

# Interim Report on Organizational and Programmatic Alternatives for Youth Charged and Sentenced as Adults under Age 18 in the State of Connecticut

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## Introduction

In January 2019, the Office of the Child Advocate (OCA) conducted a point time study (July 1, 2016-June 30<sup>th</sup> 2017) on the conditions of confinement of youth in the state facilities, in response to Conn. Gen. Stat. 46a-13/(12). The report, *"Incarcerated/Detained Youth-An Examination of Conditions of Confinement,"* outlined a number of concerning practices, particularly for youth under the age of 18 in Department of Correction custody. These practices included the use of solitary confinement, the use of chemical agents, and the use of physical and mechanical restraints. The report also raised concerns about access to and availability of legally mandated education and special education services.

In June 2019, the Connecticut General Assembly passed Public Act 19-187. PA 19-187 included a requirement that the Juvenile Justice Policy and Oversight Committee "review methods other states employ to (1) transfer juvenile cases to the regular criminal docket, and (2) detain [youth under age 18] whose cases are transferred to the regular criminal docket . . . [including] preadjudication and postadjudication detention and . . . an examination of organizational and programmatic alternatives." This charge included a review of "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." PA 19-187(r) also required that JJPOC report the results of its review to the Judiciary Committee of the Connecticut General Assembly, including a plan for implementation not later than July 1, 2021, of any recommended changes.

The JJPOC designated its Incarceration Workgroup to complete the review and formulate recommendations for review by the JJPOC. To assist the Incarceration Workgroup, the Tow Youth Justice Institute contracted with the Center for Children's Law and Policy (CCLP), a public interest law and policy organization focused on reform of juvenile justice and other systems that affect troubled and at-risk children, and protection of the rights of children in those systems. CCLP is nationally recognized for its work on youth justice, having worked in over 30 states around the country, and it has played a central role in major foundation-funded juvenile justice initiatives in the United States, including the John D. and Catherine T. MacArthur Foundation's Models for Change initiative and the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI). CCLP also has extensive familiarity with Connecticut's juvenile justice system, having worked with the Center for Children's Advocacy and other state and local officials on strategies to reduce racial and ethnic disparities in Hartford, Bridgeport, Waterbury, and New Haven. CCLP's Deputy Director, Jason Szanyi, and Staff Attorney, Jennifer Lutz, conducted the review.

The Incarceration Workgroup began meeting to discuss organizational and programmatic alternatives in June 2019, with assistance from CCLP. A subgroup of the Incarceration Workgroup was formed in August 2019 to meet more frequently to review the information collected by CCLP and to discuss the pros and cons of three primary organizational and programmatic alternatives. In November 2019, CCLP presented preliminary findings and recommendations to

the full JJPOC and produced this report in December to accompany its presentation and recommendations.

In response to the requirements of PA-19-187, this report captures CCLP's observations and recommendations in two primary areas:

1. What are the methods that other states use to transfer juvenile cases to the regular criminal docket, and what are the outcomes associated with such transfers, including the impact on public safety and the effectiveness in changing the behavior of young people?
2. What are the methods that other states use to detain youth under age 18 whose cases are transferred to the regular criminal docket, both pre-sentencing and post-sentencing, and what are the organizational and programmatic alternatives to the housing of youth under 18 in DOC custody in Connecticut?

## Acknowledgements

The Center for Children’s Law and Policy would like to thank everyone who assisted with this review and offered insights and perspectives, the Incarceration Workgroup members and co-chairs, young people, youth and criminal justice system administrators and staff, state and local officials, youth service providers, advocates, and others. Special thanks to officials at the Judicial Branch, Court Support Services Division, the Department of Correction, and Office of Policy and Management for being willing to participate in this review and for being responsive to requests for information. Thank you as well to the Council of State Governments Justice Center staff, who assisted by coordinating their review of the state’s juvenile justice system with this review. Finally, thank you to staff of the Tow Youth Justice Institute for coordinating the many logistics associated with the review.

We recognize that an exploration of alternatives to the status quo may be difficult and uncomfortable, as individuals may perceive any recommended changes as a negative reflection on the work they are currently doing with young people. We have encountered this challenge in many places where we have been asked to offer suggestions for how systems could do even better work with youth who are in contact with the justice system.

Our work nationally here and in Connecticut has not been about pointing fingers, assigning blame, or suggesting that individuals were not making their best effort to achieve positive outcomes for youth. Our work is, however, focused on making recommendations that are likeliest to achieve the best outcomes for youth and communities in the future. We hope that this report and recommendations are understood in that context.

We recognize and appreciate the talented and dedicated leadership and staff of the entities responsible for working with youth in the juvenile justice and adult criminal justice system. We also recognize the many previous and current efforts being made to continue to improve how the state works with this population of young people. We know those efforts are underway because officials are interested in achieving the best possible outcomes for Connecticut’s youth, families, and communities. That is CCLP’s interest as well, and it was our guiding principle for this review.

