



# Probation Referral

A Model for Diversion of Children and Youth with Disabilities from the Juvenile Justice System

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October 2019





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## A Letter from the Executive Director

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Dear Friends,

Children and youth with disabilities often land in the correctional system after they are failed by other systems. These are not children who benefit from punishment or confinement. They cannot "learn" from their mistakes because their actions are not mistakes -- they are

consequential and oftentimes predictable behaviors of children who have not received needed services. These children are "mis-incarcerated."

The practice of mis-incarceration does not make us safer as a society, it does not benefit youth or their families, and is incredibly expensive. Children who receive services<sup>1</sup> at home and in their communities are more successful than those we lock up.

Generous funding by the Ford Foundation has permitted Protection and Advocacy (P&A) agencies to share in an ambitious and exciting campaign to end mis-incarceration by informing policy makers and others about diversion advocacy initiatives. P&As have been accepting direct referrals from state juvenile justice authorities to advocate on behalf of mis-incarcerated youth. This report shares the story of this successful campaign and provides recommendations for future expansion.

We hope you find this report helpful and informative.

A handwritten signature in blue ink that reads "Curt L. Decker". The signature is fluid and cursive.

Curt L. Decker, J.D.  
Executive Director

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<sup>1</sup> By "services" we mean community based services, including school based services, that a child with a disability requires to be successful. These can include, but are not limited to, direct services such as therapies (e.g. mental health, physical, speech), devices such as glasses and hearing aids, service planning/case management, supports for parents and caregivers, such as respite, and/or development of behavioral plans and supports.

## Acknowledgements

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NDRN would also like to thank Richard Ross for the cover photo and for his dedication to exposing the truths of the youth justice system.

There would be no project on which to report without the inspiration and hard work of the staff and administration of Disability Rights Texas, the Native American Disability Law Center, Protection & Advocacy for People with Disabilities, Inc. (South Carolina), and Kentucky Protection and Advocacy. We look forward to working with them as this project grows.

NDRN is the non-profit membership association of Protection and Advocacy (P&A) and Client Assistance Program (CAP) agencies that are located in all 50 States, the District of Columbia, Puerto Rico, and the United States Territories. In addition, there is a P&A / CAP affiliated with the Native American Consortium which includes the Hopi, Navajo and San Juan Southern Paiute Nations in the Four Corners region of the Southwest. P&A /CAP agencies are authorized under various federal statutes to provide legal representation and related advocacy services, and to investigate abuse and neglect of individuals with disabilities in a variety of settings. The P&A / CAP agencies comprise the nation’s largest provider of legally-based advocacy services for persons with disabilities.

The P&A network advocacy staff understand what children and youth with disabilities encounter within the juvenile justice system because P&As are there to see it. P&As work with children and youth with disabilities on the front end of the juvenile justice system, and also maintain a presence in the facilities in which children are confined, including prisons, jails, and detention centers. P&As have the legal authority to monitor and investigate allegations of abuse in these facilities.

We are fortunate that the Ford Foundation funded a twenty-four month project beginning November 1, 2017, titled, *Preventing Mis-incarceration of Youth with Disabilities*. “Mis-incarceration” in this context means the placement of youth with disabilities in the juvenile or adult criminal justice systems due to the lack of community-based services to meet their needs, rather than due to a need for punishment or rehabilitation in the traditional sense.

The Mis-incarceration Project’s aim is to assist in the prevention of placement of youth in the juvenile justice system by expanding the advocacy provided to those who require treatment, therapy, related services, and supports to address disability related needs. This project is implemented through the use of formal juvenile court referral programs which refer youth to their local P&A for advocacy services. Thus far, P&A projects of this type have resulted in additional services to hundreds of children with disabilities and in reduced juvenile justice placements. The goal of this grant has been to improve upon and replicate the success of these programs.

This report describes the work of current P&A program participants and provides information for advocates and government officials in other jurisdictions interested in starting programs of their own. This report provides information on outcomes, recommendations, and best practices regarding referral programs of this type, as well as a communications strategy to inform stakeholders utilizing traditional and social media.

## **STATEMENT OF PROBLEM**

### **Long Term Goal**

*To dramatically decrease the number of children and youth with disabilities who are referred to the juvenile justice system as a result of system failure.*

### **Incarcerating Children with Disabilities Does Not Make Them “Better” People**

Our juvenile justice system must not serve as a ready feeder for the adult criminal justice system -- providing a steady supply of children who are failed by other systems and end up incarcerated by default.

Incarceration of youth is questionable as a general practice. Recent scientific advances have shown that young brains do not function as adult brains do, so punishment using adult methods may be less effective for youth.<sup>2</sup> This same body of research has shown us what methods and techniques work better in general with at-risk youth<sup>3</sup> and that even very short stays in detention have a negative impact on them.<sup>4</sup> It is even more critical to avoid when the child has a disability impacting behavior.

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<sup>2</sup> This report does not address the effectiveness of these methods as applied to adults.

<sup>3</sup> Phillippi, Stephen & DePrato, Debra, Innovation Brief: Model for Effective Implementation of Evidence-Based Practices, Models for Change, (December 12, 2013) , available at <http://www.modelsforchange.net/publications/494>. Because Kids are Different: Five Opportunities for Reforming the Juvenile Justice System, Models for Change Resource Center Partnership, (December 9, 2014) <http://www.modelsforchange.net/publications/718>.

<sup>4</sup> Barry Holman & Jason Ziedenberg, The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Facilities (Justice Policy institute, 2007), available at <https://youthtoday.org/2007/03/the-dangers-of-detention-the-impact-of-incarcerating-youth-in-detention-and-other-secure-facilities/>.

Some communities have already implemented new practices with good results.<sup>5</sup> The legal system has begun to change as well. In fact, the U. S. Supreme Court has eliminated the death penalty for juveniles<sup>6</sup> and juvenile life without parole.<sup>7</sup>

But it's not the same for everyone. The U.S. incarcerates juveniles unequally and as a result, improvements have bypassed some of our children and youth. Youth of color or from particular ethnic backgrounds<sup>8</sup> and youth with disabilities are incarcerated at disproportionately higher rates.<sup>9</sup> Prevalence studies have found that 65-70 percent of youth in the justice system meet the criteria for a disability,<sup>10</sup> a rate that is more than three times higher than that of the general population. Additionally, at least 75 percent of youth in the juvenile justice system have experienced traumatic victimization,<sup>11</sup> leaving them at-risk for mental health disorders such as posttraumatic stress syndrome.

The United States incarcerates more of its youth than any other country.<sup>12</sup> As mentioned above, youth with disabilities and children of color are also disproportionately represented in the juvenile justice system. "As states have undertaken efforts to reduce disproportionate minority confinement for youth, they have found evidence that

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<sup>5</sup> Dual Status Youth Reform, Robert F. Kennedy National Resource Center for Juvenile Justice, (2013) <http://www.rfknrcjj.org/our-work/dual-status-youth-reform/>. Juvenile Detention Alternatives Initiative site (JDAI), <https://www.aecf.org/work/juvenile-justice/jdai/>.

<sup>6</sup> *Roper v. Simmons*, 543 U.S. 551 (2005).

<sup>7</sup> *Miller v. Alabama*, 567 U.S. — 460 (2012).

<sup>8</sup> Disproportionate Minority Contact, 6 Nat'l Council of St. Legis. 1, 2 (2011), available at <http://www.ncsl.org/documents/cj/jjguidebook-DMC.pdf>.

<sup>9</sup> Juvenile Justice and Mental Health and Substance Use Disorders Fact Sheet, Act 4 Juvenile Justice, (August 2014), available at: <https://act4jj.org/sites/default/files/ckfinder/files/ACT4JJ%20Mental%20Health%20Fact%20Sheet%20August%202014%20FINAL.pdf>.

<sup>10</sup> Skowrya & Coccozza, Blueprint for Change: A Comprehensive Model for the Identification and Treatment of Youth with Mental Health Needs in Contact with the Juvenile Justice System, National Center for Mental Health and Juvenile Justice, (May, 2015), available at [http://www.ncmhjj.com/wp-content/uploads/2013/07/2007\\_Blueprint-for-Change-Full-Report.pdf](http://www.ncmhjj.com/wp-content/uploads/2013/07/2007_Blueprint-for-Change-Full-Report.pdf). Better Solutions for Youth with Mental Health Needs in the Juvenile Justice System, The Mental Health and Juvenile Just. Collaborative for Change, 17 (2014), available at: <http://cfc.ncmhjj.com/wp-content/uploads/2014/01/Whitepaper-Mental-Health-FINAL.pdf>.

<sup>11</sup> Better solutions for Youth with Mental Health Needs in the Juvenile Justice System, The Mental Health and Juvenile Just. Collaborative for Change, 17 (2014), available at: <http://cfc.ncmhjj.com/wp-content/uploads/2014/01/Whitepaper-Mental-Health-FINAL.pdf>.

<sup>12</sup> Youth Incarceration in the U.S., Annie E. Casey Foundation (2013) <https://www.aecf.org/resources/youth-incarceration-in-the-united-states/>.

disproportionality occurs at every contact point within the juvenile justice system, from arrest to cases transferred to criminal court and not just at detention and correction.”<sup>13</sup>

Prisons, jails and juvenile detention facilities have in many places become the new institutions. These new facilities do not treat our children any better than the old ones did. In many jurisdictions, education and habilitation have become less important than punitive so-called “behavior modification” regimes. Adult-like methods of punishment, such as solitary confinement, have become commonplace in many juvenile facilities. Solitary confinement (isolation) is even more brutal to young people than it is to adults.<sup>14</sup>

Despite policy efforts such as the Prison Rape Elimination Act,<sup>15</sup> juvenile detention facilities can be places where children and youth,<sup>16</sup> many of whom were abused as small children,<sup>17</sup> are physically, emotionally and sexually abused all over again.<sup>18</sup> Vulnerable

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<sup>13</sup> Hsia, Heidi, Disproportionate Minority Contact Technical Assistance Manual, National Criminal Justice Reference Service, 1 (July 2009) [https://www.ncjrs.gov/html/ojjdp/dmc\\_ta\\_manual/dmcentro.pdf](https://www.ncjrs.gov/html/ojjdp/dmc_ta_manual/dmcentro.pdf).

<sup>14</sup> The Box: Teens in Solitary Confinement in U.S. Jails, Prisons and Juvenile Halls (updated), YouTube, (March, 2016), available at [https://youtu.be/5FU\\_lgdCTs0](https://youtu.be/5FU_lgdCTs0). One Dark Side of the Criminal Justice System that Everyone Should Know, Mic, (May, 2015) <http://mic.com/articles/116806/one-dark-side-of-the-criminal-justice-system-that-everyone-should-know>.

<sup>15</sup> Such as the Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. § 15601 et seq., which contains protections for youth from sexual predation by other inmates and staff.

<sup>16</sup> As this is a report about youth with disabilities, unless otherwise stated, when the term “youth” is used, it is intended to mean youth with disabilities.

<sup>17</sup> Thomas Grisso & Gina Vincent, Trauma in Dual Status Youth: Putting Things in Perspective, Models For Change (May, 2015) <https://rfknrcj.org/wp-content/uploads/2014/12/Trauma-in-Dual-Status-Youth-Putting-Things-In-Perspective-Grisso-Vincent-RFKNRCJJ.pdf>. Wiig, Janet K. & Tuell, John A., Guidebook for Juvenile Justice & Child Welfare System Coordination and Integration, xiii-xvi (2013, ed. 3). Available at: <http://www.rfknrcj.org/images/PDFs/Guidebook-for-JJ-and-CW-System-Coordination-and-Integration-Cover.pdf>.

<sup>18</sup> Sexual Abuse: Elinson, Zusha, Juveniles Sexually Abused by Staffers at Corrections Facilities, Wall St. J. (Jan 1, 2015). Available at <http://www.wsj.com/articles/juveniles-sexually-abused-by-staffers-at-corrections-facilities-1420160340?mg=id-wsj>. Beck, Allen J., et al., Sexual Victimization in Juvenile Facilities Reported by Youth, 2008-2009, 123 (2010), available at <http://www.bjs.gov/content/pub/pdf/svjfry09.pdf>.

Key Facts: Youth in the Justice System, Campaign for Youth Justice (April 2012) <http://www.campaignforyouthjustice.org/documents/KeyYouthCrimeFacts.pdf>.

Physical Abuse: Understanding the OJJDP Survey of Conditions of Confinement in Juvenile Facilities, Center for Children’s Law and Policy. (August 2010) <http://www.cclp.org/wp-content/uploads/2016/06/Fact-Sheet-OJJDP-Survey-Conditions-of-Confinement.pdf>. Fact Sheet: Protecting Incarcerated Youth, Act 4 Juvenile Justice, (September, 2014) <http://act4jj.org/sites/default/files/ckfinder/files/Act4JJ%20Fact%20Sheet-Protecting%20Incarcerated%20Youth%20FINAL%20Sept%202014.pdf>.

youth learn survival skills and coping mechanisms while in the system that increase the likelihood that they will re-offend upon release, feeding an adult system already crowded with prisoners who have disabilities. In short, it is often the case that youth with disabilities come out of the juvenile justice system worse off than they went in.

There remains an urgent need to protect children and youth with disabilities from unnecessary incarceration. When confinement is necessary, it is critical that youth are provided the services they need to grow and develop, as well as the education and rehabilitation necessary to rejoin their communities successfully.

### **Causes: Children with Disabilities Are Placed in the Juvenile Justice System Due to Failures in Other Systems**

Example:

In September 2019, a six-year-old girl with sleep apnea was arrested at school, handcuffed and taken in for booking after she had a tantrum.

The school resource officer who arrested her knew of her condition and arrested her anyway.

See:

<https://www.orlandosentinel.com/news/breaking-news/os-ne-lucious-emma-nixon-elementary-kaia-arrested-6-year-old-20190923-5jg3ehnl1fhs7lprtso4r2f35e-story.html>; <https://time.com/5683453/children-arrested-orlando-florida-school/>

### **Schools**

The causes of mis-incarceration often happen long before a child makes contact with the juvenile justice system. Students who are removed from school are more likely to enter the juvenile justice system, and school district discipline practices are one of the key intake routes into the School to Prison Pipeline (STPP).<sup>19</sup> In fact, school staff refer

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<sup>19</sup> There is a package of research that addresses these issues at: [https://civilrightsproject.ucla.edu/events/2013/closing-the-school-discipline-gap-conference-research-papers/copy\\_of\\_closing-the-school-discipline-gap-agenda/](https://civilrightsproject.ucla.edu/events/2013/closing-the-school-discipline-gap-conference-research-papers/copy_of_closing-the-school-discipline-gap-agenda/). See: Balfanze, Robert, et al., Sent Home and Put Off-Track: The Antecedents, Disproportionalities, and Consequences of Being Suspended in the Ninth Grade, Civil Rights Project at UCLA, (April, 2013). Marchbanks, Miner P, et al., The Economic Effects of Exclusionary Discipline on Grade Retention and High School Dropout, Civil Rights Project at UCLA (April

students with disabilities directly into the juvenile justice system, through the use of such methods as arrests for school code violations, truancy actions, and disciplinary “tickets.”<sup>20</sup> This happens even where there are laws and policies in place to prevent punishing children for disability related behaviors, and that require the school district to provide behavior related services.

Children with disabilities are removed from school for disciplinary reasons more often than other students. A data analysis released in August of 2012 makes this connection for children with disabilities. Applying these three lenses together – race, gender and disability — yields a more disturbing image than any one of the categories alone. The group that consistently has the highest rate of suspension is African American male students with disabilities. In some of the largest school districts in the U.S., suspension rates for this group reach more than 70% of their enrollment.<sup>21</sup> As a result of a report by the Civil Rights Project and others, we know that a specific subgroup of children of color, those who are also children with disabilities, receive different treatment than their peers in public school. Not surprisingly, this is also the group represented at the highest rates in the juvenile justice system.

These suspension rates are inexcusable, given what we now know about practices that school districts may use to keep students with disabilities productively engaged in school, including such low cost innovations as positive behavior supports and interventions, quality teacher training and behavior planning.<sup>22</sup> Diversion from the

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2013. Skiba, Russell J., et al., Where Should We Intervene? Contributions of Behavior, Student, and School Characteristics to Suspension and Expulsion. Civil Rights Project at UCLA (April 2013). Toldson, Ivory A., et al., Reducing Suspension among Academically Disengaged Black Males, Civil Rights Project at UCLA (April 2013).

