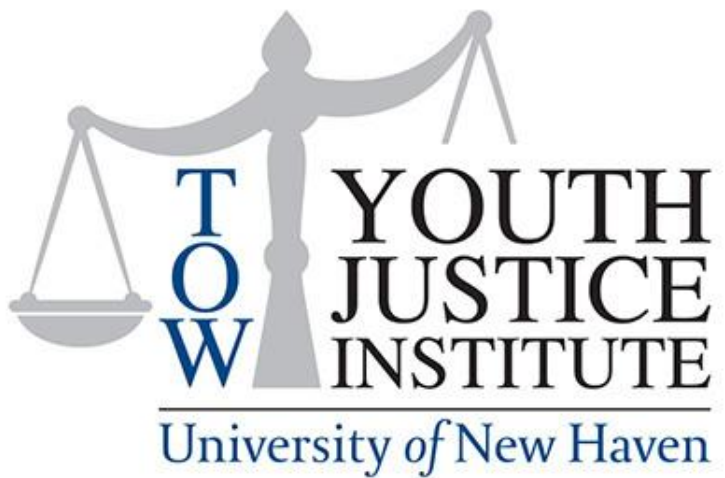


***Juvenile Justice Policy and
Oversight Committee***

November 21st, 2019

Legislative Office Building

2pm Room 1E



Preliminary Presentation on Organizational and Programmatic Alternatives for Housing of Youth Under 18 in DOC Custody

CENTER FOR
Children's
Law *and* Policy

*Jason Szanyi, JD
Deputy Director
Center for Children's Law and Policy*

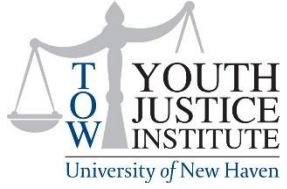
Look Back

- Jan. 2019: Office of the Child Advocate Report, “Incarcerated/Detained Youth – An Examination of Conditions of Confinement”
- Mar. 2019: Formation of Incarceration Workgroup subgroup to examine definition of solitary confinement
- Apr. 2019: JJPOC Presentation on and Discussion of Solitary Confinement
- July 2019: PA 19-187(r): “[R]eview methods other states employ to (1) transfer juvenile cases to the regular criminal docket, and (2) detain persons fifteen, sixteen and seventeen years of age whose cases are transferred to the regular criminal docket . . . [including] preadjudication and postadjudication detention and . . . an examination of organizational and programmatic alternatives.”

PA 19-187

- Review of “organizational and programmatic alternatives” must consider “the transfer of juvenile cases to the regular criminal docket and outcomes associated with such transfers, including the impact on public safety and the effectiveness in changing the behavior of juveniles.”
- By January 2020, report results of review of any recommended changes, including cost options where appropriate.

Incarceration Workgroup Timeline



- Incarceration Workgroup began meeting to discuss organizational and programmatic alternatives in June 2019
- Incarceration Workgroup Committee Chairs: Judge Bernadette Conway and Christine Rapillo
- TYJI subcontracted with the Center for Children's Law and Policy to facilitate review
 - Literature review of impact of transfer on public safety and youth behavior
 - Review of national approaches and models to housing
 - Data collection and analysis
 - Site visits to out-of-home placements
 - Stakeholder interviews and meetings
 - Focus groups with youth
- Subgroup formed in Aug. 2019 to meet more frequently to discuss organizational and programmatic alternatives

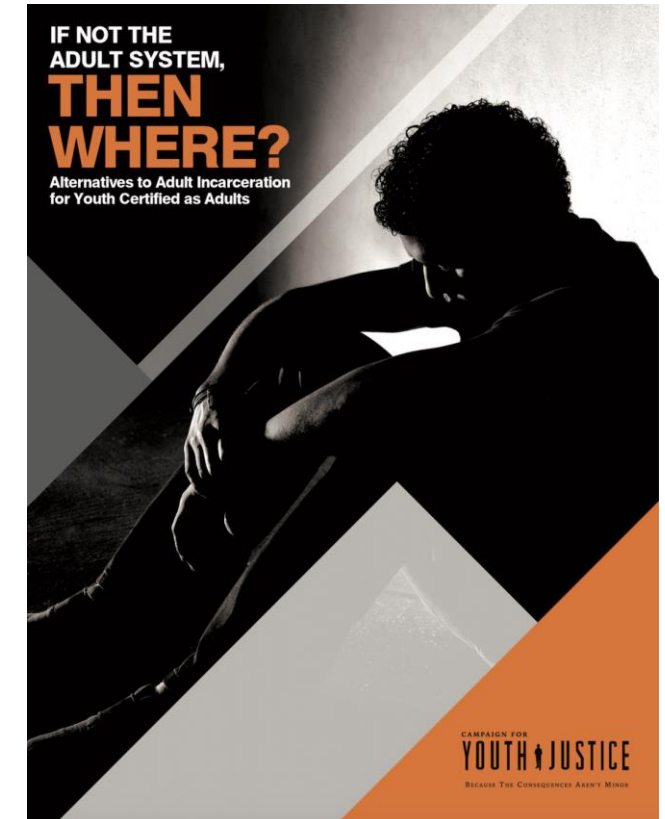
National Context: General Trends

- Growing trend to limit transfer to adult court
- Growing trend to retain adult-charged and sentenced youth within the youth justice system

