

JUVENILE PUBLIC DEFENDER
TRAVIS COUNTY, TEXAS

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May 11, 2020

Hon. Rhonda J. Hurley
98th District Court
P.O. Box 1748
Austin, TX 78767

Hon. Estella Medina
Travis County Juvenile Probation
2515 South Congress Avenue
Austin, TX 78704

Judge Hurley:

I am in receipt and have reviewed your responses to communications to the Juvenile Public Defender. My reply and response concern the children and families that we are representing in our juvenile courts. Of concern is your responses to Assistant Public Defender Gregory Freed and Deputy Public Defender Nora Soliz. Since the outbreak of the COVID-19 pandemic I have attempted to work with the juvenile court and juvenile probation to develop procedures and protocols to provide legal representation to youth and families who are pending proceedings in juvenile court.

On March 16, 2020 I notified you and Chief Medina of the urgency of developing protocols that would protect the children in our detention facilities as well as ensure that the courts could conduct business while providing for the constitutional protections guaranteed our youth by the United States and Texas Constitution. You and I discussed how we were in the midst of an epidemic the likes of none of us as every seen and that if we worked together in a collaborative manner we could continue to provide our youth and families with a level of representation that would be befitting of justice that Travis County has come to be recognized over the years. As there is no disputing that the COVID-19 Public Health Emergency has been unprecedented on its impact to our nation and juvenile justice system the Juvenile Public Defender has been and continues to be

“The child ‘requires the guiding hand of counsel at every step in the proceedings against him.’”
In re Gault, 387 U.S. 1, 18 (1967)

committed to providing the highest level of legal representation to our youth and families. It was my hope and desire that the Court and Juvenile Probation Department was also committed to providing protections to our youth, especially the youth we were detaining in our detention and residential facilities; however, since the Courts issuance and enactment of COVID-19 orders it has been just the opposite. Rights of our youth have been restricted, families have been denied access to their children and most disheartening is that the Court and Juvenile Probation has sought to restrict and limit our youths right and access to counsel.

The denial and limitations that have been placed which have restricted our access to youth in the Gardner-Betts Juvenile Detention Center and J. Meurer Intermediate Sanction Center must stop immediately and forthwith. The Court's decision to livestream detention and adjudication hearings on YouTube, notwithstanding the harm to our youth and families is not in the best interest of our youth, is unconstitutional and violates our youths and families constitutional, statutory and privacy interest and does nothing to promote the public good or provide for the protection of the public. Your practice of orders have even a dramatic impact on our community. The Juvenile Public Defender has consistently and repeatedly offered objections and protest to this practice, yet the Court has ignored constitutional authority, ignored constitutional protections afforded youth and acted completely arbitrary and without any judicial discretion.

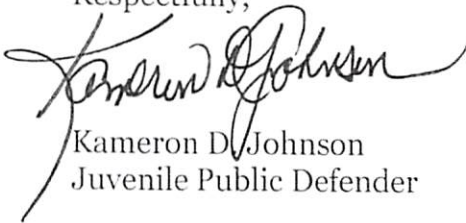
The Juvenile Public Defender will continue to represent our youth facing proceedings in OUR Courts. For forty-nine (49) years the Juvenile Public Defender has been defending the rights of children in Travis County and we will continue to advocate for our youth and families zealously and with the utmost level of professionalism and ethical standards. I am requesting the immediate restoration of our ability to access our clients in a manner that we can privately have privileged communications without representatives of juvenile probation interfering. We cannot and will not allow the Court or Juvenile Probation to monitor any of our phone calls, deny access to youth in detention. Secondly, the Court decision to live stream detention hearings and adjudication hearings on YouTube is improper, unconstitutional and violative of several federal and state laws. Discussing mental health, drug treatment, educational, social issues in an open forum broadcast on YouTube to anywhere in the world is not good policy, practice or legally permissible.

