

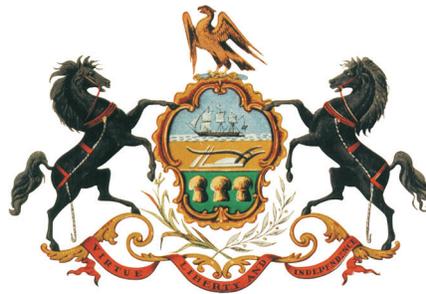
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# 2017 PENNSYLVANIA JUVENILE JUSTICE AND DELINQUENCY PREVENTION PLAN

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Prepared for

The Honorable Tom Wolf  
Governor  
Commonwealth of Pennsylvania



by

The Juvenile Justice and Delinquency Prevention Committee  
on behalf of

The Pennsylvania Commission on Crime and Delinquency

January 2017



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# Table of Contents

<b>Executive Summary and Recommendations</b> .....	<b>1</b>
Juvenile Delinquency Prevention .....	1
Juvenile Justice System Enhancement .....	3
<b>Introduction and Background</b> .....	<b>13</b>
Evidence-Based Policy and Practice: PCCD’s Comprehensive Strategy for Preventing Violence, Delinquency, and Other Adolescent Problem Behaviors .....	13
Pennsylvania’s Juvenile Justice System: A Model for the Nation .....	16
<b>Chapter 1: Juvenile Delinquency Prevention</b> .....	<b>27</b>
PCCD’s Evidence-Based Approach: A Proven Foundation for a Comprehensive Prevention Strategy for the Commonwealth .....	48
Recommendations .....	50
<b>Chapter 2: Juvenile Justice System Enhancement</b> .....	<b>51</b>
The Pennsylvania Juvenile Justice System Enhancement Strategy (JJSES) .....	51
Recommendation .....	61
High Priority Juvenile Justice System Funding and Regulatory Issues .....	61
The Human Services Code must be amended to include both juvenile justice and child welfare funding goals .....	61
Recommendation .....	61
In the event of a Commonwealth budget impasse, court-ordered services to children within Pennsylvania’s child welfare and juvenile justice systems must be considered essential services and funding to counties for these services must continue at the level approved for the prior fiscal year .....	63
Recommendation .....	63
Year-round education must be provided in residential programs for delinquent youth .....	65
Recommendation .....	66
The Human Services Code must be amended to increase the rate of reimbursement for residential care for delinquent children ordered by the court following the court’s consideration of the results of a validated risk/needs assessment instrument. ....	67
Recommendation .....	68
The Human Services Code must be amended to provide funding for indigent juvenile defense services. ....	69
Recommendation .....	71
The legislative recommendations of the Rate Methodology Task Force must be enacted .....	72
Recommendation .....	75
The Commonwealth must ensure that services to children within Pennsylvania’s juvenile justice system are provided by a diverse, experienced, well-educated, and well-compensated workforce. ....	75
Recommendation .....	75
The Commonwealth must ensure that every county has access to high quality juvenile detention services and detention alternatives .....	75
Recommendation .....	78



# Executive Summary and Recommendations



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# Executive Summary and Recommendations

In proclaiming October 2016 as National Juvenile Justice Awareness Month, President Barack Obama noted the following:

“The essential promise that we make to our young people—that where they start must not determine how far they can go—is part of what makes America exceptional. It is our shared responsibility to ensure all children are given a fair shot at life, including a quality education and equal opportunities to pursue their dreams. Too often in America, young people are not afforded a second chance after having made a mistake or poor decision—the kind of chance some of their peers receive under more forgiving environments. Many of these young people lack institutional or family support and live in distressed communities. Others may have experienced trauma and violence or may struggle with disabilities, mental health issues, or substance use disorders. As a society, we must strive to reach these children earlier in life and modernize our juvenile and criminal justice systems to hold youth accountable for their actions without consigning them to a life on the margins.”

The recommendations set forth in this document are offered in furtherance of Pennsylvania’s commitment to fulfill this promise. The Pennsylvania Commission on Crime and Delinquency (PCCD) is required under 71 P.S. §1190.23 to “**prepare and, at least every two years, update a comprehensive juvenile justice plan on behalf of the Commonwealth based on an analysis of the Commonwealth’s needs and problems, including juvenile delinquency prevention.**” Responsibility for development of this Plan is delegated to the PCCD Juvenile Justice and Delinquency Prevention Committee (JJDPCC).

This document provides a series of recommendations to:

- lay the foundation for a comprehensive delinquency and violence prevention strategy for the Commonwealth;
- expedite the implementation of Pennsylvania’s highly regarded Juvenile Justice System Enhancement Strategy (JJSES); and
- address key legislative and policy matters of critical importance to the achievement of these goals.

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## Juvenile Delinquency Prevention

- ***The Commonwealth must develop and implement a comprehensive and coordinated strategy to support the healthy development of youth, to identify children who are at high risk of juvenile delinquency, school failure, and/or other problem behaviors, and to provide equitable, evidence-based services and support to these children and their families.***

PCCD has a proven track record in leading the development and implementation of research-based approaches, including the ***Communities That Care (CTC)***<sup>1</sup> risk-focused prevention model and the ***Blueprints for Healthy***

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<sup>1</sup> [www.communitiesthatcare.net](http://www.communitiesthatcare.net)

**Youth Development,**<sup>2</sup> which have proven successful in preventing youth violence, delinquency, substance abuse, educational failure and many other adolescent problem behaviors. However, since FY 2001–2002, significant reductions in PCCD’s research-based violence prevention appropriation, and the agency’s previous evidence-based prevention and intervention appropriation, have dramatically reduced PCCD’s capacity to assist communities in addressing these critically important issues. **The FY 2016–2017 appropriation of \$4,569,000 reflects a reduction of 71.8% from the combined FY 2002–2003 appropriations of \$16,200,000 for PCCD’s former Evidence-based Prevention/Intervention and Research-based Violence Prevention appropriations.**

Despite the recent leveling off of the Department of Corrections (DOC) inmate population, the operating budget of the DOC has continued to climb. The FY 2016–2017 DOC general fund appropriation of **\$2.38 billion** represents an increase of approximately **89.5%** over the FY 2002–2003 appropriation of **\$1.26 billion**.

**Although it is anticipated that initiatives such as the Justice Reinvestment Initiative will continue to have a modest impact in reducing the growth of the DOC inmate population, the only viable strategy to significantly reduce the state prison population in the long term is to intervene early in the lives of children who are most at risk of delinquency, youth violence, school failure and substance abuse.**

The success that PCCD has had in implementing *Communities That Care (CTC)* and *Blueprints* programs is well documented, as are the strong partnerships and working relationships that PCCD’s professional staff have within state government and with local government and community leaders throughout the Commonwealth. However, the Commonwealth’s current approach to assisting and providing prevention-related funding to communities is not as well coordinated as it needs to be. In addition to PCCD, the Departments of Health (DOH), Education (PDE), Drug and Alcohol Programs (DDAP), Liquor Control Board (PLCB), and Human Services (DHS) each devote financial and staff resources to preventing one or more of the aforementioned adolescent problem behaviors.

It is clear that the Commonwealth must develop and implement a comprehensive inter-departmental, evidence-based and trauma-informed strategy to prevent delinquency, youth violence, and other adolescent problem behaviors, including substance abuse, teen

pregnancy, and school failure. As set forth in detail in Chapter 1, such a strategy is essential to PCCD’s efforts to address the disproportionate numbers of minority youth who become involved in Pennsylvania’s juvenile justice system. The factors that contribute to this problem, known as Disproportionate Minority Contact (DMC), are complex and interrelated, and PCCD’s DMC Reduction Plan requires that our Commonwealth’s prevention efforts to be better coordinated.

PCCD is uniquely positioned to coordinate such an effort by virtue of its proven track record; the technical assistance and quality assurance expertise that PCCD has made available to communities through the Evidence-based Prevention and Intervention Support Center (*EPISCenter*) at Penn State; as well as PCCD’s clear statutory mandate to design research-based initiatives of this type. Among the duties of PCCD set forth at 71 P.S. § 1190.23 are the following:

“To define and collaborate with all State agencies on planning and programming related to juvenile delinquency prevention and the reduction and prevention of violence by and against children.”

“To design and promote comprehensive research-based initiatives to assist communities and community-based organizations in reducing risk to and promoting the positive development of children and in preventing juvenile delinquency and youth violence.”

#### **Recommendations:**

- *It is recommended that the Governor propose \$9,569,000 in FY 2017–2018 for PCCD’s violence prevention appropriation, representing a \$5,000,000 increase over the FY 2016–2017 appropriation, as the first step in a multi-year strategy to ultimately provide the equivalent of 1% of the Department of Corrections (DOC) general fund budget to support PCCD’s evidence-based delinquency and violence prevention programming.*
- *It is recommended that the Governor, by Executive Order, direct PCCD and DDAP to develop a strategic plan to coordinate the Commonwealth’s delinquency, youth violence, and substance abuse prevention programming, inclusive of the programming of DHS, DOH, PDE, DDAP, PCCD, and PLCB.*

<sup>2</sup> [www.blueprintsprograms.com](http://www.blueprintsprograms.com)

# Juvenile Justice System Enhancement

## The Pennsylvania Juvenile Justice System Enhancement Strategy (JJSES)

- ***The Commonwealth must continue to aggressively pursue implementation and sustainability of the Pennsylvania Juvenile Justice System Enhancement Strategy (JJSES).***

Pennsylvania has been at the forefront in the development of juvenile law and social policy for more than a century, and Pennsylvania's status as a national leader in juvenile justice policy and practice was further enhanced by its approach to addressing increasing rates of violent juvenile crime in the early to mid-1990s. While, at that time, the juvenile justice reform strategies of most states consisted primarily, if not exclusively, of placing more juvenile offenders within the jurisdiction their respective criminal justice systems, Pennsylvania re-defined the very mission of its juvenile justice system.

Act 33 of Sp. Sess. No. 1 of 1995 amended the purpose clause of the Juvenile Act to establish the following mission for Pennsylvania's juvenile justice system: based on a legislative proposal developed by the Juvenile Court Judges' Commission:

***“consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community.”***<sup>3</sup>

This statutory mission for Pennsylvania's juvenile justice system has been in effect since March 1996 and is rooted in the philosophy of “restorative justice,” which gives priority to repairing the harm done to crime victims and communities, and defines offender accountability in terms of assuming responsibility and taking action to repair harm. The “balanced attention” mandates in the Juvenile Act provide the framework for restorative justice in Pennsylvania's juvenile justice system, and are premised on the concept that the clients of the juvenile justice system include the crime victim, the community and the offender and that each should receive “balanced attention” and gain tangible benefits from their interactions with Pennsylvania's juvenile justice system.

Pennsylvania's strong commitment to its statutory mission, and its comprehensive approach to juvenile justice reform, continued to garner national attention and, in 2004, the John D. and Catherine T. MacArthur Foundation selected Pennsylvania as the first state to participate in its *Models for Change* juvenile justice reform initiative.

The MacArthur Foundation's choice of Pennsylvania as the first *Models for Change* state was a tribute to all of the juvenile justice reforms that had already been accomplished. The Foundation explicitly sought to partner with a “bellwether” state—that is, a state whose leadership would be followed by other states, and whose example would be watched nationally. Pennsylvania's *Models for Change* partnership with the MacArthur Foundation focused on three targeted areas of improvement: (1) the system of *aftercare* services and supports, (2) the coordination of *mental health services* for juvenile justice-involved youth, and (3) *disproportionate minority contact* with the juvenile justice system, each of which was already a priority of the JJDPC.

*Models for Change* accelerated the pace of Pennsylvania's efforts at reform at both the state and local levels, and supported a series of evidence-based practices, including the introduction of screening and assessment instruments and targeted evidence-based interventions.

In June 2010, with the Commonwealth's five-year partnership with the MacArthur Foundation drawing to a close, the Executive Committee of the Pennsylvania Council of Chief Juvenile Probation Officers and Juvenile Court Judges' Commission (JCJC) staff agreed, at their annual strategic planning meeting, that it was essential to develop a strategy to consolidate the various *Models for Change*-related initiatives “under one roof,” and to sustain and enhance the gains of the previous five years. Following an intensive review of the impact of and the many lessons learned through this partnership, it was agreed that the JCJC and Pennsylvania Council of Chief Juvenile Probation Officers would work together with PCCD and other system partners to develop and implement a comprehensive “Juvenile Justice System Enhancement Strategy” (JJSES) as the means to achieve this goal.