<sup>20</sup> By “tickets” here we mean tickets given to students for violation of school rules that result in fines and/or referrals to the juvenile justice system. For example, tickets given to students in Texas as a result of truancy. See, Class, Not Court: Reconsidering Texas’ Criminalization of Truancy, Texas Appleseed, (2015), available at: <https://www.texasappleseed.org/class-not-court-reconsidering-texas-criminalization-truancy-full-report>.

<sup>21</sup> Losen, Daniel J. & Gillespie, Jonathan, Opportunities Suspended: The Disparate Impact of Disciplinary Exclusion from School, Civil Rights Project at UCLA 36 (August 2012) <https://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/upcoming-crr-research/>.

<sup>22</sup> Gregory, Anne, et al., The Promise of a Teacher Professional Development Program in Reducing the Racial Disparity in Classroom Exclusionary Discipline, Civil Rights Project at UCLA (April 2013) <https://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/state-reports/the-promise-of-a-teacher-professional-development-program-in-reducing-the->

juvenile justice system through the provision of behavior services can work well for schools and students both.

When a student begins to have behavioral issues at school, a solid functional behavior assessment and positive behavior intervention plan can make a great difference in both improving the child’s behavior and teaching the child healthy alternative coping methods. The provision of “wrap around”<sup>23</sup> community based services may also be a helpful support to the child, family, and school staff. In addition, if the youth later ends up in the juvenile justice system, those supports will be more easily accessed when he/she transitions out.

In short, the provision of special education services, and behavioral interventions at school can often prevent school removal and arrest.

## **Law Enforcement**

Youth with disabilities may be arrested in the community for behaviors that appear concerning but are actually quite harmless. They may be arrested for behaving strangely or other actions that are not actually crimes. Police training can be successful at preventing negative police interactions under such circumstances. Disabilities may prevent youth from advocating appropriately for themselves at the time of arrest and/or for appropriate dispensation within the system. Youth with particular types of disabilities may be more likely to confess to a crime they did not commit,<sup>24</sup> may not be able to express exactly what happened during an incident, or may be named by another youth in an attempt to deflect responsibility, and be unable to explain their perspective regarding an incident. Youth who have community based services, such as wrap around services and case management, may have a built in professional advocate to explain to authorities why the youth acts in a particular way and assist to divert them from arrest. However, these services are not uniformly available.

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[racial-disparity-in-classroom-exclusionary-discipline/](#). Positive Behavioral Interventions & Supports, Office of Special Education Programs, (May 2015), <http://www.pbis.org>.

<sup>23</sup> “Wrap Around Services” generally consist of a package of individualized community-based services focused on the strengths and needs of the child and family.

<sup>24</sup> Davis, Leigh Ann, [People with Intellectual Disability in the Criminal Justice System: Victims & Suspects](#), The Arc (August 2009) <http://thearc.org/wp-content/uploads/2019/07/Criminal%20Justice%20System.pdf>.

Due to the lack of appropriate services or the inability to advocate effectively on their own behalf, youth with disabilities may also be more likely to move deeper into the system than other youth. Juvenile defenders often lack the information they need to inform the court of the impact of a child’s disabilities. Some juvenile court staff express a well-meaning belief that the best way to ensure access to services and to get the attention of parents and caregivers is by bringing the youth into the juvenile justice system.

In addition, a child without disabilities may be more likely to be sent home by the court (remanded to parental custody) with a stern warning, while a child with disabilities who has a clear and unmet need for services remains in custody. In some states, “direct file” statutes permit youths to be tried as adults for certain offenses, making diversion more difficult. In addition, inadequate juvenile defense in some jurisdictions and basic unmet reasonable accommodation needs, such as the need for sign language interpreters, accessible public transportation, or courtroom accommodations, may cause the youth to be unable to access the court system effectively, resulting in missed court dates and related appointments.

### **Community Mental Health and Other Community Based Services**

Long waiting lists for community based services, including access to evaluations, therapy, medication prescription services, and medication management, among others, may cause youth to be unnecessarily detained in the juvenile justice system or referred by school staff into that system. This referral may be due to a generally mistaken belief that contact with the juvenile justice system will expedite and shorten a youth’s wait for services.

### **Child Welfare**

Children who are wards of the state<sup>25</sup> due to parental abuse or neglect are also more likely than other youth to end up in the juvenile justice system. Some reasons for this include a lack of services that will allow them to be successful in placement, and the lack of a continuum of placement options to meet their disability-specific needs. P&As also have had cases in which children who have not been accused of breaking any laws, are

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<sup>25</sup> Or wards of the county in some jurisdictions.

nonetheless housed with youth adjudicated delinquent, due to a lack of placement options.

For these reasons, youth involved in the child welfare system are detained in the juvenile justice system at an earlier age, more frequently, and for longer periods of time than youth with no child welfare involvement.<sup>26</sup> Like “dual status” youth with both mental health and substance use disorders, youth who are involved in both the child welfare and juvenile justice systems are more likely to be treated harshly within the juvenile justice system. Their numbers tend to accumulate proportionately as youth remain longer in the system.

## **WHY DIVERSION MATTERS**

If juvenile incarceration were of benefit to youth, mis-incarceration might be less of a concern – but this is simply not the case. Incarceration for the most part does not benefit youth, is expensive, and does not produce better outcomes.<sup>27</sup> It is both unjust and inefficient to punish children who have not broken the law intentionally. For example, when a child with a disability is referred to the juvenile justice system for truancy, but the child has been unable to attend school because accommodations have not been made so he can attend school, punishment will not improve the child’s attendance.<sup>28</sup>

Once incarcerated, youth often leave these facilities worse, not better, off and often experience short-term and life-long adverse consequences. Confinement often disrupts any educational and vocational opportunities, medication management, and counseling they may be receiving. Even an interruption of a few days or weeks, coupled with the trauma of confinement, can cause disruptions in family and peer relationships. It can stall adolescent social and emotional development and result in relationships with

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<sup>26</sup> Halemba, Gregory & Siegel, Gene, Doorways to Delinquency: Multi-System Involvement of Delinquent Youth in King County (Seattle, WA), National Center for Juvenile Justice, (September 2011) [http://www.ncjj.org/pdf/MFC/Doorways\\_to\\_Delinquency\\_2011.pdf](http://www.ncjj.org/pdf/MFC/Doorways_to_Delinquency_2011.pdf).

<sup>27</sup> Re-Examining Juvenile Incarceration: High Cost, Poor Outcomes Spark Shift to Alternatives, PEW Charitable Trusts, (April, 2015) <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2015/04/reexamining-juvenile-incarceration>.

<sup>28</sup> This example may seem simplistic but P&A have handled cases with this fact pattern.

negative peers, school dropout, and difficulty finding employment due to the stigma of incarceration.<sup>29</sup>

Those who return home from detention because the charges are dismissed may be stigmatized by their arrest and struggle to cope with the long-term effects of confinement.<sup>30</sup> Many problems that contribute to a youth’s maladaptive behavior, arrest, and confinement still persist when they return to the community — they still have low literacy, poor academic achievement, and difficulty managing their anger, emotions, and relationships. In addition, these youth now have another risk factor: contact with the justice system.<sup>31</sup>

Incarceration is all too often ineffective in promoting public safety. It can result instead in a large number of youth cycling back into the justice system.<sup>32</sup> The high recidivism

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<sup>29</sup> Holman, Barry & Ziedenberg, Jason, Dangers of Detention: The Impact of Incarcerating Youth in Detention and other Secure Facilities, Justice Policy Institute, (2006), [http://www.justicepolicy.org/images/upload/06-11\\_REP\\_DangersOfDetention\\_JJ.pdf](http://www.justicepolicy.org/images/upload/06-11_REP_DangersOfDetention_JJ.pdf). Griffin, Patrick, Juvenile Court-Controlled Reentry: Three Practice Models, National Center for Juvenile Justice (February 2005), <http://www.ncjj.org/PDF/court-controlledreentry.pdf>. Baltodano, H. M., et al., Transition from Secure Care to the Community: Significant Issues for Youth in Detention. 372 388 (2005). [https://www.jstor.org/stable/23282627?seq=1#page\\_scan\\_tab\\_contents](https://www.jstor.org/stable/23282627?seq=1#page_scan_tab_contents). Brock, L, et al., Transition Toolkit 2.0: Meeting the Educational Needs of Youth Exposed to the Juvenile Justice System, National Evaluation and Technical Assistance Center for the Education of Children and Youth who are Neglected, Delinquent, and At-Risk (2008) [https://neglected-delinquent.ed.gov/sites/default/files/docs/transition\\_toolkit200808/full\\_toolkit.pdf](https://neglected-delinquent.ed.gov/sites/default/files/docs/transition_toolkit200808/full_toolkit.pdf).

<sup>30</sup> Petteruti, A., et al., The Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense, Justice Policy Institute, (May 2009), [http://www.justicepolicy.org/images/upload/09\\_05\\_rep\\_costsofconfinement\\_jj\\_ps.pdf](http://www.justicepolicy.org/images/upload/09_05_rep_costsofconfinement_jj_ps.pdf). Holman, Barry & Ziedenberg, Jason, Dangers of Detention: The Impact of Incarcerating Youth in Detention and other Secure Facilities, Justice Policy Institute, (2006) [http://www.justicepolicy.org/images/upload/06-11\\_REP\\_DangersOfDetention\\_JJ.pdf](http://www.justicepolicy.org/images/upload/06-11_REP_DangersOfDetention_JJ.pdf). Mulvey, E.P., et al., Trajectories of desistance and continuity in antisocial behavior following court adjudication among serious adolescent offenders, Development and Psychopathology 22, 453-473 (2008) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2908904/>.

<sup>31</sup> Matvya, J., et al., School Reentry for Juvenile Offenders, University of Maryland School of Mental Health Analysis and Action, (August 2006, <http://csmh.umaryland.edu/Resources/Briefs/SchoolReentryBrief.pdf>.

<sup>32</sup> Petteruti, A., et al., The Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense, Justice Policy Institute, (May 2009), [http://www.justicepolicy.org/images/upload/09\\_05\\_rep\\_costsofconfinement\\_jj\\_ps.pdf](http://www.justicepolicy.org/images/upload/09_05_rep_costsofconfinement_jj_ps.pdf). Holman, Barry & Ziedenberg, Jason, Dangers of Detention: The Impact of Incarcerating Youth in Detention and other Secure Facilities, Justice Policy Institute, (2006), [http://www.justicepolicy.org/images/upload/06-11\\_REP\\_DangersOfDetention\\_JJ.pdf](http://www.justicepolicy.org/images/upload/06-11_REP_DangersOfDetention_JJ.pdf). Mulvey, E.P., et al., Trajectories of desistance and continuity in antisocial behavior following court adjudication among serious adolescent offenders, Development and Psychopathology 22, 453-473 (2008).

rate for court-involved youth is strong evidence that incarceration is not effective in helping youth to get on track and become successful adults.<sup>33</sup>

Juvenile facilities generally are not youth-centered, family-driven, or culturally sensitive.<sup>34</sup> They are not nurturing environments where youth with disabilities can accomplish the developmental tasks and learn the skills needed to become productive adults.<sup>35</sup> Not only are most secure facilities ill-equipped to meet the needs of youth with serious emotional and behavioral disabilities, standard therapies have not been normed for correctional settings where the emphasis is on physical control and punishment.<sup>36</sup> Even worse, these facilities often are places where youth are exposed to physical and sexual violence.<sup>37</sup> While exemplary juvenile justice programs do exist and youth thrive within them, such programs do not uniformly exist nationwide.

Fortunately, the pipeline which feeds children with disabilities into the juvenile justice system does not need to be a foregone conclusion. P&As and other advocates play a key role in ameliorating unnecessary and inappropriate school removals for children and youth with disabilities, preventing and diverting juvenile justice referrals of youth by school staff, and helping students meet with success at school. They also assist in obtaining appropriate community based services for youth with disabilities, both youth within and outside of the child welfare and juvenile justice systems, and work with public

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<sup>33</sup> Zhang, D., et al., Adolescents with Disabilities in the Juvenile Justice System: Patterns of Recidivism, *Exceptional Children* 77, 283-296 (2011). Zhang, D., et al., Juvenile Offenders with and without Disabilities: Risks and Patterns of Recidivism, *Learning & Individual Differences* 21, 12-18 (2011).

<sup>34</sup> Holman, Barry & Ziedenberg, Jason, Dangers of Detention: The Impact of Incarcerating Youth in Detention and other Secure Facilities, Justice Policy Institute, (2006), [http://www.justicepolicy.org/images/upload/06-11\\_REP\\_DangersOfDetention\\_JJ.pdf](http://www.justicepolicy.org/images/upload/06-11_REP_DangersOfDetention_JJ.pdf). Griffin, Patrick, Juvenile Court-Controlled Reentry: Three Practice Models, National Center for Juvenile Justice (February 2005), <http://www.ncji.org/PDF/court-controlledreentry.pdf>.

<sup>35</sup> Beyer, M. & Demuro, P., Review of Services for Alabama Girls Charged with Delinquency, Southern Poverty Law Center, (2012) <https://www.splcenter.org/20111231/review-services-alabama-girls-charged-delinquency>.

<sup>36</sup> Skowyra & Coccozza, Blueprint for Change: A Comprehensive Model for the Identification and Treatment of Youth with Mental Health Needs in Contact with the Juvenile Justice System, National Center for Mental Health and Juvenile Justice, (May, 2015), [http://www.ncmhjj.com/wp-content/uploads/2013/07/2007\\_Blueprint-for-Change-Full-Report.pdf](http://www.ncmhjj.com/wp-content/uploads/2013/07/2007_Blueprint-for-Change-Full-Report.pdf).

<sup>37</sup> Beck, Allen J., et al., Sexual Victimization in Juvenile Facilities Reported by Youth, 2008-2009, (2010) <https://www.bjs.gov/content/pub/pdf/svjfry09.pdf>.

defenders and court staff to prevent injustices in the arrest and placement phases of adjudication.

The P&A network is well placed to do this work, currently representing thousands of children with disabilities every year. P&As and other advocates can help locate vulnerable youth, use data to determine systemic trends, educate lawmakers and the public, represent youth at the individual and systemic levels, and change damaging practices and unfair policies such as “zero tolerance” discipline codes.

Many P&As are already advocating on behalf of youth to divert them from contact with the juvenile justice system. By working in coalition with other interested stakeholders, including the racial justice community and juvenile defense bar, advocates also expand their capacity to serve youth.

## **PROJECT DESCRIPTION**

### **Background**

In response to a proposal submitted by National Disability Rights Network (NDRN), The Ford Foundation funded a 24-month project beginning November 1, 2017, titled, *Preventing Mis-incarceration of Youth with Disabilities*.

### **Purpose and Scope of Work**

The project is implemented through the use of four formal juvenile court referral programs, reviewing and learning from the advocacy techniques that are utilized by these programs. Current P&A projects of this type have resulted in additional services to hundreds of children with disabilities, resulting in reduced juvenile justice placements. The goal of this grant project has been to replicate and improve upon the success of these programs.

The initial project period encompasses two project phases and six overarching activities and benchmarks. Under Phase One, the period from November 1, 2017 – October 31, 2018, NDRN gathered information from P&As and other advocates with existing

probation referral agreements.<sup>38</sup> Using this information, NDRN experience, and independent research, NDRN developed a training package for P&As and other stakeholders involved in probation referral advocacy. NDRN also hosted a national convening to enable the P&As and other stakeholders to train providers, share strategies, and problem solve barriers. NDRN followed up on the input provided at those meetings, using it to refine the training package and guide the development of additional resources to assist P&As in getting past the barriers identified.

The training curriculum includes:

- Legal requirements related to diversion of youth with disabilities
- Principles for best practices in diversion work
- P&A models for diversion work
- Problem solving of practical barriers P&As may encounter

The training was presented in part at the 2018 NDRN P&A/CAP Annual Conference in Baltimore, MD during a day-long institute where the Phase One findings were shared with P&A network attendees. During the institute, each of recipient P&As presented their work and answered questions about their unique models.

NDRN also facilitated an in-person strategy meeting for P&As interested in expanding their practice to use these models, including a discussion of barriers and challenges encountered and anticipated.

Some of the training needs and barriers identified by the P&As at this meeting include:

- Sustainability of the project: When government contacts change to less supportive leaders, it can be difficult to maintain project momentum;
- How to increase the scope of the project beyond a specific county/district;
- Managing local differences from county to county;
- How to address needed abuse and neglect referrals (abuse by parents), without violating client confidentiality;
- Locating parents and keeping parents engaged for the long term;
- Sustainable funding for the project's work.

