violence as it has similarly helped other juvenile agencies around the country.

581. Center for Children's Law and Policy, "Chemical Agents in Juvenile Facilities," 3.

582. Council of Juvenile Correctional Administrators, "Pepper Spray in Juvenile Facilities," 1.

583. *Ibid.*

584. Mitchell, interview.

Chapter VI. Discussion

This section of the report synthesizes our findings in earlier chapters and discusses the implications of the data we presented regarding violence in TJJD and the agency's efforts to address this problem.

A. Violence and disruptive behavior in TJJD's secure facilities are continuing problems. Equally troubling is the sheer number of non-violent major rule violations, which suggests that the agency has a problem with behavior management generally, not just violence.

Incidents involving major rule violations have increased steadily since 2010. In 2012, the number of serious incidents reached a higher level than in 2009, when there were 150 more youth in secure facilities. Overall, the total number of major rule violations increased 60% from 2010 to 2012, and the number of violations per youth has risen from 11 to 14, suggesting the presence of a more difficult to manage juvenile population. The *majority* of major rule violations committed by youth, however, are non-violent in nature, and the share of non-violent incidents has increased. While violent and seriously disruptive behavior is a major concern for TJJD, violent incidents that result in bodily injury make up just 11% of the rule violations in TJJD in 2012.⁵⁸⁵

There are countless rules being broken by youth that contribute to an overall culture of facility instability. These rule violations – regardless of their nature – interfere with education, treatment programs, and rehabilitative services, making it less likely that youth will be able to get the most out of the programs available to them during their time in TJJD. Administrators should view youth misbehavior in this larger context, rather than focusing only on violence within facilities.

B. TJJD has treated violence in its facilities as short-term crises that must be “solved” rather than as a chronic problem needing careful, long-term management. A proactive, comprehensive approach to behavior management is essential for long-term improvements for staff and youth experiences in TJJD's secure facilities.

TJJD has been under the legislative microscope as a result of high-profile scandals several times throughout its recent history. In the aftermath of each crisis, new policies and procedures were put into place, staff were let go, and youth were reshuffled into fewer and fewer facilities. In 2012, highly publicized reports of violence within TJJD's facilities, most notably in March, caused the agency to once again implement a new series of policy changes. These changes were aimed at reducing violence by removing the “most violent” youth from secure facilities. While it is too early to tell what kind of long-term impact these reforms might have, our research shows that real change will not come until TJJD institutes a set of comprehensive changes aimed at all youth in TJJD, not just those thought to be responsible for the most recent “crisis.”

Indeed, our research suggests that this pattern of periodic and intense disciplinary crackdowns has not resulted in long-term improvements in youth behavior within the facilities. Undoubtedly, youth committed to TJJD secure facilities come with a host of emotional and psychological challenges that make them a difficult population to manage. Nevertheless, TJJD has not created a culture of stability and non-violence by implementing best practices that have been proven to improve institutional culture in other juvenile justice agencies.

585. These data and the trends described here are discussed more fully in Chapter III, especially Findings 3.1, 3.2, and 3.4.

C. Despite the large numbers of violent events and other serious incidents, youth generally report feeling relatively safe in secure facilities. Most assaultive incidents are not planned, do not involve group or gang violence, do not involve a weapon, and do not result in serious bodily injury. Youth do not report sexual assault to be a significant problem.

Our research paints a nuanced picture of violence within TJJD facilities. Eighty-five percent of youth report feeling safe from staff and 82% report feeling safe from their peers. It is important to recall that only 11% of all major rule violations are violent incidents that result in bodily injury. It is equally important to note that staff and youth report that injuries sustained as a result of an assault are very minor, and very few require hospital care. Almost none of these injury-causing assaults are committed with a weapon of any kind.⁵⁸⁶ While this does not diminish the seriousness of these incidents, it is important to put the severity of the violence in context.

Additionally, very few youth and almost no staff report having been assaulted by a group of youth, and most youth report that when they are the aggressor of an incident, it is unplanned. Youth report that sexual assault is very uncommon.⁵⁸⁷ The majority of staff surveyed indicated that assaults against them by youth were often attached to an incident during which the staff member was trying to restrain a youth. Further, 80% of youth indicate that the reason they assaulted a peer was out of anger or as a result of an argument.⁵⁸⁸

Overall, very few serious incidents within TJJD's facilities are premeditated acts carried out by groups of youth. Incidents are more often "crimes of opportunity" brought about by unresolved arguments or spur-of-the-moment fights. This implies that a thoughtful and holistic management strategy is needed in order to create a culture of safety in which youth are given the tools they need to manage their aggression more productively. A strategy aimed at fostering a culture of safety also creates an environment in which these incidents have fewer opportunities to occur.

