



Charting a New Course

A Blueprint for Transforming Juvenile Justice in New York State

DECEMBER 2009

**A Report of Governor David Paterson's
Task Force on Transforming Juvenile Justice**

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Acknowledgments

The Task Force on Transforming Juvenile Justice was staffed by the Vera Institute of Justice in New York City. Vera's Center on Youth Justice provided an institutional base for the Task Force, as well as vital data analysis and logistical support.

The Task Force would also like to acknowledge and thank the Tiger Foundation and the Atlantic Philanthropies, both of whom helped fund our work over the past year.

Most importantly, the Task Force would like to thank the more than 200 individuals from agencies and organizations across the state and the country who contributed to our work by sharing information, data, and research about the topics discussed in the report. This report would not have been possible without their support.

Letter to the Governor

December 14, 2009

Dear Governor Paterson:

On behalf of the Task Force on Transforming Juvenile Justice, I am pleased to present to you our final report, *Charting a New Course: A Blueprint for Transforming Juvenile Justice in New York State*. This report is the product of months of intense deliberation and outlines a new vision for how New York State should care for youth involved in the juvenile justice system. The recommendations we offer here are grounded not only in the best available research and literature in the juvenile justice field, but also in our steadfast commitment to improving the lives of young people and families and protecting public safety.

We are grateful for the opportunity to work together on this vital and urgent issue. It is our hope that this report will be an important tool for driving New York State's reform efforts.

We look forward to continuing our work with you as the state begins the process of implementing these reforms.

Sincerely,

A handwritten signature in black ink that reads "Jeremy Travis". The signature is written in a cursive, flowing style.

Jeremy Travis

*President, John Jay College of Criminal Justice, City University of New York
Chair of the Task Force on Transforming Juvenile Justice*





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Task Force member affiliations are listed for purposes of identification only.

The Task Force on Transforming Juvenile Justice was charged with examining what happens at a specific point in the New York State juvenile justice system: the time after a youth has been adjudicated (found guilty of committing a crime) and has received the court’s disposition (sentence) for an act of juvenile delinquency (a crime committed by someone between the ages of 7 and 15). The Task Force focused in particular on these youth’s placement into the care and custody of the Office of Children and Family Services. Throughout this report, the terms “out-of-home placement” and “institutional placement facility” are used interchangeably to refer to the private and state-operated institutions where youth in state custody may serve their sentences.

Preface

ON AUGUST 24, 2009, the United States Department of Justice publicly released a report following a two-year investigation into allegations of excessive force and deprivation of essential services in four juvenile placement facilities in New York State.¹ The findings of this investigation were shocking and profoundly troubling. Most disturbing were the documented instances of excessive force by state employees resulting in youth suffering concussions, broken bones, knocked-out teeth, and other serious injuries.² Force was applied as a form of discipline in response to the most minor infractions, such as refusing to stop laughing when ordered, staring at a staff member, or sneaking an extra cookie.³ Investigators concluded that conditions in these facilities amounted to a violation of residents' constitutional rights.⁴ The report indicated that if these shortcomings were not addressed, the Department of Justice (DOJ) could sue the state.⁵

The DOJ report makes clear what many system stakeholders have been saying for a very long time: namely, that New York's juvenile justice system is failing in its mission to nurture and care for young people in state custody. The state's punitive, correctional approach has damaged the future prospects of these young people, wasted millions of taxpayer dollars, and

violated the fundamental principles of positive youth development.

Fortunately, under the leadership of Governor David A. Paterson, efforts to transform the system are now under way. Commissioner Gladys Carrión, head of the Office of Children and Family Services (OCFS), has taken some critical first steps on the long journey toward reform. OCFS has shut down underutilized placement facilities and enhanced services. A shift to a more supportive and therapeutic model of juvenile justice has begun. The system is turning in a new direction, but there is still much more to be done.

In September 2008, Governor Paterson launched the Task Force on Transforming Juvenile Justice to create a road map for the state's ongoing reform agenda. This body, which includes local and national system stakeholders, academics, and experts, was charged with examining what happens after a youth has been found guilty of committing a crime. With data analysis support and technical assistance from the Vera Institute of Justice, the Task Force has developed a comprehensive set of recommendations that chart a new course for New York's juvenile justice system. These recommendations aim to reduce the use of institutional placement; reinvest resources in community-based alternatives; eliminate inequities across

the system, including those practices that disproportionately impact youth of color; improve the supports and services provided to young people in state custody and upon release; and ensure system accountability.

Implementing these recommendations will not be easy and will require time, resources, and political determination. But given the demonstrated deficiencies of the status quo, there is no reasonable excuse for inaction. Ultimately, the Task Force believes that the changes outlined in this report will result in a more effective, efficient, and just approach for addressing the needs of young people and protecting public safety.

Given the demonstrated deficiencies of the status quo, there is no reasonable excuse for inaction.

Executive Summary

NEW YORK STATE'S juvenile justice system has two primary responsibilities: to keep the public safe and to care for and rehabilitate young people. Since the 1980s, this system has relied on a punitive, corrections-based model to meet these responsibilities. On both counts this model has failed. The need for systemwide reform is urgent.

More than 1,600 youth enter the state's institutional placement facilities each year, at an estimated annualized cost of \$210,000 per child. Currently, there is no standardized, state-wide system in place for determining whether youth placed in state custody truly pose a risk to public safety. However, we do know that in 2007 the majority of these young people—53 percent—had a misdemeanor as their most serious adjudicated offense. This heavy reliance on incarceration is not protecting the public from juvenile crime. The most recent reliable recidivism data—which, troublingly, is more than a decade old—indicates that of all youth released from state custody between 1991 and 1995, 75 percent were re-arrested, 62 percent were re-convicted, and 45 percent were re-incarcerated within three years of their release.

This punitive approach is also failing the young people it is meant to serve. Youth are placed in facilities that are located hundreds of miles away from the support networks of their

families and communities. These institutions are often sorely under-resourced, and some fail to keep their young people safe and secure, let alone meet their myriad service and treatment needs. In some facilities, youth are subjected to shocking violence and abuse. A recent investigation of four New York State facilities by the U.S. Department of Justice found, for example, that staff consistently responded to minor incidents with excessive force, resulting in serious physical injuries to young people. It comes as no surprise, then, that not only do youth leave facilities without having received the support they need to become law-abiding citizens, but many are also more angry, fearful, or violent than they were when they entered.

By incarcerating thousands of children in facilities, the largest of which closely resemble adult prisons, New York State is harming its children, wasting money, and endangering its public. This cannot continue.

Under the new leadership of Commissioner Gladys Carrión, officials at the Office of Children and Family Services (OCFS)—the state agency that oversees New York State's juvenile placement system—have begun the crucial work of repairing this badly broken system. Several counties around the state are doing the same. To accelerate and spread these reform efforts, Governor David Paterson formed the Task Force on Transforming Juvenile Justice in Sep-

tember 2008. Composed of national, state, and county experts from government, law enforcement, community-based organizations, academia, and labor, the Task Force was asked to move the state toward a system that promotes public safety, holds youth accountable for their actions, and produces positive outcomes for young people and their families. In particular, the governor asked the Task Force to focus its efforts on one particular stage of the system: the point after a young person is adjudicated (found guilty of a crime) in family court.

With technical assistance and logistical support from the Vera Institute of Justice, the Task Force began its work by reviewing data, conducting interviews with stakeholders, and consulting national and local juvenile justice experts. The group also visited programs and facilities across New York and other states, including Missouri and the District of Columbia, to gain a firsthand account of the services provided to youth placed in state custody. Based on its findings, the Task Force has crafted 20 recommendations that provide a framework for an effective juvenile justice system. These recommendations are grounded in the best available research and literature. This report lays out those recommendations, and in many areas, it also offers specific strategies for accomplishing them. Each of these recommendations is an important part of a successful transformation of

the state's juvenile justice system, but the heart of the matter is this:

Institutionalizing young people should be the choice of absolute last resort, reserved only for those who pose such a serious threat that no other solution would protect public safety. For the small fraction of youth who do need to be placed in an institutional facility, the state should treat and rehabilitate them, not hurt and harden them. In all other cases, young people can be well served, and the public kept safe, by community-based supports and services that align with best practices in the field.

The report is divided into five chapters, most of which cover a specific category of reform. The recommendations in Chapter 1, however, apply to the entire system and are intended to inform every recommendation that follows.

The Task Force is hopeful that the state's executive, legislative, and judicial leaders will recognize that New York's juvenile justice system is in nothing short of a crisis and that they will use this report as a tool for the transformation that New York State so desperately needs.

The following is a summary list of the Task Force's recommendations:

Task Force Recommendations and Strategies

1 The Fundamentals of Reform

Recommendation 1: Reduce the use of institutional placement, downsize or close underutilized facilities, and reinvest in communities.

Recommendation 2: Reduce the disproportionate representation of youth of color in institutional placement.

Recommendation 3: 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

Recommendation 4: 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.

Strategy 4-1: Amend section 352.2 of the Family Court Act to include the following provision for delinquency dispositions, other than those involving designated felony acts: The court may order institutional placement only when a child poses a significant risk to public safety and, even then, only when no community-based alternative could adequately mitigate that risk.

Strategy 4-2: Use validated instruments to measure risk to public safety and guide placement decisions.

Recommendation 5: Develop and expand community-based alternatives to institutional placement.

Strategy 5-1: Expand the use of evidence-based alternatives to placement.

Strategy 5-2: Broaden the evidence-based field by supporting and conducting evaluations of new, innovative programs that apply the principles of best practice.

Strategy 5-3: Build a continuum of alternative-to-placement programs with graduated levels of supervision and services, including respite care for young people with families in crisis and programs for sexually exploited youth.

Strategy 5-4: Ensure that courts order community-based alternatives when making dispositional decisions.

Strategy 5-5: Ensure that OCFS uses its authority to use day placement as a community-based alternative for youth in its custody.

Strategy 5-6: Provide counties with a financial incentive to use probation supervision and other alternative-to-placement programs.

Recommendation 6: Redirect cost savings into neighborhoods that are home to the highest number of youth in the juvenile justice system.

3 Rethinking Institutional Placement

Recommendation 7: Place youth close to home.

Strategy 7-1: Establish a standard distance within which all youth are placed, and provide transportation to families with children in custody.

Recommendation 8: Develop a standard process to accurately assess a youth's risks and needs.

Recommendation 9: Require all facilities' culture and physical environments to be conducive to positive youth development and rehabilitation.

Strategy 9-1: Ensure that youth are safe and protected from excessive use of force or restraints as a form of punishment.

Strategy 9-2: Promote a culture of caring and mutual respect.

Strategy 9-3: Make the physical appearance of facilities less punitive and more nurturing.

Recommendation 10: Fund and provide services and programs, including education and mental health treatment, which prepare youth for release.

Strategy 10-1: Engage youth, families, treatment providers, and facility staff in the treatment planning process.

Strategy 10-2: Design, implement, and invest in a coordinated continuum of facility-based services and programs that address the full range of youth needs.

Strategy 10-3: Provide access to a high-quality education within facilities that prepares youth for success in the community.

Strategy 10-4: Conduct a thorough examination of the educational and vocational curricula used in all facilities.

Strategy 10-5: Establish OCFS as its own school district and accredit all facility schools.

Recommendation 11: Support and invest in staff.

Strategy 11-1: Train all facilities' staff in cultural competency, positive youth development, and relevant treatment approaches and philosophies.

Strategy 11-2: Provide funding to ensure that all placement facilities are adequately staffed to serve youth needs.

Strategy 11-3: Ensure that OCFS's Voluntary Agency Services unit has adequate staff and resources to monitor the needs of youth in private facilities.

Strategy 11-4: Recruit and retain a professional workforce.

Strategy 11-5: Make salaries for hard-to-recruit positions competitive with salaries for similar positions in other agencies.

Recommendation 12: Provide localities with equal reimbursements for youth who are placed in OCFS custody, regardless of the type of facility.

4 Ensuring Successful Reentry

Recommendation 13: Limit the amount of time youth spend in institutional facilities.

Recommendation 14: Begin reentry planning and preparation at the time of disposition, and actively engage different stakeholders in this process.

Recommendation 15: Ensure that reentry plans are individualized and provide for seamless, well-supported transitions from facilities back to the community.

Strategy 15-1: Provide a continuity of care that addresses youth's reentry experiences and their general needs.

Strategy 15-2: Ensure that OCFS partners and coordinates with relevant state and local agencies and community groups to provide transitioning youth access to a full range of services and interventions.

Strategy 15-3: Foster collaborations between OCFS, the New York State Education Department, and local school districts to facilitate a successful return to an educational or vocational setting for all reentering youth.

5 Creating System Accountability and Transparency

Recommendation 16: Improve and expand the use of data and other performance measures to guide decision making, enhance accountability, and drive system improvement.

Strategy 16-1: Collect and report data for a comprehensive view of the juvenile placement system.

Strategy 16-2: Review, analyze, and report data on youth placed in the custody of local social service agencies.

Strategy 16-3: Establish and track standardized performance measures for each placement facility and alternative-to-placement program.

Strategy 16-4: Fund research and development efforts to evaluate reforms and promote innovation.

Strategy 16-5: Disseminate research and information to educate staff, stakeholders, and the public and to encourage system transparency.

Recommendation 17: Track and report disproportionate representation of youth of color at every system point.

Recommendation 18: Ensure that allegations of abuse and staff misconduct in facilities are thoroughly investigated and handled appropriately.

Recommendation 19: Establish and fund an independent, external oversight body to monitor and report on OCFS's juvenile justice policies and practices.

Recommendation 20: Provide regular progress reports on the status of implementing the Task Force's recommendations.

Introduction

LIKE OTHER STATES across the country, in the 1980s and 1990s New York largely abandoned its focus on juvenile justice rehabilitation and treatment in favor of an approach that responded to delinquent behavior with punitive sanctions and institutional placement. Now, nearly three decades later, the gathering consensus among practitioners, academics, policymakers, and the public is that this approach has failed.

At the most basic level, New York is investing enormous sums in a system that does not deliver what it promises. The state spends an average of \$210,000 per year to hold a young person in an institutional placement facility.⁶ Yet this investment does little to protect public safety or help youth become productive, law-abiding citizens. In fact, many have concluded that it may even be making things worse. The most reliable recidivism data—which is more than 10 years old—indicates that, of all youth released from New York State custody between 1991 and 1995, 75 percent were re-arrested, 62 percent were re-convicted, and 45 percent were re-incarcerated within three years.⁷ A more recent study following these same youth found that 89 percent of boys and 81 percent of girls had been re-arrested by age 28.⁸

New York's reliance on institutional placement is particularly disturbing because many placed youth may not pose a risk to public safety and would benefit more from support and

services in their own communities. Currently, there is no standardized, statewide system in place for determining whether youth placed in state custody truly pose a risk to public safety. We do know, however, that in 2007, 53 percent of youth admitted to the state's institutional facilities were placed for a misdemeanor.⁹ In many cases, judges send young people to these facilities simply because there are no community-based alternatives available to address their concerns about a youth's family situation or provide specialized treatment services. This pattern is not unique to New York State; across the United States juvenile corrections systems increasingly serve as caretaker-of-last-resort for youth with serious mental health problems.¹⁰

There is also reason to believe that the current system is unfair. African American and Latino youth represent only 44 percent of New York's total youth population, yet they comprise more than 80 percent of all youth in the state's institutional placement facilities.¹¹ Remarkably, this disparity has never been adequately investigated to understand its causes or consequences. There is, however, compelling evidence showing that New York's juvenile justice system is unsafe. In 2006, the nonprofit group Human Rights Watch issued a report documenting verbal, psychological, and physical abuse of young girls in two New York State institutional facilities.¹² That same year, a 15-year-old boy died after being restrained by a

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staff member at the state's Tryon facility.¹³ These incidents likely prompted the U.S. Department of Justice (DOJ) to investigate confinement conditions in four New York State facilities.¹⁴ DOJ's final report, released in August 2009, revealed a system replete with violations of youth's constitutional rights. For example, staff repeatedly used excessive physical force to restrain young people for minor incidents, such as refusing to get dressed or slamming a door.¹⁵ In dozens of cases, these restraints caused severe injuries, including concussions, broken bones, and lost teeth.¹⁶

There is a better way. A handful of jurisdictions across the country have reduced their reliance on institutional placement while still ensuring public safety. Ohio and Illinois, for example, have cut their juvenile corrections populations and produced better outcomes for youth and families by investing in cost-effective, community-based alternatives to placement and reserving expensive placement beds for individuals who pose a significant risk to public safety. These alternative programs, designed to address the causes of delinquency without severing a youth's ties to his or her

family and community, have been shown to decrease recidivism rates.¹⁷

Some jurisdictions are seeking better outcomes for those youth who are institutionalized by improving conditions and services within facilities. For example, Missouri provides youth with education, group and family therapy, and opportunities for youth development in small, home-like facilities that are close to their home communities. Staff members in Missouri facilities rarely use physical force when conflicts arise and offer an array of supports to help youth transition back to their communities after placement. This rehabilitative approach has been shown to better protect public safety and produce more impressive outcomes than punitive alternatives: not only do youth released from the Missouri system have low rates of further juvenile and criminal justice involvement, but they also show improved educational outcomes and family functioning.¹⁸

In September 2008, Governor David Paterson created the Task Force on Transforming Juvenile Justice, saying, "It is imperative that our state seek alternatives to a costly system that is not serving New York's children, families and communities well."¹⁹ Gladys Carrión, commissioner of the Office of Children and Family Services (OCFS), which oversees the state's juvenile correctional system, shares the governor's concern. "The time has come to fix the juvenile

justice system,” she said. “At stake is nothing less than the health and future of some of our most troubled youngsters and their families.”²⁰

The Task Force on Transforming Juvenile Justice was specifically asked to examine ways to

- expand alternatives to institutional placement;
- improve the conditions for youth placed in institutional facilities;
- ensure that confined youth transition successfully to their communities upon release; and
- reduce the disproportionate confinement of youth of color.

This report from the Task Force is intended to set New York State’s juvenile justice system on a new course. The recommendations and strategies included here provide concrete steps for addressing the serious problems within New York’s juvenile justice system and implementing meaningful change, while acknowledging the state’s economic, political, and legal realities. Most important, these recommendations and strategies recognize that investing in young people is a critical part of ensuring public safety.

The report begins by describing New York’s reform efforts to date, outlining the Task Force’s goals and structure, and highlighting the principles that inform its final recommendations. The remainder of the report presents an in-depth review of the Task Force’s findings and recommendations. Chapter 1 lays the foundation for New York State’s reform process by outlining three fundamental recommendations that pertain to every aspect of the juvenile justice system and that are integral to each chapter that follows: a call to decrease the state’s reliance on institutional placement, reduce the disproportionate confinement of youth of color, and operate a unified and cohesive system of care for all youth in state custody, whether in private or state-run facilities. Chapter 2 provides a more detailed road map for how the state can downsize the placement system by increasing the use of community-based alternatives. Chap-

ter 3 aims at improving the treatment of and services provided to young people within institutional placement facilities. Chapter 4 focuses on ensuring that the transition from an institutional placement facility back to the community is successful for the youth, his or her family, the community, and the public. Chapter 5 seeks to enhance system accountability and transparency by improving data collection and strengthening oversight. Where appropriate, the report acknowledges the reforms already under way in New York State and highlights relevant national examples of best practice.

Although the Task Force focused on what happens after a youth is found guilty of committing a crime, most members felt strongly that the following aspects of the juvenile justice system also warrant scrutiny:

- the age of criminal responsibility (last established in 1965; New York State is among three states, including Connecticut and North Carolina, that still charge youth age 16 and above as adults, regardless of the alleged offense);²¹
- the policies and practices governing the treatment of juvenile offenders (under the Juvenile Offender Law, enacted in 1978, certain youth under the age of 16 are processed in the criminal courts due to the severity of their offense);²²
- the disproportionate representation of youth of color at *all system points*;
- arrest and detention policies and practices²³ (research shows that youth who spend time in detention are far more likely to later enter a placement facility; thus strategies to safely reduce detention are essential to broad juvenile justice reform²⁴); and
- the need for a single entity to be held accountable for coordinating and implementing the state’s juvenile justice policies across systems.

Although these issues fall outside the Task Force’s mandate and, therefore, the scope of its study, the Task Force recommends that New York State include them as part of a larger, more comprehensive juvenile justice agenda.

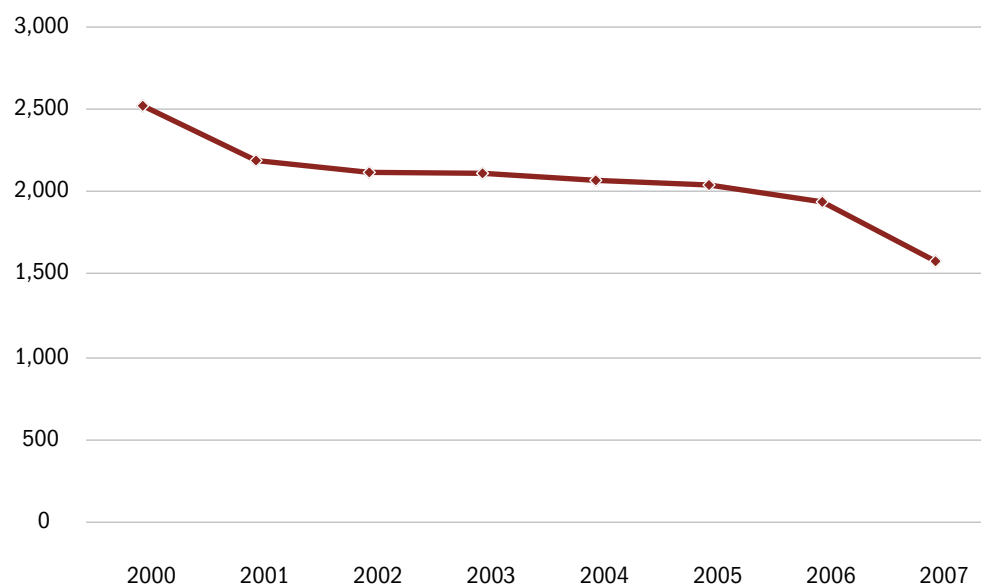
Recent Reform Efforts and the Paterson Task Force

Consistent with national trends, New York State has started to reexamine its juvenile placement policies and practices. In recent years, OCFS and several counties have sought to reserve institutional placement for young people who pose a significant risk to public safety and to ensure that, when public safety permits, adjudicated youth are kept in their communities with needed support, supervision, and services. Several localities, including Erie County, New York City, Onondaga County, and Suffolk County, have expanded youth's access to services in community-based alternatives to confinement. These efforts have led to a significant decline in the number of youth placed in state custody. As figure 1 shows, the total number of youth admissions to OCFS custody has declined by almost one-third since 2000, from 2,518 to 1,680.²⁵ Accordingly, this has led the agency to close or downsize 11 institutional placement facilities since January 2009.²⁶

OCFS has also been committed to improving the environment and services provided for young people who are placed in these facilities. Recently, for example, it trained staff to use a therapeutic approach to care that is more sensitive to youth needs and introduced a new restraint tracking system to monitor violence in facilities.

Despite these improvements, the high number of youth still being placed for low-level offenses and continuing reports of violence in some facilities indicate that there is much more work to be done. The Task Force on Transforming Juvenile Justice is leading the state's ongoing effort to adopt a rehabilitative model of juvenile justice.

Figure 1: Admissions to OCFS Custody, 2000–2007



The Task Force was divided into two subcommittees. The Reentry and Community-based Alternatives to Placement Subcommittee explored ways to expand community-based alternatives for youth at risk of institutional placement and to enhance reentry services for youth returning to communities after leaving a correctional facility. The Redefining Residential Care Subcommittee considered ways to improve the decision-making process that governs where delinquent youth are placed and to ensure that young people in institutional facilities receive developmentally appropriate, therapeutic, and humane treatment that reduces their likelihood of recidivism. Given the large number of youth of color in the institutional placement system relative to their numbers in the general population, both subcommittees also considered how to reduce this disproportionality.

The Vera Institute of Justice—an independent nonprofit organization with more than 40 years of expertise in the criminal and juvenile justice fields—provided data analysis, insight into national best practices, and ongoing logistical support to the Task Force over the course of its work. With assistance from Vera, the Task Force

- reviewed research literature and relevant reports on alternatives to placement, conditions of confinement, reentry services, and the disproportionate representation of youth of color in the juvenile justice system;
- examined quantitative data to understand which youth are entering institutional placement facilities;
- worked with consultants to quantify the costs and benefits associated with sending youth to alternative-to-placement programs in lieu of placement facilities;
- conducted geographic analyses of youth in state custody;
- consulted with more than 200 state and local officials, advocates, academic researchers, and national experts and practitioners to learn more about local and national placement and reentry practices and to gather insight on how best to address current challenges within the system;
- visited programs and facilities for a firsthand look at the services provided to system-involved youth; and
- visited jurisdictions that are nationally recognized for their innovative approaches to serving youth placed in state custody, including Missouri and the District of Columbia.

In carrying out its mandate, the Task Force identified three overarching goals for the juvenile justice system:

- 1. ensure public safety,**
- 2. hold youth accountable for their actions, and**
- 3. produce positive outcomes for youth, families, and their communities.**

These goals, along with eight principles developed to guide the Task Force's deliberations, appear on the next page. These principles serve as the foundation for the final recommendations and represent the group's collective vision for an effective juvenile justice system. The principles, which are grounded in decades of research and practice about what works best to help young people develop and succeed, represent widely shared philosophies about how youth should be viewed and treated. Most importantly, they reflect the belief that providing youth with the skills and services they need to become successful adults plays a critical role in keeping the public safe.

Task Force Goals and Principles

The overarching goals of the juvenile justice system are to

- ensure public safety;
- hold youth accountable for their actions; and
- produce positive outcomes for youth, families, and their communities.

An effective juvenile justice system can accomplish these goals by applying the following principles:

1. Embrace the strengths and inherent potential of every youth.

The Task Force believes that all children deserve opportunities to succeed. Juvenile justice policymakers and practitioners must identify and eliminate any policies and practices that disparately impact certain youth or lead to an unfair disproportionate representation of youth of color.

2. Recognize that youth are developmentally different from adults.

Youth have developing brains that lead them to behave differently than adults. Recent research shows that most adolescents have diminished decision-making capacity and are more susceptible to peer influence compared to adults.²⁷ This research also suggests that many youth will cease lawbreaking as part of the normal maturation process. These findings should influence how the justice system views, treats, and sanctions children.²⁸

3. Capitalize on the positive connection between a young person and his or her family and community.

Strong relationships with parents or guardians and links with the community are regularly cited as critical to a youth's healthy development and rehabilitation.²⁹

Family and caregiver support can help youth gain and practice the skills they need to find alternatives to delinquent behavior. Family-focused interventions should take place in community-based programs, in facilities, and upon reentry. Similarly, connecting youth to community resources can increase their chances of being successful.³⁰

4. Reserve the use of institutional placement for youth who pose a significant risk to public safety.

Given the importance of keeping youth connected to their families and the high costs associated with placement, it is critical that confinement be used only for the highest risk offenders. Research has shown that applying the most intensive correctional resources to low-risk youth disrupts their positive social networks and exposes them to negative behaviors, increasing the likelihood that they will become involved in criminal activity upon release.³¹ Youth should never be placed in a facility solely because of concerns about their family situation or due to the lack of community-based services that can adequately address their needs.

5. Establish a flexible continuum of services and programs for youth and their families.

Reducing reliance on confinement requires creating a continuum of community-based services and supervision options for delinquent youth. These services must be well coordinated and focus on addressing social service, mental health, and substance abuse needs. They should also facilitate academic progress, provide developmental opportunities, and help maintain public safety.

6. Ensure that all youth—both those in institutional placement and those in community-based programs—are treated with dignity and respect in nurturing settings that emphasize a positive youth development approach.³²

Whether they are in confinement or in a community-based program, providing respectful treatment is an important first step in helping youth internalize good behaviors and establish positive relationships. Research also clearly demonstrates that a strength-based treatment approach focused on rehabilitation is more effective than punitive and disciplinary models.³³ Youth will be more likely to thrive after leaving the juvenile justice system if the system recognizes their strengths and builds on their skills.

7. Help youth transform their behaviors to become productive, law-abiding, successful citizens.

Youth must understand the consequences of their actions and gain the necessary skills and competencies to avoid future involvement in the justice system. Programs and services that teach life skills and focus on changing negative behaviors can promote better outcomes and enhance public safety.³⁴

8. Evaluate program performance to increase transparency and enhance effectiveness.

Ongoing monitoring and evaluation can help ensure that programs are implemented effectively and that the system remains accountable for its practices and outcomes. Sharing the information gathered through these processes with system stakeholders and the public can guide decision making and drive system improvement.

An Overview of New York State’s Juvenile Delinquency System

This section provides a short orientation to New York’s juvenile delinquency system.

New York State is one of only three states that statutorily define age 15 as the cut-off point for juvenile jurisdiction. Any child who allegedly commits a crime at age 16 or older, regardless of the offense, is processed in the adult criminal justice system.

In New York State, youth who are arrested may fall into one of two categories:

Juvenile Delinquent (JD): A youth who was found by the family court to have committed an act while between the ages of 7 and 15 that would constitute a crime if committed by an adult.

