

TOUGH ON CRIME

**PROMOTING PUBLIC SAFETY
BY DOING WHAT WORKS**

A REPORT TO THE GOVERNOR AND LEGISLATURE

NEW YORK STATE JUVENILE JUSTICE ADVISORY GROUP

DECEMBER 2010

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QUICK REFERENCE GLOSSARY

Adjudication: A finding by the court that the youth has committed the alleged delinquent act(s) and is in need of supervision, treatment, or confinement

Aftercare: The period of time after a youth is released from confinement and remains in OCFS custody while living in the community (usually at home)

Back End: The consequences that result from a court finding of delinquency, including probation supervision and confinement

Community-Based Corrections: Correctional strategies that keep youth in their community rather than confining them in an outside facility. Traditional examples include probation and parole.

Community-Based Provider: A private organization that offers services at the neighborhood level

Deep End: Confinement that is court ordered as a result of a finding of delinquency

Detention: Out of home confinement after arrest and before disposition

Disposition: The sentence imposed by the court as a result of an adjudication of delinquency

Diversion/Adjustment: Resolution of an arrest by means that avoid the litigation of the case in court

Fact Finding: A hearing in Family Court to determine whether or not the youth committed the alleged delinquent act(s)

Front End: The many pieces of the juvenile justice system that are in place before a child is adjudicated delinquent, including police, probation intake and adjustment, and prosecutorial decisions to file cases in court

LDSS: Local Department of Social Services

OCFS: New York State Office of Children and Family Services

Placement: Out of home confinement as a result of a finding of delinquency

Positive Youth Development: A youth development strategy that assists young people in developing the skills and abilities needed to cope with stress and avoid anti-social behavior

Punitive System: A correctional system that relies on punishments to respond to criminal activity

Rehabilitative System: A correctional system that seeks to change behavior and promote pro-social attitudes in criminally active youth

Wrap-Around Services: A collaboration of service providers to provide comprehensive assistance to a youth or family, allowing for a variety of needs to be met at once

PURPOSE OF THE NEW YORK STATE JUVENILE JUSTICE ADVISORY GROUP AND THIS REPORT

In 1974 Congress passed the Juvenile Justice Delinquency and Prevention Act (JJDPA), a landmark piece of legislation that set out the broad outlines of the relationship between the federal government and the states in addressing juvenile justice. It created a strong federal role to provide direction, funding, technical assistance and research and an equally strong voice for the states to realize the rehabilitative goals of the Act. Congress required each state to establish a State Advisory Group¹ as a key mechanism in setting and achieving goals within each state's juvenile justice system. In New York State, that body is called the Juvenile Justice Advisory Group (JAG).

The JJDPA² and New York State Executive Order No. 80, which further empowers the JAG, confers on this board the responsibility for supervising the preparation, administration, and implementation of New York State's juvenile justice plan, including allocating the federal juvenile justice funding received through the JJDPA.

The JAG's members are appointed by the Governor and, as delineated in the Act, represent a wide array of the key players in juvenile justice in the state, including governmental and non-profit agency heads, advocates, elected officials, youth and individuals with personal experience in the juvenile justice system. A list of the members is attached at Tab V.

In addition to the broad directive to develop and implement juvenile justice policy, the JAG is also responsible for monitoring the state's compliance with the four core protections extended by the Act: sight and sound separation of juvenile delinquents from adult offenders;³ deinstitutionalization of status offenders;⁴ removal of juvenile delinquents from adult jails and lock-ups;⁵ and reduction of disproportionate minority contact.

The JJDPA also requires each state to designate a state agency to develop and implement the state plan. In New York State, that agency is the state Division of Criminal Justice Services (DCJS). DCJS staffs the JAG and oversees the implementation and monitoring of contracts on the JAG's behalf.

Congress requires the JAG to report to the Governor and Legislature annually.⁶ This is that report.

EXECUTIVE SUMMARY

What does “tough on crime” mean? Over the past several decades in New York State, it has meant an accelerating drive towards more incarceration for younger and younger children. In 1978, New York State decided to put 13, 14 and 15 year-olds who committed certain serious offenses into the adult system. New York remains one of only two states in the nation that treats sixteen year-olds as adults. And New York spent much of the 1980’s and 1990’s first building, and then wrapping in barbed wire, facilities to incarcerate children, reaching a high of over 2300 incarcerated children in 2000. For all that, almost every child in our system returns as an adult offender.

Over the last ten years, a substantial body of research and practice has demonstrated that what’s really tough on crime is an approach that focuses on rehabilitation, not punishment. Less, not more, incarceration for low and medium risk children works better to reduce reoffending. Moreover, there is a rigorous and tested program of activities and treatment that specifically works for adolescents who are still forming pathways of behavior. It turns out, the science shows us, that “midnight basketball” is not the joke it has turned into, but rather one feature of a larger and effective approach towards producing enduring change in young offenders by re-integrating them into productive norms of family, neighborhood and society. This report outlines where we have been, where we need to get to and how we can accomplish it.

The past two years in New York State have thrown into high relief both the deep needs and shortcomings of our juvenile justice system and the enormous drive and talent dedicated to reform at the highest levels of New York State and local government. In late 2009 the results of a Department of Justice investigation found a persistently

brutal system that denies basic protection and care to children in its facilities. This was followed by a Governor’s Task Force report recommending a sea-change from the discredited 20th century concept of punitive corrections to the 21st century research-informed approach based on rehabilitative reintegration into society. Finally, a Legal Aid class action suit cataloguing the systemic abuses visited upon children in the state’s care brought these issues to the forefront. These developments highlighted the need to accelerate the reform work that, notably, the state already had underway. That effort focuses on transforming the state’s approach to juvenile justice into a modern system rooted in principles of accountability and fairness and dedicated to improving both public safety and the lives of children and families.

While much of the news of the last year has focused on the small proportion of youth who are placed in the custody of the state, similar criticism could be levelled at every stage of the state’s juvenile justice “system,” a patchwork collection of governmental, non-profit and private entities which operate outside of any coherent set of common goals or measurements. As Governor-elect Andrew M. Cuomo has summed it up: “There is no single point of accountability, no standard way to measure performance, no common criteria by which to define high, medium or low risk juveniles, and no generally accepted and effective way of matching services to risk and need. Further complicating the development of a foundation for an accountable and effective juvenile justice system is the almost complete absence of accessible, real-time data to answer key questions such as: is juvenile crime going up or down, are system efforts reducing reoffending, and what is driving the disproportionate minority representation in the state juvenile justice system?”

We are paying the price for our failures – and not only in the ways detailed by the Department of Justice, the Task Force and Legal Aid. The system is outrageously expensive, and it’s not working. At the latest count, the Office of Children and Family Services estimated that it costs an average of \$266,000 a year per child. And we are not buying impressive results with that money: recidivism studies show that virtually every girl and boy leaving the state’s custody after sentence is re-arrested by age 28. And the over-representation of children of color is so high that in some counties the methodology used to measure disproportionate minority contact cannot be employed because there is no comparison group of whites.

Unlike 48 other states, New York treats 16 and 17-year-olds as adults even though settled research shows that they have more in common with the juveniles in our system than with the adults. While raising the age of criminal responsibility to 18 brings with it a host of questions – economic, legal and equitable – we have failed as a state to try to answer those questions so that we can make an informed decision on this important issue.

Despite these dismal results, a decade of research shows us what works to promote both public safety and the well-being of children, their families and neighborhoods. It is a different answer from the one we often have for adult offenders. The growing consensus, built around strong data, is that children are different. As every parent knows, they are bad at estimating risk and worse at controlling impulse. This is not an excuse but an opportunity to shape and change behavior in an enduring way that ensures these same children do not graduate to the adult system. As with adult offenders, we also know that a reflexive use of incarceration can actually increase offending by children who are at low or even medium risk of reoffending because it dis-

rupts important stabilizing connections to school and community. If we take these lessons seriously, it will alter the way we do business in the ways recommended by this report and already underway in our state.

There is some good news. And it both follows the research of the past decade and points the way towards the efforts and approaches we should support, incubate and accelerate in order to improve public safety. Steep reductions in the number of youth detained and placed have been accompanied by increased public safety. A new and cost-effective model for juvenile corrections is emerging. It has reliable measures of risk to public safety, reserves incarceration only for those youth who pose a danger to the community and expands opportunities for low and moderate risk children to be treated in their own neighborhoods with methods proven to reduce reoffending. There have been other advances as well. For the first time in the state’s history, key decision-makers from every part of the system have joined together in a statewide planning effort to identify common goals and the steps necessary to achieve those goals.

The path that we must forge is clear: create a clear accountability point; support the systems needed to provide reliable, real-time data; implement objective, research-informed policies and procedures for arresting, detaining, and placing youth who present a danger to public safety; support a range of effective programming to mitigate harm, reduce risk, and meet needs for youth who do not pose danger to their communities. Making the most of our resources will require that we close empty facilities and invest savings in programming that works and is close to home. To do this, we need the will to follow evidence, not anecdote, and to steel ourselves to do what works even in the face of pressure to continue what doesn’t.

THE GENERALLY ACCEPTED PRINCIPLES OF A FAIR, EFFECTIVE AND ACCOUNTABLE JUVENILE JUSTICE SYSTEM

Every profession has basic principles on which its practice is built. In business, those principles are enshrined in the Generally Accepted Accounting Principles. In medicine, the Hippocratic Oath warns doctors to “First, do no harm,” an admonishment eerily applicable to the juvenile justice system’s overuse of debilitating secure care. Juvenile justice is also based on some basic truths founded in research. Below are the foundation stones on which a fair, effective and accountable juvenile justice system must be built.

CHILDREN’S BRAINS ARE DIFFERENT

The past decade of brain development research has explained what every parent knows: teenagers are different. They have less self-control, are drawn to higher levels of risk and stimulation, have undeveloped decision-making abilities, and are bad predictors of consequences. The reason for this is that the part of the brain that supports reasoning, advanced thought, and impulse control develops last, leaving the adolescent brain to rely heavily on its emotional center.⁷

This science is well-grounded enough that it has been accepted both by the Supreme Court which relied heavily on adolescent brain development research when ruling the juvenile death penalty unconstitutional, based in part on diminished adolescent culpability⁸ and by profit-making ventures such as insurance companies. In perfect summary, Allstate now asks in its ads: “Why do most 16-year-olds drive like they’re missing a piece of their brain? Because they are.”⁹

CHILDREN ARE PARTICULARLY RECEPTIVE TO CHANGE

It is precisely because adolescents are still undergoing significant brain development that they are uniquely susceptible to change. Juveniles come into contact with the justice system at a time when the growth that they are naturally experiencing brings a real opportunity for enduring change. In order to capitalize on this opportunity, research has shown that to be effective, an intervention with young people must build lasting positive supports in the child’s home community, focus on the child in the context of his or her family, and couple supervision with positive experiences and supports. This approach has been dubbed “positive youth development.”¹⁰

THE LEVEL OF INTERVENTION MUST MATCH THE CHILD’S RISK

Research on all offenders, juvenile and adult, has clearly shown that it is critical to match the justice system intervention with the risk level of the offender. Studies have shown that incarcerating low risk offenders can, at best, result in no impact on recidivism and, at worst, result in an increase in subsequent offending.¹¹ In addition, pulling low risk young people out of the families and community supports that are often functioning well to prevent repeat offending has a negative impact, disrupting these protective forces and increasing the child’s risk level.¹² A rational and effective use of resources demands that interventions match risk level in order to maximize scarce resources and enhance public safety.

These principles provide the foundation for findings across hundreds of studies that assess what programs work to reduce juvenile recidivism.¹³ While children are developmentally different than adults in ways that make them particularly amenable to change, there are some children who pose such significant risk to the community that they must be confined. The fact of confinement does not, however, change these principles. Whether youth are at home or confined, the approach to enduring change must address the child as a member of his or her family and community, and the level of intervention must match the child’s risk. These principles can and should frame home-based interventions and the treatment provided during confinement, if we are serious about reducing reoffending.

REPORT

I. IS ANYONE RESPONSIBLE? HOW THE JUVENILE JUSTICE SYSTEM “WORKS”

New York State’s juvenile justice system is a sprawling network of state and local agencies and non-profits with a wide array of practices and standards. A child who is arrested and ultimately “placed,” or incarcerated, as part of his or her sentence will, in almost every case, have appeared before a minimum of five different entities, each answering to a different executive and often following different standards.¹⁴ Those standards and procedures differ from county to county, leading to a “system” of uncoordinated assessment, response and protocols.

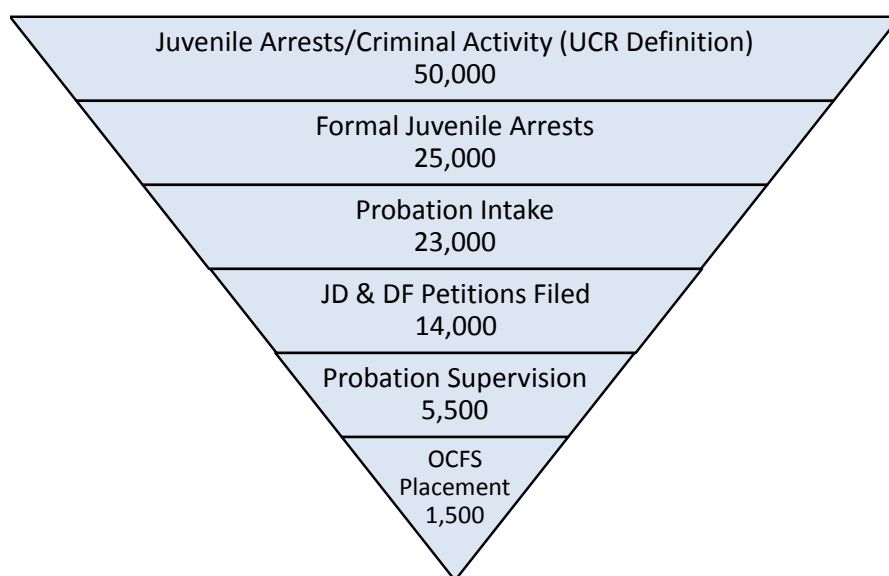
**IF WE WERE STARTING FROM SCRATCH,
IS THIS WHAT WE WOULD BUILD?**

BRIEF BACKGROUND

New York's juvenile justice system refers to an array of entities discussed in this section. Collectively, they administer the mechanisms that address the behavior or accusations of behavior of children older than 6 and younger than 16 which, if committed in the adult system, would be considered a criminal act. In treating 16-year-olds as adults, we are different from all but one other state in the nation, all of which have raised the age of responsibility to 17 or 18. In our system, we not only treat 16-year-olds as adults, we also use the adult criminal justice system for 13, 14 and 15-year-olds who commit certain serious offenses (e.g. murder and robbery). This class of child is termed a "juvenile offender." There are also other ways in which the system described below for juvenile delinquents runs both parallel to and intersects with the adult and other juvenile systems at various points. For example, for behavior that is not criminal for adults (such as truancy), many minors are handled in the Persons In Need of Supervision (PINS) process. A fuller discussion of minors in the adult system and in the PINS system may be found in TAB II.

In addition, while the description below provides a broad overview, there can be substantial variation from county to county in the way the system operates, how each locality describes the different component parts and what data is, or is not, kept.

NYS Estimates of Juvenile Justice Processing ¹⁵



POLICE

Cost unknown

In the majority of cases, a child's first contact with the juvenile justice system will be with the police. An estimated 50,000 children each year are taken into custody by police as the result of delinquent behavior. They may be picked up any number of ways, including: on the street following an incident; as a result of a call from a school or a store; or as a result of an ongoing investigation into a crime.

There are more than 500 separate police agencies, each with a different department head and different protocols. What conduct is grounds for arrest and how it is reported vary considerably across the state. As a result, we do not have accurate, real time information about patterns of arrest and offending. We are unable, except with extraordinary effort, to provide a basic understanding of what offending trends are – pieces of information that are a fundamental tool of adult crime control and prevention.

PROBATION – INTAKE, DIVERSION, INVESTIGATION, AND SUPERVISION

Approximately
\$120 million
in local
funding and
\$18 million in
state aid

After the police, Probation is the next contact that an arrested juvenile will have with the juvenile justice system. Probation interviews the child, administers the Risk Assessment Instrument in the counties that use them (see the detention section that follows), and identifies what kind of services exist that would be effective in reducing reoffending. Local probation offices also have the opportunity to keep many delinquency cases from going to court by providing what is termed adjustment or diversion services to youth before sending the case to the local prosecutor (presentment agency). Local Probation also conducts court ordered investigations, prepares pre-dispositional reports for the court, and supervises youth who are sentenced to a term of probation supervision.

There are 58 probation departments (one in every county plus one for the five counties that comprise New York City). The 57 county probation commissioners are appointed by the county executive; New York City's commissioner is appointed by the Mayor. There is also a state Office of Probation and Correctional Alternatives (OPCA, within DCJS) that is statutorily charged with general supervision of administration of local probation services through statewide regulations with the force and effect of State law.

Local probation in every county outside of New York City uses an instrument called the Youth Assessment Screening Instrument (YASI) to gauge risks, needs, and protective factors among referred youth. Probation uses YASI results to develop appropriate case plans for youth. However, there is no standard way of developing interventions to meet identified risks and needs in cost effective ways that promote public safety.

COURTS AND LAWYERS

Prosecution
costs unknown

Any case that moves forward in the system from probation, either because the case was directly referred to court by the police, because probation diversion was prohibited by law, or because probation diversion attempts failed, is sent to the local prosecutor, called the presentment agency, for investigation and possible filing in Family Court. County attorneys outside of New York City prosecute delinquency cases and the Office of Corporation Counsel prosecutes delinquency cases in New York City. Prosecutors have the authority to determine whether to file a case in Family Court. There are no statewide formal guidelines or standard protocols that juvenile prosecutors use to make filing decisions.

Attorneys for
children cost
unknown

Once a petition is filed in Family Court, the child is assigned an attorney. In some localities, including New York City, the attorneys for children are employed by organizations dedicated to this purpose, such as the Legal Aid Society. Many upstate counties maintain panels of attorneys – usually solo practitioners -- who are certified as attorneys for children and the representation for children is pulled from the panel. Organizations like Legal Aid often have additional staff, such as social workers and/or investigators, to assist. These resources are generally not available to most panel attorneys.

\$366 million

There are 67 family courts across the state that handle delinquency cases. Judges make decisions regarding both the pre-trial detention and the sentencing of youth daily without unanimity about what standards to use to determine whether a child is low, medium or high risk. As a result, wildly varying determinations are made from judge to judge about whether to incarcerate a child or not. Frequently faced with children without significant educational, mental health, and family supports, courts sometimes determine they have no choice but to resort to incarceration.

DETENTION

\$147 million

A child whom a judge determines poses a significant serious risk of offending before the next court appearance or a substantial risk of not appearing at the next court date is sent to a local detention facility.

There are 54 detention facilities that house youth while their cases are pending in Family Court. A combination of secure and non-secure facilities, detention centers are broadly regulated by the state but locally operated by either government or private providers. Four upstate counties and the City of New York have developed Risk Assessment Instruments (RAIs) to guide the decision to detain a child with objective criteria. However, these RAIs vary from one county to another, are used at different points in the system, and most counties have no such objective tool at all. All counties outside of New York City have access to a detention screening instrument within the YASI. Currently, only Dutchess and Chemung Counties are using this instrument. There is no statewide standard accepted by the judiciary about what risk means and thus who should be detained.

NON-PROFITS AND SERVICE PROVIDERS

Cost unknown

A child may be required to engage in services with a community-based provider as a term of probation diversion, as a condition of release while the court case is pending, as a condition of probation supervision, or as a condition of aftercare.

There are untold numbers of non-profits – untold because there is no statewide inventory of available programs that provide services as required by Probation and/or the Family Court. For the most part, they provide these services pursuant to a contract with the state or a locality. But we do not know how many there are, where they are, what services they provide, what results they produce, and whether they match the needs of kids in their locality.

FACILITIES FOR CONFINEMENT

Once a court has heard evidence on both sides of a case and determined that the child has committed an act of delinquency, it may dismiss the case, order a conditional discharge, place the child on probation supervision, or place the child in the custody of the State (OCFS) or of the Local Department of Social Services (LDSS).

OCFS operated facilities: \$240 million

There are three ways that a youth who has been ordered by the Court into confinement can be placed out of home. Guided by a recommendation developed by Probation during the pre-dispositional investigation, the practices within that county, and whether or not a private agency is willing to house the child, the judge may order the child into the custody of the LDSS or OCFS. If a child is committed to LDSS custody, that child will be confined in a private facility operated by a not-for profit under contract with the county (called a voluntary agency). If a child is committed to OCFS custody, the child may be confined either in those same voluntary agencies or in OCFS-operated facilities. The decision on which confinement setting is used can be guided by the Court's initial order, the OCFS assessment process, or the fact that no private agency is willing to house a particular child.

Privately operated facilities: cost unknown

There are 26 facilities operated by OCFS where children may be ordered to serve their sentences. These facilities are classified as either secure, limited secure or non secure and many are constructed and have been operated as correctional facilities for children. They currently operate at 66% of capacity.

The privately-operated facilities are run by non-profit agencies licensed by OCFS. Many of these private providers operate large campus-like programs where youth sentenced to the facility as a result of delinquency are housed alongside children in foster care, children who have been placed out of their homes as a result of a Persons In Need of Supervision case and children who have special education needs.

While OCFS maintains data on the youth in its custody who are confined at private facilities, the youth in LDSS custody and confined at the same private facilities are largely an invisible population. Because the foster care funding stream is used to support these LDSS placed youth, their case information is enmeshed in the much larger foster care data system operated by OCFS and is difficult to isolate. There is, therefore, little to no data available on delinquent youth who are placed in LDSS custody.

None of these private facilities have common assessment tools, nor are they aligned on a common set of guiding principles for working with children who have been found to be delinquent. And they do not offer a uniform set of comprehensive services that can be tailored to address the individual risks and needs of each child. As a result, we do not know if youth confined in private facilities are receiving effective interventions or if those facilities are operating to mitigate risk for the youth they confine.

OTHER GOVERNMENTAL AGENCIES

There are at least eight state agencies whose mission has some direct impact on justice involved children and their families. While the Governor's Children's Cabinet brought leadership of these agencies together over the last four years, there remains no common understanding of the delinquency system, no shared vision or goals, and no shared ownership of the results that we are currently reaping.¹⁶

Total cost for
juvenile justice
unknown

The JAG is a Board of juvenile justice leaders representing private and public system points from arrest through placement, appointed by the Governor and charged with supervising the development and implementation of New York State's federal plan for juvenile justice.

In addition, the Permanent Judicial Commission on Justice for Children, operated by the Office for Court Administration, convenes leaders in juvenile justice regularly and has recently focused on juvenile justice reform and the age of criminal responsibility.

PHILANTHROPIC COMMUNITY

Many foundations are engaged in fostering juvenile justice reform and preventing juvenile delinquency. On a national level, both the Annie E. Casey Foundation, through its Juvenile Detention and Alternatives Initiative, and the MacArthur Foundation, through its Models for Change project, have invested significant resources into juvenile justice reform. In New York State, a group of foundations have come together in the past year to focus on juvenile justice. Many of them already invest in prevention or reform efforts, and sometimes those efforts mirror similar government-led initiatives. However, private funders and government leaders rarely coordinate. Absent such coordination, it is not possible to use resources effectively and fuse the power of government policy making with the innovation and commitment of the foundation world.

Total private
investment
unknown

DATA

Operating a system fairly and effectively requires data to show whether it is working. But in New York State, there is no centralized or comprehensive data system that shows information as simple as who is being arrested for what or whether our programs are reducing offending. Simple reports or complicated research is stymied because:

- There is no comprehensive, case-level juvenile arrest data system. Because juveniles are not fingerprinted like adults, the ability of the state to conduct confidential recidivism studies is extremely curtailed;
- Even the aggregate data collected by the state is substantially incomplete, as New York City has failed to report UCR arrest data since 2001;
- There is also no comprehensive case level juvenile probation data system. Any analysis of probation intervention must be done through manual case record reviews;
- New York City and the rest of the state use different standards for collecting detention data and New York City does not participate in the data system used by the rest of the state; and
- Data about youth placed in LDSS custody and confined in private facilities are enmeshed in the foster care data system.

Why should this patchwork of responsibility and plethora of standards and procedures be cause for concern? It is expensive, it impedes efforts to get positive results and it fails to provide any way to ensure accountability. It has led to a “system” in which we have enormous gaps, including the following failures: we can’t figure out who is low risk and can be released and who is high risk and must be confined; we often don’t know what a child’s needs are and what exists to address them effectively; and we usually don’t know if what we are funding reduces reoffending. Without serious answers to these questions, our spending will continue to be irresponsible gambles netting poor results instead of thoughtful investments yielding measurable improvements.

II. IT'S NOT WORKING

What has this sprawling and disorganized system produced? The answer is both stunningly bad and surprisingly optimistic. We struggle with near universal reoffending. We preside over a system that is comprised almost entirely of poor, African American and Hispanic children, a percentage that increases as the population moves from arrest to incarceration. We pay for these accomplishments at a rate that if allocated directly to the children in custody of the state would put them and their families into the top 5% of America's wage earners.¹⁷ But we also have seen significant accomplishments: detention and placement rates have dropped by a third while public safety has improved. As we have invested more in data to light our way and have followed research to calibrate the use of incarceration to public safety risk, we have achieved significant improvements that point the direction for the future.

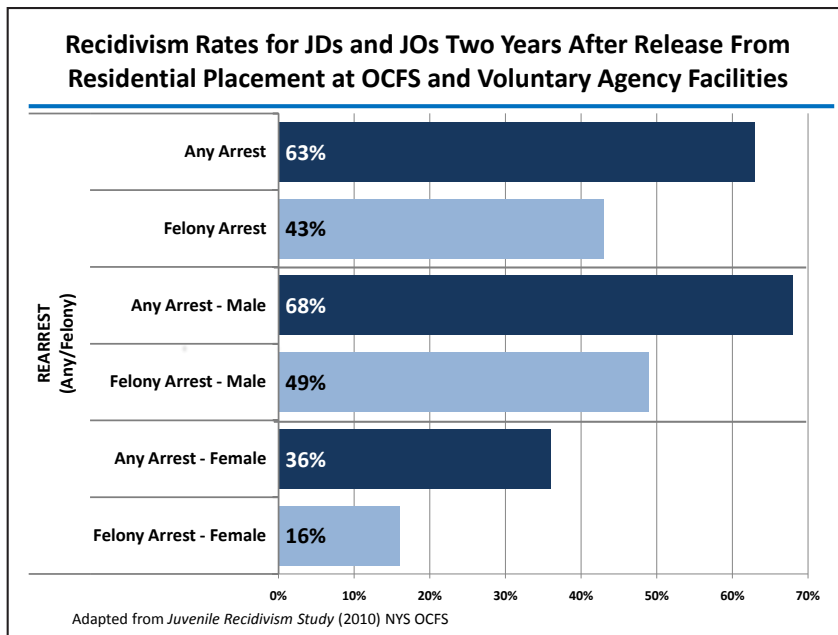
A. REOFFENDING RATES ARE HIGH

New York State's juveniles re-offend at high rates. By the time children who have been released from a state facility reach their 28th birthday, 89% of the boys and 81% of the girls will have been rearrested.¹⁸ The news is not much better when we look at what happens to these children only two years after release from state custody when 63% of them will have been arrested, 43% for felonies.¹⁹

Adult Criminal Involvement Age 16 - 28 For Youth Released from State Custody

Outcome	Boys	Girls
Any Arrest	89%	81%
Any Conviction	85%	69%
Felony Arrest	83%	63%
Felony Conviction	67%	25%
Incarceration	72%	33%
Jail	56%	28%
NYS Prison	52%	12%

Why are our rates so high? We do not have a complete answer. But the research of the past few years combined with the data from our own system provided some clues. One possibility may be that we have been aggravating reoffending by our commitment to a punitive system that defaults to incarceration as the remedy for a broad swath of children. We now know, though, that residential placement, at least of low risk offenders, has been shown to increase negative outcomes.²⁰ OCFS data show that in 2007 53% of youth were committed to state custody as a result of a misdemeanor offense.²¹ Whether that 53% is an accurate proxy for low-risk



children is an unsettled question, with some noting that the charge of commitment often is not a perfect match for the conduct that precipitated the case or the risk level of the individual youth and doesn't account for other offending history. Even with the questions, the number is striking and, at a minimum, highlights the need for us to understand who is incarcerated and for what kind of conduct so that we can avoid unwittingly increasing offending by over-incarcerating.