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<sup>38</sup> Probation Referral Agreements are formal arrangements by which probation departments refer youth to agencies for assistance, in this case, P&As.

In Phase Two, the period from November 1, 2018 – September 30, 2019, NDRN scaled up this work collecting outcome data on the programs, refining, and publicizing the training product to enable program expansion. NDRN also developed recommendations for best practices based on outcome data, to be included in this final report.

On April 17, 2019, NDRN held a network wide webinar on the project attended by 35 P&A participants, garnering additional feedback. NDRN included this information in a memorandum to the P&A network, which was circulated for network review and feedback on April 30, 2019. This information related to barriers and possible solutions to these barriers to program expansion.

NDRN includes this information in this report, to be released to the general public. In addition, at the request of P&A network agencies, NDRN added a session on the project at its Annual Conference in June 2019.

## **Identification of Projects**

The first step under Phase One was to identify P&As currently working with probation departments and other government entities to divert youth with disabilities from the juvenile justice system. The initial idea stemmed from a pre-existing project in Harris County, Texas operated by Disability Rights Texas.

The three P&As initially selected for the project were Kentucky Protection and Advocacy (<http://www.kypa.net>), South Carolina Protection and Advocacy for People with Disabilities (<https://www.pandasc.org>) and Disability Rights Texas (<https://www.disabilityrightstx.org>). NDRN was pleased to identify a fourth P&A involved in this work, the Native American Disability Law Center (NADLC) (<https://www.nativedisabilitylaw.org/>) which serves Hopi, Navajo and San Juan Southern Paiute Nations in the Four Corners region of the Southwest.

During the project, the 4 P&As completed these tasks and more:

The partner P&As conducted the following activities:

- Identifying and providing detail to NDRN about the successes, systemic barriers, and potential systemic solutions, which NDRN then shared with other advocacy groups

- Collecting aggregate data on the project participants; state/local systems involved
- Providing peer-to-peer mentoring
- Teaching the media and other advocates about the model
- Assisting in developing and presenting a 6-hour institute at the 2018 Annual Conference
- Assisting in developing and presenting a 90-minute live audio webinar and assisting in the development of a second webinar.
- Participating in a 90 minute in person strategy meeting with other P&As at the 2018 Annual Conference to discuss the barriers and solutions from their experience.
- Sharing documents, reports and other written materials developed through their projects with NDRN and other P&As
- Reviewing and commenting on draft documents developed by the NDRN about the model
- Meeting with Ford Foundation staff to respond to questions about their projects

Here is a very brief description of the four programs.

### **Texas**

Harris County Juvenile Probation Department contracts directly with Disability Rights Texas (DRTx) to provide educational advocacy services to youth in their jurisdiction who are involved with juvenile probation. The project which began in January 2016, encompasses 22 school districts. DRTx has accepted over 1,800 referrals from county probation officers regarding youth with disabilities who require educational advocacy services in order to remain in school successfully and meet the conditions of their probation.

### **Kentucky**

Kentucky passed juvenile justice reform, SB200, in 2014. SB 200 created a family accountability intervention and response team that placed Court Designated Workers (CDWs) as the team chair. Kentucky P&A provided technical assistance to the Department of Juvenile Justice (DJJ) staff and to the CDWs. P&A's technical assistance

included training about special education services, self-advocacy and accessing services/supports. The Kentucky P&A also reviewed and commented on DJJ policies to ensure disability related services and supports were included.

Kentucky P&A created a pilot project to educate youth institutionalized at a DJJ group home and a youth development center and their families. P&A collaborated with the state’s parent training and information center, and a statewide non-profit organization for families raising children with behavioral health challenges. DJJ staff participated in some of the meetings. Participants were educated about educational legal rights, Medicaid waiver services, self-advocacy and employment services. The project staff met with youth and their families once a month for six months. The goal was to educate and support up to 20 youth and their families in the first year of the pilot project. The project educated a total of 28 youth and 11 parents.

### **Native American**

The Native American Disability Law Center (NADLC) has an agreement with a county level juvenile justice agency to accept educational advocacy cases for youth with disabilities directly from the juvenile court and juvenile probation office for screening and referral in certain regions. NADLC provides representation at disciplinary hearings, and other education related meetings. In addition, the program provides training to juvenile probation officers and community mental health workers on school discipline and education rights, and to parents/guardians with youth in the juvenile justice system. It has created a “Know Your Rights” brochure for distribution to families who may face school discipline issues.

The involvement of the Native American P&A adds a unique perspective to the project, involving intersectionality for a group of youth traditionally over-identified for commitment in the juvenile justice system, and cultural competency. Several important issues were raised by NADLC about ensuring long-term parent engagement and physical barriers to success of the program, including communication and transportation.

## **South Carolina**

As a result of lengthy litigation brought by the P&A, the state of South Carolina entered into an agreement reforming key aspects of the state’s juvenile justice system. *Alexander S.* was a class action on behalf of juveniles at Department of Juvenile Justice (DJJ) identified as having a Serious Mental Illness (SMI) and/or an Intellectual Disability (ID). Such juveniles are referred to as being “subclassed.”

DJJ’s Special Needs Coordinator schedules meetings on subclassed juveniles to decide, with input from clinicians from Department of Mental Health, Department of Disabilities and Special Needs, Continuum of Care and DJJ, which available placement best suits the juvenile’s needs. All subclassed juveniles must be transferred from DJJ to DMH or DDSN in order to be placed in a treatment facility and the P&A must be involved in all meetings concerning subclassed juveniles. DJJ provides records concerning subclassed juveniles to the P&A.

The settlement also led to the creation of interagency treatment teams to address the needs of youth with disabilities. These meetings bring state agencies to the table to discuss appropriate services and placements for each child. In an effort to divert juveniles from commitment to DJJ, four DJJ Regional Special Needs Coordinators convene Inter-Agency Staffings (IAS) in their assigned areas. Like the subclass staffings, these meetings bring state agencies to the table to discuss appropriate services and placements for each child.

As a result, the P&A is invited to meetings on juveniles at various stages of the juvenile justice system, including juveniles who have not been, but are in jeopardy of being, committed to DJJ.

## **OUTCOMES/DATA**

### **Texas**

Disability Rights Texas (DRTx) began its third year providing education advocacy and support services to Harris County Juvenile Probation Department (HCJPD)-involved youth, families and staff on July 1, 2017. During the 2018-19 school year, JPOs

submitted a record 718 referrals. DRTx accepted 692 referrals – 95% of referrals received.

DRTx provided assistance with a variety of education-related issues, including the eligibility process for disability-related services at school, truancy, need for improved behavioral supports and/or disability services, denial of enrollment, services for youth who are several grade levels behind, bullying, and homelessness.

During the project’s third year (the 2017 and 2018 school year), DRTx attended nearly 175 meetings with schools and 100% of its direct representation cases resulted in an offer of improved services from school districts. In 76% of those cases, families overcame barriers to utilize those improved services and obtain favorable educational outcomes. DRTx found that 90% of cases where technical assistance and advice was provided to the family during its second program year were not re-referred to the program for additional assistance the following year that those services have proved to be effective in helping families and HCJPD staff resolve educational concerns.

## **Kentucky**

Kentucky P&A represented 25 children and youth between 2016 and 2019 who have either had charges filed against them or had threats made that charges would be filed against them. The age ranges of these youth are from 5 - 20. Nine cases were for youth who are African American or bi-racial. 16 cases were for youth who were white. 20 of the 25 cases were for male clients while 5 cases were for female clients. Six clients were involved with the Department of Juvenile Justice pilot project.

Kentucky P&A and its project partners’ goal is to increase project participation in the pilot project. The project partners will advertise the project to CDWs and let the family and youth choose the meeting topics. Kentucky P&A will provide information and referral, technical assistance, and client representation services on legal issues. A participant will be determined a success if they have not reoffended 6 months after the project’s completion.

## **Native American**

The P&A represented 34 students in one grant year, and obtained an extension and expansion of a grant from a local funding source allowing it to expand its new project. Some of the issues addressed included:

- Re-enrolling a student who had been expelled for a year and a half;
- Successfully keeping students in school after long-term suspension/expulsion hearings;
- Participating in Manifestation Determination Reviews<sup>39</sup> and helping to advocate for clients whose behaviors were related to their disabilities;
- Advocating for evaluation and effective implementation of IEPs and Section 504 plans;
- Educating parent/guardians, JPOs, community health workers, and court staff on student educational rights.

## **South Carolina**

Between 2015 and 2019, the South Carolina P&A opened 502 cases for youth with SMI/ID who were committed to DJJ. All 502 cases were closed successfully (with youth receiving services and/or released home). During the same time, the P&A also opened 139 cases for youth with disabilities and successfully diverted 130 youth from commitment to DJJ (P&A also achieved partial successes in an additional 3 of the cases).

## **INITIAL OUTCOMES**

During the initial 2018 Mis-incarceration Project, state level outcomes were mixed with four state P&As participating in the project. This was not due to the interest of the families or the hard work and ability of the advocates, but of specific systemic barriers in the system. For example, the Medicaid system in South Carolina incentivizes institutional

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<sup>39</sup> Students with disabilities have rights under statutes including the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act ("Section 504"). This includes the right to have a Manifestation Determination Review prior to suspension or expulsion to protect the students from disability discrimination. See for example, 20 U.S.C 1415(k)(1)(E).

care, diminishing the availability of community-based services. Diversion teams recommended community based counseling services for youth, and the youth would commit to access them, but services would not actually be available to meet the youth's needs. The P&A is seeking a systemic solution to the Medicaid barriers, as individual advocacy will not result in needed change.

## **DESCRIPTION OF BARRIERS/SOLUTIONS**

As mentioned above, some of the training needs and barriers identified by the P&As at the June 2018 meeting, and subsequently, include:

- Difficulty maintaining project momentum when government contacts change to less supportive leaders.
- Juvenile court systems that are too overloaded or have other internal barriers to consider the development of a project of this type.
- Lack of available placements, for low-income families especially, as diversion options; youth with disabilities may be referred to juvenile justice due to lack of other placement options. This problem may require a systemic rather than individual solution.
- Need to increase the scope of the project beyond a specific county/district.
- Difficulty in managing local differences from county to county.
- The need to address abuse and neglect referrals (abuse by parents), without violating client confidentiality
- Challenge to locate parents and keep them engaged
- Locating a sustainable funding source for the project's work

### **Some Solutions Proposed by P&As:**

The four P&A project partners advise programs to start small, with a pilot project first, and to provide training for court workers before proposing the project, so that government actors understand the need for diversion projects and how this differs from traditional punishment models.

Other recommendations include:

- Ensure cultural competency training and have ready translation services for all involved parties, prior to project start up.
- Solicit letter(s) of support from a government referral source to share with government peers (see Texas letter in Appendix II).
- Utilize the expertise of a respected and supportive judge or court officer who can explain the need and utility of the project to peers.
- Provide a letter of introduction to local school district staff from the court explaining the project and its purpose.
- Provide a letter of introduction to parents from the Juvenile Probation Officer, so they understand the project and its relationship to traditional juvenile justice programs.
- Meet clients at court to improve parent involvement as a second meeting and new location is not required.
- Connect this work to the need to improve community-based services as part of a larger systemic effort.
- Seek outside funding if possible to supplement P&A funding.

## COMMUNICATION STRATEGY AND FIRST STEPS

For advocates and government leaders wishing to start a diversion project of this type, it may help to provide information to the community about the need for diversion, the unfairness and ineffectiveness of incarceration as punishment for this population, and possible solutions. It is helpful for this information to be available well in advance of a specific proposal. It may be helpful to convene a stakeholder group to discuss local needs and solutions. Some stakeholder group members could include youth with disabilities and their parents, key state government officials (e.g. Dept. of Juvenile Justice, community mental health office), juvenile court judges, defense attorneys and prosecutors, members of key advocacy communities (e.g. local chapters of NAMI, parent training centers (PTIs), The Arc, civil rights organizations such as the NAACP, service providers, school district officials and the state childrens’ ombuds, if one exists.

Following are some ideas for media content and methods:

**Social Media:** Tweets and posts to key websites and to Facebook with statistics relating to the poor outcomes that result from juvenile incarceration and success stories of

youth with disabilities whose needs were addressed outside of the juvenile justice system. Also, media about the underlying causes of mis-incarceration in your community including suspension rates, rates of School Resource Officer (SRO) referrals to juvenile justice, rates of school based arrests, and information about lack of community based services.<sup>40</sup> Advocates should be sure to utilize media outlets that serve minority communities who are over-represented as mis-incarcerated in the area.

**Op-Eds:** Local newspaper opinions about the need for juvenile diversion, especially for youth with disabilities.

**Local Media Stories:** Articles about local children and youth who have been removed from school due to disabilities, using stories of children already reported in the media; local children and youth who were deprived of needed services or were placed in a juvenile justice facility due to lack of other placement options. These stories help to emphasize that this is a current problem in the target community, rather than a theoretical issue impacting other communities. See for example:

<https://www.houstonchronicle.com/news/houston-texas/houston/article/Special-ed-students-more-likely-to-receive-13492004.php>.

## **FUTURE PROJECT EXPANSION OPPORTUNITIES**

There are at least three viable possibilities to expand community level juvenile justice diversion of children and youth with disabilities.

### **Juvenile Probation Referral Programs**

This model involves expansion of the project structured similarly to the project detailed in this report:

1. Increase the reach, geographically, demographically, and culturally of disability diversion programs to additional states and localities through the creation of additional programs.

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<sup>40</sup> Much of this information is available at the local level on the Civil Rights Data Collection site: <https://ocrdata.ed.gov/>.

2. Create planned obsolescence for diversion projects: Develop a model oversight infrastructure that will successfully prevent referral of children and youth with disabilities into the juvenile justice system in the first instance, without the continued need for outside intervention. This oversight infrastructure (which may simply require better enforcement by currently obligated enforcement entities, such as State Departments of Education) would reduce the use of illegal school removal, ensure more reliable access to quality community based mental health services, and ensure treatment and support services for children and youth with disabilities in the child welfare system.
3. Policy makers, juvenile justice systems, and the larger civil rights and advocacy communities, are informed about this model oversight infrastructure and be provided the opportunity to support its adoption.

## **First Contact Referral Programs**

Due to the harm caused to children by interaction with the juvenile justice system, it is far better to divert a child with a disability, who is in need of services (e.g. special education, community based behavioral services, therapy and/or Medicaid eligibility) before they are even referred to the juvenile justice system. Studies have shown that system involvement, even minimal involvement, is counter-productive.

A pilot project focused on first contact would engage with the local police department(s) as a source of diversion pre-arrest and pre-booking. The model would work in this manner:

A police department contacted by an outside agency (e.g. school district/SRO, residential treatment program) to arrest or accept a referral to the juvenile justice system would place these actions temporarily on hold if they involve a youth with disabilities, who would either: (1) not be arrested if he or she committed the same offense in the community; and/or (2) the offense is the clear result of a failure of the child to receive needed services. The police department would provide the child's family with information about services, including referral to the P&A for advocacy, if

appropriate, to see if the provision of services could obviate the need for the referral into the juvenile justice system.<sup>41</sup>

Careful data collection during the pilot period will be critical to assess the long-term success of the program. The project will require training by the P&A of police department administration and officers.

## **Re-entry Referral Programs**

For many children with disabilities, incarceration is the beginning of a long journey through the juvenile and criminal justice system. Especially for children with disabilities who have unmet needs, they are likely to re-offend if they do not have access to needed services, which are often not provided during incarceration. Even if the services are provided while they are incarcerated, such services must be continued upon release in order to be successful.

During the post-incarceration re-entry planning process, P&A staff could advocate to ensure successful entry or re-entry into community based services (school, medication, mental health treatment), critical to ensure that the child does not return to the system.

A pilot project focused on re-entry requires successful engagement with the state’s juvenile justice agency. When the state agency develops a re-entry plan for a youth with disabilities who is in need of services upon release, referral to services needs to begin well prior to release. Under the re-entry referral model, if services are not readily available upon release, the agency can provide the child’s family with a referral to the P&A. The family or case worker could also initiate P&A involvement in re-entry planning.

Upon referral, the P&A would either accept the case for advocacy services to obtain the needed services prior to release, and/or provide information to agency staff and the family about the services to which the child is eligible upon release and how to obtain them.

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<sup>41</sup> See for example: Houston Law Enforcement Assisted Diversion (LEAD) program <https://www.chron.com/news/houston-texas/houston/article/We-re-tired-of-putting-your-kids-in-jail-13258128.php>.