D. Violence in TJJD does not appear to be related to the presence of older youth in the secure facilities. Indeed, youth aged 17 and 18 are disproportionately *less* likely to be involved in major rule violations than their younger peers. In fact, 14- and 15-year olds are disproportionately responsible for more serious and violent incidents on TJJD's campuses.

As the 83rd legislative session got underway, a major concern of legislators was whether the incidence of major rule violations, particularly violent ones, could be attributed to the age of youth. Our research shows that the most serious incidents involving violence, riots and escapes, are disproportionately committed by youth who are 16 and younger. While 17- and 18 year-olds made up 57% of TJJD's total population in 2012, they committed only 44% of the most serious major rule violations reported during the year. Strikingly, 14- and 15-year olds made up only 12% of TJJD's population but committed 25% of the violent and other serious major rule violations. Younger youth are also disproportionately referred to TJJD's key disciplinary programs, Redirect and Phoenix.⁵⁸⁹

These data suggest that efforts to reduce violence in TJJD by removing older youth from the secure facilities would not be an effective strategy. Successful violence prevention should instead be based on the implementation of comprehensive strategies such as those described in Chapter V of this report.

586. See Chapter III, Findings 3.10 – 3.16, *supra*.

587. *Ibid.*, Finding 3.15.

588. *Ibid.*, Finding 3.17.

589. *Ibid.*, Finding 3.21.

E. Different types of behavioral problems predominate at each TJJD facility, and rates of incidents vary tremendously among facilities. These differences may suggest that the current behavior management strategies are not being applied consistently across the agency.

Even controlling for differences in facility size, each TJJD secure facility experiences youth misbehavior differently. Evins and Gainesville, for example, have experienced recent spikes in the number of riots and group disturbances, while McLennan and Ron Jackson have equally low numbers of violent incidents overall. Corsicana and Evins experience more incidents during educational programming than other facilities, while Gainesville has had more incidents within its security unit than any other facility in the past four years. At Evins and Corsicana, injury-causing violent behavior increased dramatically from 2011 to 2012. Giddings experienced a significant increase in violent incidents resulting in injuries in 2011, but the numbers decreased in 2012.⁵⁹⁰ Nevertheless, Giddings had by far the highest frequency of use of pepper spray throughout TJJD in 2012.⁵⁹¹

The disparities among facilities indicate that TJJD's current mechanisms for behavior management are not consistently applied throughout the agency. This may be due to the complexity of current behavior management policies, improperly trained staff, inadequate staffing patterns, improperly implemented security measures, or challenges unique to particular populations of youth within each facility.

F. The Corsicana facility for youth with serious mental illness has, by far, the highest levels of violent and disruptive behavior in TJJD. This calls into question not only the safety of youth in the facility but also the effectiveness of the programs taking place there and the appropriateness of this setting for a treatment purpose.

While all of TJJD's facilities have significant behavior management challenges, Corsicana's levels of violence and overall youth misbehavior are dramatically higher than at any other facility. Despite housing only 10% of TJJD's youth in 2012, youth in Corsicana are responsible for 32% of all of the violent incidents, though most of those incidents do not cause injuries.⁵⁹² Youth at Corsicana disproportionately report that they do not feel safe.⁵⁹³

Corsicana concentrates youth with the most severe mental health needs in a single facility, but our research raises questions as to whether there could be a more effective setting for the housing of these youth. The Corsicana facility is located far from an urban center, which makes it difficult to hire and maintain a highly qualified treatment staff. It is also a very institutionalized environment, which may run counter to its treatment mission. Moreover, the effectiveness of the treatment is undoubtedly hindered by the violence within the facility, making it difficult for youth to get the most out of the mental health programs currently in place.

It should be further noted that most youth in TJJD have significant mental health needs. A more holistic approach to behavior management is needed in light of the particular needs of these youth, whether they are housed in Corsicana or elsewhere.

G. Security units have become the centerpiece of the behavior management program in TJJD, despite agency policy to the contrary and despite consistent evidence that this approach is ineffective and counterproductive at managing behavior.

According to TJJD policy, a youth should only be referred to a security unit by a staff member if he or she is a serious or continuing escape risk; a serious and immediate physical danger to others; so disrupt-

590. See *supra* Chapter III, Finding 3.3.

591. See *supra* Chapter IV, Finding 4.2.

592. See *supra* Chapter III, Finding 3.6.

593. *Ibid.*, Finding 3.16.

tive that programming cannot continue; or likely to interfere with an ongoing investigation or due-process hearing. Despite the policy's intention to ensure that security is not used as a punitive measure for youth misbehavior, the sheer volume of security referrals suggests otherwise.