Second, there is strong evidence, particularly for the population of female juvenile delinquents, that children who suffered abuse are at substantially increased risk for delinquency and often visit the maltreatment on their own children. One study showed that the experience of abuse or neglect increases a child's risk of juvenile arrest by 55% and increased the risk of committing a violent crime by 96%.²² This factor is highly correlated with delinquent behavior in those abused children. State data shows significant cross-over between the experience of child abuse or neglect and confinement in the juvenile justice system. Recent analysis by OCFS showed that half of the girls and 39% of the boys in their custody had been confirmed victims of child maltreatment.²³ In addition, recent OCFS research showed a strong connection between confinement in state custody and subsequent perpetration of child abuse or neglect.²⁴ This link between child maltreatment and delinquency provides tremendous opportunity for targeting prevention efforts to avert delinquent behavior.

"The experience of abuse or neglect increases a child's risk of juvenile arrest by 55% and increased the risk of committing a violent crime by 96%."

While an understanding of what rates of reoffending are and what is driving them is central to any strategy to reduce offending, New York State is poorly positioned to perform that analysis. As in almost every other area of the juvenile justice system, the data either does not exist or exists but is not collected or analyzed in any way that would permit meaningful use. We are barely able to calculate the numbers of children at each stage of the system. The challenges are so great that there was a gap of 10 years between recidivism analyses performed by the state. Existing juvenile justice data renders us completely unable – except by a hand count – to determine which children graduate from one part of the system to another and then recycle back through. An adult criminal justice system that was unable to calculate recidivism would be considered unacceptable. We must raise our expectations in the juvenile system too.

B. THE PLACEMENT SYSTEM FOSTERS BRUTAL RESULTS

Despite the strong research showing that a rehabilitative model of corrections is what works to reduce crime among adolescents, New York's juvenile placement system is rooted in a traditional correctional approach.²⁵ For youth who end up placed, it meets misbehavior and offending with incarceration, with only spotty regard for whether the punishment will be effective in reducing future crimes. The distance that must be travelled to transform New York's system from punitive to rehabilitative can be found in the very language that we use: in those localities that have tried to introduce this positive approach that calibrates remedy to risk, those efforts are termed "alternatives" to detention and or incarceration.

Who is in the State's Custody?

Approximately 1460 youth found to be delinquent were placed by the Court in OCFS custody in 2009.²⁶ Approximately 680 of those youth were confined in an OCFS facility and approximately 750 youth were confined in private facilities, either because the Court ordered them confined in a private facility or because the OCFS assessment process resulted in a private facility placement. Although 84% of youth confined in state custody are from New York City and the counties of Nassau, Suffolk, and Monroe, almost all of them ended up in facilities far from home. OCFS operates only 5 facilities in New York City, leaving 92% of OCFS bed capacity in localities outside of New York City.²⁷ The youth in OCFS custody are overwhelmingly poor, African American and Hispanic. While minority youth represent 44% of New York State's juvenile population, they account for 61% of juvenile arrests, 88% of juvenile secure detentions, and 88% of youth in secure juvenile corrections.²⁸ In addition, 71% of youth in OCFS facilities have substance abuse needs, 49% have mental health needs, 30% have special education needs, and 10% reported being homeless.²⁹

Why Are They There?

Why children end up behind bars is also a question that does not have a complete answer. While incarceration is appropriate for those who are public safety risks, more and more questions have been raised as to whether this is how our facilities are used. Judges faced with a child with high needs and weak familial supports sometimes use the state system trusting it to provide the treatment that the child needs.³⁰ Once again we are short on the data or analysis that could give us answers to these key questions to guide effective policy.

The Conditions of Confinement

However these children end up in state custody, there is clear and ringing evidence that they are subject to Dickensian conditions of confinement once they are there. In August 2009, the United States Department of Justice concluded a two year investigation into allegations of both physical abuse of the youth in four state facilities and neglect of their mental health needs.³¹ The report painted a cruel picture of life behind bars and the Justice Department threatened to take over the state system unless these unconstitutional conditions were remedied. While it was not a part of the legal conclusions, the Justice Department's lawyers noted how this culture of violence perpetuated more violence of both staff on children, children against children and children against staff.

The report pulled back the curtain on a world where brutality is the authorized prescription for both minor misbehavior and mental illness. It detailed several disturbing incidents of violence against children, including a boy in a cafeteria who complies with an order to get up from the table where he is sitting but glares at a staff member. He is placed in a restraint which fractures his collarbone; a girl threatens to urinate on the floor and is forcibly taken down by a 300 pound staff member. She suffers a concussion along with vomiting, urinating and defecating.

Among the mentally ill, neglect is added to brutality. A girl whose mental health issues the staff is "at a loss for how to address," is placed in a living unit by herself for three months, never changing out of her pajamas. Her mental health treatment and education "were effectively on hold." She had been "restrained" 15 times in less than three months. The report raised concern about the inappropriate and poorly monitored use of psychotropic medication. In fact, at the time of the investigation, OCFS did not have any full time psychiatrists on staff.

"We conclude that the conditions at Lansing, Gossett, Tryon Boys, and Tryon Girls violate constitutional standards in the areas of protection from harm and mental health care."

—U.S. Department of Justice Findings Letter, August 2009

These are by no means the only issues that cry out for remedy in the state's institutions. Among the most egregious are the difficulties children face upon leaving the facilities and re-integrating back into their neighborhoods. While the education provided to children in OCFS custody complies with the regulations established by the state Education Department, each child has to negotiate individually (or have OCFS negotiate for him or her) with the home school district to get the credits they earn while in placement accepted at their community school at release.

Youth face significant challenges transitioning from confinement back into their home communities. Most youth return to the same family and community challenges they left when they were confined. And, because New York State's juvenile justice system is limited to young offenders (only youth who commit an offense under age 16), young people frequently return home as minors, still dependent on a parent or guardian. They often face difficulty reenrolling in the appropriate school, obtaining credit for schoolwork completed while confined or obtaining employment. And some youth who lack a stable caregiver return to tenuous housing situations. In addition, simply returning to the same peer group and community that fostered their delinquent behavior poses significant barriers to successful reentry. Confinement far from home often hinders efforts to make changes in the family and community dynamics that will foster enduring success when youth return home.

Current reentry service provision is varied. Most youth returning from OCFS facility confinement receive aftercare services that usually include at least a community services worker to monitor their behavior and therapeutic support. Youth who are in OCFS custody and confined in private facilities sometimes receive that same set of aftercare services. Reentry services are not required for youth in LDSS custody and confined in private facilities, although some private facilities include reentry services in their casework. This patchwork of reentry services leaves many youth without the enduring supports and positive community connections needed to prevent reoffending.

C. THE CURRENT SYSTEM IS EXPENSIVE

As if it were not enough that the system does not work to protect either the safety of the public or of the children who are in its care, it is also enormously expensive. The state will spend \$240 million dollars this year to operate its facilities — \$266,000 per child per year.³² One of the main reasons it is so expensive is that the cost of running these facilities is spread over a shrinking population. While the state has been decreasing bed space, it still can't keep up with the continuing reductions in the number of youth sent to state custody. The population in these facilities has dropped from a high of 2313 kids in 2001 to 681 today and the number of beds has been reduced from 2338 to 1403 between 2001 and 2010. But the state's facilities still run at only 66% of capacity.³³

The state will spend \$240 million dollars this year to operate its facilities — \$266,000 per child per year.”

The reason for this expensive but half empty system is that state law requires a 12 month notice before a facility may be closed. (Executive Law 501(15)(c)). As a result, staff continue to report to these empty and emptying facilities waiting out the clock. These sky-high costs do not just hurt the state, they affect the counties too which are charged for 50% of the cost of care. In the latest rate sheet issued by the state, the per diem rate for some categories of beds hit \$948/day.³⁴

Perversely, as the number of children goes down, the amount each locality pays per child goes up. This is because the state continues to support the cost of an infrastructure built for a different model of juvenile justice.

New York City has calculated that even though it expects to have 62% fewer children in state custody in 2011 than in 2002, it will pay \$23 million more. The pre-trial detention system in New York State is experiencing similar cost challenges. With all counties outside of New York City reducing the number of youth being sent to detention, and with reductions in New York City's average daily detention population, but no matched reduction in the number of detention beds available, the high cost of the pre-trial detention system (\$72 million in state funds and an equal share of local funds in 2010) is simply spread across the cost of care for fewer children. As the state and counties invest more and more in community based corrections – that is, treatment and facilities close to home that have been shown to both be cheaper and more effective at reducing reoffending – the likelihood that the populations in state facilities and pre-trial detention will ever hit the high water mark of 2001 is more and more remote.

Significant state resources are committed to operating facilities with empty beds, but there are few resources available to localities to support the type of community-based programs that have been proven to be effective at reducing recidivism.³⁵ While there are significant statutorily prescribed funding streams that allow localities to claim state reimbursement for half of the cost of pre-trial detention and confinement in state operated facilities,³⁶ there is no corresponding, guaranteed funding stream to support community-based alternatives.

Without children, the jobs that the staff now perform do not have a function. The historic drops in population show no sign of slowing, and will in fact accelerate as counties start to follow practices that reduce offending by keeping their kids close to home and using incarceration sparingly. While the first step must be closing and consolidating empty and underutilized facilities, the next steps must include both ensuring those savings are re-invested in methods that work to reduce reoffending and taking the time to examine how the system should be constructed to get the best outcomes. Work in other states may give us some guidance.

D. UNEXAMINED TERRAIN: CAN ATTENTION AT OR BEFORE ARREST PREVENT REOFFENDING?

There has been much examination and discussion of the “back-end” of the system, that is, how children enter the world of detention and placement, but we do not have the same degree of understanding of what is driving the numbers at the “front end” of the system where police and prosecutors interact with juveniles. Only 3% of the estimated 50,000 children who have contacts with police end up in state custody. We know little about who these estimated 50,000 children are, how far into the system they go, and what kinds of resources are expended on them. We need to have answers to these questions so that we can effectively prevent those who are not public safety risks from becoming enmeshed in the juvenile justice system and link at-risk youth to necessary services to prevent repeat offending.

Only 3% of the estimated 50,000 children who have contacts with police end up in state custody.

Instead we are operating on partial information and guesswork. Some national conversation has suggested that not every juvenile contact with the police or prosecutors is caused by delinquency. Instead, proponents of this position contend that behavior that is tolerated in a wealthy and white community is criminalized in poor neighborhoods where African Americans and Hispanics live.³⁷ Other work done by researchers in a series of other jurisdictions, not New York, have observed that a steady quarter of the detained population enter the system not because of criminal behavior but because of severe mental health needs that police and schools do not otherwise know how to address.³⁸ If this is true in New York too, we have something to learn from these other states who have come up with effective answers to deal with this troubling area.

Again, we are confounded in identifying solutions by the absence of reliable data to guide us. We lack the most fundamental information such as timely information about what crimes are being committed where and by whom. Unlike the adult system, we are unable to develop even a rudimentary picture for the state in a timely way of whether, for example, violent crime or property crime is on the rise, whether offenders are 13-15 years old or trending younger, whether girls are increasingly entering the system or not and many other questions which, if answered, would chart an effective approach to crime reduction.

III. WHAT DOES WORK

While there is no doubt that the juvenile justice system has significant problems, there is some good news and it comes on two fronts. First, after a decade of research, we actually do know, in large measure, what works to reduce reoffending. Economists and criminologists have pored through hundreds of studies on many different approaches and identified and measured what works, how well, and for whom.³⁹ As outlined in the General Principles, the key to reducing reoffending—both controlling it in the short-term and changing behavior for the long-term—is to reserve confinement for the high-risk, supply effective programming that matches intervention to risk and need and engage the structures of home and community. The challenge is less in the knowing than in the doing.

Second, all parts of the juvenile justice system, from arrest to confinement, have shown significant reductions outside of New York City over the last five years.⁴⁰

- Juvenile arrests outside of New York City declined 16% between 2006 and 2008.
- The number of youth seen at probation for intake as the result of an arrest in counties outside of New York City has decreased 26% since 2006.
- The volume of delinquency cases filed in Family Court has declined by 21% since 2005.

Seven Counties Where State Trends Can Be Affected

County	2009 OCA Filings	2009 OCA Filings Percent of Total	2009 OCFS Custody Admissions	2009 OCFS Custody Admissions Percent of Total	2009 OCFS Custody Rate Per 100 OCA Filings
Bronx	1,656	12.7%	236	16.1%	14.3
Kings	1,783	13.7%	249	17.0%	14.0
Monroe	621	4.8%	103	7.0%	16.6
Nassau	461	3.5%	111	7.6%	24.1
New York	1,124	8.6%	168	11.5%	14.9
Queens	1,183	9.1%	224	15.3%	18.9
Suffolk	592	4.5%	132	9.0%	22.3
Subtotal	7,420	56.8%	1,223	83.7%	16.5
NYS Total	13,053	100%	1,462	100%	11.2

- Pre-trial detention has been reduced by 33% since 2005, and placements in OCFS custody have declined by 32%.

In New York City, implementation of a range of both alternative to detention and alternative to placement programs drove the following reductions in detention usage and admissions to OCFS custody:

- 13% decline in average daily detention population since 2006,
- 10% reduction in detention admissions since 2006, and
- Admissions to state custody declined 27% since 2005.

While there is still work to do and questions to answer—the city’s juvenile arrests and probation intakes increased by 11% and 13%, driven by a 22% increase in misdemeanors—the keypoint is that the city and other parts of the state were able to achieve better results by knowing what the data said and deploying strategies that worked. A statewide analysis lays out the map of where we need to go next, as the data shows that at most, only 14 of the state’s 62 counties drive the numbers at each critical system point.⁴¹

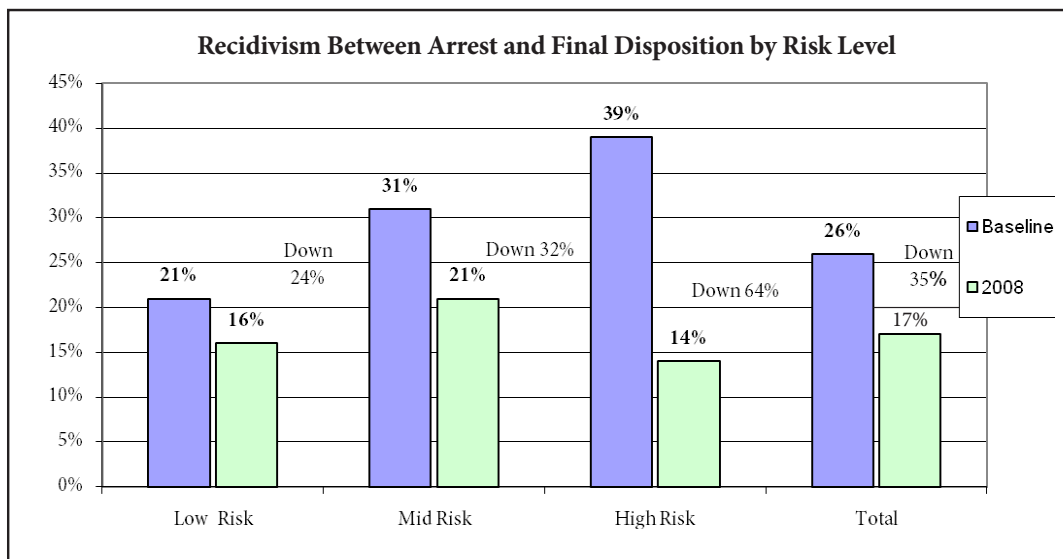
Below are some pieces in New York that are driving results as well as some ideas from other parts of the country. While these are pieces of the picture, New York needs to have the full picture clearly in mind to engage in a consistent and sustained strategy to reduce offending.

WHAT NEW YORK IS DOING

A. REDUCING OFFENDING BY MATCHING RISK AND CONFINEMENT: RISK ASSESSMENT INSTRUMENTS AND COMMUNITY-BASED ALTERNATIVES

Where we have employed the basic analytic methods that are now standard in adult crime fighting, we are seeing heartening results. The detention reform work that has been supported by the state since 2005 provides an excellent roadmap for how policy married to objective, data driven strategies can produce promising results. Funded by OCFS, the Vera Institute of Justice worked with both Onondaga and Erie counties to develop risk assessment instruments (RAIs) and alternative to detention programs. Preliminary results in Onondaga County showed a 62% decrease in the secure detention of youth accused of delinquency, a 63% decrease in the use of non-secure detention and \$7 million in savings. Erie County reforms drove a 39% decrease in the use of secure detention and a 63% decrease in the use of non secure detention.⁴² The counties of Monroe and Albany engaged in similar efforts but have not reaped the same significant outcomes. These efforts provide excellent opportunities to identify the keys to successful implementation of RAIs and alternative to detention programs.

Over the past year, New York City has seen the results of its risk assessment instrument, designed to aid judges in determining whether a child should be detained because he or she poses a risk of danger to public safety or a risk of not showing up for the next court date. The availability of risk information has led to a dramatic realignment of the use of detention resources only in those cases where public safety demands it. Recent analysis reveals a 35% reduction in recidivism between arrest and disposition and a 22% reduction in detention rates at arraignment, with detention for low risk juveniles down from 24% to 9%.⁴³



The use of objective risk tools to foster detention decision-making should not be experiments and pilot projects in limited jurisdictions. This should simply be the way that we do business because it is an effective way to reduce reoffending. And this approach should not simply be at detention, but at every key decision point in the system. Objective, data-driven decision making tools such as the RAI must be employed across system points and those analytic tools must be accompanied by research-informed community-based programs that can provide preventive support and alternatives to detention and placement in ways that have been proven to enhance public safety. National best practices have shown that objective RAI tools, along with the development of alternative to detention programs, bring equity and rationality to these decisions, correcting for the overuse of costly detention beds through the safe maintenance of youth in their communities pending their court outcomes.⁴⁴ New York State must systematize RAIs and alternative to detention programs to ensure that detention is used appropriately across the State. And then it must take that approach and apply it to every system point so that the array of decision makers who frame a child's path through the juvenile justice system from arrest through reentry have the objective support and options necessary to most effectively reduce recidivism.

B. COURTS: EARLY INTERVENTION TO PREVENT REOFFENDING

While much focus has been placed on reform in juvenile confinement, many promising approaches to reducing juvenile crime and appropriately reserving deep-end system involvement for cases that pose serious risk to public safety are based in efforts to provide targeted early intervention and support to youth when they begin to engage in delinquent behavior. One such promising model is the Juvenile Assessment Center (JAC) in Miami-Dade County, Florida. Youth are brought to the JAC for processing following an arrest anywhere in the county. Once at the JAC, youth receive targeted screening for risk and needs and are immediately engaged in a menu of diversion programs specialized to meet the unique needs of each youth. Over the course of the first 10 years of implementation of the JAC, Miami-Dade realized a 46% decrease in juvenile arrests and an 80% reduction in repeat offenders. These gains in public safety were accompanied by \$20 million in net annual savings.⁴⁵

An effective reform effort in Erie County has also revealed how the early provision of targeted services can lead to positive juvenile justice systems reform. Launched in 2006, the Erie County Model Juvenile Delinquency Court reshaped the way that Erie County handles delinquency cases. Through the use of early case conferencing across the probation, court, and social services systems, Erie County has begun to identify risk and need at the front end of the juvenile justice system and to provide needed support immediately. Interim evaluation of the program showed a significant increase in the diversion of cases from formal court processing and significant reductions in the number of cases sentenced to a term of probation and the number of cases resulting in confinement.⁴⁶

C. POLICE AND COMMUNITIES: DETERRING CRIME

In a number of cities around the country over the past 15 years, communities saw sharp reductions in crime after a joint effort by law enforcement and social services employed a method of “focused” deterrence.⁴⁷ The approach is built on the well-established fact that most crime is caused by a small number of people. Addressing those people directly with the right message and the right actions has a significant and enduring effect on changing their behavior for the better.⁴⁸ While this approach has been almost exclusively used with adult offenders, the New York City Police Department has spear-headed an innovative and effective approach to addressing young, violent robbery offenders in public housing developments. The approach concentrates on identifying juvenile offenders and structuring a program around home visits and parental involvement to reduce their rate of reoffending. The juveniles are spoken to directly about both consequences and choice: further offending will result in arrest but deciding to take a different path will be supported with job and educational opportunities as well as social services. In the year before they entered the program, this group had been arrested for a total of 180 robberies. One year later, that number among this group had dropped to 29.⁴⁹

D. CONFINEMENT: FROM PUNITIVE TO REHABILITATIVE

Recognizing the endemic problems caused by this punitive system, OCFS embarked on a wholesale effort to change the culture of the institutions it operates. If New York has been the poster child of the failure of 20th century punitive corrections, Missouri has been the model of 21st century rehabilitative systems. Located in warm, home-like physical environments, Missouri’s facilities for confinement provide youth treatment rooted in a group-based model that empowers youth to change their own lives, relies on physical restraints as a last resort, keeps young people close to home and encourages family involvement in the treatment process, and focuses on reentry from the moment a youth enters confinement. This model has produced impressive results, with only 22.5% of youth leaving juvenile custody returning to incarceration within three years and with 84% of youth exiting custody actively engaged in school, college, and/or employment at discharges.⁵⁰

Through the adoption of the Sanctuary model, OCFS has been implementing a trauma-informed therapeutic model of care in its facilities, providing over 376,000 hours of training to staff since 2007.

Taking Missouri as its model, OCFS has tried both wholesale and piecemeal to transform its model. Through the adoption of the Sanctuary model, OCFS has been implementing a trauma-informed therapeutic model of care in its facilities, providing over 376,000 hours of training and re-training to staff since 2007. In addition, a model continuum of care, providing services both for youth who are safe to remain at home

and to youth whose risk level necessitates out of home placement, is being developed by OCFS for youth from Brooklyn who are committed to state custody. The model will include a Missouri-style residential facility and a day placement program in Brooklyn. Finally, OCFS is in the process of hiring professional mental health staff to more adequately meet the needs of youth while confined in state operated facilities.⁵¹

OCFS has also tried to fix some of the other significant issues facing the children in its care. Under the current legal framework, OCFS can only fire staff who abuse children in their facilities if they prevail at arbitration. This process has resulted, as noted in the Justice Department report, in staff who have abused children in the course of their employment, sometimes multiple times, remaining in their direct care roles. OCFS has proposed a statutory change to allow dismissal of staff who are confirmed perpetrators of child abuse on the job. OCFS has also worked closely with the state Department of Education in attempts to provide a systemic solution to the problem that credit for school work completed while in placement must be individually negotiated for each youth upon return to their community school. Despite the challenges that youth returning from OCFS custody face in obtaining credit for school work completed during confinement, OCFS maintains an 80% pass rate for the youth in its custody who take the GED, compared to a 50% pass rate statewide.⁵²

OCFS reform efforts have also focused in right sizing the residential capacity of the state operated system to reduce the system to meet decreasing demand. Since 2007, OCFS has closed 16 facilities and another 180 beds are scheduled to be closed in the current state fiscal year 2010-2011. These closings have resulted in an estimated \$65 million in savings through the end of the current state fiscal year, with a projected additional savings of \$54 million in 2011-2012. Despite these reductions in capacity, OCFS-operated facilities continue to function with significant excess capacity and at an enormous state and local cost.⁵³

Finally, DCJS, through the use of federal delinquency prevention funding and in partnership with the JAG, has begun targeted efforts to reduce racial disparities in the juvenile justice system. Tapping into national best practices on disparity reduction spearheaded by the W. Haywood Burns Institute, DCJS is supporting partnerships between the Burns Institute and New York City and Monroe and Onondaga Counties to develop data driven plans for reduction in racial and ethnic disparities.

E. STATE PLAN: SETTING GOALS AND IMPLEMENTING REFORM

There is also movement within the state to expressly identify our goals and mobilize and align resources behind those goals. In October, the state, for the first time, joined together across all points of the system to create a steering committee to guide the development of a statewide plan on juvenile justice. Working with a nationally known strategic development firm, the steering committee and a host of participants from across the state aim to develop a vision and set of goals for the state by February 2011. With that basic work done for a new administration to consider and shape, the state will be ready for a second phase to implement the goals.

WHAT OTHER JURISDICTIONS ARE DOING

A. ALIGNING FUNDING INCENTIVES TO SUPPORT EFFECTIVE INTERVENTION

Ensuring that funding supports effective intervention is a key strategy for the state's juvenile justice system. This approach provides incentives to local governments to provide effective programming for pre-adjudicated and adjudicated youth close to home, helping the youth to develop and maintain positive ties with families, schools and communities. It also helps reverse the skewed incentive system whereby the state subsidizes incarcerative commitments to OCFS that often aggravate reoffending.

Other states and jurisdictions, most notably Ohio, Illinois, California and Wayne County (Detroit, Michigan), have reduced their reliance on costly and ineffective placement facilities by creating fiscal incentives for their respective localities to invest in locally-operated, community-based programs. For these states, the shift from centralized state-run facilities to local continuums of care has yielded positive results, including reductions in crime and recidivism, a net reduction in expenditures for states and localities, and improved outcomes for justice-involved youth and their families. Details on each of these initiatives can be found in tab IV of this report.

B. IMPLEMENTING EVIDENCE-BASED STRATEGIES PROVEN TO REDUCE CRIME AND RECIDIVISM

There is a large body of research that examines many programs used to prevent or reduce delinquency. Many programs have been scientifically tested and proven to reduce recidivism or to prevent offending all together. While some traditional programs, like scared straight, failed to pass this rigorous analysis and even showed effects that increased offending, many programs have been proven to reduce juvenile offending. Often labeled "evidence-based" programs, research has shown that many program models or strategies are effective when intervening with youth. A list of these programs, compiled by Peter Greenwood for the Governor of California's Office of Gang and Youth Violence Policy, can be found in tab IV of this report.

While the system is struggling with some serious problems, the approaches outlined above have produced heartening results overall. We are seeing historic and continuing drops in juvenile arrests, detention and placement. The use of objective risk assessment tools, coupled with the development of a range of community-based services in major localities, has driven a 33% reduction in the use of pre-trial detention outside of New York City and a statewide reduction of 29% in sentencing youth to state custody. And we know with some certainty which counties commit the largest number of youth to OCFS, which gives us a way to determine how and where to have the biggest impact. With continuing and systemic investments in a community-based and rehabilitative model and close attention to the results of those investments, we can expect these rates of offending and system use to continue to drop. This gives us an opportunity to make wholesale the kinds of key changes that we have been making piecemeal, but that our experience and that of other states have shown result in reducing reoffending. The recommendations that follow lay out the steps towards achieving a fair, effective and accountable juvenile justice system.

IV. RECOMMENDATIONS

RECOMMENDATION 1:

INSTILL ACCOUNTABILITY INTO THE JUVENILE JUSTICE SYSTEM

In the 21st century, it is unthinkable to address an adult crime problem without knowing what the crime problem is, what strategy will be deployed to address it, and what metrics will define success. Yet every day, the juvenile justice system in New York operates without these basic tools. Coordinated leadership, express common goals and superlative data and analysis systems are the irreducible minimum in achieving a fair, effective and accountable juvenile justice system.

Steps to Accomplish Recommendation 1:

- a. The Governor should appoint a cabinet level official with the authority to mobilize and direct resources across agency lines in the service of system-wide goals as set out below. The Chief Judge of the New York State Court System should appoint a corollary to work side by side with the Governor's juvenile justice designee to achieve the common goals.
- b. The Governor should consider using the JAG as a coordinating body to work with his designee and the Court's designee in carrying out the state's juvenile justice policy.
- c. The state planning process which is already underway should be followed through to implementation to set clear statewide goals and establish a mechanism to ensure their achievement.
- d. The state must accelerate and support the development of accurate and timely data that will, at a minimum, show arrest trends; county by county profiles of children's risks and needs; county by county inventory of resources available; and regular assessment of the effectiveness of resources and programming funded by the state. Funding must be tied to performance.
- e. The state must support localities by providing excellent analytics and information about effective practices used across the nation.
- f. The state must develop the capacity for reliable cost-benefit analyses of the programming it funds.