Data collection during the pilot period will be critical to assess the long-term success of the program. The project will also require training of state and local juvenile justice agency staff.

## **RECOMMENDATIONS**

### **Federal**

- Lawmakers should review current federal funding programs to ensure they properly incentivize diversion programs and do not place unnecessary barriers on the diversion of children with disabilities from the juvenile justice system.
- Federal agencies should vigorously enforce the legal protections provided for by the IDEA, other federal statutes and the U.S. Constitution, including protections against illegal removal of students with disabilities from school, failure to provide access to Medicaid funded mental health services, and others.
- Congress should fund P&A agencies to advocate for children with disabilities who have been referred to the juvenile justice system.

### **State**

- State government, state advocates, and other state stakeholders should:
  - Review data from the Civil Rights Data Collection, state complaint filings, and other sources, that may indicate disproportionality in juvenile justice referrals and school removals for certain groups of students, and strategize to remove these barriers immediately.
  - Determine state level barriers that may be preventing successful diversion, such as Medicaid payment policies that encourage institutionalization over community based services, lack of SEA enforcement of illegal school removals, among others, and should strategize to remove these barriers immediately.
- State Education Agencies (SEAs) should move forward with requirements from the reauthorization of the Juvenile Justice Delinquency Prevention Act (JJDP) (2018) that directs them to participate in rule-making for school districts around developing reentry plans for students transitioning out of juvenile justice

facilities. This will permit youth to get back on track, so they do not cycle back through the juvenile system or move on to the adult system. This law applies to all students, not just students with disabilities, but is likely even more critical for students with disabilities who need stability and consistency during major transition.<sup>42</sup>

## Local

- Local level advocates, and other local stakeholders should meet to consider the development of a project to divert children with disabilities from the juvenile justice system through the use of the court referral system, like the one described in this report.
- Local level advocates, and other local stakeholders should meet review data from the Civil Rights Data Collection, state complaint filings, and other sources, that may indicate disproportionality in juvenile justice referrals and school removals for certain groups of students in there, and should strategize to remove these barriers immediately.

## APPENDICES

- A. Resources
- B. Support Letter from Harris County Texas
- C. Texas Annual Report

## APPENDIX A: RESOURCES

**Anna Aizer, Joseph J. Doyle, Juvenile Incarceration, Human Capital, and Future Crime: Evidence from Randomly Assigned Judges, *The Quarterly Journal of Economics*, Volume 130, Issue 2, May 2015, Pages 759–803.**

Study of 35,000 juvenile offenders over a 10-year period using the incarceration tendency of randomly assigned judges. The conclusion was that juvenile incarceration results in substantially lower high school completion rates and higher adult incarceration

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<sup>42</sup>34 U.S.C. § 11133 (a) (32); <http://juvjustice.org/sites/default/files/ckfinder/files/Reentry%20Fact%20Sheet%20.pdf>.

rates, including for violent crimes. This was due, according to the authors, to the disruption of education and the likelihood of labeling after children return to school.

**Ian Lambie & Isabel Randell, The impact of incarceration on juvenile offenders, 33 Clinical Psychology Review 3, 448-459 (Apr 2013).**

Increasingly, research points to the negative effects of incarcerating youth offenders, particularly in adult facilities. Literature published since 2000 suggests that incarceration fails to meet the developmental and criminogenic needs of youth offenders and is limited in its ability to provide appropriate rehabilitation. Incarceration often results in negative behavioral and mental health consequences, including ongoing engagement in offending behaviors and contact with the justice system. Although incarceration of youth offenders is often viewed as a necessary means of public protection, research indicates that it is not an effective option in terms of either cost or outcome. The severe behavioral problems of juvenile offenders are a result of complex and interactive individual and environmental factors, which elicit and maintain offending behavior. Therefore, the focus of effective treatment must be on addressing such criminogenic needs and the multiple “systems” in which the young person comes from. Recent research demonstrates that in order to achieve the best outcomes for youth offenders and the general public, community-based, empirically supported intervention practices must be adopted as an alternative to incarceration wherever possible.

**Dierkhising, C. B., Lane, A., & Natsuaki, M. N. (2014). Victims behind bars: A preliminary study of abuse during juvenile incarceration and post-release social and emotional functioning. Psychology, Public Policy, and Law, 20(2), 181-190.**

Knowledge of preincarceration experiences of abuse among youth in the juvenile justice system continues to grow, however we know very little about their experience of abuse during incarceration. Empirical evidence on abuse during incarceration is needed for policymakers to advocate on behalf of the safety of incarcerated youth. This preliminary study evaluated the prevalence of abuse during incarceration in secure juvenile facilities and examined how abuse during incarceration is associated with postrelease adjustment among a sample of formerly incarcerated young adults (n = 62; male = 75.8%). Nearly

all youth experienced some type of abuse (e.g., physical abuse, sexual abuse, psychological abuse, denial of food, and excessive stays in solitary confinement) during incarceration (96.8%). The more frequent a youth was exposed to abuse during incarceration, the more likely they were to report posttraumatic stress reactions, depressive symptoms, and continued criminal involvement postrelease. This association was significant even after controlling for preincarceration child maltreatment. We discuss policy implications to improve the safety of youth during incarceration. (PsycINFO Database Record (c) 2016 APA, all rights reserved)

**Daniel Nagin, Alex Piquero, Elizabeth Scott, & Laurence Steinberg, Public Preferences for Rehabilitation Versus Incarceration of Youthful Offenders: Evidence from a Contingent Valuation Study, 5 Criminology and Public Policy 4, 627-651 (Nov 2006).**

Accurately gauging the public's support for alternative responses to juvenile offending is important, because policy makers often justify expenditures for punitive juvenile justice reforms on the basis of popular demand for tougher policies. In this study, we assess public support for both punitively and nonpunitively oriented juvenile justice policies by measuring respondents' willingness to pay for various policy proposals. We employ a methodology known as "contingent valuation" (CV) that permits the comparison of respondents' willingness to pay (WTP) for competing policy alternatives. Specifically, we compare CV-based estimates for the public's WTP for two distinctively different responses to serious juvenile crime: incarceration and rehabilitation. An additional focus of our analysis is an examination of the public's WTP for an early childhood prevention program. The analysis indicates that the public is at least as willing to pay for rehabilitation as punishment for juvenile offenders and that WTP for early childhood prevention is also substantial. Implications and future research directions are outlined.

**Higgins, G.E., Ricketts, M.L., Griffith, 38 J.D. et al. Am J Crim Just 1, 1-12 (2013).**

Disproportionate minority contact is an important issue in contemporary juvenile justice. Few studies have directly examined the link between race and judicial decision to incarceration. Using official data from Pennsylvania (n = 41,561), this study added to this

literature in two ways. This study used propensity score matching to obtain a purer estimate of the influence race has on the decision to petition a case to juvenile court. The results indicated that prosecutors use perceptual shorthand in making this decision that hinges on race. Specifically, blacks were more 1.28 times more likely than whites to have their case petitioned to juvenile court.

**AR Piquero & L Steinberg, Public preferences for rehabilitation versus incarceration of juvenile offenders, 38 Journal of Criminal Justice 1, 1-6 (Jan 2010).**

While juvenile justice policy in the United States has become more punitive in recent years, it remains unclear whether the public actually favors this response in lieu of more rehabilitation-oriented services. Public opinion polling generally shows that the public favors less punitive responses than policymakers often suppose, but significant questions remain about the accuracy of these perceptions generally, and in how they have been assessed in particular. Data from four states (Illinois, Louisiana, Pennsylvania, and Washington) aimed at assessing public preferences for rehabilitation and incarceration as a response to serious juvenile crime indicated that, for the most part, the public was willing to pay more in taxes for rehabilitation than incarceration.

**John S. Lyons, Dana Royce Baerger, Peter Quigley, Joel Erlich & Eugene Griffin (2001) Mental Health Service Needs of Juvenile Offenders: A Comparison of Detention, Incarceration, and Treatment Settings, 4 Children's Services 2, 69-85 (2001).**

Juvenile arrests have increased dramatically in recent years and emerging evidence suggests that youth involved in juvenile justice have significant mental health needs. In this study, we examined 473 youth in multiple counties from 3 settings: community settings (detention-petition), correctional settings, and residential treatment settings. Using the Childhood Severity of Psychiatric Illness Scale (Lyons, 1998), the mental health needs of youth in each of these settings was ascertained and compared. Results suggest an overall high rate of mental health needs, including serious emotional disorders. Youth in institutional settings had higher levels of need than those in the community. Youth with behavioral problems were more likely to be incarcerated, whereas youth with

emotional problems were more likely sent to residential treatment facilities. Prior treatment experiences, both in mental health and substance abuse treatment, were strongly related to incarceration. Other clinical and demographic variables also distinguished youth in these three settings. Implications for service planning and integration are discussed.

**Rodriguez, N., Concentrated Disadvantage and the Incarceration of Youth: Examining How Context Affects Juvenile Justice, 50 Journal of Research in Crime and Delinquency 2, 189–215 (2013).**

Attribution theory is used to frame a study on concentrated disadvantage and youth correctional confinement. Method: Population of delinquent referrals and a random sample of 50 youth case file records from a large urban juvenile court in the southwest are analyzed. Results: Black and Latino/Latina youth were more likely than their White counterparts to be institutionalized. Youth from areas with high levels of concentrated disadvantage were more likely to be confined than youth from more affluent areas. Court officials' perceptions of disadvantage play an important role when deciding whether youth should remain in the community or be incarcerated. Conclusions: Race, ethnicity, and concentrated disadvantage play a significant role in juvenile justice. Court officials perceive areas of disadvantage as high risk and dangerous for youth. Unfortunately, correctional confinement appears to be one way to address youths' vulnerable state. This study sheds light on the importance of economic landscapes in the administration of justice and the delivery of services.

**Clinkinbeard, S. S., & Zohra, T., Expectations, Fears, and Strategies: Juvenile Offender Thoughts on a Future Outside of Incarceration, 44 Youth & Society 2, 236–257 (2012).**

The current article explores the possible selves, or future expectations, of 543 incarcerated juvenile offenders in four Western states in the United States. We argue that juveniles who are able to articulate future expectations and fears and generate concrete strategies for achieving their goals have higher levels of motivational capital (i.e., resources which provide momentum for behavior) and thus greater readiness for

transitioning back into society. We found that a majority of juveniles were able to articulate simple expectations about the future; however, less than a quarter recognized the relationship between hopes and fears and connected them to concrete strategies. Findings did not differ significantly according to race or gender. We point to a need for juvenile corrections to work with all youth to construct plausible reentry plans. Furthermore, we suggest that research is needed to compare post incarceration success of youth with varying levels of motivational capital.

**Gilman, A.B., Hill, K.G. & Hawkins, J.D., When Is a Youth’s Debt to Society Paid? Examining the Long-Term Consequences of Juvenile Incarceration for Adult Functioning, 1 J Dev Life Course Criminology 33 (2015).**

Results show that juvenile incarceration is not only ineffective at reducing criminal behavior later in life but that there are also unintended consequences for incarceration beyond the criminal domain. Furthermore, it appears that once a youth becomes involved in the juvenile justice system, there is a higher likelihood that he/she will remain tethered to the criminal justice system through the transition to adulthood. Given these long-term deleterious outcomes, it is recommended that suitable alternatives to juvenile incarceration that do not jeopardize public safety be pursued.

**Desai, S.R. Urban Rev, “Hurt People, Hurt People”: The Trauma of Juvenile Incarceration, 51 Urban Review 1, 1-21 (2019).**

While approximately one in three youths are identified by juvenile probation officers as needing mental health services, researchers estimate that between 67 and 90% of detained and adjudicated youth meet criteria for at least one mental health diagnosis, and almost 50% for two or more comorbid psychiatric disorders. This staggering prevalence of mental health disorders amongst system-involved youth is more frequent than in the general adolescent population. The juvenile justice system (JJS) has become the default system for incarcerated youth who do not receive the proper mental health care in the community—especially marginalized, working-class youth of color. Given the fact that there are 1.6 million system-involved youth, it is vital for the JJS to begin to address their wellness. The purpose of this paper is to present how trauma affects

system-involved youth by creating emotional, mental, spiritual and physical distress by examining data from a Youth Participatory Action Research project with system-involved youth and their allies.

**Karen M. Abram, PhD; Linda A. Teplin, PhD; Devon R. Charles; Sandra L. Longworth, MS; Gary M. McClelland, PhD; Mina K. Dulcan, MD, Posttraumatic Stress Disorder and Trauma in Youth in Juvenile Detention, 61 Arch Gen Psychiatry 4, 403-10 (Apr 2004).**

To determine prevalence estimates of exposure to trauma and 12-month rates of posttraumatic stress disorder (PTSD) among juvenile detainees by demographic subgroups (sex, race/ethnicity, and age). An epidemiologic study of 898 juvenile detainees was conducted using the Diagnostic Interview Schedule for Children in a large juvenile detention center in Cook County, Illinois. Most participants (92.5%) had experienced 1 or more traumas (mean, 14.6 incidents; median, 6 incidents). Significantly more males (93.2%) than females (84.0%) reported at least 1 traumatic experience; 11.2% of the sample met criteria for PTSD in the past year. More than half of the participants with PTSD reported witnessing violence as the precipitating trauma.

**Kashani, J.H., Manning, G.W., McKnew D.H., Cytryn, L., Simonds, J.F. and Wooderson, P.C., Depression Among Incarcerated Delinquents, 3 Psychiatry Resources 2, 185-91 (1980).**

The authors examined the prevalence of depression among incarcerated delinquents and nonincarcerated, nondelinquent adolescents and reported a prevalence of 18% and 4%, respectively. The possible effect of incarceration on the development of depression was also studied. DSM-III diagnostic criteria for major depressive disorders were used. Of the 100 delinquents admitted consecutively to a detention center, 11 showed evidence of depression both during and before incarceration, while seven developed a depressive disorder in the center. With regard to specific symptoms, 100% of the depressed incarcerated adolescents were found to suffer from sleep difficulties, and 94% experienced disturbances of appetite. Psychomotor retardation or agitation were the symptoms least commonly observed.

**Benda, B.B. and Tollet, C.L., A Study of Recidivism of Serious and Persistent Offenders Among Adolescents, 27 Journal of Criminal Justice 2, 111-126 (1999).**

Studies on Arkansas' incarcerated youth<sup>11</sup> found not only a high recidivism rate for incarcerated young people, but that the experience of incarceration is the most significant factor in increasing the odds of recidivism. Sixty percent of the youth studied were returned to the Department of Youth Services (DYS) within three years. The most significant predictor of recidivism was prior commitment; the odds of returning to DHS increased 13.5 times for youth with a prior commitment. Among the youth incarcerated in Arkansas, two-thirds were confined for nonviolent offenses. Similarly, the crimes that landed the serious offenders under the supervision of adult corrections were overwhelmingly nonviolent—less than 20 percent were crimes against persons.

**Shelden, R.G., Detention Diversion Advocacy: An Evaluation, Juvenile Justice Bulletin Washington, DC: Department of Justice, Office of Juvenile Justice and Delinquency Prevention (1999).**

Several studies have shown that youth who are incarcerated are more likely to recidivate than youth who are supervised in a community-based setting, or not detained at all. Young people in San Francisco's Detention Diversion Advocacy Program, for example, have about half the recidivism rate of young people who remained in detention or in the juvenile justice system

**Hayes, L.M., Suicide Prevention in Juvenile Correction and Detention Facilities. Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (1999).**

Office of Juvenile Justice and Delinquency Prevention reports that 11,000 youth engage in more than 17,000 acts of suicidal behavior in the juvenile justice system annually.<sup>30</sup> Another monograph published by OJJDP found that juvenile correctional facilities often incorporate responses to suicidal threats and behavior in ways that endanger the youth further, such as placing the youth in isolation.

**APPENDIX A: SUPPORT LETTER FROM HARRIS COUNTY TEXAS**



# **HARRIS COUNTY JUVENILE PROBATION DEPARTMENT**

**Thomas D. Brooks**  
Executive Director  
Chief Juvenile Probation Officer

1200 CONGRESS \* HOUSTON, TEXAS 77002 \* (713) 222-4801

**Henry Gonzales**  
Assistant Executive Director

July 2, 2018

Re: Harris County Juvenile Probation Department Education Advocacy Program Partnership  
with Disability Rights Texas

## **Introduction**

Harris County Juvenile Probation Department is proud to announce an innovative program with a disability rights organization to provide education advocacy services to youth involved with the juvenile justice system.