Your response to our office that our request for privileged communications is "disingenuous" is offensive and insulting to my office. The population we serve is the most vulnerable and as the Supreme Court stated in *In re Gault*, the "[j]uvenile court history has again demonstrated that unbridled discretion, however benevolently motivated is frequently a poor substitute for principle and procedure." Attached to this missive is some of the emails and communications from your honor and juvenile probation outlining our attempts to resolve this issue in a most expeditious and judicial manner. Damaging to all youth the Court's practice of detaining youth has an even greater disproportionate impact of children of color: 92% of the youth being detained are Hispanic and African American and 61% or being detained for misdemeanor and low level felonies. Additionally, I am attaching a copy of the Supreme Courts Performance Matters in Juvenile Proceedings, Guidance to Juvenile Courts on Conducting Remote Hearings

During the COVID-19 Pandemic as well as my initial communications to you and Chief Medina that included protocols the Court and Juvenile Probation could enact to provide for the protection of our youth.

If the Court and Juvenile Probation continue to deny our youth access to counsel, I will be seeking immediate relief in the Third Court of Appeals, Injunctive Relief in District Court and additionally will seek the recusal of your honor based on your bias and refusal to provide for the protections of our youth. As there are detention hearings scheduled for this afternoon at 2:30 I will be seeking permission to meet with our client in juvenile detention, which we can do in a safe manner while practicing social distancing. We are prepared to participate in screening, temperature taking and will wear protective mask and gloves. Further we are requesting a court reporter as is permissible under Texas Family Code §54.09 which states in pertinent part “[a]ll judicial proceedings under this chapter except detention hearings shall be recorded by stenographic notes or by electronic, mechanical, or other appropriate means. Upon request of any party, a detention hearing **shall** be recorded.”

Respectfully,



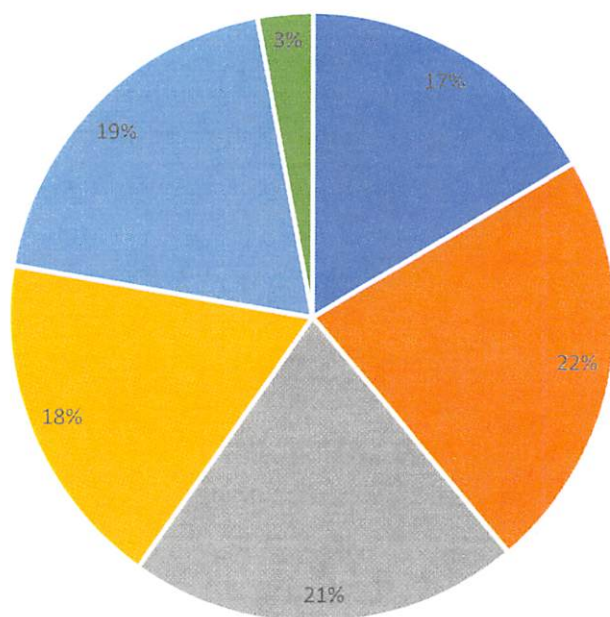
Kameron D. Johnson
Juvenile Public Defender

KDJ

Enclosures as stated:

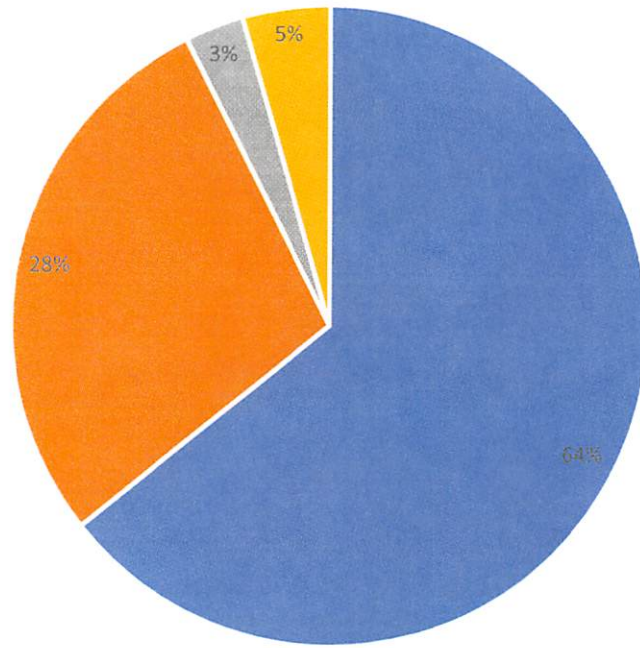
Cc: Associate Justices Texanna Davis; Ami Larson; Bradley Temple; Travis County Juvenile Board;
District Attorney Margaret Moore