Youth charged as adults
have dropped almost

70%

from 250K in 2005¹⁵
to 76K in 2017.¹⁶



Source: Pilnik, L. & Mistrett, M. (2019) "If Not the Adult System Then Where? Alternatives to Adult Incarceration for Youth Certified as Adults," Campaign for Youth Justice (Washington, DC).

National Context: The Research

Robert Hahn, Ph.D. et al., Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System, Task Force on Community Preventive Services (2010)

- Independent non-federal Task Force established by the Department of Health and Human Services and supported by the Centers for Disease Control and Prevention conducted a systematic review of studies of the effectiveness of transfer on preventing or reducing violence
- Found that transfer to adult court was a “**counterproductive strategy for preventing or reducing violence**”

National Context: The Research

Richard E. Redding, Juvenile Transfer Laws: An Effective Deterrent to Delinquency?, United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention (2010)

- Similar review as Hahn et al., but included some additional smaller scale studies on behalf of federal Office of Juvenile Justice and Delinquency Prevention
- Similar findings, concluding that “the practice of transferring juveniles for trial and sentencing in adult criminal court has . . . **produced the unintended effect of increasing recidivism, particularly in violent offenders**”



National Context: State Legislation

Oregon's Senate Bill 1008

- Passed in 2009
- Returns jurisdiction for all charges to the youth justice system
- Prosecutors must request waiver hearing before juvenile court judge who decides whether case should be transferred
- "Second Look" process allows judges to determine if continued incarceration is appropriate



National Context: Changes to Federal Law in 2018

- In 2018, the federal Juvenile Justice and Delinquency Act (JJDPA) was reauthorized
- New provision **prohibits states from holding adult-charged youth in adult jails** (except in narrow circumstances)
- Youth held in adult jails, including those charged as adults, must be transferred to juvenile facilities by December 2021
- The definition of “adult” is tied to each states age of criminal responsibility and extended age of jurisdiction

