



Keeping Youth Out of Adult Justice Systems: Opportunities for Juvenile Justice Agencies

Juvenile justice administrators recognize that the adult justice system is ill-equipped to meet the treatment, rehabilitation, and educational needs of youth who break the law. Through policy and practice, CJJA and its member agencies have taken steps to ensure that all youth--regardless of the charges they face --have access to the most developmentally appropriate system for them, the juvenile justice system.

A recent project led by the Campaign for Youth Justice examined alternatives to adult incarceration for youth and, through a collaboration with CJJA and its members, identified juvenile justice agencies serving youth who might otherwise be placed in adult jails and prisons. This policy brief shares some of CFYJ's overall findings, and digs deeper into the work of CJJA member agencies. For a closer look at the issues discussed here, please see CFYJ's *If Not the Adult System Then Where?*¹

CJJA's 2017 *Position Paper: Waiver and Transfers*, states, in part, "The Council of Juvenile Correctional Administrators (CJCA) strongly supports the position that the juvenile justice system is the most appropriate system to hold youths accountable and receive age - appropriate and effective treatment and rehabilitation opportunities."

Legislative Changes Keeping Youth Out of the Adult System

The most significant factor in the declining rates of juveniles charged as adults has been legislative reform. Due to numerous state law changes on this issue, all but three (3) states have raised the age at which youth are automatically charged as adults to 18 (or have passed legislation that will make that change soon). At least one state, Vermont, will be extending the age at which youth can enter the juvenile system (under original jurisdiction) to age 20, and several other states are considering similar changes.

Other legal changes that have allowed more youth to remain in the juvenile system include laws which:

- Extend the time that all youth can remain in the juvenile system (extended jurisdiction);
- Limit the charges and raise the floor of eligibility for transfers to adult court; and
- End mandatory transfer and return discretion to judges.

These types of changes are becoming even more important as the recent reauthorization of the Juvenile Justice and Delinquency Prevention Act, known as the Juvenile Justice Reform Act of 2018²³ requires states to remove youth from adult jails in order to receive funding under the Act.

Youth Charged as Adults: Key Facts and Figures

- At least 76,000 youth are charged as adults each year (a decline of 70% since 2005).
 - These youth make up less than 2% of the population of adult facilities, and less than 10% of the population of juvenile facilities.
 - Data from multiple states also indicate that most youth charged as adults are not sentenced to time in jail or prison (suggesting that many "certified" youth were not considered a public safety risk and either had their cases dismissed or were put on probation).
 - Black, Latino, and Native youth are significantly more likely to be transferred to the adult system than white youth.
 - Youth who end up in the adult system have higher recidivism rates, and are charged with more serious subsequent offenses, than youth who remain in the juvenile system.
 - Youth placed in adult facilities are more likely to commit suicide or be victims of physical and sexual assault than youth who remain in juvenile settings.
- See "*If Not the Adult System Then Where?*" for data citations.

Community-Based Alternatives to Adult Incarceration

States across the country rely on research to show the effectiveness and cost-savings of alternatives to incarceration, and have begun to invest more heavily in community-based services for youth. In many cases, juvenile justice agencies fund these services directly, or advocate for their importance as an essential part of the continuum of care for youth.

CFYJ's discussions with service providers and juvenile justice agencies illustrate that community-based alternatives are effective with older youth and with youth who commit more serious offenses. Several examples are shared below.

Youth Advocate Program (YAP) serves youth in 28 states and Washington D.C. by providing highly trained advocates and access to around-the-clock crisis support. YAP Advocates are paid mentors recruited for their expertise in the communities where they and the young people work and live. This commonality and specific lived experiences enable mentors to meaningfully engage with youth. YAP's programming is highly structured and youth receive close supervision, allowing YAP to serve youth who may have previously been labeled as "too challenging" for community-based services. Shaena Fazal, YAP's chief of policy, advocacy and external communications, says that her local programs tell correctional administrators to "give us the kids whose name you know." She believes that YAP's "no reject, no eject" policy demonstrates their readiness to work with youth who have complex needs, and suggests that leaders require this type of policy in any program being considered for youth charged as adults. Independent research has confirmed YAP's effectiveness in keeping youth safely in their communities and reducing re-arrest rates.⁴