## Methodology

As part of CCLP's assistance to the Incarceration Workgroup, CCLP engaged in a number of activities to inform its findings and recommendations, as well as to provide Incarceration Workgroup members with information to guide their discussions of organizational and programmatic alternatives to the transfer of youth under 18 to adult court, and the organizational and programmatic alternatives to the housing of youth under 18 who are currently in Department of Correction custody.

From June through December of 2019, CCLP engaged in the following activities, all of which inform this report and recommendations.

- (1) Reviewed research on the impact of transfer on public safety and youth behavior.
- (2) Reviewed trends in the use of transfer to adult court in states throughout the country.
- (3) Reviewed approaches and models to housing youth under 18 who are charged and sentenced as adults in states throughout the country.
- (4) Collected and analyzed data on the population of youth under 18 in DOC custody.
- (5) Conducted site visits to out-of-home placements and facilities in Connecticut that could potentially house youth under 18 who are currently in DOC custody.
- (6) Conducted numerous stakeholder interviews and meetings, both individually, and in groups.
- (7) Led and received feedback from focus groups with youth.
- (8) Facilitated conversations with Incarceration Workgroup and subgroup members to present information, research, and data that CCLP had collected and receive feedback and questions to answer as part of this review.

As noted previously, CCLP's work was guided by the principle of identifying the best organizational and programmatic approaches to meet the needs of this population of youth to achieve the best outcomes, both in terms of public safety and in terms of helping young people develop the supports and skills to become healthy and productive Connecticut citizens.

# Question 1: What are the methods that other states use to transfer juvenile cases to the regular criminal docket, and what are the outcomes associated with such transfers, including the impact on public safety and the effectiveness in changing the behavior of young people?

## Context

While statutes allowing for transfer to adult court were widely adopted in the 1990s out of fear of a juvenile crime epidemic, that epidemic never materialized. Indeed, juvenile crime rates have fallen significantly nationally and in Connecticut during the past decade. Nevertheless, these statutes have remained on the books – even as studies have documented the poor outcomes associated with transfer to adult court.

For example, a 2010 Task Force established by the U.S. Department of Health and Human Services and conducted a systematic review of studies of the effectiveness of transfer on preventing or reducing violence and found that transfer to adult court was a “counterproductive strategy for preventing or reducing violence,” with young people transferred to adult court reoffending at significantly higher rates and for more serious offenses than similarly situated youth who were adjudicated in the juvenile justice system.<sup>1</sup>

The U.S. Department of Justice conducted a similar review in 2010, examining many of the same studies and reaching similar conclusions.<sup>2</sup> The Department of Justice review attributed the poorer public safety outcomes to four factors: (1) the stigmatization and other negative effects of labeling youth as convicted felons, (2) the sense of resentment and injustice youth feel about being tried and punished as adults, (3) the learning of criminal mores and behavior while incarcerated with adult offenders, and (4) the decreased focus on rehabilitation and family support in the adult system.<sup>3</sup> The review ultimately concluded 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.”<sup>4</sup>

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<sup>1</sup> See Hahn et al., *supra* note 1.

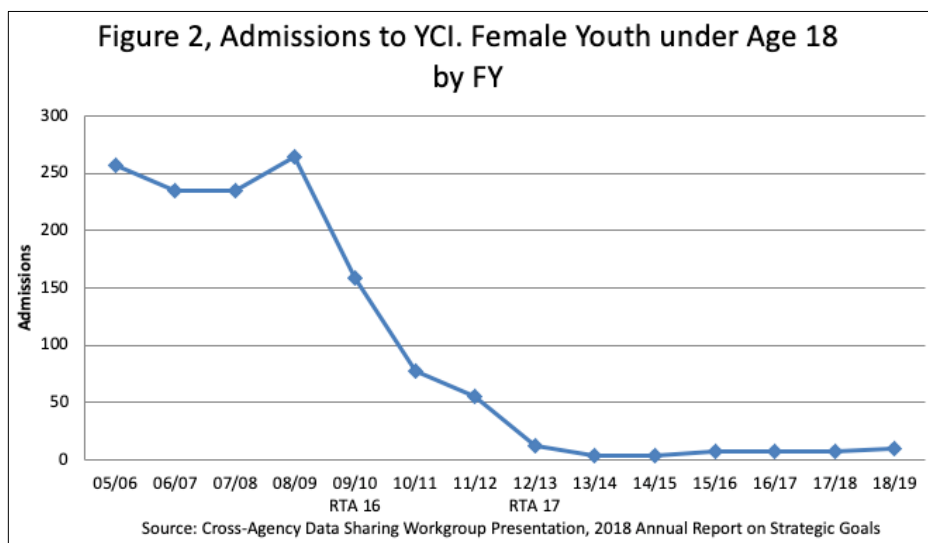
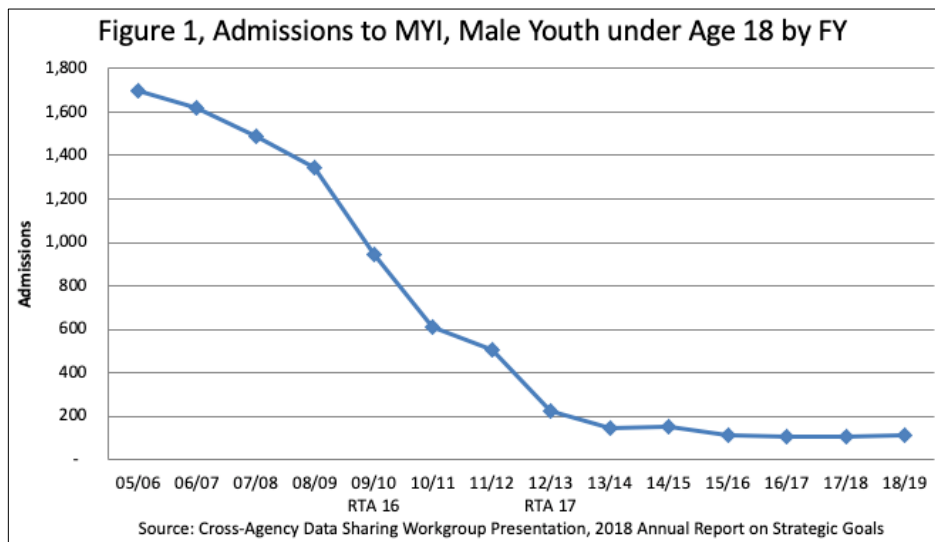
<sup>2</sup> Richard E. Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*, United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention (2010).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