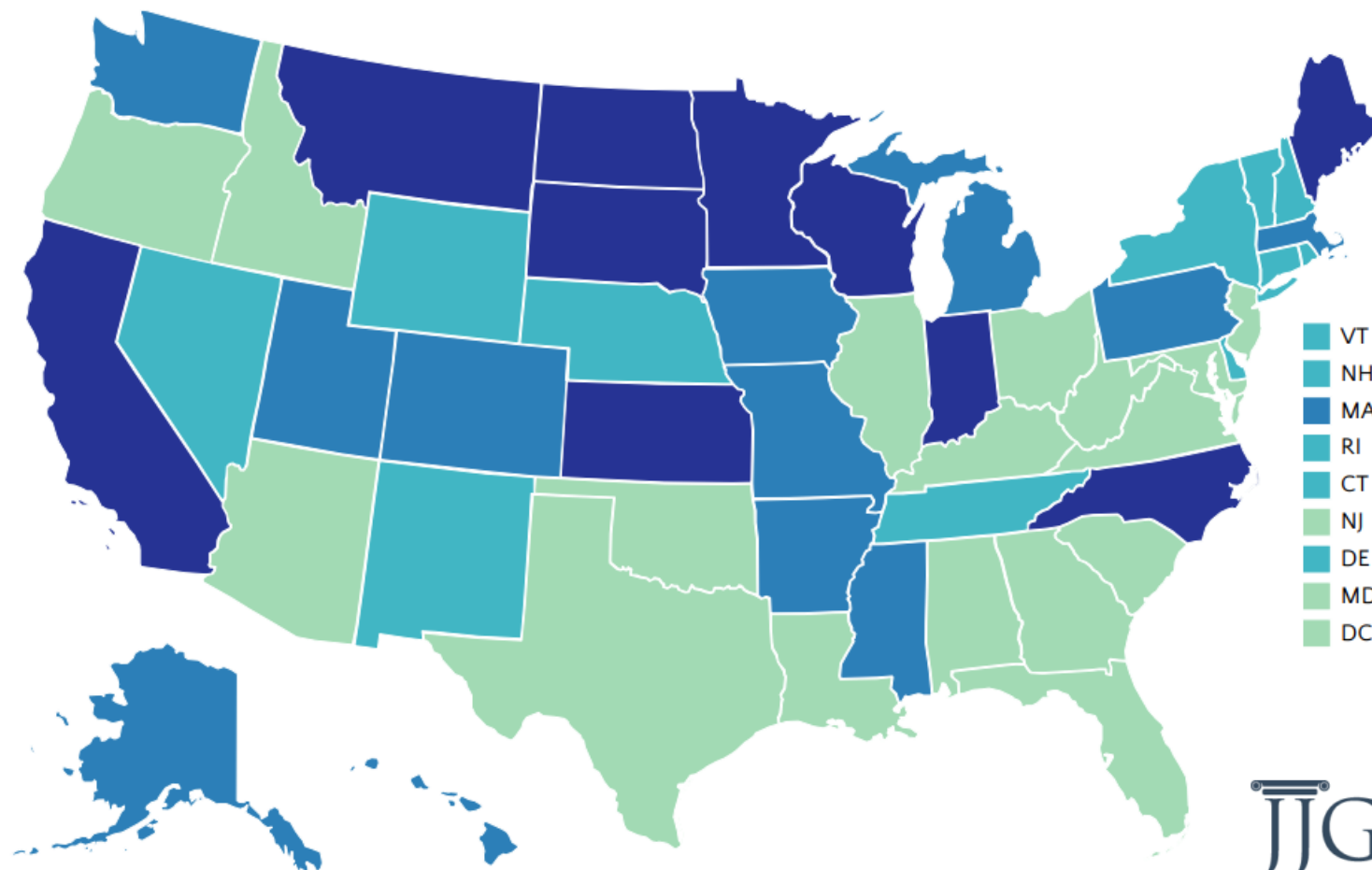
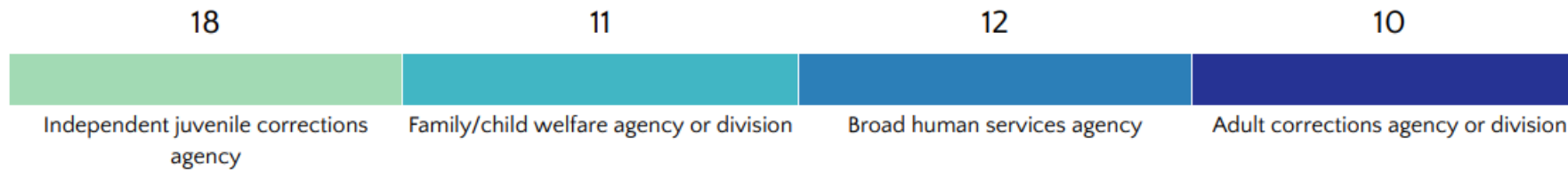
Examples from Other States

Oregon Youth Authority

- State-level executive-branch agency whose mission is to “protect[] the public and reduce[] crime by holding youth accountable and providing opportunities for reformation in safe environments.” OYA is responsible for youth age 12 to 24 who commit crimes before the age of 18. OYA houses youth charged and sentenced as adults, including a sizeable population of 18 to 24-year-olds charged with violent felony and other serious offenses
- Recidivism for youth charged and convicted as adults released to post-prison supervision from an OYA facility: 24.1% (felony adjudication or conviction within 36 months of release to supervision)

Massachusetts Department of Youth Services

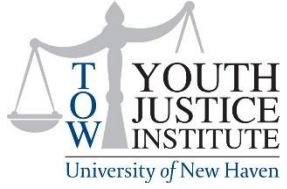
- State-level executive branch agency whose mission is to “enhance community safety by improving the life outcomes for youth in [its] care and custody.” DYS holds adult charged and sentenced youth as “courtesy holds” for the adult system to provide separation from adults in jail/prison until age 18.
- Recidivism: 28% for males, 11% for females (conviction in adult system for offense committed within one year of discharge by DYS).