Juvenile Offender (JO): A youth who committed a crime while under the age of 16 and was tried and convicted in the criminal (adult) court, rather than the family court, due to the severity of the offense.³⁵

The Task Force’s primary focus is on JD cases. Figure 2 shows where the disposition of JD cases, as processed in family court, occurs within the New York State juvenile justice system.³⁶ (The processing of JO cases in criminal court is not included here.)

Glossary of Key Terms³⁷

Some of the terms used in this report may be specific to New York State’s juvenile justice system. The definitions in this section are provided to help readers who may not be familiar with this precise language. This section begins with definitions of key points within the juvenile justice system, is followed by an overview of dispositional options available to family court judges, and ends with terms related specifically to Office of Children and Family Services (OCFS) custody.

System Points

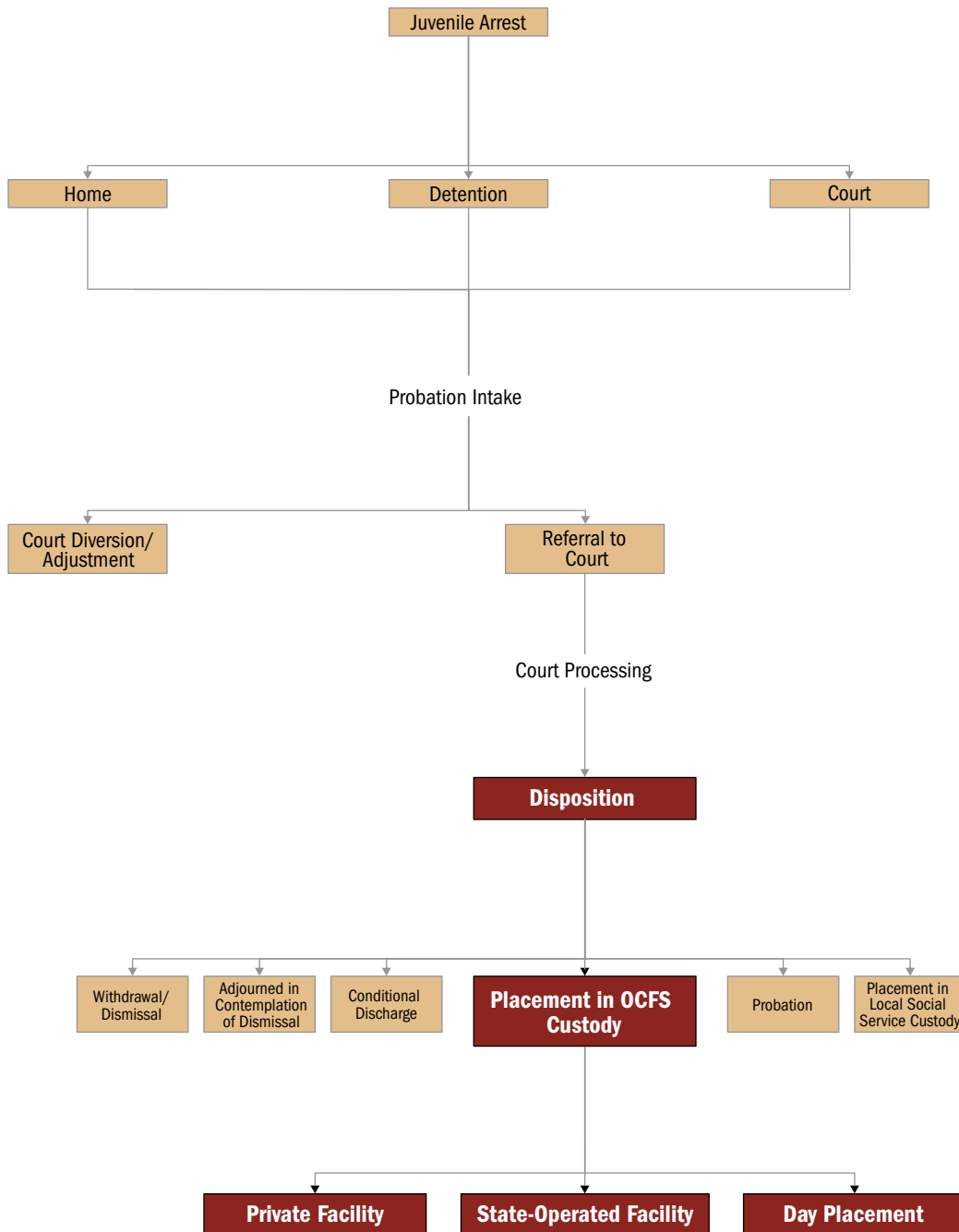
Juvenile arrest: When a youth between the ages of 7 and 15 is stopped by a police officer and taken into police custody in relation to the investigation of a crime. This is the point of entry into the juvenile justice system.

Detention: The practice of temporarily holding youth in a secure or non-secure facility, pending a court hearing, similar to jail in the adult context.

Referral to court or diversion/adjustment: The local probation department conducts an intake assessment to determine whether an alleged juvenile delinquent should be referred to the prosecutor’s office or diverted from prosecution through services in the community.³⁸ When cases are sent to the prosecutor’s office, prosecution staff decide whether and how to proceed.

Court processing: A series of court hearings and procedures, including **arraignment** (initial appearance in court), **fact finding** (a finding by the judge that a youth committed some or all of the acts outlined in the court petition or criminal complaint), and **disposition** (when a judge determines whether a youth should be adjudicated—deemed a juvenile delinquent—and orders a sentence).

Figure 2: Flowchart of New York State's Juvenile Delinquency System



Dispositional Options

Withdrawal: The prosecuting agency makes a determination not to proceed for reasons that may include, but are not limited to, insufficient credible evidence; extenuating circumstances; or further investigation exonerating the youth.

Dismissal: The case is terminated by the judge for factors that may include, but are not limited to, insufficient evidence presented by the prosecution; failure by the presentment agency to commence the case within the statutory time frame; or individual circumstances that mitigate the need for a finding.

Adjournment in contemplation of dismissal: Court proceedings are suspended for a specified period of time (typically six months). During this time, the youth must comply with conditions outlined in the court order. If the youth complies, the case will be dismissed with no adjudication. If the terms of the court order are violated, the case is brought back to court to resume proceedings.

Conditional discharge: The youth is released without court supervision but must comply with certain conditions for a specified amount of time. These conditions can include obeying curfew, attending school, and adhering to rules set by a parent or guardian.

Probation: The court determines that a delinquent youth is in need of guidance, training, or other assistance, and sentences him or her to probation supervision. Under probation, the youth remains in the community but must meet certain conditions, such as completion of community service or participation in an alternative to residential placement program. If the terms of probation are violated, probation may be revoked and the court may consider imposing stricter sanctions. Periods of probation typically last from 12 to 24 months.

Placement: By statute, the court may determine that a delinquent youth can remain in his or her own home or in the custody of a suitable relative or other caregiver, or it may place the youth in the custody of either the local department of social services (DSS) or OCFS. Reliable statewide data on the total number of youth placed in DSS custody is currently unavailable. In 2007, 1,680 youth were admitted to OCFS custody.³⁹

OCFS custody: Youth placed in OCFS custody are typically ordered to serve their sentences in either a private or state-operated institutional placement facility. Judges can directly place a youth with a specific private facility, designate the type of state-operated facility in which a youth should be placed, or give OCFS the discretion to determine where a youth will reside.⁴⁰ The median age of youth at time of admission to state custody in 2007 was 15.7.⁴¹

OCFS Custody

Private facilities: OCFS contracts with 49 private agencies to provide placement services to delinquent youth in its custody. In 2007, 48.1 percent of youth (808) were placed in a private facility; of these, 63 percent (508) were from New York City.⁴² During this same year, 98 percent of all delinquent youth sent to private facilities were referred there directly by judges at disposition.⁴³ As shown in Figure 3, 62 percent had a misdemeanor as their most serious placement offense, and 35 percent had a felony as their most serious offense.⁴⁴ The median length of stay for youth in private facilities is 11.6 months.⁴⁵

Day placement: By law, OCFS has the discretion to establish and use day placement, a community-based non-residential option, for any youth placed in its custody pursuant to the general delinquency placement provision under section 353.3 of the Family Court Act.⁴⁶ However, this option is rarely used. In 2007, fewer than 2 percent of youth (10) in OCFS custody received day placement in lieu of being placed in an institutional facility.⁴⁷

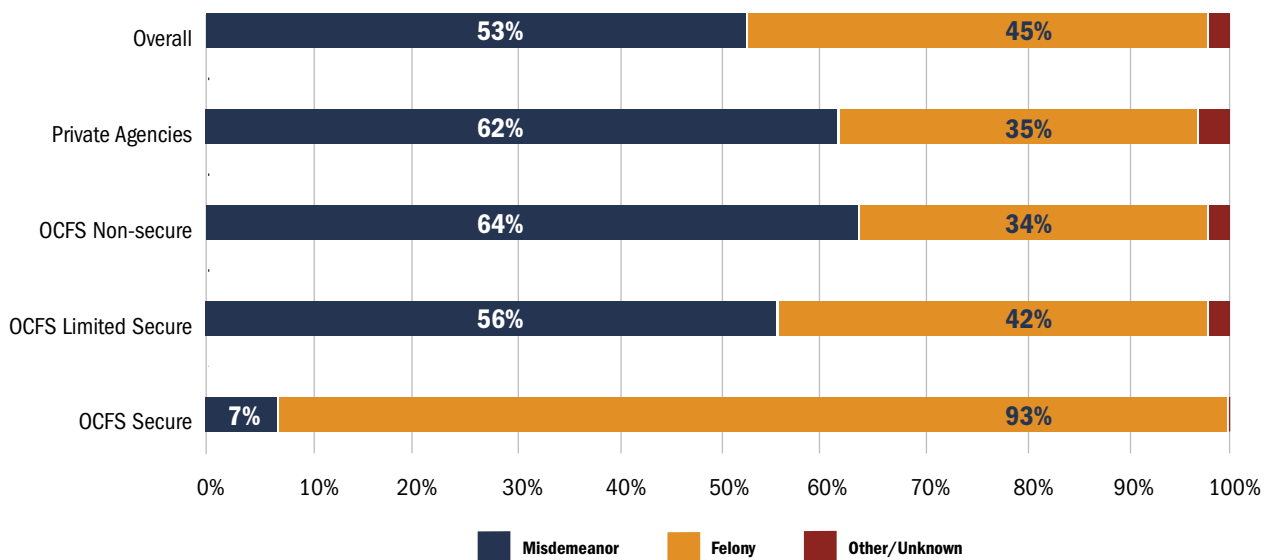
State-operated facilities: These facilities, operated and monitored by OCFS, have three security levels: non-secure, limited secure, and secure. Under the Family Court Act, judges may designate in which of these security levels a youth should be placed or place the youth in OCFS custody, giving the agency the discretion to make specific facility assignments during the intake and assessment process.⁴⁸ In 2007, 50.3 percent of youth (845) in state custody were placed in an OCFS-operated facility.⁴⁹ Of these youth, judges designated the level of facility in which a youth should be placed 80 percent of the time.⁵⁰ The median length of stay for youth in state-operated facilities is 10.5 months.⁵¹

Non-secure facilities: These smaller facilities do not have perimeter fencing, more closely resemble group homes, and typically range in size from 22 to 50 beds. OCFS currently operates 11 non-secure facilities. In 2007, 64 percent of youth in non-secure facilities were adjudicated on a misdemeanor, and approximately 34 percent were adjudicated on a felony (see figure 3).⁵²

Limited secure facilities: These facilities are generally less restrictive than secure facilities; however, several of them look and feel exactly like secure facilities, with surrounding barbed wire. OCFS currently operates seven limited secure facilities ranging in size from 25 to 183 beds. In 2007, 56 percent of youth (all JDs) in limited secure facilities were adjudicated on a misdemeanor; 42 percent were adjudicated on a felony (see figure 3).⁵³

Secure facilities: These facilities provide the most controlled and restrictive residential programs and are generally reserved for JOs and JDs with the most serious felony cases, known as designated felonies.⁵⁴ The facilities are surrounded by barbed wire and have secure hardware for internal doors. OCFS currently operates five secure facilities that range in size from 30 to 180 beds. In 2007, 93 percent of youth in secure facilities had a felony charge at adjudication (see figure 3).⁵⁵

Figure 3: Charge Severity at Adjudication by Facility Type, 2007







1

The Fundamentals of Reform

TO IMPROVE THE LIVES OF ITS YOUNG PEOPLE and keep its communities secure, New York State must sharply change the direction its juvenile justice system has been following for decades. The recommendations in this chapter represent a foundation for this new course. Unlike the recommendations in subsequent chapters, which pertain to specific aspects of New York State's juvenile justice system, the recommendations here pertain to *every* aspect of the system and are integral to all of the recommendations that follow.

First and foremost, New York State should decrease its use of institutional placement, downsizing or closing facilities that are no longer needed and reinvesting the savings in community-based alternatives to institutional placement. Second, it must aggressively address and reduce the disproportionate representation of youth of color in institutional facilities. Third, New York State must operate a unified and cohesive system of care that ensures the safety of all youth in its custody, both those in private and state-operated facilities.

RECOMMENDATION 1. Reduce the use of institutional placement, downsize or close underutilized facilities, and reinvest in communities.

One overarching reality shapes every recommendation in this report: too many children in New York State are locked up in institutional facilities that harm rather than help them. There are several reasons for this unacceptable state of affairs. First, there is no standardized, statewide system in place for determining whether youth placed in state custody truly pose a significant risk to public safety. Second, too many young people are placed in institutions not because they are dangerous, but because they have social service and/or mental health needs that have not been met in their communities, often due to a lack of resources. Yet as the U.S. Department of Justice report makes clear, services available in some facilities are either inadequate or non-existent, further compounding the negative outcomes associated with placement.

The decision to remove low-risk youth from their communities and place them in institutional confinement is one of considerable consequence. As will be made clear later in this report, institutional placement can be detrimental to low-risk youth and result in greater risk to public

The decision to remove low-risk youth from their communities and place them in institutional confinement is one of considerable consequence.

safety. Furthermore, many of the children who are currently being placed could be better served at home with their families or caregivers, receiving the support or services they need within their own communities. The recommendations of the Task Force, taken together, reflect this simple proposition: A juvenile justice system should reserve institutional placement only for those youth who pose a significant risk to public safety; those who pose little risk or simply need services should not be removed from their communities.

The discrete recommendations and strategies outlined in this report offer a road map for reducing the number of children in institutional placement while better protecting public safety. This reduction will make it possible to downsize or close facilities, freeing resources for investment in these youth's home communities. The number of available beds should reflect actual demand, calculated with the goal of reducing reli-

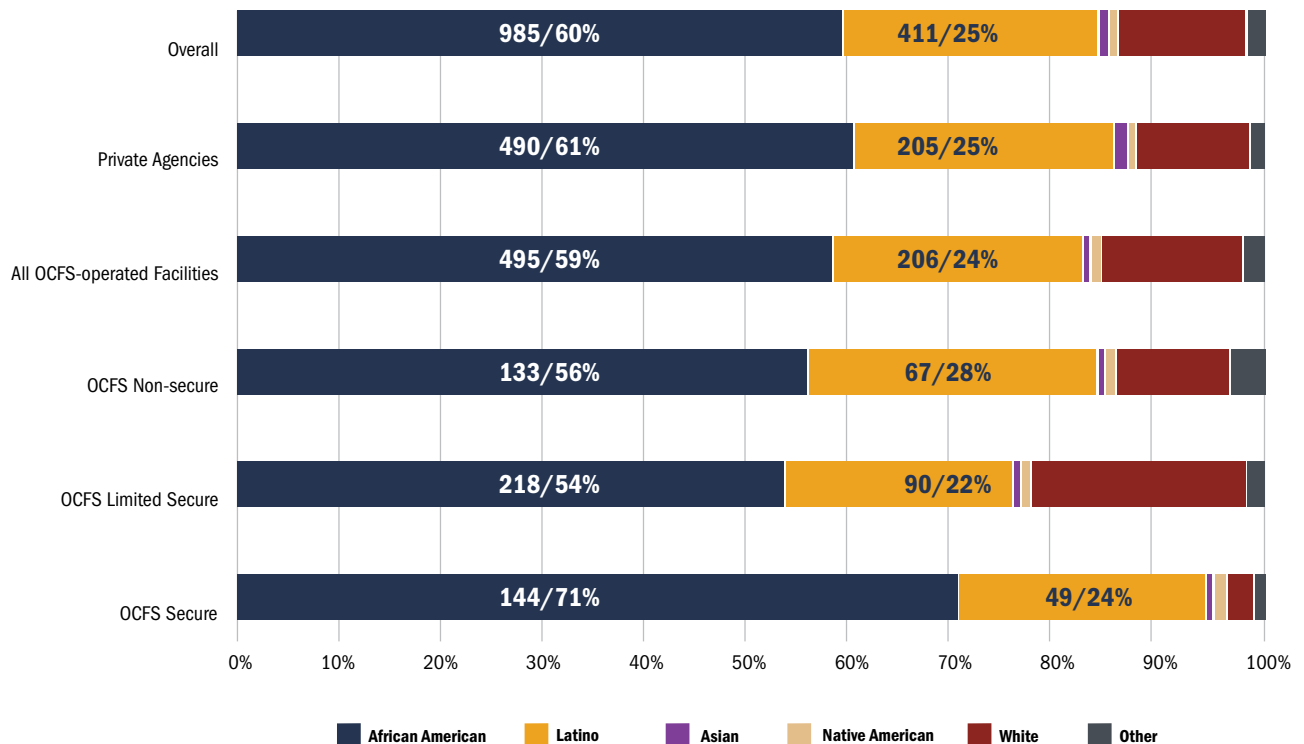
ance on institutions to treat these youth. Other states have achieved these results (see Chapter 2). New York should follow their lead.

RECOMMENDATION 2. Reduce the disproportionate representation of youth of color in institutional placement.

As figure 4 shows, the overwhelming majority of young people confined to institutional placement in New York State are children of color. Nearly 85 percent—or five out of six—of the young people entering OCFS custody in 2007 were either African American (59.4 percent) or Latino (24.8 percent); yet combined, these youth only represent 44 percent of the state’s general youth population.⁵⁶ In New York City, the disparities are even more pronounced: 93.5 percent of New York City youth placed in custody were children of color.⁵⁷ This disparity raises profound questions about the fairness of the entire juvenile justice system—from arrest through prosecution and placement.

An in-depth examination of the systemic issues and societal conditions that might produce this disparity is beyond the scope of the Task

Figure 4: Race/Ethnicity Breakdown of Admissions to Residential Placement by Facility Type, 2007



Force’s mission. Nevertheless, the Task Force did conclude that the racial imbalance represents a fundamental challenge to the state’s entire juvenile justice reform agenda. As New York State works to reduce the overall number of young people in its facilities, it must also address the disproportionate representation of youth of color within that population. Reducing racial imbalance in institutional placement must be a top priority of any reform agenda.

This challenge is significant but not insurmountable. Across the United States, organizations such as the Haywood Burns Institute and the Center for Children’s Law and Policy are working with state and local jurisdictions to ensure that their juvenile justice systems are fair and equitable. In doing so, they are helping to reduce similar racial imbalances. New York State should consider engaging national experts to help its policymakers adopt data-driven, consensus-based approaches to address this issue. The state should also ensure that stakeholders from communities of color have a meaningful role in the process. Such an effort will require a long-term commitment to reform. It will also require honesty and courage.

If these recommendations are followed, New York will reduce the overall number of youth in institutional placement and lessen the disproportionate impact of the system on children of color.

The Task Force members believe that the full complement of recommendations presented in this report will begin to address this situation. Each recommendation is designed to promote fairness in the context of dispositional decision making, alternatives to placement, and institutional placement itself. If these recommendations are followed, New York will reduce the overall number of youth in institutional placement and lessen the disproportionate impact of the system on children of color.

It is important to stress, however, that because the Task Force focused on post-adjudicatory reform, any benefits will be limited to that context. Racial disparities in the juvenile justice system are part of a much broader phenomenon that begins with the interactions between police and young people. Addressing racial disparities at the back end without a more comprehensive examination of the entire system represents an incomplete and wholly inadequate response to a grave reality.

RECOMMENDATION 3. 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.

New York State currently operates two parallel residential systems for youth in OCFS custody. Some youth are placed in facilities operated directly by the state; others are sent to private facilities operating under contract with OCFS. Over the past several years, the proportion of youth in this latter category has grown significantly. In 1998, 30 percent of all placed youth entered a private institution.⁵⁸ By 2007, the proportion had risen to nearly 50 percent (see figures 5 and 6 on the next page).⁵⁹ The phenomenon, however, is not consistent across the state: for example, in 2007, 53 percent of committed youth from New York City were admitted to private institutions compared to 81 percent from Nassau County.⁶⁰

OCFS is responsible for licensing, regulating, and supervising its state-operated facilities and private agencies.⁶¹ Youth in both types of facilities are considered to be legally under the custody of the state.⁶² Yet these two groups of youth currently travel two very different paths. Youth placed in OCFS-operated facilities are assessed, monitored, and supervised directly by the agency. Youth in private facilities also receive assessments, but the assessments vary from one location to the next and are not the same as those used in state facilities. Although OCFS has a case management system to track individual youth placed in private agencies, the agency does not regularly review or analyze this information in aggregate form.⁶³ As a result, the Task Force was unable to determine what the private facility assessments illustrate about the needs of youth in those facilities.⁶⁴ In conversations with the Task Force, OCFS officials characterized their relationship with the private agencies as being more reactive than proactive. For example, most of OCFS's interactions with the private facilities are in response to reports of critical incidents—serious situations involving youth at private agencies, such as assaults or alleged child abuse—or requests for modification of placement—when a private agency asks to move a youth in its care to a state-operated facility.⁶⁵ The Task Force was shocked to learn that, according to state officials, OCFS's contracts with private agencies do not include performance measures to ensure that these agencies provide youth in their facilities with a certain standard of care and supervision.⁶⁶

This combined lack of aggregate data on, and oversight of, private agencies raises significant questions about the costs associated with private placements, particularly since the proportion of youth admitted to these facilities has risen dramatically over the past decade. These concerns are exacerbated by marked differences in the payment structure for private placements versus state-operated facilities: the cost of an OCFS-operated placement is shared equally by the state and the youth's county,

Figure 5: Admissions to Private Facilities versus OCFS-operated Facilities, 1998-2007

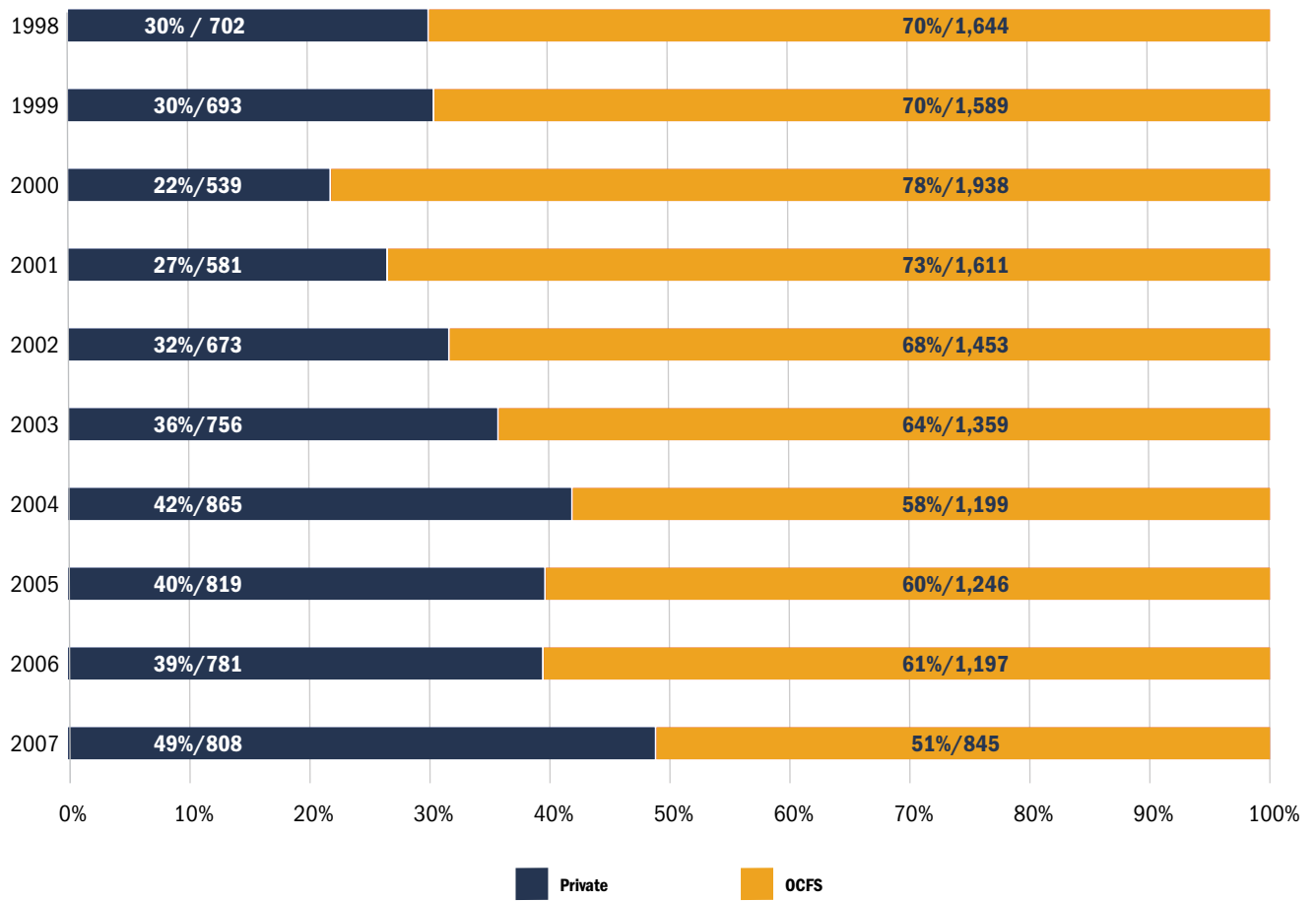
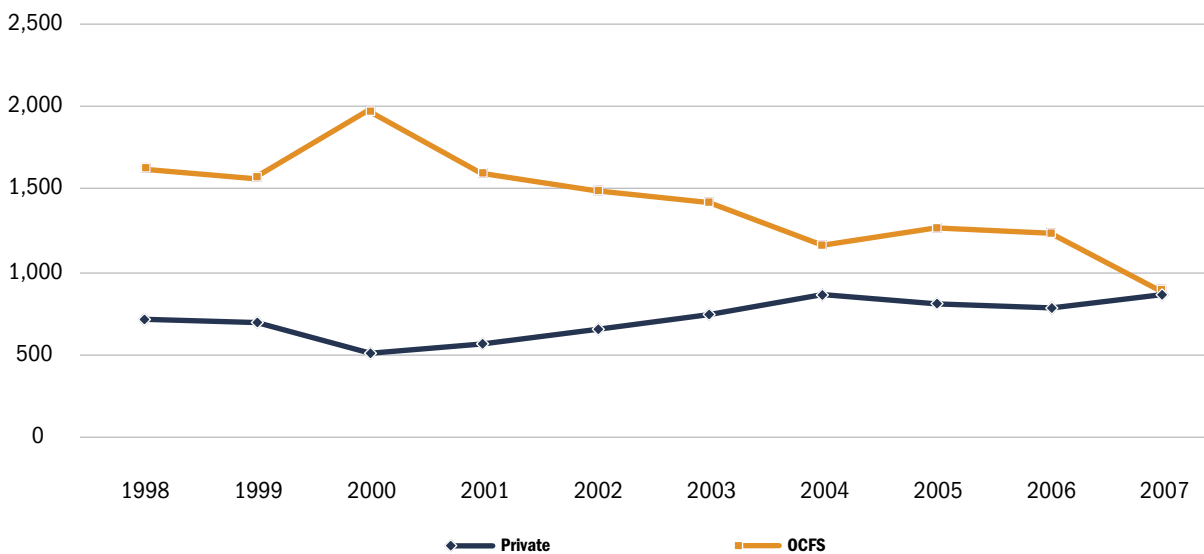


Figure 6: Admissions to Private Facilities versus OCFS-operated Facilities, 1998-2007



Source: OCFS Quarterly Reports

but the cost distribution of a private placement can vary significantly and may, in some cases, fall entirely to the county.⁶⁷ Young people also spend more time in private facilities than in state-operated facilities: in 2007, the median time spent in a private facility was 11.6 months, compared to 10.5 months in state-operated facilities.⁶⁸

The Task Force is deeply concerned that OCFS is not operating a cohesive, uniform system of care for all youth in its custody. State law mandates that OCFS has the same obligation to young people in private and public facilities.⁶⁹ In order to meet this obligation, OCFS must be more than a nominal custodian of youth in private facilities. This report provides a number of recommendations and strategies intended to accomplish this goal. These include developing a standard process to assess the risks and needs of all youth in placement, establishing a consistent payment and reimbursement structure for localities that place youth in OCFS custody, and collecting and analyzing data on all facility programs to assess their performance over time.

The Task Force's call for a cohesive system in no way implies that private facilities are qualitatively inferior to OCFS-operated facilities, or vice-versa. As the system currently operates, however, there is little aggregate data to track—and therefore ensure—systemwide quality or accountability. Only by implementing the reforms presented in this report in a consistent and equitable manner can New York say that it is truly transforming its juvenile justice system.