On average, youth committed to TJJD during the January 2009 – August 2012 timeframe were referred to a security unit 48 times. One youth had 757 individual security referrals, and 93 of the youth who spent time in TJJD since January 2009 had more than 300 referrals. Youth who have zero major rule violations on their records still have an average of 23 security referrals. While these numbers include both referrals by staff and self-referrals, fewer than 10% of security referrals are self-referrals, according to TJJD data. Youth who are involved in more major rule violations have dramatically more security referrals than those who break fewer rules. Results from the OIO Survey found that only 20% of youth report receiving specialized therapeutic treatment or other programming while in security, which raises significant concerns about the impact of security on the consistency of the provision of mental health treatment, programs, and education for youth.⁵⁹⁴

TJJD staff is undoubtedly using security as a technique for preventing, interrupting, and/or punishing misbehavior, but the use of security is not an effective behavior management tool. The evidence suggests that youth do not view security referral as a deterrent to breaking major rules. Additionally, youth who are repeatedly referred to security may actually become more predisposed to violent or assaultive behavior as a result of the time they have spent in isolation, which has well-documented negative mental and physical effects on youth. At the very least, this “stop and start” approach disrupts the continuity of the youth's education and treatment. Thus, there is a real risk that overuse of the security units is a counterproductive approach that exacerbates misbehavior rather than controls it.

H. TJJD policy provides for a wide range of possible long-term consequences for youth who misbehave, but staff rely overwhelmingly on 30-day suspension of privileges, which seems to have little effect on changing the behavior patterns of youth.

Since 2009, the most common long-term consequence for youth who commit major rule violations has been the suspension of all privileges for 30 days.⁵⁹⁵ Youth receive and lose privileges on a daily basis based on their behavior. Privileges include being allowed to wear different clothing, the opportunity to work, free time in the evenings, and participation in sports or other extracurricular activities. The frequency with which this consequence is used and the increasing number of major rule violations within facilities since 2009 clearly suggest that this is not an effective consequence for youth. In fact, our research into evidence-based behavior management strategies indicates that while losing privileges is a good behavior management strategy, 30-day suspensions are not ideal.

Youth who are impulse-driven and who are used to instant gratification need immediate responses to their misbehavior and immediate positive reinforcement of their improved behavior. Removing privileges for 30 days is ineffective at changing the behavior patterns of youth because it takes place over too long a period, and only after enough time has passed to hold a Level II due process hearing. After 30 days, youth have likely forgotten why the privileges were removed. Moreover, the youth have no incentive to practice improved behaviors.

Our research suggests that removing privileges immediately for a period of up to five days would be more effective at teaching youth desired behaviors. Privileges and consequences should be applied “swiftly and certainly” so that youth identify the negative behavior and understand why certain behaviors are intolerable. Moreover, the reinstatement of a youth's privileges should be coupled with positive reinforcement. When youth exhibit desired behaviors, staff should swiftly and certainly reinstate those privileges. By using a shorter window of time for removing a youth's privileges, youth learn to practice desired be-

594. See Chapter IV, Finding 4.3, *supra*.

595. *Ibid.*, Finding 4.5.

haviors.⁵⁹⁶ Assuming staff maintain fidelity in employing positive reinforcement, undesired behaviors among youth should be significantly reduced. This type of reinforcement system makes discipline synonymous with behavior management as youth begin to exhibit new and improved behaviors.

I. The rehabilitative aspects of the Redirect and Phoenix programs, both of which are designed to separate youth who engage in assaultive or serious misbehavior from the general population and provide them with intensive services, are compromised by their location in security units and by the fact that youth can remain in these programs indefinitely. In both programs, it is difficult to ascertain the quality of the programming and education youth receive and the long-term impact these programs have on behavior in TJJD facilities.

In 2012, youth were spending an average of 66 days in the Phoenix Program; as of November 30, 2012, three youth had been in the program for more than 100 days and the program has no maximum number of days a youth can remain. Of the youth admitted to the Phoenix Program between July and November of 2012, roughly 75% had previously spent time in Redirect at their home facility. Redirect was initially designed as a short-term program and youth were permitted to stay in it for only up to 42 days; however, this time restriction was lifted in June 2012.⁵⁹⁷

Phoenix continues to have relatively high levels of serious misconduct, 50% of which is violent in nature, despite its tightly controlled environment. This may be a symptom of the fact that the intense therapeutic programming youth receive is a hybrid curriculum, mixing components of Aggression Replacement Therapy with social skills development rather than relying on a consistent evidence-based program. It is difficult to measure the effectiveness of a hybrid curriculum that has not been tested and researched in accordance with evidence-based standards. Similarly, youth in the earliest stages of Redirect may actually lose a spot in successful therapeutic behavioral groups such as the Capital Offenders Program, thereby compromising the effectiveness of their treatment programs during their time in TJJD.