RECOMMENDATION 2:

ARREST, DETAIN AND PLACE ONLY THOSE WHO POSE A RISK TO PUBLIC SAFETY

With the incontrovertible weight of research showing that incarceration can aggravate offending rates, we must understand better whether the estimated 50,000 arrests each year is too much, too little or about right. Together with that analysis, we must develop better ways to target the right resources to the right kids.

Steps to Accomplish Recommendation 2:

- a. Invest in understanding who the population is at each system point: who is being arrested, detained and placed.

- b. Provide early intervention to reduce risk factors and build resiliency of youth who do not pose a danger to public safety.
- c. Reduce detention and improve public safety by implementing statewide a reliable risk assessment instrument.
- d. Reduce placement and improve public safety by implementing statewide a reliable post-disposition instrument to guide appropriate placement.

RECOMMENDATION 3:

CLOSE UNDERUSED FACILITIES AND RE-INVEST SAVINGS IN RESEARCH BASED PROGRAMMING AND ANALYTIC SUPPORT

While much ink has been spilled over the last year regarding the failures of New York State’s juvenile placement system, not much movement has occurred to ensure that our system keeps pace with the trend of shrinking incarcerated populations.

Steps to Accomplish Recommendation 3:

- a. Close empty and under-utilized facilities and focus upstate economic development on retraining and re-employing staff from closed facilities.
- b. Repeal §501(15)(cc) of the Executive Law to allow for efficient reduction of empty beds and placement facilities.
- c. Re-invest savings in research-based programming proven to reduce recidivism, in developing and assessing new interventions, providing assistance to localities to develop and implement proven approaches and in cost-benefit studies of ongoing work.
- d. Assess the current funding structure for both detention and placement and determine whether the incentives they create encourage incarceration or rehabilitation.
- e. Determine whether a “realignment” of responsibilities — with localities operating facilities and programming for delinquents and the state providing oversight, technical assistance and accountability measures would be effective in New York.

RECOMMENDATION 4:

IMPROVE CONDITIONS OF CONFINEMENT

While much has been accomplished in moving from a punitive to a therapeutic model, and thus improving conditions of confinement, much more must be done in partnership with the legislature and state executive agencies to achieve these goals.

Steps to Accomplish Recommendation 4:

- a. Amend state law to provide for automatic termination of staff who commit an act of abuse against a child in the course of their employment.
- b. Restructure the provision of education in state operated facilities so that youth automatically receive credit for the school work completed while in placement when they return to a community school at release, or establish a school district for OCFS.

- c. Provide the necessary clinical providers to appropriately meet the mental health needs of confined youth.
- d. Support the transition from a correctional model to a therapeutic model of care through retraining staff, relocating facilities closer to the homes of youth so family can be successfully engaged, and moving toward smaller facilities rooted in a framework of positive youth development.
- e. Provide comprehensive reentry services to all youth confined out of home, whether they are confined in state operated facilities or private facilities, and ensure that youth are released into stable housing situations with necessary Medicaid coverage in place and connection to enduring pro-social supports.

RECOMMENDATION 5:

REDUCE DISPROPORTIONATE MINORITY CONTACT (DMC)

Existing data shows that youth of color are significantly over-represented throughout the juvenile justice system and that racial and ethnic disparity tends to increase at each system point. New York State must dig deeper to understand the root causes of this disparity and support local, data-driven efforts to increase equity throughout the system.

Steps to Accomplish Recommendation 5:

- a. Support the collection of case level arrest and probation data with demographic information to fill current gaps in data.
- b. Research the underlying factors contributing to disparity.
- c. Provide support for local projects, modeled on national best practices, to develop data driven strategies for reducing disparity.

RECOMMENDATION 6:

AGE OF RESPONSIBILITY

With assistance of experts who are unaffiliated with either side of the raise the age debate, develop a set of facts that each side can rely on to outline what the economic and system impact will be of raising the age of criminal responsibility and of reframing our juvenile offender law so that cases begin in Family Court with the opportunity to transfer them to criminal court. Analysis should include what legal changes would need to be made and what lessons we can learn from the experience of other states who have recently adopted changes to their age of criminal responsibility.

End Notes

1. These bodies are referred to in the act as State Advisory Groups or “SAGs.” 42 U.S.C. 5633 (a)(3).
2. 42 U.S.C. 5601 et seq.
3. The sight and sound separation requirement requires complete separation of juveniles who are securely detained from any adult detainees. This requirement applies in any secure setting, including jails, lock ups and secure court holding facilities and is necessary because the jail removal protection of the JJDPa allows for limited exceptions.
4. The act’s requirement of deinstitutionalization of status offenders protection prohibits states from confining youth in secure settings who have not committed an act that would be a crime if they were an adult. New York State complies with this requirement through protections embedded in Article seven of the Family Court Act prohibiting the detention or placement of Persons In Need of Supervision in secure facilities.
5. Jails and lock ups include any locked facilities used by law enforcement or government to confine adults pending the filing of criminal charges, awaiting a criminal trial, or convicted of violating a criminal law.
6. 42 U.S.C. 5633 (a)(3)(D)(ii)
7. Steinberg, Laurence. “Adolescent Development and Juvenile Justice.” *Annual Review of Clinical Psychology*. 5 (2009): 47-73. MacArthur Foundation Research Network. “Less Guilty by Reason of Adolescence.” Adolescent Development and Juvenile Justice. http://www.adjj.org/downloads/6093issue_brief_3.pdf. Hansen, Mark. “What’s the Matter with Kids Today: A Revolution in Thinking about Kids Minds is Sparking Change in Juvenile Justice.” *ABA Journal: Law News Now*. July 2010. Web. http://www.abajournal.com/magazine/article/whats_the_matter_with_kids_today/. Casey, B.J., Rebecca M. Jones, and Todd A. Hare. “The Adolescent Brain.” *Annals of the NY Academy of Sciences*. March, Vol. 1124 (2008): 111-126.
8. *Roper v. Simmons* 543 U.S. 551 (2005)
9. The Allstate add is available at http://www.njjn.org/media/resources/public/resource_537.pdf.
10. Butts, Jeffrey A., Bazemore, Gordon, and Meroe, Andra Saa. “Positive Youth Justice Framing Justice Interventions Using the Concepts of Positive Youth Development.” *The Coalition for Juvenile Justice*, 2010.
11. Latessa, Edward J. and Lowenkamp, Christopher T. “What Works in Reducing Recidivism?” *University of St. Thomas Law Journal*. 2006 Vol. 3.3.
12. Lowenkamp, Christopher T. and Latessa, Edward J. “Understanding the Risk Principle: How and Why Correctional Interventions Can Harm Low-Risk Offenders.” *Topics in Community Corrections*, 2004. Also see Gatti, Umberto, Tremblay, Richard E., and Vitaro, Frank, “Iatrogenic Effect of Juvenile Justice,” *Journal of Child Psychology and Psychiatry* Vol. 50 Issue 8 (2009) and Dishion, Thomas, Mccord, Joan and Poulin, Francois, “When Interventions Harm: Peer Groups and Problem Behavior,” *American Psychologist* Vol. 54 Issue 9 (1999).
13. See tab IV for a list of evidence-based programs that have been scientifically shown to be proven or promising practices to reduce juvenile recidivism.
14. An explanation of the central players is attached along with a description of who they answer to and what the costs of their operations are included in tab II.
15. Data in the New York State juvenile justice processing triangles reflect estimated arrest data (all police contact resulting from probable cause that youth committed a delinquent act) and formal arrest data (arrests that lead to further system involvement) reported to DCJS. In addition, placement of youth in the custody of local department of social services custody for out of home placement in private facilities is not available due to data limitations.
16. The Office of Children and Family Services operates juvenile placement facilities; licenses and oversees private placement facilities; regulates pre-adjudication detention facilities; provides funding to local Youth Bureaus; oversees several state supported delinquency prevention funding streams; and is the host agency for the Council on Children and Families (which is charged with coordinating cross systems issues for youth). The Division of Criminal Justice Services is the Designated State Agency for planning, implementation and oversight of the use of federal juvenile justice funding allocated to New York State; houses the Office of Probation and Correctional Alternatives which regulates local probation; and provides support to law enforcement. In addition, agencies such as the Office of Mental health, the Office of Alcohol and Substance Abuse Services, the Office for Mental Retardation and Developmental Disabilities, the State Education Department, the Department of Labor, and the Office of Temporary and Disability Assistance operate and/or regulate programs that meet the specialized needs of at-risk youth and their families.
17. Thomas Piketty and Emmanuel Saez, “Income Inequality in the United States, 1913-2000,” available at <http://emlab.berkeley.edu/users/saez/piketty-saezOUP04US.pdf>
18. Dr. Rebecca Colman, Susan Mitchell-Herzfeld, Therese Shady, and Do Han Kim, “Long-Term Consequences of Juvenile Delinquency: Perpetration of Child Maltreatment and Crime in Early Adulthood,” PowerPoint presentation at the New York State Division of Criminal Justice Services, June 2009.
19. Susan Mitchell-Herzfeld,, Vajeera Dorabawila, Leigh Bates, and Rebecca Colman, “Juvenile Recidivism Study: Patterns and Predictors of Reoffending Among Youth Reentering the Community from OCFS Facilities and Voluntary Agencies,” PowerPoint presentation at the New York State Division of Criminal Justice Services, April 27, 2010.
20. Edward J. Latessa and Christopher Lowenkamp, “What Works in Reducing Recidivism?” *University of St. Thomas Law Journal* 3, No. 3 (2006): 533-534.
21. “Charting a New Course: A Blueprint for Transforming Juvenile Justice in New York State,” (“Task Force) A Report of Governor David Paterson’s Task Force on Transforming Juvenile Justice. December , 2009 at 14.
22. Shay Bilchik and Judge Michael Nash, “Child Welfare and Juvenile Justice: Two Sides of the Same Coin.” *Juvenile and Family Justice Today*, Fall 2008.
23. Mitchell-Herzfeld, April 2010.

24. Analysis of a cohort of girls who exited OCFS custody revealed that 64% of the girls were named as suspected perpetrators of child abuse or neglect as parents and 42% of the girls were confirmed by child protective services as perpetrators of child abuse or neglect. Mitchell-Herzfeld, April 2010.
25. Detailed information about the state operated placement system can be found in tab III.
26. Martinez, Nancy. Email to Jacquelyn Greene. 28 October, 2010. Youth can also be placed out of their homes as a result of placement with the local department of social services. Data on these youth is maintained in the foster care data system. OCFS estimates that 732 youth found to be delinquent were in out of home placement under the custody of the local commissioner of social services at the end of 2009. However, maintenance of this data in the foster care system renders accurate counting and substantive analysis of this population extremely difficult.
27. Haskins, Victoria. Email to Jacquelyn Greene. 9 September, 2010.
28. DCJS 2010 Title II Formula funds application, 4. Plan for Compliance with the Disproportionate Minority Contact (DMC) Core Requirement.
29. June 2009 Quarterly Report of Youth in OCFS Custody, at <http://www.ocfs.state.ny.us/main/reports/QRcust-2009-06.pdf>.
30. See Matter of Hamlet D., 2/25/2010 N.Y.L.J. 45, (col. 1) and In the matter of Johnny S. 2010 WL 691857 N.Y. Fam. Ct
31. U.S. Department of Justice, Civil Rights Division, “Re : Investigation of the Lansing Residential Center, Louis Gossett, Jr. Residential Center, Tryon residential Center and Tryon Girls Center.” August 14, 2009. Available at http://www.justice.gov/crt/split/documents/NY_juvenile_facilities_findlet_08-14-2009.pdf.
32. 10-OCFS-ADM-07, “Per Diem Chargeback Rates for OCFS-Operated Facilities and Programs – Interim Calendar year (CY) 2010 Rates for January 1, 2010 through December 31, 2010” at http://www.ocfs.state.ny.us/main/policies/external/OCFS_2010/10-OCFS-ADM-07%20Per%20Diem%20Chargeback%20Rates%20for%20OCFS-Operated%20Facilities%20and%20Programs%20.pdf. OCFS also recently released a directive to increase rates and recoup funds from 2002-2007 as a result of a discontinued use of federal funding. This directive is available at http://www.ocfs.state.ny.us/main/policies/external/OCFS_2010/10-OCFS-ADM-14%20Adjusted%20Per%20Diem%20Chargeback%20Rates%20for%20OCFS-Operated%20Facilities%20and%20Programs%20%20for%20CY%202002%20CY%202003%20CY%202004%20CY%202005%20CY%202006%20CY%202007.pdf.
33. Gettman, William. Email to Jacquelyn Greene. “OCFS JJ Direct Facility January POPULATION - FY 2000-01 thru 2009-10.xlsx-Drastic Reduction over 10 Years.” October 2, 2010.
34. 10-OCFS-ADM-07, “Per Diem Chargeback Rates for OCFS-Operated Facilities and Programs – Interim Calendar year (CY) 2010 Rates for January 1, 2010 through December 31, 2010” at http://www.ocfs.state.ny.us/main/policies/external/OCFS_2010/10-OCFS-ADM-07%20Per%20Diem%20Chargeback%20Rates%20for%20OCFS-Operated%20Facilities%20and%20Programs%20.pdf.
35. See tab IV for a list of evidence-based practices that have been shown to reduce recidivism.
36. See Executive Law §529 and §530.
37. See <http://www.nyclu.org/issues/youth-and-student-rights/school-prison-pipeline>.
38. Skowyra, Kathleen and Cocozza, Joseph J.. “A Blueprint for Change: Improving the System Response to Youth with Mental Health Needs Involved in the Juvenile Justice System.” National Center for Mental Health and Juvenile Justice Research and Program Brief. June 2006.
39. Aos, S. Phipps, P. Barnoski, R and Lieb. R. “The comparative costs and benefits of programs to reduce crime.” (2001). available on line at <http://www.swipp.wa.gov>; Lipsey. M. Howell, J.C., Kelly, M.R., Chapman, G., “Improving the Effectiveness of Juvenile Justice Programs.” December 2010, available on line at <http://cjjr.georgetown.edu/pdfs/ebp/ebppaper.pdf>.
40. Data is available in tab III of this report.
41. Ibid.
42. Salsich, Annie. “New York State Juvenile Detention Reform.” PowerPoint presentation. Legislative Office Building, Albany, N.Y. 7 May 2009.
43. See tab IV for data on implementation of the RAI in New York City.
44. The Juvenile Detention Alternatives Initiative (JDAI), spearheaded by the Annie E. Casey Foundation, is now operational in over 125 jurisdictions in 30 states and the District of Columbia. Framed by eight core strategies, including the use of objective admission criteria and instruments and the development of non-secure alternatives to detention, JDAI sites have shown significant reductions in the detention of youth with concurrent reductions in crime and in racial and ethnic disparities. More information can be found at <http://www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative/AboutJDAI.aspx>.
45. Walters, Wansley. “The Miami-Dade County, Florida Juvenile Justice Model.” PowerPoint presentation. New York State Museum, Albany, N.Y. 29 October 2009. Available at <http://www.criminaljustice.state.ny.us/ofpa/jj/docs/pdf/miamimodel.pdf>.
46. Kazi, Mansoor A.F, Harrison, Ronjonette, Frounfekler, Savra, and Doueck, Howard J. “Evaluation of Erie Family Juvenile Delinquency Guidelines Model Court (Third Interim Report).” University at Buffalo. April 2009.
47. Kennedy, David, Deterrence and Crime Prevention, (2009)
48. Meares, Tracey and Papachristos, Andrew, “The Reentry of Violent Offenders in Chicago,” available at <http://www.psychicago.org/PDFs/RIB-Forum-Final.pdf>
49. “NYPD Expands Juvenile Crime Reduction Program,” Press release, July 2, 2009.
50. Task Force at 51.
51. OCFS Budget and Research Analysis-October 2010.
52. Ibid.
53. Ibid.

TABS SECTION

A. EQUIVALENCY TABLE FOR ADULT SYSTEM VS. JUVENILE SYSTEM TERMS

Adult Criminal Proceedings	Juvenile Delinquency Proceedings
Arrest	Initial Appearance
Pre-trial Incarceration/Detention	Detention
Probable Cause Hearing/Grand Jury Proceeding	Probable Cause Hearing
Indictment	Petition
Plead Guilty or Innocent	Admit or Deny
Trial	Fact Finding Hearing
Sentencing	Disposition
Conviction	Adjudication
Imprisoned	Placed

B. GLOSSARY OF JUVENILE JUSTICE ACRONYMS

DCJS	Division of Criminal Justice Services
DOJ	Department of Justice
DMC	Disproportionate Minority Contact
FFT	Functional Family Therapy
JABG	Juvenile Accountability Block Grant
JJ	Juvenile Justice
JJAG	Juvenile Justice Advisory Group
JD	Juvenile Delinquent
JJDPA	Juvenile Justice and Delinquency Prevention Act
JO	Juvenile Offender
MST	Multi-Systemic Therapy
MTFC	Multidimensional Treatment Foster Care
OCA	Office of Court Administration
OCFS	Office of Children and Family Services
OJJDP	Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice
PINS	Persons In Need of Supervision
RAI	Risk Assessment Instrument
RRI	Relative Rate Index
SAG	State Advisory Group
YASI	Youth Assessment Screening Instrument
YO	Youthful Offender

C. KEY EVENTS OF 2009 – 2010

1. MAJOR EVENTS

AUGUST 2009—

- Findings from a Department of Justice investigation into conditions at four OCFS-operated facilities were released. DOJ found that conditions at the four facilities “violate constitutional standards in the areas of protection from harm and mental health care.”

DECEMBER 2009—

- The Legal Aid Society filed a civil rights class action lawsuit against OCFS alleging violations of the 14th Amendment of the Constitution, the Rehabilitation Act, and the Americans with Disabilities Act (ADA).
- Release of a report by the Governor’s Task Force on Transforming Juvenile Justice, which included a 20-point plan for improving the juvenile justice system stressing reducing the number of youth in placement, keeping those that are in placement safe, and reducing disproportionate minority contact as fundamental reforms with profound impacts on the entire system
- The JJAG awarded funding for nine new programs to bring best practices on reducing disproportionate minority contact to New York State, to pilot innovative alternative to detention programs for youth who are incarcerated pre-trial due to unstable home environments, to pilot faith-connected mentoring for high risk youth, to assess resources and develop plans for service collaboratives in neighborhoods sending high volumes of youth into the juvenile justice system, and to avoid school-based arrests for low-level school offenses .

JANUARY 2010—

- A summary judgment from the New York State Supreme Court found OCFS shackling practices to be in violation of Title 9 of the New York Code.

APRIL 2010—

- OCFS announced \$4 million in community reinvestment funding to provide services for approximately 1,200 juvenile delinquents in their own communities, avoiding costly and less effective placements far from home.

JULY 2010—

- The state agreed to a settlement with DOJ by agreeing to change OCFS policy, including improving or creating better systems to ensure protection from harm and access to mental health care.
- Three local projects to reduce disproportionate minority contact in the juvenile justice system were launched at a multi-county meeting facilitated by national experts from the W. Haywood Burns Institute.

OCTOBER 2010—

- Phase I of the statewide juvenile justice strategic planning process was launched.

2. 2010 JUVENILE JUSTICE LEGISLATION

Bill	Description	Final Action
S. 5996/A. 3472A (Duane/Scarborough)	Establishes a bill of rights for youth in residential care	Died in Senate Rules and did not move in the Assembly
S. 6474B (Montgomery)	Establishes the Correctional Association as the independent, external oversight body for all juvenile placement facilities	Did not move out of Committee
S. 6709 (Montgomery)	Narrows the circumstances in which the Court can order placement in OCFS custody	Passed the Senate and did not move in the Assembly
S. 6710A (Montgomery)	Establishes a “Juvenile Justice Smart Investment Fund”	Died in Senate Finance Committee
S. 6711A (Montgomery)	Establishes a reimbursement scheme for counties that utilize alternatives to detention	Passed the Senate and did not move in the Assembly
S. 6713/A. 9805 (Montgomery/Scarborough)	Establishes a pilot program to provide job and vocational skills training for youth residing in OCFS facilities	Passed the Senate and did not move in the Assembly
S. 6877/A. 3233A (Parker/Clark)	Establishes an Independent Office of the Child Advocate	Vetoed by Governor (Memo #6819)
S. 6961 (Huntley)	Establishes a peer advocacy and mentoring program for youth in OCFS custody	Died in Senate Finance Committee and did not move in the Assembly
S. 5395A/A. 3686A	Waives birth certificate request fees for the Department of Corrections, local correctional facility, or juvenile facility.	Included with legislation that accompanied the budget - Chapter 56 of the Laws of 2010, Part OO, Section 6
A. 5462/S. 2233A (Aubry/Montgomery)	Clarifies that circumstances of incarceration can be considered when deciding whether to file for termination of parental rights	Chapter 113 of the Laws of 2010

A. ORGANIZATIONAL OVERVIEW

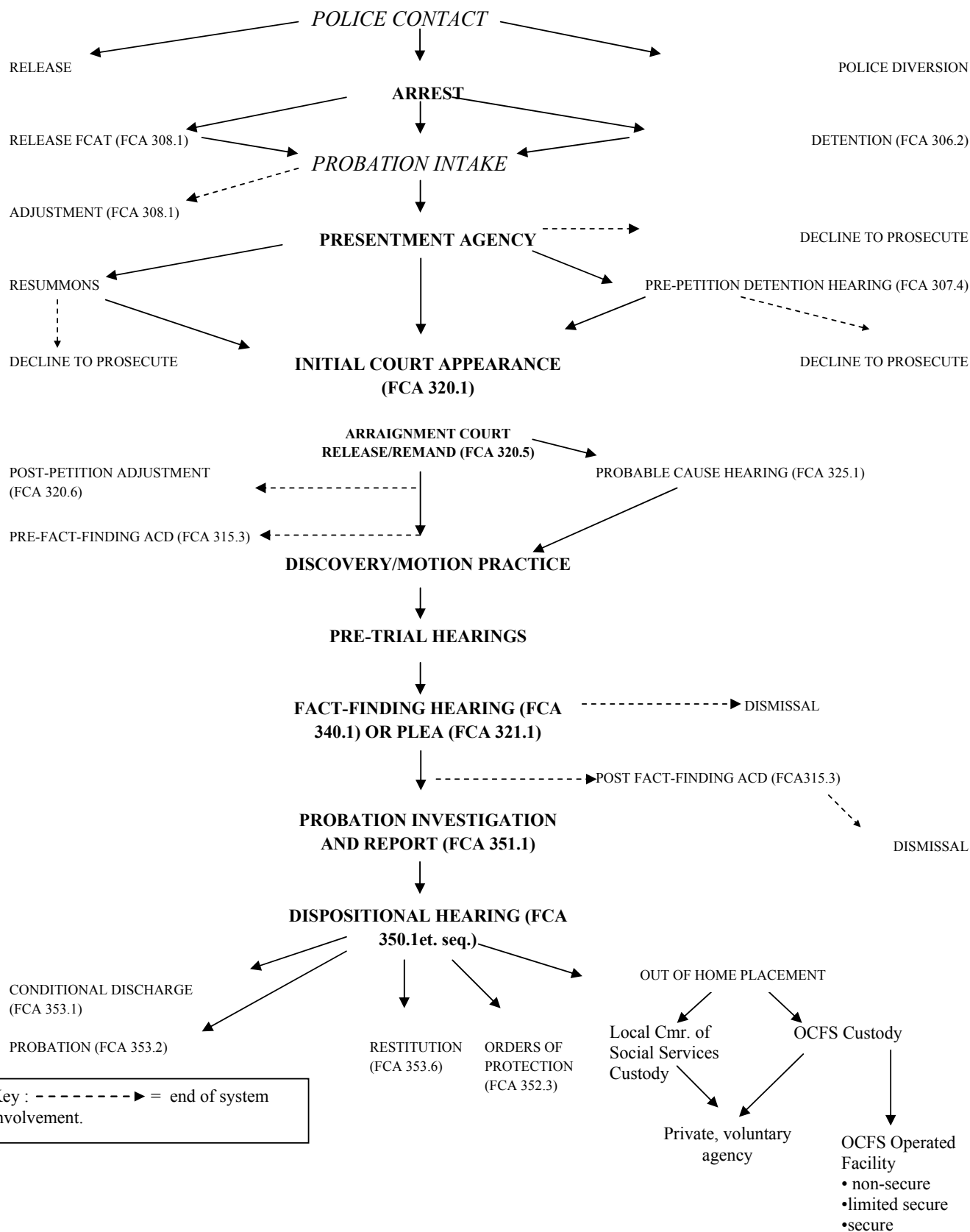
ORGANIZATION	QUANTITY	STATE/LOCAL/ PRIVATE	JUVENILE BUDGET
Law Enforcement	Over 500 agencies	Local	Unknown
Probation Administration	58 departments	Local	Estimated at \$120 million +
Probation Oversight	1 office	State	\$18 million (state aid to localities)+
Presentment Agencies (prosecutors)	58 offices	Local	Unknown
Attorneys for Children	Unknown	Local	Unknown
Detention	54 facilities	Local	\$147 million (51% local, 49% state)+
Family Court	67 courts	Local	\$366 million (all family court functions)++
OCFS	26 facilities, 1 central office	State	\$240 million (50% state, 50% local)*
Voluntary Agencies	Unknown	Private	Unknown
Community-Based Service Providers	Unknown	Private	Unknown
		Total	\$1,131,000,000 +

+ Budget information provided by the Office of Probation and Correctional Alternatives

* Budget information provided by the Office of Children and Family Services

++ Budget information provided by the Office of Court Administration

Juvenile Delinquency Case Processing Under Family Court Act (FCA)

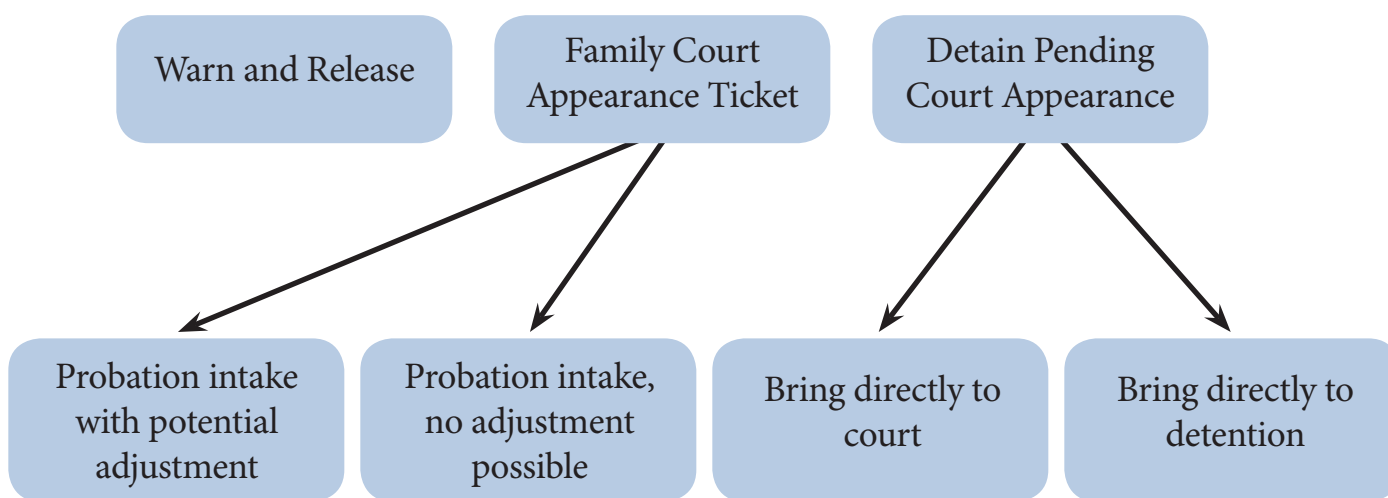


B. JUVENILE DELINQUENCY SYSTEM DESCRIPTION

1. POLICE CONTACT

Police have several options available after they contact a child whom they have reasonable suspicion to believe committed an offense that would be a crime if that child were an adult. They may warn and release the child or issue a Family Court appearance ticket that either allows the child an opportunity for adjustment (diversion) at probation or requires that the case move directly to Family Court. Law enforcement also makes a determination of the need to detain the child outside of his or her home pending an initial appearance in Family Court. If the police determine that the child should be detained at a time when Family Court is open, the police bring the child directly to Family Court. If the decision to detain the child is made outside of court hours, the police bring the child directly to a detention center. In New York State, there are more than 500 police agencies employing nearly 70,000 police officers. There are approximately 16,000 juvenile arrests outside of New York City annually and there are nearly 13,000 formal juvenile arrests reported in New York City annually. This does not include the number of juveniles who are arrested by police and informally diverted in New York City. Police initiate approximately 4,700 youth admissions to detention each year.