OCFS must be more than a nominal custodian of youth in private facilities.



2

Keeping More Kids at Home: A Shift to Community-based Services

A SUCCESSFUL JUVENILE JUSTICE system keeps the public safe and helps young people become healthy, productive, law-abiding citizens. New York State's current system does neither. New York places nearly 1,700 children in juvenile justice institutional facilities each year. Once they leave these institutions, many young people re-offend and return to the system. Of a group of 9,477 young people released from the state's residential institutions between 1991 and 1995, for example, 75 percent were re-arrested, 62 percent were re-convicted, and 45 percent were incarcerated within three years of their release.⁷⁰

These dismal statistics comport with current research, which shows that locking up youth often leads to poor outcomes for both the children who are placed and the communities to which they will inevitably return. In par-

ticular, institutionalizing young people who do not pose a serious risk to public safety is ineffective and unsafe. For example, one study showed that correctional interventions can actually increase recidivism among low-risk youth.⁷¹ The reasons for this are not surprising. Exposed to negative peer influences in institutions, low-level offenders learn unhealthy, even criminal habits.⁷² Family relationships and community links, which are central to healthy youth development, can be undermined by the estrangement that accompanies placement, even in well-run residential facilities. In other words, when a low-risk young person is placed in an institution, “the very attributes that make them low-risk become interrupted.”⁷³ Additionally, institutional placement rarely helps young people, whatever their level of risk to public safety, gain the skills they need to find viable alternatives to delinquent behavior.⁷⁴ As a result, many formerly incarcerated youth are unable to resist the negative pressures they face upon returning home.⁷⁵

Most system-involved youth can be better served by community-based supports grounded in evidence-based principles and practices. Research indicates that community-based alternatives to placement often produce lower recidivism rates than placement in institutional facilities.⁷⁶

Young people who are served in their communities have been shown to be more likely to apply what they learn in treatment to their lives.

For example, youth who participate in programs such as Multisystemic Therapy (MST), Functional Family Therapy (FFT), and Multidimensional Treatment Foster Care (MTFC) can have reconviction rates up to 18 percent lower than those in institutional placement.⁷⁷ These programs can also save New York State money. According to a preliminary New York State cost benefit analysis conducted by the Vera Institute of Justice and largely modeled after similar analyses performed by the Washington State Institute for Public Policy, evidence-based alternatives can save up to \$23,600 per participant for taxpayers alone in New York State and up to \$96,000 for both taxpayers and victims over the long term.⁷⁸

Community treatment and supervision is better suited than residential placement to working with a young person holistically, addressing his or her behavior in relation to family, school, and peers. Young people who are served in their communities have been shown to be more likely to apply what they learn in treatment to their lives.⁷⁹

In New York State, there are two primary system points at which youth might be sent to community-based alternatives to placement: in court at the time of disposition (sentencing) or when they are placed in the custody of the Office of Children and Family Services (OCFS). Because the state lacks an adequate network of such supports, however, children who

do not pose a significant risk to public safety often end up in institutional facilities. In interviews with a wide range of stakeholders, the Task Force found that judges faced with young people who have specific treatment needs, such as mental health or substance abuse issues, regularly choose institutional placement because they believe those facilities are the only place where needed services are available. Similarly, despite its statutory authority to use an alternative, non-residential option called day placement, OCFS currently places all but 2 percent of the young people in its custody into institutions.⁸⁰

The following three recommendations provide a guide for how New York can reduce the number of young people who are placed in institutional facilities; increase the availability, use, and quality of alternatives to placement; and redirect cost savings to communities. Taken together, these recommendations aim to create a system that provides better services to youth and their families and enhances public safety.

RECOMMENDATION 4. 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.

STRATEGY 4-1: Amend section 352.2 of the New York State Family Court Act to include the following provision for delinquency dispositions, other than those involving designated felony acts: The court may order institutional placement only when a child poses a significant risk to public safety and, even then, only when no community-based alternative could adequately mitigate that risk.

The Family Court Act currently requires family court judges to consider “the best interests of the respondent as well as the need for protection of the community” when deciding a disposition in a delinquency case.⁸¹ In all delinquency cases other than “designated felony act” cases—the most serious felony offenses which are governed by a different subsection—it continues, “the court shall order the least restrictive available alternative . . . which is consistent with the needs and best interests of the respondent and the need for protection of the community.”⁸²

These provisions prescribe general considerations to inform dispositional decisions, but they do not expressly recognize institutional place-

ment as a significant deprivation of liberty that should be used sparingly. Nor do they help judges decide when such placement is appropriate. As noted earlier, lacking such guidance, judges sometimes confine youth who have social service needs but who do not pose a significant risk to public safety. The Task Force encountered countless anecdotes of youth being placed in facilities for reasons other than the protection of public safety—when over-burdened parents are unable to provide supervision, for example, or when communities lack the resources they need to respond to youth’s substance abuse or mental health needs.⁸³ Data showing that 53 percent of admissions to institutional facilities in 2007 were for

Service needs should never be justification for locking up a child in an institutional facility.

low-level, or misdemeanor, adjudications add to the Task Force’s supposition that many of these young people do not, in fact, need to be locked up in order to protect the public.⁸⁴

It is important to note that the practice of institutionalizing youth in order to give them access to needed services disproportionately impacts youth of color, who often come from under-resourced, urban, and marginalized communities. In effect, the current system is punishing young people for circumstances that are beyond their control. To perpetuate a system in which young people who pose little or no threat to public safety are removed from their homes and their communities is a recipe for on-going failure. It consigns them to a future with little promise, bleak prospects for advancement, and repeated involvement in the justice system.

Service needs should never be justification for locking up a child in an institutional facility. If there is concern that abuse or neglect is occurring in a youth’s home, that is a matter for child welfare officials—not the juvenile justice system. Institutional placement should be reserved for youth who pose a significant risk to public safety, and the statute should reflect that limitation. The determination of a youth’s risk to public safety and the mitigation of that risk should be made using a validated risk assessment instrument, which is discussed in the next strategy.

STRATEGY 4-2: Use validated instruments to measure risk to public safety and guide placement decisions.

Many jurisdictions around the country are developing and implementing validated tools to make dispositional decision making in the courtroom more standardized and objective. These tools typically identify traits or conditions that predict the likelihood that a person will commit further illegal acts and the severity level of those acts.⁸⁵ They become vali-

dated after statistical analyses have shown that the instruments successfully classify people into levels of risk to public safety (i.e., low-risk cases actually have the lowest rates of re-offense, whereas high-risk cases have the highest rates of re-offense). Jurisdictions seeking to limit the use of institutional placement to only those youth who pose a significant risk to public safety are increasingly turning to validated instruments.

The Task Force recommends that validated risk assessment instruments be used in every jurisdiction in the state and by every dispositional decision maker. Probation departments should use them to guide their dispositional recommendations to judges.⁸⁶ Judges should use them to inform dispositional decisions. OCFS should use them to determine whether children in its custody—including those whom the court placed directly in a private facility—could be better served in the community through a day placement alternative.

It is important, here, to underscore the difference between risk assessments and needs assessments, which determine the services that a youth requires. Both are useful—and can even be included in the same tool. However, many stakeholders expressed concern to the Task Force that mental health needs assessments presented in family courts around the state regularly recommend that a young person be placed in a facility in order to meet his or her mental health needs.⁸⁷ As noted earlier, the practice of institutionalizing youth solely to meet their mental health or social service needs should be discontinued, and additional community-based services should be developed.

The Task Force recommends that all existing and new post-adjudicatory risk assessment instruments be reviewed to ensure that they make placement recommendations based only on risk to public safety and that they do not penalize youth from under-resourced communities for unmet social service needs. These instruments should also be tested to ensure that they are culturally competent and promote racial equity and fairness. In addition, state officials should consult with national experts to ensure that any instrument used in New York State defines risk accurately and effectively and has been tested for validity as well as reliability. What it means to pose a sufficient risk to public safety to justify institutional placement is a complicated issue. Some instruments simply identify risk of recidivism, meaning a re-arrest for any type of offense, regardless of severity. Other tools are more targeted, focusing specifically on risk of violence or serious re-offending. In keeping with its belief that the use of institutional placement should be vigilantly limited, the Task Force urges

Using a Dynamic Approach in Post-dispositional Risk Assessment Instruments

According to research, most adolescents who engage in criminal behavior will end that behavior in late adolescence or early adulthood. Some adolescent risk factors may also decrease as a result of treatment and social service intervention. It is crucial that assessments of risk for violence and serious offending among youth account for the impact of youth development and social services and supports on the time frame for which predictions remain accurate. New York State should be careful that any tool it uses accounts for this dynamic quality of risk and allows for reassessment.

SOURCE

G. M. Vincent, A. Terry, & S. Maney, "Risk/Needs Tools for Antisocial Behavior and Violence among Youthful Populations," in *Handbook of Violence Risk Assessment and Treatment for Forensic Mental Health Practitioners*, edited by J. Andrade, 337–424 (New York: Springer, 2009).

An Overview of Three Evidence-Based Programs

- **Multisystemic Therapy (MST):** Trained counselors help parents respond to the behavior of their adolescents by providing intensive therapy and crisis intervention over a four-month period.
- **Functional Family Therapy (FFT):** Individual therapists work with a family in the home to improve problem solving, increase emotional connections, and strengthen parents' abilities to provide structure, guidance, and limits for their children.
- **Multidimensional Treatment Foster Care (MTFC):** Specially trained foster families work alongside a family therapist to care for youth in their homes over a six- to nine-month period. Simultaneously, the youth's family receives intensive therapy and training to help them provide consistent discipline, supervision, and support.

SOURCE

Adapted from Best Practices in Juvenile Justice Reform, The Case for Evidence-Based Reform (Future of Children), available online at http://www.futureofchildren.org/futureofchildren/publications/highlights/18_02_Highlights.pdf.

the state to employ the latter type of instrument. As no standardized instrument can be guaranteed to contemplate every possible risk—or lack of risk—that a given youth might present, however, it is important that any instrument the state uses leaves room for a certain level of discretion on the part of the examiner.

RECOMMENDATION 5. Develop and expand community-based alternatives to institutional placement.

Family court judges face a difficult challenge when they encounter youth who have social service needs that demand to be met but who do not—or would not, if such services were provided to them—pose a significant risk to public safety. If judges are to meet this challenge without resorting to confinement, the state and localities must expand existing dispositional options and develop new ones. For this to occur, a full range of system stakeholders—including legislators, state and local agencies, defense attorneys, prosecutors, child welfare officials, and program staff—must work collaboratively and creatively. The following strategies are meant to guide the state's increased use of community-based alternatives to placement by addressing the characteristics of such programming, the points within the system where programs should be accessed, and financial incentives that can encourage their use.

STRATEGY 5-1: Expand the use of evidence-based alternatives to placement.

Over the past several years, a number of programs have gained national attention for their ability to reduce recidivism and provide young people with the skills they need to become productive citizens and community members. These programs include Multisystemic Therapy, Functional Family Therapy, and Multidimensional Treatment Foster Care (see sidebar on evidence-based programs). Some counties in New York State have already begun to use these programs in their juvenile justice systems. For example, the New York State Division of Probation and Correctional Alternatives established the Juvenile-Risk Intervention Services Coordination (J-RISC) Initiative in 2008 to fund the adoption and use of evidence-based programs in seven counties: Dutchess, Monroe, Niagara, Onondaga, Orange, Oswego, and Schenectady. (For additional examples, see insert on Current Alternative-to-Placement Programs in New York State.)

These services not only better protect public safety, they do so while saving costs. Indeed, as cited previously, the Vera Institute's preliminary New York State cost-benefit analysis demonstrates that evidence-based alternatives can generate significant benefits for local taxpayers.

Current Alternative-to-Placement Programs in New York State

Several jurisdictions in New York State have enhanced their local continuum of dispositional options to include more community-based alternatives to residential placement. Programs in four jurisdictions—Erie County, New York City, Onondaga County, and Suffolk County—are highlighted briefly below.

Erie County

Erie County has developed a continuum of community and evidence-based services that work in tandem to keep juvenile justice-involved youth out of institutional placement. The continuum, which is designed to be home-based and flexible, includes numerous programs, such as MST, FFT, outpatient substance abuse treatment, intensive in-home services, and gender-specific responses for females. From 2004 to 2008, Erie reduced its placements of juvenile delinquents—to both OCFS and the local department of social services—by 52 percent, from 140 to 67. During this time, Erie County averaged only five new JD admissions to OCFS per year.

New York City

New York City's Department of Probation administers two programs, Esperanza/Hope and Enhanced Supervision Probation (ESP), as alternatives to institutional placement. Launched in 2002, **Esperanza** provides short-term (four to six months), intensive, in-home therapeutic services and crisis management to youth who would have otherwise been placed in an institutional facility. **ESP** is an alternative to placement for moderate- and high-risk juveniles who are in need of extra attention and support while under probation supervision. In February 2007, New York City's Administration for Children's Services launched the **Juvenile Justice Initiative** to provide home-based services for youth who have been identified as placement-bound at disposition. The program typically lasts

four to twelve months and uses MST, FFT, and MTFC to serve youth and families.

Between 2002 and 2007, there was a 28 percent reduction in the number of New York City youth admitted to OCFS custody. During this same time, the admission of African American youth to OCFS custody decreased approximately 34 percent.

Onondaga County (Syracuse)

In the mid-1990s, Onondaga County created a continuum of community-based programs designed to reduce reliance on institutional placement, including the **Probation Rehabilitation Intensive Services and Management (PRISM)** program. Created through a collaboration between the Onondaga County Departments of Probation and Social Services and the Salvation Army, PRISM provides youth at risk of being placed with a range of services for one year, including supervision, crisis intervention, and FFT. From 1995 to 2008, Onondaga reduced its placements—to both OCFS and the local department of social services—from 103 to 28, accounting for a 73 percent reduction in juvenile delinquency placements.

Suffolk County

The Juvenile Day Reporting Center provides youth who are at risk of institutional placement with daily supervision and educational programming. In 2007, Suffolk County placed 153 youth with OCFS, 42 fewer (or 21.5 percent less) than in 2006.

SOURCES

ESP and Esperanza: See *The NYC Story: Reducing the Use of Out of Home Placements in Delinquency Cases*, PowerPoint presentation available at http://www.juvjustice.org/media/resources//resource_156.pdf; and Darnell Grisby, "Alternative to Jail Programs for Juveniles Reduce City Costs," New York City Independent Budget Office, *Inside the Budget*, July 11, 2006, available at <http://www.ibo.nyc.ny.us/newsfax/insidethebudget148.pdf>.

JJI: Interviews with Leslie Abbey, executive director of Juvenile Justice Initiative, and the Juvenile Justice Initiative web site at http://www.nyc.gov/html/acs/html/support_families/juvenile_justice.shtml.

Data on New York City placements to OCFS custody: Office of Children and Family Services, *Youth in Care Report*, 2002 and *Youth in Care Report*, 2007.

PRISM: Interviews with Roxanne Hall, PRISM director, and Mary Winter and Jackie DeNiro, Onondaga County Department of Probation.

JDRC: Interview with Lorra Caligiuri, Suffolk County supervisor probation officer, and Suffolk County Department of Probation Specialized Programs: Family Court available at <http://www.co.suffolk.ny.us/Probation/SpecializedPrograms-FamilyCourt.pdf>.

Erie County information: Information provided by Thomas Lillis, family court clinic supervisor, Erie County Department of Social Services.

A cost-benefit study by the Vera Institute of Justice projects that New York State could save over \$11 million in net benefits to both taxpayers and victims by expanding the use of MST, FFT, and MTFC.

The study projects that New York State could save over \$11 million in net benefits to both taxpayers and victims by expanding the use of MST, FFT, and MTFC to accommodate 15 percent of youth currently placed in juvenile facilities.⁸⁸ (See Appendix A for a detailed description of Vera’s cost-benefit study.)

STRATEGY 5-2: Broaden the evidence-based field by supporting and conducting evaluations of new, innovative programs that apply the principles of best practice.

Over the past several years, researchers have identified principles that underlie successful evidence-based placement alternatives. Many small, community-based, grassroots organizations embrace these best practice principles but lack the resources to conduct the in-depth research needed to verify—or repudiate—their programs’ effectiveness. Therefore, in addition to funding well-established evidence-based programs such as MST and FFT, New York State should also partner with philanthropic organizations and seek federal funding to cultivate and evaluate innovative, community-based programming that can expand the evidence-based field.

In determining what programs to fund, New York State should look for programs that are rooted in the foundational principles of proven successful alternative-to-placement interventions. Most importantly, alternative-to-placement programs should be structured in the following three ways. First, they should be targeted to medium- or high-risk youth.⁸⁹ Second, they should be individualized to meet a youth’s specific needs and build on his or her strengths.⁹⁰ Third, they should be family-focused.⁹¹ Each of these programmatic principles is discussed briefly below. Taken together, they echo the philosophical principles that guide the Task Force’s work as a whole.

It is critical that alternative-to-placement programs be geared toward youth who, but for the existence of an alternative option, would have been placed in an institutional facility. Research shows that allocating more resources toward higher risk offenders, as measured by a validated risk assessment instrument, is the most cost effective approach to juvenile justice and the most influential in reducing recidivism and improving outcomes for youth and families.⁹² Results from one of the most highly regarded meta-analyses in the field, by Mark W. Lipsey, revealed that, of all the characteristics of juvenile offenders that it studied, none was more strongly correlated with the effectiveness of interventions than the offender’s initial level of delinquency, “with larger effect sizes (greater recidivism reductions) associated with higher risk juveniles.”⁹³ Similarly, another meta-analysis determined that “reductions in recidivism of 11 percent were noted in programs that had mostly higher-risk offenders versus 2 percent reductions for programs that took in both low- and high-risk offenders.”⁹⁴ In fact, intensive, court-ordered supervision of low-risk youth can do more harm than good and risks unnecessarily widening the net of the juvenile justice system.⁹⁵

According to research, juvenile justice interventions are most effective when they provide services that are individualized to meet a youth's specific needs. As one analysis put it, "Programs that tailor their interventions to an individual's identified risks and needs appear to be more successful than those that try to impose a single strategy on all cases. Accordingly, an essential first step is a thorough assessment."⁹⁶ A validated needs assessment instrument can identify specific needs and help determine the best service delivery approach.⁹⁷ These instruments, as well as any other assessment tools and services, should be carefully designed and administered to embrace the array of cultural, racial, and gender differences among young people and their families. Some young people will need mental health or substance abuse treatment, and alternative-to-placement programs should provide such treatment whenever it is appropriate.

In making treatment available, however, it is important to remember that some youth in these programs may not require any treatment at all—at least not in the clinical sense. In order to ensure genuinely individualized and effective services, programs should emphasize and capitalize on the young person's strengths and skills, rather than focus solely on his or her problems or weaknesses. Consistent with the principles described at the outset of this report, the Task Force members looked to the literature on positive youth development and noted that often more than formal treatment, youth need opportunities for recreation, mental stimulation, healthy peer interactions, role models, and a range of other support mechanisms (see sidebar on Positive Youth Development).

Finally, alternative-to-placement programs should be family-focused, both to leverage family strengths and to improve family functioning. An overwhelming body of research and experience indicates that parents, legal guardians, other family members, and even larger community structures are crucial to a youth's successful development; effectively engaging and supporting these natural resources is a pivotal strategy for support services.⁹⁸ Programs that emphasize family interactions are thought to be the most successful because they focus on "providing skills to the adults who are in the best position to support the child."⁹⁹ Indeed, studies have shown that parenting and family interventions can significantly reduce the risk of re-arrest.¹⁰⁰

STRATEGY 5-3: Build a continuum of alternative-to-placement programs with graduated levels of supervision and services, including respite care for young people with families in crisis and programs for sexually exploited youth.

Alternative-to-placement programs should be structured to meet a range of service and security needs, from the most minimal to the most intensive. Administrators and officials should be able to move a young person between and among programs that offer different levels of treatment, supervision, and privileges according to the youth's successes and

Positive Youth Development

Positive youth development is an approach to working with young people that emphasizes a youth's strengths rather than weaknesses. Key components of positive youth development include providing youth with opportunities to build the competencies they need to make a successful transition to adulthood (e.g., strengthening their commitment to learning and enhancing decision-making skills) and establishing supportive relationships with caring adults. Research has shown that programs and services that incorporate these elements can make youth more resilient and help them develop the healthy habits and behaviors needed to avoid negative influences. Because positive youth development principles describe the conditions necessary for *all* youth to succeed, this approach is valuable for working with system-involved youth who can be safely served in their communities through alternative-to-placement and reentry programs, as well as those who must be cared for in an institutional placement facility.

SOURCE

Search Institute: 40 Developmental Assets, Available at: <http://www.search-institute.org/assets/>; W. Barton, "Incorporating the Strengths Based Perspective into Juvenile Justice Aftercare," *Western Criminology Review* 7, no. 2 (2006): 49-61; R. Izzo, & R. Ross, "Meta Analysis of Rehabilitation Programs for Juvenile Delinquents: A Brief Report," *Criminal Justice and Behavior* 17, no. 1 (1990): 134-142; and D. MacKenzie, "Evidence-based Corrections: Identifying What Works," *Crime and Delinquency* 46, no. 4 (2000): 457-471.

challenges. Similarly, the continuum should be used to offer graduated administrative responses to technical violations of probation or non-compliance with alternative program requirements.

As the Task Force conducted its systemic review, it became clear that one of the biggest deficits in New York State’s juvenile justice system is its lack of temporary safe places for young people who are experiencing family crises. The Task Force particularly recommends that the New York State continuum include respite care—a voluntary, short-term residential option for youth who do not pose a risk to public safety but whose families are in crisis and in need of intensive family-focused treatment and reunification.¹⁰¹

The Task Force also recommends that New York State allocate funds to ensure that a range of services are made available for youth under the Safe Harbor for Exploited Children Act.¹⁰² Recognizing that commercially sexually exploited youth are victims, not criminals, the Safe Harbor Act—enacted in 2008—stops the prosecution of children 15 years of age and younger who are arrested on prostitution-related charges. For children meeting the state definition of a trafficking victim, the family court must provide a range of services that includes crisis intervention, short-term safe houses, and long-term safe houses. The Act is scheduled to go into effect on April 1, 2010, but its full implementation is contingent upon funding in the state’s upcoming budget. The Task Force calls upon the state to include funding to support these critical services.

STRATEGY 5-4: Ensure that courts order community-based alternatives when making dispositional decisions.

The expansion of alternative-to-placement programs called for in strategies 5-1 and 5-2 will give judges a variety of options when they look for community-based services for the adjudicated youth in their courtrooms. To ensure that decision makers use these options, New York should conduct extensive outreach and training on these new programs with all stakeholders who play a role in dispositional decision making, including judges, probation officers, and attorneys. This training should include warnings against net widening, since many youth may need no supervision or support other than that which their families and communities already provide. Finally, service providers should be held accountable for providing regular reports to the judiciary about how participants are faring in the alternative programs.

STRATEGY 5-5: Ensure that OCFS uses its authority to use day placement as a community-based alternative for youth in its custody.

As stated previously, New York State law authorizes OCFS to establish and use day placement programs.¹⁰³ Historically, however, this authority has rarely, if ever, been used. Children in OCFS custody are placed in an institutional facility 98 percent of the time.¹⁰⁴

The Task Force recommends that OCFS exercise its day placement authority. In doing so, it should assess the risks to public safety posed by young people in its custody, including those who are headed to private facilities, and carefully consider which youth could be safely served through the day placement option, which should be guided by the same alternative-to-placement programmatic principles described earlier.¹⁰⁵ Although OCFS currently uses evidence-based programming such as MST and FFT, it does so only for youth who have recently been released from institutional facilities. OCFS should add similar programs as part of the day placement option. Additionally, day placement should be used as a step-down option for young people who need extra support transitioning out of facilities, both OCFS-operated and private.

For guidance about how to structure its day placement programs, OCFS can look to Missouri. There, youth in state custody with the least serious offending histories and the lowest likelihood of re-offending—about 12 percent of youth committed to state custody—are put in community-based supervision programs.¹⁰⁶ Many of these youth are assigned to one of the state’s 10 day treatment centers, where they spend their weekdays receiving education and counseling. After school, the programs involve young people in community service, tutoring, or in individual and family counseling.

STRATEGY 5-6: Provide counties with a financial incentive to use probation supervision and other alternative-to-placement programs.

New York State currently reimburses local jurisdictions for 50 percent of the cost of placing a youth in a state-operated facility. However, the state does not guarantee localities a similar reimbursement when youth are assigned to community-based alternative-to-placement programs or probation services. Providing state reimbursement for alternatives to placement—as is done in Ohio and Illinois (see insert on State Incentive Programs to Reduce Reliance on Placement on page 44)—would spur the use of such alternatives. The Task Force recommends that the state provide at least 65 percent reimbursement for all local placement alternatives, including those administered by probation. The state could model this new funding initiative on an existing statewide reimbursement scheme for local programs that prevent foster care placements.¹⁰⁷

Providing state reimbursement for alternatives to placement—as done in Ohio and Illinois—would spur the use of such alternatives.

State Incentive Programs to Reduce Reliance on Placement

Some states, most notably Ohio and Illinois, have created innovative financial incentives for localities to support the growth of community-based alternatives to placement. These initiatives have reduced the number of youth entering state custody, improved recidivism rates, and resulted in substantial cost savings.

In 1993, **Ohio's** state legislature enacted RECLAIM Ohio to decrease the number of unnecessary commitments paid for by the state and to increase the availability of community-based services that could treat young offenders close to home. Under the initiative, counties receive a yearly allocation that increases based on youth being diverted from state commitment. This allocation can be used to establish more cost-effective local community-based alternatives to placement, such as mental health services and family therapy, or to contract with existing providers for these services. The initiative was piloted in nine counties and later extended statewide after an evaluation found that it had favorable results. Specifically, the 1995 evaluation reported that commitment rates dropped by 43 percent in the pilot counties. A 2005 follow-up study tracking youth who were terminated from community-based services and Department of Youth Services (DYS) facilities between July 2001 and June 2002 found that youth who participated in RECLAIM programs had average recidivism rates over a 2.5 to 3.5 year period of 20 percent, compared to a 53 percent recidivism rate for youth released from DYS placement.*

In 2004, **Illinois** developed Redeploy Illinois to discourage counties from sending youth to expensive institutional placement facilities that were paid for by the state. Redeploy Illinois offers counties fiscal assistance to develop a local continuum of supervision and program options at the local level, ensuring that youth are served in the least restrictive setting possible. In exchange, participating counties agree to reduce the number of youth sent to placement by 25 percent or face a fine. In the first three years of implementation, the four pilot sites reduced their commitments by an average of 51 percent. The estimated two-year cost savings in the pilot localities ranged from \$1.38 million to \$3.83 million, for a total of nearly \$8 million in net benefits to the state. Redeploy Illinois was recently recognized by the John D. and Catherine T. MacArthur Foundation as a "model for change," and the program is now open to all Illinois counties.

SOURCES

RECLAIM Ohio: Department of Youth Services: RECLAIM Ohio. Retrieved from <http://www.dys.ohio.gov/dnn/Community/ReclaimOhio/>; E. Latessa, M. Turner, M. Moon, and B. A. Applegate, *A Statewide Evaluation of the RECLAIM Ohio Initiative* (Cincinnati, OH: University of Cincinnati, 1998) 59-70, available online at <http://www.uc.edu/ccjr/Reports/ProjectReports/Reclaim.PDF>; and C. Lowenkamp, & E. Latessa, "Understanding the Risk Principle: How and Why Correctional Interventions Can Harm Low-Risk Offenders," *Topics in Community Corrections* 3, no. 8 (2004).