Responsibility for Continuum of Youth in Placement

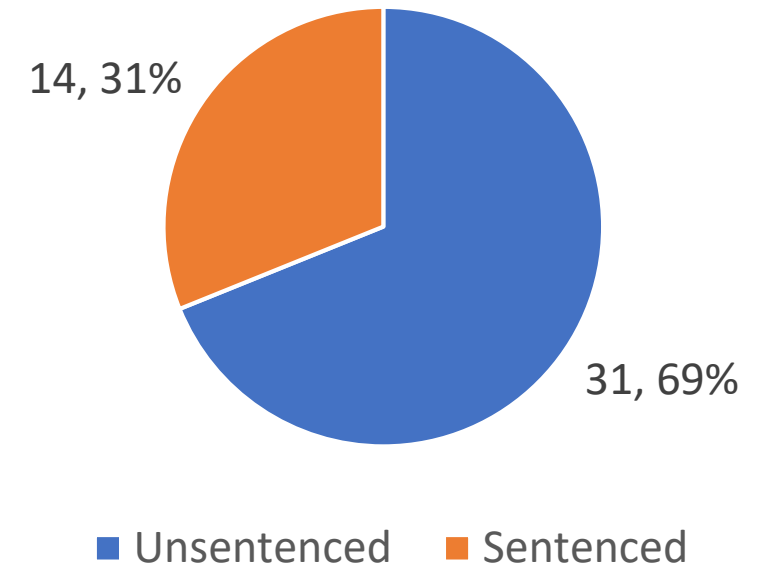
Note: Data last updated in 2015. This year, CA moved responsibility out of DOC to its public health agency.

Data Headlines – Youth Under 18 in DOC Custody



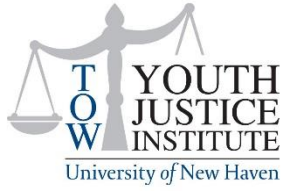
- The number of youth under 18 in DOC custody has declined significantly in the last 10 years for a variety of reasons, including restrictions on the use of transfer
- The population today is overwhelmingly male (X% of admissions during 2018)
- The majority of the youth population is unsentenced

Legal Status of Youth at MYI:
September 2019 Snapshot

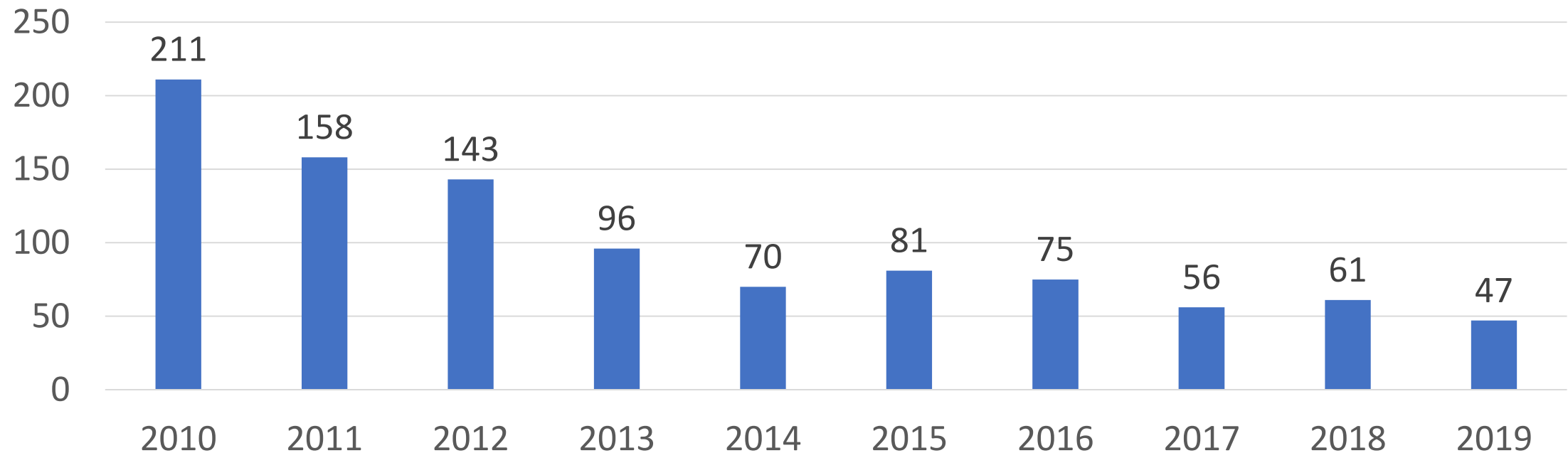


Source: Department of Correction

Data Headlines – Youth Under 18 in DOC Custody



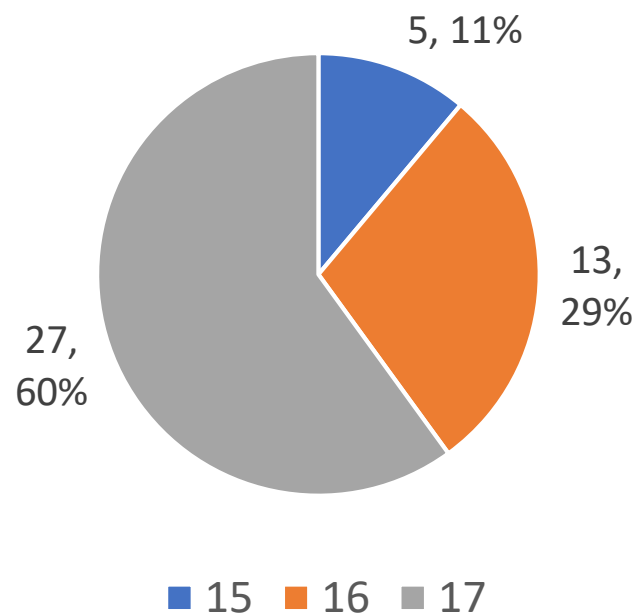
MYI Youth Population on July 1, 2010-2019