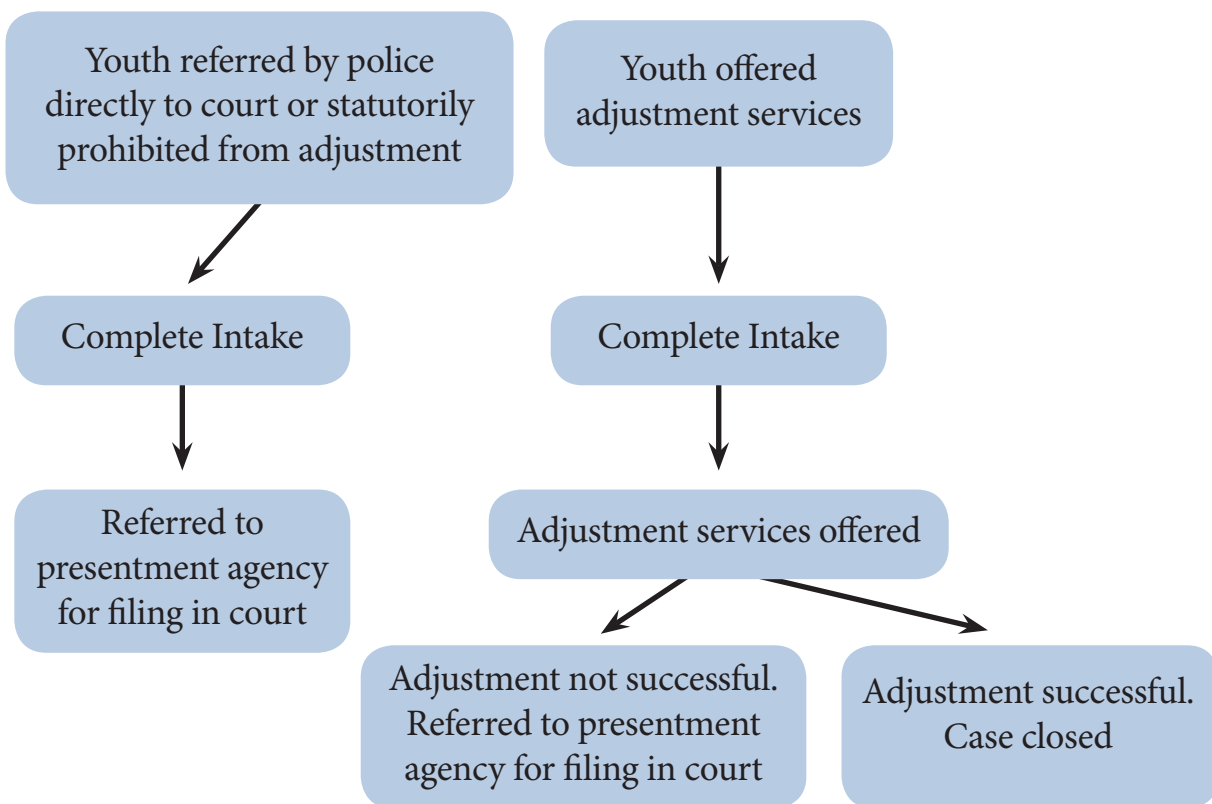
LAW ENFORCEMENT OPTIONS FOR JUVENILES AT INITIAL CONTACT



2. PROBATION INTAKE

Juvenile probation services are administered through the 58 county-based probation departments across the state (57 county-level, and one encompassing all five boroughs of New York City). All youth who are formally arrested by the police complete an intake with their local probation department. Probation has the statutory authority to work with many youth to divert, or “adjust,” their cases instead of referring them to Family Court. Youth who are referred directly to Family Court by law enforcement, or who are accused of certain statutorily defined serious acts of delinquency, are not eligible for these adjustment services. The Family Court Act allows probation sixty days to provide services to all other youth in an attempt to close their cases through a successful adjustment. In 2009, probation departments across New York State completed approximately 23,000 delinquency intakes and 30% of those cases were closed as a result of a successful adjustment. The state spends approximately \$18 million per year on juvenile probation and this represents about 15% of total local costs for juvenile probation.

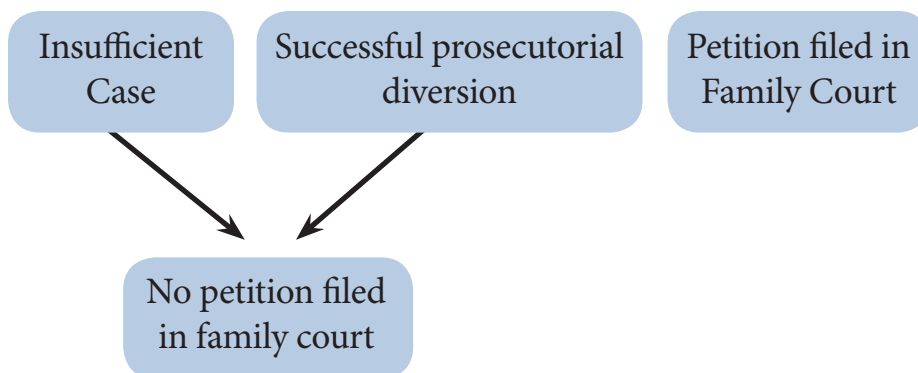
PROBATION INTAKE



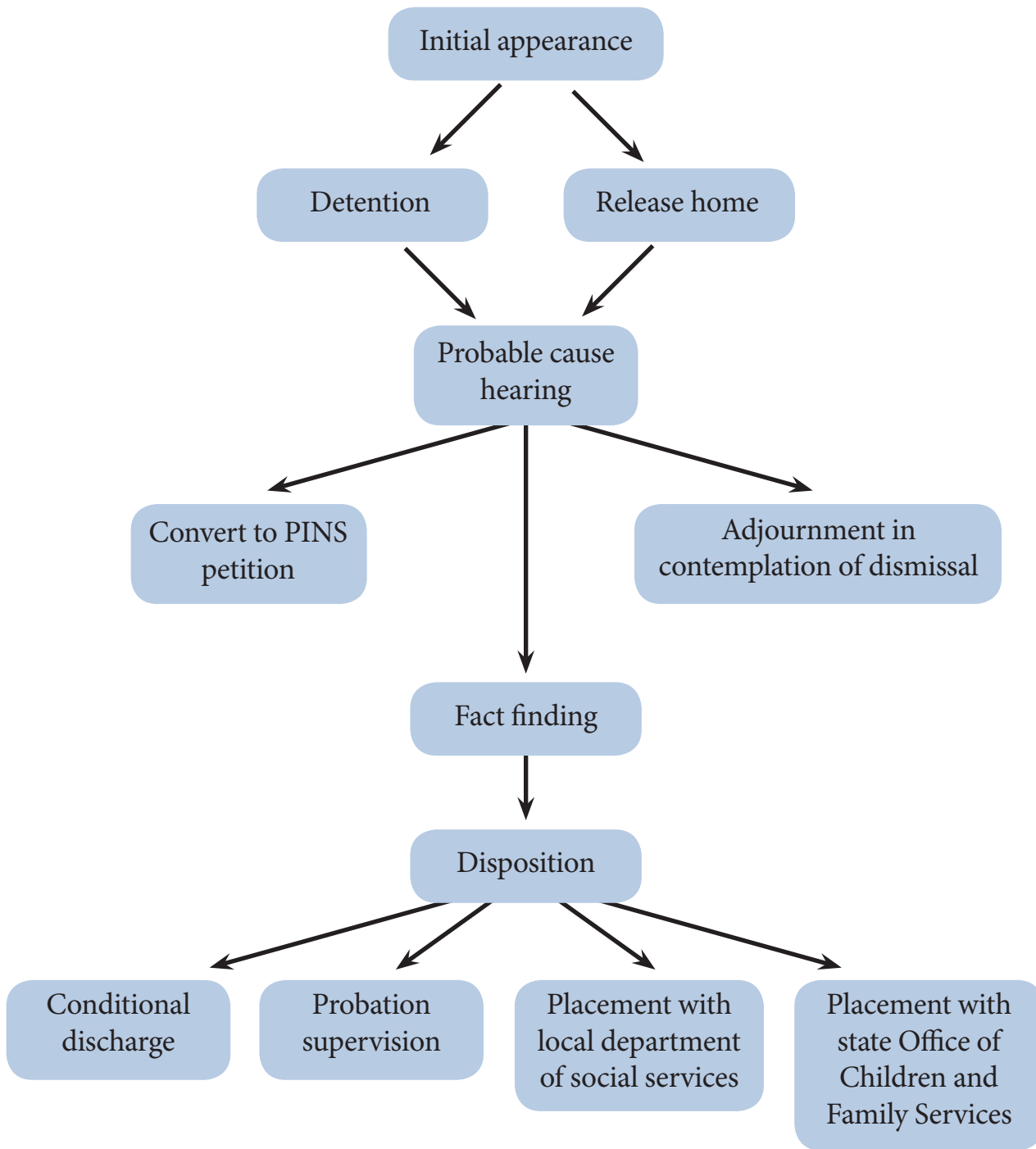
3. THE DECISION TO PROSECUTE

Juvenile cases are prosecuted by county attorneys outside of New York City. Within New York City, prosecution is handled by the Office of Corporation Counsel. These juvenile prosecution entities are referred to as presentment agencies. Once the case is referred to the presentment agency from probation (following either an unsuccessful adjustment attempt or an intake at probation with no possibility for adjustment), the presentment agency must determine whether a petition should be filed in Family Court. This determination can be based on many factors, including cooperation of the victim and legal sufficiency of the facts alleged. The presentment agency has authority to decline to prosecute and may implement its own diversion programs at this phase. There is no statewide standardized process available for presentment agencies to follow when making the decision to prosecute. Approximately 14,000 initial delinquency petitions are filed in Family Court statewide each year.

THE DECISION TO PROSECUTE



FAMILY COURT PROCESS



4. FAMILY COURT AND DETENTION

Once a case is referred to Family Court, an attorney is appointed to represent the child and an initial appearance is held. The judge makes a determination at the initial appearance as to whether the child should be detained pending fact-finding or whether the child can be sent home until the next court date. The Family Court Act allows youth to be detained if there is substantial probability that the child will fail to appear for the next court date or there is serious risk that the child will commit another delinquent act before the next court date. There are nine secure and 45 non-secure juvenile detention facilities in New York State. These facilities are locally operated and house youth pending the outcome of the Family Court process. The cost of care in detention is split between the locality (51%) and the State (49%). In the state fiscal year 2010 – 2011 budget, the 49% state share for pre-adjudication detention was budgeted at \$72 million, making the total cost reach \$147 million.

After the initial appearance, youth are brought before the judge for a probable cause hearing where they can either admit or deny the allegations against them. If the child denies the allegations, a fact finding hearing (much like a trial) is scheduled. Cases may be resolved prior to disposition (sentencing) through either an adjournment in contemplation of dismissal or, with the consent of the presentment agency and the child, by converting the case to a Persons In Need of Supervision (PINS) case. If the case continues to a fact finding hearing and the allegations are not established beyond a reasonable doubt, the judge will dismiss the case; if the allegations are established or if the child admits to them, the case will move to disposition. At disposition, the court may: conditionally discharge the case, order a period of probation supervision for the child, or order the child placed in the custody of the local social services department or the state Office of Children and Family Service for out-of-home placement in either a private group home or a state-operated facility. These orders are based in large part on the results of pre-dispositional investigations completed by local probation departments.

New York State has a total of 67 Family Courts, 127 full-time Family Court judges; 47 of these judges are in New York City while the rest of the state has 80. The total budget for Family Court is just under \$366 million per year.

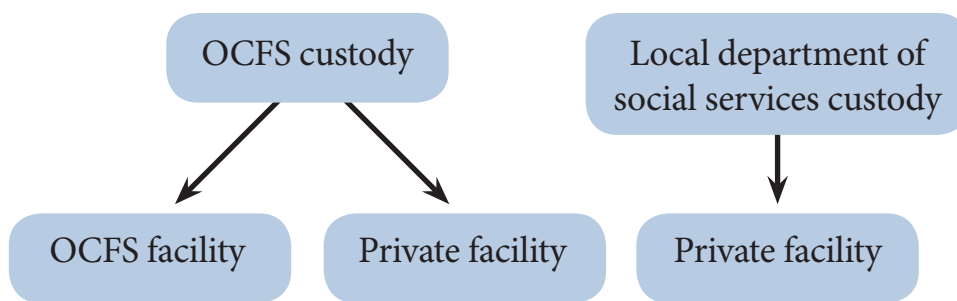
5. DISPOSITIONAL (SENTENCING) OPTIONS

The Family Court judge will determine if a child found to be delinquent will receive a conditional discharge, stay at home under a period of probation supervision, or if the child will be placed out of home. Approximately 5,500 youth are sentenced to a term of probation supervision annually. Terms of probation supervision can include following certain rules, such as curfew and school attendance, along with participation in mandated programs.

In 2009, approximately 1,500 youth were sentenced to out-of-home placement in the custody of the state Office of Children and Family Services (OCFS). Terms of placement can be up to 12 months for misdemeanor offenses and up to 18 months for felony offenses and can be extended by the Court upon their expiration. Once in OCFS custody, youth may be sent to either privately operated voluntary agencies or state operated non secure, limited secure or secure facilities. OCFS currently operates five secure facilities, six limited secure facilities, and 10 non secure facilities. The annual cost of care at OCFS facilities averages approximately \$266,000 per youth. The state covers half that cost of care while localities pay the remaining half. The state share of those costs for the 2010 – 2011 state fiscal year is nearly \$240 million. The cost of care for youth, placed in OCFS custody and housed in private facilities is difficult to determine, as it is born entirely by localities and paid for out of local foster care block grant funds.

A final group of youth are placed out of their homes in the custody of local departments of social services. Information about these youth is scarce, as their data is captured in the state’s foster care data system and it can be difficult to discern a delinquency placement from a foster care placement. Recent estimates show that there are approximately 730 youth placed in the custody of local social services departments as a result of delinquency adjudication annually. The total cost of care for this population is again born by localities and paid for out of local foster care block grant funds.

OUT OF HOME PLACEMENT OPTIONS



6. REENTRY

Reentry services for youth who have been confined away from their homes vary dramatically depending on where the youth were confined. Youth in OCFS custody and placed in OCFS operated facilities generally receive several months of aftercare upon release to the community. A series of meetings are held between intake into OCFS facilities and release back to the community to plan for reentry. These treatment team meetings include both facility based staff, a community service worker who will be the aftercare worker, and the youth and his or her family. Once released, youth are required to comply with a set of terms and conditions and they are often connected with an evidence-based treatment and/or community-based programs to build pro social community connections.

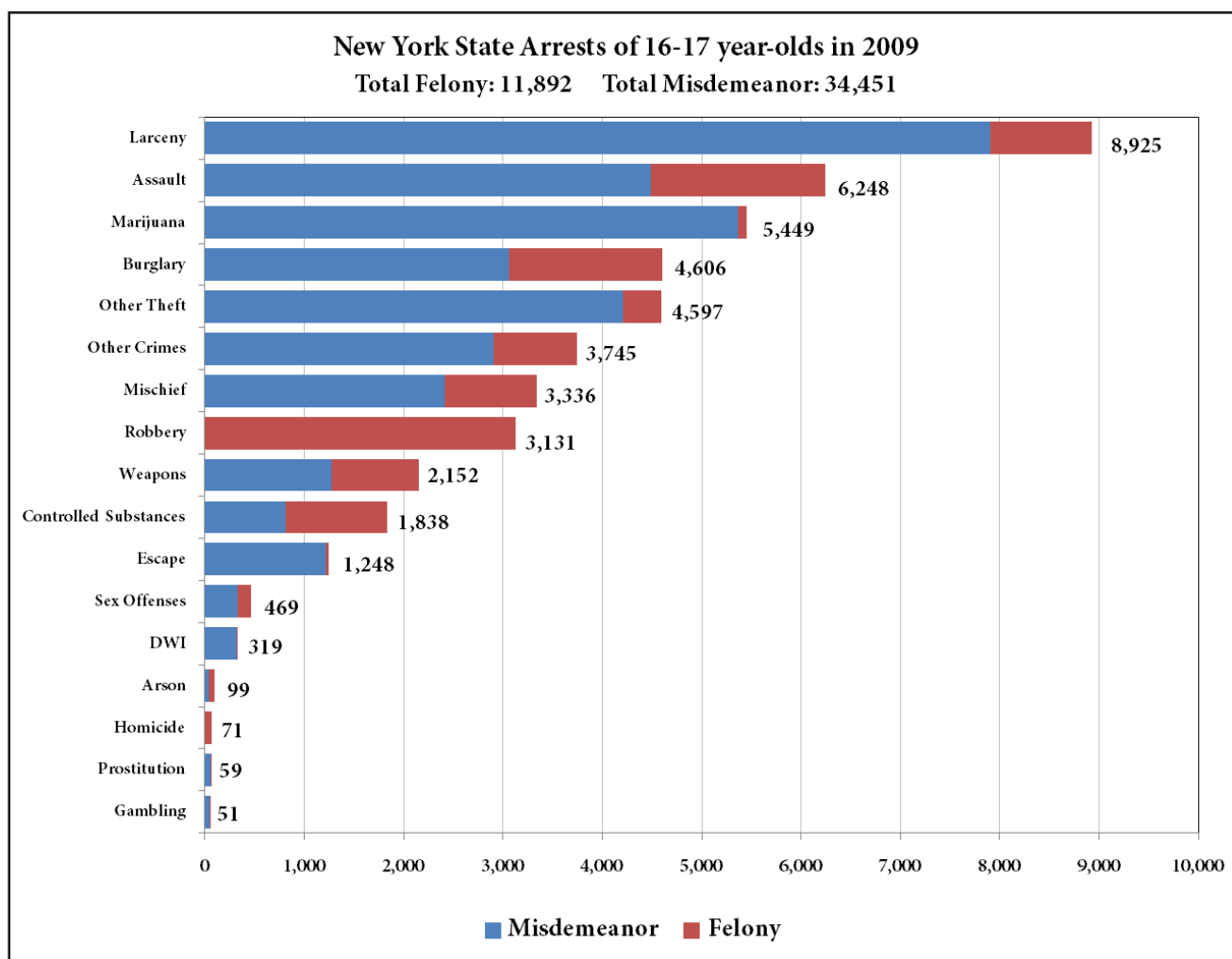
Youth who are placed in OCFS custody and confined in privately operated facilities receive a variety of aftercare services. In some cases, OCFS contracts with local service providers (sometimes probation) to provide aftercare services to these young people. In other cases, OCFS has begun to assume youth in their custody who are being released from private facilities onto its own aftercare caseload.

Finally, little is known about the extent or quality of aftercare services for youth who are placed in LDSS custody and who are confined in private facilities. There is no regulatory or contractual requirement that obligates private facilities to provide aftercare services. While some private facilities do provide aftercare services to youth at reentry, the absence of any oversight of those services leads to our total lack of information about them.

C. MINORS OUTSIDE OF THE JUVENILE JUSTICE SYSTEM

1. AGE OF CRIMINAL RESPONSIBILITY

Any youth who commits an offense at the age of 16 or 17 in New York State must be tried as an adult. Because New York's age of criminal responsibility is 16, there is no mechanism for handling any offense committed by a 16 or 17-year-old as a juvenile matter. New York and North Carolina are the only two states in the nation that handle all 16-year-olds as adults. In fact, the vast majority of states deem 16 and 17-year-olds to be part of their juvenile system, often with an option to transfer the most egregious crimes to adult court. In 2009, nearly 47,000 16 and 17-year-olds were arrested in New York.



2. JUVENILE OFFENDERS

New York State law is also structured to process certain 13, 14, and 15 year-olds as adults. Through the juvenile offender (JO) law, a child age 13, 14, or 15 who commits one of a number of enumerated offenses is charged, tried and convicted as an adult in criminal court as a JO. These youth will spend any time incarcerated in youth facilities (i.e. secure juvenile detention and secure OCFS facilities) while they are minors. They are represented by adult public defenders if they need appointed counsel and they return home on parole supervision if granted parole by the Parole Board or released to post release supervision after serving a determinate sentence.

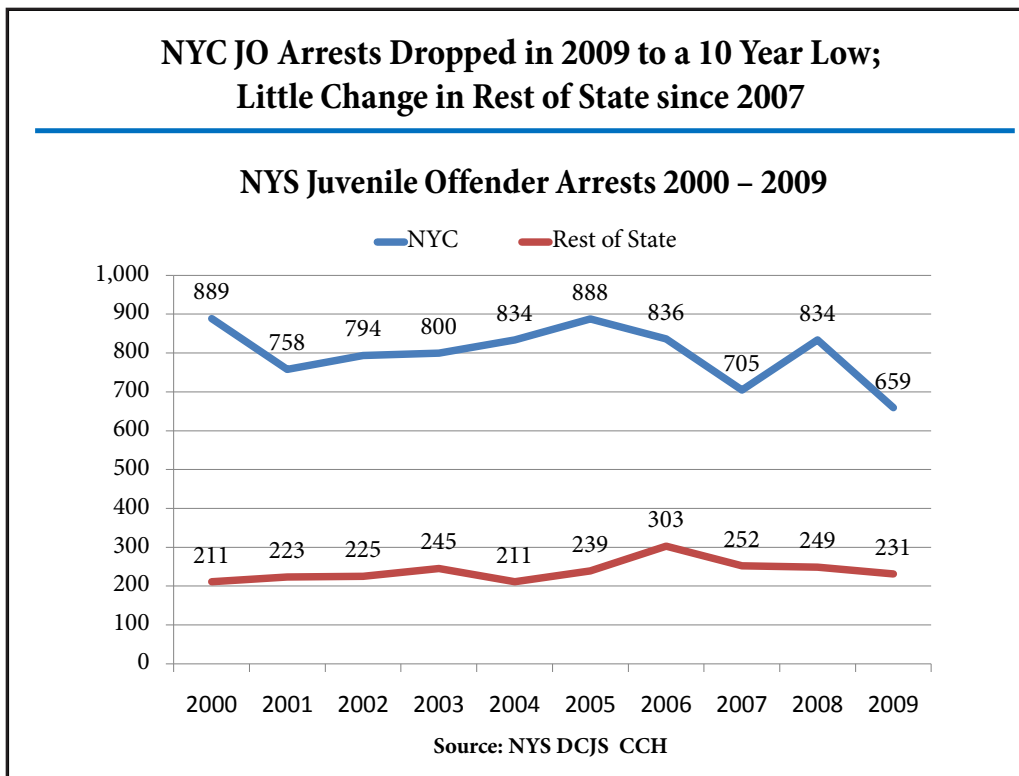
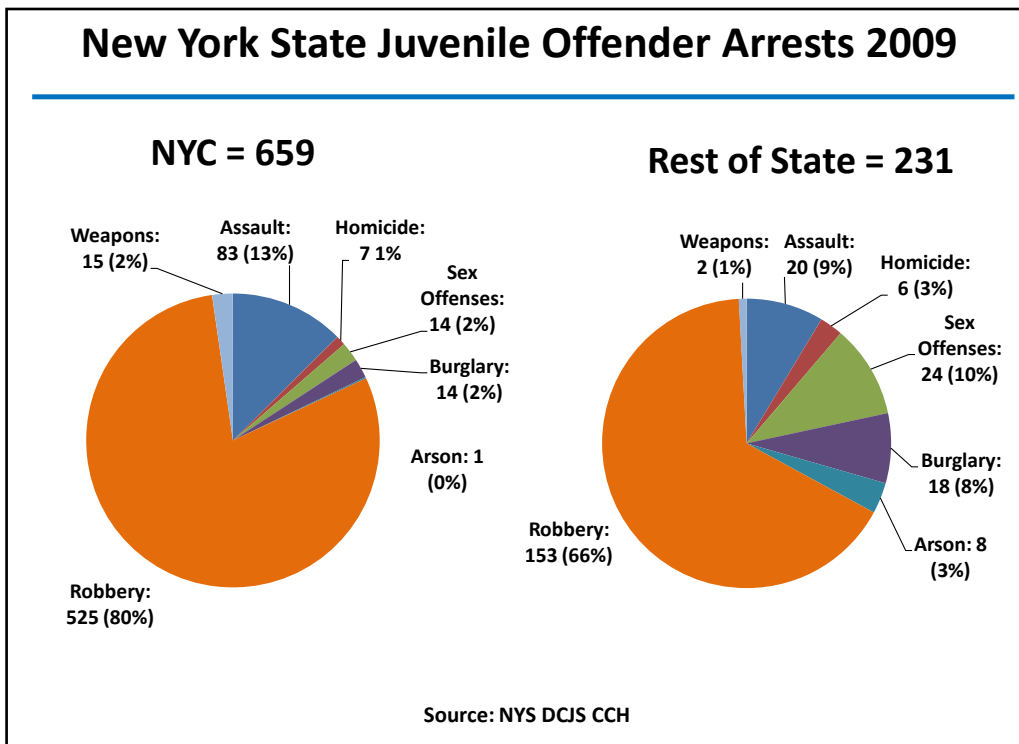
Youth who offend at age thirteen can be charged and tried as JO's for:

- murder in the second degree, or
- a sexually motivated felony

Youth who offend at ages fourteen or fifteen can be charged and tried as JO's for:

- murder in the second degree (including the felony murder provisions if the youth is criminally responsible for the underlying felony)
- kidnapping in the first degree
- arson in the first degree
- arson in the second degree
- assault in the first degree (only if the offense included the use of a deadly weapon or dangerous instrument or with intent to seriously and permanently disfigure the victim)
- manslaughter in the first degree
- rape in the first degree (excluding the statutory rape provisions)
- criminal sexual act in the first degree (excluding statutory rape provisions)
- aggravated sexual abuse in the first degree
- burglary in the first degree
- burglary in the second degree
- robbery in the first degree
- robbery in the second degree (if the offense involves causing physical injury or displaying what appears to be a firearm)
- criminal possession of a weapon in the second degree, where the firearm is possessed on school grounds
- attempted murder in the second degree
- attempted kidnapping in the first degree, or
- a sexually motivated felony

JUVENILE OFFENDER DATA



3. YOUTHFUL OFFENDERS (YO'S)

Most youth who have been convicted as Juvenile Offenders and youth ages 16, 17, and 18 who have been convicted in adult court are eligible to have their criminal convictions substituted with a Youthful Offender (YO) finding. Youth convicted of an A-I or an A-II felony, previously sentenced for a felony, previously adjudicated as a YO, or previously adjudicated as a JD for a designated felony are not eligible for YO status. In addition, youth convicted of an armed felony offense, rape in the first degree, criminal sexual act in the first degree, or aggravated sexual abuse must meet enhanced mitigating criteria to receive YO status. YO status must be granted to first time offenders convicted in local criminal court and may be granted to other youth after conviction if the court determines that the interests of justice would be served by granting the youth YO status. Upon granting YO status to a youth, the criminal conviction is vacated and all official records and papers on file with the court, a police agency, or the Division of Criminal Justice Services become confidential.

Age Reported	JOs	Non-JOs	Total
14	46		46
15	48		106
16		2529	2529
17		2935	2935
18		3009	3009

4. PERSONS IN NEED OF SUPERVISION

New York State law categorizes youth who engage in activity that would not be criminal for an adult, but is problematic because someone is a child, as Persons In Need of Supervision (PINS). Also known as status offenders, PINS processes are controlled by statute found in Family Court Act, Article 7. That law defines a PINS as a person under the age of 18 who does not attend school as legally required; who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of a parent; or who has unlawfully possessed marijuana, or engaged in prostitution or loitering for the purpose of engaging in prostitution. PINS youth can be processed in Family Court only after participating in mandatory PINS diversion efforts. They cannot be detained in adult facilities or in secure juvenile detention or placement facilities. They can be placed outside of their homes in private, non-secure facilities.