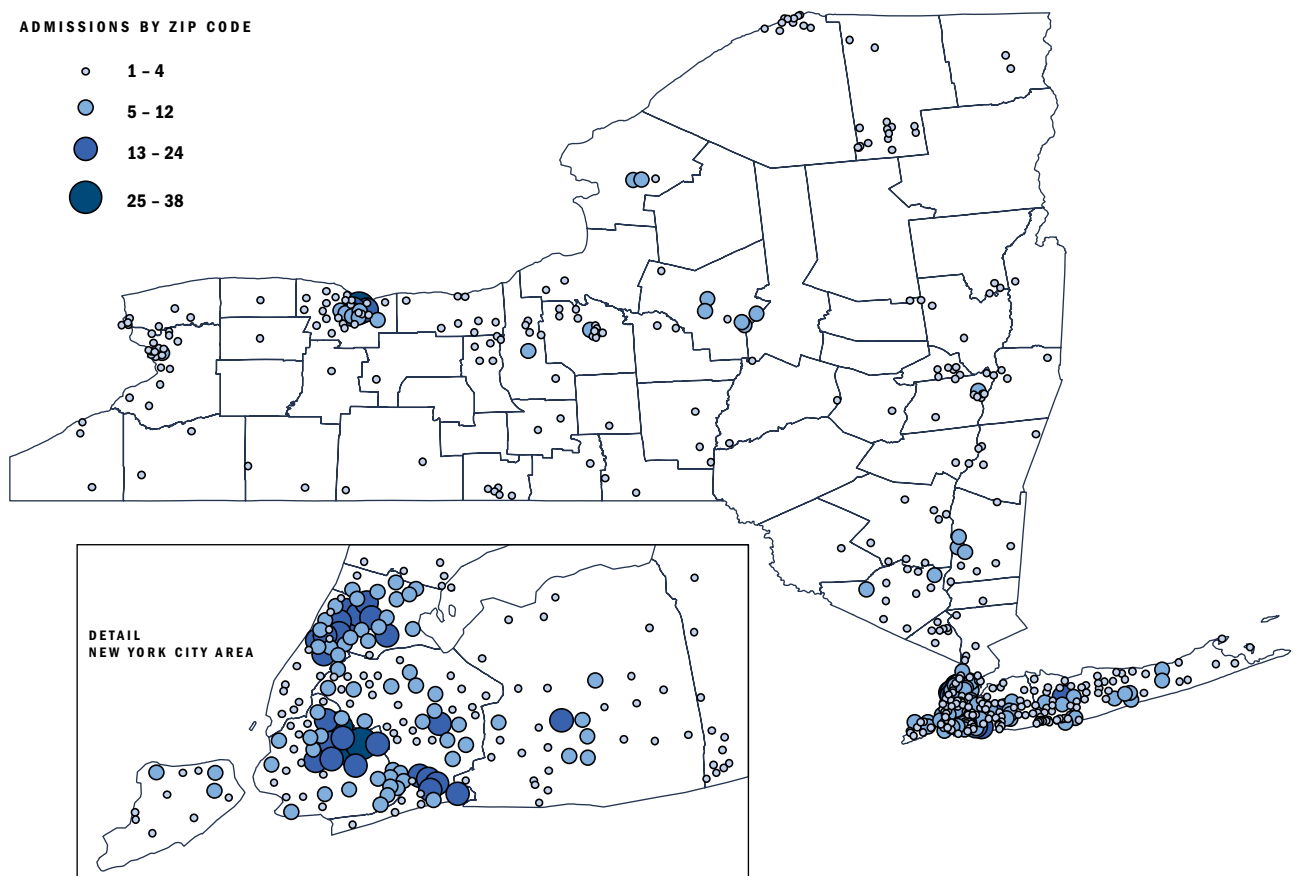
*Note: Recidivism was defined in the study as (1) adjudication for a felony offense in juvenile court, (2) placement in an adult community supervision program, or (3) admission to a Department of Youth Services facility or adult prison.

Redeploy Illinois: Redeploy Illinois Annual Report 2007: Implementation and Impact, available online at http://www.jjustice.org/pdf/Redeploy_IL-Illinois_Legislative_Report_5_07.pdf; and D. Geraghty, L. Jacobs, and P. Wolff, "Financial Incentives to Reduce Youth Confinement: Redeploy Illinois," in *The Second Century: Juvenile Justice Reform in Illinois* (Chicago: The MacArthur Foundation, December 2008).

RECOMMENDATION 6. Redirect cost savings into neighborhoods that are home to the highest number of youth in the juvenile justice system.

As noted in recommendation 1, New York State should close facilities that are no longer needed. The cost savings that arise from these closures should be reallocated into the communities and neighborhoods that need them the most. As stated previously, too often youth from under-resourced communities—predominantly youth of color—end up in institutional facilities because they do not have access to the youth development programs, specialized services, and financial resources available to more privileged youth. When designing and implementing alternative-to-placement programs, it is important for New York State to recognize that no one is better positioned to understand and support young people than their own communities. Therefore, the state should encourage, cultivate, and fund alternative programs located precisely in the jurisdictions from which so many system-involved youth come (see figure 7).

Figure 7: Home Zip Codes of Youth Admitted to OCFS Custody, 2007



Source: OCFS STATPOP





3

Rethinking Institutional Placement

EVEN AFTER NEW YORK STATE establishes a strong infrastructure of community-based services and reduces its reliance on institutional placement facilities, a small number of youth—those who present a significant risk to public safety that cannot be adequately mitigated by any community-based alternative—will continue to be placed outside of their homes for some period of time. New York has a moral and statutory obligation to ensure that these youth—those in both state-operated and private facilities alike—are nurtured, cared for, and given the support needed to safely and successfully return to their communities.¹⁰⁸ Currently, many facilities fail to meet this obligation. In some cases, youth not only leave facilities without having received the support they need to become more productive, law-abiding citizens upon release, but they are also more angry, fearful, or violent than they were when they entered.

Many factors contribute to New York's high recidivism rates and poor outcomes, including the location of facilities, unsafe conditions of confinement within facilities, over-zealous use of physical restraints, and general neglect as expressed in poorly maintained environments, under-resourced programs, and high staff turnover.

Nearly three-quarters of the youth who reside in institutional placement facilities are from the New York City metropolitan area, yet many of the facilities in which they are placed are located upstate—sometimes hundreds of miles away.¹⁰⁹ Placing youth far from home weakens their connection to their families and schools and attenuates their links with their communities—both of which, when supported, can help produce positive changes in an incarcerated youth’s behavior.¹¹⁰

Alarming conditions inside some of the state’s institutional placement facilities point to the failure of the current system to protect youth and staff. As cited earlier, Human Rights Watch found that girls in two of the state’s facilities were abused and neglected by staff entrusted with keeping them safe and promised services were often not delivered.¹¹¹ In June 2009, a violent outburst by a youth in a private facility resulted in the death of a young female staff member.¹¹² More recently, the U.S. Department of Justice (DOJ) recounted several shocking incidents of violence and abuse in which youth in four state-operated facilities were physically brutalized for typical adolescent behavior, such as slamming a door or refusing to get dressed.¹¹³ The DOJ investigators also found that staff repeatedly used restraints to manage the behavior of youth who exhibited clear signs of mental illness.¹¹⁴

The U.S. Department of Justice recounted several shocking incidents of violence and abuse in which youth in four state-operated facilities were physically brutalized for typical adolescent behavior, such as slamming a door or refusing to get dressed.

During the course of its review, the Task Force found many facilities in physical disrepair; youth with limited access to meaningful services and programs; and high staff turnover due to low salaries and inadequate training. Such circumstances, which are often the consequence of operating an under-resourced system, can foster environments in which youth and staff alike feel unsupported, making quality care difficult to provide. These conditions also disproportionately affect African American and Latino youth, who are overrepresented in New York’s institutional placement facilities.

There are, however, some private and state-operated facilities in New York that do offer positive, rehabilitative environments. These facilities resemble those in Missouri, which has been the national leader in the juvenile corrections field for more than two decades.¹¹⁵ Placed youth in Missouri live in small, nurturing facilities close to their homes and families where they receive the support they need to lead more productive lives. As a result, only 22.5 percent of youth released from Missouri’s

placement facilities are recommitted to any correctional setting three years after discharge.¹¹⁶ These results have prompted other jurisdictions, including Louisiana, New Mexico, and the District of Columbia, to follow Missouri's lead and reexamine their approach to working with youth in custody.

Recommendations 7 through 12 outline how New York State can reform its institutional placement system along similar lines. The recommendations pertain to youth in both private and state-operated facilities. Although the Task Force focused predominantly on juvenile delinquency cases, the recommendations here should also be read to apply to young people who are tried in criminal court as juvenile offenders. (As noted previously, JOs are placed in OCFS secure facilities alongside some juvenile delinquents.)

RECOMMENDATION 7. Place youth close to home.

Parents and caregivers play a crucial role in facilitating adolescents' development and their transition to adulthood.¹¹⁷ Placing youth close to home can help foster and cultivate positive relationships and allow families to participate in treatment and discharge planning designed to prepare youth for better outcomes upon release.

Strategy 7-1 outlines ways to keep youth close to home and help them maintain strong ties to their families and communities.

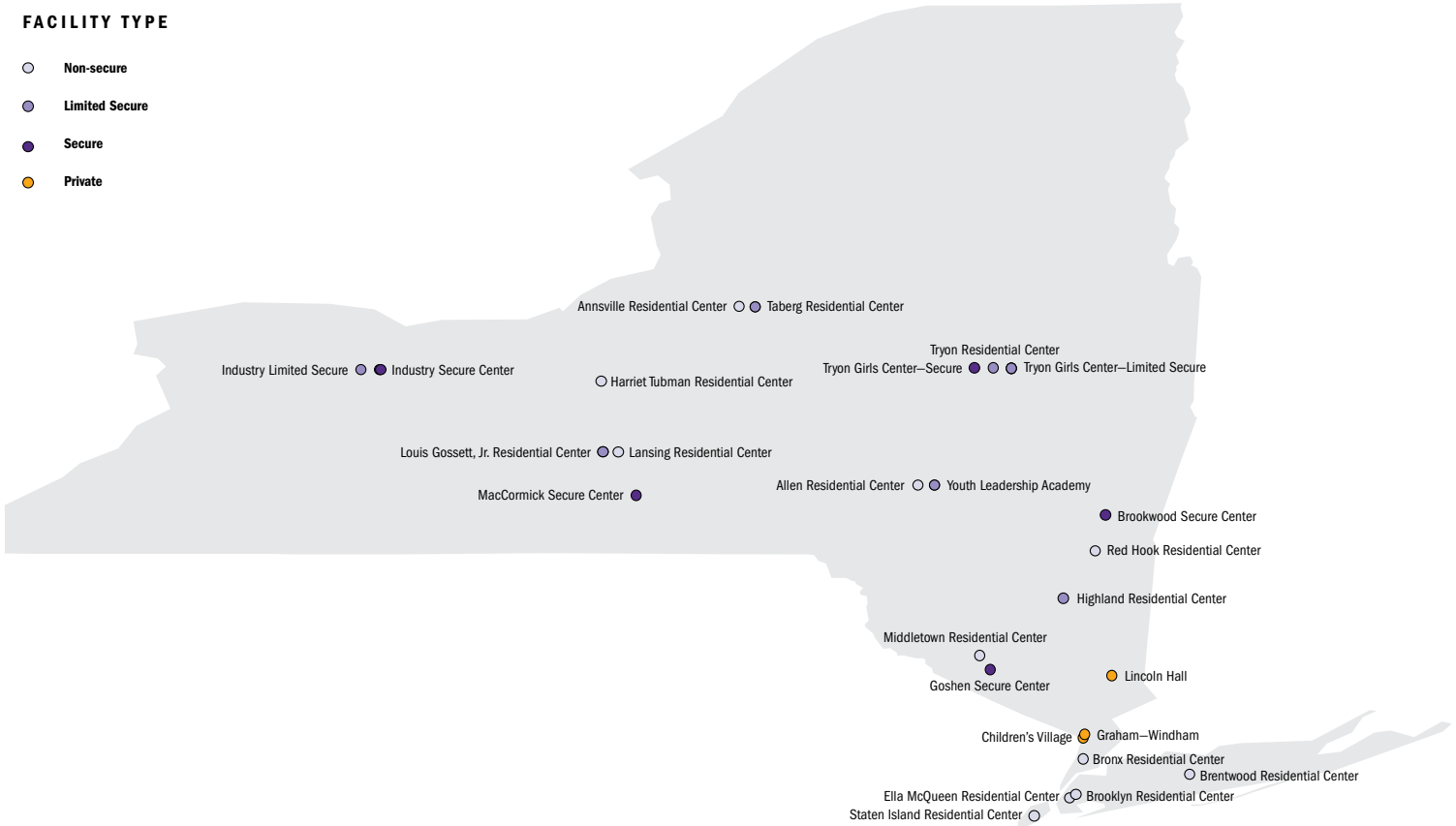
STRATEGY 7-1: Establish a standard distance within which all youth are placed, and provide transportation to families with children in custody.

Research shows that keeping youth close to their families during placement gives them opportunities to repair and renew relationships and practice skills for addressing challenges they may face upon release. It also yields better effects on recidivism.¹¹⁸ The great distances between New York's placement facilities and the home communities of many placed youth is counterproductive. In 2007, 74 percent of New York State's total institutional placement admissions came from the New York City metropolitan area.¹¹⁹ Yet, as figure 8 on the next page shows, many state-operated facilities are located in distant, upstate communities. For example, the median distance between a youth placed in the Allen Residential Center—the non-secure placement facility that housed the most youth in 2007—and his or her home community was 125 miles.¹²⁰ (See Appendix B for a more detailed look at where admissions to Allen Residential Center come from.) Some young people at both Lincoln Hall, one of the largest private facilities in the state, and the Highland Residential Center, a limited secure facility, were placed almost 300 miles away from their homes.¹²¹ For economically disadvantaged urban families who rely

on public transportation, traveling these distances to visit an incarcerated youth can be especially difficult.

The Task Force recommends that New York State establish a maximum distance from home within which all youth in state custody are placed. Ideally, this distance will allow families and caregivers to make easy, regular trips to the facility and facilitate access to post-placement services in their communities. To encourage visitation and strengthen family relationships, the Task Force encourages OCFS to follow the lead of some of its private agencies that provide transportation to and from facilities at no cost to families and caregivers. This approach will require OCFS to review where youth entering placement are coming from and locate facilities accordingly to ensure that youth are served close to home. As a model, New York should look to Massachusetts and Missouri, which have developed regional placement systems to keep youth close to home (see Missouri insert for more on this topic).¹²²

Figure 8: Selected Placement Facilities*



*Note: Map includes all state-operated facilities and the three private agencies with the highest number of JD placement admissions in 2007. OCFS contracts with 49 private placement agencies; however, in 2007, the majority of private admissions went to three facilities: Lincoln Hall, Graham-Windham, and Children's Village.

Missouri: A National Leader in Juvenile Corrections

Missouri leads the nation with its distinct approach to juvenile corrections. Over the past two decades, the state's Division of Youth Services (DYS)—the agency responsible for the care of youth placed in state custody—has developed a model of care premised on rehabilitation. In 2008, DYS received Harvard University's Innovations in American Government award for its work in the field. Key elements of the Missouri model are described below.

Youth are placed close to home: DYS has divided the state into five regions and aims to keep all children within driving distance of their families. Families can visit and call youth twice a week, allowing them to be actively involved in the treatment process. In the absence of an immediate family member, extended family or another responsible caregiver can also be involved.

Youth are actively involved in their treatment: After entering a facility, youth create individualized treatment plans with a service coordinator, who manages their case. These plans identify a youth's treatment needs and track his or her progress toward meeting different goals. Every youth must pass through a series of levels to graduate from the program. This structure provides a road map of varying expectations and responsibilities that reflect stages of the behavioral change process.

Treatment is group-based: Because many of the symptoms and needs exhibited by young people often stem from similar core issues, each youth is assigned to a group of 10 to 12 youth after arriving at a facility. Youth remain with their groups all day, attending school and treatment sessions together.

Physical restraints are used as a last resort: DYS creates a safe environment within its facilities by cultivating an atmosphere of healthy relationships and mutual respect. Dangerous techniques, such as face-down restraints, are not permitted. Instead, staff employ a number of techniques to defuse trouble and foster a safe environment. Within groups, young people use circles—where the group physically stands or sits in a circle—to clarify issues, resolve conflicts, give each other feedback, or raise concerns. In rare instances when a restraint occurs, youth and staff reflect on how this situation was handled and whether it could have been prevented. With this approach, serious injuries to youth or staff are avoided.

Facilities are warm and home-like: DYS facilities do not use razor wire fences, and inside, facilities are clean and nurturing,

with bright furnishings in rooms and common areas. Colorful bulletin boards cover most facility walls, often featuring art work or positive messages written by youth. Young people also care for pets, wear their own clothing, and participate in different activities, ranging from GED classes and vocational training to theater groups and sporting events.

DYS invests in its staff: Youth are overseen at all times by highly trained, well-educated staff members who have strong interpersonal skills. During their first two years, staff complete 236 hours of training that emphasize DYS's values and beliefs and includes extensive practice in applying different concepts used with youth. Staff members also receive approximately 40 hours of ongoing training every year.

Reentry is strongly emphasized: Youth work with staff to plan for release as soon as they enter the facility. Upon release, young people typically remain in aftercare programs for a minimum of four months. During this time, they may enter a DYS day treatment program, which provides educational instruction and services in the community to help them transition from institutional placement back to home life. Youth are also monitored and supported by a community mentor, who is based in the home community and can help them find jobs.

Only 22.5 percent of youth released from juvenile custody in 2005 were re-incarcerated in juvenile or adult correctional facilities for rules violations or new offenses within three years (nearly half of the similar rate in many other states). Approximately 84 percent of youth exiting DYS custody in 2007 were productively engaged in school, college, and/or employment at the time of discharge.

In recent years, the Missouri model has caught the attention of policymakers nationwide. After retiring in 2005, Mark Steward, the former head of DYS and architect of the model, created the Missouri Youth Services Institute (MYSI) to teach interested jurisdictions about how to use the insights and lessons from Missouri to inform their own planning efforts.

SOURCES

Dick Mendel, *The Missouri Method: How One State Revolutionized the Art of Rehabilitating Youthful Offenders and What Your State Can Do to Replicate its Success* (Annie E. Casey Foundation, Release Date pending); and Dick Mendel, *Small is Beautiful: Missouri Shows the Way on Juvenile Corrections* (Annie E. Casey Foundation, Spring 2003).

RECOMMENDATION 8. Develop a standard process to accurately assess a youth’s risks and needs.

Chapter 2 discussed the assessment tools that can determine whether youth present a severe enough risk to public safety to warrant being placed in a facility. However, all placed youth do not present the same level of risk or the same service needs. A proper assessment of each placed youth’s risk level is critical in determining what kind of facility—secure, limited secure, or non-secure—is most appropriate for him or her.¹²³ After all, as that earlier discussion noted, lower-risk youth are more likely to adopt anti-social behavior when placed with higher-risk peers.¹²⁴ Similarly, a well-designed needs assessment can identify the underlying causes of a youth’s delinquent behavior and inform the development of an effective treatment plan.¹²⁵

In New York, a youth’s classification—the assignment of delinquent youth to a specific facility—occurs either in the court or during the facility intake and assessment process. Although youth placed into specific private facilities are evaluated upon their arrival, each agency has its own assessment tools. OCFS does not specify in its contracts what assessment tools should be used, and it does not analyze aggregate information gathered from these assessments. By contrast, when the court deems that placement in a state-operated facility is required, OCFS makes the final facility assignment based on a standard intake and assessment of youth at the state’s reception centers.

OCFS officials report that the severity of a youth’s adjudicated offense or his or her prior criminal history rarely factor into the classification decision. Rather, the primary consideration is the availability of programs and services to treat a youth’s needs. As a result, a youth whose criminal history or service needs would dictate that he or she be placed in a non-secure facility close to home might instead be sent to a more restrictive facility to ensure he or she has access to specific services.

The current practices raise serious questions about whether the existing intake and assessment process is aligned with the goal of a cohesive placement system for all youth in OCFS custody. Strategy 4-2 called for the use of a standardized and validated instrument that would inform placement decisions by gauging the risk to public safety posed by individual children. OCFS should use this instrument to both determine when or if any youth in its custody—whether referred to a private or state-operated facility—is eligible for a day placement and inform what level of facility—secure, limited secure, or non-secure—into which he or she should be placed. In addition, a standardized needs assessment should be used to identify a young person’s educational, mental health, and social service needs. This risk and needs approach—which could be combined in a single tool—will provide a more consistent intake and assessment process for all youth in custody.

To administer this standardized tool, the Task Force recommends that all youth placed in OCFS custody—both those in state-operated and private facilities—be assessed at the time of placement. The Task Force calls upon New York State to review the current statutory language governing placement to determine what changes would be required to implement this new intake and assessment process. It is also critical that this recommendation be considered in conjunction with recommendation 7, which calls for youth to be placed close to home, and recommendation 10, which recommends that every facility be equipped to address youth’s service and educational needs. Moving forward, New York should also review the practices of other jurisdictions, such as the District of Columbia, which has developed a risk-driven classification system.¹²⁶

RECOMMENDATION 9. Require all facilities’ culture and physical environments to be conducive to positive youth development and rehabilitation.

A facility’s culture and physical environment lay the foundation for a youth’s experience in confinement. For this reason, staff, programs, and spaces inside these facilities should work together to create a safe environment that encourages young people to participate in different interventions that will help prepare them for life after placement.¹²⁷ Positive youth development, which provides a framework for how to work with youth, suggests that young people develop and flourish when they are connected to the right mix of opportunities, relationships, and social assets (see sidebar on Positive Youth Development on page 41).¹²⁸ Jurisdictions like Santa Clara County, California, and the District of Columbia have followed Missouri’s model in using this framework to develop treatment philosophies and facility designs that build on youth’s strengths and encourage rehabilitation. The results have been impressive: a study of Santa Clara County, which recently piloted a redesigned residential program for high-risk youth that incorporates elements of the Missouri model, found a drop in the average number of behavioral incidents per youth from 9.8 under the old model to 4.9.¹²⁹

A facility’s culture and physical environment lay the foundation for a youth’s experience in confinement.

The culture and physical environments of New York State’s institutional placement facilities vary significantly. Some private and state-operated facilities do have a nurturing, rehabilitative atmosphere. Others—as outlined in the DOJ report—are punitive and feel like adult prisons. In

these facilities, staff are sometimes quick to resort to punishment and excessive force in situations that do not warrant such an approach. Such conditions are unacceptable and indicate that the current system is failing to protect the safety of youth placed in OCFS custody.

To its credit, over the past two years, New York State has started to take steps to ensure a safe and therapeutic environment within all of its facilities. For example, OCFS recently adopted the Sanctuary Model within its facilities, which emphasizes nonviolence and open communication (see sidebar on the Sanctuary Model).

In addition, OCFS developed an automated restraint tracking system and established therapeutic intervention committees in 2008 to monitor and reduce the use of unnecessary physical restraints in its facilities.¹³⁰ The Task Force applauds OCFS for these initial efforts, but much more still needs to be done. New York should build on these efforts to create a system of care that treats all youth in OCFS custody with dignity and respect and prepares them to lead healthy and productive lives. The following three strategies are designed to transform the culture and physical environment within every institutional placement facility to be more

conducive to rehabilitation and positive youth development while maintaining the safety of both youth and staff.

The Sanctuary Model

Beginning in early 2007, OCFS adopted the Sanctuary Model to establish a more therapeutic environment within its facilities. Developed by Dr. Sandra Bloom in the early 1990s, Sanctuary is a systems approach for creating or changing organizational culture in order to more effectively heal and address trauma. Key components of the model include a commitment to nonviolence, open communication, social responsibility, and growth and change. Implementing Sanctuary requires two years of intensive staff training and leadership development. While Sanctuary has been applied in a number of settings to date, including acute care mental health facilities, OCFS's use of this model is the first attempt to implement it in a juvenile justice system. OCFS has staggered its implementation of Sanctuary: staff at 20 facilities have been trained in the model since January 2007, and the approach will be fully rolled out across the system by 2012. Currently, the OCFS Bureau of Evaluation and Research is conducting an evaluation of the Sanctuary program at nine state-operated and private facilities, which will document the implementation process and examine whether this approach is associated with positive changes in facility climate, safety, and behavior of youth and staff.

SOURCE

Office of Children and Family Services, *An Introduction to the Sanctuary Implementation Process* (New York: Office of Children and Family Services, February 2009).

STRATEGY 9-1: Ensure that youth are safe and protected from excessive use of force or restraints as a form of punishment.

An effective response to conflict is essential for protecting the safety of both youth and staff, particularly since correctional climates can have a significant effect on interpersonal violence within facilities.¹³¹ The OCFS policy manual limits the use of physical restraints in state-operated facilities to “exceptional circumstances when all other appropriate pro-active, non-physical behavioral management techniques have been tried and have failed.”¹³² The policy provides that when the use of physical restraint is necessary, “staff shall employ only the minimum amount of physical control necessary to stabilize the youth/situation.”¹³³ Similarly, state regulations governing private agencies state that restraints may only be used “when other forms of intervention are either inappropriate or have been tried and proved unsuccessful” and “never... for punishment or for the convenience of staff.”¹³⁴

In practice, however, staff at some facilities routinely have used what the U.S. Department of Justice report called “uncontrolled, unsafe applications of force that deviate from generally accepted standards and OCFS policy.”¹³⁵ In fact, DOJ concluded that the treatment of youth in the four facilities that were under investigation violated their constitutional rights.¹³⁶ Similarly, Human Rights Watch found that girls in two facilities were kicked, choked, and thrown against walls.¹³⁷

Below are a few examples of the use of restraints documented in the DOJ report:

- In one facility, staff routinely pushed a button on their radio—also known as “pin pushing”—any time a youth exhibited resistance to following directions, triggering a de-escalation response team. The response team often restrained youth for the most minor of violations, ranging from slamming the door to glaring at a staff member. These restraints caused severe injuries, including bruising, swelling, and broken bones.¹³⁸
- Dangerous restraint practices coupled with poor execution led to the death of one youth in 2006 when a 15-year-old boy at the Tryon Residential Center was pinned face-down to the floor and handcuffed by two staff after becoming angry about losing his recreational privileges. Minutes later, the youth stopped breathing and later died at a nearby hospital; his death was later ruled a homicide by the medical examiner.¹³⁹

Staff at the four facilities repeatedly told DOJ investigators that they knew of no “other tactics that could be used to more effectively address certain situations.”¹⁴⁰ They also expressed concern that efforts to “reduce the use of restraints put their own safety at risk.”¹⁴¹ Such observations reveal a need for better staff training on how to defuse tensions in crisis situations.

Data on the use of restraints across the system is limited. According to Task Force interviews of OCFS officials, the agency did not gather and analyze restraint data electronically from state-operated facilities until 2008. OCFS has some electronic data on the use of restraints at different private facilities, but these agencies are not required to collect and report this information to the newly launched restraint tracking system. As a result, no aggregate data on the use of restraints in private facilities was available for the Task Force’s review. The Task Force’s examination of quarterly restraint reports from the first quarter of 2008 through the third quarter of 2009 found significant variation from one state-operated facility to another. For example, Red Hook Residential Center, a 22-bed non-secure facility, reported 24 restraints in 2008.¹⁴² By contrast, the 50-bed Lansing non-secure facility reported 806 restraints during the same period.¹⁴³

These findings underscore the need for OCFS to aggressively limit and monitor the use of restraints in all facilities. Similarly the agency must

provide staff with comprehensive training on how to use de-escalation techniques, rather than physical force, to defuse conflict and protect youth from harm and ensure that staff use these techniques going forward. The Task Force commends OCFS for beginning to gather data on the use of restraints in its state-operated facilities, but private facilities should also be required to collect and report similar data. OCFS should review and analyze this data to continually monitor restraint usage across the system. In addition, the Task Force recommends that the state end the practice of shackling youth during transport to a facility.¹⁴⁴

STRATEGY 9-2: Promote a culture of caring and mutual respect.

Research from both the juvenile and adult justice systems shows that establishing strong relationships in facilities is crucial to creating a safe environment. For example, one study from the adult correctional field found that relationships between inmates and staff that are rooted in decency, trust, and respect result in lower rates of violence and disorder and higher levels of well-being in prisons.¹⁴⁵ Another study reported that when juveniles feel fairly treated rather than alienated by repressive controls, they are more likely to refrain from violence and collaborate with facility staff to achieve programming goals.¹⁴⁶

At some of New York State's placement facilities, staff develop strong, trusting relationships with youth in their care and approach their jobs more as counselors than correctional officers. Staff at other facilities, however, adhere to a more punitive approach.

New York State should focus resources on cultivating facility staff who embrace the first approach. As noted later in recommendation 11, this should include amending recruiting policies, providing incentives for changed behavior, and enhancing training opportunities for staff. Culture change is a complex process. But if successful, it promises great returns in terms of better outcomes for young people, staff, and public safety.

STRATEGY 9-3: Make the physical appearance of facilities less punitive and more nurturing.

Several facilities in New York continue to resemble adult prisons. Razor wire installed at many secure and limited secure state-operated facilities in the 1990s and poorly maintained interior spaces reinforce the notion of a punitive, uncaring system. During one site visit, Task Force members were shown rooms that looked and felt like prison cells, with no ventilation, inadequate furniture, and bare concrete walls.

The Task Force recommends that New York review its use of security construction features and employ less obtrusive security methods, such as curved fencing, which does not have the harsh appearance of razor wire used at adult prisons. In conjunction with better staff training to super-



wise and engage youth in productive activities (see recommendation 11 for more on this issue), these approaches can create a more positive, humane setting for young people in facilities while still maintaining safety and security. During its review, Task Force members visited a few state-operated and private facilities within New York that were more conducive to rehabilitation and positive youth development. For example, Red Hook Residential Center in upstate New York demonstrates the impact that a smaller facility can have on creating a sense of community and a more nurturing environment. As a starting point, OCFS should look to these facilities as well as those in Missouri for guidance on how to redesign its exterior and interior spaces. In Missouri, for example, razor wire is not used even at the most secure facilities (see Missouri insert on page 51 for more details). Living spaces should feel more home-like, consistent with the principles of positive youth development. Youth should also have the opportunity to decorate their walls and post pictures, speak with their peers during mealtimes, and wear their own clothes instead of uniforms.

RECOMMENDATION 10. Fund and provide services and programs, including education and mental health treatment, which prepare youth for release.

The Task Force found that many state-operated placement facilities lack sufficient resources to ensure that youth receive an array of necessary services. As noted in the DOJ report, specialized treatment, such as substance use and mental health services, is either inadequate or unavailable due to poor assessments and limited staffing.¹⁴⁷ In addition, educational programming is often hampered by a lack of basic materials and technology. Unfortunately, there is no aggregate information available on the treatment processes, services, and programs offered by the 49 private facilities under contract with OCFS to provide placement services. As a result, the Task Force was unable to fully evaluate how well New York's existing placement system serves young people in those facilities.