## What Do We Know from the Data in Connecticut?

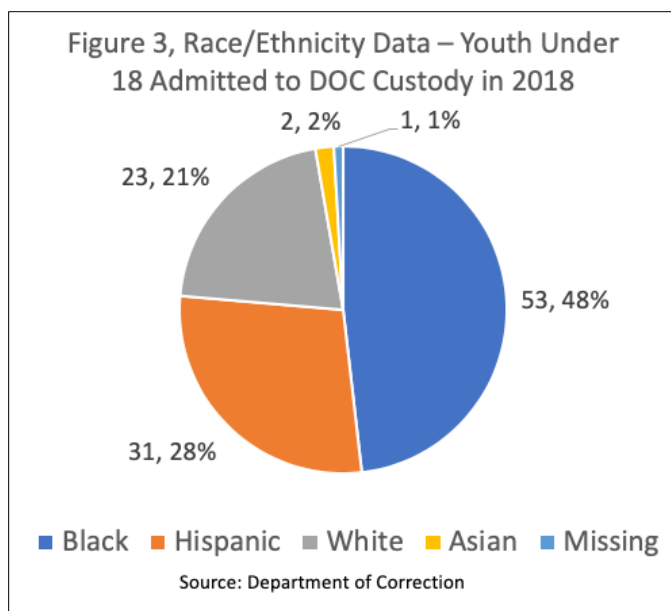
During the last decade, Connecticut has made several legislative changes to limit the use of transfer to adult court, including by raising the age of juvenile court jurisdiction to include youth charged with crimes up to age 17 and by limiting the offenses that require handling in adult court, what are known in Connecticut and other states as mandatory or automatic transfers. These changes have contributed to a 92.5% reduction in admissions of youth under 18 to Department of Correction custody between FY 2009 and FY 2019 (1,608 vs. 121 admissions; Figure 1 and Figure 2).



Nevertheless, a small number of youth under 18 continue to be charged and sentenced in adults, notwithstanding the findings of the research described above. The vast majority are youth of



color. In 2018, DOC reported that 79% of admissions of youth under age 18 were youth of color (Figure 3). As DOC has acknowledged, data capacity and data collection limitations within the Department mean that this is almost certainly an undercount of youth of color. Notwithstanding the likely undercounting, this is a point of extreme racial and ethnic disparities within Connecticut's justice system.



Although Connecticut has significantly reduced the use of transfer to adult court, a trend consistent with other states, state law still allows for the mandatory transfer of youth to the adult criminal justice system for certain charges, as well as discretionary transfer to the adult criminal justice system for other offenses. This is in spite of the fact that studies have not found that transfer is an effective deterrent to crime. Indeed, those studies have generally found that youth transferred to adult court reoffend at higher rates and for more serious offenses than youth with similar charges and backgrounds whose cases are handled in juvenile court.<sup>5</sup>

Moreover, Connecticut reflects national trends and trends in other states in that youth of color are overrepresented among youth transferred to adult court. This means that youth of color disproportionately experience the negative outcomes associated with transfer. That is to say, the current transfer laws disadvantage youth of color by making it more likely that, because of their handling in the adult criminal justice system, they will reoffend more frequently and reoffend for more violent offenses, resulting in a higher likelihood of future and more extensive contact the criminal justice system.

