

Independent Monitoring Systems for Juvenile Facilities

Youth who are harmed in juvenile facilities should have a reliable and safe place to turn to report physical and sexual abuse, other staff misconduct or lack of care they need. In order for youth to step forward, though, they must also trust the investigatory process and feel safe from retaliation by facility staff and other youth. Independent monitoring systems – programs for receiving and investigating complaints from youth that are separate from an agency's internal grievance mechanism – address that need by introducing independent eyes and ears in secure facilities.

Several states currently operate independent monitoring systems for youth in juvenile facilities. These jurisdictions recognize that independent monitoring not only protects the rights of youth, but also:

- Identifies safety and security concerns before they become systemic issues that lead to legal liability;
- Generates critical information for facility managers and agency officials that can help guide improvements to service delivery;
- Provides insights into needed policy and practice changes; and
- Increases accountability and raise public awareness of the needs of youth in the system.

This fact sheet outlines best practices common to effective independent monitoring systems for juvenile facilities and provides examples of systems currently serving youth in facilities.

Best Practices

Independent monitoring systems for juvenile facilities vary widely in their origin and design, but successful programs share several common features. The federal Office for Juvenile Justice and Delinquency Prevention at the U.S. Department of Justice notes that effective independent monitoring systems are:

- **Fully autonomous** from agency control in order to ensure the independence necessary to conduct effective investigations and take appropriate next steps;
- **Supported by clear statutory authority** to conduct investigations, subpoena relevant information and individuals, and recommend meaningful changes;
- **Given unrestricted access** to facilities, records, and individuals;
- **Adequately funded** so that the program has sufficient staff and resources to carry out its investigatory, monitoring, and reporting responsibilities; and

- **Staffed with qualified individuals** who have expertise in coordinating and conducting investigations, understanding the legal rights of youth and enforcement mechanisms, and assessing the adequacy of programs and policies within facilities.¹

Examples of Independent Monitoring Systems

Texas: Office of the Independent Ombudsman

In 2007, the Texas Legislature passed sweeping legislation aimed at restructuring the Texas Youth Commission (TYC) in the wake of thousands of allegations of physical and sexual abuse at TYC facilities.² That legislation established the Office of the Independent Ombudsman,³ an independent state agency charged with “investigating, evaluating, and securing the rights of the children committed to the Texas Youth Commission.”⁴ The ombudsman investigates complaints, inspects facilities, reviews and proposes changes to policies and procedures, and issues regular reports on the Office’s activities.⁵ For example, the ombudsman investigated a proposed increase in the use of pepper spray in TYC facilities, commissioned a report on the dangers associated with its use, and recommended steps to avoid the practice.⁶ Additionally, in 2007, TYC closed the Coke County Juvenile Justice Center and relocated 197 youth after the ombudsman issued a report outlining deplorable conditions at the privately run facility.⁷ The Office of the Independent Ombudsman works alongside the state’s Office of the Inspector General, an independent law enforcement division of TYC charged with investigating criminal allegations against TYC staff.⁸

Maryland: Juvenile Justice Monitoring Unit

In 2002, the Maryland General Assembly responded to nationwide media coverage of alleged abuses in the State’s juvenile justice facilities by creating the Office of the Independent Juvenile Justice Monitor.⁹ The Office, which was fully independent of the State’s executive branch and the Department of Juvenile Services (DJS), was charged with evaluating physical conditions, staffing, grievances, and the treatment of and services for youth at each facility operated, owned, or licensed by DJS.¹⁰ In 2006, the Maryland Legislature moved the Office to the State’s executive branch and renamed it the Juvenile Justice Monitoring Unit. Maryland’s independent monitoring system has issued a number of important reports that have led to substantial changes in DJS facilities. For example, a report in 2005 exposed numerous beatings sanctioned by authorities at the Alfred D. Noyes Children’s Center, prompting a formal investigation and changes in policies, staffing, and security.¹¹ State legislators have praised the Office’s work as “shin[ing] a light into the dark corners of [the State’s] institutions.”¹²

Connecticut: Office of the Child Advocate

In 1995, the Connecticut General Assembly established the Office of the Child Advocate (OCA),¹³ an independent state agency charged with overseeing the care and protection of Connecticut youth.¹⁴ Unlike the Texas and Maryland programs, the OCA does not work exclusively with youth in the juvenile justice system, but with other systems that serve children and families as well. State law equips the Office with a broad array of tools to carry out its mandate. These include expansive access to records, the power to institute legal proceedings on behalf of youth, and the ability to inspect publicly- and privately-run facilities.¹⁵ The OCA’s

advocacy has led to a number of landmark changes for youth in the juvenile justice system, including legislation restricting the improper and excessive use of physical restraints on children in the State's care.¹⁶