<sup>3</sup> 42 Pa.C.S. § 6301(b)(relating to purposes).

The first concrete step in developing Pennsylvania's JJSES was to articulate the purpose of the initiative. On November 4, 2010, the Juvenile Court Judges' Commission (JCJC) unanimously endorsed the following Statement of Purpose as the foundation for Pennsylvania's Juvenile Justice System Enhancement Strategy:

### JJSES Statement of Purpose

**We dedicate ourselves to working in partnership to enhance the capacity of Pennsylvania's juvenile justice system to achieve its balanced and restorative justice mission by**

- **employing evidence-based practices, with fidelity, at every stage of the juvenile justice process;**
- **collecting and analyzing the data necessary to measure the results of these efforts; and, with this knowledge,**
- **striving to continuously improve the quality of our decisions, services and programs.**

The JCJC is coordinating the implementation of the JJSES with the assistance of the JJSES Leadership Team, comprised of key leaders from the Pennsylvania Council of Chief Juvenile Probation Officers, PCCD's Office of Juvenile Justice and Delinquency Prevention, and the JCJC.

Recent trends documenting reductions in juvenile violent crime arrest rates, juvenile delinquency dispositions, juvenile delinquency placements, juvenile detention center admissions, and juvenile delinquency placement costs all serve to confirm the efficacy of the evidence-based practices that now form the foundation of Pennsylvania's juvenile justice system.

### Statewide Baseline Recidivism Rates for Pennsylvania's Juvenile Justice System

The development of statewide and county-specific baseline recidivism rates is a particularly noteworthy JJSES accomplishment. Pennsylvania is one of the few states with the capacity to develop information of this type. For the purposes of this research, recidivism is defined as a subsequent adjudication of delinquency or conviction in criminal court for a misdemeanor or felony offense within two years of case closure; with the exception of expunged cases, which were not available for inclusion in this research. The baseline statewide and county-specific recidivism rates established in conjunction with the JJSES will continue to provide an important means to measure the impact that the implementation of evidence-based practices is having. Statewide recidivism rates, by year, for the six years studied thus far are as follows:

- 20.3% (cases closed in 2007 n=18,882 cases)
- 21.8% (cases closed in 2008 n=18,910 cases)
- 22.8% (cases closed in 2009 n=18,439 cases)
- 21.6% (cases closed in 2010 n=16,800 cases)
- 18.5% (cases closed in 2011 n=18,203 cases)
- 19.2% (cases closed in 2012 n=19,208 cases)<sup>4</sup>

**The 18.5% recidivism rate for cases closed in 2011 represented approximately a 14% reduction from the 21.6% recidivism rate for cases closed in 2010, as well as a 14% reduction from the four-year average recidivism rate of 21.6% for cases closed in 2007, 2008, 2009, or 2010. This dramatic reduction in the statewide recidivism rate for cases closed in 2011 was especially significant because 2011 was the first year that the implementation of evidence-based practices through the JJSES could reasonably have been expected to have had an impact. Although the statewide recidivism rate for cases closed in 2012 rose to 19.2%, that rate is 11% lower than the pre-JJSES recidivism rate for cases closed in 2007–2010.**

The JCJC's Juvenile Probation Services appropriation is the state appropriation that has been most critical to the early success of the JJSES, and the evidence-based practice conditions of this grant program will be critical to the future success of the initiative as well. The JCJC's county grant-in-aid program must be increased to enable the JCJC to provide the resources, training and technical assistance needed by juvenile courts and juvenile probation departments, and to expedite JJSES-related program evaluation, enhancement, and research.

<sup>4</sup> *The Pennsylvania Juvenile Justice Recidivism Report: Juveniles with Cases Closed in 2007, 2008, 2009, 2010, 2011 and 2012* (Pennsylvania Juvenile Court Judges' Commission, 2016).

**Recommendation:**

➤ *It is recommended that the Governor propose \$23,945,000 for the Juvenile Probation Services appropriation of the Juvenile Court Judges' Commission (JCJC) in FY 2017–2018, representing a \$5,000,000 increase over the FY 2016–2017 appropriation, to support the continued implementation of Pennsylvania's Juvenile Justice System Enhancement Strategy (JJSES).*

## High Priority Juvenile Justice System Funding and Regulatory Issues

➤ ***Pennsylvania's juvenile justice system must be supported by a funding and regulatory structure that is consistent with the system's statutory mission.***

It is critically important that priority be given to creating and sustaining a funding and regulatory structure that is consistent with the juvenile justice system's statutory mandate to provide a disposition in the case of every delinquent child which provides "balanced attention" to the protection of the community, accountability for the offenses committed and to the development of competencies that will enable that child to become a responsible and productive member of his/her community.

***The Human Services Code must be amended to include both juvenile justice and child welfare funding goals.***

The Commonwealth's funding of services to children in both the child welfare and juvenile justice systems is governed by the "needs-based budgeting process" set forth in the Human Services Code,<sup>5</sup> and by DHS Regulations.<sup>6</sup> The objectives, service projections, and service budgets in needs-based plans submitted to DHS by the counties are required by DHS regulation to be consistent with the achievement of "Commonwealth objectives for the delivery of children and youth social services" which, according to these regulations, are:

- (1) To protect children from abuse and neglect.
- (2) To increase the use of in-home services for dependent and delinquent children.
- (3) To use community-based residential resources, whenever possible, when placement is necessary.
- (4) To reduce the use of institutional placements for dependent and for delinquent children.
- (5) To reduce the duration of out-of-home placements.<sup>7</sup>

These goals, although laudable, are clearly inconsistent with the statutory "balanced attention" mandate for Pennsylvania's juvenile justice system set forth in the Juvenile Act:

***"consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community."***<sup>8</sup>

This inconsistency between the Juvenile Act's statutory mandates and DHS regulations must be corrected to ensure that funding is available for essential juvenile justice services. Moreover, the Commonwealth's "child welfare" goals should not be found only in DHS regulations, but should likewise be set forth in the Human Services Code. After considerable study of this issue, it is recommended that the Human Services Code be amended to establish a new purpose clause for Article VII (relating to children and youth) to specifically set forth "child welfare" goals consistent with the Juvenile Act's mandates relating to dependent children, and "juvenile justice" goals consistent with the Juvenile Act's mandates relating to delinquent children.

**Recommendation:**

➤ *It is recommended that the Governor support amending the Human Services Code to include both juvenile justice and child welfare goals that are consistent with the statutory mandates of the Juvenile Act.*

The proposed amendments are found on Page 62.

<sup>5</sup> 62 P.S. §709.1 (relating to needs-based budgeting process).

<sup>6</sup> 55 Pa. Code Ch. 3140 (relating to planning and financial reimbursement requirements for county children and youth social service programs).

<sup>7</sup> 55 Pa. Code § 3140.16 (relating to content and plan of the budget estimate).

<sup>8</sup> 42 Pa.C.S. §6301(b) (relating to purposes).

***In the event of a Commonwealth budget impasse, court-ordered services to children within Pennsylvania’s child welfare and juvenile justice systems must be considered essential services and funding to counties for these services must continue at the level approved for the prior fiscal year.***

The FY 2015–2016 Commonwealth budget impasse resulted in severe consequences for the private sector agencies that provide critically important services to children Pennsylvania’s child welfare and juvenile justice systems. Because these agencies were not being paid by the counties, many of these agencies were forced to cut back staff, exhaust agency reserves, and/or take out loans in order to provide the care, supervision, food and transportation needed by the children who were placed by courts or who had otherwise been entrusted to their care. The services provided by the private sector are absolutely essential to the health, safety, and protection of Pennsylvania’s children and communities, and amendments to the Human Services Code are needed to ensure that these services will continue to be provided in the event of a future budget impasse.

**Recommendation:**

- *It is recommended that the Governor support amendments to the Human Services Code to ensure that, in the event of a delay in the timely adoption of the Commonwealth’s budget, funding to reimburse counties for the cost of services to at risk, dependent, and delinquent children will continue uninterrupted at the level of funding approved for the prior fiscal year.*

The proposed amendments are found on Page 63.

***Year-round education must be provided in residential programs for delinquent youth.***

In 2015, a total of 3,619 juvenile delinquency disposition and disposition review proceedings in Pennsylvania resulted in the commitment of youth to out-of-home placement. The overwhelming majority of these youth were significantly behind academically at the

time of placement. However, the Commonwealth’s current funding scheme for educational programming in public and private sector residential programs limits the likelihood that these youth will make the educational gains while in placement to enable a successful return to school upon release from placement. Statutory change is needed to enable the public and private sector agencies that provide placement services to these youth to provide year-round educational programming, as well as the essential remedial educational and career/technical education support that is not otherwise available through basic education programming and funding.

As noted in a 2006 report of the Legislative Budget and Finance Committee,<sup>9</sup> the Commonwealth’s funding schemes and related policies governing the delivery of educational services to youth in residential placement are both complicated and inconsistent. The great majority of residential placement services in Pennsylvania’s juvenile justice system are provided by private agencies. Educational services for adjudicated youth in private residential programs are generally provided in one of three ways—by host school district employees in district facilities or in the private facility; by intermediate unit (IU) employees; or by private provider employees themselves. In all cases, the host district can seek reimbursement from the resident district for the cost of educating the students. The applicable reimbursement rate, as well as the process for reimbursement, depends on who provides the educational services and where those services are provided.

The 2006 report specifically noted that private agencies explained that the children committed to their care needed year-round educational programming, as well as remedial educational support; but that the Public School Code only provides for reimbursement of 180 days of instruction per school year. This significant shortcoming can be addressed by amending the Human Services Code to provide that the provision of educational services beyond 180 days in residential programs (up to a maximum of 250 days of instruction/year), and the provision of remedial educational support not otherwise available through basic education programming, are reimbursable through the Needs-Based Budget process.

<sup>9</sup> *Reimbursement for Educational Services for Adjudicated Youth in Private Residential Facilities*, Legislative Budget and Finance Committee, February, 2006.

**Recommendation:**

➤ *It is recommended that the Governor support amending the Human Services Code to provide that the provision of educational services beyond 180 days in residential programs (up to a maximum of 250 days of instruction/year), and the provision of remedial educational support not otherwise available through basic education programs, are reimbursable through the Needs-Based Budget process.*

A legislative proposal to address this recommendation is provided on page 66.

***The Human Services Code must be amended to increase the rate of reimbursement for residential care for delinquent children ordered by the court following the court's consideration of the results of a validated risk/needs assessment instrument.***

It is no longer sound public policy to maintain a fiscal disincentive for institutional based services that are ordered by a court following the court's consideration of the results of a validated risk/needs assessment instrument. Increasingly, juvenile court judges in Pennsylvania are considering Youth Level of Service (YLS) recidivism risk levels prior to determining the dispositions in juvenile delinquency cases. Because this evidence-based practice should be encouraged as a matter of public policy, the costs of institutional care of a delinquent child ordered by a court following the court's consideration of a YLS risk/need determination should be reimbursed at an 80% the same rate as foster care and community residential care.

**Recommendation:**

➤ *It is recommended that the Governor support amending the Human Services Code to provide that institutional services for delinquent youth ordered by the court following the court's consideration of the results of a validated risk/needs assessment instrument shall*

*be reimbursed at the following rates through the county needs-based budget process:*

*Effective July 1, 2017 – 70%  
Effective July 1, 2018 – 80%*

The proposed amendments are found on Page 68.

***The Human Services Code must be amended to provide funding for indigent juvenile defense services.***

Juveniles who come within the jurisdiction of Pennsylvania's juvenile justice system are required to be represented by an attorney at every important hearing because all juveniles are presumed indigent and the waiver of counsel by juveniles has been virtually eliminated.<sup>10</sup> In addition, a juvenile may not enter an admission to an offense unless a mandatory written admission colloquy form has been reviewed and completed with the juvenile by an attorney and reviewed by the court.<sup>11</sup>

In 2015, juveniles alleged to be delinquent were represented by public defenders in 67.3% of formal delinquency proceedings.<sup>12</sup> Even though these due process protections are mandated by the Juvenile Act and the Pennsylvania Rules of Juvenile Court Procedure, the quality of representation provided by public defenders varies widely across the Commonwealth due to the lack of a state funding stream for these essential services.