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<sup>5</sup> See, e.g., Robert Hahn 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); Richard E. Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*, United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention (2010).

In recent years, more and more states have moved to restrict the use of transfer to adult court, as well as retain youth who are charged and sentenced as adults in the juvenile justice system up to age 18 or above.<sup>6</sup> For example, the Oregon Youth Authority is a 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.”<sup>7</sup> 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. OYA does so because of data demonstrating better public safety outcomes and better evidence of behavior change among youth when they are retained in the juvenile justice system as compared with similarly situated youth who were transferred to the adult corrections system.

In July 2019, in part due to the outcome data mentioned above, Oregon passed legislation to roll back its adult transfer and sentencing laws that were implemented in 1995. The legislation, known as Senate Bill 1008,<sup>8</sup> returns jurisdiction for all charges to the juvenile justice system. In order to move a youth’s case to the adult court system, prosecutors must request a waiver hearing before a judge who decides whether the case should be transferred to adult court. Additionally, the legislation creates a “Second Look” process that allows judges to determine if further incarceration is appropriate for youth who are convicted in adult court and sentenced to more than 24 months incarceration, both at the halfway point of their sentence and prior to being transferred to the adult Department of Corrections at the age of 25 (if a youth’s sentence extends beyond that point). The legislation had bipartisan support and had a broad based of supporters in Oregon, including the Oregon Youth Authority, the Department of Corrections, and the Attorney General.

Although Senate Bill 1008 does not eliminate the possibility of transfer to adult court for youth under age 18 in Oregon, it does ensure that any case originates in the juvenile justice system – the system that was designed to meet the unique developmental needs of youth. If Connecticut retains some form of transfer to adult court, adopting a similar framework as Senate Bill 1008 would be a step toward aligning state law with the research and best practices discussed above.

## CCLP’s Recommendations

Although CCLP does not support the transfer of youth to adult court for a variety of reasons, if some limited version of transfer is to remain in Connecticut, we recommend adopting a framework similar to that of Oregon’s SB 1008. The intent of this recommendation is to continue the effort to align Connecticut’s approach to youth charged with crimes with research on the

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<sup>6</sup> 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).

<sup>7</sup> For more information, visit the Oregon Youth Authority’s homepage at [https://www.oregon.gov/oia/Pages/about\\_us.aspx](https://www.oregon.gov/oia/Pages/about_us.aspx).

<sup>8</sup> Oregon Youth Authority, Governor Signs Senate Bill 1008 into Law (July 22, 2019), available at <https://insideoia.com/2019/07/22/governor-signs-senate-bill-1008-into-law/>.

approaches that are likeliest to achieve positive public safety outcomes and long-term behavior change among young people. The recommendation is based on the research, analysis, and data outlined above.

Specifically, CCLP recommends amendments to the General Statutes that currently allow for transfer of juveniles to the adult criminal justice system to better align with research on public safety and behavior change in youth:

- For charges that currently require mandatory transfer to adult court, return original jurisdiction to the juvenile court, requiring prosecutors to request a waiver hearing before a juvenile court judge who decides whether the case should be transferred.
- For all youth transferred to adult court who receive sentences, adopt a “second look” provision that requires a review of the need for continued incarceration at the halfway point of a youth’s sentence, and prior to any transfer of youth from a juvenile facility to a Department of Correction facility to serve the remainder of his or her sentence.

## Question 2: What are the methods that other states use to detain youth under age 18 whose cases are transferred to the regular criminal docket, both pre-sentencing and post-sentencing, and what are the organizational and programmatic alternatives to the housing of youth under 18 in DOC custody in Connecticut?

### Context

As mentioned earlier in this report, more and more states in recent years have moved to restrict the use of transfer to adult court, as well as retain youth who are charged and sentenced as adults in the juvenile justice system up to age 18 or above.<sup>9</sup> A 2019 report from the Campaign for Youth Justice outlines growing efforts that states and localities have undertaken to work with that population of youth within the youth justice system and youth justice facilities.

For example, as described earlier, the Oregon Youth Authority 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. OYA does so because of data demonstrating better public safety outcomes and better evidence of behavior change among youth when they are retained in the juvenile justice system as compared with similarly situated youth who were transferred to the adult corrections system. The Massachusetts Department of Youth Services holds youth charged as sentenced as adults until age 18 as “courtesy holds” for the state’s adult corrections agency.

Additionally, beginning in December 2021, the federal Juvenile Justice and Delinquency and Prevention Act (JJDPA) will require youth charged as adults to be held in juvenile facilities, except in very limited circumstances.<sup>10</sup> Although Connecticut has opted out of participation in the JJDPA in recent years, the requirement was signed into law with bipartisan support.

This shift has occurred in large part due to a recognition that all youth, including youth who are charged and sentenced as adults, require developmentally services and supports in order to have the best chance of becoming productive adults and avoiding future contact with the justice

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<sup>9</sup> 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).