YouthBuild, a program that allows youth across the country to re-engage in education while developing construction experience and general leadership skills, estimates that approximately one-third of their clients have had court involvement, including some youth who were charged as adults. Research from the U.S. Department of Labor has indicated that one year after enrollment in YouthBuild, participants' recidivism rate is nine percent. YouthBuild Newark serves many youth as alternatives to incarceration pre- or post-disposition, as well as supporting youth re-entering the community after secure placements through a range of programming and services. They serve youth who've come to the program with a range of charges, taking a holistic approach to giving these youth normalcy while allowing them to build their sense of self and become responsible and healthy community members. Services provided can include support in learning building trades, completing a GED or accessing higher education, obtaining certification in health or other fields, and providing access to the lifelong community of YouthBuild students and staff.

Multisystemic Therapy (MST) is an evidence-based intervention for at-risk youth and their families. In MST's model, "therapists work in the home, school, and community and are on call 24/7 to provide caregivers with the tools they need to transform the lives of troubled youth."⁵ Keller Strother, Co-Founder and Director of MST Services, explains that intensive family and community-based intervention can have significant impacts on reducing crime, incarceration and crisis mental health services since they work with both youth and parents to improve family functioning. In the case of MST, he says, research on outcomes⁶ more than 25 years after treatment shows that these impacts can be very long-term lasting for youth with serious needs and their family members because the treatment addresses the entire family's needs. A version of MST for 17- to 26-year old emerging adults has also been developed and is currently being evaluated.

Functional Family Therapy (FFT) is a short-term, high-quality intervention program targeting at-risk youth. Services are conducted in homes, clinics, schools, child welfare environments, and juvenile justice settings such as probation and parole offices, aftercare programs, and in secure confinement.⁷

Both MST and FFT are used with justice-involved youth across the country, and have significant research supporting their effectiveness in reducing crime, incarceration, and crisis mental health services. Both of these approaches are used to prevent delinquency at any point in the juvenile justice system and can be effective with older youth (18-25) and those charged with serious offenses.

Community organizations across the country provide important supports and resources to youth by offering high quality and effective alternatives to incarceration, driven by resources and expertise in their local communities, without being part of a national model or group. Twelve such organizations recently partnered with research partners Ceres Policy Research and W. Haywood Burns Institute to form the **EBP+ Collaborative**. The service providers are each focused on continuing to serve youth of color who have been charged with serious offenses, in communities who often receive the fewest supports, and the research partners are using multiple methods to evaluate this work. The guiding principles and common approaches of EBP+ members can provide guidance to juvenile justice leaders in identifying local programs that may be good resources, even if their jurisdiction is not home to one of

the 12 current EBP+ collaborative members. These include staff and leadership who are people of color and come from the community they serve; a high priority placed on youth leadership and development, genuine relationships with families, and holistic and culturally-appropriate services.

Peter Forbes, Commissioner of the Massachusetts Department of Youth Services (DYS), emphasizes the importance of collaborating with community-based providers who are able to successfully serve a jurisdiction's highest risk youth. He believes that in Massachusetts, "there are a number of organizations that have really stepped up for high-risk youth, and we are the beneficiary of that." (In Massachusetts the youthful offender law⁸ has extended the age of jurisdiction, which allows the juvenile justice system to work with an older population of youth, and only youth charged with murder and a small group of other "youthful offenders" can serve adult sentences). DYS works closely with UTEC⁹, a community-based organization which supports youth ages 17-25 in developing the skills they need to achieve social and economic success. The youth they serve come to them through referrals, street outreach, and other avenues, and nearly all are or have been justice-involved¹⁰. UTEC's approach works well for youth transitioning to adulthood because it emphasizes individual support and coaching for youth, vocational and educational experiences, and opportunities to engage youth in their communities.

Another vocationally-focused community-based provider, Roca¹¹, has also worked successfully with DYS for decades, helping youth who have had past system involvement find a positive path to success as they transition to adulthood. For community-based mental health services, Massachusetts has developed SMART Teams, a model in which a life coach/therapist is assigned to each young person who needs services, rather than putting the burden on the youth to navigate a clinical setting. Another important provider, Roxbury

Youthworks, provides an array of community-based services, and DYS particularly values their leadership and expertise in family engagement, and in meeting the needs of young people who have been commercially sexually exploited, including those who are LGBTQ. One of the many benefits of community-based programs, including this one, is that youth may continue to receive supportive services even after they "age out" of DYS or end their voluntary services. This approach allows youth to complete their education, gain employment, receive behavioral/mental health and other services in the community.