The study of the Commonwealth's indigent defense system published in 2003 by the **Pennsylvania Supreme Court Committee on Racial and Gender Bias** concluded that the Supreme Court's indigent defense mandate had been ignored by the General Assembly, and was not being fulfilled in Pennsylvania. In 2011, the **Report of the Task Force and Advisory Committee on Services to Indigent Criminal Defendants**, developed in response to Senate Resolution 42 of 2007, concluded that ... "In the intervening eight years, the only significant change is that South Dakota and Utah now do provide some state funding for indigent defense, leaving Pennsylvania as the **only state** that does not appropriate or provide for so much as a penny toward assisting the counties in complying with *Gideon's* mandate."<sup>13</sup>

<sup>10</sup> Pa. R.J.C.P. 151 (relating to assignment of counsel), Pa. R.J.C.P. 152 (relating to waiver of counsel), 42 Pa.C.S. § 6337.1 (relating to right to counsel for children in dependency and delinquency proceedings).

<sup>11</sup> Pa. R.J.C.P. 407 (relating to admissions).

<sup>12</sup> 2015 *Pennsylvania Juvenile Court Dispositions*, Juvenile Court Judges' Commission, 2016, page 6.

<sup>13</sup> *A Constitutional Default: Services to indigent Criminal Defendants in Pennsylvania-Report of the Task Force on Services to Indigent Criminal Defendants*, Joint State Government Commission, December 2011, Page 1.

The 2011 report specifically addressed the issue of the lack of funding for indigent juvenile defense noting that ... **“Nowhere is the lack of resources, personnel, and funding available to meet the needs of indigent defense felt more keenly than in juvenile justice. Like other indigent defense, the defense of indigent juveniles receives no funding from the Commonwealth.”**<sup>14</sup> However, the report noted in a footnote that **“Some counties received small amounts that helped support indigent defense for juveniles in FY 2010–11 and earlier fiscal years through the Department of Public Welfare (DPW), but that funding has been terminated for FY 2011–12. There has never been a line item in the Commonwealth budget specifically for funding indigent defense, nor do our statutes provide for funding through a special fund or any similar mechanism.”**<sup>15</sup>

The funding to counties for indigent juvenile defense services referenced in the 2011 Senate Resolution 42 report was in the form of reimbursement through the needs-based budget process pursuant to Section 704.1(a)(5) of the Human Services Code.<sup>16</sup>

Although 62 P.S. § 704.1(a)(5) does not specifically provide for reimbursement of the costs for providing counsel or a guardian *ad litem* for a child in the context of a dependency proceeding under the Juvenile Act, or for the costs of providing counsel for an indigent child in the context of a delinquency proceeding, it had been the former DPW’s policy for a number of years to reimburse for these costs as “other like expenses” to those specifically set forth in (a)(5) incurred in proceedings under the Juvenile Act. Following the policy change by DPW in FY 2011–2012, DPW ceased reimbursing for indigent juvenile defense costs, but has continued to reimburse for the cost of providing counsel or a guardian *ad litem* for a child in the context of a dependency proceeding.

62 P.S. § 704.1(a)(5) should be amended to specifically require reimbursement for the costs of providing counsel or a guardian *ad litem* for a child in the context of a dependency proceeding, as well as the cost of providing counsel for an indigent child in the context of a delinquency proceeding. However, the language in (a)(5) that provides reimbursement for expenses related to the appointment of a “guardian *pendente lite*” should be deleted because the term is not relevant to Juvenile Act proceedings.

<sup>14</sup> Ibid., page 99.

<sup>15</sup> Ibid., page 1.

<sup>16</sup> 62 P.S. § 704.1 (relating to payments to counties for services to children).

<sup>17</sup> *Northwestern Youth Services, Inc. v. Comm. of Pa., Department of Public Welfare*, 66 A.2d 301 (Pa. 2013).

#### **Recommendation:**

➤ *It is recommended that the Governor support amending the Human Services Code to provide that indigent juvenile defense services are reimbursed at a 50% rate through the county needs-based budget process, the same rate as guardians-ad-litem and counsel in dependency proceedings.*

A legislative proposal to address this recommendation is provided on page 71.

***To ensure the continued availability of high quality services within Pennsylvania’s juvenile justice system, the legislative recommendations of the 2013 Rate Methodology Task Force must be enacted.***

The overwhelming majority of the services which are provided to children in both the child welfare and juvenile justice systems are delivered by the private sector. The quality and wide array of these services have contributed significantly to Pennsylvania’s status as a model juvenile justice system. However, concerns have been expressed for many years regarding the need to develop a fair and equitable process to determine allowable costs for private sector placement services. These services are funded through a combination of federal, state and local funds, and DHS is required to maintain necessary documentation to support the reimbursement of these services.

As a result of a lawsuit filed by several private service providers that challenged the issuance by then-DPW’s Office of Children, Youth and Families (OCYF) of a bulletin in 2008 that mandated counties and providers gather and forward certain fiscal information to DPW for the determination of maximum allowable state and federal Title IV-E reimbursement, the Supreme Court of Pennsylvania determined that DPW did not have the authority to institute the process through a DPW-issued bulletin, but should have followed the regulatory or legislative change process to require the submission of this cost information by the service providers. Upon issuance of the Supreme Court’s decision on April 24, 2013,<sup>17</sup> DPW ceased the review of provider fiscal packets.

These issues were specifically addressed by Act 55 of 2013, which was signed into law on July 9, 2013. Among the most significant provisions of Act 55 was the creation of a new Section 704.3 (relating to provider submissions)<sup>18</sup> in the Public Welfare Code, which provided that for FY 2013–2014, a private provider of placement services would be required to submit documentation of its costs of providing placement services to DPW and DPW would be required to use the documentation to the extent necessary, to support DPW’s claim for Federal funding and for state reimbursement for allowable direct and indirect costs incurred in the provision of out-of-home placement services.

DPW was required by Act 55 of 2013 to convene a task force to develop recommendations for a methodology to determine reimbursement for actual and projected costs, which are reasonable and allowable; and for the purchase of services from providers, and for other purchased services. DPW was specifically required to provide written recommendations for the purchase of placement services from providers to the General Assembly no later than April 30, 2014.

Pursuant to Act 55, DPW convened **The Rate Methodology Task Force** to develop recommendations for a methodology to determine reimbursement for actual and projected costs of child welfare services which are reasonable and allowable. The work of the Task Force included extensive research and analysis, and consultation with the Administration for Children and Families (ACF); a review of the rate methodology processes of other states; and a review of multiple rate methodology options. Ad hoc workgroups were established to develop the detailed recommendations for a rate methodology framework to the General Assembly based on the following concepts:

- **Cost Report/Audit Requirements**—development of a Cost Report for foster family care and congregate care providers to identify the total actual cost of care as well as identifying costs allowable under federal Title IV-E and state Act 148; development of independent auditor procedures for the review of provider cost reports (Agreed Upon Procedures), and the inclusion of a Rate Adjustment Factor as part of the process.
- **Standardized Service Descriptions/Standardized Position Descriptions**—allow

for the development of a uniform methodology for time studies, comparisons across providers in terms of costs and services, and a common understanding of job functions across service types; including recommendations for administrative, legislative and regulatory changes as outlined.

- **State Review Process**—includes a timeline and process for a state-level review of provider Cost Reports to make Title IV-E allowability decisions and monitor Act 148 funds; includes the recommendation for the development of a dispute resolution process to resolve areas of disagreement with the State Review Process findings.
- **County Review Process**—the development of a transparent county review and negotiation process that aligns the need for services, provider quality, and the reasonableness of costs as essential elements, while taking into account the timing of the needs-based plan and budget submission.
- **Mechanism for New Providers and New Services**—establishment of an alternate submission process based on budgeted costs for new providers, new placement services, and facilities licensed under Chapter 6400 regulations.<sup>19</sup>

The **Report and Recommendations of the Rate Methodology Task Force** were provided to the General Assembly by the former DPW on May 2, 2014. Based on the timelines included in Act 55, the report included a proposed interim procedure to ensure federal funding would not be jeopardized for the transition year FY 2014–2015. That procedure was set forth in Act 126 of 2014. The comprehensive report included a series of recommendations for DPW as well as a number of recommendations for legislative action.

Although DHS has taken steps toward implementing many of the DHS-focused recommendations, no action has been taken by the General Assembly regarding the critical issues that can only be addressed through the enactment of legislation. Although HB 1534 P.N. 2168 was introduced by Rep. Kerry Benninghoff on September 8, 2015 to address a number of the most significant of these issues, the bill was never considered by the House Committee on Health.

<sup>18</sup> 62 P.S. § 704.3 (relating to provider submissions).

<sup>19</sup> *Report and Recommendations of the Rate Methodology Task Force to the General Assembly*, Pennsylvania Department of Public Welfare, May 2014, p. 4.

**Recommendation:**

- *It is recommended that the Governor support the reintroduction of HB 1534 of the 2015–2016 legislative session in response to the legislative recommendations of the Rate Methodology Task Force convened pursuant to Act 55 of 2013.*

***The Commonwealth must ensure that services to children within Pennsylvania’s juvenile justice system are provided by a diverse, experienced, well-educated, and well-compensated workforce.***

The positive correlation between a well-educated and experienced workforce and positive outcomes for youth served is well established. Unfortunately, many public and private agencies providing essential services to youth within Pennsylvania’s juvenile justice system are experiencing increasingly serious challenges in recruiting and retaining a trained, competent, workforce that is racially culturally, and linguistically diverse. The reasons for this are varied and complex, and include, but are not limited to, non-competitive salaries and benefits; evening and overnight work requirements; limited advancement opportunities; the risks associate with working with an occasionally aggressive and volatile population; implicit biases; and negative public perceptions of the value of the work.

The quality and breadth of the private sector services provided within the juvenile justice system have been critical factors in Pennsylvania having been repeatedly been recognized as a national leader in juvenile justice policy and practice. If this status is to be maintained and if the JJSES goals of lower recidivism rates through evidence-based practices and long term positive outcomes for system-involved youth are to be achieved, it is essential that the Commonwealth develop and implement a comprehensive strategy to address this escalating workforce crisis.

**Recommendation:**

- *It is recommended that the Governor support the introduction and adoption of a joint House/Senate Resolution directing the Joint State Government Commission to undertake a comprehensive study of, and develop a report containing recommendations to address, the critical workforce crisis within the Commonwealth’s juvenile justice and child welfare service delivery system.*

***The Commonwealth must ensure that every county has access to high quality juvenile detention services and detention alternatives.***

Throughout Pennsylvania’s juvenile justice system, there is a strong commitment to the philosophy that secure detention should be used only after less restrictive alternatives have been considered and rejected. The Juvenile Act<sup>20</sup> and Pennsylvania Rules of Juvenile Court Procedure<sup>21</sup> authorize the secure detention of juveniles for brief periods of time and for very limited purposes. Moreover, the Juvenile Act specifically provides that its purposes are to be achieved by employing evidence-based practices whenever possible and, in the case of a delinquent child, by using the least restrictive intervention that is consistent with the protection of the community, the imposition of accountability for offenses committed and the rehabilitation, supervision and treatment needs of the child.<sup>22</sup>

Admissions to secure juvenile detention centers declined 52.4% from 2007 to 2015 due to a variety of reasons, including the increased use of detention risk assessment instruments, and the development of evening reporting centers and other alternatives to detention. As detention center populations decline, the cost-per-juvenile to operate the programs can increase dramatically.

Although there is a strong commitment to utilizing secure detention only after less restrictive alternatives

<sup>20</sup> See 42 Pa.C.S. § 6325 (relating to detention of child), 42 Pa.C.S. § 6326 (relating to release or delivery to court), 42 Pa.C.S. § 6331 (relating to release from detention or commencement of proceedings), 42 Pa.C.S. § 6332 (relating to informal hearing), and 42 Pa.C.S. § 6335 (relating to release or holding of hearing).