<sup>10</sup> Campaign for Youth Justice, Act 4 Juvenile Justice: Juvenile Justice and Delinquency Prevention Act (JJDPA) Fact Sheet Series – Core Protections: Jail Removal/Sight and Sound Separation (February 2019), available at [http://www.act4jj.org/sites/default/files/resource-files/Jail%20Removal%20and%20Sight%20and%20Sound%20Separation%20Fact%20Sheet\\_0.pdf](http://www.act4jj.org/sites/default/files/resource-files/Jail%20Removal%20and%20Sight%20and%20Sound%20Separation%20Fact%20Sheet_0.pdf).

system – and a recognition that providing those services in an adult corrections agency is extraordinarily difficult. It has also occurred because of increased litigation over the treatment of youth in adult jails and prisons over the use of solitary confinement and inadequate education and special education services.

As described in the Introduction, the Incarceration Workgroup of the JJPOC began meeting to discuss organizational and programmatic alternatives in June 2019, with assistance from CCLP. As part of CCLP’s assistance to the Incarceration Workgroup, CCLP conducted a literature review of impact of transfer on public safety and youth behavior (described earlier in this report), reviewed national approaches and models to housing youth under 18 who are charged and sentenced as adults, collected and analyzed data on the target population in Connecticut, conducted site visits to out-of-home placements that could potentially house this population, conducted stakeholder interviews and meetings, and led and received feedback from focus groups with youth.

As part of this process, CCLP identified three primary organizational alternatives for review and discussion. The alternatives were:

- **Option 1: Further Consolidation within the Judicial Branch.** This option would involve the Judicial Branch taking custody of the youth under age 18 currently housed at MYI and YCI (approximately 47 youth as of September 2019, 45 males and 2 females). This would continue the consolidation of functions within the Judicial Branch that occurred in 2018 following the transfer of responsibility for adjudicated youth in the juvenile justice system from DCF to the Judicial Branch.
- **Option 2: Creation of a Youth Division within the Department of Correction.** This option would involve creating a youth division within the Department of Corrections to manage youth and young adults in DOC custody. The intent of the division would be to allow DOC leadership to develop and implement different policies, programs, training, and staffing arrangements, with the goal of providing a more developmentally appropriate environment for youth who are charged and sentenced as adults.
- **Option 3: Creation of an Executive Branch Entity to Manage a Continuum of Placements for All Youth under Age 18.** This option would involve creating an Executive Branch entity, which would have responsibility for managing placements for youth under the age of 18 charged and sentenced as adults, as well as other youth in the juvenile justice system. A standalone executive branch agency is the most common arrangement among states for managing juvenile justice facilities, followed

by the placement of the agency within a child welfare agency or broader human services agency.

On the pages that follow are the potential pros and cons of each of the three primary organizational alternatives that CCLP and Incarceration Workgroup members reviewed and discussed.

### Pros and Cons of Option 1, Further Consolidation within the Judicial Branch

PROS	CONS
<ul style="list-style-type: none"> <li>• The Judicial Branch is already responsible for all youth in the juvenile justice system.</li> <li>• The facilities operated contracted by the Judicial Branch are designed to provide developmentally appropriate services and treatment to youth.</li> <li>• Declining admissions to secure detention and secure placement, as well as ongoing efforts to develop staff-secure programs and other alternatives for youth in the juvenile justice system, may free up capacity to house some or all of the youth population currently in DOC custody.</li> <li>• This option would be consistent with a growing national trend to house adult-charged and sentenced youth in juvenile justice facilities up to age 18 or above (see reference materials below). This includes a requirement that all adult-charged youth be housed in juvenile facilities except in very limited circumstances by January 2021 for states participating in the federal Juvenile Justice and Delinquency Prevention Act.</li> </ul>	<ul style="list-style-type: none"> <li>• There are concerns about separation of powers with the Judicial Branch operating placement facilities. Connecticut is the only state where the Judicial Branch of government has this responsibility.</li> <li>• The Judicial Branch has limited bed space within its secure detention facilities, which were not designed for longer-term stays (e.g., limited outdoor space).</li> <li>• Opportunities to renovate or reconfigure Judicial Branch’s secure detention facilities are limited due to location and physical plants, although Hartford detention currently has one floor not being used at this time.</li> <li>• Secure bed space in the community has been slow to come online, so waitlists for existing secure bed space could be exacerbated for youth in the juvenile justice system.</li> <li>• The Judicial Branch is relatively new to the role of operating and contracting for placement facilities, which could make an additional transition challenging.</li> </ul>