Offense Type



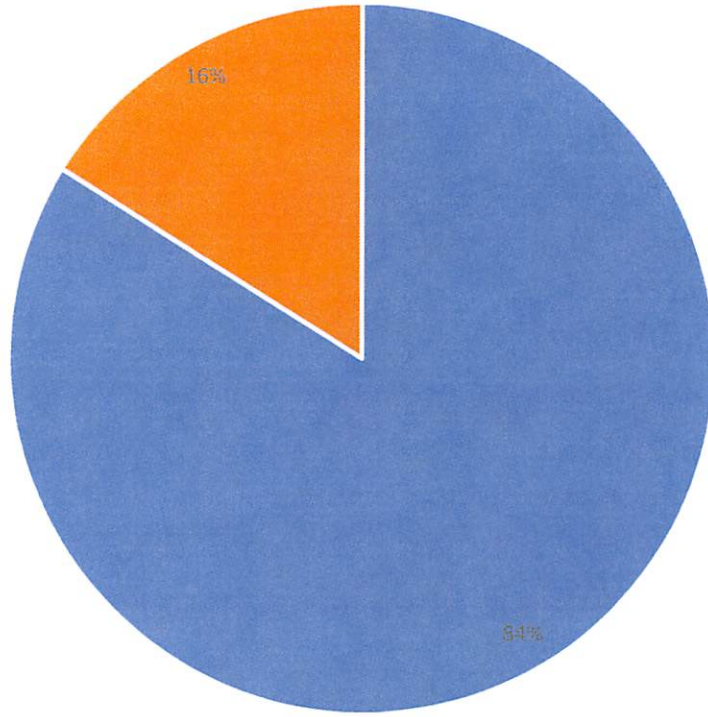
- Felony First
- Felony Second
- Felony Third
- Felony Fourth
- Misdemeanor
- Probation Violations

RACE



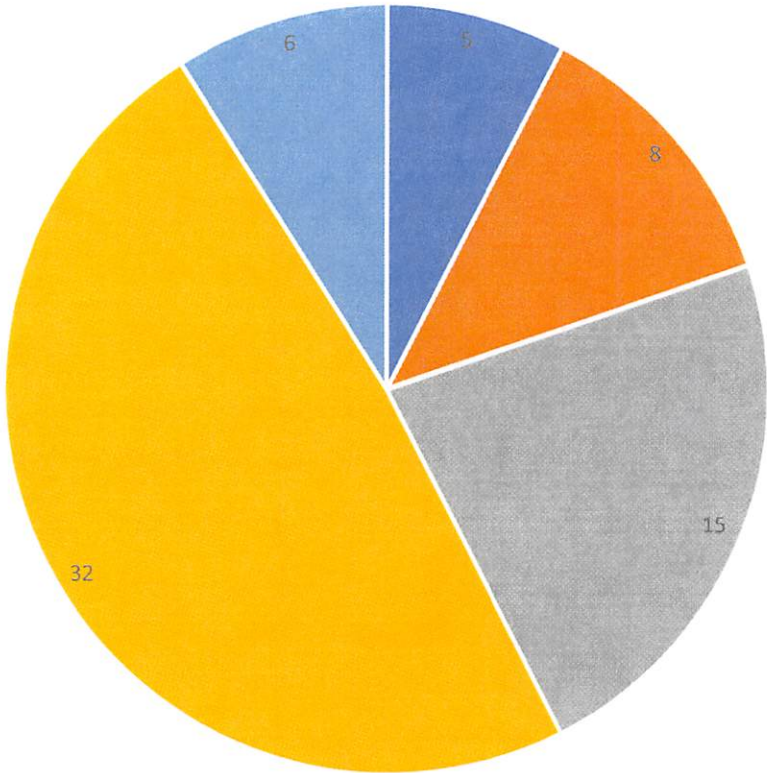
■ Hispanic ■ African American ■ White ■ Other

GENDER



■ Male ■ Female

AGE



■ 13 ■ 14 ■ 15 ■ 16 ■ 17 ■ 18