<sup>21</sup> See Pa.R.J.C.P. 240 (relating to detention of juvenile), Pa.R.J.C.P. 241 (relating to notice of detention hearing), Pa.R.J.C.P. 242 (relating to detention hearing), Pa.R.J.C.P. 243 (relating to detention rehearings), Pa.R.J.C.P. 313 (relating to detention from intake), Pa.R.J.C.P. 404 (relating to prompt adjudicatory hearing), Pa. R.J.C.P. 409 (relating to adjudication of delinquency), Pa R.J.C.P. 510 (relating to prompt dispositional hearing), Pa. R.J.C.P. 605 (relating to detaining juvenile for modification of the dispositional order or violation of probation), Pa.R.J.C.P. 610 (relating to dispositional and commitment review), and Pa. R.J.C.P. 612 (relating to modification or revocation of probation).

<sup>22</sup> 42 Pa.C.S. § 6301(b) (relating to purposes).

have been considered and rejected, there are situations in every jurisdiction that require the use of a secure detention facility. When this level of custody is needed in the case of a particular juvenile, it is essential that high quality secure detention services be available in close proximity to a juvenile's community.

**However, at present, only 14 juvenile detention centers are providing secure detention services within Pennsylvania's juvenile justice system, and in an increasing number of jurisdictions, these services can be many hours away, limiting the access that the juvenile has to his legal counsel, and to his family.** In addition, access to schools and community services can be compromised, as can the scheduling of, and preparation for, assessments, evaluations and hearings.

Although the Juvenile Act requires the Department of Human Services to develop or assist in the development of approved shelter programs in each county for children taken into custody, and for children referred to or under the jurisdiction of the court,<sup>23</sup> no such re-

quirement exists for juvenile detention services. Consequently, the decision of whether to continue operating a particular center is solely that of the county or service provider that owns the facility. The secure detention centers that remain open in the Commonwealth are not distributed evenly throughout the Commonwealth.

The Commonwealth must develop a strategy to ensure the availability a range of detention alternatives in every county and the availability of high quality secure detention services within a reasonable proximity of every county.

**Recommendation:**

- *It is recommended that the Governor request the JJDPC to develop a strategy to ensure that every county has access to high quality juvenile detention services and detention alternatives.*

<sup>23</sup> 42 Pa.C.S. § 6327(f) (relating to development of approved shelter care programs).



# Introduction and Background



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# Introduction and Background

The Pennsylvania Commission on Crime and Delinquency (PCCD) is required under 71 P.S. §1190.23 to “*prepare and, at least every two years, update a comprehensive juvenile justice plan on behalf of the Commonwealth based on an analysis of the Commonwealth’s needs and problems, including juvenile delinquency prevention.*” Responsibility for development of this Plan is delegated to the PCCD Juvenile Justice and Delinquency Prevention Committee (JJJPC).

**This document provides a series of recommendations to:**

- **lay the foundation for a comprehensive delinquency and violence prevention strategy for the Commonwealth;**
  - **expedite the implementation of Pennsylvania’s highly regarded Juvenile Justice System Enhancement Strategy (JJSES); and**
  - **address key legislative and policy matters of critical importance to the achievement of these goals.**
- 

## Evidence-based Policy and Practice: PCCD’s Comprehensive Strategy for Preventing Violence, Delinquency, and Other Adolescent Problem Behaviors

PCCD has a proven track record in leading the development and implementation of research-based approaches that have proven successful in preventing youth violence, delinquency, and many other adolescent problem behaviors. However, as explained in detail beginning on page 27, significant reductions over the last decade in PCCD’s violence prevention appropriation, and the agency’s previous evidence-based prevention and intervention appropriation, have dramatically reduced PCCD’s capacity to assist communities in addressing these critically important issues.

### **The *Communities That Care* risk-focused prevention model**

PCCD’s evidence-based approach to prevention began in 1994 when PCCD, the Juvenile Court Judges’ Commission (JCJC), and other juvenile justice system leaders concluded that the *Communities That Care (CTC)*<sup>24</sup> risk-focused prevention model should be the foundation of the Commonwealth’s approach to preventing juvenile delinquency and youth violence.

Following initial planning and assessment grants to eight counties and a training and technical assistance grant to the JCJC’s Center for Juvenile Justice Training and Research (CJJT&R) at Shippensburg University in 1994, the *CTC* initiative subsequently became a key focus of the Governor’s Community Partnership for Safe Children led by then-First Lady Michele Ridge from 1995–2002. The initiative gained national attention as the most comprehensive state-wide initiative of its kind and the “undisputed leader in juvenile crime preven-

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<sup>24</sup> [www.communitiesthatcare.net](http://www.communitiesthatcare.net).

<sup>25</sup> Hurst III, Hunter. National Center for Juvenile Justice, *Hunter of Delinquency*, 2001.

tion<sup>25</sup> with approximately 120 *CTC* sites in communities throughout the Commonwealth. Each of these sites completed an exhaustive assessment of risks to youth in their respective communities using the *CTC* model, identified their priority risks, and selected evidence-based programs selected specifically to address those risk factors.

### ***Blueprints for Healthy Youth Development***

In 1996, with funding assistance from PCCD, the Center for the Study and Prevention of Violence (CSPV), at the Institute of Behavioral Science, University of Colorado Boulder, designed and launched a national youth prevention initiative to identify and replicate violence, delinquency and drug prevention programs that had been demonstrated as effective. The project, initially called “*Blueprints for Violence Prevention*,” identified prevention and intervention programs that met a strict scientific standard of program effectiveness. Today, “Blueprints” has been rebranded as “*Blueprints for Healthy Youth Development*”<sup>26</sup> and is funded by the Annie E. Casey Foundation. With funding from the Casey Foundation, outcomes have been expanded to include not only problem behavior, but also education, emotional well-being, physical health, and positive relationships.

The identification of *Blueprints Model* and *Promising* programs is based upon an initial review by CSPV of a program’s evaluation evidence and a final review and recommendation from a distinguished advisory board, comprised of six experts in the field of positive youth development. More than 1,400 programs have been reviewed, but only a small portion of them have been designated as model or promising programs based on their ability to effectively improve developmental outcomes in the areas of behavior, education, emotional well-being, health and positive relationships. Currently, only 14 programs have been designated as *Blueprints* model programs.

### ***PCCD’s Resource Center for Evidence-Based Prevention and Intervention Programs and Practices***

In 2008, PCCD created **The Resource Center for Evidence-Based Prevention and Intervention Programs and Practices** to support the proliferation and

sustainability of high quality and effective juvenile justice intervention and delinquency prevention programs in Pennsylvania. In August 2014, PCCD’s **Resource Center** was recognized by the National Criminal Justice Association (NCJA) as the **Outstanding Criminal Justice Program for the northeast region of the United States**.

The Resource Center has three main focuses:

- supporting the quality implementation of established evidence-based program models;
- incorporating research-based principles and practices into existing local juvenile justice programs; and
- supporting community planning and implementation of evidence-based prevention program models in Pennsylvania.

PCCD’s Prevention initiatives are guided by the JJDCP’s Prevention Subcommittee, which includes representatives from PCCD, the Department of Human Services (DHS), the Juvenile Court Judges’ Commission (JCJC), the Pennsylvania Council of Chief Juvenile Probation Officers, the Department of Education (PDE), Department of Health (DOH), Department of Drug and Alcohol Programs (DDAP), and other stakeholders.

The **Evidence-based Prevention and Intervention Support Center (EPISCenter)**,<sup>27</sup> which is housed within the Prevention Research Center (PRC) at Penn State University, is funded by PCCD and the DHS Office of Children, Youth, and Families. The primary goal of the **EPISCenter** is to advance high quality implementation, impact assessment, and sustainability of specific evidence-based programs in order to maximize the positive impact for the Commonwealth’s youth, families, and communities. The **EPISCenter** plays a fundamental role in connecting science to policy and practice.

As detailed on Page 43, **the EPISCenter provides technical assistance and support for a series of *Blueprints Model* and *Promising* programs**, and also provides detailed data regarding the functioning and impact of two of the best known ***Blueprints Model* programs**: Multisystemic Therapy (MST), and Functional Family Therapy (FFT).

<sup>26</sup> [www.blueprintsprograms.com](http://www.blueprintsprograms.com).

<sup>27</sup> <http://episcenter.psu.edu/>.

### ***PCCD's Evidence-based Approach: A Proven Foundation for a Comprehensive Prevention Strategy for the Commonwealth***

The expansion of *CTC* and the implementation of *Blueprints* programs with fidelity have formed the foundation of PCCD's comprehensive prevention strategy. The significant benefit to the Commonwealth's citizens and communities from PCCD's evidence-based approach to prevention is well established. From 1998 through 2002, state funding for *CTC* and effective, evidence-based programs grew from \$2 million to \$16 million—a total of \$60 million was invested over a six-year span. In 2008, the Prevention Research Center at Pennsylvania State University completed a cost benefit analysis of PCCD's \$60 million investment and concluded that taxpayers saved over \$317 million through reductions in crime, system processing, impact on victims, and reductions in welfare dependence, producing a conservatively estimated return of \$5.30 for every \$1.00 invested.<sup>28</sup>

In another study of PCCD's *Communities That Care (CTC)* initiative, Penn State researchers reported that youth in *CTC* communities experienced significant reductions in drug abuse and delinquency while improving school performance in standardized tests. This longitudinal study by the Prevention Research Center examined changes in youth over a five-year period, followed 419 classroom groups of students from 2001 to 2005, and included more than 231,000 youth reports. The study found that youth in *CTC* communities using evidence-based programs showed significantly better adolescent development than youth in comparison communities. The *CTC* youth had stronger bonds to their schools, families and communities, and were less influenced by antisocial peers. Most importantly,

the youth in *CTC* communities reported nearly 11% less delinquency over the five-year period, and more than 33% better academic achievement.<sup>29</sup> Moreover, a national study of *Communities That Care* in 12 locations showed that youth residing in *CTC* communities were significantly less likely to engage in delinquency, drug abuse, and have fewer incidents of school dropout than youth living in comparable communities without *CTC*.<sup>30</sup>

Currently, the **EPISCenter** is providing technical assistance and training to approximately 60 *CTC* coalitions throughout the Commonwealth including a cohort of 15 *CTC* sites that were funded beginning in January 2015. Through their rejuvenated funding effort for *CTC*, PCCD continues to support the **EPISCenter** to provide active and proactive technical assistance to communities as they adopt the *CTC* data-driven, comprehensive approach to prevention planning while also supporting one of the first broad-scale implementations of e*CTC*, the new web-based *CTC* curriculum developed by the Social Development Group at the University of Washington. It is through this multi-sector, multi-directional approach that communities increase their ability to see population-level change over time.

**As explained in detail beginning on page 49, it is essential that the Commonwealth develop a comprehensive inter-departmental, evidence-based strategy to prevent delinquency, youth violence, and other adolescent problem behaviors, including substance abuse, teen pregnancy and school failure. PCCD is uniquely positioned to coordinate this effort by virtue of its statutory mandate, proven track record, and the structure it has created to provide the necessary training and technical assistance to community leaders, services providers and others.**

<sup>28</sup> Bumbarger, B., et al., *The Economic Return on PCCD's Investment in Research-based Programs: A Cost-Benefit Assessment of Delinquency Prevention in Pennsylvania*. Pennsylvania State University, 2008 and Kuklinski, M. R., Briney, J. S., Hawkins, J. D., & Catalano, R. F. (in press) Cost-benefit analysis of *Communities That Care* outcomes at eighth grade.

<sup>29</sup> Feinberg, M.E., Greenberg, M.T., Osgood, W.O., Sartorius, J., Bontempo, D.E. (2010) *Can Community Coalitions Have a Population Level Impact on Adolescent Behavior Problems?* *CTC in Pennsylvania*, "Prevention Science."

<sup>30</sup> Hawkins, J.D., et al., *Results of a Type 2 Translational Research Trial to Prevent Adolescent Drug Use and Delinquency: A Test of Communities That Care*. Archives of "Pediatrics and Adolescent Medicine," 163(9), 789-798. 2009.