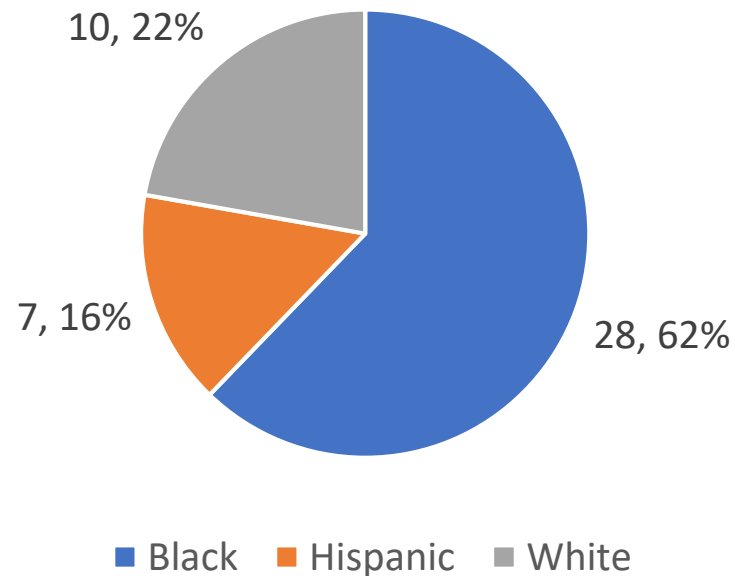
Source: Department of Correction

Data Headlines – Youth Under 18 in DOC Custody

Age of Youth at MYI:
September 2019 Snapshot



Race/Ethnicity of Youth at MYI:
September 2019 Snapshot



September 2019 snapshot data of 14 sentenced youth:

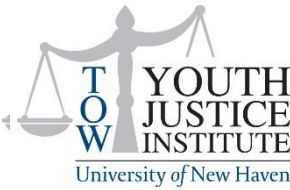
- 50% with sentences of 2 years or less
- 29% with sentences between 2 and 5 years
- 21% with sentences of 5 years or more

Source: Department of Correction

Options Identified by the Incarceration Workgroup

1. Further consolidation within the Judicial Branch
2. Creation of a Youth Division within the Department of Correction
3. Creation of a Executive-Branch Agency to Manage the Continuum of Residential Placement Options for All Youth under Age 18
4. Co-location of operations of some form of residential placement by DOC and the Judicial Branch