## Pros and Cons of Option 2, Creation of a Youth Division within the Department of Correction

PROS	CONS
<ul style="list-style-type: none"> <li>• DOC has been making efforts to improve conditions and implement policy and practice changes in response to the OCA report.</li> <li>• DOC has new leadership that has a clear interest in finding ways of working with youth and young adults in agency custody in more developmentally appropriate ways within the framework of an adult corrections agency.</li> <li>• DOC does offer vocational and technical educational opportunities within its facilities, although these opportunities are generally not available to youth under age 18 because the focus for those youth is earning a high school diploma.</li> <li>• As an executive branch agency, DOC would be subject to oversight of progress toward reforms by the General Assembly.</li> <li>• A Youth Division could serve to benefit young adults and could potentially be expanded to older youth in DOC custody.</li> </ul>	<ul style="list-style-type: none"> <li>• The OCA report outlined practices that are at odds with effective work with youth and that will take significant time and effort to remedy (e.g., solitary confinement, use of chemical agents).</li> <li>• The mission and structure of an adult department of correction does not easily lend itself to a shift to working with youth in rehabilitative and developmentally appropriate way (e.g., lack of staff training on working with youth). For example, collective bargaining agreements may limit the ability to implement different policies, training, and staffing requirements.</li> <li>• Nationally, the trend has been to move away from housing of youth within an adult corrections agencies for the reasons listed above, with state juvenile justice agencies assuming responsibility for youth charged and sentenced as adults (as noted above, adult-charged youth must be housed in juvenile facilities except in limited circumstances by January 2021 for states participating in the federal Juvenile Justice and Delinquency Prevention Act).</li> </ul>

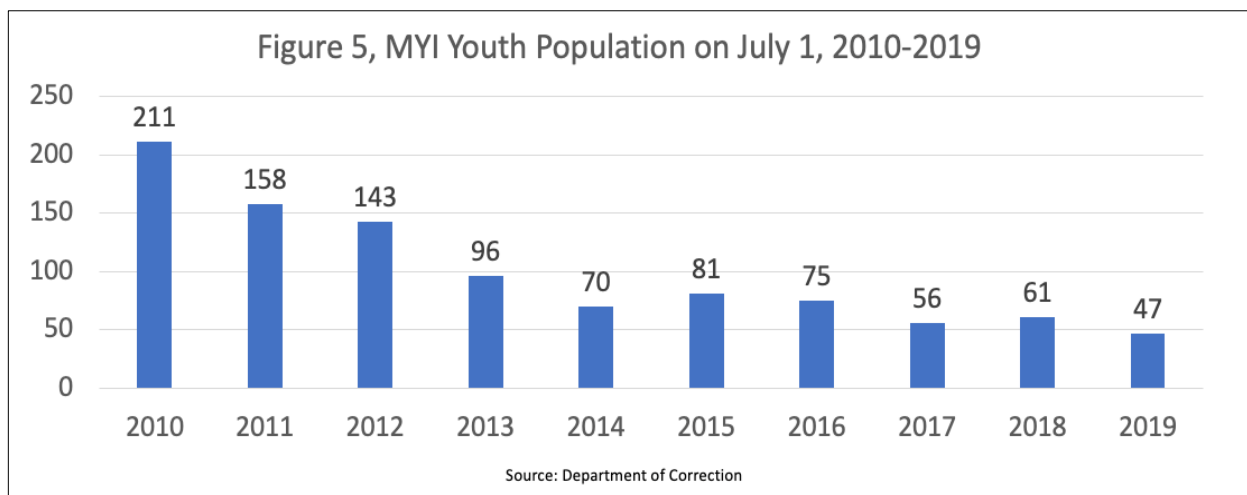
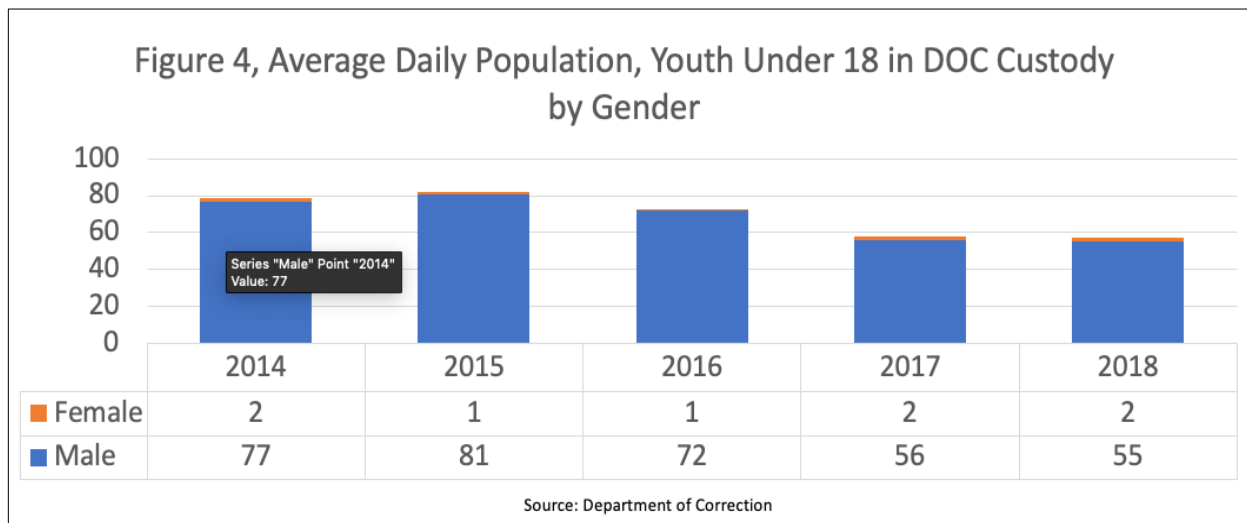
## Pros and Cons of Option 3: Creation of an Executive Branch Entity to Manage a Continuum of Placements for All Youth under Age 18