# Pennsylvania's Juvenile Justice System: A Model for the Nation

Pennsylvania has been at the forefront in the development of juvenile law and social policy for more than a century. Several key legislative actions were especially critical to the development and evolution of a juvenile justice system that is uniquely positioned to continue as a model for the nation, including the legislation creating the Juvenile Court Judges' Commission (JCJC) in 1959; the adoption of Pennsylvania's Juvenile Act in 1972 in response to the rulings of the United States Supreme Court in the cases of *Kent v. United States* (1966),<sup>31</sup> *In re: Gault* (1967),<sup>32</sup> and *In re: Winship* (1970);<sup>33</sup> the enactment of Act 148 of 1976 to create a fiscal incentive for the provision of private sector, in-home, and community-based services to dependent and delinquent children; and the enactment of Act 274 of 1978 establishing the Pennsylvania Commission on Crime and Delinquency (PCCD).

Pennsylvania's status as a national leader in juvenile justice policy and practice was further enhanced by its approach to addressing increasing rates of violent juvenile crime in the early to mid-1990s. While, at that time, the juvenile justice reform strategies of most states consisted primarily, if not exclusively, of placing more juvenile offenders within the jurisdiction their respective criminal justice systems, Pennsylvania re-defined the very mission of its juvenile justice system.

In January of 1995, then-newly elected Governor Tom Ridge called the General Assembly into special session the day following his inauguration to focus exclusively on the issue of crime. Special Session No. 1 of 1995 would see the passage of 37 separate bills, 15 of which affected the juvenile justice system in some way. Together, these laws represented the most dramatic legislative changes in the history of the Commonwealth's juvenile justice system.

The most significant of the new laws was Act 33 of Sp. Sess. No. 1 of 1995. This new law included provisions that excluded designated felonies from the definition of "Delinquent act," subjecting them to initial criminal court jurisdiction, but with the possibility that such cases could be transferred from criminal proceedings if a judge determined that it was in the public interest to do so based on criteria set forth in statute. However, the most important provisions of Act 33 amended the purpose clause of the Juvenile Act to establish the following mission for Pennsylvania's juvenile justice system based on a legislative proposal developed by the Juvenile Court Judges' Commission:

***"consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community."***<sup>34</sup>

This statutory mission for Pennsylvania's juvenile justice system is rooted in the philosophy of "restorative justice," which gives priority to repairing the harm done to crime victims and communities, and defines offender accountability in terms of assuming responsibility and taking action to repair harm. The "balanced attention" mandates in the Juvenile Act provide the framework for restorative justice, and are premised on the concept that the clients of the juvenile justice system include the crime victim, the community, and the offender, and that each should receive "balanced attention" and gain tangible benefits from their interactions with Pennsylvania's juvenile justice system.

PCCD's then-Juvenile Advisory Committee (JAC), the predecessor to the JJDPC, would play a critical role in ensuring that this new system mission was understood and would be achieved. In a letter to former JAC/JJDPC Chair, Dr. Ronald E. Sharp, dated June 25, 1996, Governor Ridge charged the JAC with the responsibility for ... ***"developing a strategic plan to take Pennsylvania's juvenile justice system into the next century."***

The JAC immediately began the process of determining how to accomplish this task. The JAC believed that that the new legislative "balanced attention" mandates must be at the heart of any juvenile justice reform efforts, and serve as the foundation for the development of the strategic plan. On the basis of this belief, the JAC adopted the following mission statement for Pennsylvania's juvenile justice system:

<sup>31</sup> *Kent v. United States*, 383 U.S.541 (1966).

<sup>32</sup> *In re: Gault*, 387 U.S.1 (1967).

<sup>33</sup> *In re: Winship*, 397 U.S. 358 (1970).

<sup>34</sup> 42 Pa.C.S. § 6301(b) (relating to purposes).

**“JUVENILE JUSTICE:  
COMMUNITY PROTECTION;  
VICTIM RESTORATION;  
YOUTH REDEMPTION.”**

*Community Protection* refers to the right of all Pennsylvania citizens to be and feel safe from crime.

*Victim Restoration* emphasizes that, in Pennsylvania, a juvenile who commits a crime harms the victim of the crime and the community, and thereby incurs an obligation to repair that harm to the greatest extent possible.

*Youth Redemption* embodies the belief that juvenile offenders in Pennsylvania have strengths, are capable of change, can earn redemption, and can become responsible and productive members of their communities.

Furthermore, all of the services designed and implemented to achieve this mission and all hearings and decisions under the Juvenile Act—indeed all aspects of the juvenile justice system—must be provided in a fair and unbiased manner. The United States and Pennsylvania Constitutions guarantee rights and privileges to all citizens, regardless of race, color, creed, gender, national origin, or handicap.

This mission statement which, in the words of former JAC member Judge Emanuel A. Cassimatis, described the purpose of the system “briefly, and yet completely,” was presented to Governor Ridge on July 21, 1997 in conjunction with the presentation of the strategic plan.

The JAC also adopted a set of “Guiding Principles for Pennsylvania’s Juvenile Justice System,” and PCCD, upon the recommendation of the JAC and subsequently the JJDPC, provided significant funding to support comprehensive system-wide training, technical assistance, and an exceptional array of high quality written materials to ensure that the system’s balanced and restorative justice mission was being achieved.

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## Pennsylvania’s *Models for Change* Partnership with the MacArthur Foundation

Pennsylvania’s strong commitment to its statutory mission, and its comprehensive approach to juvenile justice reform, continued to garner national attention and, in 2004, The John D. and Catherine T. MacArthur Foundation selected Pennsylvania as the first state to participate in its *Models for Change* juvenile justice reform initiative. According to the MacArthur Foundation ... “Pennsylvania was chosen because it is considered a “bellwether” state in juvenile justice, it has a favorable reform climate, and it seems poised to become an exemplary system. There are strong partnerships among Pennsylvania’s stakeholders—judges, district attorneys, public defenders, probation departments, community leaders, and city, county, and state officials—and considerable consensus about the strengths and weaknesses of the state’s juvenile justice system.”<sup>35</sup>

The MacArthur Foundation’s choice of Pennsylvania as the first *Models for Change* state was a tribute to all of the juvenile justice reforms that had already been accomplished. The Foundation explicitly sought to partner with a “bellwether” state—that is, a state whose leadership would be followed by other states, and whose example would be watched nationally. The Foundation chose Pennsylvania following an extensive multi-state search, citing the commitment and vision of the state’s juvenile justice leadership, including specifically the JJDPC, PCCD, JCJC, and DPW (now DHS); the high level of communication and cooperation among its juvenile justice stakeholder groups, especially the Pennsylvania Council of Chief Juvenile Probation Officers; and the broad consensus that had formed

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<sup>35</sup> Youth Law Center, *Keystones for Reform: Promising Juvenile Justice System Policies and Practices in Pennsylvania*, 2005. pp. 1-2.

around the system's strengths and weaknesses, and the state's efforts to address its priorities. The importance of the JJDPC in the MacArthur Foundation's selection process was especially noteworthy. As described by Robert G. Schwartz, Juvenile Law Center Executive Director and former JJDPC member, ... "The Foundation recognized JJDPC's leadership role, and it gained enormous synergy by aligning its *Models for Change* themes with those that the JJDPC had identified as important ... The JJDPC partnership with *Models for Change* demonstrates how valuable public-private partnerships can be, especially in terms of innovation and major policy shifts."<sup>36</sup>

Pennsylvania's *Models for Change* partnership with the MacArthur Foundation focused on three targeted areas of improvement: (1) the system of *aftercare* services and supports, (2) the coordination of *mental health services* for juvenile justice-involved youth, and (3) *disproportionate minority contact* with the juvenile justice system; each of which was already a priority of the JJDPC.

*Models for Change* accelerated the pace of Pennsylvania's efforts at reform at both the state and local levels, and supported a series of evidence-based practices, including the introduction of screening and assessment instruments and targeted evidence-based interventions.

## Pennsylvania's Juvenile Justice System Enhancement Strategy (JJSES)

In June 2010, with the Commonwealth's five-year partnership with the MacArthur Foundation drawing to a close, the Executive Committee of the Pennsylvania Council of Chief Juvenile Probation Officers and Juvenile Court Judges' Commission (JCJC) staff agreed, at their annual strategic planning meeting, that it was essential to develop a strategy to consolidate the various *Models for Change*-related initiatives "under one roof," and to sustain and enhance the gains of the previous five years. Following an intensive review of the impact of and the many lessons learned through this partnership, it was agreed that the JCJC and Pennsylvania Council of Chief Juvenile Probation Officers would work together with PCCD and other system partners to develop and implement a comprehensive "Juvenile Justice System Enhancement Strategy" (JJSES) as the means to achieve this goal, and that then-JCJC Deputy Director Keith Snyder would assume responsibility for coordinating the initiative.

The first concrete step in developing Pennsylvania's JJSES was to articulate the purpose of the initiative. On November 4, 2010, the Juvenile Court Judges' Commission (JCJC) unanimously endorsed the following Statement of Purpose as the foundation for Pennsylvania's Juvenile Justice System Enhancement Strategy:

### JJSES Statement of Purpose

**We dedicate ourselves to working in partnership to enhance the capacity of Pennsylvania's juvenile justice system to achieve its balanced and restorative justice mission by**

- **employing evidence-based practices, with fidelity, at every stage of the juvenile justice process;**
- **collecting and analyzing the data necessary to measure the results of these efforts; and,**  
**with this knowledge,**
- **striving to continuously improve the quality of our decisions, services and programs.**

In addition to the JCJC, the JJSES Statement of Purpose has been endorsed by the JJDPC; the Pennsylvania Council of Chief Juvenile Probation Officers; the Juvenile Court Section of the Pennsylvania Conference of State Trial Judges; the Juvenile Detention Centers Association of Pennsylvania (JDCAP); the Pennsylvania Council of Children, Youth and Family Services; the Pennsylvania Community Providers Association; and many individual service provider agencies.

The JCJC is coordinating the implementation of the JJSES with the assistance of the JJSES Leadership Team, comprised of key leaders from the Pennsylvania Council of Chief Juvenile Probation Officers, PCCD's Office of Juvenile Justice and Delinquency Prevention, and the JCJC.

<sup>36</sup> Robert G. Schwartz, *Pennsylvania and MacArthur's Models for Change—The Story of a Successful Public-Private Partnership* (Juvenile Law Center, 2013) Chapter IV.

## The JJSES Foundation: Evidence-based juvenile justice practices

Essential to the underlying philosophy of the JJSES is the concept that juvenile justice interventions and programs are considered effective when they reduce a juvenile's risk to reoffend and that the application of evidence-based practices will enhance public safety. As explained in the JJSES Monograph, “**Evidence-based practice’ simply means applying what we know in terms of research to what we do in our work with youth, their families, and the communities in which we live. It is the progressive, organizational use of direct, current scientific evidence to guide and inform efficient and effective services.**”<sup>37</sup>

The architects of the JJSES believe that it is through the use of research evidence and the demonstration of outcomes that Pennsylvania's juvenile justice system can achieve and confirm the effectiveness of its statutory balanced and restorative justice mission.

### Statewide implementation of the YLS risk/needs assessment

The principles of *risk*, *need*, and *responsivity* form the foundation of evidenced-based juvenile justice practices. As summarized in the JJSES Monograph, the *risk principle* helps identify *who* should receive juvenile justice interventions and treatment. The *need principle* focuses on *what* about the young person must be addressed. The *responsivity principle* underscores the importance of *how* treatment should be delivered, with behavioral and cognitive behavioral skill-building techniques being the most effective.<sup>38</sup>

In June 2008, the Executive Committee of the Pennsylvania Council of Chief Juvenile Probation Officers and staff from the JCJC undertook a comprehensive review of various risk assessment tools designed specifically for juvenile offenders. With the assistance of the National Youth Screening and Assessment Project (NYSAP) and support from the MacArthur Foundation, members of the Executive Committee chose to pilot the **Youth Level of Service/Case Management Inventory (YLS/CMI)** risk assessment instrument. The YLS/CMI is a valid and reliable risk instrument that assesses risk for recidivism by measuring 42 risk/need factors within eight domains: **prior and current offenses** (antisocial history); **attitudes/orientation** (antisocial thinking); **personality/behavior** (antisocial temperament); **peer relations** (antisocial companions); **family circumstances/parenting; education/employment; substance abuse; and leisure/recreation.**

Any of the domains may also be identified as an area of strength. Ultimately, a youth is assigned an overall risk level of **Low, Moderate, High, or Very High**, based on the aforementioned domains and other factors gathered through a structured interview/information-gathering process. The assessed risk level is to be used to inform the juvenile probation officer and juvenile court judge throughout the process of determining case dispositions, as well as supervision and intervention targets for juvenile offenders.