Washington, DC: Juvenile Services Program

The Juvenile Services Program (JSP), currently a branch of the Public Defender Service for the District of Columbia, was formed in 1982 by the City Council in the wake of concerns regarding the treatment of detained and incarcerated youth.¹⁷ JSP has offices within the walls of both of the District's secure juvenile facilities. The Department of Youth Rehabilitation Services,¹⁸ the District's juvenile justice agency, grants JSP staff virtually unrestricted access to youth, allowing JSP to serve as independent eyes and ears within the secure detention and correctional facilities. The Juvenile Services Program relies on two full-time staff attorneys and several law clerks to maintain a regular presence at both locations. JSP staff monitor conditions of confinement, assist youth in filing grievances, represent youth in disciplinary hearings, educate youth about their rights, and engage in other legal and administrative advocacy on behalf of children in the District's secure facilities.¹⁹

Kentucky: Juvenile Post-Disposition Unit

In response to litigation over conditions of confinement in Kentucky's juvenile facilities in the mid-1990s,²⁰ the state legislature created a new branch of the statewide public defender agency dedicated to representing youth in residential treatment facilities and detention centers.²¹ The Juvenile Post-Disposition Unit, housed within the Kentucky Department of Public Advocacy, represents detained and incarcerated youth on matters related to the fact and length of their confinement, as well as conditions within facilities.²² The Unit relies on a staff of eight attorneys to investigate referrals from the State's institutions and litigate appeals.

Nationwide: The Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI)

The Annie E. Casey Foundation launched the Juvenile Detention Alternatives Initiative (JDAI) in 1992 to demonstrate that communities could safely reduce their reliance on secure detention of young people. One of the Initiative's primary goals is to ensure appropriate conditions of confinement for those youth who do spend time in juvenile detention facilities.²³ Jurisdictions that participate in JDAI establish detention facility assessment teams, which are comprised of local volunteers who are trained to monitor conditions of confinement and identify any problems.²⁴ These assessment teams use a rigorous methodology and a set of comprehensive standards²⁵ to examine all aspects of facility policies, practices, and programs. The teams prepare comprehensive reports on their findings and monitor the implementation of corrective action plans.²⁶ JDAI sites throughout the country have relied on this monitoring process to help prevent crowding, increase access to health and mental health services, limit the use of isolation and restraints, and reduce or eliminate the use of pepper spray as a response to behavior incidents.²⁷

Nationwide: The Federal Protection and Advocacy (P&A) System

In order to prevent the abuse and neglect of individuals with disabilities, particularly those who reside in institutions and other facilities, Congress has established a nationwide network of

disability rights agencies known as the Protection and Advocacy (P&A) System.²⁸ Federal law provides for and funds agencies, known as P&As, in every state and territory in the U.S. These organizations are charged with monitoring facilities to protect the rights of people with disabilities and investigating suspected abuses, litigating to enforce constitutional and statutory rights, and promoting awareness of issues through training, technical assistance, and advocacy. P&As have broad access to information and facilities, including routine access to all individuals with developmental disabilities in facilities that provide services to those individuals, and access to certain records within 72 hours as part of an investigation.²⁹ That access has led to juvenile justice system changes in states where P&As have been able to devote resources to juvenile justice monitoring. For example, in 2006, Michigan's P&A filed a lawsuit on behalf of children at the Michigan Youth Correctional Facility, alleging inadequate treatment of youth with developmental disabilities and mental illnesses.³⁰ The State's Department of Corrections closed the facility and canceled its contract with the private company operating the facility shortly thereafter. Additionally, the Arkansas P&A, the Disability Rights Center, worked to build a coalition that secured a legislative overhaul of the State's juvenile justice system after initially exposing inadequate mental health services at the Alexander Youth Services Center.³¹ Although P&As in less than a quarter of states monitor conditions in juvenile facilities as part of their regular activities, there is currently no federal funding devoted to independent monitoring of juvenile facilities.³²

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¹ This list was adapted from the following OJJDP publications: Judith Jones & Alvin W. Cohn, *State Ombudsman Programs*, OJJDP Bulletin, February 2005, available at <http://www.ncjrs.gov/pdffiles1/ojjdp/204607.pdf>; and PATRICIA PURITZ & MARY ANN SCALI, *BEYOND THE WALLS: IMPROVING CONDITIONS OF CONFINEMENT FOR YOUTH IN CUSTODY* (1998), available at <http://www.ncjrs.gov/pdffiles/164727.pdf>.

² Texas Youth Commission, *A Brief History of the Texas Youth Commission*, <http://www.tyc.state.tx.us/about/history.html>.

³ Office of the Independent Ombudsman for the Texas Youth Commission, Homepage, <http://www.tyc.state.tx.us/ombudsman>.

⁴ Tex. Hum. Res. Code § 64.002 (2010).

⁵ Tex. Hum. Res. Code § 64.101 (2010).

⁶ Office of the Independent Ombudsman, *Memo Regarding Concerns About Increased Utilization of OC Spray*, http://www.tyc.state.tx.us/ombudsman/memo_increase_ocspray.html.