PROS	CONS
<ul style="list-style-type: none"> <li>• This is the approach taken by almost all other states with respect to juvenile justice services, which now includes adult-charged and sentenced youth in a growing numbers of states.</li> <li>• A single executive branch entity would have an explicit focus on providing developmentally appropriate services and supports to youth, regardless of legal status, that have the best chance of achieving behavior change and reducing recidivism. The entity could ensure that quality and consistency of services is standardized across placements.</li> <li>• An executive branch entity would avoid concerns about separation of powers and would likely afford additional flexibility with procurements and adjustments of capacity and needs over time.</li> <li>• Youth authorities in certain states have achieved significant reduction in recidivism rates by being able to manage a robust continuum of care.</li> </ul>	<ul style="list-style-type: none"> <li>• This entity does not currently exist within the State of Connecticut, and work would have to be undertaken to plan for the creation of such an entity and the transition of responsibilities from DOC and the Judicial Branch.</li> <li>• An analysis would need to be undertaken to determine how such a transition could occur in a fiscally responsible way.</li> <li>• The state recently underwent a significant transition with the consolidation of juvenile justice services within the Judicial Branch, which could make an additional significant transition a challenge. Additionally, there are concerns that work that has been undertaken by the Judicial Branch to secure developmentally appropriate services and supports could be lost if such a transition occurred.</li> </ul>



## What Do We Know from the Data in Connecticut?

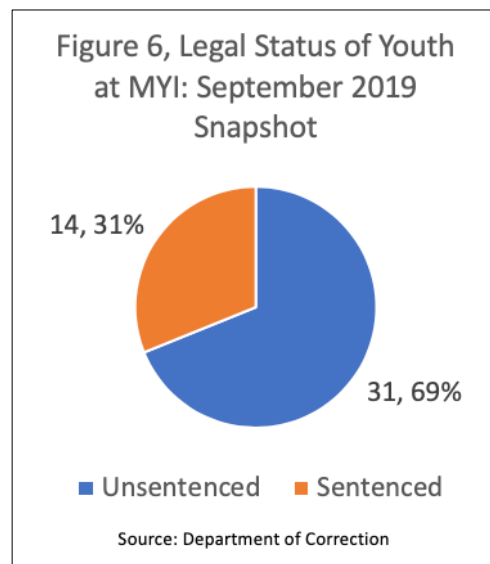
As noted previously, Connecticut has seen a marked decrease in the number of youth who are charged and sentenced as adults. The state saw a 92.5% reduction in admissions of youth under 18 to DOC custody between FY 2009 and FY 2019 (1,608 vs. 121 admissions). Nevertheless, a small number of youth under 18 continue to be charged and sentenced in adults, notwithstanding the findings of the research described above. In 2018, the average daily population of youth under 18 in DOC custody was 57 (an average of 2 females and 55 males, Figure 4). On July 1, 2019, there were just 47 male youth under 18 in DOC custody, as compared with 211 on that day in 2010 (Figure 5).



Data on youth under 18 in DOC custody indicate that the majority of youth are unsentenced (i.e., pending charges). For example, during a one-day snapshot of male youth under 18 in DOC custody, 69% of youth (31 youth) were unsentenced, with just 31% (14 youth) being sentenced. As noted above, the federal Juvenile Justice and Delinquency Prevention Act (JJDP) will require

states to house unsentenced youth pending adult charges in juvenile facilities beginning in December 2021, which is the majority of youth under 18 currently in DOC custody (Figure 6).

Of the 14 sentenced youth in the September 2019 snapshot data, 50% had sentences of two years or less, 29% had sentences between 2 and 5 years, and 21% had sentences of 5 years or more. As noted previously, there are a growing number of states that retain adult-sentenced youth up to a certain age in juvenile facilities. For example, the Massachusetts Department of Youth Services holds youth charged as sentenced as adults until age 18 as “courtesy holds” for the adult corrections agency, and the Oregon Youth Authority can retain youth sentenced as adults until they turn 25.