Our research indicates that segregating youth in programs like Redirect and Phoenix may not be the most effective strategy for implementing long-term behavioral changes. Youth, particularly high-risk youth, need opportunities to practice the behavior skills that are taught during therapeutic interventions, which is impossible given that Redirect and Phoenix are housed in the security unit, which is a heavily correctional environment. Therapeutic programming involving the development of cognitive behavioral skills should take place in an environment where most of a youth's day is spent engaged in meaningful activities, including education and therapeutic programs, and where they are engaged with other youth rather than in isolation much of the time.

Evidence-based "behavior management units" should be used to *temporarily* separate youth from the general population, but staff should not use this unit to segregate youth for an extended period of time or to place youth in seclusion. Indeed, the removal of a few disruptive youth from the general population may simply open up new opportunities for other juveniles to take their places when it comes to asserting power over others or creating disturbances, while not resolving the underlying causes of the violence. The fact that youth misbehavior has not improved significantly in TJJD as a result of Redirect and Phoenix is strong evidence that alternative interventions are needed.

596. See Chapter V, Findings 5.19 and 5.20, *supra*.

597. See Chapter IV, Findings 4.6 and 4.7, *supra*.

J. TJJD youth are routinely prosecuted on new adult charges and TJJD routinely reviews determinate-sentenced youth for possible transfer to the Texas Department of Criminal Justice (TDCJ). These strategies result in youth being housed in adult prisons, which increases the youths' risk of violent recidivism, and puts the youth at substantial risk of physical assault, sexual assault, mental illness, and suicide.

Youth ages 14 to 16 can be certified and prosecuted on adult charges for certain offenses they commit while in TJJD's care, and those 17 and older are routinely prosecuted as adults. Additionally, determinate sentenced youth in TJJD as young as 16 may be transferred to an adult facility for chronic or serious behavior problems. In 2012, more than 100 youth were prosecuted as adults or were transferred to a Texas Department of Criminal Justice institution, and many more were evaluated for possible transfer.⁵⁹⁸

Transferring youth from TJJD to TDCJ carries significant consequences for youth. Experts believe that transferring youth from juvenile to adult facilities causes more harm than good for public safety and a youth's rehabilitation. Recent research compiled by the Centers for Disease Control Task Force on Community Prevention Services found that juveniles who serve at least one year in adult prison have a 100% greater risk of *violent* recidivism than those who stay in the juvenile system, and a 34% greater risk of recidivism overall. Juveniles in adult facilities are five times more likely to be the victims of sexual abuse, 50% more likely to be attacked with a weapon, and 36 times more likely to commit suicide than youth in juvenile facilities. Moreover, youth in adult prisons do not have access to the programs, services, educational opportunities, and therapeutic interventions that youth have in TJJD.⁵⁹⁹

Our research shows that transferring youth from juvenile to adult facilities should be used only in the most extreme cases and when all other recommended methods to improve a youth's behavior have failed.

K. Juvenile justice systems around the country have effectively controlled their problems with youth violence through implementation of best practices in behavior management. The most effective strategies employ a comprehensive, multi-tiered model that combines implementation of facility-wide preventive measures with youth-specific intervention measures and a graduated disciplinary approach.

Juvenile justice facilities around the country have repeatedly demonstrated that it is entirely possible for an agency to reduce institutional violence. It is important to understand that violence is a chronic problem that needs to be managed on an ongoing basis; it is not something to be fixed with a one-time change in policy or practice. Violence control must be thought of as "behavior management," and effective behavior management is a comprehensive effort that includes changes to facilities and programs as well as changes in the interactions between youth and staff and the implementation of effective rewards and consequences for behavior.

Our research has found that using a multi-tiered and comprehensive approach to behavior management is highly successful at preventing and responding to misbehavior by youth.⁶⁰⁰ This is the premise of PBIS (Positive Behavior Interventions and Supports), one of the most successful and evidence-based approaches to reducing disciplinary incidents in school settings.⁶⁰¹ This strategy has been implemented successfully by numerous juvenile justice agencies around the country, including the juvenile agencies in Missouri, the District of Columbia, Florida, Pennsylvania, and Santa Clara County (CA). Missouri's long-term success at developing a culture of non-violence is well-known, and the other jurisdictions have similarly shown evidence of reductions in undesired, aggressive behaviors by youth. For example,

598. *Ibid.*, Findings 4.8 and 4.9.