Developing or Expanding

Alternatives to Incarceration in Your State

To learn more about the programs and interventions discussed here, visit or contact:

- Youth Advocate Programs <http://www.yapinc.org/>
- YouthBuild <https://www.youthbuild.org/>
- YouthBuild Newark <http://newark-oyl.org/programming/>
- Multisystemic Therapy www.mstservices.com
- Functional Family Therapy <https://www.fftllc.com/>
- EBP+ Collaborative tiny.cc/vp7kgz, Collaborative contact: Albino Garcia, La Plazita (albinogarciajr@gmail.com)
- UTEC: <https://utecinc.org/>
- Roca: <https://rocainc.org/>
- Roxbury Youthworks <http://roxburyyouthworks.org/>
- SMART Clinical Services Team <https://jri.org/services/acute-care-and-juvenile-justice/juvenile-justice/cst>
- Treatment Foster Care Oregon <https://www.tfcOregon.com/>
- BoysTown <https://www.boystown.org/Pages/default.aspx>

Forbes believes these programs have something in common which allows them to be successful, and that is “a strong geographic anchor,” meaning that they operate locally, recruit locally, and have people who are on the ground and know what’s going on in the neighborhoods where DYS clients live. The staff in these programs are messengers that youth can relate to, he explains, and potentially form relationships with youth more easily than DYS caseworkers, who have a more official role in the young person’s life. The many strong community-based programs serving DYS-youth are a significant support to the young people themselves, but also to their caseworkers and to the agency. Some partnerships are newer, while others have existed for 25 years or more, and many involve frequent communications between caseworkers and community service providers. Although these groups do significant private fundraising, DYS does have contracts with some that help cover a portion of their costs.

Residential Alternatives to Adult Incarceration: Home-like settings

For youth whose needs cannot be met in their own homes, states and local communities can still use a range of secure and non-secure placements to keep youth charged as adults in the juvenile system.

Treatment Foster Care Oregon (TFCO, formerly called Multidimensional Treatment Foster Care), “was developed as an alternative to institutional, residential, and group care placement for adjudicated teenagers with histories of chronic and severe criminal behavior.”¹² TFCO places youth with community foster families who receive special training and support, in areas including behavior management, maintaining expectations, and supporting prosocial experiences. The model emphasizes two primary goals: “[1] to create opportunities for youth to successfully live in a family setting and [2] to simultaneously help parents (or other long-term family resources) provide effective parenting.”¹³ TFCO has been associated with prevention or reduction of time spent in institutional or residential settings and has also been shown to reduce recidivism.¹⁴

Boys Town provides residential treatment in family homes for justice-involved youth, and a range of in-home services and education for parents and social services professionals. In residential placements, Boys Town Family-Teachers® help youth develop decision-making skills and help youth and their families build healthy relationships. There are numerous studies supporting the effectiveness of the Boys Town Model®, as well as the Teaching Family Model, of which Boys Town is an adaptation. Boys Town accepts youth, even those as young as ten, who have adult charges and sentences when they are an appropriate fit.¹⁵

State Facilities

Juvenile justice systems across the country have significantly reduced the number of youth in their secure facilities, both in the front-end detention facilities and the deep-end post-adjudication facilities. Through legislative action and validated risk assessment practices, state and local facilities that embrace a developmentally approach to juvenile justice focus on secure placement only for those youth who pose public safety risks and must ensure that those facilities are designed, equipped, and operated to rehabilitate youth according to research and best practice.

*Colorado's Experience Retaining
Youth in the Juvenile Justice System*

"In 2012, Colorado passed House Bill 12-1139 which changed the way youth under the age of 18 were held pretrial while they await the outcome of their adult, direct file case. The new law required the pretrial detention of juveniles in direct filings to occur within the juvenile detention system, and prohibited their detention in adult jails.

In rare instances over the last eight years, the Division of Youth Services petitioned the court to transfer youth to an adult jail pending the court process. In the statute, should a youth present an imminent danger to other youth or staff within the youth detention center, a process is outlined which includes the ability for the Division to petition the District court to terminate the juvenile detention placement and transfer the youth to an adult jail pending the court process. During the petition process, and subsequent hearing, (the courts are limited to 20 days to hear the petition), the youth remains in the juvenile detention facility pending the court's decision.