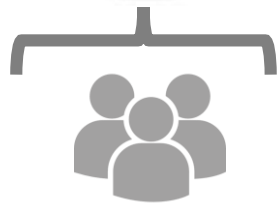
Preliminary Recommendations by CCLP



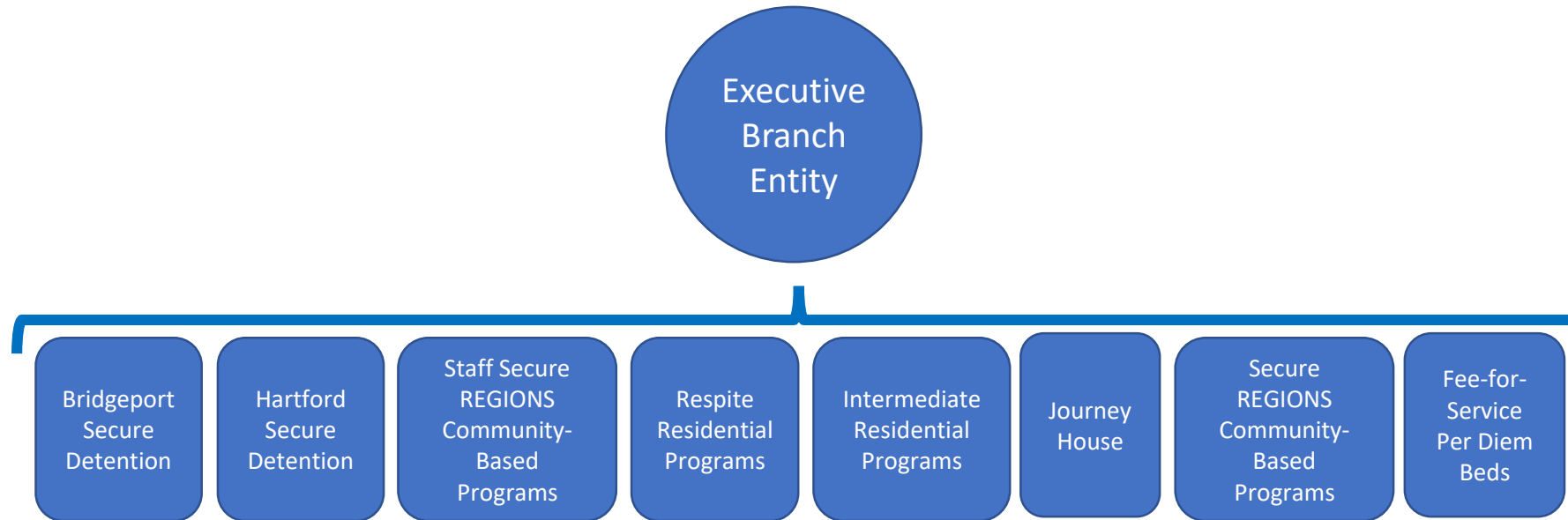
Pursue Option 3, create or designate an Executive Branch entity to manage a continuum of out-of-home placements for all youth under age 18

- Remedy separation of powers problems
- Standardize experiences across residential placements
- Create efficiencies in operating, contracting for, and overseeing continuum within a single entity
- Maximize the availability of placement options and the ability to adjust the continuum over time as needed
- Align with recommendation of Dr. Peter Leone regarding need for a single entity to manage education across placements

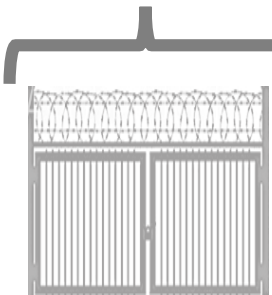
What Would the Continuum Include?



Probation for
Youth under 18



Pre-Adjudicated JJ Youth
Post-Adjudicated JJ Youth
Unsented Adult-Charged Youth under 18
Sentenced Adult-Charged Youth under 18



Adult Charged/
Sentenced
Youth 18+

Efficiencies and Potential Cost Savings



- Maximize availability of scarce residential placement resources by giving one entity the flexibility to manage and use the entire array of placement as seamless continuum
- Standardize consistency and quality of contracted services, create economies of scale, and eliminate redundancies that consume scarce resources
- Streamline and standardize training, staff supports, and professional development opportunities
- Create the potential to achieve lower recidivism rates and better individual youth outcomes

How Could This Be Accomplished?

Create an implementation team with mandate to transfer and consolidate responsibilities with focus on creating efficiencies and cost savings (with assistance and oversight from OPM)

Regular reporting to JJPOC/General Assembly on progress over period of planning and implementation

Transfer of responsibility by set date

What could the need be by July 1, 2021?

Today, the state would need to find approximately **32** beds for unsentenced youth and **16** beds for sentenced youth (who are primarily 16 and 17 years old).

- For unsentenced youth, some youth would stay for relatively short periods. For example, of the 99 youth under 18 admitted during 2018, just more than half (53) were released before being sentenced, with an average length of stay of **81** days and a median length of stay of **21** days. These are youth that, in many other jurisdictions, would be held in juvenile detention facilities.
- Some unsentenced youth would ultimately be sentenced and would have longer stays. Some jurisdictions hold unsentenced youth in juvenile detention or placement facilities, recognizing that long stays in detention are not ideal but that youth are better off in a juvenile facility than an adult correctional facility.

What could the need be by July 1, 2021?

- Because most sentenced youth are sentenced at age 16 or 17, most would only serve part of their sentence before turning 18, but those stays would be on the longer side.
- It is reasonable to assume that this population will decline further, consistent with reduced use of transfer and additional programming (e.g., auto theft diversion programming, Youth Advocate Programs).