The following strategies outline ways to provide all confined youth—including both those in private and state-operated facilities—with services and educational programs that are aligned with positive youth development.

STRATEGY 10-1: Engage youth, families, treatment providers, and facility staff in the treatment planning process.

Engaging stakeholders—including youth, families and caregivers, treatment providers, and facility staff—in the treatment planning pro-

cess can help to ensure that placed youth get the support and services they need. Involving youth and families in treatment planning has been shown to decrease the likelihood of further criminal behavior and reduce juvenile incarceration rates.¹⁴⁸ For youth with specialized needs, such as mental health or substance use problems, this process also provides an opportunity for staff and families to agree on a diagnosis and collaboratively develop treatment goals. Treatment plans should be written so that young people understand and own their goals. They should be revised and adjusted as the youth progresses and more is learned about his or her needs and learning styles.

In practice, however, treatment planning in several New York facilities often lacks key members. In conversations with facility directors and OCFS officials, the Task Force found, for example, that families did not regularly participate in treatment team meetings—often due to the distances separating families from facilities and sometimes due to language barriers. Independent consultants from the Missouri Youth Services Institute (MYSI) noted in an assessment they conducted of seven OCFS-

Effectively addressing the needs of youth in institutional placement facilities requires a comprehensive set of well-coordinated programs to support their development.

operated facilities that many youth had not been invited to their own treatment team meetings and only later received feedback on what was discussed.¹⁴⁹

Too often, the treatment plans themselves are inadequate. DOJ investigators describe “a maze of uncoordinated plans and goals for youth” within facilities.¹⁵⁰ Their report noted, for example, that one youth was assigned several different diagnoses by treatment providers at the same facility, making it difficult “to develop a cohesive strategy for addressing [the youth’s] needs.”¹⁵¹ They also found that many treatment plans for youth with complex mental health needs were superficial and lacked a detailed discussion of how they would “address the youth’s underlying problems in a meaningful way.”¹⁵² Similarly, the MYSI assessment found that information in the Residential Behavioral Assessment form—the primary tool used to monitor a youth’s progress during his or her stay in custody—often had no connection to the youth’s specific needs or did not outline how daily activities were linked to achieving his or her overall treatment goals.¹⁵³

The Task Force calls upon OCFS to develop a well-coordinated treatment planning process that is aligned with professional standards. Treatment team meetings should include all treatment providers and youth to ensure that a youth’s treatment is aligned with his or her diagnosis and

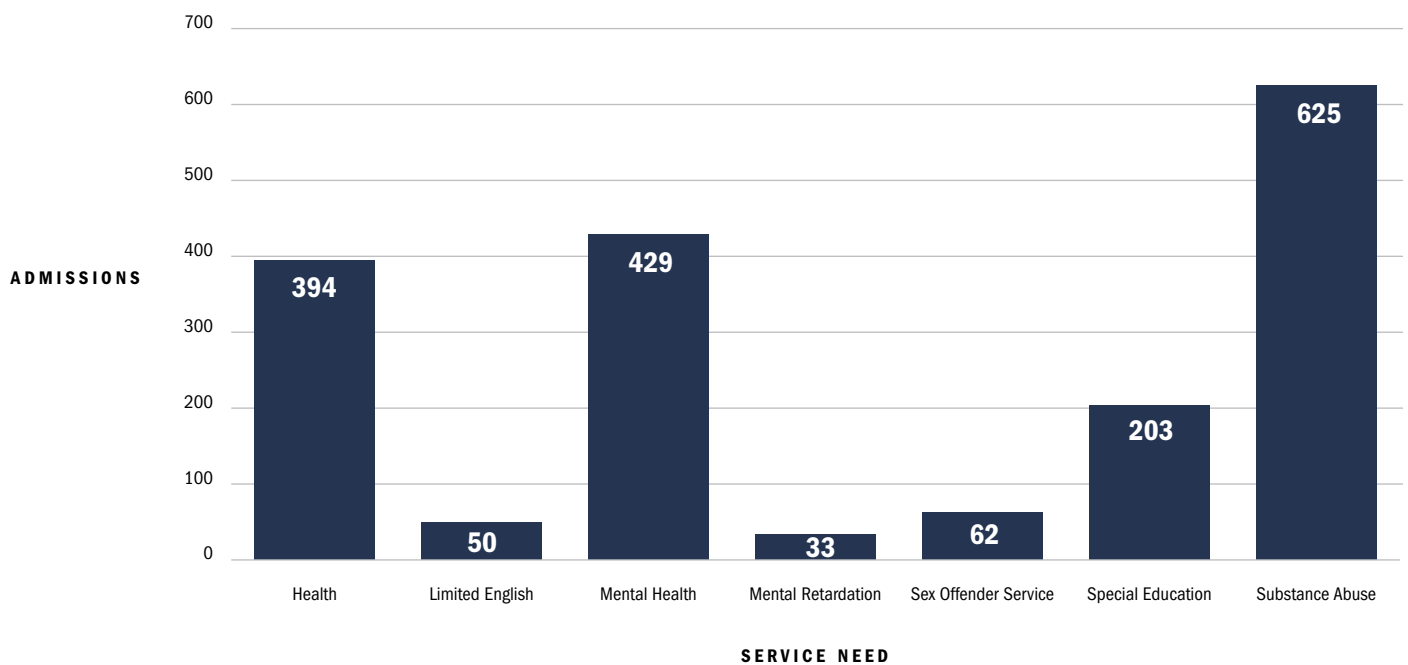
reflects the youth’s personal goals. This strategy should also be considered in conjunction with recommendation 7, which calls for all youth to be placed close to home to strengthen bonds with their families and communities. Facility staff should view youth and families as partners and encourage their participation in every aspect of the treatment process.

STRATEGY 10-2: Design, implement, and invest in a coordinated continuum of facility-based services and programs that address the full range of youth needs.

Effectively addressing the needs of youth in institutional placement facilities requires a comprehensive set of well-coordinated programs to support youth development.¹⁵⁴ This treatment should not be disconnected from a youth’s daily activities or delivered in isolated sessions aimed at curing discrete problems; rather, every part of the program should be aimed at helping youth achieve their treatment goals.¹⁵⁵ Research shows that youth with access to a diverse array of supports and opportunities are less likely to experience school failure, substance use, and delinquency.¹⁵⁶

Figure 9 illustrates the service needs of 891 young people admitted to state-operated facilities in 2007. Approximately 48 percent of youth (429) who were screened at intake to OCFS-operated facilities in 2007 had mental health needs, and 70 percent (625) had substance use issues (as youth can have multiple service needs, the totals exceed 100 percent).¹⁵⁷ Although private agencies conduct similar assessments of youth placed in their facilities, OCFS does not publicly report similar, aggregate data on the service needs of these youth.

Figure 9: Assessed Service Needs of Youth Admitted to State-operated Facilities, 2007



DOJ investigators found that some state-operated facilities failed to provide adequate programs to address the needs of youth with mental health and/or substance abuse problems.

- In one case, facility staff virtually abandoned a youth with complex behavioral problems and very serious mental health needs because they lacked the tools to address her condition and feared for the safety of others. Her needs went largely unaddressed, even though she urinated and defecated on the floor, would not participate in activities, and refused medication. She was restrained by staff 15 times in just over three months.¹⁵⁸
- Elsewhere, staff were unable to stop a young man from rubbing a scratch raw on his finger after a negative phone call with his family. Staff handcuffed and shackled him and took him to the emergency room for an evaluation.¹⁵⁹

OCFS has recently introduced several evidence-based treatment models in its facilities, including Cognitive Behavioral Therapy (CBT) and Dialectical Behavioral Therapy (DBT), to support its shift to the Sanctuary Model.¹⁶⁰ However, MYSI's assessment found that some direct care staff in these facilities were confused about the distinctions—or similarities—between various therapies and how they should be integrated into their daily work with youth.¹⁶¹

Interviews conducted by the Task Force with OCFS officials and facility staff indicate that insufficient staffing prevents many facilities from offering enough specialized services such as mental health programs.

Beyond specialized services and programs, some young people at different state-operated facilities told researchers that they have little to do in facilities and need more basic resources and programs, including books, mentoring programs, and parenting classes.¹⁶² State juvenile justice advocates echoed these findings in a discussion with the Task Force, noting that extracurricular activities, such as arts and sports programs, are severely lacking in some placement facilities. They also noted the inadequacy of services available to serve system-involved girls and lesbian, gay, bisexual, transgender, or questioning (LGBTQ) youth, who often have very specific needs.

Some young people at different state-operated facilities reported that they have little to do and need more basic resources, including books and mentoring programs.

The Task Force commends OCFS for promulgating a policy protecting LGBTQ youth in its custody.¹⁶³ The Guidelines for Good Childcare Practices with LGBTQ Youth, which accompany the policy, have set a national standard for protecting the rights and safety of youth in placement facilities. The Task Force strongly urges OCFS to carefully monitor the policy's implementation to ensure that the guidelines are being followed and that youth feel emotionally and physically safe enough to report any infractions. The Task Force also recommends that OCFS make the policy, guidelines, and the obligations resulting from these documents, applicable to the private facilities.

More broadly, the Task Force recommends that OCFS assess current programs, services, and training offered in all state-operated and private facilities to determine whether they meet the needs of youth in custody and are strength-based and culturally competent. OCFS should also partner with other state agencies, including the Office of Mental Health and the Office of Alcohol and Substance Abuse Services, to find ways to provide high-quality care to all youth with specialized needs, regardless of the facility in which they are placed. Finally, a strong emphasis should be placed on training staff to ensure that they have the tools needed to treat youth with different needs.

STRATEGY 10-3: Provide access to a high-quality education within facilities that prepares youth for success in the community.

Time in an institutional placement facility can provide youth a window of opportunity to address fundamental gaps in their education and reconnect to learning. Yet Task Force interviews with OCFS officials and site visits to facilities revealed that youth do not always receive the educational support they need. Curricula and resources (such as textbooks and computers) vary across the system. In some facilities, youth reported that textbooks were outdated, irrelevant to their interests, or not matched to their reading level. Other youth stated that they had repeated the same curriculum multiple times.¹⁶⁴ Some facility directors with whom the Task Force spoke noted that higher education and vocational programming were unavailable because they depend on volunteer recruitment and private grants.

New York State should invest in books, technology, and tutoring and mentoring services to enhance educational programs offered to incarcerated youth. These resources should reflect youth's diverse racial and ethnic backgrounds, needs, and interests. State officials should also make higher education and workforce development programs accessible at all facilities, as Pennsylvania has done (see sidebar on Pennsylvania). Finally, OCFS should cultivate and leverage relationships with other agencies and organizations, including universities, colleges, and the New York State Department of Labor. These changes will help youth in placement to reach their potential and develop useful skills.

Pennsylvania: Helping Youth Gain Skills During Placement

In 2008, the Pennsylvania Council of Chief Juvenile Probation Officers initiated the Academic and Career/Technical Training Alliance (PACTT) to improve the academic and career and technical training that youth in placement receive to help them transition successfully back to their home communities. To achieve this goal, PACTT works with residential facilities to align their academic programs with the Pennsylvania Department of Education standards, accelerate credit recovery, and establish dozens of career and technical education (CTE) training programs in high demand areas that provide family-sustaining wages. Because the competencies learned are aligned with industry standards, they are portable after discharge from placement. These programs promote literacy, teamwork, cooperation, and general job skills. PACTT has nurtured the development of close to 40 CTE programs in facilities across the state. In addition, many of the facilities now offer entry-level, industry-recognized certifications. PACTT has also worked with local workforce investment boards to secure funding to provide youth with part-time paid jobs within the facilities.

SOURCE

"Pennsylvania Academic and Career/Technical Training Project," Stoneleigh Center, available online at <http://stoneleigh-center.org/files/PACTT%20one%20page.pdf>; and MacArthur Foundation's Models for Change web site, available at <http://www.modelsforchange.net/about/States-for-change/Pennsylvania.html>.

Washington, DC: An Innovative Approach to Education for Placed Youth

The District of Columbia's Department of Youth Rehabilitation Services (DYRS), which is responsible for caring for city youth placed in the district's custody, has transformed its approach to education over the past four years to more effectively engage youth in school during and after placement. Specifically, DYRS contracted with the See Forever Foundation, which operates the local Maya Angelou Charter schools in DC, to operate the school at the District's sole secure government-run placement facility for committed youth in Laurel, MD. See Forever staff revamped the school curriculum by dividing core courses into eight month-long segments. Each month has a guiding theme (such as power or ethics), and each course (social studies, English, math, science) teaches topics relevant to that theme. Because youth attend class by unit rather than by grade level, the school also created a literacy pull-out program, which provides certain youth with additional instructional time devoted to one-on-one or small group reading sessions. By using month-long modules for different themes, incoming youth are better able to transition back to school because courses start and stop frequently. Youth also attend eight-week career institutes that help them explore different career paths in the arts, carpentry, horticulture, or advocacy.

SOURCE

Interviews with DYRS staff during Task Force site visit.

STRATEGY 10-4: Conduct a thorough examination of the educational and vocational curricula used in all facilities.

Designing and implementing an intensive curriculum is challenging, particularly in under-resourced classrooms with youth of different ages and skill levels. The Task Force recommends that OCFS thoroughly assess the educational curricula in its facilities, develop a strength-based curriculum that responds to the needs of youth in custody, and increase collaboration with local school districts. OCFS should also review the education reforms implemented by the District of Columbia Department of Youth Rehabilitation Services, which uses a theme-based curriculum tailored to the needs and interests of youth in placement (see Washington, DC sidebar).

STRATEGY 10-5: Establish OCFS as its own school district and accredit all facility schools.

Although some private agencies are able to issue credits or diplomas to youth who complete coursework while they are in institutional placement, OCFS cannot.¹⁶⁵ Under regulations set by the New York State Education Department, school principals in a youth's home district can choose to accept or reject credits earned at OCFS facilities.¹⁶⁶ The Task Force calls upon New York State to designate OCFS as a separate school district and accredit all facility schools, provided they meet all the necessary criteria. Implementing this change will both ensure that all youth in OCFS custody receive credits and diplomas upon completion of their coursework, regardless of where they are placed, and provide OCFS with access to additional funding for educational programs. Given that this change will likely require passing legislation or amending Education Law section 112, the state should carefully review its options and identify the most effective and efficient way to implement this recommendation. In the interim, the Task Force recommends that, at the very least, a youth's credits for coursework completed within a facility—both state-operated and private—be automatically transferred to his or her home school after leaving OCFS custody.

RECOMMENDATION 11. Support and invest in staff.

Across the system, staff and administrators play a central role in every aspect of a young person's experience in confinement. Direct care staff in state-operated facilities supervise, mentor, and plan for a youth's discharge; caseworkers in OCFS's Voluntary Agency Services unit monitor youth placed in private facilities; directors and professional staff manage operations and oversee youth's treatment and education; and administra-

tors determine where youth will be placed and formulate policies that impact day-to-day life. Yet OCFS officials and facility directors from across the state told Task Force interviewers that they face significant challenges that can negatively impact morale and performance and lead to high turnover rates. These include insufficient training, poorly maintained conditions, and substandard wages.

The following five strategies are intended to provide greater support to staff in all facilities, thereby improving the conditions of confinement for youth in the state's care. These staff have an incredibly demanding job. It is the state's responsibility to offer them the support, training, and recognition they need so that they can focus on what brought so many of them to the job in the first place: a desire to help young people find a better path. As the state works to foster and solidify a systemwide focus on rehabilitation (versus punishment), staff support and guidance is critical.

These staff have an incredibly demanding job. It is the state's responsibility to offer them the support, training, and recognition they need so that they can focus on what brought so many of them to the job in the first place: a desire to help young people find a better path.

STRATEGY 11-1: Train all facilities' staff in cultural competency, positive youth development, and relevant treatment approaches and philosophies.

As noted in recommendation 7, most of the state's facilities are in rural areas far from the cities (particularly New York City) that are home to most of the youth in OCFS custody. Some facility directors reported that the demographic profiles and life experiences of staff in certain facilities can be quite different from those of the youth in their care. These differences may sometimes cause cultural rifts that lead to tension and conflict. At one facility, a youth noted that the staff could not relate to her cultural background, since "most of us are of color and the staff is mostly white."¹⁶⁷ Several facility directors also stated that increased staff training in cultural competency—enhancing awareness and communication across cultural divides—would foster better relationships between staff and incarcerated youth.

Some staff also lack adequate training on adolescent behavior and positive youth development. For example, OCFS officials noted during interviews with the Task Force that until earlier this year, staff training was more deficit-focused (i.e., "what did you do to be adjudicated?") than

focused on trauma and a youth's assets.¹⁶⁸ This approach may not be effective, especially since youth, compared to adults, are more prone to defiant and disobedient behaviors that can be addressed through verbal interventions.¹⁶⁹ Yet, as described previously, the DOJ report and youth in some facilities stated that staff consistently resort to threats and force in response to non-compliant behavior.¹⁷⁰

Staff have also had different reactions to new treatment approaches, such as Dialectical Behavior Therapy and the Sanctuary Model. Task Force interviews with some facility directors revealed that direct care staff did not always understand how these new approaches could be implemented without compromising their authority. By contrast, staff in other facilities who were supported and mentored by supervisors on how to use these new approaches reported feeling more satisfied with their jobs and had more positive interactions with youth.

The Task Force recommends that OCFS train all staff, both administrative and direct care, in cultural competency, youth development, and the treatment approaches and philosophies used in all facilities. In particular, OCFS should amend its contracts with private agencies to ensure that these training components are implemented systemwide. This training will ensure that staff understand youth's cultural and racial backgrounds, their distinct developmental needs, and the treatment approaches and philosophies that address these needs. OCFS should also provide regular opportunities for professional development and review the work of Missouri in this area, which invests a significant amount of resources in training (see Missouri insert on page 51).

Adequate staffing is required to implement a treatment approach that actively engages youth.

STRATEGY 11-2: Provide funding to ensure that all placement facilities are adequately staffed to serve youth needs.

Adequate staffing is required to implement a treatment approach that actively engages youth. Yet interviews conducted by the Task Force with different facility directors revealed that low staff-to-youth ratios in many facilities continue to reflect an approach that emphasizes security and control rather than building meaningful relationships with youth. OCFS officials reported, for example, that staff-to-youth ratios of 1:9 and 1:10 are common in many state-operated placement facilities, even though these ratios do not allow for effective utilization of the treatment models being introduced across the system. Officials also noted that many positions have been left unfilled in recent years due to fiscal constraints. As a

result, staff who are available often rotate among cottages, or units where youth reside, to fill temporary gaps. This rotation disrupts youth's routines and compromises the staff's ability to respond to youth's complex behavioral and service needs, form strong bonds or mentor youth, and maintain a safe and secure environment.

The Task Force calls upon New York State to fund OCFS at a level that ensures that all facilities—including both those in private and state-operated facilities—are adequately staffed. Recent assessments indicate that staff-to-youth ratios of 1:4 or 1:5 and smaller cottages would enable staff to serve youth more effectively, particularly youth with special needs and disabilities.¹⁷¹

STRATEGY 11-3: Ensure that OCFS's Voluntary Agency Services unit has adequate staff and resources to monitor the needs of youth in private facilities.

Staff within OCFS's Voluntary Agency Services (VAS) unit are responsible for monitoring the care of youth placed in private facilities. According to conversations with OCFS officials, the VAS unit has been very understaffed in recent years, and high caseloads are not uncommon. As a result, workers rarely have time to provide careful case management or conduct comprehensive discharge planning for youth leaving custody (described in more detail in Chapter 4). The Task Force recommends that additional resources be allocated to the VAS unit to increase the number of staff serving youth placed in private facilities.

STRATEGY 11-4: Recruit and retain a professional workforce.

Currently, OCFS does not require all job applicants to have a college degree. For example, youth development aides—who supervise and guide youth in facilities and provide assistance to the professional counseling staff—are only required to have a high school graduation or equivalency diploma, or one year of full-time program experience caring for youth or residential clients in an institutional setting.¹⁷²

The Task Force recommends that OCFS revise its job descriptions to ensure that they are aligned with professional standards and attract high-quality applicants who have the necessary skills and training, as well as a sincere interest in working within a system premised on rehabilitation and treatment. OCFS should work closely with the unions and private agencies to develop these descriptions, and these standards should apply to staff in all facilities. For guidance, OCFS should review the job descriptions of other state agencies with positions that serve similar populations. For example, the Division of Probation and Correctional Alternatives requires candidates applying for a probation officer position to have either a graduate degree or a bachelor's degree and two years of experience in counseling or casework.¹⁷³

New York should also look at the work of Missouri’s Division of Youth Services (DYS). DYS recruits extensively at college campuses statewide and has established an intense interviewing process to identify applicants who are committed to helping youth succeed and have the necessary qualities (such as good listening skills and empathy) to excel at the job. As a result, 84 percent of Missouri’s youth specialists (similar to New York’s youth development aides) have either a bachelor’s degree or more than 60 hours of college credit and two years of work experience at the agency.¹⁷⁴ To fill positions at girls’ facilities, OCFS should also focus on recruiting more women.

STRATEGY 11-5: Make salaries for hard-to-recruit positions competitive with salaries for similar positions in other agencies.

Under the New York State Civil Service Law, state agencies can either offer increased salaries to prospective candidates applying for positions that have demonstrated recruitment and retention problems or request that the maximum salary be provided to candidates if the agency has been unable to hire for a certain position.¹⁷⁵ In conversations with the Task Force, however, OCFS officials shared that this authority has rarely been used by the agency. Consequently, salaries for certain positions are not always competitive with those of similar positions at other state agencies. The state Office of Mental Health, for example, has negotiated a special salary plan with the Division of the Budget that allows it to pay entry-level psychiatrists and medical specialists more than what is specified in the salary schedule that is typically used by OCFS.¹⁷⁶

Offering better pay is essential to recruiting and retaining staff who can meet the needs of youth in custody—particularly those with severe mental health needs—and operating safe and secure facilities. The Task Force recommends that OCFS examine its approach to setting salaries for hard-to-fill positions to ensure that they are more competitive with the salary structures of other state and local agencies.

Offering better pay is essential to recruiting and retaining staff who can meet the needs of youth in custody, particularly those with severe mental health needs, and operating safe and secure facilities.

RECOMMENDATION 12. Provide localities with equal reimbursements for youth who are placed in OCFS custody, regardless of the type of facility.

Throughout the course of the Task Force’s work, many stakeholders raised concerns regarding local payments for different institutional placements. When a youth is placed in a state-operated facility, the cost of the placement is shared equally by the state and the county in which the youth lived prior to placement. When a youth is placed in a private facility, the county’s share of this cost can vary. This variation occurs because localities can choose how to allocate funds from different block grants provided by the state toward covering the cost of private placements. If the county’s block grant allocation is insufficient to cover the full cost of all private placements (or is allocated for some other purpose), then the county must use its own local funds to pay for these placements. In localities with large numbers of youth admitted to private facilities, such as New York City, the local government may be paying more for private placements than for state-operated placements. The Task Force urges New York State to examine the current payment and reimbursement structure and provide equal reimbursements for youth placed in OCFS custody, regardless of the type of facility.



4

Ensuring Successful Reentry

BECAUSE ALL YOUNG PEOPLE who enter facilities will eventually return to their families and communities, the juvenile justice system must plan for and responsibly manage the reentry process.

This transition is inherently challenging. Upon leaving facilities, young people are likely to return to environments that are far less structured.¹⁷⁷ Research shows that incarcerated youth disproportionately come from communities with high levels of poverty and live primarily in single-parent households with low levels of educational attainment.¹⁷⁸ Although many have strong bonds with peers and family members, some will return to negative or even harmful relationships. In addition, returning youth frequently have difficulty reenrolling in school, finding employment, or, for those who lack an adult caregiver, locating a suitable home.¹⁷⁹ Many also cope with substance use or mental health issues without adequate services to address them.¹⁸⁰ Finally, reentering youth face the same challenges that confront all young people as they move from adolescence into adulthood, including significant psychological, emotional, and physical changes.¹⁸¹

Some programs in New York State are already working to provide young people with the support they need during reentry. In some jurisdictions,

OCFS has established a continuum of evidence-based treatment services and supervision as part of its aftercare program.¹⁸² This allows reentering youth to move between levels of support according to their risks and needs. Similar local initiatives are under way in Monroe County, New York City, and Seneca County. For example, since launching a reentry pilot project, Seneca County has decreased the length of stay for youth in placement from 18 months to six months or less, and the number of placed youth has decreased by 67 percent, from 33 to 11.¹⁸³ (For more on this and other programs, see the insert on Reentry Initiatives in New York State.)

Notwithstanding such promising developments, juvenile reentry practices in New York State still have a long way to go. Task Force interviews with facility directors revealed that the amount of reentry planning in facilities varies widely across the state. Some state-operated facilities conduct extensive reentry planning; others do virtually none. And while some private agencies do provide aftercare services to young people released from their facilities, they are currently not contractually required to do so.

Although it is one of the most important aspects of juvenile justice, reentry is one of the least researched and developed issues in the field. Still, the available literature does provide some important guidance. Specifically, reentry programming should

- prepare youth to reenter their community,
- make arrangements with service providers in the community to address key needs, and
- provide community-based supervision to ensure that released youth follow up on connections with services and supports.¹⁸⁴

Where the literature is silent, the principles of what works generally in juvenile justice, as well as the successes that other localities have achieved, provide additional guidance.

Recommendations 13 through 15 outline concrete steps that New York State can take to build a robust, effective juvenile reentry network that can serve as a model for the nation. As is the case throughout this report, the recommendations in this chapter pertain to both state-operated and private agencies. As such, OCFS will need to contractually mandate—and oversee—that all private facilities provide reentry services in line with these recommendations.

Reentry Initiatives in New York State

Several jurisdictions, including Monroe County, New York City, and Seneca County, are piloting innovative reentry initiatives to ensure that youth successfully transition back to their home communities after placement. These initiatives are described in more detail below.

Monroe County

The Nazareth College graduate education programs provide youth placed in the Industry Residential Center—a limited secure facility in the county—with one-on-one guidance to help them develop a personal transition plan. The plan includes a list of people in the community with whom the resident can connect when returning, some of whom visit the resident in the facility to build trust. A local organization called the Academy for Career Development is working to provide all returning youth with AmeriCorps mentors to assist them in implementing their plans. Local aftercare staff are also collaborating with Monroe County officials and the Rochester City School District to ensure that youth have complete and appropriate school placements and mental health services prior to their return to the community.

New York City

Under the Juvenile Justice Initiative's Intensive Preventive Aftercare Services (IPAS) program, the Administration for Children's Services is working with OCFS to reduce lengths of stay for youth in private facilities and provide treatment upon their return to their community. IPAS staff set a youth's release date for seven months from the day he or she entered the facility. Each youth is assigned to a treatment team, including an education liaison, who monitors the young person's progress and identifies and addresses any potential barriers to discharge on the scheduled release date. IPAS contracts with a nonprofit, community-based service provider, Catholic Guardian Society and Home Bureau, to provide youth with Functional Family Therapy and ongoing case management. Currently, IPAS is working with youth in the Bronx and Manhattan, and the program plans to expand to the remaining boroughs in the near future.

Seneca County

In July 2006, officials launched a pilot project with OCFS and Youth Advocate Programs, Inc. (YAP) to decrease youth's average length of stay in placement and provide services in young people's home communities. YAP staff members work with youth and their families both during and after confinement to identify appropriate reentry services in the community. Since the initiative began, the average length of stay for Seneca County youth has decreased from 18 months to six months or less, and the number of youth placed with OCFS has decreased from 33 youth to 11. From April 2006 to May 2008, Seneca County and New York State shared a cost savings of more than \$1.6 million by using YAP services in lieu of OCFS institutional placement.

SOURCE

YAP: Interviews with Charles Schillaci, commissioner of the Seneca County Division of Social Services, and Stephanie Hart, YAP president; IPAS: Interview with Leslie Abbey, executive director of the Juvenile Justice Initiative; Monroe County: Interviews with OCFS officials and Alvin Lollie, facility director of the Industry Residential Center.

RECOMMENDATION 13. Limit the amount of time youth spend in institutional facilities.

Under the New York State Family Court Act, the length of time a youth can stay in OCFS custody varies according to the severity of the adjudicated offense. For felony findings, initial placement stays cannot exceed 18 months; initial placement for misdemeanor findings cannot exceed 12 months.¹⁸⁵ Judges have the authority to order a minimum confinement term of up to six months for felony cases, but no minimum can be ordered for misdemeanors.¹⁸⁶ Also, a small number of JDs placed with OCFS as restrictive placements based on the most serious felony offenses may be placed for an initial period of three to five years, depending on the level of their offense.¹⁸⁷

In 2007, youth discharged from state-operated facilities spent a median of 10.5 months in residential custody.¹⁸⁸ The median length of stay in private facilities was 11.6 months.¹⁸⁹ Staff at private facilities cited various reasons for their longer lengths of stay. These included a desire to prolong access to treatment and a need to coordinate release dates with youth's home schools to ensure a smooth transition. Other stakeholders, however, suggested that the state's payment and reimbursement structure, which is tied to the number of days each young person spends in a facility, provides private facilities with financial incentives to keep youth for longer periods of time.

New York State should establish a uniform policy for determining length of stay.