With the strong support of the Pennsylvania Council of Chief Juvenile Probation Officers, the JCJC, and PCCD, implementation of the YLS/CMI throughout Pennsylvania's juvenile justice system became a realistic goal. In FY 2013–2014, the JCJC approved a new allocation methodology for the agency's Juvenile Probation Services grant program to counties, following endorsement of the concept by the Executive Committee of the Pennsylvania Council of Chief Juvenile Probation Officers.

The new methodology included a requirement that a county's eligibility for any JCJC grant funds would be contingent upon the submission of a plan to the JCJC that must address:

- The implementation of the YLS risk/need assessment instrument;
- The development of recommendations to the court based upon the YLS results, including the identified risk and needs of each juvenile; and
- The development and implementation of a case plan based upon YLS results, which targets services to meet the identified risk and needs of each juvenile.

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<sup>37</sup> *Pennsylvania's Juvenile Justice System Enhancement Strategy—Achieving Our Balanced and Restorative Justice Mission Through Evidence-based Policy and Practice* (Juvenile Court Judges' Commission and Pennsylvania Council of Chief Juvenile Probation Officers, April 2012) p.5.

<sup>38</sup> *Ibid.*, p.8.

This policy decision of the JCJC has had a dramatic impact on the pace of YLS implementation. Currently, 66 of Pennsylvania's 67 counties are in the process of implementing the YLS, and juvenile delinquency dispositions and case plans throughout the juvenile justice system are increasingly being crafted and implemented to meet the specific risk and needs of each juvenile based on the results of the YLS. The number of YLS administrations and re-administrations in Pennsylvania's juvenile justice system grew from approximately 5,600 in 2010 to nearly 25,600 in 2015.

## Statewide Baseline Recidivism Rates for Pennsylvania's Juvenile Justice System

The development of statewide and county-specific baseline recidivism rates is a particularly noteworthy JJSES accomplishment. For the purposes of this research, recidivism is defined as a subsequent adjudication of delinquency or conviction in criminal court for a misdemeanor or felony offense within two years of case closure; with the exception of expunged cases, which were not available for inclusion in this research. These rates, which are described in more detail on page XX, will be one important benchmark against which the impact of the JJSES can be measured in individual jurisdictions, and on a statewide basis.

State-wide recidivism rates, by year, for the six years studied thus far are as follows:

- 20.3% (cases closed in 2007 n=18,882 cases)
- 21.8% (cases closed in 2008 n=18,910 cases)
- 22.8% (cases closed in 2009 n=18,439 cases)
- 21.6% (cases closed in 2010 n=16,800 cases)
- 18.5% (cases closed in 2011 n=18,203 cases)
- 19.2% (cases closed in 2012 n=19,208 cases)<sup>39</sup>

**The 18.5% recidivism rate for cases closed in 2011 represented approximately a 14% reduction from the 21.6% recidivism rate for cases closed in 2010, as well as a 14% reduction from the four-year average recidivism rate of 21.6% for cases closed in 2007, 2008, 2009, or 2010. This dramatic reduction in the statewide recidivism rate for cases closed in 2011 was especially significant because 2011 was the first year that the implementation of evidence-based practices through the JJSES could reasonably have been expected to have had an impact. Although the statewide recidivism rate for cases closed in 2012 rose to 19.2%, that rate is 11% lower than the pre-JJSES recidivism rate for cases closed in 2007–2010.**

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<sup>39</sup> *The Pennsylvania Juvenile Justice Recidivism Report: Juveniles with Cases Closed in 2007, 2008, 2009, 2010, 2011 and 2012* (Pennsylvania Juvenile Court Judges' Commission, 2016).

## Pennsylvania's Juvenile Justice System Trends

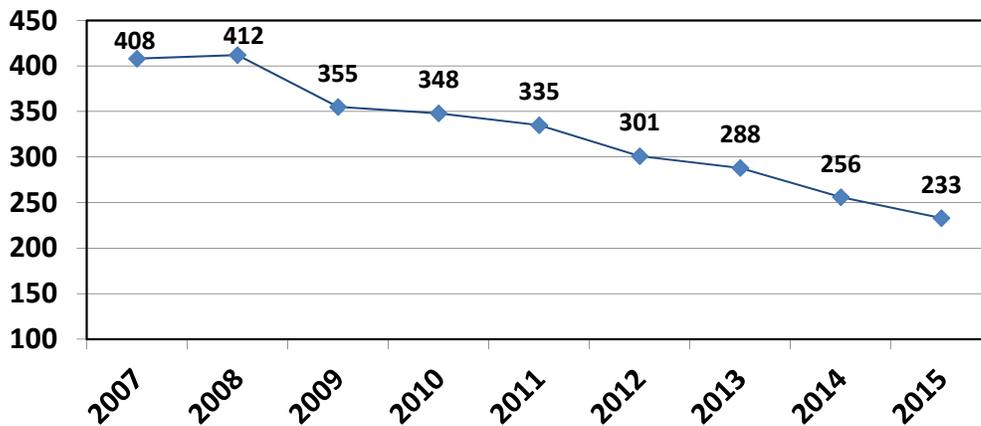
- *Recent trends regarding juvenile violent crime arrest rates, juvenile delinquency dispositions, juvenile delinquency placements, juvenile detention center admissions, and juvenile delinquency placement costs all serve to confirm the efficacy of the evidence-based practices that now form the foundation of Pennsylvania's juvenile justice system*
- In 2015, the juvenile arrest rate for violent crime, 233/100,000 juveniles, was 42.9% lower than the 2007 rate of 408/100,000 juveniles, and 33% lower than the 2010 rate of 348/100,000 juveniles.

### Pennsylvania Juvenile Arrest Rates for Violent Crimes 2007–2015\*

(rate per 100,000 juveniles)

(Includes murder, rape, robbery, aggravated assault)

Source: Juvenile Court Judges' Commission from PA State Police UCR Reports



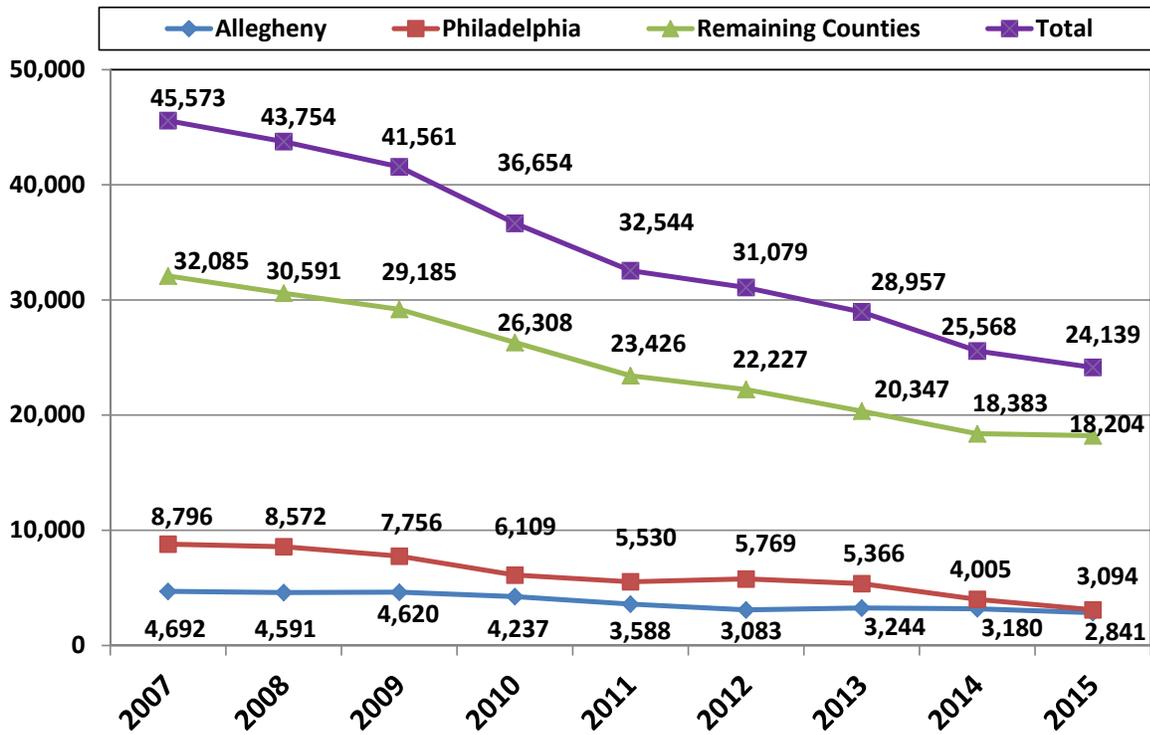
\* 2015 arrests are an estimate from PA State Police UCR website

- PA juvenile delinquency dispositions of new allegations declined by 47.0% from 2007–2015. There were 21,434 fewer delinquency dispositions in 2015 compared to 2007.

### Pennsylvania Juvenile Delinquency Dispositions of New Allegations 2007–2015

(Excludes disposition reviews and placement reviews)

Source: Juvenile Court Judges' Commission

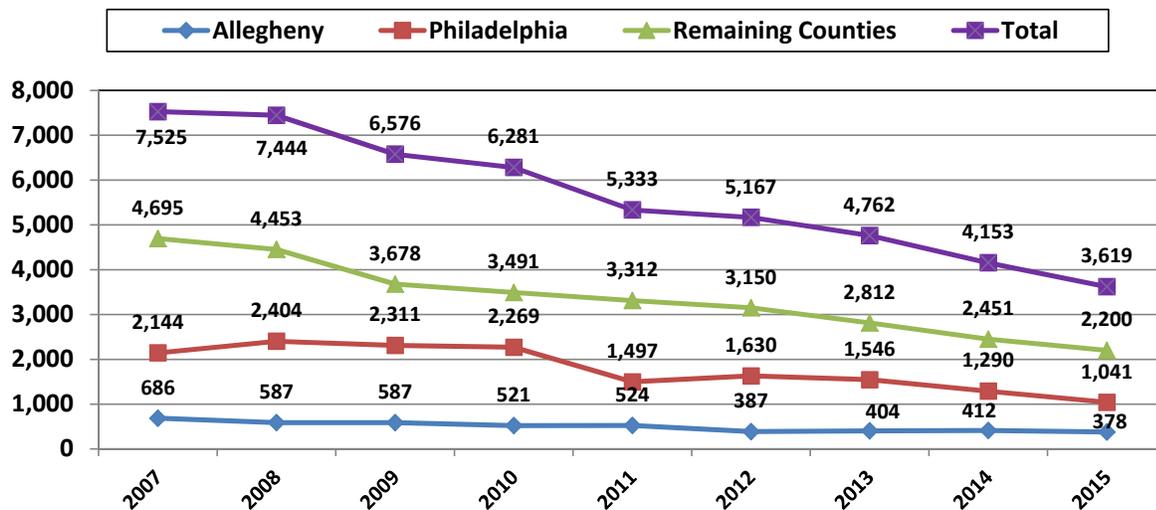


- PA juvenile delinquency placements declined by 51.9% from 2007–2015. There were 3,906 fewer delinquency placements in 2015 than 2007.