Current and Currently Planned Residential Capacity

- Hartford Juvenile Detention: 88 (maximum, not ideal)
- Bridgeport Juvenile Detention: 88 (maximum, not ideal)
- Secure REGIONS program in Hamden* (boys only): 16
- Staff-Secure REGIONS: 28
 - Boys & Girls Village, Milford: 12
 - Connecticut Junior Republic, Waterbury: 8
 - Community Partners in Action, Hartford*: 8
 - Additional program pending bid release*: X
- Journey House (secure, girls only): 13
- Per Diem Beds: Based on specialized needs

Note: 24 secure beds in Hartford and Bridgeport Juvenile Detention (12 in each facility) are being used for secure REGIONS programs

* - Currently planned; not yet operational

Other Costs: Litigation

Federal Court Injunctions

- **Wisconsin** 2017
- **Tennessee** 2017
- **N.Y.** (Onondaga Co) 2017
- **N.Y.** (Broome Co) 2018

Settlements

- **Contra Cost, CA**
- **Illinois DJJ**
- **Iowa**
- **New Jersey JJC**
- **Ohio DYS**
- **Wisconsin DOC**
- **Seattle**
- **Palm Beach, FL**

Example Litigation Costs

Ohio settlement compliance = **\$20-30 million**

Louisiana attorney fees = **\$3 million**

Louisiana settlement compliance = **\$20 million**

California settlement compliance = **\$90 million**

Lincoln Hills, WI litigation cost = over **\$19 million**

Syracuse, NY Plaintiff fees = **\$270,000**

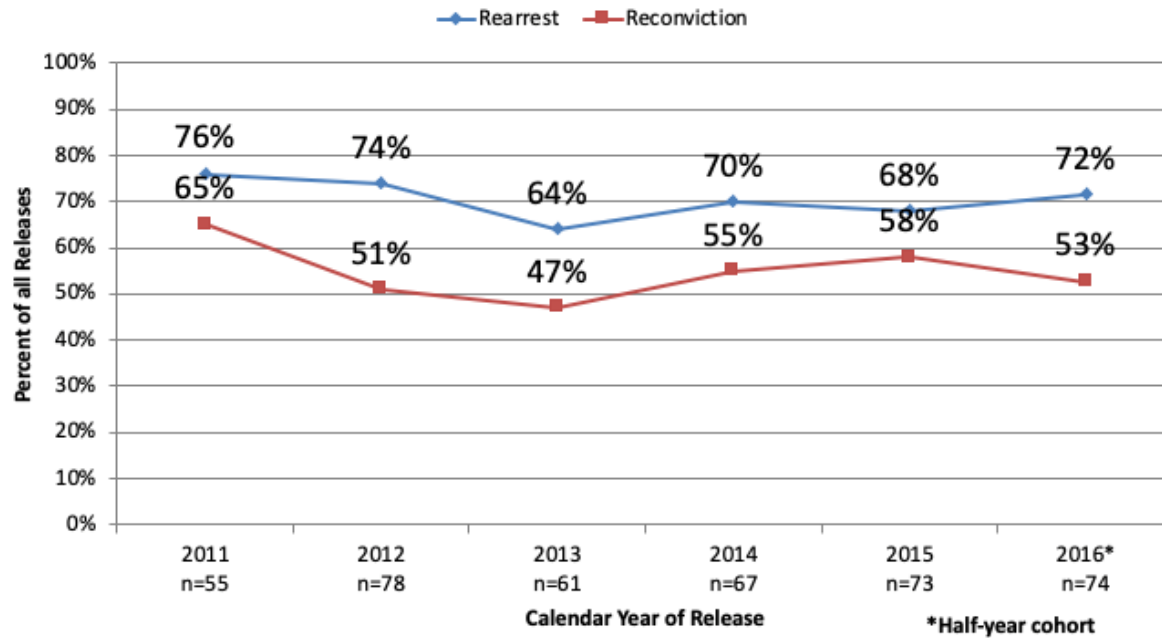
Seattle settlement = **\$240,000 to families**