On April 1, 2005 reforms to the PINS law were enacted which require each county to provide mandatory diversion services and alternatives to detention to youth at risk of being petitioned to Family Court as a PINS. Diversion services, including intake, may now be provided by the local social services district, probation, and/or contract providers.

Diversion services are services provided to children and families for the purpose of avoiding the need to file a petition or direct the detention of the child. Diversion services must include efforts to adjust cases before a court case is begun or any court finding is made and preventive services to avoid placement in foster care, including crisis intervention and respite services. There are no time limits for the provision of diversion services. All services are provided to youths up to age 18 and in all PINS defined cases.

A PINS case can only move from diversion services to a formal court case if the following steps have been taken and documented in the case record:

- 1) Risks and needs are identified (in the 57 counties outside of New York City this is done through YASI);
- 2) Services are targeted to reduce the risks and address the needs; and
- 3) There is no substantial likelihood of benefit from continuation of such services.

In addition, school districts must document the steps taken to improve school attendance or the conduct of the youth if the district is pursuing the PINS case.

If a PINS petition is filed after failed attempts at diversion, the court holds a fact finding and dispositional hearing. If the child is found to be a PINS, the court can order:

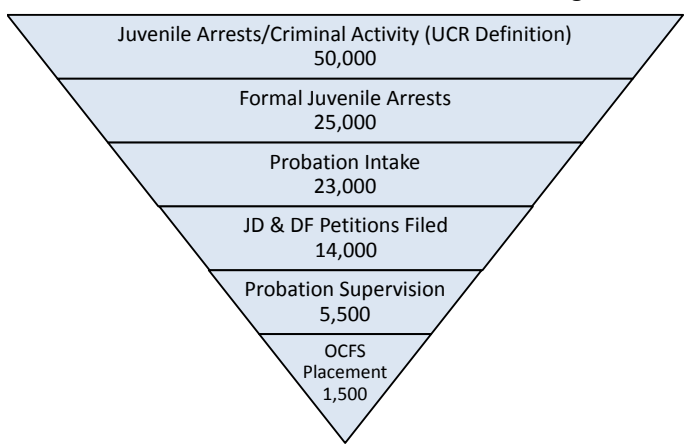
- Discharge with Warning
- Suspended Judgment
- Placement (in private, non secure settings)
- Probation
- Order of Protection

Data collected by DCJS Office of Probation and Correctional Alternatives (OPCA) indicates that in 2008 (the last year complete data is available) there were 10,256 PINS complaints filed at the 36 counties where probation is the designated Lead Agency. Of these, only 13% were referred immediately for petition. During diversion services, an additional 12% were deemed unsuccessful and referred to petition. That is a total of only 25% of PINS complaints being referred to petition in Family Court-- in contrast to the 40% JD referral rate for upstate and the 65% JD referral rate in New York City.

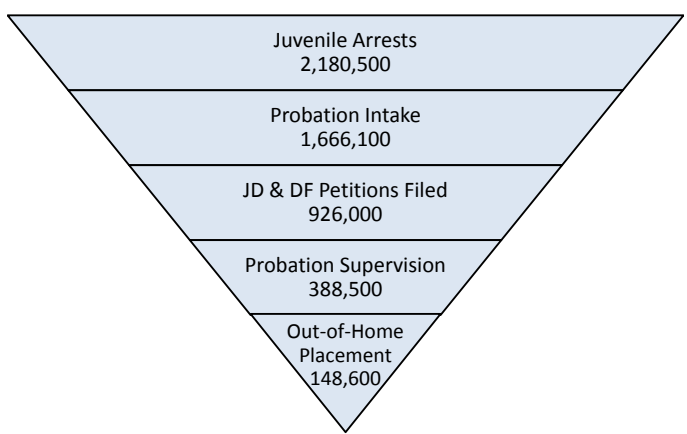
A. JUVENILE JUSTICE DATA

JUVENILE JUSTICE PROCESSING ESTIMATES

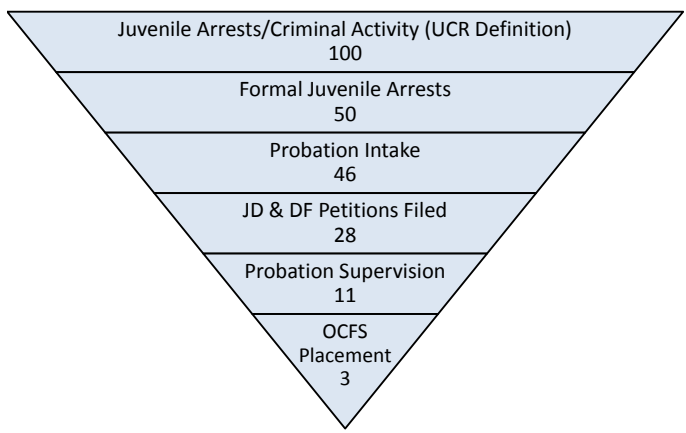
NYS Estimates of Juvenile Justice Processing



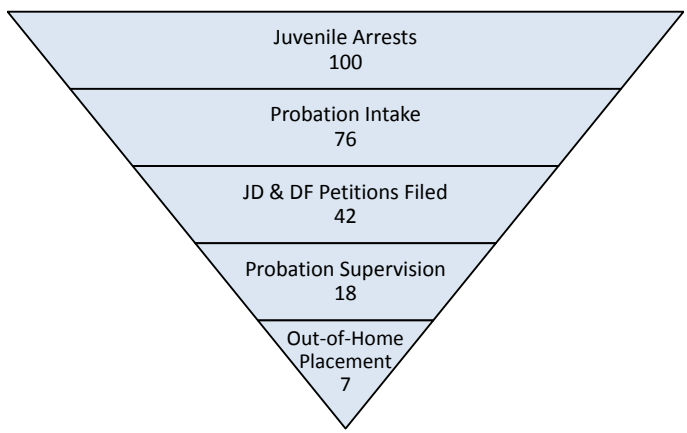
National Estimates of Juvenile Justice Processing



NYS Estimates of Juvenile Justice Processing



National Estimates of Juvenile Justice Processing



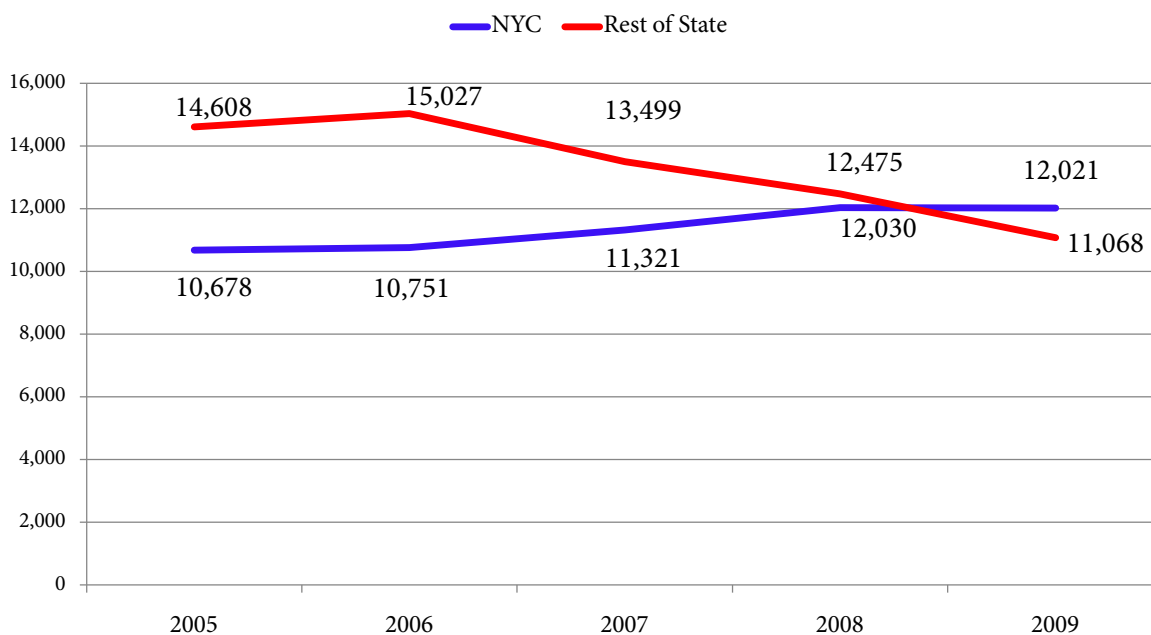
JUVENILE DELINQUENCY ARRESTS

Because of limitations on the fingerprinting of juveniles, comprehensive juvenile arrest data is not available.

PROBATION INTAKE

Juvenile Probation Intake Cases Increased (+13%) in NYC since 2005; Declined (-26%) in Rest of State since 2006

NYS Juvenile Probation Intake Cases Opened

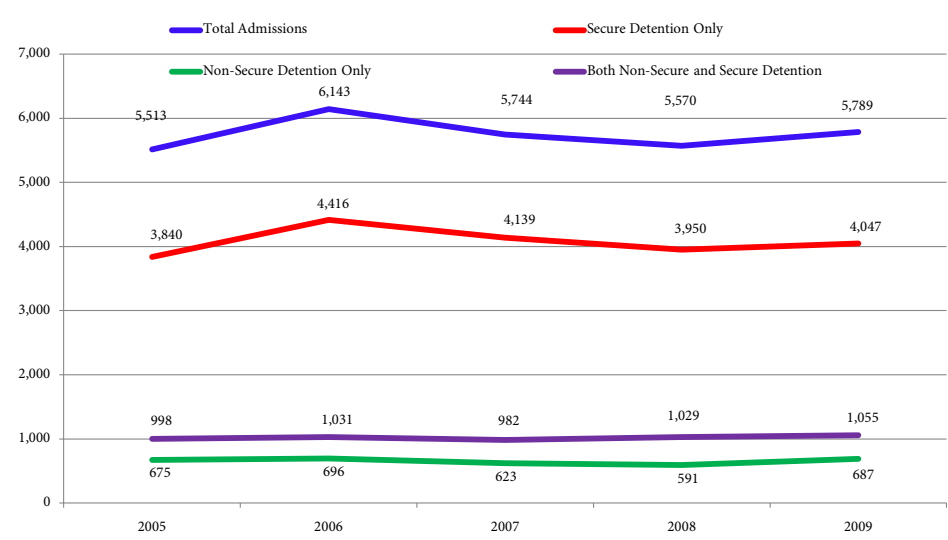


Source: NYS DCJS OPCA PWS. Includes Juvenile Delinquent and Designated Felony Cases.

DETENTION ADMISSIONS

NYC Detention Admissions Declined in 2008, then Increased (+4%) in 2009. Most NYC Detention Admissions are Secure Only

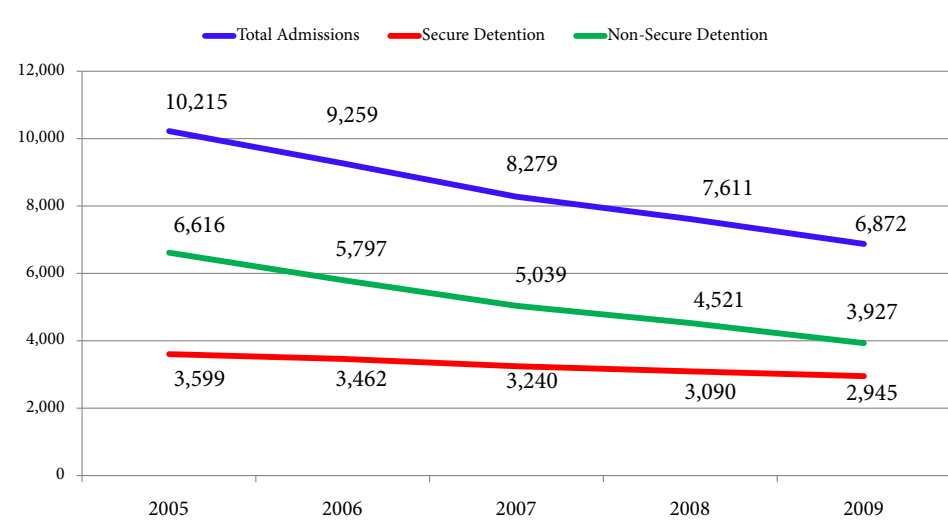
NYC Juvenile Detention Admissions and Utilization



Source: NYC DJJ. One admission counted per youth per incident, even if youth is moved between facilities. Not comparable to Rest of State admission counts reported by OCFS. Includes Juvenile Delinquent and Designated Felony Cases.

Detention Admissions in Rest of State Declined (-33%) since 2005, Driven by a Decrease (-41%) in Non-secure Admissions

Rest of State Juvenile Detention Admissions and Utilization



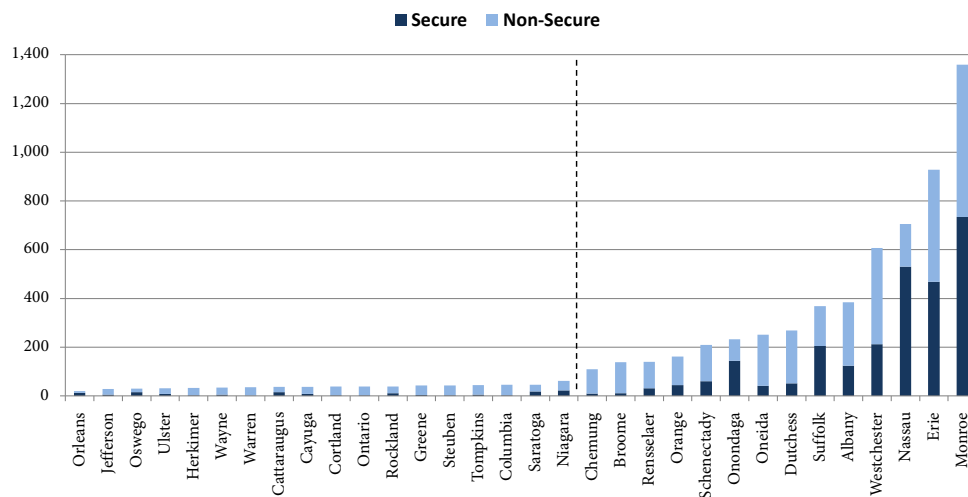
Source: NYS OCFS. A youth can have multiple detention admissions for a single incident. Not comparable to data reported by NYC, which counts one admission per incident. Includes Juvenile Delinquent and Designated Felony Cases.

DETENTION ADMISSIONS

14 Counties Accounted for 87% of Detention Admissions Outside New York City; County Detail for NYC Not Available

Rest of State Juvenile Detention Admissions and Utilization 2009

Secure = 2,945 Non-Secure = 3,927

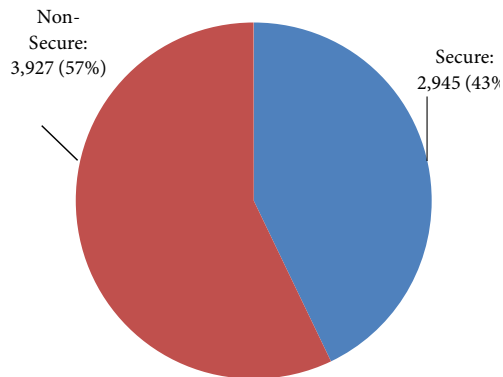
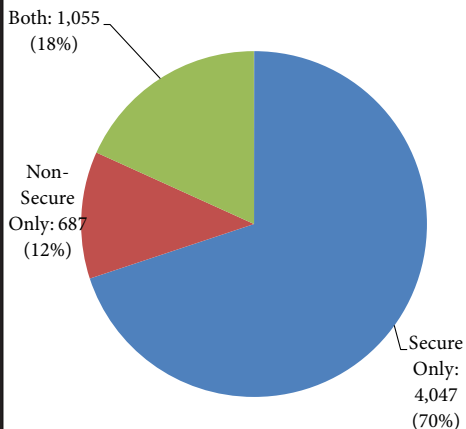


Source: NYS OCFS. The 25 counties not shown detained fewer than 20 juveniles.

New York State Juvenile Detention Admissions 2009

NYC = 5,789

Rest of State = 6,872

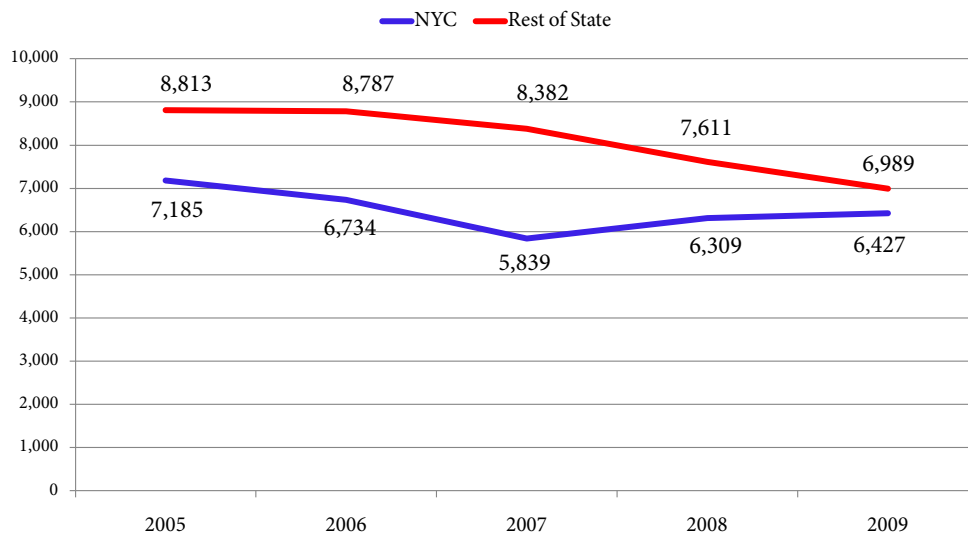


Source: NYC DJJ and NYS OCFS, NYC and ROS use different reporting methods and admission numbers are not comparable.

COURT FILINGS

NYC Court Filings Declined 2005-2007, then Increased (+10%) from 2007-2009; Rest of State Declined (-21%) Since 2005

NYS Juvenile Family Court Filings

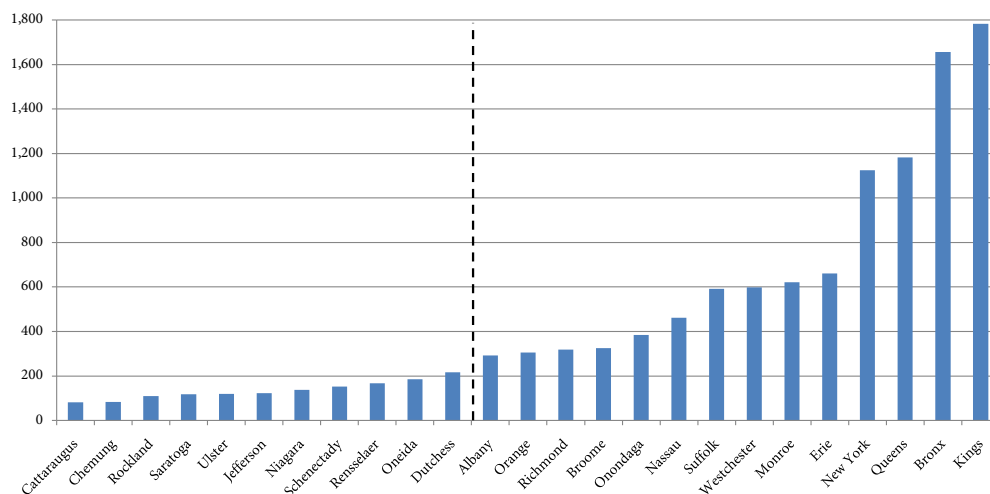


Source: NYS Unified Court System OCA. Includes Original Juvenile Delinquent and Designated Felony cases.

14 Counties Accounted for 79% of Family Court Filings in 2009

NYS Juvenile Family Court Filings 2009

NYS Total = 13,053

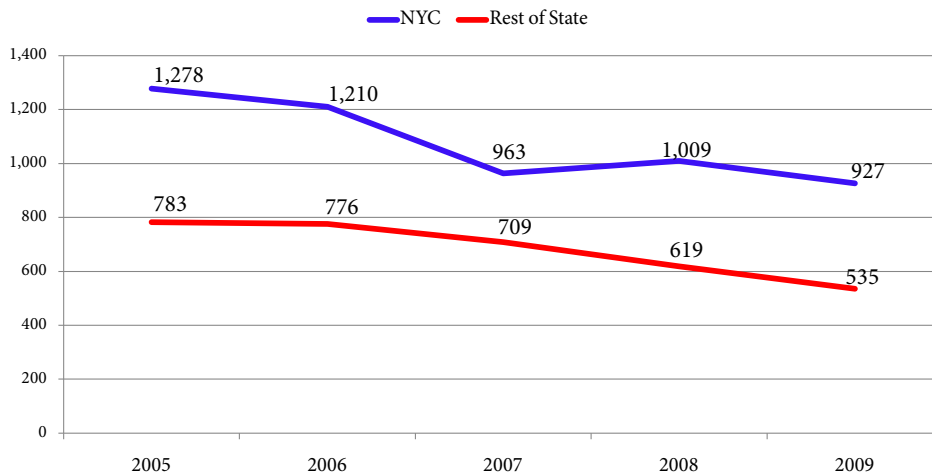


Source: NYS OCFS. Includes original case filings of Juvenile Delinquent and Designated Felony petitions. The 37 counties not shown filed fewer than 80 juvenile petitions.

OCFS CUSTODY ADMISSIONS

Total OCFS Custody Admissions Declined (-29%) Since 2005; NYC (-27%) and Rest of State (-32%) Both Declined

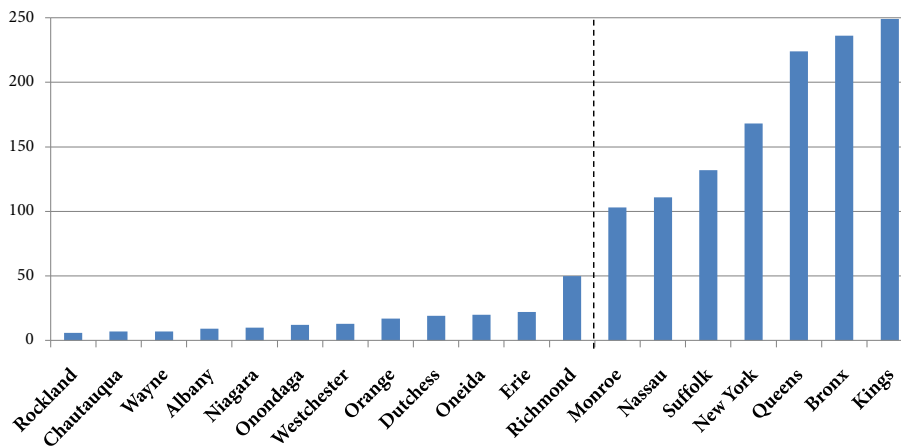
NYS Juvenile Admissions to OCFS Custody (Out-of-Home Placement)



Source: NYS OCFS. Does not include custody placements to County Department of Social Services.

Seven Counties Accounted for 84% of 2009 OCFS Admissions

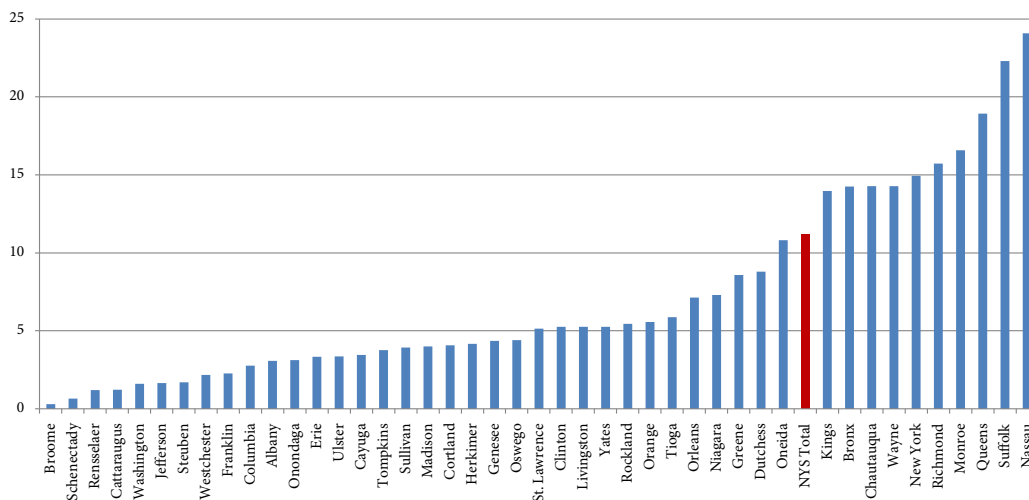
NYS Juvenile Admissions to OCFS Custody 2009
NYS Total - 1,462



Source: NYS OCFS. The 43 counties not shown admitted 4 or fewer juveniles.

Rate of OCFS Custody Admissions per 100 Family Court Filings Varies; State Average is 11.2 Admissions per 100 Filings

NYS Juvenile Admissions to OCFS Custody 2009
Rates per 100 Juvenile Family Court Filings

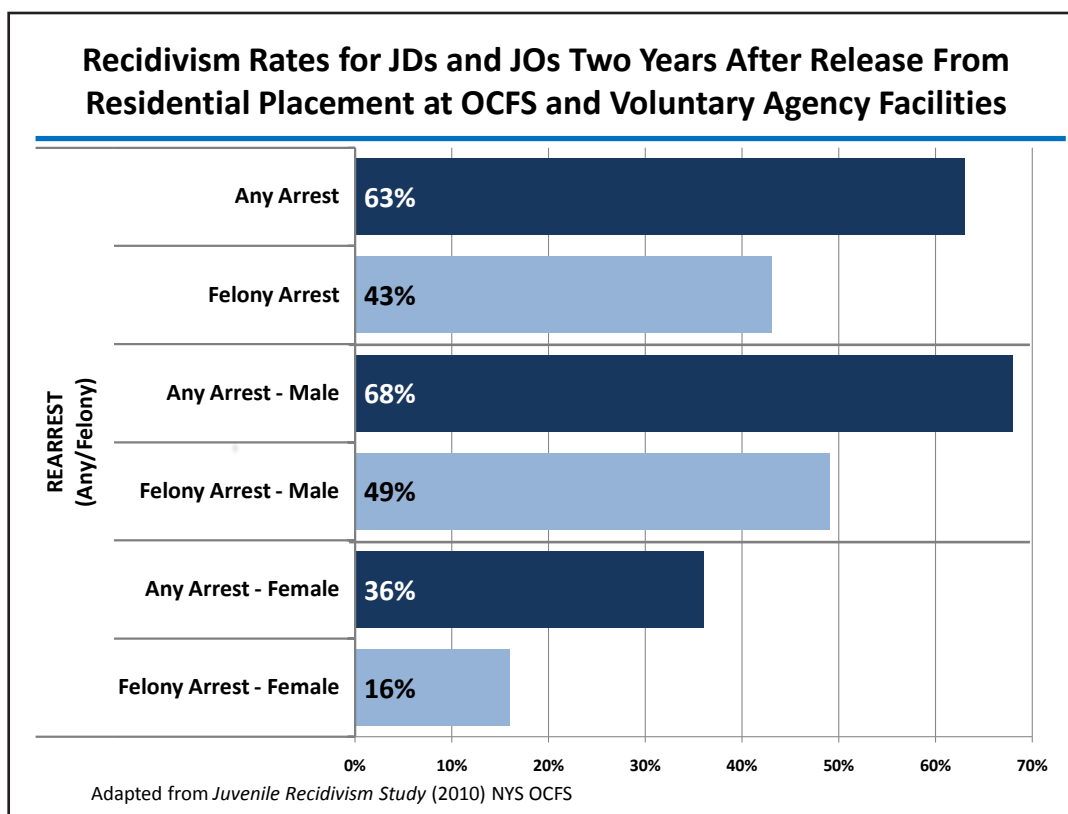


Source: NYS OCFS. The 18 counties not shown had zero admissions or fewer than 10 filings.