⁷ Holly Becka et al., *Young Inmates Endured "Deplorable Conditions": Agency Monitors Rated Contractor High*, DALLAS MORNING NEWS, Oct. 3, 2007, available at <http://www.dallasnews.com/sharedcontent/dws/dn/latestnews/stories/100307dntextyc.35bdf47.html>.

⁸ Tex. Hum. Res. Code § 61.0451 (2010).

⁹ JUVENILE JUSTICE MONITORING UNIT, 2009 ANNUAL REPORT 68 (2010), http://www.oag.state.md.us/JJMU/reports/2009_Annual_Report_Compilation.pdf.

¹⁰ See Md. State Government Code Ann. § 6-401 (2010).

¹¹ OFFICE OF THE INDEPENDENT JUVENILE JUSTICE MONITOR, QUARTERLY REPORT JANUARY – MARCH 2005 (2005), http://www.oag.state.md.us/JJMU/reports/05_Quarter1.PDF.

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- ¹² David Snyder, *Fate of Md.'s Juvenile-Justice Monitor Uncertain*, WASH. POST, Apr. 9, 2005, available at <http://www.washingtonpost.com/wp-dyn/articles/A38484-2005Apr8.html> (quoting State Senator Brian E. Frosh, then-chairman of the Judicial Proceedings Committee).
- ¹³ State of Connecticut, Office of the Child Advocate, Homepage, <http://www.ct.gov/oca/cwp/view.asp?a=1300&q=254830>.
- ¹⁴ Jones & Cohn, *supra* note 1, at 8.
- ¹⁵ Conn. Gen. Stat. §§ 46a-13l, 46a-13m.
- ¹⁶ Jones & Cohn, *supra* note 1, at 8.
- ¹⁷ Patricia Puritz & Wendy Wan Long Shang, *Innovative Approaches to Juvenile Indigent Defense*, OJJDP BULLETIN (December 1998), <http://www.ncjrs.gov/pdffiles/171151.pdf>.
- ¹⁸ Department of Youth Rehabilitation Services, Homepage, <http://dyrs.dc.gov/DC/DYRS/>.
- ¹⁹ For more information, contact Jamie L.A. Rodriguez, Program Coordinator, Juvenile Services Program (jrodriguez@pdsdc.org; (202) 824-2359).
- ²⁰ See *M.K. v. Wallace*, Case No. 93-213 (E.D. Ky.).
- ²¹ See Ky. Rev. Stat. § 31.110 (2010) (providing for Juvenile Post-Disposition Unit as branch of Department of Public Advocacy); Ky. Rev. Stat. § 15A.065(6) (requiring Department of Juvenile Justice to develop regulations to govern facility access, scheduling, and access to resident records).
- ²² Kentucky Department of Public Advocacy, Post-Trial Division, <http://dpa.ky.gov/div/pt.htm>.
- ²³ JDAI Help Desk, Conditions of Confinement, <http://www.jdaihelpdesk.org/conditions/Pages/default.aspx>.
- ²⁴ JUVENILE DETENTION ALTERNATIVES INITIATIVE, DETENTION FACILITY SELF-ASSESSMENT: A PRACTICE GUIDE TO JUVENILE DETENTION REFORM (2006), available at <http://www.jdaihelpdesk.org/Docs/Documents/Conditions%20of%20Confinement%20In%20Detention%20Facilities/JDAI%20Conditions%20of%20Confinement%20Self-Assessment%20Tools%20and%20Guidelines/JDAIDetentionFacilitySelfAssessment.pdf>.
- ²⁵ *Id.*
- ²⁶ *Id.*
- ²⁷ Sue Burrell, *Improving Conditions in Juvenile Detention Facilities*, 6 PATHWAYS TO JUVENILE DETENTION REFORM 1 (1999), available at <http://www.aecf.org/KnowledgeCenter/PublicationsSeries/JDAIPathways.aspx>.
- ²⁸ National Disability Rights Network, The P&A / CAP System, http://www.napas.org/aboutus/PA_CAPext.htm.
- ²⁹ See 42 U.S.C. § 15043(2) (2010).
- ³⁰ NATIONAL DISABILITY RIGHTS NETWORK, EXAMPLES OF P&A JUVENILE JUSTICE ADVOCACY ACTIVITIES (2007) <http://www.ndrn.org/issues/ij/pajj/NJJN-handout-PAJJ0907.pdf>.
- ³¹ Arkansas Disability Rights Center, *Positive Outcomes for Youth: A Time for Change*, <http://www.arkdisabilityrights.org/newvision/index.html>.
- ³² National Disability Rights Network, The Urgent Need for a National Juvenile Justice (JJ) P&A Program, [http://www.ndrn.org/issues/ij/pajj/PAJJ%20-%20The%20Urgent%20Need%20\(Aug%202008\).pdf](http://www.ndrn.org/issues/ij/pajj/PAJJ%20-%20The%20Urgent%20Need%20(Aug%202008).pdf).