599. *Ibid.*, Finding 4.10.

600. *See generally* Chapter V, Overview, *supra*.

601. *Ibid.*

Santa Clara County saw a significant reduction (78%) in gang membership within juvenile detention facilities by implementing the best practices described in this report.⁶⁰²

A detailed description of the three-tiered behavior management model and how it should be implemented can be found in Chapter V, and a brief summary can be found in the Executive Summary. Note that the elements of the model are meant to be implemented comprehensively in order to achieve a reduction in violence; this is not a menu of options.

L. Behavior management strategies that rely heavily on the use of pepper spray, restraints, and seclusion of youth are antithetical to best practices in juvenile justice facility management, and are counter-productive when it comes to violence prevention and control.

The best practices involved in de-escalating aggressive conflicts are changing as increasing evidence shows that the use of pepper spray, isolation, mechanical restraints, and other corrections-based responses are actually making children more aggressive. According to experts, this is because the use of punitive disciplinary measures is traumatic and can lead to injuries for both youth and staff. These measures can cause severe physical and psychological harm, and it can also lead to mistrust and power struggles that conflict with a positive therapeutic environment, hindering a change in behavior. Moreover, use of seclusion removes a youth from the therapeutic interventions and programs that are effective at reducing violent behavior. For these reasons, many experts believe the use of physical restraints, chemical agents, and isolation can and should become obsolete in juvenile facilities.⁶⁰³

Contrary to the standard practices of the last several decades in juvenile correctional settings, a reduction in the use of physical restraints and isolation, accompanied by the effective implementation of the multi-tiered behavior management model described in Chapter V, will in fact reduce the incidence of violence in secure facilities.

602. Ibid., Finding 5.15.

603. Ibid., Findings 5.23 - 5.25.

Chapter VII. Recommendations

Our findings in this report have very clear implications for both policy and practice. This chapter ends our report with a series of recommendations for TJJD administrators, legislators, and the OIO designed to reduce the incidence of violence in secure facilities and promote safety for youth and staff. These recommendations are based on our findings and analyses of TJJD-specific data, as well as on nationally recognized best practices that have been successful at reducing institutional violence in other juvenile facilities around the country.

Recommendations for TJJD Administrators

1. TJJD should appoint a Behavior Management Task Force, charged with planning for short- and long-term implementation of a multi-tiered behavior management model in all secure facilities.

The Task Force should consist of representatives of TJJD administration or management, the OIO, treatment specialists, mental health professionals, behavior management analysts, teachers, and line staff. It may be wise to also seek the involvement and guidance of a juvenile violence expert such as David Roush, the consultant already working with the agency on these issues. The team should study the findings and recommendations in this report and develop a working behavior management plan modeled on the best practices identified in this report. Among the team's responsibilities should be to identify those administrative policies, statutory restrictions, or funding limitations that currently impede implementation of an effective behavior management plan. Moreover, the team should prioritize the implementation of specific elements of the plan, while proposing a timeline for full implementation of the remaining elements.

2. TJJD should develop an alternative plan for housing and treating youth with serious mental illness who are currently housed in the Corsicana Residential Treatment Center.

Our findings are clear that not only is the Corsicana facility ineffective at meeting the needs of youth with serious mental illness, it is also unsafe. Violence rates at Corsicana are twice the rate of any other facility in the TJJD system. Finding an alternative approach to managing and serving this population must be a top priority for the agency.

It was beyond the scope of this project to identify the best practices for treating youth with serious mental illness, but such a study should be conducted immediately. It would be short-sighted to simply mainstream these youth into other TJJD facilities, as the youth are likely to simply bring their behavior problems with them and further destabilize the other campuses. TJJD may wish to contract with an expert in the field of mental health for youth in institutional settings who could evaluate the youth at Corsicana and make informed recommendations that identify the most appropriate setting for these youth.

Because the needs of these youth are so complex, TJJD should seek partnerships with other state and local agencies that are equipped to serve this population.

3. TJJD should adopt a multi-tiered behavior management plan that emphasizes prevention of misconduct through various strategies for all youth; provides effective interventions as well as meaningful rewards and consequences for those whose behavior “tests” the rules; and offers intensive interventions and a graduated system of discipline for youth who continue to misbehave despite the earlier efforts to address misconduct. Specific recommendations to help implement this plan are highlighted below.