## **Program Background**

In November 2015, Harris County Juvenile Probation Department (HCJPD) established a partnership with Disability Rights Texas (DRTx) to help improve educational outcomes for probation-involved youth. Nationally, 60-70% of youth in the juvenile justice system have a diagnosable mental health condition and almost 30% have a serious disorder that requires immediate, significant treatment (National Center for Mental Health and Juvenile Justice, 2006). These students are entitled to important protections and behavioral supports at school, but many have never been properly identified, or received the services that allow them to make academic and behavioral progress. As a result, students with disabilities are more than twice as likely to be expelled as their peers who do not have disabilities and are frequently referred to juvenile court for incidents that occurred at school. Parents of youth in the juvenile justice system are often unaware of their rights or how to collaborate with schools and advocate for their child to ensure appropriate educational services. For these reasons, a partnership with Disability Rights Texas, the federal protection and advocacy organization for people with disabilities, was a natural fit for HCJPD.

## **Program Services**

Through this partnership, Disability Rights Texas (DRTx) receives referrals from probation-officers who request assistance with a myriad of education issues. From these referrals, DRTx provides



tiered advocacy services ranging from technical assistance to the officers to help them troubleshoot common school problems, to directly assisting youth and their families with obtaining the education services they need to be successful. Over the past two and half years, DRTx has provided services to over 700 probation-involved youth. Those advocacy efforts have resulted in an increased number of evaluations for special education services, improved disability services at school, facilitation of reentry into community schools and identification of appropriate education programs for youth who are struggling academically, enhanced protections for youth who have experienced bullying, and securing homeless services and appropriate truancy prevention measures.

### **Program Outcomes and Benefits**

The services provided by DRTx have helped youth successfully complete their conditions of probation and even resulted in early termination of probation for some youth. In addition, DRTx's advocacy has kept youth in community placements and reduced further involvement with juvenile and adult criminal justice systems. In this way, DRTx's advocacy services have proved to be an effective cost savings measure for HCJPD.

DRTx has also served as a liaison between HCJPD and local school districts to help bridge the gap between the two systems. By raising awareness with school districts around some of the most common barriers to success probation-involved youth encounter in schools, and discussing ways districts can improve programming for this population of students, we are beginning to see systemic changes in school districts' approach to education of our youth.

### **Conclusion: Education Advocacy as a Best Practice**

Both DRTx and HCJPD are excited about the positive benefits this partnership has yielded and encourage other probation departments and legal service organizations to consider forming this kind of partnership as a best practice for serving juvenile-justice involved youth.

If you have questions about this program, please feel free to contact Latashia Crenshaw, Director of Education Support Services, at 713-222-4343 or [latashia.crenshaw@hcjpd.hctx.net](mailto:latashia.crenshaw@hcjpd.hctx.net).

Sincerely,



Thomas Brooks  
Executive Director/Chief JPO/Superintendent  
Harris County Juvenile Probation Department  
1200 Congress, Room 8009  
Houston, Texas 77002  
713-222-4801

## **APPENDIX B: TEXAS ANNUAL REPORT**



Harris County Juvenile Probation Department

DisabilityRights  
TEXAS

**Annual Report of the Disability Rights Texas  
Education Advocacy and Support Services  
Program in Partnership with Harris County  
Juvenile Probation**

**July 1, 2017 – June 30, 2018**



## Harris County Juvenile Probation Department



October 16, 2018

### Executive Summary

Disability Rights Texas (DRTx) began its third year providing education advocacy and support services to Harris County Juvenile Probation Department (HCJPD)-involved youth, families and staff on July 1, 2017. JPOs are increasingly recognizing the benefit of our services to the youth and families they work with and submitted a record **456 referrals** between the beginning of July 2017 and end of June 2018. We **accepted 417 referrals** – **91%** of referrals received – and were able to provide services in 300 of those cases.

Over the course of the year, DRTx provided assistance with a variety of education-related issues, including the eligibility process for disability-related services at school, truancy, need for improved behavioral supports and/or disability services, denial of enrollment, services for youth who are several grade levels behind, bullying, and homelessness. To address these issues, we not only provided direct services to probation-involved youth and families, but robust technical assistance to JPOs and caregivers of probation-involved youth to help them resolve school-related problems. To better equip JPOs with the tools needed to address these issues, **DRTx provided trainings to JPOs at their CUPS offices.**

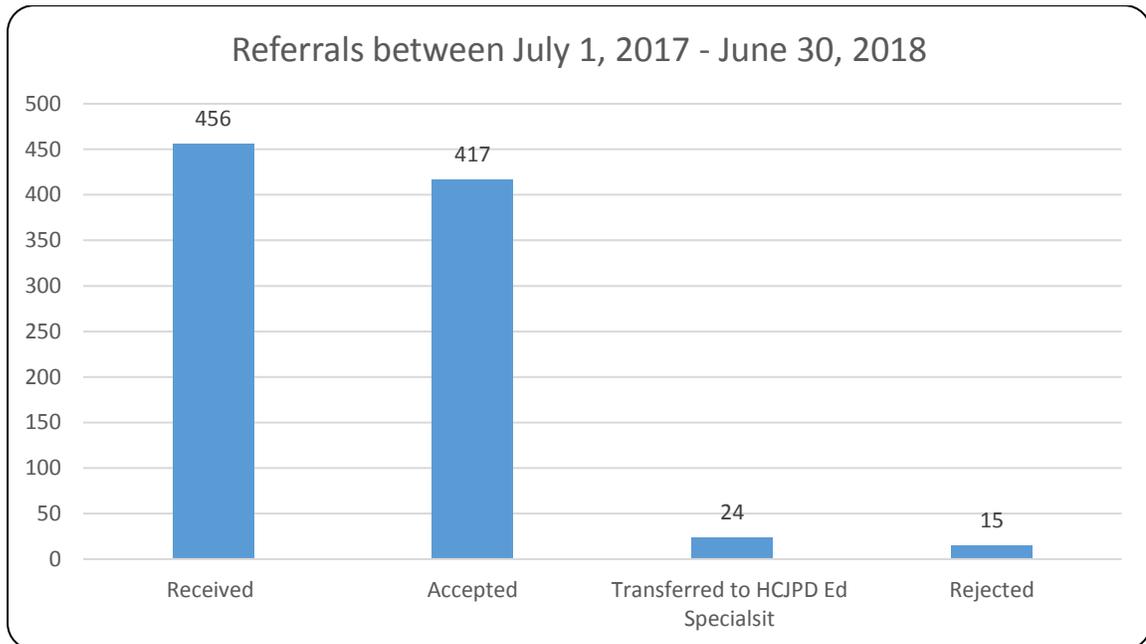
Included in our annual report are examples of the quality and depth of the advocacy and support services provided by each member of the DRTx Education Advocacy Team. During our third year, we **attended nearly 175 meetings with schools** and can report that **100% of our direct representation cases resulted in an offer of improved services from school districts.** In 76% of those cases, families overcame barriers to utilize those improved services and obtain favorable educational outcomes! We also found that **90% of cases where technical assistance and advice was provided** to the family during our second program year **were not re-referred** to our program for additional assistance the following year that those services have been effective in helping families and HCJPD staff resolve educational concerns.

This report also addresses the systemic victories we achieved over this past year, the increase in trainings provided to probation-involved youth and their families, and the efforts that have been made to respond to input from JPOs and administrators to continue enhancing satisfaction with our services.

## I. Referrals

### a. Referrals Continue to Increase

During our first year with the Harris County Juvenile Probation Department, DRTx received a total of 307 referrals. The following year, we received 445 referrals, accepted 296 of those referrals, and were able to provide services in 223 of those cases. During our third year, we received 456 referrals from Juvenile Probation Officers (JPOs). Of the referrals received this year, DRTx accepted 417 and transferred 24 to an HCJPD Education Specialist for assistance. Of the 417 referrals we accepted, 117 were closed without being able to provide services, bringing the total number of accepted referrals where services were provided to exactly 300. DRTx only rejected 15 referrals this past year.



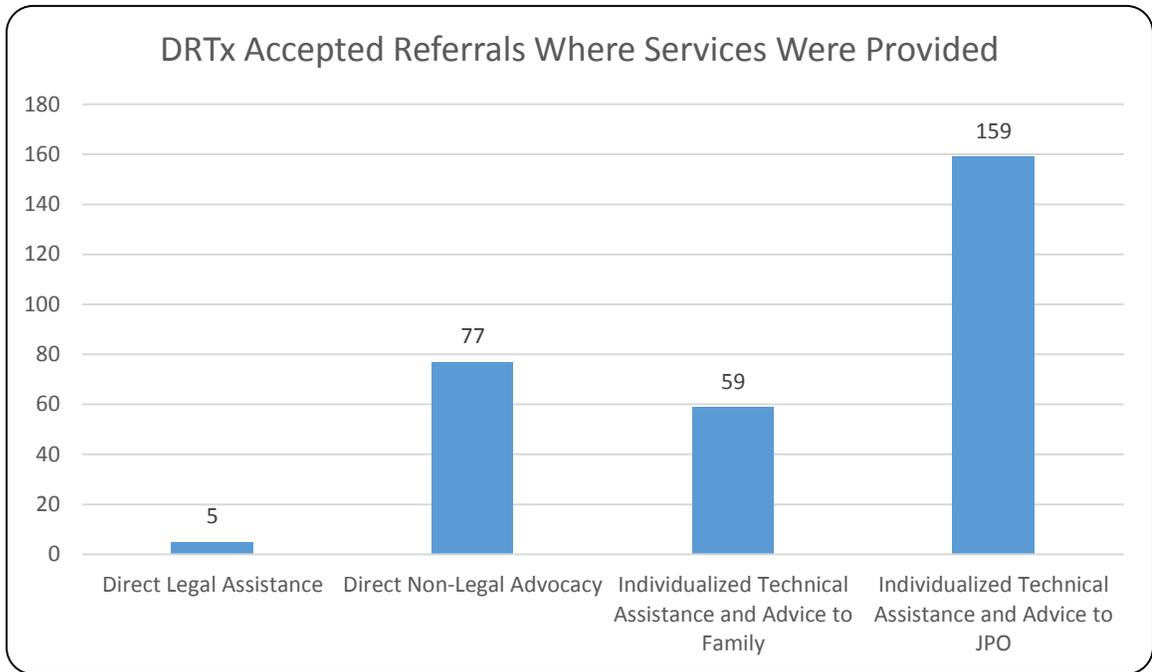
For the third year in a row, the most common reason why a case was closed without services being provided was because we were not able to make contact with the family to initiate services, or the parent failed to attend the initial client meeting. In fact, that was the case in 61 of the 117 cases that were accepted, but closed without services being provided. In 23 cases, the parent declined our services. Fifteen cases were closed without services because we were not able to initiate services before the youth was brought back into HCJPD custody or became absent without permission. In nine of the cases, the school-related problem was resolved prior to initiating services. Finally, in five of the cases, the youth terminated probation before we were able to initiate services and the other four were withdrawn by a JPO.

## **b. Achieving Tiered Services**

We were able to accept the vast majority of referrals to provide some level of assistance, which moved us closer to our original model of tiered services with the bulk of JPOs and families receiving only technical assistance and advice. Of the 300 accepted referrals where services were provided, Individualized Technical Assistance and Advice to the JPO was provided for 159 referrals and Individualized Technical Assistance and Advice to the family was provided for 59 referrals. We are pleased to report that out of the combined 217 technical assistance to the JPO or family cases we handled during our second program year, 90% of those cases were not re-referred to us during our third program year. We attribute the low number of repeat referrals to the success of the technical assistance provided to officers and families in helping them resolve many of the problem their youth experience at school.

Direct Non-Legal Advocacy was provided for 77 referrals, and five referrals required Direct Legal Assistance. More often than not, when we provide direct representation in a case, we meet with school administrators, counselors, attend 504 and ARD meetings, and negotiate with district level staff to resolve youth and caregiver concerns. It usually takes more than one meeting to effect change within the school system. Over the course of the 2017 – 18 school year, we attended 117 meetings with school administrators, counselors, and district level representatives, and 57 ARD or 504 meetings to advocate for the rights of probation-involved youth and improve their educational outcomes.

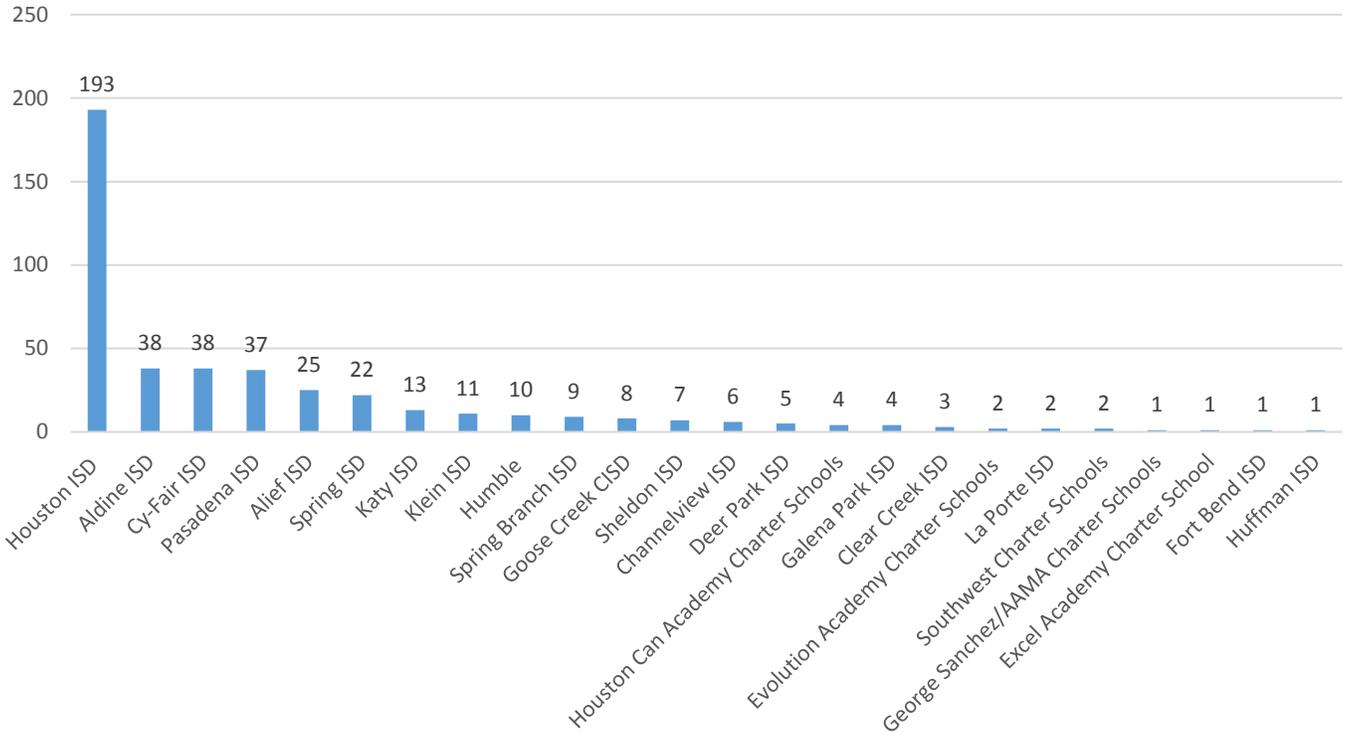
These nearly 175 meetings the five DRTx Education Advocacy team members attended this past year may help to explain some of the reason our team is taken away from the probation offices on a regular basis, but this number in and of itself does not reveal the complexity of our case work or the skill required to achieve positive, meaningful outcomes for our youth. Our team members must be able to review large quantities of varying types of records, know the education system well enough to identify and address problems not reflected in the initial referral, and have the negotiation and advocacy skills necessary to go toe-to-toe with experienced school district staff who have become ingrained in a culture of “no.” Although the time and effort it takes to achieve change in any given case cannot be quantified, the chart below reflects the number of cases handled at the different levels of assistance for the third program year.