## CCLP’s Recommendations

As noted in CCLP’s November presentation to the JJPOC, **CCLP recommended that the state of Connecticut pursue Option 3, by (1) requiring that youth under age 18 be held in juvenile facilities instead of adult correctional facilities, (2) recommending the creation of an Executive Branch entity to manage a continuum of out-of-home placements for all youth under age 18 (including youth in the custody of the juvenile justice system, as well as youth charged and sentenced as adults who are currently in DOC custody), and (3) establishing a process and timeline to determine how best to transition responsibilities to the Executive Branch entity by a set date.**

These recommendations would align with the trend among states to retain youth charged and sentenced as adults in the juvenile justice system up to age 18 or above.<sup>11</sup> Beginning in December 2021, the federal Juvenile Justice and Delinquency and Prevention Act (JJDPDA) will require youth charged as adults to be held in juvenile facilities (except in very limited circumstances).<sup>12</sup> As of September 2019, this represented 69% of the population of youth under 18 in DOC custody. Although Connecticut has opted out of participation in the JJDPDA in recent years, the requirement was signed into law with bipartisan support, recognizing that retaining youth in the juvenile justice system holds the best potential for positive public safety outcomes (e.g., lower rates of reoffending).

<sup>11</sup> 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).

<sup>12</sup> Campaign for Youth Justice, Act 4 Juvenile Justice: Juvenile Justice and Delinquency Prevention Act (JJDPDA) Fact Sheet Series – Core Protections: Jail Removal/Sight and Sound Separation (February 2019), available at [http://www.act4jj.org/sites/default/files/resource-files/Jail%20Removal%20and%20Sight%20and%20Sound%20Separation%20Fact%20Sheet\\_0.pdf](http://www.act4jj.org/sites/default/files/resource-files/Jail%20Removal%20and%20Sight%20and%20Sound%20Separation%20Fact%20Sheet_0.pdf).

The recommendations would also remedy a significant structural problem within Connecticut's juvenile and criminal justice system. Currently, management for youth under 18 is not only divided between two agencies, but two branches of government. Additionally, the Judicial Branch has had the responsibility for operating out-of-home placement facilities for youth adjudicated delinquent, which is not an arrangement that exists in any other state and which raises concerns about separation of powers and potential conflicts of interest.

The most common arrangement to manage placement facilities for youth in the juvenile justice system is for an independent executive branch juvenile justice agency to oversee the continuum of placement facilities.<sup>13</sup> Creating an Executive Branch entity in Connecticut to manage the continuum of out-of-home placements for youth under 18 who are currently in the custody of the juvenile justice and criminal justice systems was one of the three primary organizational and programmatic alternatives discussed by the Incarceration Workgroup. It was also the option recommended by the Center for Children's Law and Policy, and it is the option most aligned with Dr. Peter Leone's recommendations regarding the need for a single entity to manage educational services for youth across the state's out-of-home placements.

This option would consolidate responsibility for all out-of-home placements, including secure and non-secure facilities for youth under 18 with charges pending in the juvenile and adult criminal justice system, as well as youth under 18 who are placed or sentenced to a period of time in an out-of-home placement in the juvenile and adult criminal justice system. As proposed, the Judicial Branch would retain responsibility for probation for youth under age 18 (including the provision of the array of community-based diversion and treatment services), and the Department of Correction would retain responsibility for youth charged and sentenced as adults who are over the age of 18. One goal of the entity would be to create efficiencies and potential cost savings by:

- Maximizing the availability of scarce residential placement resources by giving one entity the flexibility to manage and use the entire array of placement as seamless continuum;
- Standardizing the consistency and quality of contracted services, creating economies of scale, and eliminating redundancies that consume scarce resources;
- Streamlining and standardizing policies, programming, and staff recruitment and training to align with research and best practices on work with young people in out-of-home placements.
- Creating the potential to achieve lower recidivism rates and better individual youth outcomes by ensuring that all programs are aligned with research and best practices and ensuring that youth can transition seamlessly between programs and back to their home communities.

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<sup>13</sup> National Center for Juvenile Justice, Juvenile Justice Geography, Policy, Practice & Statistics – Juvenile Justice Services - Juvenile Corrections Agency (last updated 2015), available at <http://www.jjgps.org/juvenile-justice-services#corrections-agency>.

- Minimizing the chance of costly lawsuits over conditions and services for youth under 18 in DOC custody, which has been a source of litigation in states that hold youth in adult jails and prisons.

The recommendations would establish a process and timeline to transition and consolidate responsibilities, with a focus on creating efficiencies and cost savings. The process would require regular reporting to JJPOC and the General Assembly on progress over a period of planning and implementation. The process would also identify and recommend a set date for the transfer of such responsibilities if the current date of July 1, 2021 set by PA 19-187 is not achievable.

Connecticut can look to a number of states for legislative and procedural guidance on the creation of such an entity, including Florida, Illinois, Louisiana, and Oregon. However, the process would mirror the collaborative process undertaken when officials were charged with implementation of Raise the Age in Connecticut.