Seven Counties Where State Trends Can Be Affected

County	2009 OCA Filings	2009 OCA Filings Percent of Total	2009 OCFS Custody Admissions	2009 OCFS Custody Admissions Percent of Total	2009 OCFS Custody Rate Per 100 OCA Filings
Bronx	1,656	12.7%	236	16.1%	14.3
Kings	1,783	13.7%	249	17.0%	14.0
Monroe	621	4.8%	103	7.0%	16.6
Nassau	461	3.5%	111	7.6%	24.1
New York	1,124	8.6%	168	11.5%	14.9
Queens	1,183	9.1%	224	15.3%	18.9
Suffolk	592	4.5%	132	9.0%	22.3
Subtotal	7,420	56.8%	1,223	83.7%	16.5
NYS Total	13,053	100%	1,462	100%	11.2

TWO-YEAR RECIDIVISM RATES



LONG-TERM RECIDIVISM RATES

Adult Criminal Involvement Age 16 - 28 For Youth Exiting OCFS Custody

Outcome	Boys	Girls
Any Arrest	89%	81%
Any Conviction	85%	69%
Felony Arrest	83%	63%
Felony Conviction	67%	25%
Incarceration	72%	33%
Jail	56%	28%
NYS Prison	52%	12%

OTHER OUTCOMES: ADULT PERPETRATION OF CHILD MALTREATMENT BY YOUTH DISCHARGED FROM OCFS CUSTODY

Adult Perpetration of Child Maltreatment Age 16-28

	Boys	Girls
Alleged Perpetrator	17%	64%
Neglect	16%	59%
Physical	5%	24%
Sexual	2%	6%
Confirmed Perpetrator	9%	42%
Neglect	8%	38%
Physical	2%	9%
Sexual	.8%	1%

B. CONDITIONS OF CONFINEMENT

DEPARTMENT OF JUSTICE FINDINGS SUMMARY

Throughout the summer and fall of 2008, the Department of Justice (DOJ) Civil Rights Division conducted investigations at four Office of Children and Family Services (OCFS) residential facilities in New York State to assess whether youth were adequately protected from harm and to review allegations of both sexual misconduct and inappropriate use of restraints. After the first round of site visits, the scope of the investigation was widened to include a review of mental health services. Investigations of the four facilities included formal site visits, review of documentation including policies and procedures, incident reports, and mental health records, observation of daily life, and interviews with staff and residents.

In a letter released in August of 2009, the Department of Justice revealed that while appropriate protective measures had been taken in response to allegations of sexual misconduct, conditions at the four facilities “violate constitutional standards in the areas of protection from harm and mental health care.”¹ The letter is quite graphic in nature, describing in detail multiple episodes of improper force resulting in physical injury and the mismanagement of mental illness issues.

Findings concerning a systemic failure to protect residents from harm highlighted the use of excessive force and inappropriate restraints, an agency-wide failure to appropriately investigate allegations of improper use of force, and a “failure to take corrective action against staff.”² Throughout the investigatory period, DOJ discovered that physical restraints were utilized for minor infractions such as sneaking an extra cookie at snack time or refusing to dress without first taking a shower. Analysis of official records revealed that the use of restraints led to serious injuries for multiple youths including “concussions, broken or knocked-out teeth, and spiral fractures.”³ According to the DOJ report, the use of restraints had become the “standard for controlling behavior at all four facilities.”⁴

Following such incidents, investigations into the use of force were improperly handled. In many cases, relevant evidence was ignored, proper procedures weren’t followed, and objective reviewers weren’t utilized. For example, it was reported that employees investigated allegations of improper force against their direct supervisors. If an investigation led to a finding of improper use of force, the involved staff person was rarely subject to disciplinary action.

Residents with mental health diagnoses were found to be the most susceptible to improper use of force. The DOJ reports that this vulnerability is directly linked to insufficient mental health services at OCFS facilities and that unsatisfactory employee training led to more frequent restraints for youth with mental illness than those without. Further, the DOJ found inadequate communication systems, behavior management practices that fell below generally accepted standards, improper administration of mental illness related medications, insufficient treatment planning, and deficient substance abuse treatment programs. Many residents received multiple diagnoses, were administered inappropriate medications, and did not have a clear treatment plan. A lack of access to accurate diagnoses and detailed treatment plans, combined with insufficient training in working with mentally ill youth, contributed to the maltreatment of youth with mental illness. Staff were ill prepared to utilize any other tactics beyond physical holds in the event of a mental health crisis.

DEPARTMENT OF JUSTICE SETTLEMENT SUMMARY

On July 14, 2010, a settlement agreement was filed between the DOJ and the State of New York responding to previous allegations of misconduct. In order to comply with the agreement, the state must improve or create better systems to ensure protection from harm and access to mental health care. The document also outlines compliance monitoring, enforcement, and termination. The agreement between the DOJ and the state is expected to last approximately 60 months, but can be terminated early if the state is in full compliance with all provisions for 12 consecutive months.

Protection from Harm

OCFS must ensure that policy regarding the use of physical restraints clearly limits their use to situations when a risk to personal safety exists, a youth is attempting to escape the facility, or the safety and order of the facility are threatened. If physical restraints or force are used, the minimum amount of force necessary should be utilized. The use of psychotropic medications or chemical agents, such as pepper spray, as restraint mechanisms is prohibited. All allegations of use of force, neglect and improper use of restraints must be properly documented, investigated, and addressed by OCFS in a manner that protects the confidentiality of the complaining youth. Investigations will be conducted by neutral third parties without interest in the outcome. Agency staff shall receive training regarding safety, health, and conflict resolution strategies.

Mental Health Care and Treatment

Each youth who enters an OCFS facility shall be evaluated promptly. Any indication of mental health issues will be followed up by an immediate referral to a mental health professional. A diagnosis will be determined and a treatment plan developed. Treatment plans will be communicated to direct care staff, and youth will be made aware of the consequences of non-compliance. The settlement also outlines the information necessary within each evaluation and treatment plan. The use of psychotropic drugs is limited; guidelines for managing medication refusal and prescription notification are outlined. Management of mental health crises is addressed, including a mandate to have mental health professionals available for response 24 hours a day. Treatment and transition planning are mandated, as is access to substance abuse treatment and increased staff training.

Document Development and Quality Assurance

The state will submit revised or new documents such as “screening tools, handbooks, manuals, and forms” that illustrate compliance with the settlement. Quality assurance programs shall be implemented to ensure that each named facility is enacting required changes.

Implementation and Monitoring

The state will hire a monitoring team consisting of two independent reviewers; one an expert in protection from harm, the other in mental health services. The monitoring team will have complete access to all records and facilities; bi-annual compliance reviews will be conducted. A Settlement Agreement Coordinator will be appointed to oversee compliance efforts and report to both the monitoring team and the DOJ. Specific deadlines are outlined for various aspects of implementation.

LEGAL AID LAWSUIT SUMMARY

In December of 2009, the Legal Aid Society filed a class action suit on behalf of nine plaintiffs who have or are currently residing in OCFS-operated facilities. Citing previous findings of the DOJ and the Governor's Task Force on Transforming Juvenile Justice, as well as the personal experiences of the nine plaintiffs, the lawsuit asserts that violations of the Fourteenth Amendment of the Constitution, the Rehabilitation Act, and the Americans with Disabilities Act (ADA) have repeatedly occurred within OCFS-operated facilities. Specifically the lawsuit alleges that physical restraints are used liberally and without adequate cause resulting in significant physical injury. Residents with mental illnesses are particularly vulnerable, and, the lawsuit alleges, more likely to be targeted by OCFS staff members who aren't appropriately trained to manage the needs of youth with mental illnesses. It is further alleged that the deprivation of "legally-required mental health services while in OCFS custody," as well as inadequate staff training, lead to a "pattern and practice of unconstitutional and excessive force by employees of OCFS."

The lawsuit asserts that Commissioner Carrión is aware of these allegations and has failed to remedy the situation, instead, acting with "deliberate indifference to the serious medical needs of children in her custody," thereby violating their constitutional protections. Further, because of her failure to provide adequate mental health screening and treatment, Commissioner Carrión is accused of discriminating against youth with mental illness on the basis of their disability and in violation of the ADA.

The lawsuit asserts that, although official OCFS policy limits the use of physical restraints, it leaves ultimate discretion to the individual employee, which often results in the misuse of physical force. In particular, staff members habitually ignore the mandate to only utilize a restraint after attempting other non-physical techniques, relying instead on physical restraint as the first resort tactic to control a youth's behavior. Although violations of OCFS's restraint policy have been well-documented, OCFS is criticized for failing to appropriately amend and enforce the policy.

The experiences of each of the nine plaintiffs are provided to support the accusations within the lawsuit. It is alleged that all of the plaintiffs suffer from mental illness and have endured physical restraints while residing in OCFS. Most report limited or no access to mental health services, even after requesting such services or threatening suicide. In a particularly brutal account, a sixteen-year-old boy reports suffering an untreated broken arm; when he asked for medical assistance and was refused, he tried to leave the room to find a nurse. An OCFS staff member physically restrained him by bending the broken arm behind his back. The following day the boy reports that the same staff member struck him twice in the face, pushed him to the ground, and again bent his broken arm behind his back.

Psychological, emotional, and physical harm against the plaintiffs and class members are alleged in the lawsuit. As a result, Legal Aid Society attorneys request that an official declaration of the constitutional violations under Commissioner Carrión's care be released, that OCFS policy be appropriately amended, that compliance to such policy be vigorously monitored, that OCFS staff be trained to work with youths with mental illnesses, that adequate mental health treatment and screening be provided to youth in OCFS custody, and that compensatory and punitive damages be awarded to the named plaintiffs.

GOVERNOR PATERSON'S TASK FORCE ON THE TRANSFORMATION OF THE JUVENILE JUSTICE SYSTEM

In September of 2008, Governor Paterson convened the Task Force on Transforming Juvenile Justice in New York State. In the wake of the 2009 Department of Justice findings, Paterson commissioned the Task Force to study post-adjudication placement of youth. In December of that same year, the Task Force published their results in "Charting a New Course." Revolving around the central tenet that placement should be the option of last resort, the report outlined a 20-point plan for improving the juvenile justice system.

Reducing the number of youth in placement, keeping those that are in placement safe, and reducing disproportionate minority contact were offered as fundamental reforms with profound impacts on the entire system.

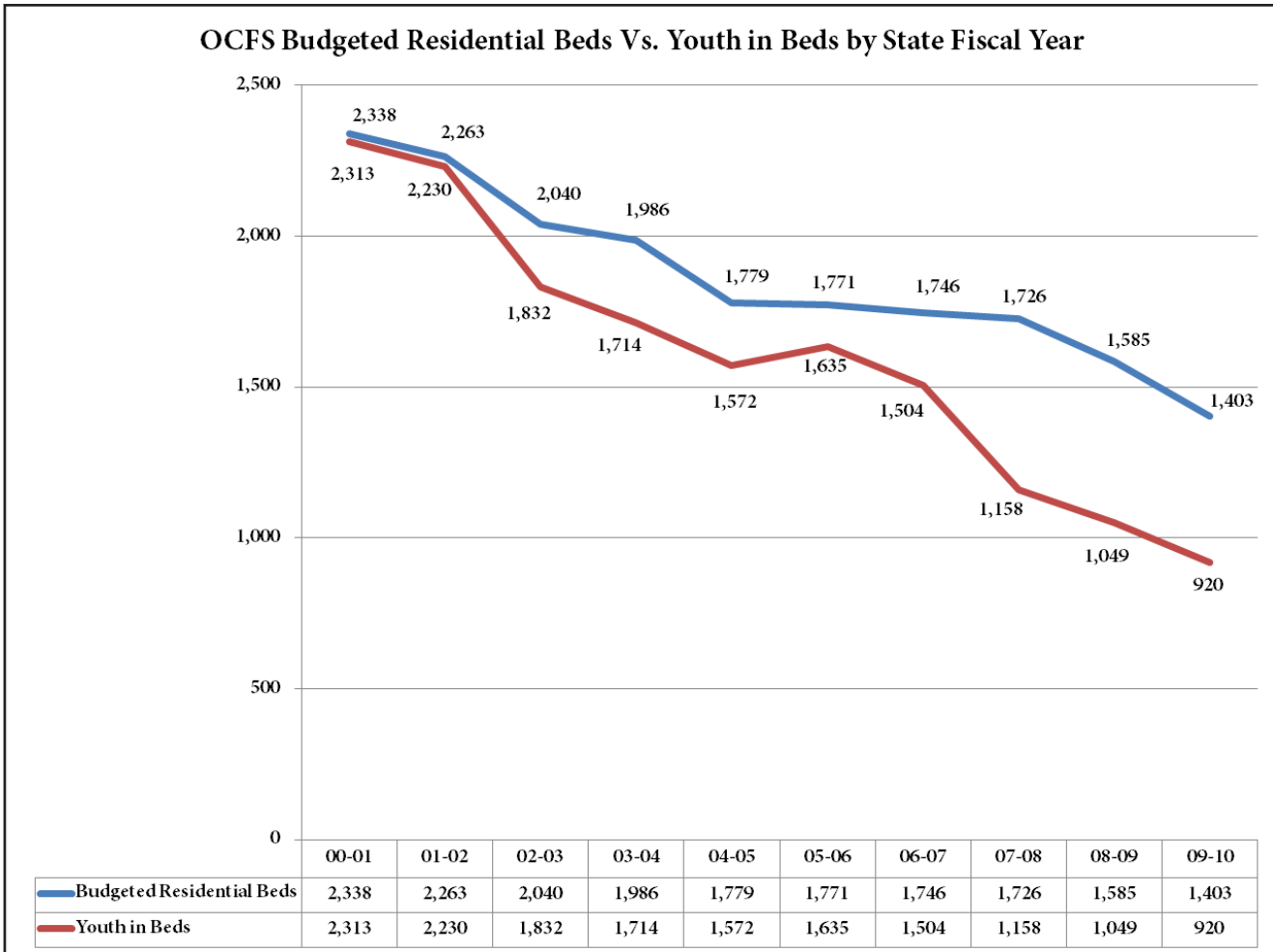
More specific recommendations centered around increasing the use of community-based services, examining and amending current policies and procedures that drive placement decisions, supporting reentry, and creating system accountability.

TASK FORCE RECOMMENDATIONS AND STRATEGIES

1. The Fundamentals of Reform
 - Reduce the use of institutional placement, downsize or close underutilized facilities, and reinvest in communities.
 - Reduce disproportionate representation of youth of color in institutional placement.
 - Ensure that New York State operates a unified and cohesive system of care that keeps all youth in its custody safe, whether in private or state-operated facilities.
2. Keeping More Kids at Home: A Shift to Community-based Services
 - Reserve institutional placement for youth who pose a significant risk to public safety, and ensure that no youth is placed in a facility because of social service needs.
 - Develop and expand community-based alternatives to institutional placement.
 - Redirect cost savings into neighborhoods that are home to the highest number of youth in the juvenile justice system.
3. Rethinking Institutional Placement
 - Place youth close to home.
 - Develop a standard process to accurately assess a youth's risk and needs.
 - Require all facilities' culture and physical environments to be conducive to positive youth development and rehabilitation.
 - Fund and provide services and programs, including education and mental health treatment, which prepare youth for release.
 - Support and invest in staff.
 - Provide localities with equal reimbursements for youth who are placed in OCFS-custody, regardless of the type of facility.
4. Ensuring Successful Reentry
 - Limit the amount of time youth spend in institutional facilities.
 - Begin reentry planning and preparation at the time of disposition, and actively engage different stakeholders in this process.
 - Ensure that reentry plans are individualized and provide for seamless, well-supported transitions from facilities back to the community.
5. Creating System Accountability and Transparency
 - Improve and expand the use of data and other performance measures to guide decision making, enhance accountability, and drive system improvement.
 - Track and report disproportionate representation of youth of color at every system point.
 - Ensure that allegations of abuse and staff misconduct in facilities are thoroughly investigated and handled appropriately.
 - Establish and fund an independent, external oversight body to monitor and report OCFS's juvenile justice policies and practices.
 - Provide regular progress reports on the status of implementing the Task Force's recommendations.

C. PLACEMENT TRENDS AND COST IMPLICATIONS

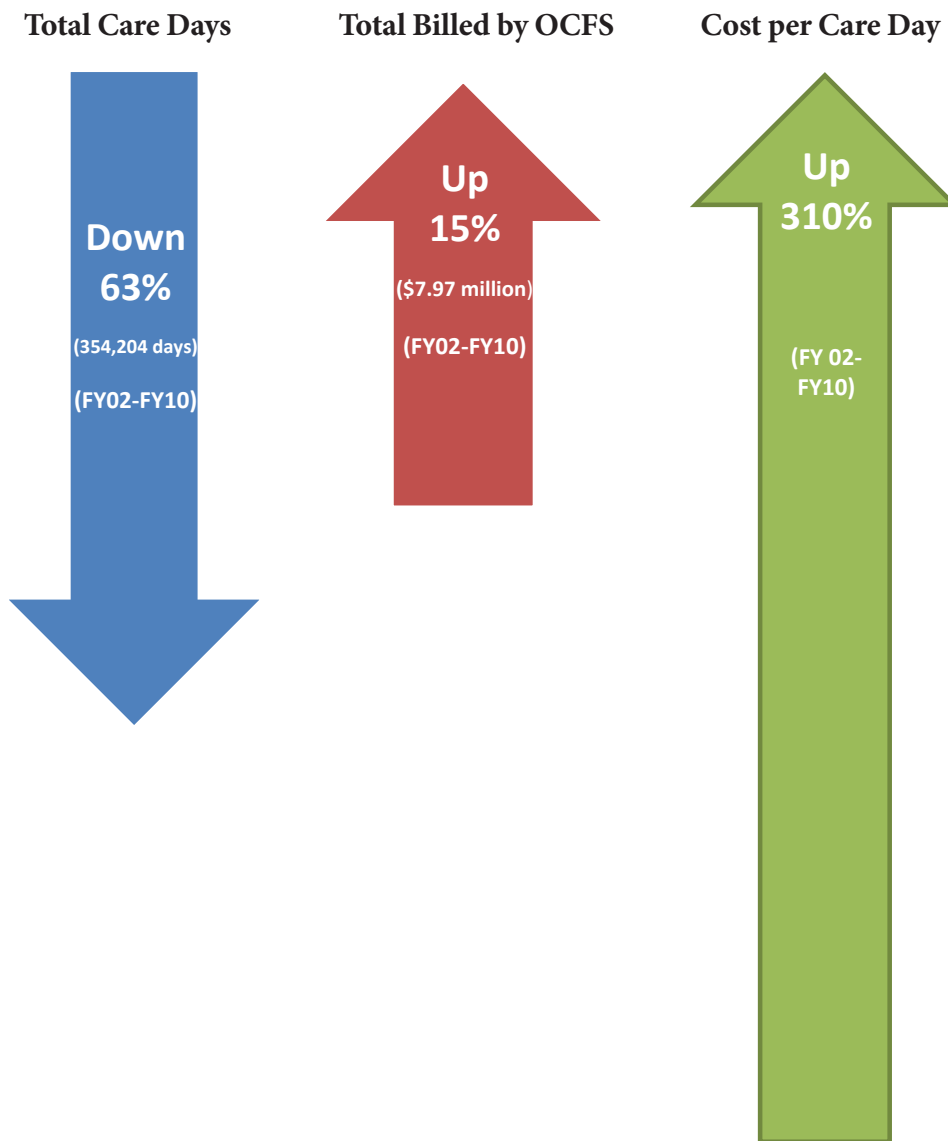
Over the last ten years, the number of youth placed in OCFS custody and the number of beds operated by OCFS have declined as shown in the chart below. However, reduction in bed capacity has not matched declines in population.



AN EXAMPLE OF EFFECT ON LOCALITIES

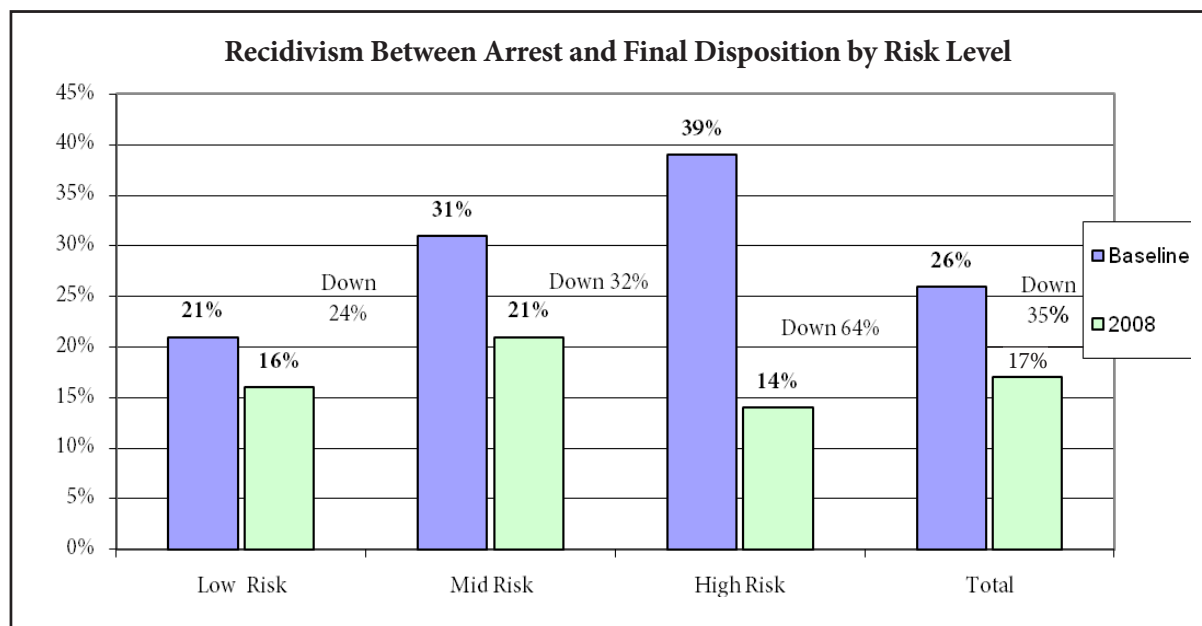
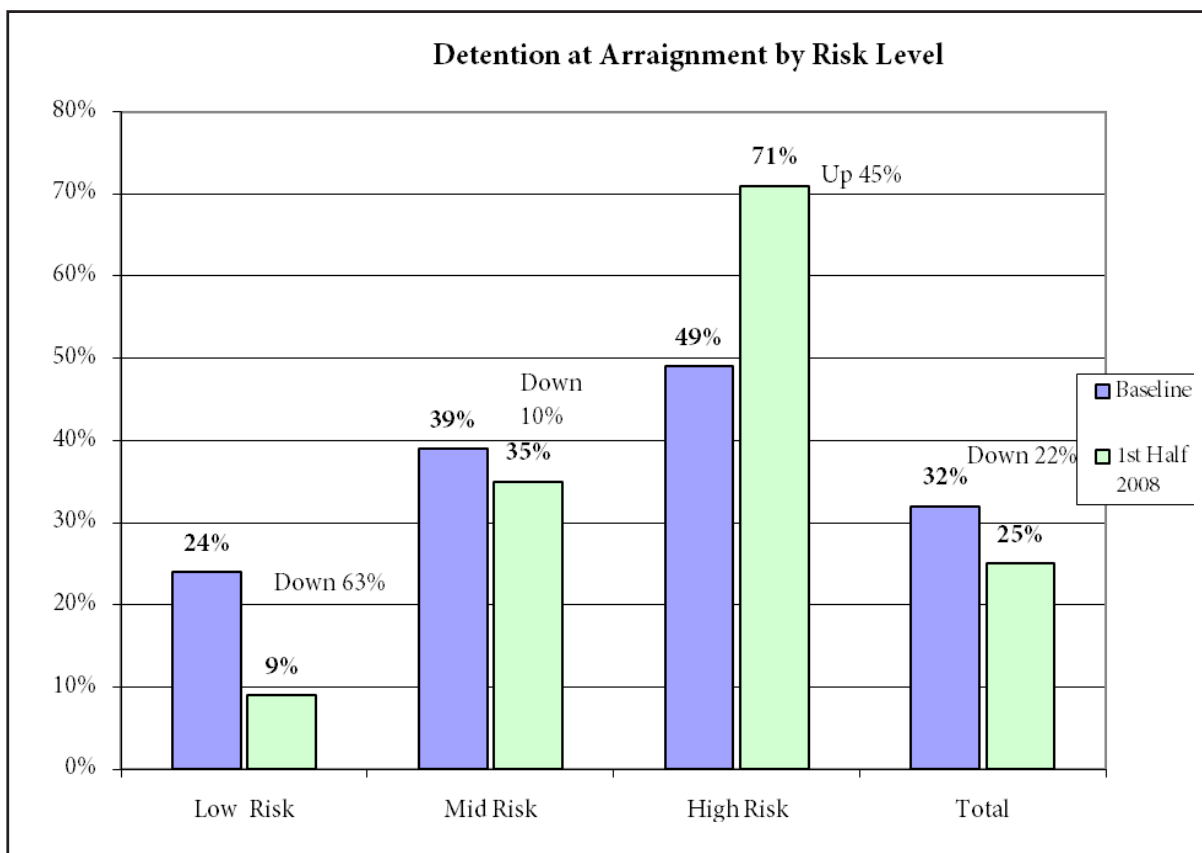
Despite these substantial downward trends, New York City's own analysis shows the cost of care has risen, as shown in the following analysis of the connection between the number of care days in state custody for youth from New York City and the cost of care for those youth.

NYC Costs for OCFS Placement Increased as Care Days Decreased



A. USE OF RESEARCH-INFORMED TOOLS AND RESOURCE ORGANIZATION

New York City's implementation of a risk assessment instrument to provide objective information regarding short-term risk of reoffense and failure to appear coupled with the implementation of an array of alternative to detention programs across the five boroughs has led to the following changes in detention practices and in recidivism pending court outcomes:



B. SYSTEM REORGANIZATION

The following reform efforts from across the country provide promising models for reform that successfully align fiscal incentives to support effective juvenile justice policy.

REALIGNMENT CALIFORNIA

WHAT IS IT?

In 1996, the California legislature passed SB 681, creating a sliding scale in which the state charged the counties higher fees for incarcerating lower level offenders. Before SB 681, counties were paying only \$25 per month per youth committed to the state system.⁵ This legislation reversed the skewed incentive system that provided cheap and unlimited access to state institutions for counties, while it left the entire burden of funding community based programs on those same counties.

In 2007, the state enacted broader realignment when the legislature passed, and Governor Schwarzenegger signed, SB 81. This legislation limited the use of state placement to the most violent offenders and sex offenders, prohibited non-violent youthful offenders from being committed to the state system, and provided funding to the counties to operate secure and non-secure alternatives in lieu of state commitment of such youth.