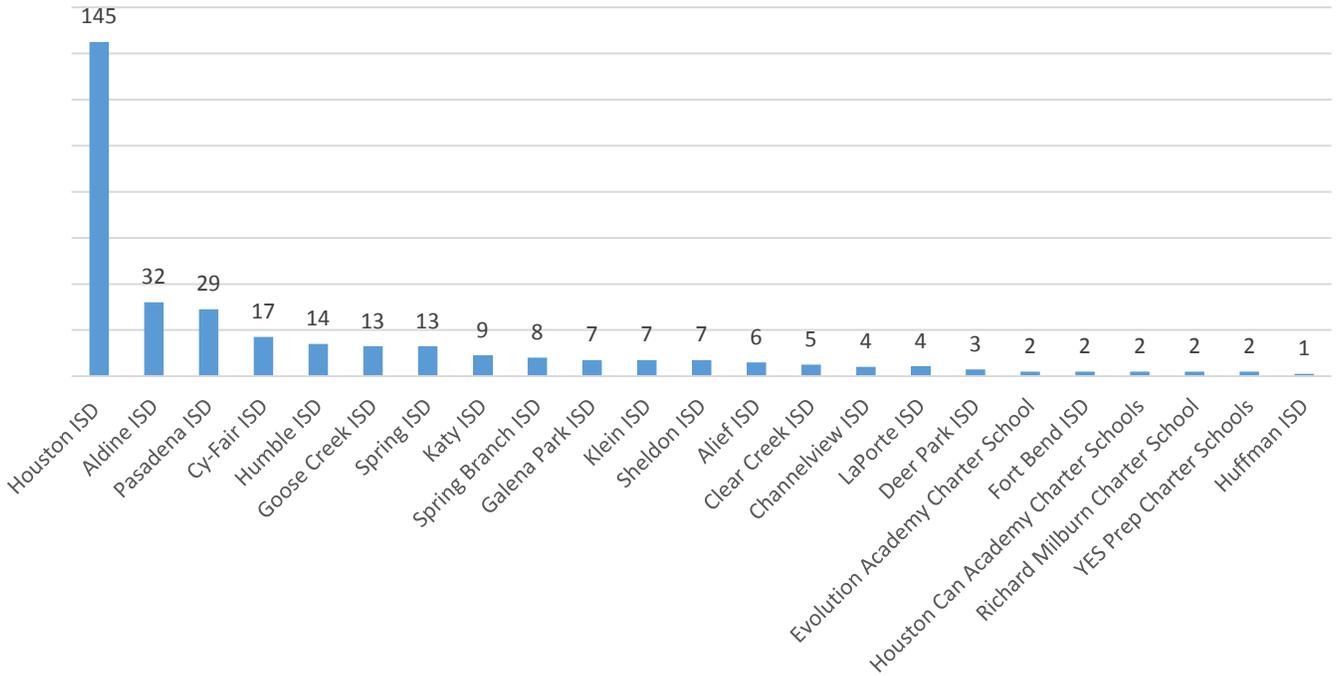
**c. Referrals by School District**

DRTx received referrals for 24 school districts and charter schools in Harris County during the third program year. The chart below illustrates the breakdown of those referrals. For a second year in a row, Crosby, Tomball, and Waller ISDs are not listed in the chart indicating that we did not receive referrals for youth who attend those districts. The chart from the previous year is included for comparison purposes. Notably, there was a significant increase in the number of referrals for youth attending school in Cy-Fair ISD this past year than the previous year, which we would expect given that they are the second largest school district in the County.

Referrals by School District - 2017 - 2018



Referrals by School District - 2016 - 2017

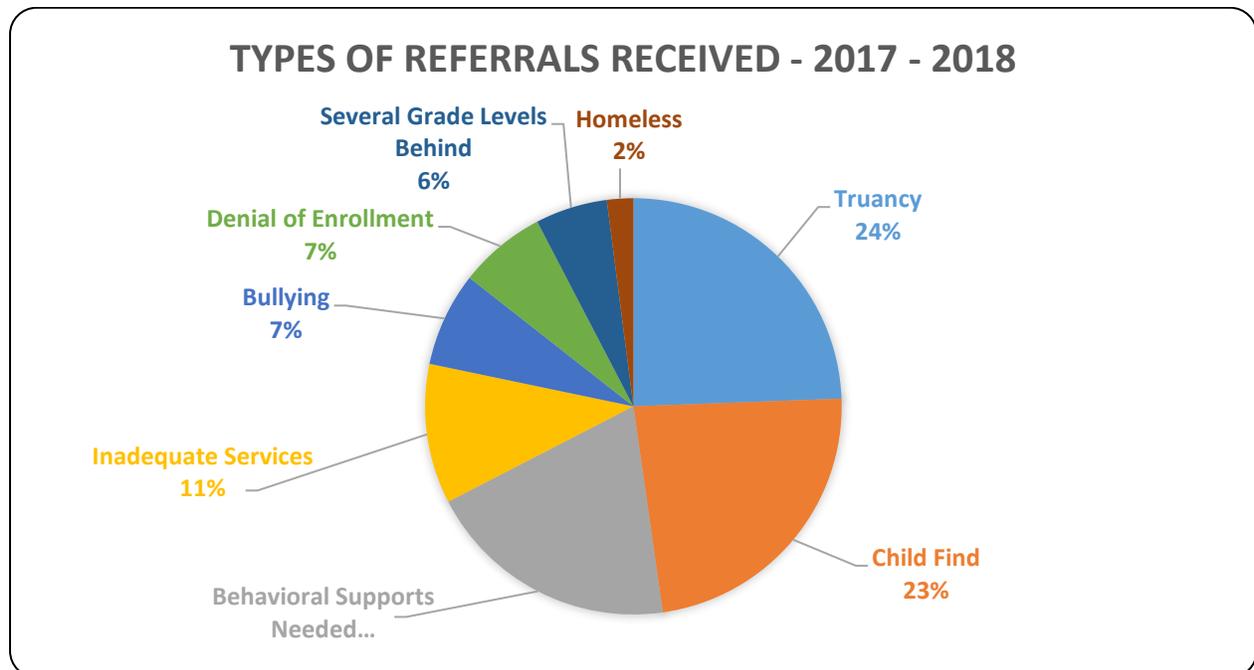


## II. Types of Cases Handled and Outcomes

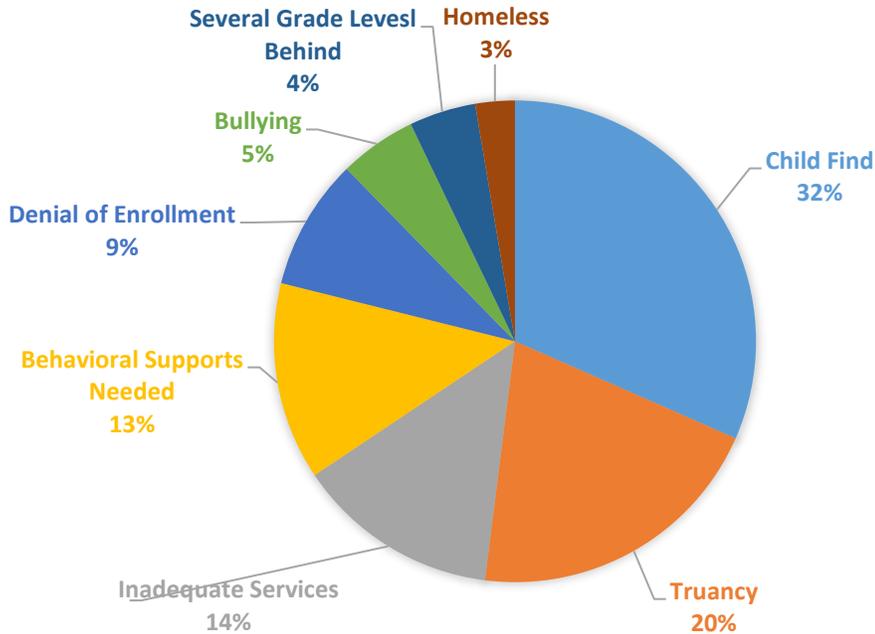
The types of cases DRTx received can be grouped into eight different categories. Most referrals contain more than one problem area to be addressed, making the total number of types of cases greater than the total number of referrals. For this reporting period, we made extensive efforts to capture our case outcomes. Since we are able to provide more specific outcome information in our direct representation cases, that information is included throughout the report for the various types of cases we handled during the third program year. We are pleased that 100% of direct representation cases resulted in an offer of improved services from school districts and in 76% of those cases, families overcame barriers to use the improved services and obtain favorable educational outcomes.

The reasons we were not able to fully resolve some cases were most often the result of the family's inability to prioritize their child's education at the moment. When a family is in survival mode and focused on how to meet their basic needs, or their child's mental health or substance abuse needs, it is not reasonable to expect them to be able to focus on improving their child's educational outcomes. Sadly, some probation-involved families are not in a position to be able to fully take advantage of our services and without a family member partnering with us, we may not fully achieve our goals for the case.

A chart showing the breakdown of the types of referrals our program received during the third program year is provided below along with a copy of the same chart from the second program year for comparison purposes.



## TYPES OF REFERRALS RECEIVED - 2016 - 2017



The next section of the report contains a description of each category of referral that was submitted to us over the past year and examples of cases handled in those categories.

### a. Truancy

Of the 456 referrals we received, 229 included a problem with truancy, an increase of 34% over last year making this the issue most often referred to our program. We believe the significant increase in referrals that contain a concern over truancy is twofold: First, our experience with truancy cases tells us that school districts are still grappling with how to properly implement the truancy laws that went into effect in September 2015. School staff still fail to take the time to meet with students who experience chronic truancy to identify the reasons they do not attend school. Even if school staff do properly identify the underlying cause of a student's chronic truancy, they often lack familiarity with district and community resources and programs to be able to put meaningful truancy prevention measures in place to help the student improve their attendance. Second, we understand HCJPD made a decision in the second half of the 2017 – 18 school year to not recommend a violation of probation for a youth struggling with chronic truancy, but who is otherwise generally in compliance with the conditions of their probation and instead refer them for education advocacy services. We received nearly three times the number of referrals for truancy in mid-late Spring as we did in the Fall so believe this change in HCJPD policy contributed to the significant increase in referrals for this issue.

DRTx was able to provide assistance in 157 of those referrals with the main service level being technical assistance to the JPO. We developed new resources outlining the requirement of schools to put truancy prevention measures in place once a student accumulates enough absences to trigger that requirement, as well as a sample Attendance

Intervention Plan that can be provided to schools to help them determine the reason a student is missing school and what services may be needed to help improve their attendance. In most cases, we provided technical assistance to the JPO who made the referral. We distributed the resources we developed and guidance about how to request a copy of the truancy prevention measures being provided to a student to all field staff during our round of trainings in the Spring of 2018. Unfortunately, we found in only one case that a school district had tried to provide a student with what we would agree is an appropriate truancy prevention measure. It is evident to us that there is still quite a bit of work to be done to improve the way school districts in Harris County address chronic truancy, but below we provide a few examples of positive outcomes we achieved for youth referred to our program for assistance.

**A.N.**

A.N. is a 17 year old 9<sup>th</sup> grade student. When we received the request for assistance, A.N. was struggling with a severe anxiety disorder and was not attending school. She was also not receiving any disability services or truancy prevention measures so was essentially a dropout. The referral was assigned to a DRTx Education Specialist for Direct Non-Legal Advocacy. The Education Specialist assisted the parent, whose native language is Spanish and who was caring for her young child with a developmental disability, with requesting disability services. The school district agreed to evaluate A.N. for special education services, but claimed that they were unable to do so because A.N. did not attend school. The Education Specialist advocated for the district to evaluate her at home since A.N.'s severe anxiety prevented her from being able to attend school. The school district completed the evaluation and found A.N. eligible for special education services, but when the DRTx Education Specialist advocated for the school district to provide A.N. with smaller classrooms and a partial day schedule to help ease her back into school, the district insisted A.N. had to attend a full school day in large, regular classrooms. When A.N. continued to fail to attend school, the Education Specialist again advocated for the district to put appropriate truancy prevention measures in place. The district argued that the special education committee was not responsible for providing truancy prevention measures, but when the Education Specialist provided them with copies of the rules issued by the Texas Education Agency, the district finally agreed to provide A.N. with homebound services and a plan to gradually add classes in a smaller classroom setting at the high school so she could begin attending school again with the supports and services in place that will help her be successful.

**S.O.**

S.O. is a 16 year old 10<sup>th</sup> grade student who experienced chronic truancy during the 2017 – 18 school year. S.O. also exhibited behaviors at school that resulted in several out-of-school suspensions. In mid-Spring, a DRTx Education Specialist was assigned to provide Individualized Technical Assistance and Advice to the JPO. As a result of this assistance, the JPO successfully empowered S.O. to negotiate with school administration to reduce the number of absences on her record if she agreed to attend school for the remainder of the year. S.O. improved her attendance and she was promoted to the next grade level for the 2018 – 2019 school year.

## **b. Child Find**

Under the Individuals with Disabilities Education Act (IDEA), the federal special education law, school districts must identify, locate and evaluate all children with disabilities within their jurisdiction. This requirement is known as “Child Find.” Child find applies to highly mobile children, such as migrant and homeless students, and to students advancing from grade to grade, as well. Probation-involved youth often fall into the category of highly mobile and school districts frequently fail to identify the need to evaluate these youth for disability services.

Furthermore, the majority of youth referred to our program already have a diagnosed disability so should be eligible to receive basic accommodations under section 504 of the Rehabilitation Act of 1973 at school. Most youth referred to our program for assistance are not yet receiving any disability services at school so a significant portion of the work we do consists of assisting with requesting disability services under Section 504 and/or an evaluation for special education services.

During our third program year, 216 of the 456 referrals we received were for youth who we believe should be evaluated for disability services at school. Of the 216 Child Find referrals, all but one were assigned to an Education Specialist for assistance. In most cases, we provided Individualized Technical Assistance and Advice to either the family or JPO. Of the 216 Child Find referrals assigned for assistance, we were able to provide services in 152 of those cases. Where Direct Non-Legal Advocacy or Legal Assistance was provide, 80% of those cases resulted in the district agreeing to evaluate the youth for services. Below are a few examples of successful cases.

### **J.H.**

J.H. was a 17 year old 8<sup>th</sup> grade student who was suspected of having a developmental disability, most likely Autism. He had failed to pass his classes in middle school or meet standards on state assessments, yet the district had not identified him as a student who should be evaluated for disability services. The DRTx Supervising Attorney provided direct legal assistance to advocate for the district to promote the youth to high school for the 2017 – 18 school year and conduct an expedited evaluation for special education services. A DRTx Education Specialist then provided Direct Non-Legal Advocacy services and accompanied J.H.’s mother to a grade placement committee meeting in September 2017 where she successfully advocated for him to be promoted to high school. The Education Specialist then worked with staff at the high school to facilitate the school’s meeting with J.H.’s mother at a local hospital where she was receiving treatment for her medical conditions to ensure consent for the evaluation was signed. Finally, the Education Specialist ensured that the high school provided J.H. with the academic supports he needed to be successful in school while the evaluation was pending.

### **T.B.**

T.B. is a 17 year old 9<sup>th</sup> grade student diagnosed with ADD and Mood Disorder. T.B. is a foster youth who lived in several different states prior to moving into Harris County. Consequently,

she only had four high school credits on record with school district and was several grade levels behind. DRTx Education Specialist accompanied T.B.'s foster mother to a meeting with the school counselor where she successfully advocated for the school to audit T.B.'s transcripts to find additional credits from other states and assisted with submitting documentation of T.B.'s diagnosed disabilities so that 504 services could be put in place. The DRTx Education Specialist also successfully advocated for the district to evaluate T.B. for special education services. The evaluation was completed at the start of the 2018 – 19 school year and T.B. was found eligible for special education services. Additionally, T.B. attended summer school where she earned enough credits to be promoted to the next grade level for the 2018 - 19 school year.

**K.H.**

K.H. is a 14 year old 7<sup>th</sup> grade student. K.H.'s JPO suspected he had a disability that was not being properly addressed, and therefore causing him to fall behind in school, so requested assistance with having K.H. evaluated for disability services. The DRTx Education Specialist drafted a letter for the JPO to provide to K.H.'s parent and submit to the school district. The Education Specialist provided the officer with specific instructions regarding who the letter should be submitted to and how to help the parent make sure the letter was submitted. The Education Specialist then followed-up with the officer after the 15-school day deadline by which the district had to respond to the request and was advised that the district agreed to evaluate K.H. for special education services. Shortly thereafter, K.H. successfully completed his time with probation and was released.

**c. Behavioral Supports Needed**

Last year, we received 110 referrals indicating a need for improved positive behavioral supports and services at school. This year, 183 of the 456 referrals submitted indicated a need for improved behavioral supports at school. This constitutes an increase of 66%! Very often, youth who exhibit behavioral challenges at school because the school has failed to identify that a youth has a disability and is in need of services, or the youth is receiving disability services, but those services are not being implemented appropriately or are not sufficient to meet the student's needs. We have found this to be true for the majority of cases where the need for behavioral supports arises so there is significant overlap between these cases and "Child Find" and "Inadequate Services" cases. We successfully obtained improved behavioral support services in 65% of direct representation cases.