In order to address the problem of youth violence in TJJD, the agency should implement the multi-tiered behavior management system discussed in detail in Chapter V. This approach incorporates a substantial number of prevention measures, as well as intervention and disciplinary strategies. This tiered approach is modeled on the highly successful and evidence-based PBIS (Positive Behavior and Intervention Supports) approach to reducing school discipline problems.⁶⁰⁴

The best practices that make up the primary tier represent the operational practices that target the prevention of misbehavior across the board. The secondary tier represent individualized responses that should be used to intervene when misbehavior occurs; and the tertiary tier represent enhanced individualized responses that should be used to discipline youth who engage in violence or for whom the initial responses were unsuccessful. The tertiary tier also includes a graduated discipline model.

Agency officials should refer to Chapter V for specific details about the multi-tiered behavior management model. Some key recommendations are highlighted below:

Primary Tier: Prevention

- The size of secure facilities should be reduced to no more than 30-50 beds, and facilities should be designed to be more home-like in appearance.
- Facilities should be located strategically around the state, in areas close to the homes of the youth to encourage family involvement in treatment.
- Administrators should ensure that security remains a high priority, including ensuring proper use of cameras and video equipment and compliance with basic security measures.
- Living environments and activities in the facilities should be structured around small, family-like groups of no more than 8-12 youth.
- Staffing ratios should not exceed eight youth for every one staff member with direct responsibility for supervising youth.
- Staff should be deployed to ensure additional supervision in housing areas, where most incidents occur.
- Staff training should emphasize quality over quantity of hours, should include a mentoring component, and should include continuing training opportunities.
- The training curriculum should include segments on mental health and cultural awareness, and should focus heavily on the development of positive staff-youth relationships.
- Staff should engage in more positive interactions with youth, even—and especially—during periods of misbehavior.
- There should be minimal differences between line staff and treatment staff, and both need to provide support for youth development.
- An improved classification system should begin at intake, be based on objective criteria, take into account a youth's risk of misbehavior in the secure facilities, take into account gang affiliation, and be routinely updated based on a youth's behavior. Classification determinations should inform housing assignments and individualized behavior management plans.

604. See Chapter V, Overview, *supra*. Also see Brenda Scheuermann and Judy Hall, *Positive Behavioral Supports for the Classroom 2* (New Jersey: Pearson, 2012), 18.

- Staff should ensure that youth are engaged in highly structured and meaningful activities throughout the day that promote skill-building, including during evenings and on weekends.

Secondary Tier: Intervention

- Youth who misbehave should be provided more intense, individualized, cognitively-based therapeutic programming to continue to reinforce desired behaviors and extinguish undesired behaviors.
- Administrators should implement a “carrots and sticks” approach to managing behavior that relies on a simple point system to reward positive behavior, and immediate and certain consequences for misbehavior that are designed to be meaningful for each youth.
- Administrators should consider implementing a system of “good time” that rewards youth with days off their sentence for good behavior.
- Staff should use effective verbal de-escalation techniques to respond to youth misbehavior at its earliest stages.
- Youth should be provided with “cool-off” rooms where they can calm down following an incident or stressful encounter.

Tertiary Tier: Discipline

- Staff should intensify therapeutic interventions for youth who do not respond to lower-level efforts to manage their behavior or who engage in violence.
- Staff should employ a system of graduated sanctions that impose immediate consequences for misbehavior, including use of “cool-off” rooms, the immediate and short-term removal of the youth from activities with peers, the short-term loss of privileges, stage demotion, and—in extreme circumstances—assignment to a longer-term Behavior Management Unit.
- Behavior Management Units should not function as a form of administrative segregation but as a setting where the youth can be safely separated from peers while undergoing intensified therapeutic programming. Youth should not be confined to their rooms for more than three hours per day, and should continue to be engaged in meaningful activities while in a Behavior Management Unit.

4. TJJD should cease the routine use of disciplinary measures that have been shown to be ineffective and counterproductive with misbehaving youth, including the overuse of security units, OC pepper spray, and mechanical restraints.

The overwhelmingly frequent use of security units in TJJD is not having the desired outcome of deterring or controlling misbehavior by youth. Individual youths are referred to security repeatedly without any indication that this practice is reducing their likelihood of acting out or engaging in violent behavior. Indeed, there are indications that misbehavior increases as a result of continued placements in the security units. Time spent in the security units can amount in total to a substantial portion of the youth’s time in TJJD.

More effective outcomes will result from placing youth in settings where they can practice desired behaviors and learn new strategies for controlling their impulses. The security units do not afford youth this opportunity. While there is an instinctive appeal to imposing punitive disciplinary measures such as placement of a youth in seclusion, more effective discipline results from strategies that in fact change the behavior of these youth.