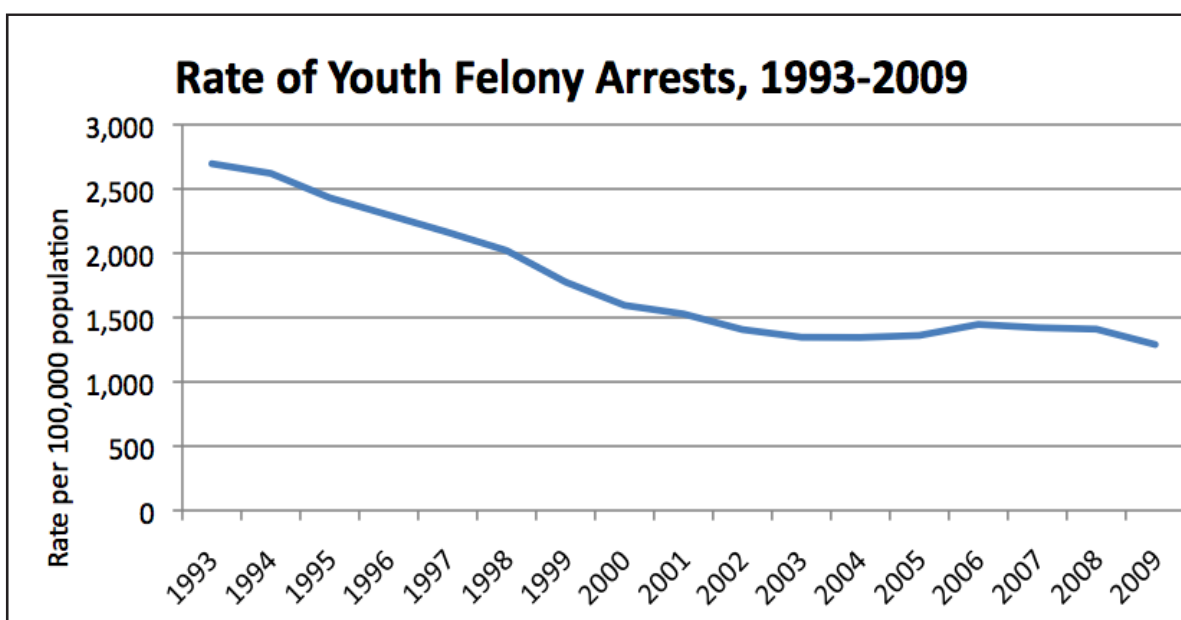
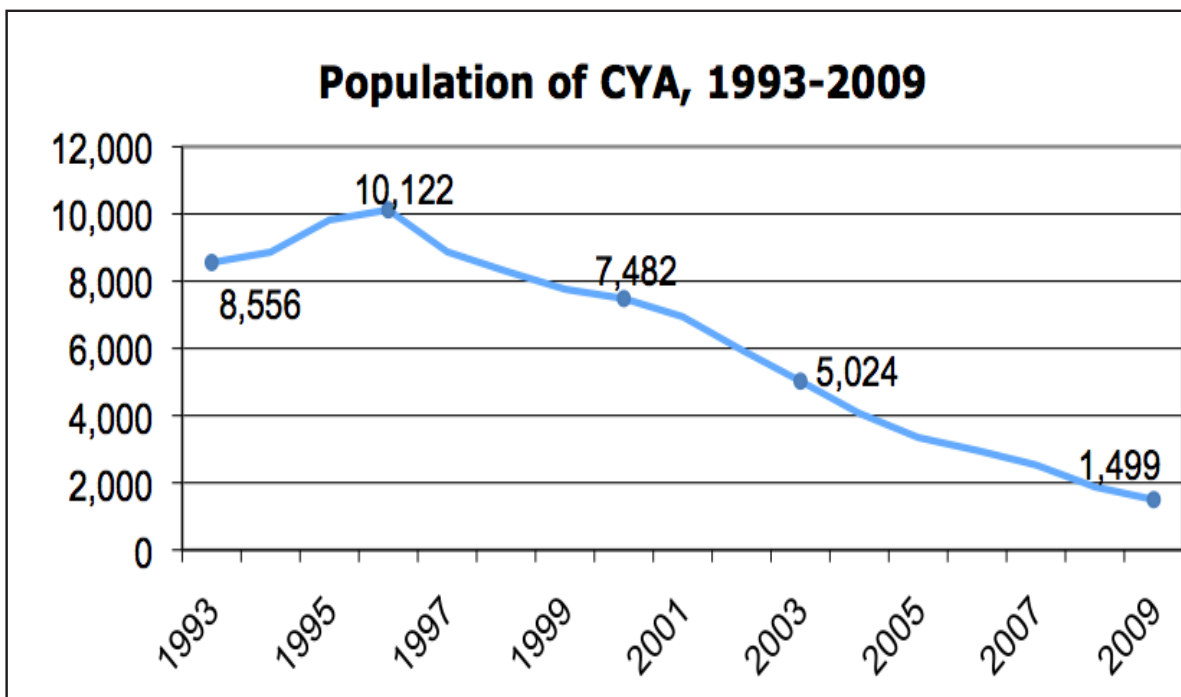
HOW IT WORKS

SB 681 created a disincentive for sending youth adjudicated of low-level offenses to state institutions. Under the law, The Board of Parole Hearings regulates fees based on the categories of offense assigned to the adjudicated youth. The categories are ordered I-VII, with I being the most serious offenses and VII being the least. For categories I through IV, the cost starts at \$175. Rates rise 50% for category V offenses, 70% for category VI offenses, and 100% for the for level VII offenses. SB 681 not only deters courts from sending youth adjudicated for low-level offenses to state facilities, but allows courts to determine the best placement for a youth who has previously committed violent and serious offenses in the past.

SB 81 established a Youthful Offender Block Grant Fund (YOBG) that has now grown to \$93 million statewide per year, and is continuing to flow even as the CA budget deficit deepens. The state-local subsidy is based on a per-case value of \$117,000 per youth per year, plus additional funds for reentry services. SB 81 expanded local responsibility for adjudicated youth by restricting non-violent youthful offenders from being sent to state facilities as well as by equipping the counties with funding to support those youth.

RESULTS/OUTCOMES

- The population decrease in state training schools did not result in an increase in juvenile crime, as some had predicted.⁶ In fact, the juvenile felony arrest rate dropped by 55% from 1993 to 2009.
- California closed 5 juvenile facilities and 4 forestry camps for juvenile offenders.
- From 1996-2009, the California Department of Juvenile Justice (formerly California Youth Authority) population decreased from 10,122 to 1,499 youth, a decline of nearly 85%.⁷



RECLAIM OHIO

WHAT IS IT?

RECLAIM (Reasoned and Equitable Community and Local Alternatives to the Incarceration of Minors) originated as Ohio House Bill 152.6.⁸ Enacted in 1994, the legislation launched pilot programs in nine counties across Ohio: Clermont County, Gallia County, Mercer County, Delaware County, Hocking County, Summit County, Erie, Licking County, and Van Wert County.⁹ The following year, in 1995, RECLAIM was implemented statewide. As part of the settlement in a lawsuit over conditions in Ohio's youth facilities, funding for RECLAIM is slated for further expansion this year, despite Ohio's difficult fiscal constraints.

RECLAIM Ohio is a funding initiative for juvenile courts to utilize community-based programs for juvenile offenders or those at risk of offending.¹⁰ These programs are modeled after evidence-based community programs and include Multisystemic Therapy, Multidimensional Family Therapy, Cognitive-Behavioral Therapy, and Hi-Fidelity Wraparound programs.¹¹

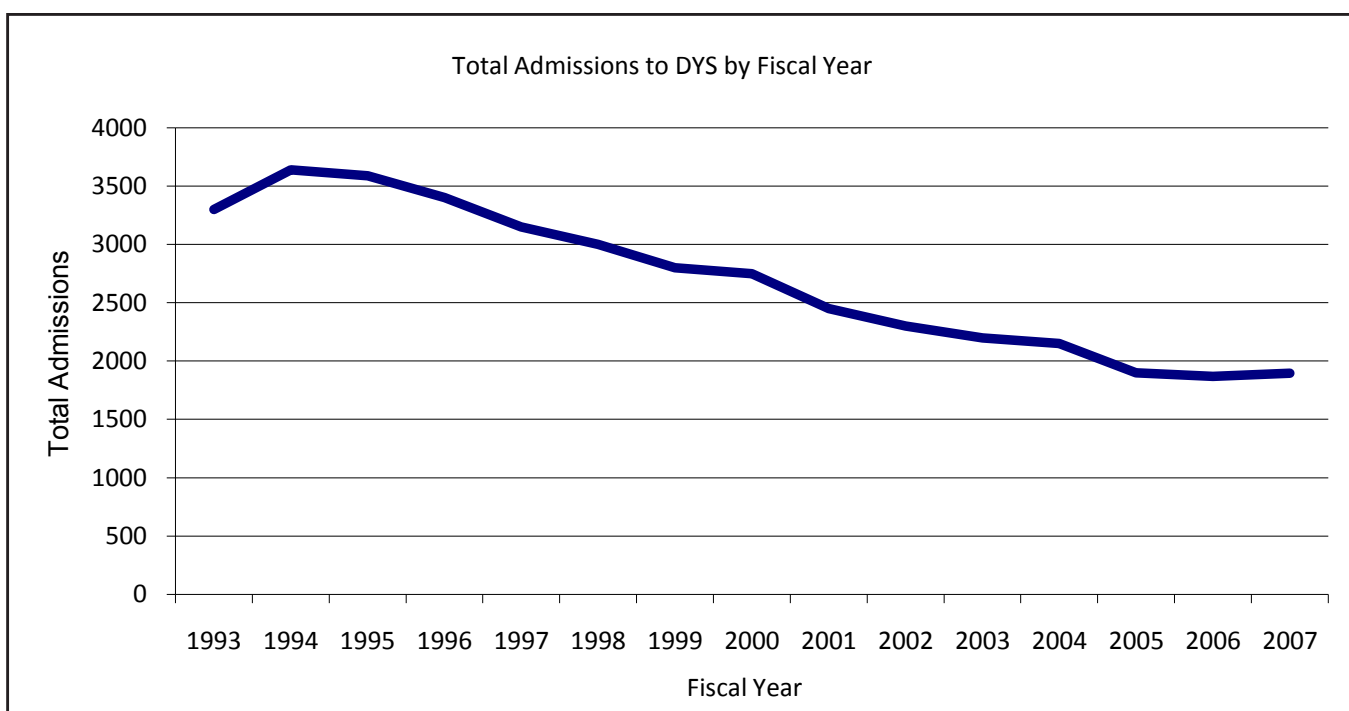
HOW IT WORKS

RECLAIM Ohio creates a fiscal incentive for counties to bring youth back to their communities and decrease the number of youth sent to state facilities. Local counties receive funding to provide a range of programs for juveniles based on their specific needs. From 1995-2003, the Ohio Department of Youth Services (DYS) budgeted funds for RECLAIM based on the average number of youth committed and charged local juvenile courts 75% of the cost for commitment and 50% of the cost for placing youth in community-based intervention programs.¹²

In 2004, the state restructured the RECLAIM program to allow for juvenile courts to fund more community programs. The state now uses a credit system to determine the correct amount to allocate to local juvenile courts. Each court is given a certain amount of credits based on its four-year average of felony adjudications. For each chargeable DYS bed day used, the court's credit is reduced by one. For each chargeable community corrections facility day used, the court's credit is reduced by two-thirds. The court's remaining credit is the percentage of RECLAIM funds allocated to the court. Therefore, if the county has an average of 50 felony adjudications on a four-year basis (3,750 credits) and 1,000 chargeable DYS bed days (1,000 credits), then the remaining number of credits will equal to 2,750. That credit number is translated into \$275,100 per fiscal year for the juvenile court.¹³ The chargeable beds do not include public safety beds, as defined in Ohio Revised Code section 5139.01.

RESULTS/OUTCOMES

- In the long-term, cost savings ranges from \$11 to \$45 for every dollar spent on a RECLAIM program versus placement in Ohio Division Youth Services (DYS)¹⁴
- Lower-risk youth have higher recidivism rates when placed in DHS facilities rather than a RECLAIM program.¹⁵
- Research shows that RECLAIM programs are cost-effective alternatives to DHS for all but the highest-risk youth.¹⁶
- More youth are housed locally and within their community while DHS institutions are less crowded and more able to focus on high-risk youth.¹⁷



DYS population decreased from a high of 3639 in 1994 (before RECLAIM) to 1895 in 2007 (48%)¹⁸

REDEPLOY ILLINOIS

WHAT IS IT?

In 2004, The Illinois General Assembly passed Illinois Public Act 93-0641, known as Redeploy Illinois.¹⁹ The intention of this legislation was to deinstitutionalize juvenile offenders and redistribute funds to counties to keep youth in the community.²⁰

Redeploy Illinois created four pilot sites: 2nd Judicial Circuit, Macon County, Peoria County, and St. Clair County²¹ with a goal to reduce the youth incarceration rate by 25% per county from the average rate for the preceding three years.²² In 2008, Illinois legislature endorsed auxiliary funds for Redeploy Illinois creating five more program sites: the 4th Judicial Circuit, Kankakee County, Lee County, Madison County, and McLean County.²³ On April 7th, 2009, Governor Quinn signed Senate Bill 1013 (Public Act 95-1050) extending Redeploy Illinois statewide.²⁴

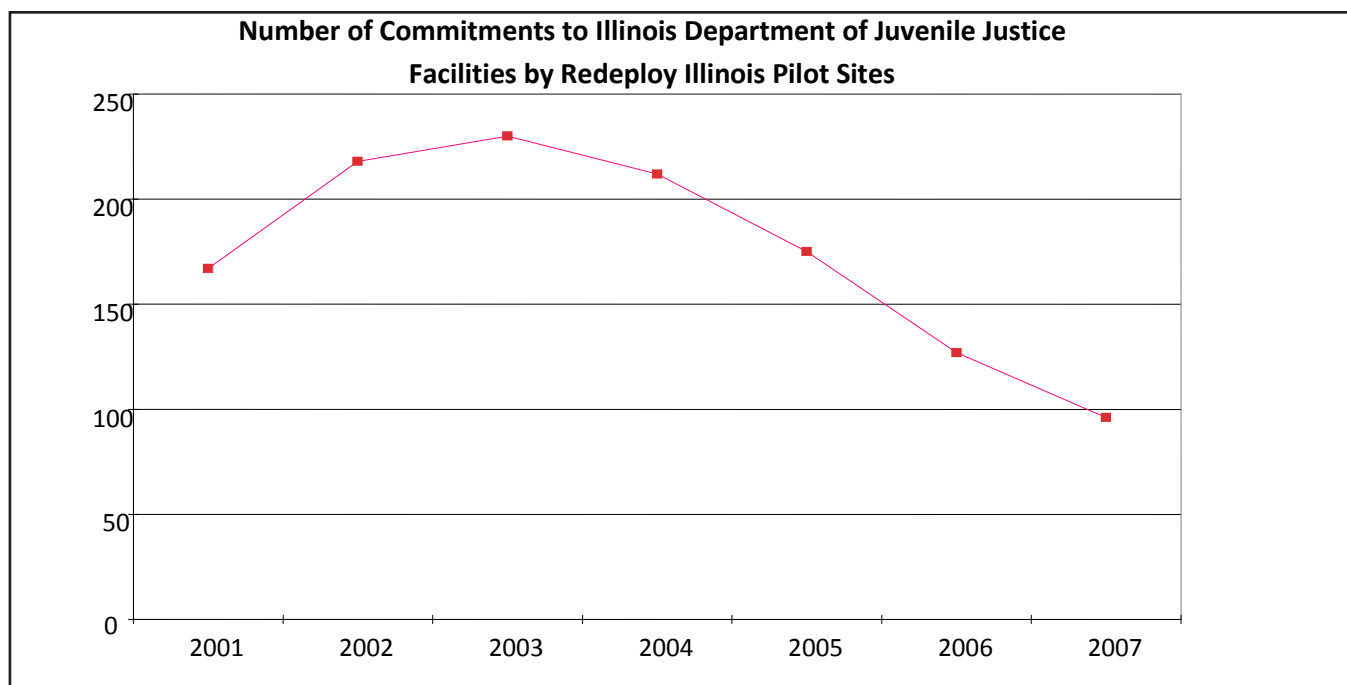
HOW IT WORKS

The Redeploy program provides counties with fiscal incentives to invest in community-based intervention programs for adjudicated youth and creates benchmarks (25% reduction) with consequences for failure to reduce juvenile commitments. The state allocates a pre-determined amount of funding each year to the Redeploy program. In 2005, Redeploy received \$2 million, in 2006: \$1.5 million, in 2007: \$2.295 million and in 2009 Redeploy received \$3,229 million. The per capita cost to place a juvenile in a state facility is about \$71,000 while the cost per youth in Redeploy is between \$2,500 and \$9,500.²⁵

Redeploy Illinois program sites offer services that include: Aggression Replacement Training (ART), cognitive education and treatment, home detention, housing, mental health treatment, gender-specific services, community restorative boards, employment-related services, and more.²⁶ In each program site, a different study was implemented: the 2nd Judicial Circuit, works mainly with medium and high-risk juvenile offenders.²⁷ Macon County, otherwise known as “Community ACCESS” (Alternative Collaborative Change Education Support Success), focuses on the participation and inclusion of the community.²⁸ Peoria County works with the courts and Children’s Home Association of Illinois to help youth on probation who are of highest risk to be sent to the Illinois Department of Juvenile Justice (IDJJ).²⁹ The final pilot program for the first year of Redeploy Illinois focuses on evidence-based services and treatments in the least restrictive form.³⁰

OUTCOMES/RESULTS

- For every dollar spend on Redeploy Illinois, the state saves \$4.³¹
- The projected year-one cost savings compared to Illinois Department of Juvenile Justice (IDJJ) is \$2,123,063.³²
- Among the first four pilot sites for Redeploy Illinois, there was a 51% (382 youth) reduction of commitments.³³



REALIGNMENT: WAYNE COUNTY, MICHIGAN

WHAT IS IT?

In 2000, officials in Wayne County (Detroit), Michigan signed a formal agreement with the 3rd Judicial Circuit Court and the Michigan Department of Human Services to transfer responsibility and resources for juvenile services for adjudicated youth from the state to the county.

HOW IT WORKS

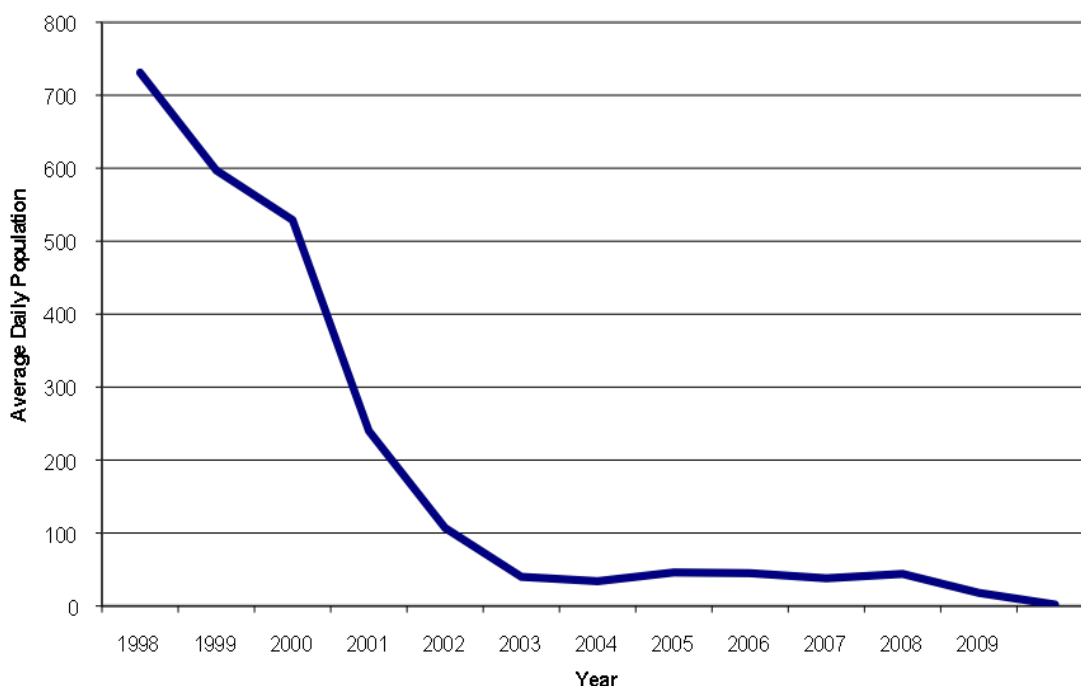
Wayne County Department of Children and Family Services contracts with the Juvenile Assessment Center (JAC) and five regionally-based Care Management Organizations (CMOs) to run a locally-operated juvenile justice system. The state pays 50% of the costs of the county's juvenile justice system.³⁴

The non-profit Juvenile Assessment Center assesses youth throughout the process, from intake through after-care. After the initial assessment, the JAC refers youth to a regionally based CMO. The five CMOs, divided by zip code, provide case management, programming and resources for the youth in the system. These services include home-based, family-focused programs, and community-based programs. Some of the services include: in-home care, family foster care, independent living, and wraparound services. When youth are committed to secure or non-secure residential programming, their neighborhood CMO pays the cost of their commitment.

OUTCOMES/RESULTS

- Total residential costs for the state and county dropped from \$113 million in 1999 to \$73 million in 2009.
- Between 1998 and 2009, the overall crime rate fell by 38% in Detroit.³⁵
- The average successful completion of Wayne County probation programs 73.5% in 2009.³⁶
- The average daily population in DHS facilities from Wayne County has decreased from 731 youth in 1998 to only 2 in 2009. During that time period, the number of youth sent to out-of-state residential programming declined from 200 to 0.

Average Daily Population in DHS Facilities from Wayne County



Adapted from Wayne County Children & Family Services “Juvenile Services Reform in Wayne County, Michigan” Report. (2009)

C. ACCOUNTABILITY FOR IMPROVED RESULTS AND REDUCED COSTS

NEW YORK STATE COST-BENEFIT ANALYSIS

The following analysis, which appeared originally as Appendix A of the Task Force Report and is reprinted here with the permission of the Vera Institute of Justice, highlights the potential cost savings New York could achieve through the implementation of evidence-based juvenile justice programming.

COST-BENEFIT ANALYSIS OF PROGRAMS FOR COURT-INVOLVED YOUTH IN NEW YORK STATE

Researchers at the Vera Institute of Justice conducted a preliminary cost-benefit analysis of a broad range of programs for court-involved youth in New York State.³⁷ The findings of this analysis show that some community-based programs can significantly reduce crime rates, improve outcomes for youth, and also save taxpayers and victims hundreds of thousands of dollars.

To conduct the analysis, Vera researchers employed a methodology developed by the Washington State Institute for Public Policy (WSIPP). In 2005, Washington State's prison population was on the rise, and the need to build costly new prisons to accommodate the growing number of inmates became apparent. This prompted the state's legislature to commission WSIPP—a non-partisan research organization housed within the legislature—to identify programs that would reduce crime and eliminate the need for additional prison beds. WSIPP reviewed 571 rigorous program evaluations and conducted a cost-benefit analysis that showed which programs would have the greatest impact on crime per dollar spent. As a result of WSIPP's analysis, in 2007 the state legislature allocated \$48 million to expand prevention and treatment programs, and the prison population forecast was subsequently adjusted downward.

Methodology

The WSIPP methodology used to conduct this analysis consists of three key steps:

1. What works and what does not to reduce crime?

Researchers review program evaluations to estimate the average effect each program has on crime.

2. What are the costs and benefits of each option?

Researchers then estimate the costs and benefits of each program. Program costs refer to the costs of operating a program, while benefits capture the savings that will accrue to taxpayers and victims as a result of a reduction in crime among participants of a program.

3. Statewide, how would alternative “portfolios” affect crime and the costs of crime?

Using program costs and benefits, combined with information about the state's offender population, researchers project how implementing alternative sets of programs will affect the state's crime rates and criminal justice costs.

Vera researchers applied this methodology by collecting and using data on New York State's juvenile and criminal justice systems.³⁸

Findings

Table 1 displays the costs and benefits of seven programs included in Vera’s analysis. Programs are ranked according to the total net benefits (benefits minus costs) that they are expected to generate.

Table 1: Costs and Benefits of Programs for Court-involved Youth

Vera Institute of Justice Estimates as of July 2009	Effect on crime outcomes (Number of studies in parenthesis)		Benefits and Costs (Per participant, 2007 dollars)				
			Benefit to crime victims*	Benefits to taxpayers**	Program costs†	Net Benefits (taxpayer only)‡	Net Benefits (total)±
Multidimensional Treatment Foster Care	-17.9%	(3)	\$72,572	\$30,780	\$7,180	\$23,600	\$96,173
Functional Family Therapy	-18.1%	(7)	\$37,051	\$19,483	\$2,467	\$17,016	\$54,067
Adolescent Diversion Project	-17.6%	(6)	\$35,848	\$18,850	\$2,048	\$16,803	\$52,651
Family Integrated Transitions	-10.2%	(1)	\$41,420	\$17,568	\$10,335	\$7,232	\$48,653
Sex Offender Treatment for Juveniles	-9.7%	(5)	\$51,576	\$9,454	\$35,081	-\$25,627	\$25,949
Aggression Replacement Training	-8.3%	(4)	\$17,002	\$8,940	\$952	\$7,988	\$24,990
Multisystemic Therapy	-7.7%	(10)	\$15,670	\$8,240	\$4,524	\$3,715	\$19,385

* Benefits to crime victims refer to the avoided crime victim costs that result from crime rates.
 ** Benefits to taxpayers capture the reduced justice system expenditures that result from reduced crime rates.
 † These are program costs in addition to the cost of the typical alternative, such as placement in a juvenile institution or probation
 ± Numbers have been rounded.

As an illustration of the information provided in table 1, researchers analyzed the findings of three well-researched studies of Multidimensional Treatment Foster Care (MTFC) and found that, on average, this program can be expected to reduce recidivism—defined here as reconviction for a felony or misdemeanor after a 13-year follow-up—by 17.9 percent. That is, without any treatment, 75 percent of youth placed in juvenile institutions would likely face a reconviction, but with MTFC instead of placement, only 61.6 percent would.³⁹ This reduction in recidivism can be expected to generate \$72,572 in benefits to crime victims and \$30,780 to taxpayers, measured in the costs avoided by reducing the long-term level of a youth’s criminal involvement.⁴⁰ These benefits come at a net additional program cost of \$7,180 per participant on average, compared to placement. MTFC thus produces a net benefit to taxpayers of \$23,600 per participant and a total net benefit for both crime victims and taxpayers of \$96,173 per participant.

In addition to calculating the costs and benefits of individual programs for court-involved youth, Vera researchers also projected the total economic impact of expanding several evidence-based programs that are already operating in a limited capacity in New York State.⁴¹ Specifically, the analysis projects the costs and benefits of expanding Multisystemic Therapy (MST), MTFC, and Functional Family Therapy (FFT) to accommodate 15 percent of the almost 1,700 youth placed in OCFS custody.⁴² In other words, this expansion would allow the state to send 240 youth to these evidence-based programs instead of institutional placement facilities. As table 2 illustrates, the increase in capacity could generate nearly \$3 million in net benefits to taxpayers and over \$11 million in net benefits to both taxpayers and victims.⁴³

Table 2. Cost and Benefits of Expanding Evidence-based Programs in New York State

15% of placements				
Name of program	Number of participants	Annual Cost	Net benefits (Taxpayer only)	Net benefits (Taxpayer and victim)
Multisystemic Therapy	105	\$475,020	\$390,075	\$2,035,425
Multidimensional Treatment Foster Care	45	\$323,100	\$1,062,000	\$4,327,785
Functional Family Therapy	90	\$222,030	\$1,531,440	\$4,866,030
Total	240	\$1,020,150	\$2,983,515	\$11,229,240

D. NATIONAL RESEARCH ON EVIDENCE-BASED JUVENILE JUSTICE PROGRAMS

Originally published in Peter Greenwood’s report to the Governor of California’s Office of Gang and Youth Violence Policy in January of 2010, the following charts outline juvenile justice programs and strategies that are proven to reduce recidivism, those that have promising results, and those that have been proven ineffective. The full report can be accessed at www.nursefamilypartnership.org/assets/PDF/Journals-and-Reports/CAL_606YUP_Greenwood_1-27-10.