Today, in the Colorado Division of Youth Services (DYS), these youth are not programmed separate from the general population and there are no additional control interventions utilized. They fall under the same policies as youth in detention awaiting the disposition of their juvenile case. During their time in a detained setting they are provided education, psycho-educational group programming, family engagement, mental health intervention, religious services, recreation and other pro-social activities. Although the length of time in detention for a youth with an adult filing can be lengthy (upwards of one year), DYS has experienced an overall success with programming this population."

--Anders Jacobson, Director, Colorado Division of Youth Services

An increasing number of juvenile secure facilities now house youth charged as adults, who previously may have been incarcerated in adult prisons that were ill-equipped to meet their developmental needs. In 2015, the majority of youth tried as adults (71%) were held in juvenile detention centers, one-third of whom faced robbery charges and one-fifth faced homicide charges.¹⁶ Studies have shown that youth under age 18 who are in adult facilities are more likely to recidivate, with more serious crimes than youth with similar charges who were retained in the youth justice system.¹⁷ Furthermore, they are more likely to be sexually and physically assaulted and at higher risk of suicide. In adult jails and prisons, youth are also likely to be held in isolation, and lack access to educational, physical and mental health services, recreational programming that are generally provided in youth facilities. Without question, most of the youth sentenced as adults are and should be in the juvenile justice system, where they have access to youth appropriate education, treatment programs and other services. The reauthorized Juvenile Justice and Delinquency Prevention Act¹⁸, recognizes this, and calls on states to remove all youth from adult jails, including those facing adult charges by the end of 2021.

Oregon Youth Authority (OYA) has been increasingly allowing youth charged as adults to remain in juvenile facilities, as well as targeting services to this older population of youth. (44% of youth in Oregon juvenile facilities have been certified as adults under Oregon's expansive Measure 11 Statute,¹⁹ and the average age of youth in juvenile facilities is 20.) Youth can take college or pre-college classes, and have support

to obtain a wide range of career certifications and skills training. Keeping older youth in juvenile facilities has not reduced safety, and Heber Bray, operations policy analyst for Oregon Youth Authority says that youth charged as adults are less likely to be violent in their facilities. He believes this may be because

this older population is more mature, and better able to appreciate the opportunities they can access in the youth system that wouldn't be possible in adult facilities. While line staff was initially hesitant about serving youth with Measure 11 sentences, OYA leadership was able to convince them after training them on adolescent development, and showing data on recidivism that placement at OYA was most appropriate.

In Washington, D.C. a 2016 law required youth who are charged as if they were adults (ages 16 and 17) to be removed from the D.C. Jail and held at the Department of Youth Rehabilitation Services (DYRS) as they await trial. D.C. has ample room to house the youth in the jail, as their daily population of youth in pre-trial detention and secure commitment is around 40 young people. According to Clinton Lacey, Director of DYRS, "We believe these young people belong under our jurisdiction. Before the law went into effect, we did prepare our staff for the unique realities of this population: that the young people were going to be held for longer periods of time awaiting trial, might have higher levels of need, and some may require support around potentially longer sentences in the US Bureau of Prisons. To help support the young people in the transition, DYRS matches youth with credible messengers who have been formerly incarcerated in the Bureau of Prisons. These young people (charged with adult crimes) are treated just like any young person that walks through our doors--they are screened and assessed so they can receive educational, mental health, and recreation services. They do well while they are here. DYRS is making the argument that they should be able to stay here beyond their 18th birthdays, until sentencing so that they can at least continue their education and have contact visits with their families. Really, we should be asking ourselves why these young people don't remain with us through their early 20s."

Youth Perspectives on Adult Facilities

**Youth moved to juvenile facilities were asked how their experiences differed from their time at an adult jail on a specialized youth unit.*

"They care about you here [youth facility]. They maced you there [at the jail]. Here, it's more like 'go to your room until you're ready to come out,' like take a break, or until the next day. Over there you were in your room for 23 hours."

"The only time I got to go outside was to go to court when I was at the jail."

"We had tiny classrooms at the jail. The schools were on the unit. We get more support down here. We get more credits here. We take the same classes over and over at the jail."