**D.W.**

D.W. is a 15 year old 9<sup>th</sup> grade special education student diagnosed with ADHD and Bipolar Disorder. D.W. was on the Mental Health Unit caseload and frequently experienced psychiatric hospitalization. She exhibited significant behavioral challenges including regularly eloping from school grounds and physical and verbal aggression. As a result, the school district placed her at a separate campus specifically for youth who have an emotional disturbance and need significant behavioral supports at school. The DRTx Education Specialist worked tirelessly with school district staff to help D.W. transition from the separate school to her regular high school campus. The Education Specialist accompanied the parent to multiple ARD committee meetings to advocate for the district to revise D.W.'s

special education plan to ensure she was being provided appropriate behavioral supports and interventions. By the Spring of the 2018 – 19 school year, D.W.'s behavior had stabilized enough that she began requesting additional academic support so she could improve her performance and be promoted to the next grade level. D.W. successfully terminated probation in June 2018.

**T.H.**

T.H. is a 17 year old 9<sup>th</sup> grade student. The high school regularly called T.H.'s mother to pick him up from school early due to inappropriate behaviors. T.H. acted out at school due to an underlying learning disability that was not being addressed at school. The informal out-of-school suspensions caused him to miss a significant amount of academic instruction which only exacerbated his frustration causing him to act out more frequently. The DRTx Education Specialist provided Direct Non-Legal Advocacy services to help T.H.'s parent request an evaluation for disability services. The school district expedited the evaluation and the Education Specialist accompanied the parent to an ARD committee meeting where she successfully advocated for the youth to be provided the appropriate behavioral interventions and supports he needed so school administration would not be so tempted to send him home all the time. The Education Specialist also obtained agreement for T.H. to be provided with additional academic supports to help him catch up on missing credits. He successfully terminated probation in June 2018.

**d. Inadequate Services**

Many of the referrals we received were for youth who were already receiving disability-related services either through Section 504 of the Rehabilitation Act of 1973 (504) or through special education services under the Individuals with Disabilities Education Act (IDEA). In these cases, the 504 or special education services being provided were not sufficient for the youth to make progress at school. This was true for 101 of the 456 referrals we received. In these cases, youth experienced failing grades, exhibited significant behavioral problems that often led to placement at DAEP and other alternative education settings, struggled with chronic truancy, or all of the above despite having a team of school staff who were responsible for monitoring the youth's progress.

Some of the youth who are referred to our program are recipients, or should be recipients, of English Language Services at school. Additionally, we have worked with more youth in need of pregnancy services. This year, the "Inadequate Services" category captures our work to address the needs of English Language Learner and pregnant and parenting students since approximately 7% of our casework involved efforts to obtain improved services in those areas in addition to improved disability services. Overall, where we provided direct representation to the family, we successfully obtained improved services in 90% of our cases.

**T.T.**

T.T. was an 18 year old 12<sup>TH</sup> grade special education student with an emotional disturbance. T.T.'s mother filed litigation against the district claiming they had failed to provide him with appropriate behavioral supports and interventions which led to multiple physical and verbal altercations with other students and staff. The DRTx Supervising Attorney provided legal assistance and attended mediation with the parent where we successfully resolved the dispute. A DRTx Education Specialist then accompanied the parent to ARD committee meetings where she ensured that the district properly implemented T.T.'s special education services and audited his transcript to ensure he had the credits he needed to graduate this school year. We are so pleased to report that T.T. graduated this school year and successfully completed probation! T.T. and his mother have both expressed gratitude to DRTx for our assistance with helping T.T. make it through the 2017 – 18 school year and achieve his goal of becoming a high school graduate. T.T. graciously provided his consent for us to include his graduation picture with this annual report.



**Z.D.**

Z.D. is a 16 year old 9<sup>th</sup> grade student who was receiving 504 services, but still failing most of his classes. Feeling frustrated with not understanding the curriculum, Z.D. skipped school and was struggling with chronic truancy at the time we received a referral. The DRTx Education Specialist provided Direct Non-Legal Advocacy services and accompanied the family to a 504 meeting where she successfully advocated for the district to evaluate Z.D. for special education services. The Education Specialist then accompanied the parent to the special education committee meeting once the evaluation was completed. Z.D. was found eligible for special education services and a plan was put in place to help improve his attendance. Z.D. began doing well in school and was moved from an intensive unit of supervision to regular community supervision.

**K.P.**

K.P. is a 16 year old 9<sup>th</sup> grade student. The JPO who referred K.P.'s case to us was concerned that the youth spoke very little English and believed that contributed to her failing grades and chronic truancy. K.P.'s case came to us approximately two weeks before she was scheduled to terminate probation. The DRTx Education Specialist was able to provide Direct Non-Legal Sdvocacy services to meet with the English Language Services Chairperson at K.P.'s high school and successfully advocated for her language services to be increased before her she terminated probation.

**J.P.**

J.P. is a 17 year old 10<sup>th</sup> grade special education student who experienced a high risk pregnancy during the 2017 – 18 school year. When she and her mother requested homebound instruction so that J.P. could continue with her education while on bed rest, the district refused to provide those services. The DRTx Education Specialist provided Direct

Non-Legal Advocacy to ensure J.P. was provided the services she was entitled to. Although the Education Specialist was successful in obtaining homebound instruction for J.P., the teacher failed to provide J.P. with the accommodations she needed as part of her special education plan. The DRTx Education Specialist advocated again to ensure J.P. was provided with the disability services she needed and is entitled to so that she would be successful while receiving homebound instruction. Once J.P.'s baby was born, the Education Specialist successfully advocated for the district to continue with homebound instruction for an additional six weeks and then assisted with connecting J.P. to a program in the school district that would provide child care while J.P. attends school. J.P. successfully terminated probation at the end of April 2018.

**e. Bullying**

More officers reported concerns over probation-involved youth being bullied at school than in the past two years. We received 68 referrals that included a concern about bullying compared to only 43 last year, which constitutes a 58% increase in referrals for this issue. The bullying youth experienced came not only from fellow students, but from school staff as well. When a student experiences bullying at school, there are a number of interventions the school can put in place to protect the student from further harassment including having both parties to the bullying sign a Stay Away Agreement, extra supervision or an escort during unstructured times, and even transfers to different classrooms or another campus. We successfully resolved 70% of bullying cases where direct assistance was provided.

**E.O.**

E.O. is a 13 year old 8<sup>th</sup> grade student who attended a local charter school. E.O. was being called names by her math teacher so she stopped attending that class. When E.O.'s mother attempted to address the bullying with the school administrator, the teacher did not deny the claims, but refused to apologize and the administrator recommended that E.O. withdraw from the school since she had skipped that class so many times she was at risk of failing that subject. The DRTx Education Specialist offered Direct Non-Legal Advocacy services and accompanied the parent to another meeting with school administration. The Education Specialist successfully advocated for the school to rearrange E.O.'s class schedule so she could attend math class with a different teacher and for the school to provide opportunities for E.O. to make up missed assignments. E.O. successfully completed probation at the end of March 2018.

**E.G.**

E.G. is a 16 year old 9<sup>th</sup> grade student who was attending the school district's disciplinary alternative education program (DAEP). E.G. stopped attending school after experiencing physical and verbal aggression from other students at the DAEP. E.G.'s mother was concerned for her safety, especially because E.G. was pregnant. The DRTx Education Specialist provided Direct Non-Legal Advocacy so she could intervene with the school and ensure E.G. would be free from bullying and harassment. The Education Specialist successfully advocated for agreement from the school administrator for E.G. to only serve six more weeks at the DAEP if she attended school every day. The administrator guaranteed her safety while attending school at the DAEP. The Education Specialist also obtained

agreement for E.G. to then attend the district's career and credit recovery program following the birth of her child. E.G. successfully terminated probation in June 2018.

**A.H.**

A.H. is a 16 year old 8<sup>th</sup> grade special education student. Following a break-up with her boyfriend, A.H. was harassed, threatened, and "jumped" by several females – some students at her middle school, some much older – on a regular basis as she entered and exited the school. A.H.'s mother had attempted to address the situation with the school administrator, but was told that since the bullying and harassment was not happening on campus, it was not the school's responsibility to address it. A.H. was so distraught over the situation that she was cutting to cope with her emotions. The DRTx Education Specialist accompanied the parent to a special education committee meeting and successfully advocated for the district to address the bullying. The plan was reviewed with all administrators and A.H.'s teachers so they would be prepared to protect her while she was at school, as well as when she was entering and leaving campus. The Education Specialist also obtained agreement for services to be provided to help A.H. begin to catch up academically and be promoted to high school for the 2018 – 19 school year. A.H. successfully terminated probation in May 2018.

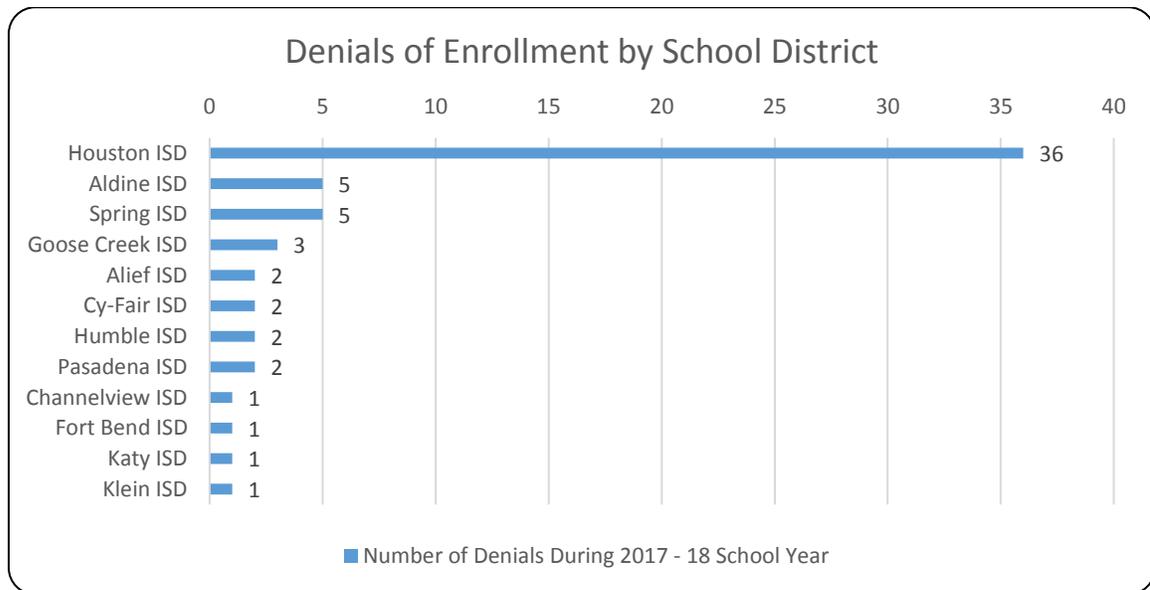
**f. Denial of Enrollment**

The number of requests for assistance with denial of enrollment decreased this past school year by 13%. Last year, we received 73 requests for assistance with denial of enrollment. This year, we received 63 requests. We are pleased to see a decline in this number and attribute it to two factors: First, we believe that through the trainings DRTx has provided to all JPOs since the start of our contract, officers are now better equipped to address this issue without our assistance so do not reach out to us as much as they did in previous years.

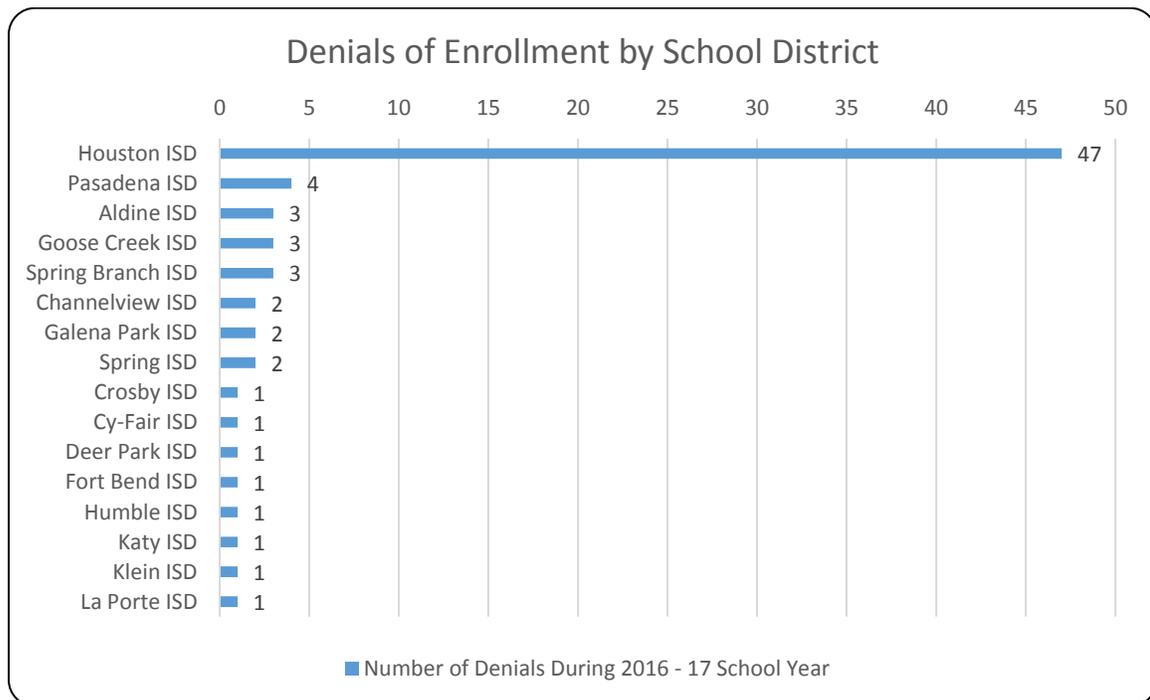
Second, we believe our efforts to bring this problem to the attention of school districts is making a difference in the practices of those districts. We have had several meetings with Houston ISD administrators to bring this problem to their attention and learned at the start of the 2018 – 19 school year that they incorporated instructions in their Operating Guidelines for the immediate enrollment of all students to try to reduce the frequency with which students are denied enrollment and be better able to enforce rules pertaining to enrollment when a denial does happen. We have also met with Pasadena ISD about the problem since they are the second "worst offender" of denials of enrollment. You will see from the chart below that only two denials of enrollment were reported from Pasadena ISD as compared to four the previous year. Spring ISD is right behind Pasadena ISD in the numbers of denials of enrollment and are on our list of districts to reach out to about this problem next. Despite the progress that has been made to tackle this issue, we continue to take it very seriously since, when youth are denied enrollment, the likelihood that they will dropout increases significantly.

The service most often provided in denial of enrollment cases was technical assistance and advice to the probation officer. Given the nature of providing only technical assistance in a

case, we are not always told whether our advice has worked to resolve the issue. In every denial of enrollment case, we followed-up with the officer and attempted to find out whether the youth was enrolled in school. This year, we were able to learn that over 75% of the denials of enrollment referred to our program were successfully resolved!



The chart showing denials of enrollment by district from the 2016 – 17 school year is also included for comparison purposes. Worth noting is that we received referrals for denial of enrollment from sixteen districts last year, but only twelve this year.



**E.S.**

E.S. is a 15 year old student who was denied enrollment approximately one week prior to the last day of the 2017 – 18 school, effectively preventing him from being able to attend summer school. The DRTx Education Specialist provided Direct Non-Legal Advocacy so we could make sure the youth was enrolled before the last day of school. At first, the school refused to enroll E.S., but after a few hours of persistent advocacy, the Education Specialist's determination paid off and E.S. was enrolled one day before the school year ended. The Education Specialist also obtained agreement from the school for E.S. to attend summer school and received confirmation that E.S. has been promoted to high school for the 2018 – 19 school year.

**T.T. and S.T.**

T.T., a 17 year old 8<sup>th</sup> grade student, and his brother, S.T., a 15 year old 7<sup>th</sup> grade student, were both denied enrollment after being displaced by Hurricane Harvey. After the disaster, they were zoned to a different middle school from the one they had previously attended, but when they attempted to enroll there, they were denied due to their ages and being so far behind in school. The DRTx Education Specialist provided Direct Non-Legal Advocacy, to ensure both youth were enrolled in school. When the Education Specialist could not get a response from the registrar, she reached out to the school district's Director of Dual Status and Adjudicated youth who was able to resolve the denial of enrollment. Once T.T. and S.T. were enrolled in school, the Education Specialist was able to ensure the school provided the brothers with opportunities to catch up on credits so they could make progress toward their correct grade level.