### Pennsylvania Juvenile Delinquency Placements 2007–2015

(Includes disposition reviews but excludes placement reviews)

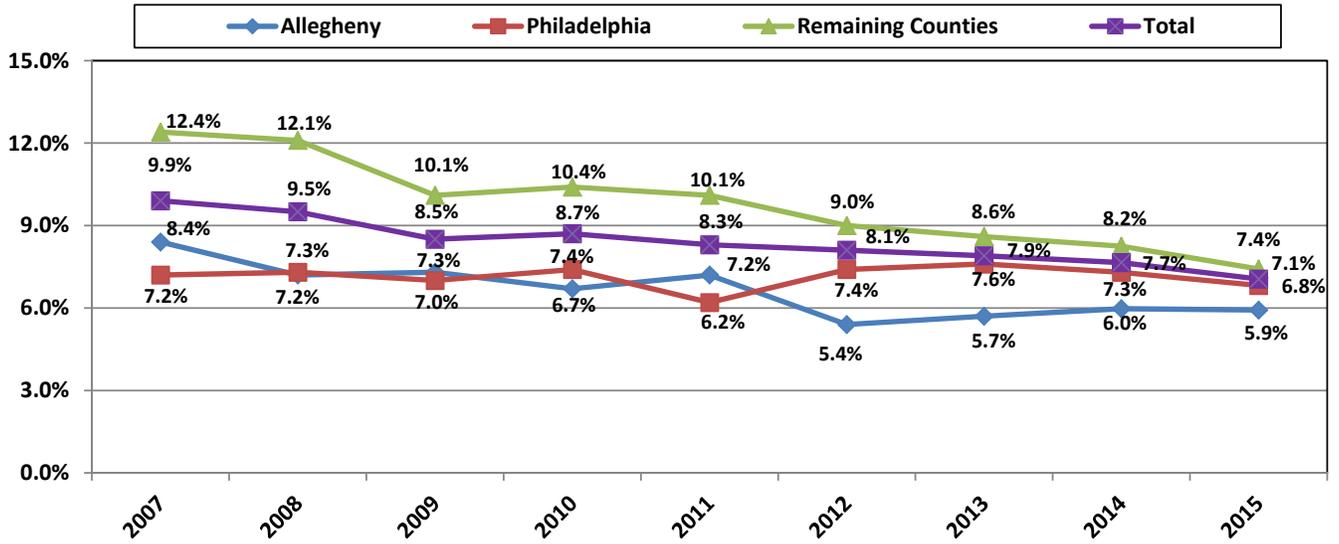
Source: Juvenile Court Judges' Commission



- PA juvenile delinquency placements as a percent of dispositions decreased from a high of 9.9% in 2007 to a low of 7.1% in 2015.

### Pennsylvania Juvenile Delinquency Placements as a Percent of Dispositions 2007–2015

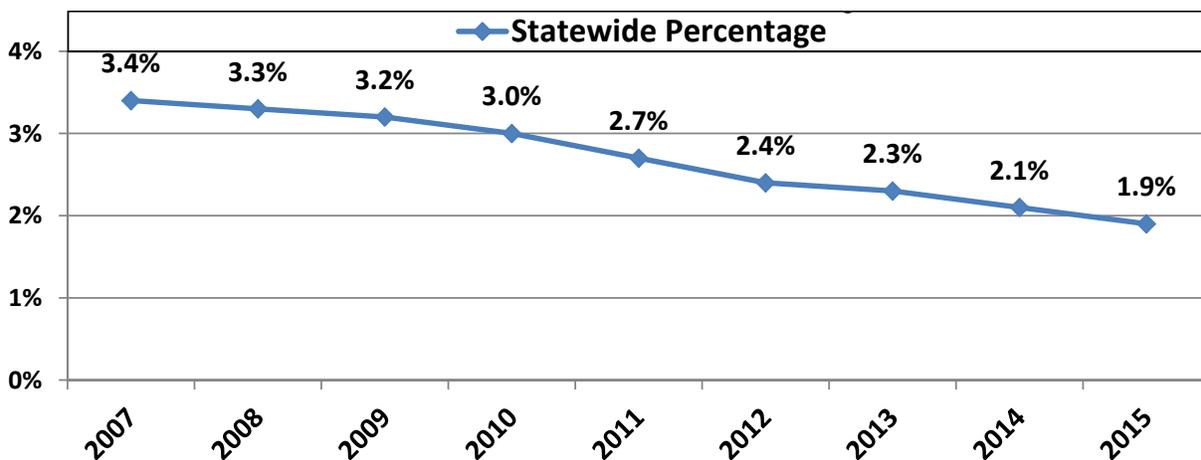
(Includes disposition reviews but excludes placement reviews)  
Source: Juvenile Court Judges' Commission



- Between 2007 and 2015, the rate of juvenile delinquency dispositions as a percent of the Pennsylvania juvenile population *declined by 44%*, from 3.4% to 1.9%.

### Pennsylvania Juvenile Delinquency Placements as a Percent of Pennsylvania Juvenile Population 2007–2015

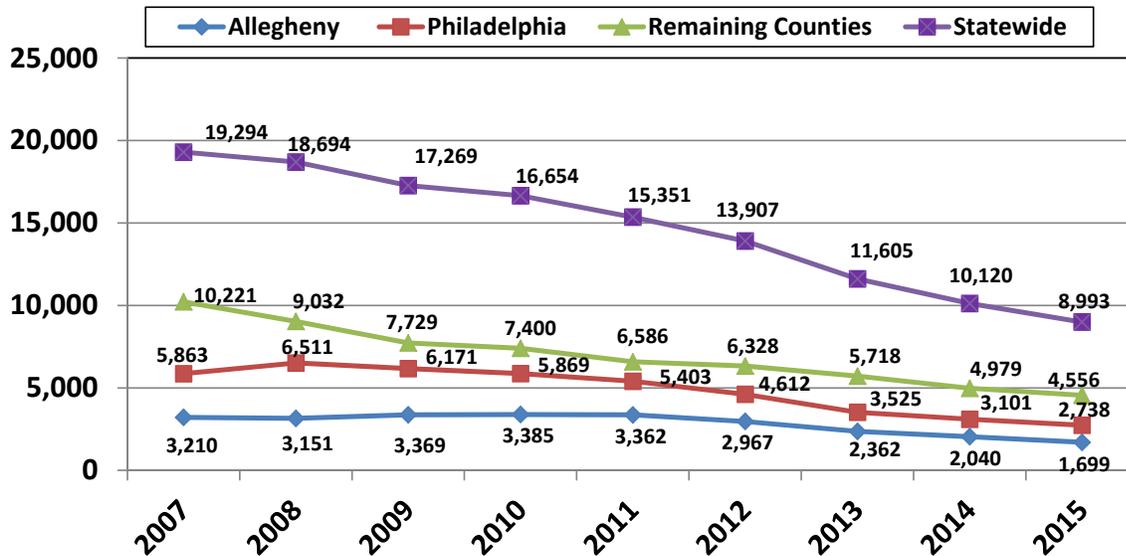
(Excludes disposition reviews and placement reviews)  
Source: Centers for Disease Control and Juvenile Court Judges' Commission



- PA secure detention admissions *declined by 53.4%* from 2007–2015. There were 10,301 fewer secure detention admissions in 2015 compared to 2007.

### Pennsylvania Juvenile Secure Detention Admissions 2007–2015

Source: Juvenile Court Judges' Commission

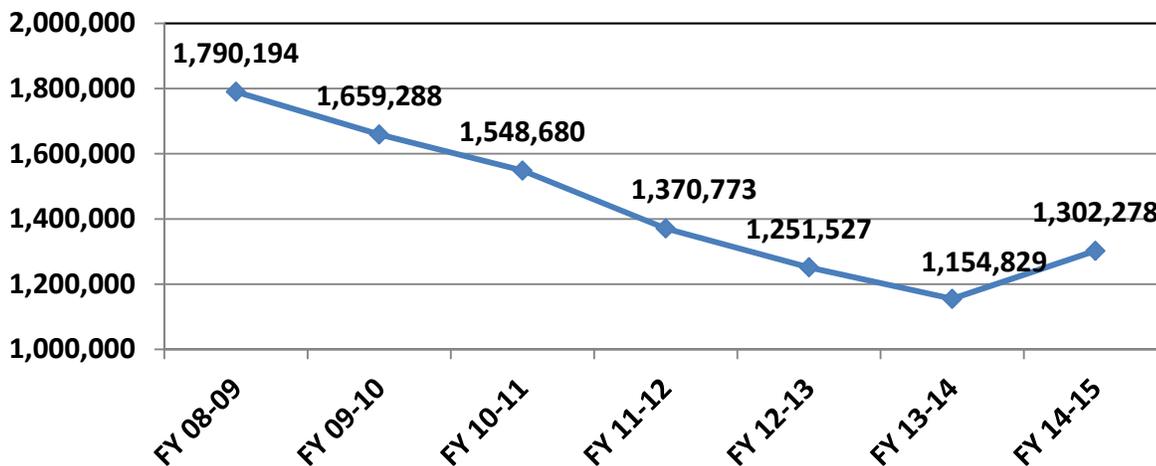


- Total Pennsylvania juvenile delinquency placement days of care *declined by 27.3%* from FY 2008–2009 through FY 2014–2015. There were 487,916 fewer days of care in FY 2014–2015 than FY 2008–2009.

### Total Delinquency Placement Days of Care Fiscal Year 2008–2009 to Fiscal Year 2014–2015

(Does not include secure detention days)

Source: Office of Children, Youth and Families (OCYF) Needs-Based Budget

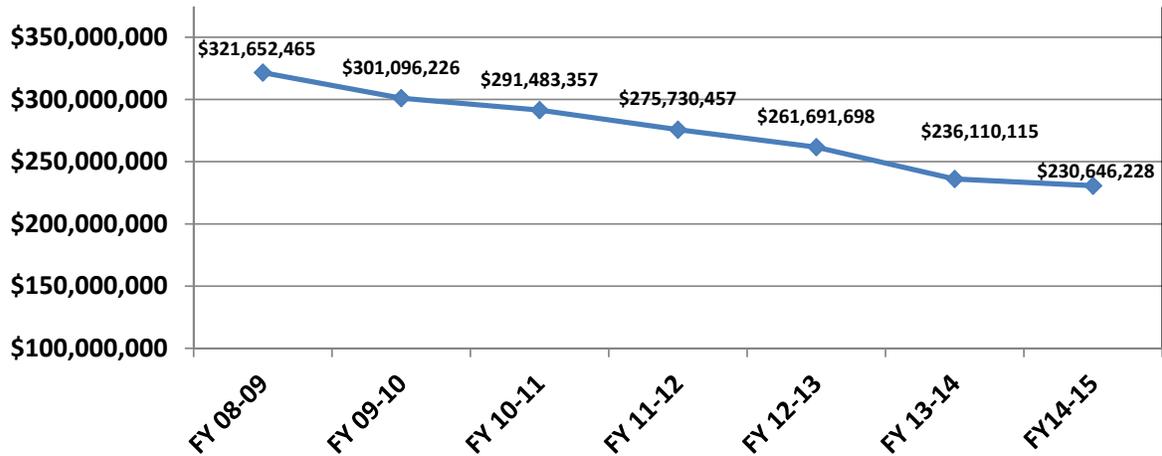


- From FY 2008–2009 through FY 2014–2015, juvenile delinquency dispositional placement expenditures have declined by \$91,006,237 (-28.3%).

### Total Delinquency Placement Expenditures Fiscal Year 2008–2009 to Fiscal Year 2014–2015

(Does not include secure detention costs)

Source: Office of Children, Youth and Families (OCYF) Needs-Based Budget



The JJSES has already had a profound impact on juvenile justice practices. The JJSES was the impetus for amendments to the purpose clause of the Juvenile Act contained in Act 204 of 2012, which requires Pennsylvania’s juvenile justice system to achieve its balanced and restorative justice mission by ... **“employing evidence-based practices whenever possible ... and by using the least restrictive intervention that is consistent with the protection of the community, the imposition of accountability for offenses committed and the rehabilitation, supervision and treatment needs of the child...”**<sup>40</sup>

It is essential that the Commonwealth aggressively pursue implementation of the JJSES to both ensure that evidence-based practices are, in fact, being implemented whenever possible, and that the positive trends in juvenile arrests, juvenile delinquency dispositions, and juvenile delinquency placements continue.

The successful implementation of the JJSES will require that the Commonwealth ensure that the funding and regulatory structure that supports the delivery of services to juveniles is consistent with the statutory mission of the juvenile justice system. As explained in more detail beginning on page XX, the provisions of the Human Services Code that guide the Department of Human Services’ funding of these services are currently inconsistent with the statutory mandates of the Juvenile Act.