Similarly, the use of restraints and OC pepper spray have been found to be ineffective at improving youth behavior. Even though these measures are intended as immediate interventions to prevent further violence, they often escalate the youth's physical violence or resistance. Such struggles often result in staff injuries, many of which could have been prevented had verbal de-escalation measures been employed earlier in lieu of restraints. Moreover, pepper spray can cause harm not only to the youth to whom it is directed but also to others in the immediate vicinity who suffer from particular medical conditions. Again, as with the use of extended periods of seclusion, these use of force measures do not reinforce desirable behaviors.

Recommendations for Legislators

5. The Legislature should provide adequate funding to allow TJJD to staff its facilities with the appropriate number of qualified staff.

The higher the staff-to-youth ratio, the more staff interactions will help prevent behavior problems in secure facilities. Experts agree that higher staff-youth ratios allow staff additional opportunity to work with youth and help staff identify and resolve problems before violence escalates. Moreover, high staff-youth ratios allow juveniles to feel safe, making them less likely to act out. Experts suggest an overall minimum staff-to-youth ratio of one staff person to every 8 to 10 youth, but ideally one staff person should directly supervise only about 6 to 10 youth at a time. Additionally, adequate funding is necessary to ensure that the agency is able to hire specialized staff to handle the growing mental health and therapeutic needs of youth in secure facilities.

6. The Legislature should provide adequate funding to TJJD to enable it to provide effective programming and services to youth in the secure facilities, including interventions that have been shown to reduce violence.

Effective therapeutic interventions and programs are an essential component of the behavior management model, and are critical to the operations of a safe juvenile justice facility. These interventions can help target the cognitive deficits that lead to violent behavior. Specialized interventions must be available to all youth in the facilities as a preventative measure, and intensified services must be provided when youth begin to exhibit violent behavior.

Moreover, the routine provision of rehabilitative programs in all facilities ensures that youth are engaged in meaningful and structured activities throughout the day, which in turn decreases the likelihood of serious and violent incidents. Failure to provide programming leads to idleness on the part of youth, a major contributor to incidents of violence.

7. The Legislature should fund a new option for housing youth with serious mental illness in lieu of the continued use of the Corsicana facility for this purpose. The option should be proposed by TJJD based on the agency's research into effective strategies for treating this population and feasible alternatives.

Corsicana concentrates youth with the most severe mental health needs in a single facility, in a setting that seems poorly designed to meet the very substantial needs of these youth. The disproportionate level of violence at the Corsicana facility is indicative of the difficulty the agency currently has in addressing mental health issues. Finding and funding an appropriate option for this population of youth should be a high priority for the Legislature, as continuation of the current situation is unsafe for both youth and staff in Corsicana.

8. The Legislature should avoid closing additional facilities at this time in order to avoid further destabilizing the remaining campuses by consolidating populations of youth. Having multiple campuses allows for the proper implementation of a multi-tiered behavior management plan that is based on the appropriate classification and housing of youth based on both risk and needs.

Deinstitutionalization, while important, can be destabilizing. Downsizing the number of youth in facilities often requires merging youth from different facilities into new environments. This can lead to culture clashes between youth who are not yet fully equipped with the skills needed to manage this type of change. At the same time, staff members are also forced to transition to different facilities. This can also be destabilizing because staff are challenged by a learning curve as they enter a new environment at a time in which consistency is most crucial. Our research and analysis of data caution that this instability can lead to increased levels of violence between youth. Furthermore, closing additional facilities necessitates an increased population in the facilities that remain open. Our research shows that a rise in a facility's population increases the likelihood that youth will engage in aggressive and undesired behaviors. Finally, an effective classification plan depends upon the availability of different facilities in which to house youth who represent different levels of risk.

9. The Legislature should direct TJJJ to develop a plan for a regionalized system of campuses around the state that includes small units of no more than 30 – 50 beds. This system should be designed to replace the six existing large secure facilities. TJJJ should present this plan to the 84th Texas Legislature.

Best practices include the use of smaller facilities located close to the communities of incarcerated youth. Keeping a youth close to home is important because families play a critical role in supporting changes in a youth's behavior. The strain on a family's relationship during a youth's incarceration can alienate that youth from his or her family. The proximity of a facility to a youth's family can increase the frequency of visitation and involvement of the family in treatment programs. With the encouragement of staff at the facility, these interactions can lead to positive behavior and long-term, healthy relationships between youth and their family.

Moreover, a system of regionalized facilities allows for placement of these facilities close to urban centers, where it is easier to hire and retain specialized staff. Also, each community can identify its most pressing needs for residential juvenile services and join with nearby counties to ensure that those services and programs are available within a reasonable distance.