List of Evidence-Based Crime and Violence Prevention and Intervention Practices

PROVEN PROGRAMS	Programs in the PROVEN category are brand name programs that have been shown to reduce recidivism, substance use, and/or antisocial behavior in at least 2 trials, using strong research designs								
	Source of Rating				Description	Outcomes	Cost/Benefit Analysis (if available)		
	Blueprints	Lipsev	Top Tier	WSIPP			Benefits	Costs	Benefit minus Cost
DELINQUENCY & RECIDIVISM									
Nurse Family Partnership	X		X	X	Prevention program administered by registered nurses to at-risk mothers in home	38.2% reduction in recidivism for mothers 15.7% reduction in recidivism for children	\$27,092.00	\$6,336	\$20,756.00
Functional Family Therapy (FFT)	X			X	Intervention administered by therapist in-home focusing on family motivation, engagement & problem-solving	18.1% reduction in recidivism	\$52,156	\$2,380	\$49,776.00
Multidimensional Treatment Foster Care (MTFC)	X		X	X	Intervention administered by specially trained foster parents taking teen into their home; therapy for bio-parents	17.9% reduction in recidivism	\$95,879	\$6,926	\$88,953.00
Aggression Replacement Training (ART)				X	Intervention administered by trained staff to improve moral reasoning, aggression & anger management	8.3% reduction in recidivism	\$23,933	\$918	\$23,015.00
Multisystemic Therapy (MST)	X			X	Intervention administered by therapist to family & provides assistance with other systems	7.7% reduction in recidivism	\$22,058	\$4,364	\$17,694.00
SUBSTANCE USE									
Life Skills Training (LST)	X		X	X	Prevention of substance abuse provided in middle school classrooms	50%-75% reduction in tobacco, alcohol, & marijuana use			
Project Toward No Drug Abuse	X				Prevention of substance abuse aimed at high-school youth	22% prevalence reduction in 30-day marijuana use 26% prevalence reduction in 30-day hard drug use			
ANTISOCIAL BEHAVIOR									
Big Brothers/Big Sisters Mentoring	X				Prevention using volunteers as mentors for youth from single parent homes	About 33% less likely than control youth to hit someone			
Olweus Anti-Bullying Program	X				Prevention administered by school staff using school-wide, classroom & individual components	Reduction in reports of bullying and victimization; Reduction in general antisocial behavior such as vandalism, fighting, theft and truancy			
Promoting Alternative Thinking Strategies (PATHS)	X				Prevention promoting emotional and social competencies among elementary school children	Decreased report of conduct problems, including aggression Increased ability to tolerate frustration			
The Incredible Years	X				Prevention administered by parents & teachers to reduce antisocial behavior	Reductions in peer aggression in the classroom Reductions in conduct problems at home & school			

List of Evidence-Based Crime and Violence Prevention and Intervention Practices

PROVEN STRATEGIES	STRATEGIES in the PROVEN category are generic program strategies that have been found to reduce recidivism, substance use, and/or antisocial behavior in rigorous meta-analysis								
	Source of Rating				Description	Outcomes	Cost/Benefit Analysis (if available)		
	Blueprints	Lipsey	Top Tier	WSIPP			Benefits	Costs	Benefit minus Cost
DELINQUENCY & RECIDIVISM									
Cognitive Behavioral Therapy		X		X	Prevention or Intervention using structured goal setting, planning & practice	26% reduction in recidivism (Lipsey) 11% reduction in recidivism (WSIPP)			
Behavioral programs		X		X	Prevention or Intervention that awards selected behaviors	22% reduction in recidivism			
Group Counseling		X			Prevention or intervention using group counseling led by a therapist	22% reduction in recidivism			
High School graduation				X	Prevention or intervention: graduation from high school	21.1% reduction in recidivism			
Mentoring		X			Prevention or intervention using mentoring by volunteer or paraprofessional	21% reduction in recidivism			
Case management		X			Prevention or intervention using case manager or case team to develop service plan & arranges services for juvenile	20% reduction in recidivism			
Counseling / psychotherapy		X		X	Prevention or intervention: individual counseling	16.6% reduction in recidivism (WSIPP) 5% reduction in recidivism (Lipsey)			
Pre-K education for low-income families				X	Prevention providing high-quality early childhood education	16.6% reduction in recidivism	\$15,461	\$612	\$14,849.00
Mixed counseling		X			Prevention or intervention: combination of individual, group and/or family	16% reduction in recidivism			
Teen Court				X	Intervention for juvenile offenders in which they are sentenced by their peers	14% reduction in recidivism	\$16,908	\$937	\$15,971.00
Family Counseling		X		X	Prevention or intervention: family counseling	13% reduction in recidivism			
Social skills training		X			Prevention or intervention: teaching social skills	13% reduction in recidivism			
Challenge programs		X			Prevention or intervention: provide opportunities for experimental learning by mastering tasks	12% reduction in recidivism			
Family Crisis Counseling		X			Prevention or intervention: short-term family crisis counseling	12% reduction in recidivism			
Mediation		X			Intervention where offender apologizes to victim & meets under supervision	12% reduction in recidivism			
Multiple coordinated services		X			Intervention providing a package of multiple services to juveniles	12% reduction in recidivism			
Restorative Justice for low-risk offenders		X		X	Intervention using victim-offender conferences & restitution	10% reduction in recidivism (Lipsey) 8% reduction in recidivism (WSIPP)	\$9,609	\$907	\$8,702.00
Academic training		X			Prevention or intervention: tutoring, GED programs, etc.	10% reduction in recidivism			
Service broker		X			Intervention using referrals for juvenile services with minimal role afterward	10% reduction in recidivism			
Sex offender treatment				X	Intervention using a cognitive-behavioral approach specifically for juvenile sex offenders	9.7% reduction in recidivism	\$57,504	\$33,842	\$23,662.00
Restitution		X			Intervention: offender provides financial compensation to victim and/or community service	9% reduction in recidivism			
Mixed counseling with referral		X			Intervention: supplementary referrals for other services	8% reduction in recidivism			
Job-related interventions		X			Prevention or intervention: vocational counseling, job placement, training	6% reduction in recidivism			
Peer Counseling		X			Prevention or intervention: peer group plays therapeutic role	4% reduction in recidivism			
Diversion with services				X	Intervention using citizen accountability boards & counseling compared to court supervision	3.1% reduction in recidivism			

List of Evidence-Based Crime and Violence Prevention and Intervention Practices

PROMISING PROGRAMS	Programs in the PROMISING PROGRAMS category are brand name programs that have been shown to reduce delinquency and recidivism, substance use, and/or antisocial behavior by using a strong research design, but outcomes have not yet been replicated								
	Source of Rating				Description	Outcomes	Cost/Benefit Analysis (if available)		
	Blueprints	Lipsey	Top Tier	WSIPP			Benefits	Costs	Benefit minus Cost
DELINQUENCY & RECIDIVISM									
Seattle Social Development Project	X			X	Intervention administered by parents & teachers using social control & social learning	15.7% reduction in recidivism			
Family Integrated Transitions (FIT)				X	Intervention for the reentry of juveniles with mental illness & substance abuse	10.2% reduction in recidivism	\$54,045	\$9,970	\$44,753.00
TeamChild				X	Intervention: Attorneys advocate on behalf of juvenile for education, treatment, housing	9.7% reduction in recidivism			
Guiding Good Choices	X			X	Prevention: family-focused improvement of parenting skills	7.2% reduction in recidivism			
Parent-Child Interaction Therapy				X	Prevention program focusing on restructuring the parent-child bond	5.1% reduction in recidivism			
Behavioral Monitoring & Reinforcement Program	X				Prevention implemented in schools redirecting at-risk juveniles from delinquency	Less self-reported delinquency, school-based problems and unemployment Fewer county court records than peers			
SUBSTANCE USE									
CASASTART	X				Prevention combining case mgmt services, afterschool & summer activities	Less likely to report use of any drugs, gateway drugs, or stronger drugs Lower levels of violent crime Less likely to be involved in drug sales			
Project Northland	X				Intervention implemented throughout the community to reduce substance abuse	Decreased tendencies to use alcohol Less alcohol, cigarette, and marijuana use			
Strengthening Families	X				Prevention using a family-based approach to improve communication & relationships	Lower rates of alcohol initiation 30-60% relative reductions in alcohol use and being drunk			
Strong African American Families Program	X				Prevention of substance abuse using a family-based approach in African American families	Reduced initiation of alcohol use & slowed increase in use over time Developed stronger youth protective factors			
Project ALERT	X				Prevention of substance abuse implemented in the classroom	30% reduction in initiation of marijuana use 60% reduction in current marijuana use			
ANTISOCIAL BEHAVIOR									
Good Behavior Game	X				Prevention using behavior modification aimed at reducing disruptive behavior in the classroom	Less aggressive and shy behaviors Better peer nominations of aggressive behavior Reduction in levels of aggression for males			
Brief Strategic Family Therapy (BSFT)	X				Intervention administered by a therapist improving family interactions	Significant reductions in Conduct Disorder and Socialized Aggression			
FAST Track	X				Prevention to improve family & peer relationships in the classroom & at home	Better overall ratings by observers on children's aggressive, disruptive, and oppositional behavior in the classroom.			
I CAN PROBLEM SOLVE	X				Prevention school-based program teaching social problem-solving	Less impulsive and inhibited classroom behavior Better problem-solving skills			
Linking the Interests of Families and Teachers (LIFT)	X				Prevention school-based program increasing prosocial behavior	Decrease in physical aggression on the playground Significant increase in positive social skills and classroom behavior			

List of Evidence-Based Crime and Violence Prevention and Intervention Practices

INEFFECTIVE	Programs and strategies in the INEFFECTIVE category are those that do not reduce recidivism or risk factors or have an adverse outcome								
	Source of Rating						Cost/Benefit Analysis (if available)		
	Blueprints	Lipsey	Top Tier	WSIPP	Description	Outcomes	Benefits	Costs	Benefit minus Cost
PROGRAMS									
DARE (Drug Abuse Resistance Training)				X	Prevention school-based substance abuse program using uniformed police officers	No significant impact on use of alcohol, tobacco, or illicit drugs			
Guided Group Interaction				X	Intervention using a peer group to promote prosocial & restructure peer interaction	No reduction in recidivism			
STRATEGIES									
Boot Camps				X	Intervention emphasizing drill, teamwork, etc.	No reduction in recidivism			
Court supervision				X	Intervention using court supervision compared to releasing juvenile without services	No reduction in recidivism			
Intensive probation				X	Intervention using more than usual contact compared to incarceration	No reduction in recidivism			
Intensive probation supervision				X	Intervention using more than the usual contacts	No reduction in recidivism	\$0	\$1,650	-\$1,650.00
Intensive parole supervision				X	Intervention using more than the usual contacts	No reduction in recidivism	\$0	\$6,670	-\$6,670.00
Regular surveillance-oriented parole				X	Intervention involving post-release monitoring	No reduction in recidivism	\$0	\$1,237	-\$1,237.00
Deterrence		X			Intervention dramatizing the negative consequences of behavior	2% increase in recidivism			
Scared Straight				X	Intervention using prison inmates to confront first time offenders about the downside of criminal life	6.1% increase in recidivism	-\$17,410	\$60	-\$17,470.00
Discipline		X			Intervention teaching discipline to succeed & avoid reoffending	8% increase in recidivism			

PRINCIPLES OF EFFECTIVE IMPLEMENTATION	Each of these PRINCIPLES improves outcomes regardless of program or strategy content								
	Source of Rating						Cost/Benefit Analysis (if available)		
	Blueprints	Lipsey	Top Tier	WSIPP	Description	Outcomes	Benefits	Costs	Benefit minus Cost
FIDELITY: Integrity of treatment implementation	X	X	X	X	Having procedure to ensure staff stick to protocol improves outcomes				
Focus on high-risk youth		X			More needs, More room for improvement, higher costs of failure				
Longer duration of treatment		X			Dosage matters: Too few sessions can be ineffective				
Communities That Care (CTC)	X				Prevention forming coalition, determining needs, selecting programs				
Tracking outcomes	X	X	X	X	Track outcomes particularly when implementing strategies				

Prepared by Peter Greenwood, PhD. for the Governor's Office of Gang and Youth Violence Policy
January, 2010

A. MEMBERSHIP

Juvenile Justice Advisory Group Members		
Member	Title	Appt. Date
Chair: Elizabeth Glazer		10/05/2007
Richard Aborn	Constantine & Aborn Advisory Services, LLC	10/28/2010
Thomas Beilein	Chairman, NYS Commission on Corrections	11/03/2008
Elmer Blanco	Youth Member	08/19/2008
Laurence Busching	Exec. Dep. Commissioner, Div. Youth & Family Services, NYC Admin. for Children's Services	09/15/2010
Gladys Carrión	Commissioner, NYS Office of Children and Family Services	08/02/2007
Joseph Coccozza	Director, National Center for Mental Health and Juvenile Justice	12/04/2008
Shane Correia	Youth Member	10/18/2009
Janet DiFiore	Westchester County District Attorney	11/07/2008
Mishi Faruqee	Special Assistant to the Commissioner, NYC Dept. of Probation	03/18/2009
Edward Fergus	Deputy Director, Metropolitan Center for Urban Education	09/01/2010
Hon. Judith Harris Kluger	Chief of Policy and Planning, New York State Office of Court Administration	02/17/2010
Robert Maccarone	Director, NYS Probation and Correctional Alternatives	08/02/2007
Janice Nittoli	Assoc. VP and Managing Director, The Rockefeller Foundation	06/20/2010
Rev. Darius G. Pridgen	Senior Pastor, True Bethel Baptist Church	10/01/2007
Haley Reibold	Youth Member	10/15/2007
Karen Richmond	Executive Director, Children's Home of Jefferson County	11/19/2001
Billy Rodriguez	Youth Member	05/04/2010
Euphemia Strauchn	Executive Director, Families on the Move	07/01/2008
Michele Sviridoff	Deputy Criminal Justice Coordinator for Research and Policy, NYC Criminal Justice Coordinator	03/18/2009
Lisa Payne Wansley	Administrative Chief, Bronx, NY District Attorney	12/24/2008
Meredith Wiley	Executive Director, NYS Fight Crime Invest in Kids	12/04/2008

B. JAG PRIORITIES AND INVESTMENTS

Over the past two years, the JAG has worked to focus its priorities on gaps in the juvenile justice system that it is uniquely positioned to address. After assessment of papers commissioned by the JAG in the spring of 2010 on the most pressing needs in New York's juvenile justice system, the JAG focused its priorities in three areas: promoting accountability, driving front-end system reform to reduce juvenile crime, and supporting ongoing detention and placement reform.

Promoting Accountability

From arrest to reentry, policy makers are hard-pressed to answer some basic questions that, in a rational world, would guide strategy and investment. Among those questions needing answers are: what crimes are being committed where and by whom; what is the profile of offenders who are detained and placed; how do our detention and placement practices affect recidivism; what resources exist for juveniles and where are the gaps, both geographically and substantively; what populations are most at-risk; and do any of our programs work to reduce crime?

The JAG is well-positioned to develop resources and capacity statewide to bring accountability and coherence to the system by: organizing basic information and making it accessible; identifying and disseminating basic standards and aligning state resources behind those standards; and seeking out new and effective ways of reducing juvenile crime. To that end, the JAG has supported several initiatives to better understand the juvenile crime picture and the resources available to address juvenile crime.

First, the JAG partnered with DCJS to develop a juvenile justice data dashboard. This dashboard gathers for the first time in one place various state and local juvenile justice data sources to track trends in juvenile justice from arrest through placement statewide. The dashboard will show system information, such as the volume of delinquency cases seen at probation intake and the number returned for probation supervision after disposition, the kinds of cases coming to Family Court and how they are being disposed, and the extent to which confinement is being used, both pre and post trial. A newly established quarterly data exchange between DCJS and OCA will greatly enhance the information available to the dashboard, providing statewide delinquency activity in Family Court. The JAG continues to work with OCFS, DCJS, and New York City to further enhance the arrest, probation, and confinement data regularly available for the dashboard.

As the only statewide entity devoted to juvenile justice with public and private, state and local, arrest to placement representation, the JAG is also uniquely positioned to support comprehensive, strategic thinking across the spectrum of the juvenile justice system. In October of 2010 the JAG launched a statewide juvenile justice strategic planning initiative. The planning process will result in a shared vision for the entire spectrum of the juvenile justice system by February of 2011 and a concrete plan for action to achieve that vision in the summer of 2011.

Another key to promoting accountability involves knowing where existing resources are and understanding how they fit into juvenile justice system operation. To that end, the JAG provided funding to two New York City based projects to develop resource directories and plans for local service collaboratives in neighborhoods that send high volumes of kids into the juvenile justice system. Located in Jamaica, Queens and in East Harlem, these projects will be identifying currently available services as well as developing plans to enhance local service capacity for high risk youth.

Accountability in the juvenile justice system also encompasses a deep and honest look into the issues of racial disparity that pervade New York State's system. The JAG is currently supporting both a state assessment of disproportionate minority contact (DMC) in the juvenile justice system, to assess whether there are factors outside of racial disparity that may explain the disproportionality in the system, and three local projects to partner with

national experts in DMC to develop local strategies for reducing DMC. Located in the counties of Monroe and Onondaga and in the City of New York, these local projects will use a data driven strategy to identify areas in which local policy or process could be changed to reduce DMC and they will develop concrete strategies for changing those policies or practices.

The JAG also identified the need for enhanced accountability for the programs it funds through the implementation and analysis of more meaningful performance measurement. The Board therefore dedicated resources to improve the performance measurement for the programs that it funds. Through work with the National Center on Juvenile Justice and DCJS, the JAG will be implementing a new performance measurement rubric for its programs that will facilitate assessment of the profile of youth served by each program, the services received by each child, and the outcomes for each child. This new methodology will lay the groundwork for meaningful program evaluation to help develop new evidence about what programs and services are effective at reducing offending among New York State youth with certain risks and needs.

Finally, accountability can only be achieved if the data collected, the strategies developed, and information about resources, program performance and local innovation is readily accessible to the public. The JAG is therefore developing its own website that will be dedicated to the promotion of New York State juvenile justice accountability through public dissemination of New York State juvenile justice data, juvenile justice program performance information, government priorities and strategies for implementation of those priorities, and information about resources and best practices.

Driving Front-End Reform to Reduce Juvenile Crime

The funnel that is the juvenile justice system begins at the point of arrest, with approximately 25,000 formal youth arrests annually. Probation offices across the State complete approximately 24,000 delinquency intakes annually and juvenile prosecutors decide to file approximately 25,000 delinquency petitions each year. However, while the vast majority of young people coming into contact with the juvenile justice system primarily experience police, probation, and prosecutors, very little systemic focus is placed on the front end of the system. In addition, the strong statutory structure that governs the juvenile justice system sets very few parameters around a youth's pre-petition experience in the system and a child gains the assistance of an attorney only after a Family Court petition is filed. None of the current juvenile justice reform efforts in New York are focused on this system point.

The JAG is uniquely positioned to adopt these issues as its primary area of focus. Front-end issues encompass many interrelated, complex pieces. As a convener of the entire spectrum of juvenile justice stakeholders, the JAG identified as a priority the development of a comprehensive strategy to promote best practice and promising innovation at the front-end of the juvenile justice system.

Several front-end focused projects have been launched by the JAG in the last year. Four of the projects target the development of innovative school-based strategies to address delinquent behavior without the need for an arrest. Located in Utica, Syracuse, Buffalo, and New York City, these projects are testing innovations that include the use of peer mediation and wrap around case management, therapeutic intervention, and supporting changes in school culture and climate through the use of community-based resources to support high need youth. In addition, the JAG made a deep investment in an innovative mentoring model that will connect with the faith based community and is targeted at connecting high risk youth to mentors while also building community capacity in the Mott Haven neighborhood of the Bronx.

The JAG has also been exploring promising national models of front-end reform that utilize juvenile assessment centers (JACs). Several jurisdictions across the country have opened JACs to function as a central point of intake, assessment, and early intervention at the time of arrest. Through collaboration with OJJDP, the JAG will be supporting two regional forums on promising models for JACs to further engage interested localities in a conversation about implementing front-end system reform.

Supporting Ongoing Detention and Placement Reform

The areas of detention and placement reform have received substantial investment and attention from OCFS over the last several years. The JAG strategy on detention and placement reform therefore supplements and supports these existing efforts. Through support of two pilot projects to address the use of detention for children without viable homes, the JAG has invested in the development of innovative alternatives to detention. One of the projects, based in Staten Island, is testing the use of multidimensional treatment foster care homes as respite sites for temporary out of home placement in lieu of detention. The other project, serving youth from northern Manhattan and the Bronx, is utilizing two best practices in child welfare (family team conferencing and intensive family preservation services) to quickly return children home after brief stays in detention. The JAG will be following these projects closely over three years to assess their utility as cost effective alternatives to detention.

Finally, the JAG is engaged in the much needed reform of New York’s juvenile placement system. While the JAG is clearly not the entity charged with implementing the reform itself, it plays a supportive role in these efforts. First, the JAG is monitoring the implementation of Task Force recommendations as recommended in the Task Force report. Through periodic public reports on progress made toward recommended reforms, the JAG will work to hold those charged with the reform efforts accountable. JAG support of placement reform also includes a piece of the funding currently being utilized to bring a Missouri model placement facility and a continuum of community-based services to Brooklyn. Once again, while not assuming a primary role in placement reform, the JAG plays a critical support role in these efforts.

C. COMPLIANCE WITH CORE MANDATES OF JJDPA

All states that receive federal Title II formula grant funding are required to comply with four core requirements of the Juvenile Justice and Delinquency Prevention Act (JJDPA). Those core mandates are: deinstitutionalization of status offenders, separation of juveniles from adult offenders, removal of juveniles from adult jails and lockups, and addressing the disproportionality of minority contact in the juvenile justice system. New York State is in full compliance with all four core mandates.

The first three core protections of the JJDPA relate to permissible methods of confinement for youth. The first, deinstitutionalization of status offenders (DSO) prohibits the placement of PINS youth in secure detention or correctional facilities. New York State maintains compliance with this protection through the statutory prohibitions in Article Seven of the Family Court Act that prohibit the pre-trial detention of PINS youth in secure detention facilities (§720) and that only permit out of home placement in private, non-secure facilities under LDSS custody (§756).

The second core protection, separation of juveniles from adult offenders, requires that juveniles who are alleged or found to have been delinquent and PINS youth are kept away from any contact with adult inmates who have been convicted of or are awaiting trial on a crime. Compliance with this mandate is achieved in New York State through the complete separation of juveniles from adult offenders in both short term locations for questioning juveniles and in the separate confinement facilities for juveniles both pre and post trial. Article three of the Family Court Act (§305.2(4)(b)) provides that youth suspected on an act of delinquency only be questioned by police in either a facility approved by the Office of Court Administration as a location suitable for the questioning of juveniles or in the child’s home. By Court Rule (§205.20 (c)), any room approved for questioning juveniles must be separate from areas accessible to adult detainees. These protections facilitate the separation of juveniles accused of crimes from adult detainees. In addition, under the provisions of the Family Court Act, juveniles can only be confined in juvenile detention facilities licensed and regulated by OCFS, in OCFS operated facilities, or in private, not for profit facilities licensed by OCFS to house youth. All of these locations are explicitly for housing youth and do not include an adult offender population, thereby facilitating the separation of juveniles and adult offenders.

The third core protection prohibits the use of adult jails and lock-ups for the confinement of juveniles for any length of time. New York State complies with this provision, known as jail removal, by confining youth in the aforementioned youth only facilities both pre and post trial.

DCJS contracts with the New York State Commission on Corrections (SCOC), the only state agency with statutory authority to perform monitoring of correctional facilities, to ensure that New York State maintains compliance with these first three requirements. In that role as the state's compliance monitor, SCOC identifies all the jails, lock-ups, and secure juvenile facilities across the state (thereby defining the compliance monitoring universe as required by OJJDP); maintains a monitoring schedule that ensures all adult jails, lock-ups and secure juvenile facilities are subject to an on-site inspection no less than once every three years (as federally mandated); and monitors a reporting system designed to track compliance and to identify and address any suspected violations of the core protections.

The SCOC also provides statewide training to law enforcement regarding the core protections of the JJDPA. In 2009 SCOC conducted 18 of these one-day training sessions. This annual training serves to reinforce the specifics of relevant New York State law while providing a thorough review of the JJDPA.

The one area of action that OJJDP is requiring regarding New York State compliance with the first three core protections relates to the separation requirement. Federal law applies this requirement not only to jails, lock-ups, and other facilities for confinement, but also to court holding facilities. OJJDP directed New York State to add all Family Court holding facilities to the current compliance monitoring universe overseen by SCOC as a result of a 2008 OJJDP compliance audit of New York State. To that end, OCA provided DCJS with a list of all the Family Court holding facilities and OCA and DCJS are in the process of developing a Memorandum of Understanding that will add periodic monitoring of Family Court holding facilities to the list of facilities monitored by SCOC for JJDPA core protection compliance.

New York State maintains compliance with the fourth core protection of the JJDPA, which requires engagement in efforts to address the disproportionate minority contact (DMC) of youth in the juvenile justice system, through state and local efforts to identify and assess DMC, develop and implement intervention strategies, and evaluate and monitor those interventions. Federal delinquency prevention funding is utilized to support a New York State Coordinator of DMC who oversees DMC data collection statewide and convenes a subcommittee of state and local agency staff, advocates, judges, and young people to help develop and implement a DMC reduction strategy. New York State has recently embraced a national best practice model, spearheaded by the W. Haywood Burns Institute, to support the development of locally devised, data driven strategies for DMC reduction in the juvenile justice system. Through funding provided by DCJS at the direction of the JAG, the counties of Monroe and Onondaga and the City of New York are partnering with the Burns Institute to organize their data in meaningful ways, identify a target population where DMC can be effected based on a review of that data, and develop strategies to reduce DMC for the target population.

In addition, New York State is actively engaged in a statewide study of DMC, with focus on statewide data where it is available and focus on three specific localities in parts of the system where there is no statewide data. The study will help identify if disparity is a root cause of DMC or if there are other factors which may explain the differential response that youth of color experience in the juvenile justice system. New York State also continues to collect DMC data across juvenile justice system points and to report the federally mandated relative rate index (RRI) annually for the data collected. While New York State is able to report RRI data for the points of arrest, detention, and placement, many gaps in statewide RRI data remain. DCJS and OCA recently developed a data sharing agreement that will add statewide court data to the DMC data available for analysis and DCJS continues to work with the many system partners to further enhance statewide DMC data.

Finally, DCJS and the JAG have developed a Youth Advisory Council (YAC) to assist with DMC work. This group of youth from across the state is comprised of young people who have been personally involved with the juvenile justice system or who have deep interest in improving how the system works. Through active engagement in targeted projects, the YAC bring a youth perspective to juvenile justice system reform. Accomplishments include the compilation of information gathered from a series of focus group with system involved or at-risk youth about the challenges faced by youth who are justice involved into a presentation for the JJAG, the Permanent Judicial Commission on Justice for Children, and the OCFS Independent Review Board and the production of training materials for OCFS facility staff to humanize the face of youth who are in their facilities. The YAC is continuing to work on the development of materials for children and their families that will assist young people and their parents in navigating the juvenile justice system to reach the most successful outcome possible.

End Notes

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33. Ficano, Robert A., "Comprehensive Statistical Report through Fiscal Year 2009" Juvenile Justice Services (2009): Detroit, MI, 4.
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37. Valerie Levshin and Tina Chiu, Cost-Benefit Analysis and Justice: Using Cost-Benefit Analysis to Reduce Crime and Cut Spending (New York: Vera Institute of Justice, forthcoming).
38. Collected data included lengths of stay in juvenile placement, costs of operating local juvenile facilities and adult prisons, and information on various other parts of the justice system. Data on the programs' ability to reduce crime was drawn from the Washington State Institute for Public Policy's review of 204 evaluations of services for court-involved youth.
39. The 75 percent recidivism rate is based on a 13-year follow-up study of youth released from juvenile institutions in Washington State. Comparable rates for New York are not available, but similar studies show New York's rates to be even higher. As cited in the introduction to Chapter 2, the most recent study of recidivism in New York state showed a 75 percent re-arrest rate, a 62 percent re-conviction rate, and a 45 percent re-incarceration rate within three years of release from New York State's facilities, (Frederick, 1999).
40. Benefits to crime victims are based on the victim costs estimates in Ted R. Miller, Mark A. Cohen, and Brian Wiersema, Victim Costs and Consequences: A New Look, Research Report (Washington, DC: National Institute of Justice, 1996) <http://www.ojp.gov/nij/pubs-sum/155282.htm>.
41. This analysis was meant to illustrate the potential costs and benefits of expanding evidence-based programs in New York and was not meant as a recommendation to transfer any specific number of youth in OCFS custody into these programs.
42. Due to the lack of aggregate data on community-based programs in New York State, as well as other data, this part of analysis differed from the Washington State Institute for Public Policy's approach. A technical document, scheduled for release in January 2010, will elaborate on both methodologies.
43. For more on this study and the methodology, see Levshin and Chiu, forthcoming.