**g. Several grade levels behind**

Many probation-involved youth are several grade levels behind in school. Many are 17 and in the 9<sup>th</sup> grade, or worse yet, 15 and 16 and still in middle school. While most districts offer programs to assist youth who are several grade levels behind, these programs are usually only for youth at the high school level. For over-aged middle schoolers, their best hope to move forward with their education is to be promoted to the 9<sup>th</sup> grade, which may mean missing vital instruction from an entire grade level, most often 8<sup>th</sup> grade. For many of these youth, the GED becomes an appealing option even though that exam is only recommended for those who have successfully *completed* at least a 10<sup>th</sup> grade education. Of the 456 referrals we received, 52 included youth who are several grade levels behind in school. We provided services in 40 of those referrals, most often at the technical assistance and advice level.

**J.H.**

J.H. is a 15 year old special education student who began the 2017 – 18 school year as a 6<sup>th</sup> grader. The Supervising Attorney accompanied the family to an ARD meeting and successfully advocated for J.H. to be promoted to the 7<sup>th</sup> grade and for the district to develop a plan to ensure he was able to work on 7<sup>th</sup> and 8<sup>th</sup> grade level instruction during the year so he could be promoted to the 9<sup>th</sup> grade for the 2018 – 19 school year. J.H. made sufficient progress during the year and on the last day of school, the school district agreed to promote him to high school.

**J.H.**

J.H. turned 18 during the 2017 – 2018 school year and should have been eligible for graduation, but he started the school year as a 10<sup>th</sup> grader. He was not being given access to programs in the district that would allow him to get caught up so he could graduate closer in time to when he should have graduated. The DRTx Education Specialist researched programs near J.H.'s home and determined that a local charter school would be a good fit for him. The Education Specialist assisted J.H. and his mother with completing the enrollment process at the charter school, met with school staff to conduct a transcript audit to ensure J.H. would only have to take classes for which he needed credit, and secured a job coach to assist J.H. with finding and keeping a job so he could begin to earn income.

**h. Homelessness**

Fortunately, even despite the increase in eligibility for homeless services under the McKinney Vento Homeless Assistance Act due to Hurricane Harvey at the beginning of the 2017 – 18 school year, homelessness was not a problem most of the youth referred to our program experienced. When youth did experience homelessness, however, it resulted in significant problems, most often denial of enrollment, but also truancy and failure of districts to evaluate youth for special education services. Only 22 of the referrals we received were for youth who were identified as McKinney Vento eligible. We were able to provide services in 14 of those referrals, most often at the technical assistance and advice level.

**R.J.**

R.J. is a 12 year old special education student who was not being provided adequate special education services. A DRTx Education Specialist accompanied the family to an ARD meeting and successfully advocated for more appropriate academic and behavioral supports and R.J. was promoted to the 7<sup>th</sup> grade for the 2018 – 19 school year. At the end of the 2017 – 18 school year, however, the family's housing situation changed and they became homeless. R.J. was no longer zoned to the school he attended during the 2017 – 18 school year. The DRTx Education Specialist immediately connected the family to the Homeless Liaison for the school district to ensure there would be no issue with enrollment or transportation for the 2018 – 19 school year. As a result of the Education Specialist's efforts, R.J. had a smooth transition to a new school.

**III. Systemic Victories**

**a. More Individualized Discipline Practices in Klein ISD**

In the Spring of 2017, JPO Don Ashley, who works with the Sex Offender Unit, reached out to Supervising Attorney, Sarah Beebe, to express concern that Klein ISD fails to enroll youth with sex offenses in a timely manner, and that once they are enrolled in school, places them at DAEP or JJAEP for the entire time they're on probation with no review process in place

to determine whether they should return to a regular campus before termination of probation. This meant that many of these youth were spending a year or more in these highly restrictive educational settings. Mr. Ashley explained that no other district he works with does this; they all place the youth at the DAEP or JJAEP for 30 - 45 days, but if the youth demonstrates good behavior, they're allowed to return to a regular campus. Mr. Ashley requested Ms. Beebe's assistance with combating Klein ISD's overly punitive treatment of youth with sex offenses. Ms. Beebe advised Mr. Ashley that, unfortunately, districts do have the right to place youth with sex offenses at alternative campuses for significant lengths of time (until they graduate high school if they so choose), but confirmed they could not deny enrollment until they decide what school the student will attend. Ms. Beebe helped Mr. Ashley troubleshoot a few denials of enrollment in Klein ISD and continued to advise him of the rights of the youth he works with.

At the beginning of the 2017 – 18 school year, Mr. Ashley was able to secure a meeting with Dr. Joffery Jones and Mindy Spurlock, Executive Directors for Campus Safety and Support in Klein ISD. Ms. Beebe accompanied Mr. Ashley to the meeting, along with the two licensed sex offender treatment therapists for the County. We explained our concern that youth with sex offenses are not enrolled in school in a timely manner, and once they're in school, are placed at the DAEP or JJAEP for the entire time they're on probation. We advocated for the district to address the failure to immediately enroll these students and begin assessing whether a student should be returned to a regular campus on an individual basis rather than keeping them at an alternative school for the duration of the time they're with probation. Dr. Jones and Ms. Spurlock agreed to bring our requests to the Deputy Superintendent. Mr. Ashley confirmed a few weeks later that our advocacy efforts had been successful. The next student he worked with who enrolled in Klein ISD was enrolled in a much more timely manner and the district had released another youth he was working with from the DAEP before his probation terminated.

**b. Developing Relationship with Pasadena ISD**

In the Spring of 2018, DRTx Supervising Attorney, Dustin Rynders, connected the HCJPD Education Advocacy Program Supervising Attorney, Sarah Beebe, to district-level staff in Pasadena ISD who wanted more information about what problems probation-involved youth were experiencing in their district. On March 22, 2018, Ms. Beebe met with Dr. Linda Rodriguez, Coordinator for Behavior Response and Crisis, and Gloria Gallegos, Associate Superintendent for Special Programs. Ms. Beebe spent two hours discussing concerns regarding the struggles of probation-involved youth in Pasadena ISD. Dr. Rodriguez and Ms. Gallegos were receptive to the information shared and described the numerous programs available to students and families in the district. Ms. Beebe proposed a meeting with the Administrator of the Probation Office in the Pasadena area to determine how Pasadena ISD and Harris County Juvenile Probation Department could work together to better assist probation-involved youth.

On July 17, 2018, Ms. Beebe, and HCJPD Administrator, Edward Baldazo, met with Dr. Rodriguez, who shared the programs and services available to students and families in Pasadena ISD. Mr. Baldazo was able to shed light on how the juvenile justice system operates to help Dr. Rodriguez better understand how involvement with probation impacts the students in her district. The meeting resulted in a proposal for Pasadena ISD to provide a training to HCJPD staff and the Education Advocacy Team.

On September 11, 2018, Dr. Rodriguez, Ms. Gallegos, and two members from the Homeless Assistance Office in Pasadena ISD conducted a training for HCJPD staff and the Education Advocacy Team at CUPS 3. Mr. Baldazo's entire team was present, along with staff from CUPS 6, 9, and the courts. The team from Pasadena ISD presented a wealth of information and took time to hear from HCJPD and DRTx staff about the need for various services for probation-involved youth. The training was well-received on both sides and in follow-up conversations with officers and Ms. Gallegos and Dr. Rodriguez, we have learned that officers have now reached out to the contacts they were given during the training and secured needed services for youth who attend school in Pasadena ISD. We are continuing to engage in conversations with Pasadena ISD about how we can grow our relationship and potentially pilot a program of services to streamline the process of transitioning youth returning to the community from HCJPD facilities.

**c. Reentry Workgroup**

With the significant efforts Disability Rights Texas has put forth to raise awareness about and address the problem of denial of enrollment of probation-involved youth, community partners began to reach out to us to learn how they could assist with tackling this troubling issue. This increased interest led us to develop a Reentry Workgroup that consists of professors from the University of Houston and Texas Southern University's Thurgood Marshall School of Law, a graduate student from Rice University, a Ph.D. student from the University of Texas, and a law student from South Texas College of Law; representatives from the City of Houston, including Commissioner Ellis' Office, My Brother's Keeper, and the Department of Health and Human Services; and other community organizations such as Eight Million Stories, reVision, Mental Health America, Texas Criminal Justice Coalition, and Fifth Ward Enrichment Program.

Houston ISD also joined the Reentry Workgroup in acknowledgement that their district struggles the most of all school districts in the County with timely and appropriate enrollment of probation-involved youth. In fact, it was Houston ISD who brought to the attention of the group that California had recently passed a law that addressed enrollment of juvenile-justice involved youth and required school districts and juvenile probation departments to work together to ensure a more seamless transition from juvenile facilities to the community, as well as assurance that youth are placed into appropriate education programs that truly meet their needs.

The Group's work has been focused on efforts to push for a state-wide legislative fix to the problem of denial of enrollment since we know that this is a problem across the State of Texas. Mental Health America and HCJPD have taken the lead on drafting and proposing legislation that can be put forth during the upcoming legislative session to address enrollment and appropriate placement of probation-involved youth in education programs that will better meet their needs.

At the local level, Houston ISD has implemented guidelines for enrollment of youth that calls for the immediate enrollment of students transitioning back to the community from juvenile facilities. The guidelines specifically address some of the most common issues probation-involved youth face when they try to enroll in school, such as lack of school records, placement at the district's Disciplinary Alternative Education Program (DAEP), and requests for information about the reason the youth is involved with probation. This is a significant step in the right direction for Houston ISD in addressing the problem of denial of enrollment in their district. In issuing the new guidelines, Houston ISD specifically thanked HCJPD and DRTx for their role in bringing this problem to their attention and assisting them with developing the language needed to ensure proper and immediate enrollment of probation-involved youth. We are hopeful to see the positive effects of this new policy in the very near future.

## **IV. Educational Trainings**

### **a. Community Trainings**

During the third program year, we participated as presenters at two community conferences. In April 2017, DRTx Supervising Attorney, Sarah Beebe presented at the Annual Texas Probation Association Conference in Galveston, TX. At this conference, Ms. Beebe was able to share information about our unique program and address the common education-related problems probation-involved youth encounter. Also in April 2018, Ms. Beebe presented at the roll-out of the One-Stop-Shop Program being provided to youth and their families in the Katy area. During this training, Ms. Beebe was able to provide information to nearly 75 caregivers of probation-involved youth about our services and provide a brief presentation about their rights in schools.

Ms. Beebe was also invited to speak at the National Disability Rights Network conference in Baltimore, Maryland in June 2018. At this conference, Ms. Beebe was able to provide sister Protection and Advocacy Organizations from across the country with an overview of the Education Advocacy Program in an effort to generate interest in partnering with probation departments in other states as a best practice around juvenile justice advocacy.

At the request of HCJPD officers and administrators, DRTx Education Specialists provided 6 trainings to probation-involved youth and their caregivers over the course of the 2017 – 18 school year. Each training included, at a minimum, 30 youth and caregivers allowing us to

reach a significant number of probation-involved families. At each training, we were able to provide information about our services, but mainly focused on ensuring youth and families left feeling more knowledgeable about their rights in school and empowered to exercise those rights. The Education Specialists reported excellent participation from youth and their caregivers at each training.

#### **b. JPO Trainings**

During our second program year, we decided to hold additional mandatory and optional JPO trainings to review our services and the referral process with them, as well as continue to provide HCJPD staff with a basic working knowledge of the educational rights of the youth and families they work with. We provided three mandatory and three optional trainings over the course of the 2016 – 17 school year, and while those trainings received overwhelmingly positive reviews, they were very large trainings that did not lend themselves to discussion with the officers about the issues with which they most wanted assistance.

We decided that during our third program year, we would conduct two trainings at each of the field office locations. Those trainings were held in early – late winter and after Spring Break of 2018. It was reported to us by officers and administrators alike that they preferred the smaller, more intimate trainings at their offices where the materials and presentation could be tailored to those units and the school districts they most commonly work with. During these trainings, we were able to revisit the services our program offers, how to make referrals, and drill down on how to handle the most common education-related problems our youth experience.

We were also invited to begin participating in the Education Resources Trainings offered quarterly to HCJPD staff. Supervising Attorney, Sarah Beebe, has been co-presenting with HCJPD Education Support Services Coordinator, Carlos Olivares, to provide an overview of the Education Advocacy and Support Services Program, as well as educate HCJPD staff about the issues probation-involved youth and their families experience with schools. Participating in these trainings has afforded DRTx the opportunity to meet with and provide pertinent information to staff outside of the field offices.

### **V. Program Feedback**

We are pleased to report that, over the course of our third year, we have received quite a bit of positive feedback. Below is a sampling of that feedback:

#### **a. Caregivers**

- “This is too much for a grandmother to handle alone. I am so grateful for you going out of your way to assist me and attend these meetings with me. Thank You for being

my voice and working with [my grandson] and helping the school with the Behavior Plan.”

- “Thank You so much for helping my son get back in school so fast. They would not have done this for us if you were not with us. Thank You for making feel important. The Administration was nice to me today because you were here with me at [the] school.”
- “Thank You so much for being here and making sure that they did not take advantage of my son by sending him away to a DAEP at the beginning of the school year. This was the first time that I felt like my opinion actually mattered.”
- “I don’t know where to start or even end. Because of You [and the JPO], my child will be graduating from High School in June!. Thank You for fighting so hard with me for [my son] to have appropriate services in school. This has been a long journey!”
- “Thank you for assisting my son with getting his SPED services properly implemented. I have made repeated attempts and to no avail was I able to connect with anyone. I greatly appreciate your help.”
- “I appreciate you helping me with getting my boys enrolled into school. I was beginning to lose hope because the school staff gave me the run-around for weeks. Thank you for stepping into our lives and working it out for them.”
- “Thank you for your patience. Thank you for wanting to help [youth] and giving her a chance in life.”
- “I told the probation officer that I don’t want the case to be closed because you know you’re stuff!”

**b. Youth**

- “What can I say? This is the happiest day of my life!! I graduated from High School today!! I got my high diploma because of you kicking butt for me. I promise I am not done yet. Thank You so much!”
- “Thank You for helping me and reminding me that I matter.”
- “Thank You for helping me get my classes organized. Please don’t give up on me; I am going to work harder to get my act together.”
- “You’re awesome! Everything I asked for and they wouldn’t do for me...you got them to do it for me.”
- “I wish I had met you a long time ago.”

**c. HCJPD Staff**

- “I am so glad to have you as a team member in these trenches fighting for our youth with me.” – JPO
- “I don’t what to say, other than Thank You for showing me how to advocate for our kids. Because of you, he kept his promise and graduated from High School.” - JPO
- “Thank You for always taking the time to listen and staff with me through cases. I really enjoy working with you.” – JPO
- “You always assist me with the right things to say when I am working with these schools. I really appreciate DRTX. I have learned so much from you all.” – JPO
- “When you have a case, I don’t worry about anything.” – JPO

- “Thank you for assisting my families, Disability Rights Texas is a great collaboration with juvenile probation department. ☺” – JPO
- “P.S. I just wanted to let you know that [the DRTx Education Specialists] are great!!! They are always willing to help me with any question I have without hesitation. ☺” - JPO
- “I really appreciate all of your flexibility, patience, and motivating spirit to always be there to assist my JPOs” – CUPS Administrator
- “I really enjoy collaborating with you and your willingness to always assist and help us explore various options.” – CUPS Administrator
- “Thank you for assisting Officer ..., with informing [youth]’s father about the district expectations regarding her discipline, grades, and attendance. Like most parents, he was unaware of what school laws come into play for his daughter.” – CUPS Administrator

## **VI. Conclusion**

Our third school year with Harris County Juvenile Probation Department was another great success! We have strengthened existing relationships with school district personnel and established new relationships with others which has allowed us to effect systemic change in those districts that impacts not only the youth for whom we received a referral, but other probation-involved youth who attend school in those districts. We increased the number of trainings we provided to probation-involved youth and their caregivers, which allowed us to reach families we would not otherwise have come in contact with. We made adjustments to our approach to monitoring cases to help us better capture the outcomes of our cases, and therefore our programs’ true impact which helped us confirm that our services are making a difference in the educational outcomes of our youth. We look forward to continuing all of this work in our next year with you!

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