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

Jason Szanyi, JD
Deputy Director
Center for Children’s Law and Policy
Look Back


• 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

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


- 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 state's 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

- Unsentenced: 31, 69%
- Sentenced: 14, 31%

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
- 15 years: 27, 60%
- 16 years: 13, 29%
- 17 years: 5, 11%

Race/Ethnicity of Youth at MYI: September 2019 Snapshot
- Black: 28, 62%
- Hispanic: 7, 16%
- White: 10, 22%

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
- Bridgeport Secure Detention
- Hartford Secure Detention
- Staff Secure REGIONS Community-Based Programs
- Respite Residential Programs
- Intermediate Residential Programs
- Journey House
- Secure REGIONS Community-Based Programs
- Fee-for-Service Per Diem Beds

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

* - Currently planned; not yet operational

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


Questions and Discussion