Research indicates that longer lengths of stay do not necessarily help. Not only do they carry significant financial costs, but extended placements also have been found to increase the likelihood that youth will adopt the negative behaviors of anti-social peers.¹⁹⁰ In addition, extended stays compromise young people's links to positive activities and supports in the community, such as family connections, and prevent youth from building the skills they need to deal with environmental and systemic challenges.¹⁹¹

New York State should establish a uniform policy for determining length of stay, which would apply to both private and OCFS facilities. Specifically, the Task Force recommends that the state establish a legislative presumption that juvenile delinquents in placement shall stay for no longer than six months—the length of time shown to have the most significant impact on placement gains.¹⁹² The Task Force does not recommend that the overall statutory framework for placement be altered; there may be young people who need to be placed for longer periods when public safety demands. Also, the six-month presumptive maximum

would not eliminate the discretionary role of judges in making placement decisions, nor would it disturb the limits that are already imposed on that discretion. It is up to New York State to determine the procedural contours of administering this presumptive maximum, but the Task Force firmly believes that this presumption should be codified by law.

Realizing the benefits of a six month placement will, of course, require each facility to actively engage youth and families in treatment and offer an appropriate range of services, as discussed in recommendation 8. Facilities will also need to emphasize discharge planning to prepare youth to return to their communities. Officials should review the promising planning initiatives that are currently being used in different jurisdictions within the state and examine the work of Missouri, which has developed a series of step-down community-based programs to help youth gradually transition from institutional care to their homes (see Missouri insert on page 51).

RECOMMENDATION 14. Begin reentry planning and preparation at the time of disposition, and actively engage different stakeholders in this process.

Planning for release should begin as soon as the court places a young person in OCFS custody and should involve several different stakeholders, including the youth, his or her family, the family court judge, and aftercare workers.¹⁹³ This approach ensures that youth will reenter the community in a family-based setting whenever possible and that services will be available to mitigate the youth's risk to public safety, as well as to help him or her succeed inside and outside of the facility.¹⁹⁴ Early planning also reminds young people that they will face responsibilities and challenges upon leaving placement but assures them that they will be given the tools they need to meet these responsibilities and challenges successfully.

Currently, OCFS seeks to have most youth in state-operated facilities connected to services in their home community 60 days prior to their release.¹⁹⁵ The reentry planning process in these facilities has been restructured to begin earlier in the youth's stay and to involve youth and their families.¹⁹⁶ Yet agency officials informed the Task Force that youth and families are not always engaged in this process, and securing a family-based setting for youth upon release is not always considered a priority. The remote location of some state-operated facilities, as discussed in Chapter 3, may be partially responsible.¹⁹⁷ In a focus group conducted by OCFS (independent of the Task Force), young people said that they did not feel included in their reentry planning and found that their plans did not focus on what they wanted. In conversations with some private fa-

Early planning reminds young people that they will face responsibilities and challenges upon leaving placement but assures them that they will be given the tools they need to meet these responsibilities and challenges successfully.

Early Reentry Planning: Aftercare for Indiana through Mentoring (AIM)

Indiana's Aftercare for Indiana through Mentoring (AIM) is a program that helps young people transition back to their communities by facilitating positive mentoring relationships and connecting them with community-based services. Created in 1995 by Roger Jarjoura at Indiana University, AIM matches reentering youth statewide with adult volunteers in their communities who act as role models and help them navigate the pressures and challenges they face after coming home. Mentors are assigned to youth as early as possible—preferably while youth are still in the facility—and help them develop reentry plans that outline how young people will achieve their goals. AIM also assesses the needs of juvenile offenders just prior to release and links them with community agencies that can effectively meet these needs. Many of the mentoring relationships continue on an informal basis after the young person has officially completed the program. AIM's success has led to similar mentoring reentry initiatives in Arkansas and Alaska.

SOURCE

Adam Segal, *The Aftercare for Indiana Through Mentoring Program* (The National Evaluation and Technical Assistance Center for the Education of Children and Youth Who are Neglected, Delinquent, or At-Risk), available online at <http://www.neglected-delinquent.org/nd/resources/spotlight/spotlight200609b.asp>.

cilities, the Task Force found that youth's families are involved in reentry planning to varying degrees.

Community-based aftercare workers and treatment providers are also variably involved in reentry planning. In upstate New York, case managers regularly visit facilities and participate in planning meetings. In the New York City metropolitan area, high caseloads and significant distances between local offices and many facilities make visiting facilities difficult. As described in strategy 11-3, monitoring young people in private facilities is especially challenging for downstate caseworkers, particularly since OCFS's VAS unit is understaffed. OCFS officials noted in interviews that these caseworkers rarely have time to provide intensive case management to young people in private facilities. Instead, cases are prioritized based on whether there are emergencies that require immediate attention. As noted earlier in this report, OCFS does not contractually require that private agencies provide reentry services to youth.

The Task Force recommends that OCFS review release-planning practices at all facilities—both state-operated and private—to ensure that youth, families, and other key stakeholders are involved in this process as soon as a youth enters a facility. In addition, OCFS should contractually require that all private agencies provide aftercare services for youth leaving placement. Finally, New York State should provide adequate funding and resources to support caseworkers responsible for overseeing placed youth as they progress through their stay and transition home. In conjunction with recommendation 13, any savings generated from reduced lengths of stay in facilities should be redirected to fund aftercare services.

RECOMMENDATION 15. Ensure that reentry plans are individualized and provide for seamless, well-supported transitions from facilities back to the community.

STRATEGY 15-1: Provide a continuity of care that addresses youth's reentry experiences and their general needs.

Young people leaving institutional placement facilities should be discharged to a family setting whenever possible and connected to services and supports that can help smooth their transition home.¹⁹⁸ By providing a continuity of care from facility to community, these services and supports can reduce the likelihood that a young person will re-offend after being released.¹⁹⁹ Establishing continuity of care requires the development of comprehensive reentry plans and an infrastructure of community-based services that can mitigate the challenges faced by reentering youth.²⁰⁰ Based on its review of research and stakeholder interviews, the

Task Force recommends that New York State ensure that reentry planning addresses the following issues:

- *Securing employment:* Learning to become economically self-sufficient is a critical part of adolescence.²⁰¹ Unfortunately, many young people returning to their communities receive little support in achieving this goal, leaving them disconnected from the job market and at higher risk for engaging in crime.²⁰² Access to training during placement and employment opportunities upon return can enhance these youth's chances of success.
- *Accessing treatment services:* Many young people in placement facilities have mental health and substance abuse needs. These youth may find it especially difficult to transition back to the community without the help of professional support.²⁰³ Reentry plans for youth with treatment needs must ensure that they have access to an adequate level of support when they are back in the community.
- *Reenrolling in school:* Educational attainment is strongly correlated with successful reentry and reduced recidivism.²⁰⁴ Yet reconnecting young people to educational programs can be difficult due to a lack of communication and coordination between placement facilities and schools. Caseworkers and treatment providers should emphasize the importance of pursuing an education after release and begin the process of reenrolling young people in the appropriate educational setting as early as possible (see strategy 15-3 for more information on this issue).
- *Lack of family support:* For a variety of reasons, some youth leaving OCFS custody do not have a parent or guardian to whom they can return. These young people sometimes become homeless, turning to shelters for assistance, or are moved to a foster care group home, often until they age out of care when they reach 18 or 21. The Task Force recommends that OCFS work with local child welfare agencies to improve the coordination of services for reentering youth without a familial resource, as well as for youth whose families need services in order to become a permanent resource for their child. Additionally, the Task Force recommends providing short-term respite care for youth who are at risk of revocation (being returned to a placement facility) due to a lack of family support. Similarly, it recommends creating independent living programs for older youth.
- *Navigating systems:* Accessing the services and supports outlined above often requires navigating a potentially daunting array of systems. Many young people and their families may not know how to obtain critical identification documents, such

as social security cards and state ID cards, or know where to sign up for benefits. New York State should provide this information to youth during the reentry planning process and offer guidance to families on how to handle the transition.

Developing a seamless network of services that youth and their families can access will require significant resources and coordination between facilities, aftercare staff, and community providers. The Task Force calls upon New York State to provide adequate funding for these services, with a special focus on jurisdictions with high numbers of placed youth who exhibit the most critical service needs. These services should incorporate the same principles of best practice described for alternative-to-placement programs in Chapter 2. New York State should also ensure that planning teams at both state-operated and private facilities are familiar with the resources available in communities so they can develop comprehensive plans that are genuinely helpful to youth and their families. Finally, OCFS and individual facilities must build strong relationships with community-based service providers who have the skills and experience needed to address the issues faced by recently released youth.

STRATEGY 15-2: Ensure that OCFS partners and coordinates with relevant state and local agencies and community groups to provide transitioning youth access to a full range of services and interventions.

As noted in strategy 15-1, linking placed youth to a full range of community-based supports requires strong partnerships among OCFS, other state and local agencies, and community groups. The Task Force recommends that OCFS work closely with these entities to ensure that the appropriate programming is in place. Specifically, the agency may want to draft memoranda of understanding to outline specific responsibilities for its partners in the reentry process or consider funding cross-agency pilot programs that could facilitate youth's transition out of the juvenile justice system. Finally, OCFS should ensure that local social service agencies provide access to foster care for reentering youth who do not have viable, stable, and long-term options for housing when they return to their communities.

Linking placed youth to a full range of community-based supports requires strong partnerships among OCFS, other state and local agencies, and community groups.

STRATEGY 15-3: Foster collaborations between OCFS, the New York State Education Department, and local school districts to facilitate a successful return to an educational or vocational setting for all reentering youth.

Research shows that linking youth coming out of placement facilities to schools can be critical to ensuring their success in the community.²⁰⁵ Yet Task Force interviews with OCFS and facility directors revealed that the reenrollment process varies significantly across the state and is largely dependent on the dedication and capabilities of local aftercare workers. Although some case managers in New York City, for example, know the school system well and are deeply involved in the reenrollment process, others have difficulty navigating the system, leading to significant disruptions in a young person's education. By contrast, case managers in counties with relatively few returning youth are able to place young people in their home school districts before they are even released.

Even though some youth have been able to reenroll more quickly, OCFS officials said two issues continue to hinder this process: (1) a home district's inability or reluctance to identify a suitable placement for a special needs youth and (2) a home district's refusal to reenroll returning youth due to his or her prior offense and/or behavior history.²⁰⁶ Even when a youth is reenrolled in school relatively quickly, many schools often refuse to award credit for schoolwork completed during a stay in placement (see strategy 10-5).

Between February 2008 and January 2009, 66 percent of youth released from OCFS facilities were reenrolled in school within five days, and 89 percent were reenrolled within 10 days.²⁰⁷ OCFS did not have similar aggregate data on youth from private facilities, nor does it track whether a youth's ultimate home school placement was appropriate.

The Task Force recommends that OCFS require that each young person have an individualized education plan to outline his or her goals and objectives. Staff within facilities should work closely with local aftercare workers to ensure that any necessary actions required to facilitate reenrollment occur prior to a youth's release. OCFS should also work closely with the New York State Education Department and local school districts while young people are still in facilities to identify appropriate school and vocational placements and establish a system to gather and track data regarding the transfer of credits from OCFS to a young person's home school (see strategy 10-5). New York State should enforce private agencies' equal obligation to facilitate reenrollment and require them to gather and report school reentry data on youth who are leaving these facilities.



5

Creating System Accountability and Transparency

DURING THE COURSE OF ITS REVIEW, the Task Force found that much of the information needed to understand how well New York State’s juvenile justice system is functioning is either not collected or not reported on a regular basis. As noted earlier, for example, there is limited aggregate data available on the state’s private facilities, and the most recent recidivism data is nearly a decade old. Neither is there any independent oversight to ensure that facilities comply with requirements to keep young people safe. These weaknesses in data collection and oversight make it difficult to improve the system or hold it accountable for achieving results.

All public institutions must have effective systems of internal and external accountability. Internal accountability requires agencies to collect and analyze data to manage their own performance. This data can be shared with the public and used to hold staff responsible for following standards and protocols. External accountability refers to observations and inspections conducted by independent bodies in an effort to uncover problems that may have been overlooked by an internal process.²⁰⁸

Nowhere are these two functions more critical than in the juvenile justice system. Each year, hundreds of young people in New York State—some as

Although bound by law, and expected by the public, to protect the safety and rights of youth in custody, these institutions are essentially closed off from public scrutiny.

young as 10 years old—are deprived of their liberty and placed in facilities that have extraordinary control over their lives. Although bound by law, and expected by the public, to protect the safety and rights of youth in custody, these institutions are essentially closed off from public scrutiny. Even the state legislature, which has the authority to call public hearings to monitor state agency operations and programs, has only done so once in the past decade.²⁰⁹ The U.S. Department of Justice investigation cited earlier in this document, which offered a much-needed look inside four state-operated facilities, revealed the horrific consequences that can result from chronically insufficient internal and external oversight of these institutions.

Recommendations 16 through 20 discuss how New York State can better monitor its juvenile placement system using internal mechanisms, such as improved data collection, and external oversight. In the process, they can also help to ensure that taxpayer resources are directed to institutions and programs that best serve and protect New York’s system-involved youth and promote public safety.

RECOMMENDATION 16. Improve and expand the use of data and other performance measures to guide decision making, enhance accountability, and drive system improvement.

STRATEGY 16-1: Collect and report data for a comprehensive view of the juvenile placement system.

Most of OCFS’s current data collection and reporting practices were implemented to help manage individual cases on a daily basis, monitor youth’s movements through the placement system, and provide general information about the system, such as the number of youth in residential custody on a given day. While useful in many ways, these practices are not sufficient for an effective oversight and reform regimen. As OCFS invests in operational reform, it should overcome this deficit by enhancing its data collection and research capacities to facilitate meaningful system oversight and reform.²¹⁰ The Task Force applauds the steps that OCFS has already taken to measure the changes resulting from implementing certain reforms, such as efforts to evaluate the Sanctuary Model. In the future, the state should further track, monitor, and evaluate practices and aggregate outcomes within placement facilities and alternative programs.

This information should include, but not be limited to, the following:

- *Recidivism*: The rate at which youth become involved in criminal activity after their release is an important measure of the

system's success. As noted earlier in this report, the most recent comprehensive recidivism numbers reported by OCFS (covering re-arrest, re-conviction, and re-commitment in both the juvenile and adult systems) are significantly outdated, reflecting the experience of youth released from facilities between 1991 and 1995.²¹¹ While OCFS is currently working to collect and report more current statistics, these efforts have been seriously delayed because of problems in collecting data across the state's juvenile and criminal justice agencies, specifically when it comes to juvenile arrests. Best practices from other states indicate that the most valuable recidivism analyses are those that report—on a regular basis—youth re-involvement at various system points over multiple time frames.²¹² New York State should support the inter-agency collaboration necessary for such an analysis.

- *Criminal history*: OCFS's regular reporting does not currently include information about the criminal histories of placed youth. Prior offense history is sometimes recorded in administrative data, but this is not done uniformly. Consequently, while case management staff may know the information, it is not collected in a way that can provide a comprehensive understanding of all youth in the system. As mentioned previously, the large number of youth placed on misdemeanor offenses raises questions about whether these young people pose a significant enough risk to public safety to be deprived of their liberty. Criminal history data as well as other case factors would help more accurately assess the risk these young people pose to public safety. To gather such information, OCFS will need the support and collaboration of other state agencies, such as the Office of Court Administration and the Division of Criminal Justice Services.
- *Youth experience*: The Task Force recommends that OCFS administer an exit survey to all youth who are leaving an institutional facility in an effort to disclose aspects of system functioning that are not recorded in administrative data. For a model, OCFS should consult a survey that was recently developed by the Council of Juvenile Correctional Administrators.²¹³ The survey asks young people, upon discharge from a facility, to reflect on their experiences, comment on which programs they found helpful or would like to change, assess to what extent their families and community supports were included in case planning and treatment, and share how the facility staff have or have not adequately prepared them for reentry into the community.
- *Restraints*: As stated in Chapter 3, in 2008, OCFS developed a standardized, electronic system for collecting data on physical restraints in facilities. However, private facilities are not currently required to collect or report data to this system, making

it difficult to have an accurate picture of restraint usage systemwide. The Task Force recommends that OCFS require all facilities to collect and report data on restraints.

STRATEGY 16-2: Review, analyze, and report data on youth placed in the custody of local social service agencies.

When a judge determines that a young person should be removed from his or her home, the youth can either be placed in the custody of the local department of social services (DSS) or OCFS. However, as noted earlier in this report, the state does not have reliable, aggregate data on the total number of youth placed in local DSS custody. In the absence of this data, New York State has little way of knowing whether the reforms being implemented to reduce OCFS placements are being counteracted by increases in placements at the local level.

Although the Task Force's mission focused on youth in OCFS custody, members felt that it was critical to call attention to this significant data gap. Going forward, the Task Force recommends that OCFS regularly track, analyze, and report county-level data on the number of youth placed in local DSS custody to ensure that New York has a comprehensive picture of all youth within its placement system.

New York State has little way of knowing whether the reforms being implemented to reduce OCFS placements are being counteracted by increases in placements at the local level.

STRATEGY 16-3: Establish and track standardized performance measures for each placement facility and alternative-to-placement program.

During the course of its work, the Task Force requested data from OCFS to better understand how the performance of private facilities compares to that of state-operated facilities. Unfortunately, much of this information was unavailable because OCFS does not regularly analyze aggregate data on private facility programs that serve delinquent youth. According to OCFS officials, the state's contracts with private agencies do not require these agencies to track data on their program operations or report on performance measures, making it difficult to develop a comprehensive picture of the system.

As the state improves its data collection practices, the Task Force recommends that OCFS establish clear and comprehensive performance

measures for all placement facilities as well as for alternative-to-placement programs. Specifically, OCFS should revise its contracts with private agencies to stipulate that specific performance standards and reporting requirements must be met to achieve the goal of a cohesive, unified system. New York State should then collect baseline data for those measurements. Once a baseline is established, it will be possible to establish trends and examine changes in performance over time. This data should be regularly reported to relevant stakeholders, including judges and probation staff, to monitor how well programs are working. The Task Force applauds the agency for beginning to establish and collect such measures by piloting Performance-based Standards (PbS), a management tool developed by the Council of Juvenile Correctional Administrators, in eight of its facilities (see sidebar on Using Data to Improve Conditions of Confinement).²¹⁴ The state should implement PbS in each state-operated and private facility.

STRATEGY 16-4: Fund research and development efforts to evaluate reforms and promote innovation.

As discussed in chapter 2, OCFS should expand the use of evidence-based programming options throughout the state. When considering new programs, officials should include those that have been shown to be effective in helping young people succeed in other jurisdictions. It should not, however, limit investments only to such evidence-based practices. New York should also be willing to spearhead innovations of its own. When new programs are implemented, funding for research should be included in the budget, and program quality assurance and evaluations should be mandatory.

STRATEGY 16-5: Disseminate research and information to educate staff, stakeholders, and the public and to encourage system transparency.

As data collection and research expand, dissemination of findings and information should expand as well. State officials should provide system stakeholders—including social service personnel, facility staff, judges, attorneys, and community-based organizations—with comprehensive descriptions of the programs and services available at each alternative-to-placement program, private facility, and state-operated facility. An annual report card for each facility, for example, could include summaries of operations and outcomes. Research findings and reports should be distributed to the widest possible public audience. In addition, the state should ensure that all stakeholders, including judges and facility staff, are trained on both national best practice research and reform developments particular to New York.

Using Data to Improve Conditions of Confinement: Performance-based Standards

At least 204 facilities in 27 states are implementing a management tool called Performance-based Standards (PbS). PbS was developed by the Council of Juvenile Correctional Administrators to give youth corrections administrators frequent feedback on key aspects of how their facilities are operating. Unlike previous monitoring practices, PbS measures events—what is happening in facilities—rather than adherence to written policies or procedures. By tracking key indicators, such as the use of restraints and isolation or the percent of youth who show an improvement in physical fitness, PbS provides a clear representation of what is really happening to youth and staff and gives facility administrators tools and encouragement to improve conditions and programming. In 2004, PbS won an Innovations in American Government Award from Harvard University's Kennedy School of Government.

SOURCE

Douglas Nelson, *A Roadmap for Juvenile Justice Reform*, (Baltimore, MD: Annie E. Casey Foundation, 2008) 25; and Performance-based Standards: Safety and Accountability for Juvenile Corrections and Detention Facilities (Council of Juvenile Correctional Administrators, 2008), available online at http://pbstandards.org/DocLib/PbS_InfoPacket.pdf.

RECOMMENDATION 17. Track and report disproportionate representation of youth of color at every system point.

As noted in Chapter 1, the Task Force is deeply troubled by the disproportionate representation of youth of color in New York State’s juvenile justice system. Although this report is focused on institutional placement, a full examination of disproportionate representation requires data from every point within the system, from the point of arrest to disposition. Understanding the causes and consequences of this racial imbalance, including where disparities are introduced and how they change throughout the system,

is a first step toward developing appropriate responses. The state should require all agencies that play a part in the juvenile justice system—including, but not limited to, the police, probation, prosecution, family court, detention administrators, and OCFS—to publicly report demographic data on youth at every major decision point. In addition, the state should ensure that data collection and reporting practices regarding youth’s race and ethnicity are aligned at all system points according to national best practice standards (see sidebar on Guidelines for Collecting and Reporting Race and Ethnicity).

Guidelines for Collecting and Reporting Race and Ethnicity

The National Center for Juvenile Justice and the Center for Children’s Law and Policy, with support from the MacArthur Foundation, offer guidelines for reporting race and ethnicity in juvenile justice systems consistent with federal policy. Their recommendations are intended to standardize race and ethnicity categories and the way information related to these categories is gathered. The recommendations involve the following three-step process (with information provided by youth themselves whenever possible):

- 1) Identify a youth’s Hispanic/Latino ethnicity (yes/no).
- 2) Establish race according to federal guidelines.*
- 3) Record open-ended responses regarding national origin, ancestry, or tribal affiliation.

Results should be compiled in a publicly shared, systemwide relative rate index, which would allow for a comparative understanding of the rates of system contact for different groups of youth at every system stage.** Where disparity exists, agencies must investigate why and carefully track changes over time.

NOTES

* The Office of Management and Budget set five minimum race categories: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White.

** The relative rate index is a method of comparing the relative volume (rate) of activity for each major stage of the juvenile justice system for youth of color with the volume of that activity for white youth. The comparison yields an index number indicating the extent to which the volume of that form of contact or activity differs for youth of color and white youth.

SOURCES

Patricia Torbet, H. Hurst Jr., and M. Soler, *Guidelines for Collecting and Recording Race and Ethnicity of Juveniles in Conjunction with Juvenile Delinquency Disposition Reporting*, Prepared for the Pennsylvania Juvenile Court’s Judges’ Commission, (National Council of Juvenile and Family Court Judges, 2007); and *What is an RRI?* (National Center on Juvenile Justice) available online at <http://ojjdp.ncjrs.org/ojstatbb/dmcdp/asp/whatis.asp>.

RECOMMENDATION 18. Ensure that allegations of abuse and staff misconduct in facilities are thoroughly investigated and handled appropriately.

A healthy public agency uses strong internal oversight to proactively monitor its operations and take appropriate actions when problems arise. The U.S. Department of Justice report highlights several examples of how excessive force inflicted on youth in OCFS custody resulted in severe injuries.²¹⁵ The report also notes that internal investigations into why these incidents occurred were often superficial, if they occurred at all, and failed to document relevant

evidence.²¹⁶ In some instances, the same staff member who was involved in the episode signed off on the review; in other cases, staff faced no punishment for serious violations of policy.²¹⁷

Other examples of inadequate investigations into staff behavior from the DOJ report are highlighted below:

- A direct care staff member restrained a youth who had medical restrictions following a call to all staff to respond to a dorm where three youth were screaming. The youth with special medical needs was placed in a sitting restraint and handcuffed and sustained bruising and swelling to her cheek, arm, and shoulder before staff realized her condition. Although the incident was later reviewed, no inquiry was ever made into whether force was necessary, and no follow-up was recommended.²¹⁸
- An investigation into a full take-down restraint that resulted in a young person suffering a spiral arm fracture was never reviewed. The investigation was later signed off on by the same person who conducted the restraint.²¹⁹
- Another investigation found that a staff member inappropriately entered a youth's room and used unnecessary force that injured the youth's wrist and jaw. Even though the staff member had previously abused other youth at the facility, the individual remained employed at the facility six months after this incident occurred.²²⁰

These incidents underscore the need for a more thorough and impartial investigation process, as well as strong corrective measures in response to staff misconduct. Without them, facilities send the message that force is an acceptable means of addressing problems, and offenders will face no consequences for wrongdoing.²²¹

The Task Force recommends that serious incidents, allegations of abuse, and allegations of staff misconduct be rigorously investigated in a timely manner. Individuals conducting and reviewing investigations should have no personal stake in the outcome. Personnel who are the subject of such an investigation should be removed from direct youth supervision until a report is completed and a finding issued.

RECOMMENDATION 19. Establish and fund an independent, external oversight body to monitor and report on OCFS's juvenile justice policies and practices.

Like better data, strong external oversight is necessary to identify and

correct safety problems and increase public confidence that New York State is committed to improving the conditions inside its institutional placement facilities. Currently, no independent oversight body exists outside of OCFS to ensure that all youth placed in juvenile institutional facilities under the

care and custody of the state are treated fairly and humanely. Without this kind of oversight, the culture inside facilities can become rife with violence and abuse, as illustrated by the DOJ report.

The New York State Commission of Correction (SCOC) monitors OCFS policies and practices in secure placement facilities, but it does not have similar, broad jurisdiction over the state's limited secure, non-secure, and private facilities, where 88 percent of delinquency cases are placed.²²² Furthermore, the SCOC's main focus is on monitoring adult correctional facilities; the agency does not have the same historical expertise in addressing the distinct challenges and needs of youth in institutional settings. In 2007, the New York State Office of the Ombudsman (OOTO) was statutorily established to protect the legal rights of youth in placement facilities.²²³ However, during interviews with the Task Force, OOTO officials reported that budget and staffing constraints have limited their ability to conduct regular facility visits and that their statutory mandate only pertains to state-operated facilities. The OOTO is also not an independent body; however, it does rely on the Independent Review Board, an external advisory body created by regulatory authority, to monitor its activities. Nonetheless, the OOTO operates under the direct purview of the OCFS commissioner.²²⁴

The Task Force recommends that the state establish—and adequately fund—a separate entity that has unrestricted access to oversee all juvenile placement facilities, including both state-operated and private facilities. This entity should provide regular reports to the governor, the legislature, and the general public on OCFS's juvenile justice practices and policies to ensure that they comply with the law and reflect best practices in the field. This entity should also carefully review the grievance process used within facilities to ensure that youth have meaningful opportunities to report unsafe conditions and abuse.

Defining the precise form that New York State's external oversight body should take is beyond the scope of the Task Force's work and will require further research by the state. The Task Force encour-

Essential Elements for Effective Independent Oversight Bodies

In August 2008, the American Bar Association (ABA) issued a report to its house of delegates urging federal, state, local, and territorial governments to establish independent entities to monitor and report publicly on conditions of confinement in all juvenile and adult correctional facilities. The ABA outlined 20 requirements that must be met to ensure the effectiveness of oversight bodies.* Some examples of those requirements are listed below:

- The monitoring entity is independent of the agency operating or utilizing the correctional or detention facility.
- The monitoring entity has the duty to conduct regular inspections of the facility, as well as the authority to examine and issue reports on a particular problem at one or more facilities.
- The monitoring entity is authorized to inspect or examine all aspects of a facility's operations and conditions including, but not limited to, use of force; conditions of confinement; disciplinary and grievance processes; substance abuse and mental health treatment; educational, vocational, and other programming; and reentry planning.
- Subject to reasonable privacy and security requirements as determined by the monitoring entity, reports are public, accessible through the Internet, and distributed to the media, the jurisdiction's legislative body, and its top elected official.
- Facility administrators are required to respond publicly to monitoring reports; to develop and implement in a timely fashion action plans to rectify problems identified in those reports; and to inform the public semi-annually of their progress in implementing these action plans. The jurisdiction vests an administrative entity with the authority to redress noncompliance with these requirements.

*For a full list of requirements, see the American Bar Association Criminal Justice Section, *Report to the House of Delegates* (August 2008), available online at <http://www.abanet.org/crimjust/policy/am08104b.pdf>. See also Testimony of Michele Deitch, "Prison Oversight and Systems of Accountability," Prepared for the National Prison Rape Elimination Commission Hearing, New Orleans, LA, December 6, 2007.

ages the state to consult best practice literature to determine where this body will be housed, how its representatives will be appointed, and how and when it produces reports. The American Bar Association and various experts in both juvenile and criminal justice have developed a number of key requirements for designing and launching such oversight bodies (see sidebar on Essential Elements for Effective Independent Oversight Bodies) and should be consulted. New York State should also look at Ohio and California, which have each established different models of independent oversight to monitor juvenile facilities.²²⁵

While OCFS has primary responsibility for the bulk of these recommendations, the Task Force recognizes that many other agencies and entities across the state will also play a critical role in reforming the system.

RECOMMENDATION 20. Provide regular progress reports on the status of implementing the Task Force’s recommendations.