Recommendations for the OIO

10. The OIO should monitor and assist in TJJJ's efforts to design and implement a multi-tiered behavior management plan that is based on the best practices described in this report.

The OIO should be closely involved as TJJJ develops its multi-tiered behavioral management plan, in order to ensure that the model follows best practices and that the measures adopted are designed to address the varied and complicated needs of youth in TJJJ's secure facilities. The OIO should be especially alert to indications that the model will rely too heavily on punitive and ineffective strategies such as overuse of security units and other forms of seclusion, restraints, and pepper spray. Data about the rates of violence and other serious incidents should continue to be tracked on a monthly basis so that trends can be noted and addressed quickly by agency administrators. Differences in violence patterns among the secure facilities should raise concerns about the extent to which all facilities implement the behavioral management plan with fidelity.

APPENDIX 1: Types of Major Rule Violations

TJJD Major Rule Violation Description⁶⁰⁵	Incident Summary Category⁶⁰⁶
Two or more failures to comply with written reasonable request	<i>Non-violent incident</i>
Aiding/abetting a youth committing a category-1 rule violation*	<i>Non-violent incident</i>
Assault causing bodily injury to staff	<i>Violent incident causing injury</i>
Assault causing bodily injury to another youth	<i>Violent incident causing injury</i>
Assault—Threat of imminent bodily injury	<i>Violent incident not causing injury</i>
Assault—Unauthorized physical contact with another youth (no injury)	<i>Violent incident not causing injury</i>
Assault—Unauthorized physical contact with staff (no injury)	<i>Violent incident not causing injury</i>
Attempted escape	<i>Escape/Attempted Escape</i>
Chunking bodily fluids (including saliva)	<i>Non-violent incident</i>
Chunking bodily fluids (not saliva)	<i>Non-violent incident</i>
Distribution of prohibited substances	<i>Non-violent incident</i>
Escape	<i>Escape/Attempted Escape</i>
Exposing the anus, buttocks, breasts or genitals	<i>Non-violent incident</i>
Extortion or blackmail	<i>Non-violent incident</i>
Fighting not resulting in bodily injury	<i>Violent incident not causing injury</i>
Fighting that results in bodily injury	<i>Violent incident causing injury</i>
Fleeing apprehension	<i>Non-violent incident</i>
Inappropriate sexual conduct	<i>Non-violent incident</i>
Indecent exposure	<i>Non-violent incident</i>
Injury to self*	<i>Self-harm</i>
Kissing for sexual stimulation	<i>Non-violent incident</i>
Masturbating in an open and obvious way	<i>Non-violent incident</i>
Misuse of medication	<i>Non-violent incident</i>
Participating in a major disruption of facility operations	<i>Riot/group disturbance</i>
Participation in a riot	<i>Riot/group disturbance</i>
Possession or use of prohibited substances and paraphernalia	<i>Non-violent incident</i>
Possession of prohibited items	<i>Non-violent incident</i>
Possession of a weapon	<i>Violent incident not causing injury</i>
Refusing a drug screen	<i>Non-violent incident</i>
Refusing a search	<i>Non-violent incident</i>
Sexual contact (penetration)	<i>Violent incident not causing injury</i>

605. Texas Juvenile Justice Department, “Rules and Consequences for Residential Facilities (GAP.380.9503),” General Administrative Policy Manual, accessed November 13, 2012, <http://www.tjtd.texas.gov/policies/gap/95/gap953.htm>.

606. The research team re-coded TJJD’s major rule violation descriptions into these summary categories.

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Sexual misconduct ⁶⁰⁷	<i>Non-violent incident</i>
Stealing (\$100 or more)	<i>Non-violent incident</i>
Stealing (\$50 or more)	<i>Violent incident not causing injury</i>
Tampering with safety equipment	<i>Non-violent incident</i>
Tattooing/body piercing	<i>Non-violent incident</i>
Threatening another with a weapon	<i>Non-violent incident</i>
Vandalism (\$100 or more)	<i>Non-violent incident</i>
Vandalism (\$50 or more)	<i>Non-violent incident</i>
Violation of any law	<i>Non-violent incident</i>
*This category does not appear in incident reports after 2009.	

607. TJJD formerly used a catch-all category, “sexual misconduct,” to denote violations involving any type of sexual misbehavior. Beginning in 2011, the agency began to disaggregate and track specific sub-categories within “sexual misconduct.” The new categories it developed and continues to use are: sexual contact (penetration); indecent exposure; kissing for sexual stimulation; and exposing the anus, buttocks, breasts, or genitals.

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