New Jersey settlement = **\$400,000**

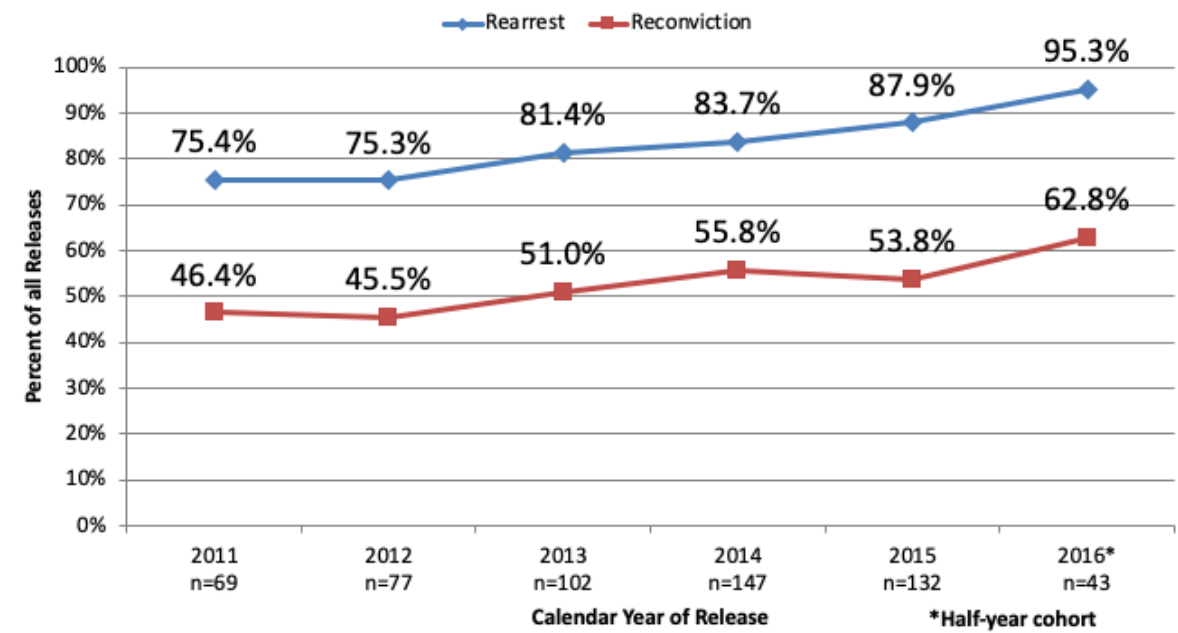
Iowa settlement = **\$225,000**

Other Costs: Recidivism and Lost Potential

24-month Rearrest and Reconviction Rates, Waived Youth Released from MYI by year, CY 2011-2016

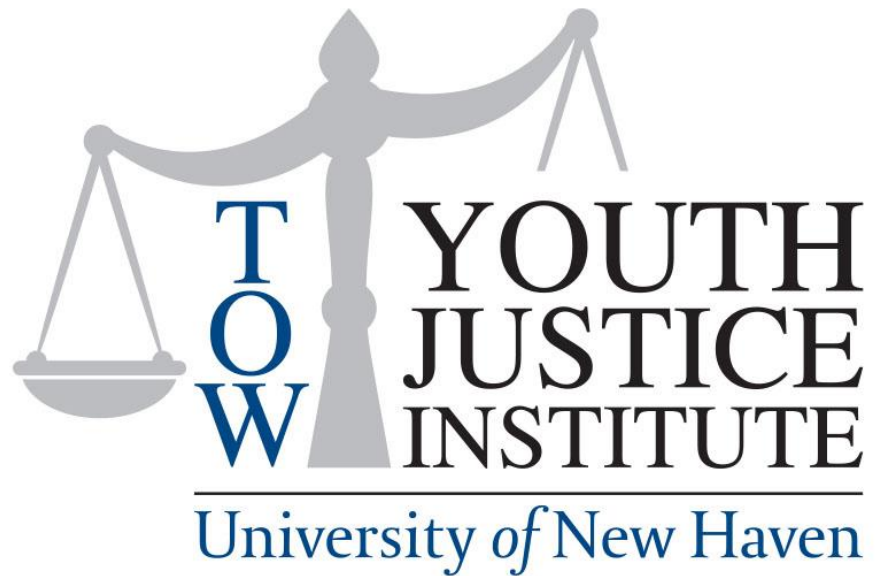


24-month Rearrest and Reconviction Rates, Juveniles Released from CJTS by year, CY 2011-2016



Resources

1. Richard E. Redding, Juvenile Transfer Laws: An Effective Deterrent to Delinquency?, United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention (2010).
2. Robert Hahn, Ph.D. et al., Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System, Task Force on Community Preventive Services (2010).
3. Pilnik, L. & Mistrett, M. (2019) "If Not the Adult System Then Where? Alternatives to Adult Incarceration for Youth Certified as Adults," Campaign for Youth Justice (Washington, DC).
4. R. Marshall (2019). Removing Youth from Adult Jails: A 50-State Scan of Pretrial Detention Laws for Youth Transferred to the Adult System. Washington, DC; Campaign for Youth Justice.
5. National Center for Juvenile Justice, Juvenile Justice, Geography, Policy, Practice & Statistics, <http://www.jjgps.org/>
6. Massachusetts Department of Youth Services, FY 2017 Annual Report, <https://www.mass.gov/files/documents/2019/05/06/DYS%20Annual%20Report%20%28FY2017%29-V2.docx>
7. Oregon Youth Authority, OYA Quick Facts (July 2019), <https://www.oregon.gov/oya/docs/QuickFacts/QuickFacts-July2019.pdf>
8. Oregon Youth Authority, Recidivism Outcomes, FY2001-FY2017 Cohorts (March 2019), <https://www.oregon.gov/oya/reports/recidivism/RecidivismFY01-FY17.pdf>



Questions and Discussion