As OCFS begins to implement the recommendations outlined in this report, the state should designate an entity to monitor the progress of these efforts. The Task Force recommends that the New York State Juvenile Justice Advisory Group (JJAG), which is responsible for supervising the preparation and administration of the state’s juvenile justice plan under the federal Juvenile Justice and Delinquency Prevention Act (JJDP A), serve in this capacity.²²⁶ The Task Force believes that the JJAG is well suited for this role, as it is authorized to “carry out . . . responsibilities as required or permitted by the [JJDP A],” and must “report to the Governor and the State Legislature on an annual basis with respect to matters related to its function.”²²⁷

While OCFS has primary responsibility for the bulk of these recommendations, the Task Force recognizes that many other agencies and entities across the state will also play a critical role in reforming the system. Appendix C includes a table listing entities that could and should play lead roles in implementing and enforcing the Task Force’s recommendations.

The JJAG should work closely with the governor’s office and the different lead agencies to set benchmarks and timelines for implementing the recommendations and should require that these agencies submit regular reports documenting their progress. These reports should also be posted online and shared with both the governor’s office and the state legislature on an annual basis. Such efforts will ensure that the state keeps the public apprised of its work.

Conclusion

NEW YORK STATE'S current approach to juvenile corrections fails the young people who are drawn into the system, the public whose safety it is intended to protect, and the principles of good governance that demand effective use of scarce public resources. For young people who pose little or no risk to public safety and who would be better served by community-based alternatives, institutional placement reduces the chance of success later in life and wastes taxpayer dollars. Physical conditions within some of these facilities are poor, abuse and neglect are not uncommon, and support and training to help young people become productive citizens upon release is sorely lacking. Unsurprisingly, many youth who reenter their communities are ill-prepared for the challenges they face at home and end up back in the system within a few years. Given what practitioners and researchers alike have learned in recent decades about how best to rehabilitate young offenders, the high financial costs and poor outcomes associated with the current approach can no longer be justified.

However compelling the case for reform may be, though, implementing the changes outlined in this report will be impossible without both strong political leadership and funding. Some of the recommendations here call for a redeployment of resources toward more cost-effective strategies that produce better results; others re-

quire new investment. In both cases, a strengthened focus on accountability is critical to ensure that these investments improve outcomes for youth in state custody. Systemic change will also need champions who are deeply committed to the goal of helping the state's most vulnerable young people succeed.

To their credit, leaders at the Office of Children and Family Services and several counties have already begun the process of reforming the state's juvenile justice system. The work of the Task Force on Transforming Juvenile Justice is a significant additional step toward creating a system that is treatment-focused, community-based, and cost-effective. It is, however, only a step.

It is important to recognize that the Task Force focused on just one part of a much larger system. Similar efforts—including conscientious attention to the disproportionate representation of youth of color across the system—must be initiated in allied areas, such as policing and pre-trial detention. Although lasting system change takes time, the Task Force strongly believes that these recommendations will help lead the state in the right direction. New York State has a moral obligation to fix a system that is greatly in need of repair and reform. The Task Force expects that OCFS and other system stakeholders—including the legislature, the governor's office, and the judiciary—will work collaboratively to implement these recommendations successfully.

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moral obligation to fix
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Appendix A

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.²²⁸ 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.²²⁹

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 parentheses) | | Benefits and Costs (Per participant, 2007 dollars) | | | | |
|--|---|------|---|--------------------------|-------------------|----------------------------------|---------------------------|
| | | | Benefits to crime victims* | Benefits to taxpayer† | 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 reduced 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.²³⁰ 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.²³¹ 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.²³² 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.²³³ 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.²³⁴

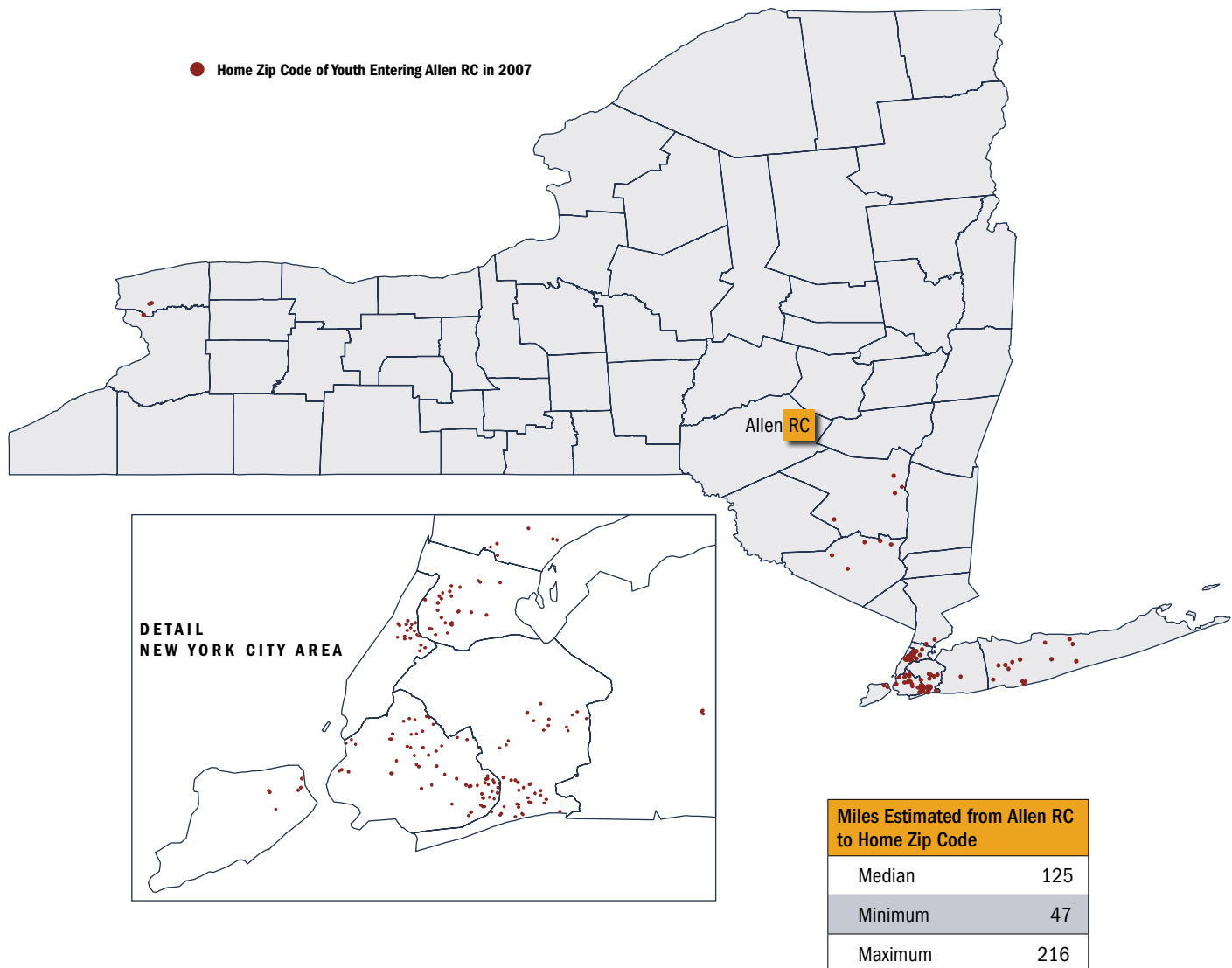
Table 2: Cost and Benefits of Expanding Evidence-based Programs in New York State

| 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 |

Appendix B

Figure 10: Sample Distance Map: Youth Admissions to Allen Residential Center, 2007*

This map shows the home zip codes of youth admitted to Allen Residential Center in 2007 in relation to the location of the facility.



*Note: Distance estimates are approximate only.

Source: OCFS STATSPOP. Includes unique admissions for any length of time during calendar year 2007. Distance estimates based on zip code centroid and are "as the crow flies."

Appendix C

Proposed Lead Entities Responsible for Implementing the Task Force’s Recommendations

The list below outlines the names of the entities that could and should play lead roles in implementing and enforcing the Task Force recommendations. The Task Force offers these suggestions for consideration by the governor but asks that the governor’s office ultimately determine—and assign—the appropriate implementation responsibility. It is important to note that by listing suggested lead entities here, in no way does the Task Force imply that responsibility should solely reside in these bodies; on the contrary, successful implementation and reform will only be possible when *all* relevant state- and county-level entities (including social services, probation, law enforcement, judiciary, defense, and prosecution) work together to leverage each of their respective roles in the system.

Since we ask that the governor’s office oversee and ensure that the full set of Task Force recommendations is implemented and funded as needed, we include that office in each recommendation.

The Task Force’s Recommendations on Transforming Juvenile Justice

Lead Government Entities Responsible for Implementation

- 1. Reduce the use of institutional placement, downsize or close underutilized facilities, and reinvest in communities.**
 - Governor • State legislature • Office of Children and Family Services (OCFS) • State Office of Court Administration (OCA)
- 2. Reduce the disproportionate representation of youth of color in institutional placement.**
 - Governor • State legislature • OCFS • OCA • Local probation departments • Local law enforcement agencies
- 3. 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.**
 - Governor • State legislature • OCFS
- 4. 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.**
 - Governor • State legislature • OCA • OCFS • Local probation and social services agencies
- 5. Develop and expand community-based alternatives to institutional placement.**
 - Governor • State legislature • OCFS • Local probation, social service, and mental health agencies
- 6. Redirect cost savings into neighborhoods that are home to the highest number of youth in the juvenile justice system.**
 - Governor • State legislature • OCFS • Local social service agencies
- 7. Place youth close to home.**
 - Governor • OCFS • OCA

8. **Develop a standard process to accurately assess a youth's risks and needs.**
 - Governor • State legislature • OCFS
9. **Require all facilities' culture and physical environments to be conducive to positive youth development and rehabilitation.**
 - Governor • OCFS
10. **Fund and provide services and programs, including education and mental health treatment, which prepare youth for release.**
 - Governor • State legislature • OCFS • State Office of Mental Health • State Education Department
11. **Support and invest in staff.**
 - Governor • OCFS
12. **Provide localities with equal reimbursements for youth who are placed in OCFS custody, regardless of the type of facility.**
 - Governor • State legislature • OCFS
13. **Limit the amount of time youth spend in institutional facilities.**
 - Governor • State legislature • OCFS • OCA
14. **Begin reentry planning and preparation at the time of disposition, and actively engage different stakeholders in this process.**
 - Governor • OCFS
15. **Ensure that reentry plans are individualized and provide for seamless, well-supported transitions from facilities back to the community.**
 - Governor • OCFS
16. **Improve and expand the use of data and other performance measures to guide decision making, enhance accountability, and drive system improvement.**
 - Governor • State legislature • OCFS • OCA • Local social service, probation, mental health, and law enforcement agencies
17. **Track and report disproportionate representation of youth of color at every system point.**
 - Governor • State legislature • OCFS • OCA • State Division of Criminal Justice Services • Local probation, social services, mental health, and law enforcement agencies
18. **Ensure that allegations of abuse and staff misconduct in facilities are thoroughly investigated and handled appropriately.**
 - Governor • State legislature • OCFS
19. **Establish and fund an independent, external oversight body to monitor and report on OCFS's juvenile justice policies and practices.**
 - Governor • State legislature
20. **Provide regular progress reports on the status of implementing the Task Force's recommendations.**
 - Governor • State legislature • OCFS • State Juvenile Justice Advisory Group

Endnotes

- 1 Loretta King, acting assistant attorney general, U.S. Department of Justice, Civil Rights Division, to David Paterson, Governor of New York, *Re: Investigation of the Lansing Residential Center, Louis Gossett, Jr. Residential Center, Tryon Residential Center, and Tryon Girls Center*, August 14, 2009, <http://www.ocfs.state.ny.us/main/2009-8-14%20NYJ%20findings%20letter.pdf>.
- 2 *Ibid.*, p. 9.
- 3 *Ibid.*, p. 8 and 14.
- 4 *Ibid.*, p. 2.
- 5 *Ibid.*, p. 31.
- 6 Average annual institutional placement costs were calculated based on cost data provided by the Office of Children and Family Services Budget Division for different placement settings in 2009. This figure only includes the costs associated with placements at state-operated facilities. Cost data on placements with private facilities varies widely because these facilities operate many different programs for a variety of youth, including juvenile delinquents and foster care youth.
- 7 Bruce Frederick, *Factors Contributing To Recidivism Among Youth Placed With The New York State Division For Youth* (Albany, NY: New York State Division of Criminal Justice Services, 1999). This is the most recent and comprehensive juvenile recidivism study available in New York State. It is the only study reflecting re-involvement on both the adult and juvenile sides of the system. Note that the study includes data on persons in need of supervision (PINS).
- 8 OCFS conducted a follow-up on Frederick's original cohort (see above note), separating out only the JDs and following them from age 16 through their 28th birthdays. Based on this analysis, 89 percent of boys and 81 percent of girls released from OCFS custody between 1991 and 1995 were re-arrested; 85 percent of boys and 69 percent of girls were re-convicted; and 52 percent of boys and 12 percent of girls were re-incarcerated in New York State prison before their 28th birthday. OCFS is currently working toward sharing more recent recidivism figures, but this data has not yet been made publicly available.
- 9 Analysis of 2007 data in OCFS STATSPOP database, which is a database used by OCFS to track youth in the state's custody.
- 10 Solomon Moore, "Mentally Ill Offenders Strain Juvenile System," *New York Times*, August 9, 2009, <http://www.nytimes.com/2009/08/10/us/10juvenile.html>. According to the article, about two-thirds of the nation's approximately 93,000 juvenile inmates have at least one mental illness and are more in need of therapy than punishment. See Thomas Grisso, "Adolescent Offenders with Mental Disorders," *The Future of Children* 18, no. 2 (2008): 146-147, 155-159; and also U.S. Government Accountability Office, *Child Welfare and Juvenile Justice: Federal Agencies Could Play a Stronger Role in Helping States Reduce the Number of Children Placed Solely to Obtain Mental Health Services* (Washington, DC: U.S. Government Accountability Office, April 2003).
- 11 OCFS STATSPOP database. In 2007, 59.4 percent of youth admitted to OCFS residential facilities were African American, and 24.8 percent were Latino.
- 12 Mie Lewis, *Custody and Control: Conditions of Confinement in New York's Juvenile Prisons for Girls* (New York: Human Rights Watch, September 24, 2006).
- 13 Cassi Feldman, "State Facilities' Use of Force Is Scrutinized after a Death," *New York Times*, March 4, 2007.
- 14 U.S. Department of Justice, *Re: Investigation of the Lansing Residential Center, Louis Gossett, Jr. Residential Center, Tryon Residential Center, and Tryon Girls' Center*, August 14, 2009.
- 15 *Ibid.*, p.14.
- 16 *Ibid.*, p.9.
- 17 Edward J. Latessa and Christopher Lowenkamp, "What Works in Reducing Recidivism?," *University of St. Thomas Law Journal* 3, no. 3 (2006): 522-523; and Douglas W. Nelson, 2008 *KIDS COUNT Essay and Data Brief: A Road Map for Juvenile Justice Reform* (Baltimore, MD: The Annie E. Casey Foundation, 2008): 10-11.
- 18 Dick Mendel, *The Missouri Method: How One State Revolutionized the Art of Rehabilitating Youthful Offenders and What Your State Can Do to Replicate its Success* (Baltimore, MD: Annie E. Casey Foundation, Release date pending). According to this publication, 22.5 percent of youth released from juvenile custody in 2005 were re-incarcerated in juvenile or adult correctional facilities for rules violations or new offenses in three years. Approximately 84 percent of youth exiting DYS custody in 2007 were productively engaged in school, college, and/or employment at the time of discharge.
- 19 State of New York, Executive Chamber, *Governor Paterson Announces Task Force On Transforming New York's Juvenile Justice System*, September 10, 2008, http://ocfs.state.ny.us/main/news/2008/2008_09_10_juvenileJusticetaskForce.html.
- 20 Office of Children and Family Services, *Empty Beds Wasted Dollars: Transforming Juvenile Justice*, (New York: Office of Children and Family Services, January 8, 2008), <http://www.ccf.state.ny.us/Initiatives/CJRelate/CJResources/Feb28Summit/EmptyBeds.pdf>.
- 21 Connecticut passed legislation to raise the age of criminal responsibility. Effective January 1, 2010, adjudicated 16-year olds will be tried in juvenile courts and sent to juvenile facilities, and effective January 1, 2012, adjudicated 17-year olds will be tried in juvenile courts and sent to juvenile facilities.
- 22 While initially processed in the criminal courts, juvenile offenders are subject to removal to family court and can only be detained or confined in OCFS facilities, rather than those operated by the Department of Corrections.
- 23 Detention usage may include admissions of youth who have runaway from private residential facilities, and youth from other states being held pending transfer to their home state.

- 24 B. Holman and J. Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities* (Washington, DC: Justice Policy Institute, 2006): 5. See also Jeffrey Lin, *Exploring the Impact of Institutional Placement on the Recidivism of Delinquent Youth* (New York University, Technical Report to the National Institute of Justice, March 2007): 101-102. This finding says that, holding everything else constant, youth who were detained prior to disposition were about 12 times as likely to be recommended for placement (not necessarily placed) by the probation officer.
- 25 Office of Children and Family Services, *Annual Report: Youth in Care, 2007*, Table 1, <http://www.ocfs.state.ny.us/main/reports/Youth%20In%20Care%20Report.pdf>.
- 26 Effective January 1, 2009, the Brace and Auburn Residential Centers were closed. Effective July 1, 2009, Adirondack, Cattaraugus, and Great Valley Residential Centers were closed. In addition, three evening reporting centers in Buffalo, the Capital District, and Syracuse were closed, along with a group home in Syracuse. Two facilities, Allen and Tryon, were downsized.
- 27 Elizabeth S. Scott and Laurence Steinberg “Adolescent Development and the Regulation of Youth Crime,” *The Future of Children: Juvenile Justice* 18 no. 2, (Fall 2008): 19-24, http://futureofchildren.org/futureofchildren/publications/docs/18_02_02.pdf; and Brief of the American Medical Association et al. as *Amici Curiae* in Support of Respondent, *Roper v. Simmons*, 543 U.S. 551 (2005) (No. 03- 633), available at www.abanet.org/crimjust/juvjus/simmons/ama.pdf.
- 28 Scott and Steinberg, 2008.
- 29 William H. Barton and Jeffrey A. Butts, “Intensive Supervision Alternatives for Adjudicated Juveniles,” in *Intensive Interventions with High-Risk Youths: Promising Approaches in Juvenile Probation and Parole*, edited by Troy L. Armstrong (Monsey, NY: Criminal Justice Press, 1991), 318; Steve Aos, Marna Miller, and Elizabeth Drake, *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates* (Olympia, WA: Washington State Institute for Public Policy, 2006); and Theresa A. Hughes, “Juvenile Delinquent Rehabilitation: Placement of Juveniles Beyond Their Communities as a Detriment to Inner City Youths,” *New England Law Review* 36, no. 1 (2008): 162, quoting *Panel on Juvenile Crime: Prevention, Treatment, and Control, Juvenile Crime Juvenile Justice*, edited by Joan McCord et al., 2001, 4.
- 30 Magellan Health Services Children’s Services Task Force, *Perspectives on Residential and Community-based Treatment for Youth and Families* (Magellan Health Services, Inc., 2008): 6-7.
- 31 Latessa and Lowenkamp, 2006, p. 522-523.
- 32 Positive youth development is an approach that emphasizes a youth’s strengths rather than weaknesses. For more on positive youth development, see sidebar on Positive Youth Development in Chapter 2.
- 33 Mark W. Lipsey, “The Primary Factors that Characterize Effective Interventions with Juvenile Offenders: A Meta-Analytic Overview,” *Victims and Offenders* 4, no. 2 (2009): 138.
- 34 *Ibid.*, 138; and Roxanne Lieb, *Juvenile Offenders: What Works? A Summary of Research Findings*, (Olympia, WA: Washington State Institute for Public Policy, 1994): 5.
- 35 See definition of juvenile offender under definitions of terms of general use under New York State Penal Law, article 10, subsection 18. Under Executive Law, Section 508, JOs who have not completed their sentence or who have not been paroled by the parole board must be transferred to adult Department of Correctional Services facilities at age 21. A transfer may also occur earlier in two limited circumstances: In the first case, the commissioner of OCFS can apply to the sentencing court for permission to transfer a 16- or 17-year-old juvenile offender upon showing that there is no substantial likelihood that the youth will benefit from the programs offered by OCFS, and the JO is entitled to a hearing before the sentencing court. In the second case, the commissioner of OCFS can certify to the commissioner of Correctional Services that an 18-, 19- or 20-year-old juvenile offender can no longer substantially benefit from programs offered by OCFS after an evaluation and with the recommendations of the deputy commissioner of the Division of Juvenile Justice and Opportunities for Youth and the deputy commissioner and general counsel. In such cases, the JO is not entitled to a hearing. (See *Executive Law*, § 508 (4) and (5).)
- 36 The chart is a highly abbreviated version of how delinquency cases are processed and does not purport to capture all of the system players and nuances.
- 37 See *New York State Family Court Act*, Article 3, Juvenile Delinquency for more detail on system points and dispositional options.
- 38 In making this decision, probation officers consider factors such as the severity of the case and the youth’s prior legal history and previous compliance with diversion services. The following cases fall outside of probation’s discretion and go directly to prosecution: designated felonies, which include the most serious crimes; offense in which the victim or arresting precinct demands court access; and crimes in which the offender has previously received diversion services for a prior offense in the same category. Annie Salsich, Paragini Amin, and Ben Estep, *Widening the Lens 2008: A Panoramic View of Juvenile Justice in New York State* (New York: Vera Institute of Justice, 2008): 4.
- 39 Office of Children and Family Services, *Annual Report: Youth in Care, 2007*, Table 1. Note: Total admissions to OCFS custody include youth in aftercare and day placements.
- 40 See *Family Court Act* § 353.3 (3) and § 353.3 (4).
- 41 Office of Children and Family Services, *Annual Report: Youth in Care, 2007*, Table 1.
- 42 *Ibid.*, Table 1 and Table 2.
- 43 *Ibid.*, Table 1. Note: Replacement cases refer to youth who were placed by the court directly with a private facility.
- 44 Analysis of OCFS STATSPOP data.
- 45 Office of Children and Family Services, *Annual Report: Youth in Care, 2007*, Table 7. The median refers to the midpoint value in a series of numbers arranged by value and is used to summarize distributions containing outliers, which is the case for length of stay.
- 46 See *Executive Law* § 502-a.
- 47 Office of Children and Family Services, *Annual Report: Youth in Care, 2007*, Table 1.
- 48 See *Family Court Act* § 353.3 (3) and *Executive Law* § 504 (4).
- 49 Office of Children and Family Services, *Annual Report: Youth in Care, 2007*, Table 1.
- 50 Information provided by Office of Children and Family Services.
- 51 Office of Children and Family Services, *Annual Report: Youth in Care, 2007*, Table 7.
- 52 Analysis of OCFS STATSPOP database.

- 53 Ibid.
- 54 Designated felony acts include crimes such as murder, kidnapping, arson, assault, manslaughter, rape, sodomy, aggravated sexual abuse, burglary, or robbery. Youth who have been adjudicated for any of the above crimes are known legally as restricted JDs. These youth are placed by the family courts and must start their custody in secure facilities, but they may be moved after a certain period of time to less secure settings.
- 55 Analysis of OCFS STATSPOP database.
- 56 Office of Children and Family Services, *Annual Report: Youth in Care, 2007*, Table 1; and OCFS STATSPOP database, 2007. Currently, the Division of Criminal Justice Services does not capture race information in its arrest data for individuals under the age of 16.
- 57 Ibid., Table 11.
- 58 Analysis of data contained in Table 1 from OCFS's *Annual Report: Youth in Care, 2007*.
- 59 Ibid. According to an analysis of data from OCFS STATSPOP, nearly half of the total admissions to voluntary facilities went to only three agencies—Lincoln Hall (Lincolndale), Graham Windham (Hastings-on-Hudson), and Children's Village (Dobbs Ferry). Meanwhile, 11 agencies had only one admission to placement. Many private agencies also serve youth outside of the juvenile justice system, specifically in the foster care system.
- 60 Ibid., Table 2.
- 61 The Office of Children and Family Services, through its Division of Child Welfare and Community Services, licenses, supervises, performs periodic agency assessments/reviews, and investigates complaints and IAB reports at private agencies.
- 62 Social Services Law (SSL) sections 460-b through 460-d outline the responsibilities of OCFS in regard to residential facilities for dependent, abused, neglected, maltreated, abandoned, and delinquent children operated by private agencies. SSL section 462 requires that OCFS promulgate regulations (New York Compilation of Codes, Rules, and Regulations (NYCRR) 18 parts 441 through 443, 447, 448, and 451) governing standards of care and treatment of children in such facilities, as well as administrative, nutritional, and safety standards. Also, see sections 462-a and 462-b of the SSL, which require OCFS to inspect and supervise facilities operated by OCFS under the Executive Law and provide that OCFS has appropriate enforcement authority where such facilities fail to comply with statutory and regulatory mandates. Section 504 of the Executive Law provides for the operation of residential facilities by OCFS. Also see 9 NYCRR subtitle E for regulations governing OCFS-operated facilities.
- 63 OCFS has individual case-level data on youth in private agencies through the CONNECTIONS data system, which allows staff to review and approve assessments and service plans. More recently, OCFS has started to analyze this data on an aggregate basis.
- 64 For additional detail on the assessment process, see recommendation 8 in Chapter 3 of this report.
- 65 New York State Office of Children and Family Services, *Voluntary Agency Services Manual*, September 2006: 10 and 17.
- 66 More detail on this issue is provided in strategy 16-3.
- 67 The state's reimbursement to local counties varies due to limitations by the Foster Care Block Grant. For additional detail on the different reimbursement structures for private and state-operated placements, see recommendation 12 in Chapter 3 of this report.
- 68 Office of Children and Family Services, *Annual Report: Youth in Care, 2007*, Table 7. The figures included here only refer to youth who spent the entirety of their time in either a private or state-operated facility.
- 69 See note 62.
- 70 Bruce Frederick, *Factors Contributing To Recidivism Among Youth Placed With The New York State Division For Youth* (Office of Justice Systems Analysis Research Report, New York State Division of Criminal Justice Services, 1999). National recidivism data shows that up to two-thirds of young people who are released from correctional facilities across the country are re-incarcerated within a few years of release.
- 71 Christopher Lowenkamp and Edward J. Latessa, "Understanding the Risk Principle: How and Why Correctional Interventions Can Harm Low-Risk Offenders," *Topics in Community Corrections* (2004), 6-8.
- 72 Latessa and Lowenkamp, (2006), p. 522-523.
- 73 Ibid.
- 74 Hughes, 2008, p. 159-160.
- 75 Ibid., p. 170-171.
- 76 Elizabeth K. Drake, Steve Aos, and Marna G. Miller, "Evidence-based Public Policy Options to Reduce Crime and Criminal Justice Costs: Implications in Washington State," *Victims and Offenders* 4 (2009): 170-196, p. 186.
- 77 Ibid.
- 78 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). Note: The dollar value included here represents the net present value of future net benefits (benefits minus costs) that the program will generate.
- 79 Hughes, 2008, p. 172-173.
- 80 Office of Children and Family Services, *Annual Report: Youth in Care, 2007*, Table 1.
- 81 *Family Court Act* §352.2 (2)(a).
- 82 Ibid. (Note: Disposition in cases involving juvenile offenders (JOs) are also governed elsewhere in the Family Court Act. Those cases would not be affected by this proposed legislative change.)
- 83 Moore, "Mentally Ill Offenders Strain Juvenile System," 2009.
- 84 Analysis of 2007 data in OCFS STATSPOP database.
- 85 It is crucial to distinguish between risk assessment instruments that guide dispositional decisions, as described here, and detention risk assessment instruments. Detention risk assessment instruments only measure the risks that are relevant to the pre-adjudicatory issues of whether a child will reappear in court and whether he or she might commit another delinquent act during the pendency of the adjudicatory proceedings.
- 86 Under section 351.1(2) of the Family Court Act, "Following a determination that a respondent committed a crime and prior to the dispositional hearing, the court shall order a probation investigation." The Task Force notes that probation departments in 57 counties across New York State use the Youth Assessment Screening Tool (YASI), an assessment instrument designed by Orbis Partners, a human service consulting group, to measure risk of recidivism. The New York State Division of Probation and Correctional Alternatives (DPCA) reports that the probation officers within these 57 counties conduct—at the time of an intake appointment—a YASI pre-screen for each juvenile delinquency (JD) and persons in need of supervision (PINS)

case. (PINS are youth who exhibit non-criminal behavior that constitutes an offense only because of their status as a minor, such as truancy or running away.) Officers then perform a full assessment on all cases determined to be medium or high risk. It is unclear if, or to what extent, each of these counties uses the instrument to inform and guide dispositional (sentencing) recommendations to the court. Although the YASI has been validated by Orbis on a New York State probation population, it has not been validated by an outside organization. In the 2007 validation study, “PINS and female youth were identified as two groups for which measurement properties could be improved.” (Orbis Partners, *Long Term Validation of Youth Assessment and Screening Instrument (YASI) in New York State Juvenile Probation*, submitted to New York State Division of Probation and Correctional Alternatives, November 2007). These groups comprised 39 percent and 58 percent of the validation study sample, respectively. DPCA reports that Orbis has since implemented measures to strengthen outcomes for these two populations.