In 2019, Washington State passed legislation that "acknowledges that transferring youth and young adults to the adult criminal justice system is not effective in reducing future criminal behavior [given that youth] incarcerated in the adult criminal justice system are more likely to recidivate than their counterparts housed in juvenile facilities."²⁰ The legislation extended their age of jurisdiction to age 25 and allows youth charged as adults to remain in juvenile facilities, secure placements and step-down non-secure residential programs that allow youth to spend their days working and/or participating in an educational program in their communities. This model is supported by their juvenile justice agency, which has testified to other state legislatures as they consider making similar changes in order to be able to keep more youth out of the adult system. Similar strategies are emerging in Virginia as well for this population. Youth are able to take college credits once they earn their high school diploma.

Conclusion

Juvenile justice systems across the country are changing legislation, policy and practice to allow youth who might otherwise be placed in the adult justice system to return to (or remain in) a more developmentally appropriate system. The Council of Juvenile Justice Administrators and the Campaign for Youth Justice are committed to supporting juvenile justice systems in their efforts to continue and expand these efforts. For more information, please contact Michael Dempsey, CJA Executive Director (Michael.Dempsey@cja.net) or Marcy Mistrett, CFYJ Chief Executive Officer (mmistrett@cfyj.org).

¹ Available at http://cfyj.org/images/ALT_INCARCERATION_FINAL.pdf.

² <https://www.congress.gov/bill/115th-congress/house-bill/6964>

³ https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/jjdpa-as-amended_0.pdf

⁴ <http://www.yapinc.org/recognition>

⁵ <http://www.mstservices.com/>

⁶ <http://www.mstservices.com/mst-whitepapers>

⁷ FFT LLC. "About FFT Training: Clinical Model." <https://www.fftllc.com/about-fft-training/clinical-model.html>.

⁸ In Massachusetts, juveniles between the ages of 14 and 18 who are accused of committing serious felonies may, at a prosecutor's discretion, be charged as 'youthful offenders.' Youthful offenders remain under the jurisdiction of the juvenile court, but may receive adult penalties.

⁹ UTEC when founded in 1999 was known as the United Teen Equality Center, but now simply goes by UTEC, as it serves young people ages 17-25.

¹⁰ In 2018, UTEC served [600 young people](#); 94% had criminal records, 67% were gang involved, 80% had been in the child welfare system, and one-third had a juvenile adjudication.

¹¹ Roca began in Massachusetts 30 years ago, and now also has a program in Baltimore, MD.

¹² Blueprints for Healthy Youth Development. "Treatment Foster Care Oregon."

<https://www.blueprintsprograms.org/treatment-foster-care-oregon/>

¹³ Ibid.

¹⁴ Evidence Summary for Treatment Foster Care Oregon

<https://evidencebasedprograms.org/document/treatment-foster-care-oregon-evidence-summary/>

¹⁵ <https://www.boystown.org/blog/Pages/Striving-to-Fix-a-Flawed-Justice-System-that-Prosecutes-Children-as-Adults.aspx>

¹⁶ Arya, N. (2018). Getting to Zero: A 50-State Study of Strategies to Remove Youth from Adult Jails. Los Angeles, CA: UCLA School of Law. Retrieved from

https://drive.google.com/file/d/1LLSF8uBlrcqDaFW3ZKo_k3xpk_DTmltV/view, page 19; and on [Table M](#) page 100.

¹⁷ Hahn, R., McGowan, A., Liberman, A., Crosby, A., Fullilove, M., Johnson, R.,...Stone, G. (November 30, 2007).

Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services. MMWR

Recommendations and Reports, 56(RR09);1-11. Retrieved from

<https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5609a1.htm>.

¹⁸ Pub. L. No. 93-415, 42 U.S.C. § 5601 et seq.

¹⁹ In 2019, the Oregon Legislature overturned Measure 11. Outcome data from OYA showed Measure 11 youth that went to DOC were twice as likely to recidivate than those kept under OYA custody.

https://safetyandjustice.org/wp-content/uploads/OYA-DOC_recidivism_2019.pdf

²⁰ Washington HB 1646. <https://trackbill.com/bill/washington-house-bill-1646-concerning-confinement-in-juvenile-rehabilitation-facilities/1653299/>