In New York City, probation officers use the Probation Assessment Tool (PAT), developed by the Vera Institute of Justice, to guide dispositional recommendations to the court. The PAT was designed to predict the probability that a youth will successfully complete probation and avoid re-arrest. Since the implementation of the instrument in January 2005, there has been a 44 percent reduction in the number of recommendations to the court for out-of-home placement (Information provided by New York City Department of Probation’s Project Zero Reform Initiative). While the instrument has been validated by Vera, it has not yet been validated by an outside organization.

- 87 The entity that conducts mental health assessments varies across counties. For example, in New York City, the Department of Health and Mental Hygiene administers the assessments, while in many upstate counties, assessments are completed by private, contracted psychologists and psychiatrists.
- 88 Levshin and Chiu, forthcoming.
- 89 Latessa and Lowenkamp, 2006, p. 522-523; and Christopher Lowenkamp and Edward J. Latessa, “Understanding the Risk Principle: How and Why Correctional Interventions Can Harm Low-Risk Offenders,” *Topics in Community Corrections* (2004): 4, citing D.A. Andrews and J. Bonta, *The Psychology of Criminal Conduct* (Cincinnati, OH: Anderson Publishing Co., 1998).
- 90 Lieb, 1994, p. 5; Jeffrey A. Butts and William H. Barton, “In-Home Programs for Juvenile Delinquents,” in *Home Based Services for Troubled Children*, edited by Ira M. Schwartz and Philip AuClaire (Lincoln, NE: University of Nebraska Press, 1995); and; William H. Barton, “Incorporating the Strengths Perspective into Intensive Juvenile Aftercare,” *Western Criminology Review* 7, no. 2 (2006): 52 (referring specifically to re-entry).
- 91 Nelson, 2008 *KIDS COUNT Essay and Data Brief*, 2008, p. 10-11; Peter Greenwood, “Prevention and Intervention Programs for Juvenile Offenders,” *The Future of Children: Juvenile Justice* 18, no. 2 (2008): 197-199, http://futureofchildren.org/futureofchildren/publications/docs/18_02_09.pdf.
- 92 Latessa and Lowenkamp, 2006, p. 522-523. This is not to say that youth who pose no, or a low, risk to public safety should not receive services. Rather, services for youth who pose no, or a low, risk to public safety are not appropriate for alternative-to-placement programs.
- 93 Lipsey, 2009, p. 138.
- 94 Christopher Lowenkamp and Edward J. Latessa, “Understanding the Risk Principle: How and Why Correctional Interventions Can Harm Low-Risk Offenders,” *Topics in*

Community Corrections (2004): 4, citing D.A. Andrews and J. Bonta, *The Psychology of Criminal Conduct* (Cincinnati, OH: Anderson Publishing Co., 1998).

- 95 *Ibid.*, 6.
- 96 Butts and Barton, 1995, p. 145.
- 97 The wrap-around approach to treatment, which uses “braided or blended funding and multilevel collaboration,” has been found to be particularly effective in increasing a treatment model’s responsiveness to individual needs. *Federal Advisory Committee on Juvenile Justice, Annual Report 2008* (November 2008): 36-37.
- 98 Nelson, 2008 *KIDS COUNT Essay and Data Brief*, 2008, p. 10.
- 99 Greenwood, 2008, p. 198.
- 100 S. R. Woolfenden, K. Williams, and J. K. Peat, “Family and Parenting Interventions for Conduct Disorder and Delinquency: A Meta-analysis of Randomized Controlled Trials,” *Archives of Disease in Childhood* 86, no. 4 (2002): 256.
- 101 Some jurisdictions have established respite care shelters specifically as alternatives to pre-trial detention. This practice could undoubtedly help prevent placement in more long-term institutional settings as well. Cook County, Illinois, for example, provides respite services as an alternative to non-secure detention. Services offered at the shelter are structured and include housing, meals, life skills, counseling, recreation, transportation (to court hearings, for example), supervision, medical and mental health services, and referrals to community resources as needed. Group counseling services are held daily on subjects such as anger management, interpersonal relationships, coping with stress, substance abuse, and health and hygiene. There are also groups facilitated by probation with activities such as art and pet therapy. Residents are closely supervised during day-to-day activities such as recreation and household chores. The low client-to-staff ratio, about six to one, encourages this level of supervision. Research indicates that Cook County’s respite services have successfully reduced recidivism. More than 92 percent of the youth sent to respite care in 2008 returned to court arrest-free after their stay in one of its shelters. (Information provided by Cook County Juvenile Probation and Court Services Department, Alternatives to Detention Division, Cook County, IL.)
- 102 See Safe Harbor for Exploited Children Act, 2008.
- 103 See *Executive Law* § 502-a and the definition of day placement in the System Overview.
- 104 Office of Children and Family Services, *Annual Report: Youth in Care, 2007*, Table 1.
- 105 For a complete definition of day placement, see the Overview of New York State’s Juvenile Delinquency System in the introduction of this report.
- 106 Mendel, *The Missouri Method*, release date pending.
- 107 New York State provides counties with a 63.7 percent uncapped reimbursement to support local programs that prevent foster care placements. This reimbursement program has helped many localities reduce reliance on foster care and other costly out-of-home placements for children involved in the child welfare system.
- 108 See *Executive Law*, § 504.1, which guarantees that youth who are placed receive “care, custody, treatment, housing, education, rehabilitation, and guidance.”
- 109 Analysis of OCFS STATSPOP database; The New York City metropolitan area is defined here as the five boroughs of New York, Westchester, Nassau, and Suffolk.

- 110 Richard A. Mendel, "Less Hype, More Help: Reducing Juvenile Crime, What Works—and What Doesn't," American Youth Policy Forum, 2000: 16-17.
- 111 Lewis, Human Rights Watch, 2006: 3-7.
- 112 "Murder in Lockport Youth Home Raises Serious Policy Questions," *Buffalo News*, June 22, 2009, <http://www.buffalonews.com/149/story/710781.html>.
- 113 US DOJ report, 2009, p. 7.
- 114 *Ibid.*, p. 15-17.
- 115 Missouri is regularly cited by experts and the media for its unique and comprehensive approach for treating youth in state custody, which emphasizes rehabilitation and positive youth development principles. Components of the "Missouri model" are referenced throughout this chapter, and a summary of this approach is included later in this chapter.
- 116 Mendel, *The Missouri Method*, release date pending.
- 117 Nelson, *2008 KIDS COUNT Essay and Data Brief*, 2008, 10; and Mendel, *The Missouri Method*, release date pending.
- 118 Antonis Katsiyannis, and Teara Archwamety, "Factors Related to Recidivism Among Delinquent Youths in a State Correctional Facility," *Journal of Child and Family Studies* 6, no. 1 (1997): 51.
- 119 Office of Children and Family Services, Annual Report, Youth in Care: 2007, Table 1.
- 120 Analysis of OCFS Statspop database.
- 121 *Ibid.*
- 122 Interviews with Massachusetts Department of Youth Services (DYS) staff. The Massachusetts DYS is organized into five regions to serve adjudicated youth. Upon commitment to DYS, each youth is placed in an assessment program for a period of 30 to 45 days, during which the agency will evaluate a youth's risks and needs. All the information gleaned during the assessment period is used to place a youth in a regional facility close to the youth's home. Depending on the type of offense that has been committed, youth are sent to either a secure facility (all of which have locked perimeter doors, locked bedroom doors, locked screen windows, and restricted client movement) or a staff secure facility (all of which emphasize security through client to staff ratios instead of restrictive hardware). In some cases, youth can be released home after the assessment period and receive services in one of DYS's community reentry centers. In general, these institutional placement and community-based programs are located in the cities and towns that have the highest concentrations of committed and detained youth.
- 123 See Overview of New York's Juvenile Delinquency System in the introduction of this report for definitions of secure, limited secure, and non-secure facilities.
- 124 Latessa and Lowenkamp, 2006, p. 522-523; and Lowenkamp and Latessa, 2004, p. 6-8.
- 125 Butts and Barton, 1995, p. 145.
- 126 The District of Columbia's DYRS uses a structured decision making (SDM) tool to measure youth's risk of re-offending and match their risk level against the offense severity to determine where a youth must be placed. High-risk youth are placed in a secure facility; moderate-risk youth are placed in residential facilities such as group homes; and low-risk youth typically receive services in the community. Once a youth's placement is determined, DYRS administers the Child and Adolescent Service Intensity Instrument (CASII) to measure youth's treatment needs. DYRS will also conduct other assessments as needed after reviewing the results of the CASII screening. (Information provided by DYRS officials in interviews with the Task Force and presentation on DYRS case planning process).
- 127 Micahel McMillen, *Project Guide: Juvenile Facility Design: Part of A Series of Guides for Planning, Designing and Constructing Adult and Juvenile Correctional and Detention Facilities on Tribal Lands* (Native American and Alaskan Technical Assistance Project), <http://www.nicic.org/downloads/pdf/library/020748.pdf>.
- 128 Jeffrey A. Butts, "A Sensible Model for Juvenile Justice" Youth Transition Funders Group, Summer 2008: 5.
- 129 Isami Arufuku, Antoinette Davis, and Dana Linda, *An Assessment of the Enhanced Ranch Program Santa Clara County Probation Department* (Oakland, CA: National Council on Crime and Delinquency, July 24, 2009), 35-37. Note: According to this study, youth who were part of cohort 1 (before elements of the Missouri model were implemented) were in the program for 24 months, while youth in cohort 2 were in the program for 18 months.
- 130 Therapeutic intervention committees (TIC) are comprised of an array of staff within each facility (including direct care staff, directors, teachers, and clinicians). Each TIC is required to meet monthly (more often if necessary) to establish the facility leadership's role, analyze and guide organizational culture, monitor and modify facility procedure and practices as needed, facilitate staff recruitment and training, and impart a philosophy of continuous improvement to staff.
- 131 New Amsterdam Consulting, *Performance-based Standards for Youth Correction and Detention Facilities* (Scottsdale, AZ: New Amsterdam Consulting, July 2007), http://pbstandards.org/DocLib/CJCA_PbS_Research_Phase2.pdf, p. 5.
- 132 *OCFS Policy Manual*, Use of Physical Restraint, 3247.13, section I. These de-escalation techniques, as they are commonly referred to, include using verbal re-direction strategies and actively listening to youth during the situation.
- 133 *Ibid.*
- 134 See 18 NYCRR 441.17 for regulations governing restraints in private facilities.
- 135 US DOJ report, 2009, p.5.
- 136 *Ibid.*, p. 2.
- 137 Lewis, Human Rights Watch, 2006, p.51.
- 138 As reported in the final US DOJ report, 2009, p. 6-9.
- 139 *Ibid.*, p. 10.
- 140 *Ibid.*, p. 8.
- 141 *Ibid.*
- 142 OCFS, Division of Juvenile Justice and Opportunities for Youth, *Quarterly Summary Report for 2008*, Quarters 1-4.
- 143 *Ibid.*
- 144 See 9 NYCRR section 168.3; In late 2007, the Legal Aid Society filed *John F. v. Carrión* (Index No. 407117/07, Supreme Court, New York County) as a class action seeking declaratory and injunctive relief barring OCFS from handcuffing and footcuffing ("shackling") children placed on juvenile delinquency cases, as a matter of course, who are transported to New York City courts and while the children are in courthouses. The class certification motion was determined with OCFS agreeing to apply the final judgment to all children similarly situated who are brought to family courts in New York City. The plaintiff's motion for summary judgment in the case is fully submitted and was argued May 20, 2009. The parties are awaiting decision.
- 145 A. Liebling, and H. Arnold, *Prisons and Their Moral Performance: A Study of Values, Quality, and Prison Life* (Oxford: Oxford University Press, 2004).

- 146 New Amsterdam Consulting, *Performance-based Standards for Youth Correction and Detention Facilities*, 2007, p. 5.
- 147 US DOJ report, 2009, p. 15-27.
- 148 Final Report of the Texas Blue Ribbon Task Force. *Transforming Juvenile Justice in Texas: A Framework for Action* (September 2007), 47, citing J. Latimer, "A Meta-analytic Examination of Youth Delinquency, Family Involvement, and Recidivism," *Canadian Journal of Criminology* 43 (2001): 237-253; and Aos, Miller, and Drake, 2006.
- 149 Missouri Youth Services Institute (MYSI), *Preliminary Assessment of OCFS-operated Facilities*, January 2009.
- 150 US DOJ report, 2009, p. 24.
- 151 *Ibid.*, p. 17-18.
- 152 *Ibid.*, p. 24.
- 153 Missouri Youth Services Institute, *Preliminary Assessment*, 2009.
- 154 US DOJ report, 2009, p. 24-25.
- 155 *Remarks Of Steven H. Rosenbaum Chief, Special Litigation Section, Civil Rights Division, United States Department Of Justice, Before The Fourteenth Annual National Juvenile Corrections And Detention Forum* (Long Beach, CA: 1999); and Dick Mendel, "Small is Beautiful: Missouri Shows the Way on Juvenile Corrections," *AdvoCasey* 5, no. 1 (2003), <http://www.aecf.org/KnowledgeCenter/Publications.aspx?pubguid={126216A5-CA45-4F54-8BB3-8A86C27BB5B3}>.
- 156 Butts, 2008, citing Richard F. Catalano, M. Lisa Berglund, Jean A. M. Ryan, Heather S. Lonczak, and J. David Hawkins (2004), "Positive Youth Development in the United States: Research Findings on Evaluations of Positive Youth Development Programs." *ANNALS of the American Academy of Political and Social Science* 591, no. 1 (2004):98-124; and Peter C. Scales and Nancy Leffert, *Development Assets: A Synthesis of the Scientific Research on Adolescent Development*, 2nd ed. (Minneapolis: Search Institute Press, 2004).
- 157 Office of Children and Family Services, *Annual Report: Youth in Care*, 2007, Table 2.
- 158 As reported in US DOJ report, 2009, p. 16.
- 159 *Ibid.*, p.16.
- 160 Cognitive Behavioral Therapy (CBT) is geared toward teaching adaptive behavior or modifying negative behavior, by systematically changing a person's environment. CBT focuses on the following five objectives: (1) motivating youth, (2) helping youth acquire skills necessary to manage life events, (3) helping youth apply acquired skills to daily life, (4) teaching youth to structure their environment to ensure success, and (5) motivating and supporting counselors. See Juvenile Rehabilitation Administration, *Integrated Treatment Model Report*, September 2002, http://www.dshs.wa.gov/pdf/jra/ITM_Design_Report.pdf.
- Dialectical Behavioral Therapy (DBT) is a cognitive-behavioral treatment for individuals with complex and difficult to treat mental disorders. DBT focuses on the following four objectives: (1) enhancing youth behavioral skills in dealing with difficult situations, (2) motivating youth to change dysfunctional behaviors, (3) ensuring the new skills are used in daily institutional life, and (4) training counselors to improve skills. See Elizabeth Drake and Robert Barnoski, *Recidivism Findings for the Juvenile Rehabilitation Administration's Dialectical Behavioral Therapy Program: Final Report* (Olympia, WA: Washington State Institute for Public Policy, 2006), 1-2.
- 161 Missouri Youth Services Institute, *Preliminary Assessment*, 2009.
- 162 Presentation of research on conditions inside OCFS facilities, conducted by Alexandra Cox to the Task Force's Redefining Residential Care subcommittee on June 3, 2009.
- 163 See the Office of Children and Family Services, *Guidelines for Good Childcare Practices with Lesbian, Gay, Bisexual, Transgender, and Questioning Youth*, http://srlp.org/files/LGBTQ_Youth_Policy_PPM_3442_00.pdf.
- 164 In 2008, 157 youth in OCFS-operated facilities passed the GED, but due to the absence of higher education programs, these youth had to continue to sit in on regular high school classes.
- 165 Different designations allow private agencies to issue credits and diplomas. For example, some private agencies operate as a special act school within union free school districts, which are created by legislation to provide services to children in foster care facilities, while others have special status under Article 81 of Education Law.
- 166 The acceptance of school credits when youth leave OCFS juvenile justice facilities and return to their home schools is governed by New York State Education Department regulation and is based on whether the work done is consistent with New York State commencement learning standards and of comparable scope and quality to the coursework of the receiving school (see 8 NYCRR § 100.5 (d)(5)(i)(b)). In contrast, students who transfer from public schools automatically have their credits accepted, without regard to whether the schools they are transferring from are ranked as good or poor performing schools (see 8 NYCRR § 100.5 (d)(5)(i)(a)).
- 167 Missouri Youth Services Institute, *Preliminary Assessment*, 2009.
- 168 All direct care staff receive 189.50 hours of instruction and 40 hours of on-the-job training over the course of a six-week period.
- 169 *Remarks Of Steven H. Rosenbaum Before The Fourteenth Annual National Juvenile Corrections And Detention Forum*, 1999.
- 170 US DOJ report, 2009, p. 5-11; and Missouri Youth Services Institute, *Preliminary Assessment*, 2009.
- 171 Missouri Youth Services Institute, *Preliminary Assessment*, 2009.
- 172 Description of qualification for youth development aides provided by OCFS.
- 173 See New York State Division of Probation and Correctional Alternatives Training web site, <http://dpc.state.ny.us/training.htm#qualifications>.
- 174 Mendel, *The Missouri Method*, release date pending.
- 175 *New York State Civil Service Law*, §§ 131.1a and 130.4.
- 176 Memorandum from the Office of Mental Health, *Re: Retroactive OMH Salary Schedule for Facility M-8 Titles*, May 2008. For example, the minimum salary rate for psychiatrist 2 positions is \$122,613 and the maximum rate is \$147,251, but OMH can provide more than this maximum rate under the DOB plan.
- 177 David M. Altschuler and Rachel Brash, "Adolescent and Teenage Offenders Confronting the Challenges and Opportunities of Reentry," *Youth Violence and Juvenile Justice* 2, no. 1 (2004): 72-87.
- 178 Howard Snyder, "An Empirical Portrait of the Youth Reentry Population," *Youth Violence and Juvenile Justice* 2, (2004): 39-55; and Mercer Sullivan, "Youth Perspective on the Experience of Reentry," *Youth Violence and Juvenile Justice* 2, no. 1 (2004).
- 179 Snyder, 2004, p. 39-55; Margaret Beale Spencer and Cheryl Jones-Walker, "Interventions and Services Offered to Former

- Juvenile Offenders Reentering Their Communities: An Analysis of Program Effectiveness,” *Youth Violence and Juvenile Justice* 2, no. 1 (2004): 88-97.
- 180 Grisso, 2008, p. 146-147, 155-159; and Laurie Chassin, “Juvenile Justice and Substance Use,” *The Future of Children* 18, no. 2 (2008): 173 and 177-178.
- 181 M. B. Spenser and S. Donrbusch, “Challenges in Studying Minority Youth,” in *At the Threshold: The Developing Adolescent*, edited by S. Felman and G. Elliot (Cambridge, MA: Harvard University Press, 1990) 123-146; and D. P. Swanson, M. B. Spencer, and A. Peterson, “Identity Formation in Adolescence,” in *The Adolescent Years: Social Influences & Educational Challenges, 97th Yearbook of the National Society for the Study of Education—Part 1*, edited by K. Borman and B. Schneider (Chicago: University of Chicago Press, 1998) 18-41.
- 182 All youth released to the community are assigned to a level of supervision as indicated in their reentry plan and determined by risk factors, including day placement, intensive supervision, high supervision, moderate supervision, or administrative supervision. Under day placement, youth go to an evening reporting center program in their community and have in-person contact with their case manager. Other supervision levels typically involve in-person contacts with their case managers, although the frequency of this contact varies. Evidence-based services are in 20 locations across the state. According to OCFS officials, all youth returning to New York City are considered for an evidence-based community initiative (EbCI) program but not all youth are recommended for a program. Upstate, EbCIs are not available in every community and are generally reserved for the “most needy” youth.
- 183 Information provided by Commissioner of Seneca County Division of Social Services.
- 184 Altschuler and Brash, 2004.
- 185 *Family Court Act*, § 353.3 (5).
- 186 *Family Court Act*, § 353.3 (9).
- 187 *Family Court Act*, § 353.5.
- 188 Office of Children and Family Services, *Annual Report: Youth in Care, 2007*, Table 7. Figures exclude youth who moved between private and state-operated facilities.
- 189 Ibid.
- 190 Edward P. Mulvey, Laurence Steinberg, Jeffrey Fagan, Elizabeth Cauffman, Alex R. Piquero, Laurie Chassin, George P. Knight, Robert Brame, Carol A. Schubert, Thomas Hecker, and Sandra H. Losoya, “Theory And Research On Desistance From Antisocial Activity Among Serious Adolescent Offenders,” *Youth Violence and Juvenile Justice* 2, no. 3 (2004): 213-236. See also Susan Mitchell-Herzfeld, Therese A. Shady, Janet Mayo, Do Han Kim, Kelly Marsh, Vajeera Dorabawila, and Faye Rees, *Effects of Multisystemic Therapy (MST) on Recidivism Among Juvenile Delinquents in New York State* (Rensselaer, NY: Office of Children and Family Services, 2008): 11-13, <http://www.ocfs.state.ny.us/main/reports/FINAL%20MST%20report%206-24-08.pdf>.
- 191 Mitchell-Herzfeld et al., 2008. 11-13; Mulvey et al., 2004, 213-236; and H. J. Hair, “Outcomes for Children and Adolescents after Residential Treatment: A Review of Research from 1993-2003,” *Journal of Child and Family Studies* 14, no. 4 (2005): 551-575.
- 192 Hair, 2005, p. 560. This study identified length of stay as a potential factor for positive outcomes. Specifically “shorter, repeatable periods of stability in a residential facility may foster treatment gains and educational achievement for children with less severe psychopathology than using out-of-home placements as a once and for all cure.”
- 193 Kathleen R. Skowrya and Joseph J. Cocozza, *Blueprint for Change: A Comprehensive Model for the Identification and Treatment of Youth with Mental Health Needs in Contact with the Juvenile Justice System* (Delmar, NY: National Center for Mental Health and Juvenile Justice and Juvenile Justice and Policy Research Associates, 2007), <http://www.ncmhjj.com/Blueprint/pdfs/Blueprint.pdf>; and Daniel Mears and Jeremy Travis, “Youth Development and Reentry,” *Youth Violence and Juvenile Justice* 2, no. 1 (2004): 3-20.
- 194 Ibid.
- 195 Memorandum from the Office of Children and Family Services, *Re: Standard Release Planning Procedures*, May 18, 2008 and July 16, 2008.
- 196 Ibid.
- 197 See recommendation 7 in Chapter 3.
- 198 David Altschuler and Troy Armstrong, “Juvenile Corrections and Continuity of Care in a Community Context—The Evidence and Promising Directions,” *Federal Probation* 66, no. 1 (2002): 72-77.
- 199 Ibid.
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- 201 Linda Harris, *Making the Juvenile Justice-Workforce System Connection for Re-entering Young Offenders* (Washington, DC: Center for Law and Social Policy: 2006), 1, <http://www.clasp.org/admin/site/publications/files/o329.pdf>.
- 202 Ibid.
- 203 Skowrya and Cocozza, 2007.
- 204 Kimberly Hellriegel and James R. Yates, Collaboration Between Correctional and Public School System for Juvenile Offenders: A Case Study, (paper presented at the annual meeting of the American Educational Research Association, Chicago, IL, 1997) http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/16/a3/b1.pdf.
- 205 Ibid.
- 206 The Legal Aid Society and Advocates for Children sued the New York City and State Education Departments in 2004 to ensure appropriate and timely transfer into New York City community schools following detention or incarceration. After much litigation and negotiation, the plaintiff students reached a settlement that was approved by federal court in October 2008. Under this order, the State must provide guidance and technical assistance to local districts and timely reenrollment and record transfer for students returning from court-ordered settings and provides for detailed monitoring.
- 207 Data reported by local community service team offices to the OCFS Office of Community Partnerships. During this time, reenrollment for New York City youth was more expeditious than that of non-New York City youth: 80 percent of New York City youth were reenrolled within five days, compared to 50 percent of non-New York City youth.
- 208 See the American Bar Association Criminal Justice Section, *Report to the House of Delegates*, August 2008. <http://www.abanet.org/crimjust/policy/amo8104b.pdf>.
- 209 According to information provided by OCFS’s general counsel, the only hearing conducted by the legislature on the juvenile

- justice system was held by the New York State Assembly on December 18, 2006, following the death at Tryon.
- 210 OCFS is taking important steps to improve aspects of its data collection. Notably, the periodic data extract currently used by research staff for most reporting and evaluation purposes is slated for replacement by a live data warehouse. This should help ensure more timely access to this data and presents an opportunity to integrate information from several freestanding, unconnected data systems in use in different parts of the agency.
- 211 B. Frederick, *Factors Contributing To Recidivism Among Youth Placed with the New York State Division for Youth* (Albany, NY: New York State Division of Criminal Justice Services, 1999) http://criminaljustice.state.ny.us/crimnet/ojsa/dfy/dfy_research_report.pdf.
- 212 Recidivism is not as simple as calculating a single number, and it is important to keep its many possible definitions clear. For example, in 2005, the Virginia Department of Juvenile Justice discovered a great deal of variation in how states define and report juvenile recidivism, effectively ruling out a single standard definition shared nationwide, http://www.djj.virginia.gov/About_Us/Administrative_Units/Research_and_Evaluation_Unit/pdf/recidivism_RQ.pdf.
- 213 See the Performance-based Standards (PbS) web site for Council of Juvenile Correctional Administrators exit survey, www.pbstandards.org.
- 214 Eight facilities, including the two reception centers, Tryon Residential Centers for boys and girls, Louis Gossett Jr. Residential Center, Lansing Residential Center, Staten Island Residential Center, and the Middletown Residential Center, collected and reported data to PbS in October 2008 and April 2009. The remaining 13 facilities were engaged in the PbS system in October 2009.
- 215 US DOJ report, 2009, p.9 and 12.
- 216 *Ibid.*, p. 11.
- 217 *Ibid.*, p. 12-14.
- 218 *Ibid.*, p. 13.
- 219 *Ibid.*, p. 11-12.
- 220 *Ibid.*, p. 14.
- 221 Commission on Safety and Abuse in America's Prisons, *Confronting Confinement* (Washington, DC: Commission on Safety and Abuse in America's Prisons, June 2006).
- 222 Office of Children and Family Services, *Annual Report: Youth in Care, 2007*, Table 12. The New York State Commission of Correction (SCOC) is primarily responsible for oversight of New York State's adult correctional facilities. However, SCOC also oversees OCFS's secure facilities because these facilities primarily house juvenile offenders who were convicted by the criminal (adult) court due to the severity of their crimes. In addition, the New York State Division of Criminal Justice Services contracted with SCOC, at the direction of the Juvenile Justice Advisory Group, to monitor whether detention/jail facilities across the state—both adult and juvenile—are complying with three targeted, core requirements of the Juvenile Justice and Delinquency Prevention Act: (1) sight and sound separation of juveniles from incarcerated adults; (2) removal of juveniles from adult jails and lock-ups; and (3) deinstitutionalization (from secure detention facilities) of status offenders—youth who have not committed a crime but who have acted out in ways that put them at risk due to their age. Under this contract, however, the SCOC's oversight is limited to these three areas and pertains mainly to detention facilities, as opposed to placement facilities and prisons.
- 223 See *Executive Law*, § 523, title III, article 19-G for language regarding the establishment of the Office of the Ombudsman (OOTO) in May 2007. Also see New York State Office of the Inspector General and Office of the Tompkins County District Attorney, *Report on the Louis Gossett Jr. Residential Center* (November 2006) <http://www.ig.state.ny.us/pdfs/Report%20on%20the%20Louis%20Gossett%20Jr%20Residential%20Center.pdf>. According to this report, the OOTO did exist prior to 2007; however, the office was not statutorily mandated and only had one ombudsman to conduct oversight of all facilities from 1998 to 2007.
- 224 Both the Office of the Ombudsman and the Independent Review Board have been in existence in one form or another since 1972, and they were defined by regulations adopted in 1983 (NYCRR, title 9, executive, part 177). However, it was not until 2007 that legislation was enacted statutorily mandating the OOTO and the IRB (*Executive Law*, article 19-G, title 3, subtitle B, §§ 523 to 523-n). As set forth in section 523-1 of the *Executive Law*, the purpose of the IRB is to advise the OCFS commissioner on matters pertaining to OOTO and the complaint and grievance resolution processes of the OOTO. But it also has the power to request investigations, to visit facilities, inspect records, and request investigations. During interviews with the Task Force, the IRB has regularly undertaken the tasks assigned to it under law, including evaluating the effectiveness of the OOTO, visiting OCFS facilities, speaking and meeting with youth under the jurisdiction of OCFS, and advising the commissioner on numerous matters regarding juvenile justice policies.
- 225 For information on Ohio's Correctional Institutions Inspection Committee, see <http://www.ciic.state.oh.us/charge/103.77.pdf>; also see the California Office of the Inspector General web site, <http://www.oig.ca.gov/pages/about-us.php>.
- 226 See the Office of Juvenile Justice and Delinquency Prevention Formula Grants, Consolidated Regulation (28 CFR Part 31) § 31.101 and § 31.102; also see New York State Executive Order No. 80: Juvenile Justice Planning, issued 1986.
- 227 See New York State Executive Order No. 80: Juvenile Justice Planning.
- 228 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).
- 229 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 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.
- 230 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).
- 231 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.usdoj.gov/nij/pubs-sum/155282.htm>.

232 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.

233 Due to the lack of aggregate data on community-based programs in New York State, as well as other data, this part of the 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.

234 For more on this study and the methodology, see Levshin and Chiu, forthcoming.

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