<sup>40</sup> 42 Pa.C.S. § 6301(b)(3)(i).



# Chapter 1

## Juvenile Delinquency Prevention



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# Chapter 1

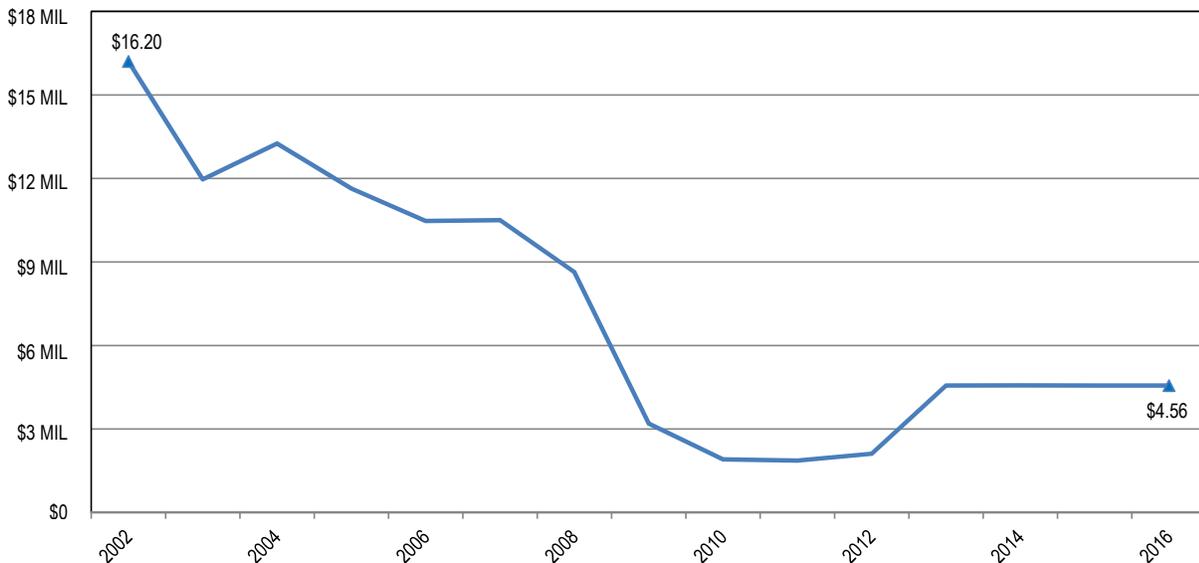
## Juvenile Delinquency Prevention

➤ *The Commonwealth must develop and implement a comprehensive and coordinated strategy to support the healthy development of youth, to identify children who are at high risk of juvenile delinquency, school failure, and/or other problem behaviors, and to provide equitable, evidence-based services and support to these children and their families.*

As noted briefly in the Introduction, PCCD has a proven track record in leading the development and implementation of research-based approaches that have proven successful in preventing youth violence, delinquency, substance abuse, educational failure and many other adolescent problem behaviors. However, since FY 2001–2002, significant reductions in PCCD’s research-based violence prevention appropriation, and the agency’s previous evidence-based prevention and intervention appropriation, have dramatically reduced PCCD’s capacity to assist communities in addressing these critically important issues.

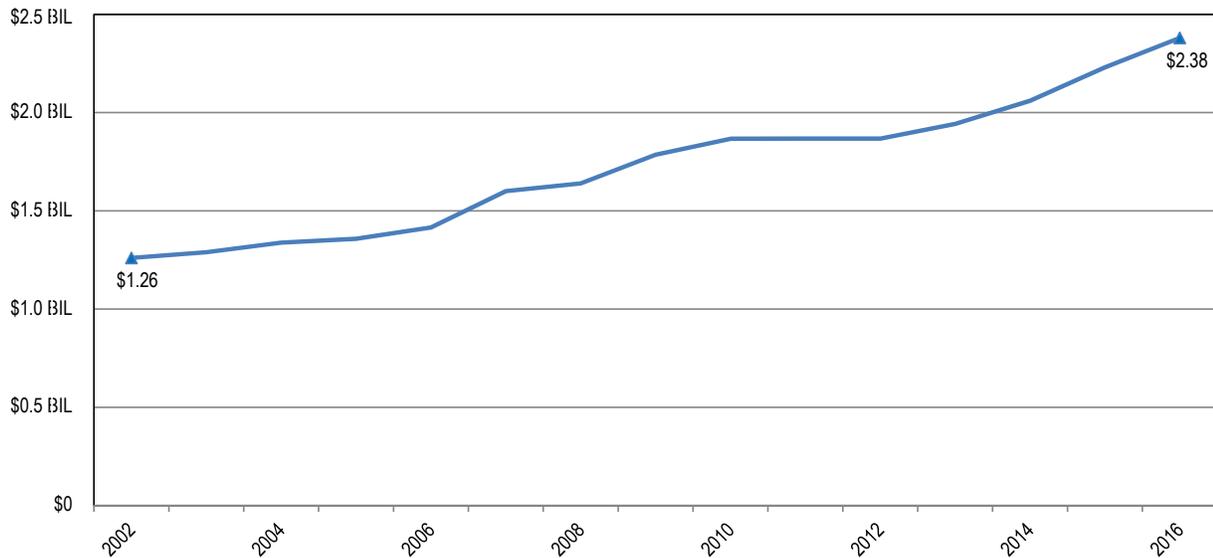
- **The FY 2016–2017 appropriation of \$4,569,000 reflects a reduction of 71.8% from the combined FY 2002–2003 appropriations of \$16,200,000 for PCCD’s former Evidence-based Prevention/Intervention and Research-based Violence Prevention appropriations.**

**PCCD Evidence-Based Violence Prevention Programs Funding (in millions)  
2002–2016**



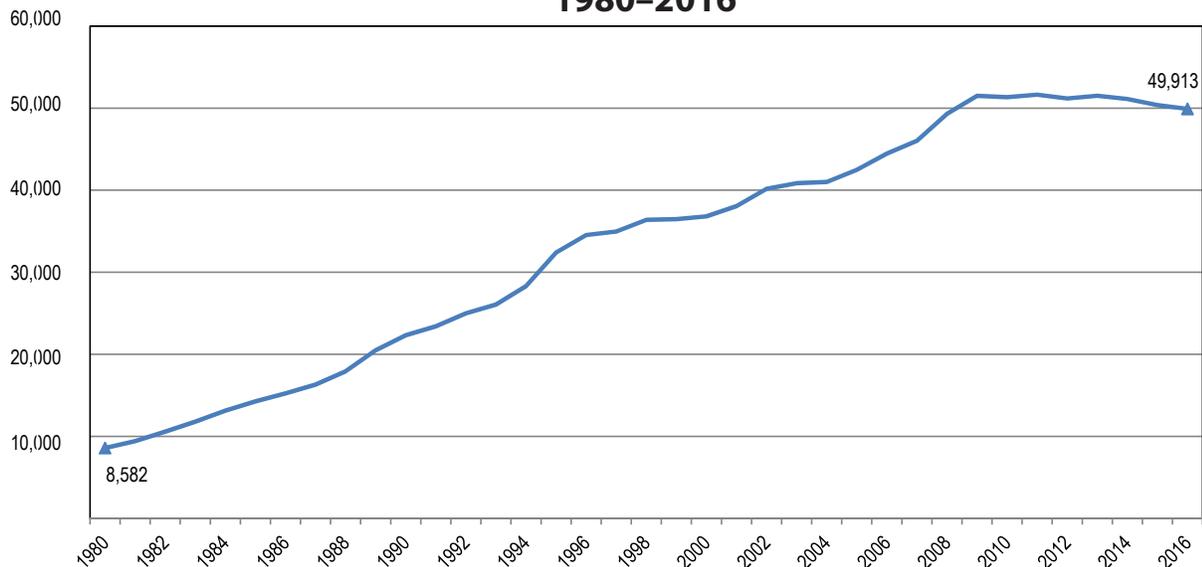
- However, despite the recent leveling off of the Department of Corrections (DOC) inmate population, the operating budget of the DOC has continued to climb. The FY 2016–2017 DOC general fund appropriation of \$2.38 billion represents an increase of approximately 89.5% over the FY 2002–2003 appropriation of \$1.26 billion.

**Pennsylvania Department of Corrections Funding (in billions)  
2002–2016**



- The current DOC population of approximately 49,913 inmates as of July 1, 2016 represents an increase of 481.6% over the 1980 inmate population of 8,582.

**Pennsylvania Department of Corrections Prison Population Growth  
1980–2016**



➤ *Although it continues to be anticipated that initiatives such as the Justice Reinvestment Initiative will continue to have a modest impact in reducing the growth of the DOC inmate population, the only viable strategy to significantly reduce the state prison population in the long term is to intervene early in the lives of children who are most at risk of delinquency, youth violence, school failure, and substance abuse.*

The necessity of this strategy is confirmed by the inmate profile information compiled by the DOC. As of December 31, 2015:

**Male Inmates:**

- **41.5%** of male inmates have **less than a 12th grade education.**
- The **average reading level** of male inmates is **slightly above 8th grade.**
- **64.5%** of male inmates need **alcohol and other drug (AOD) treatment.** (41.4% need **intensive AOD treatment** and 23.1% need **outpatient AOD treatment.**)
- **82.2%** of male inmates are **unskilled or possess no skills.**
- **24.3%** of male inmates are on the mental health roster (MHR), and  
+ **7.8%** of those inmates are considered seriously mentally ill.

**Female Inmates:**

- **31.9%** of female inmates have **less than a 12th grade education.**
- The **average reading level** of female inmates is **slightly below 9th grade.**
- **66%** of female inmates need **alcohol and other drug (AOD) treatment.** (53% need **intensive AOD treatment** and 13% need **outpatient AOD treatment.**)
- **74%** of female inmates are **unskilled or possess no skills.**
- **69.3%** are on the mental health roster (MHR), and  
+ **26.3%** of those inmates are considered seriously mentally ill.<sup>41</sup>

The racial disparity within America's prison and jail populations is well established, and the preceding data must be viewed in that context. Nationally, the incarceration rates for whites is approximately 412 per 100,000 residents, compared to 2,290 for African Americans and 742 for Hispanics, meaning that approximately 2.3% of all African Americans are incarcerated compared to 0.4% of whites and 0.7% of Hispanics.<sup>42</sup> In Pennsylvania, although African Americans comprise approximately 11.7% of the population, as of December 31, 2015, 48% of the 49,914 inmates in the Commonwealth's State Correctional Institutions were African American.<sup>43</sup>

A particular concern is the concentrated impact of incarceration among young African American males. The U.S. Department of Justice estimated that approximately 1 in 9 (11.7%) African American males between the ages of 25 and 29 were incarcerated in a prison or jail on June 30, 2006.<sup>44</sup> The impact of these rates of incarceration in minority communities is profound, and must be a consideration in our efforts to understand the family structures of the juveniles who come to the attention of Pennsylvania's juvenile justice system.

Over the past 20 years single-parent families have become more common than the so-called "nuclear family" consisting of a mother, father, and children.<sup>45</sup> Rates have increased across race and income groups, but single parenthood is more prevalent among African Americans and Hispanics. Among African American children, 22% were living in a single-parent home in 1960; by 2001, the percentage had more than doubled to 53%. For whites, the percentage nearly tripled, from 7% to 19% over the same period.<sup>46</sup> The 2014 Kids Count data from the Annie E. Casey Foundation shows a continued increase in children being raised in single-parent families, reporting 67% of African American children, 25% of white children, and 42% of Hispanic children being raised by a single parent.<sup>47</sup>

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<sup>41</sup> Pennsylvania Department of Corrections, Inmate Statistics as of December 31, 2015.

<sup>42</sup> Mauer, M. and King, R. (2007) *Uneven Justice: State Rates of Incarceration by Race and Ethnicity* (The Sentencing Project), p. 4.

<sup>43</sup> Pennsylvania Department of Corrections, Inmate Statistics as of December 31, 2015.

<sup>44</sup> Sabol, W., Minton, T., and Harrison, P. (2007) *Prison and Jail Inmates at Midyear 2006* (Bureau of Justice Statistics), p.9.

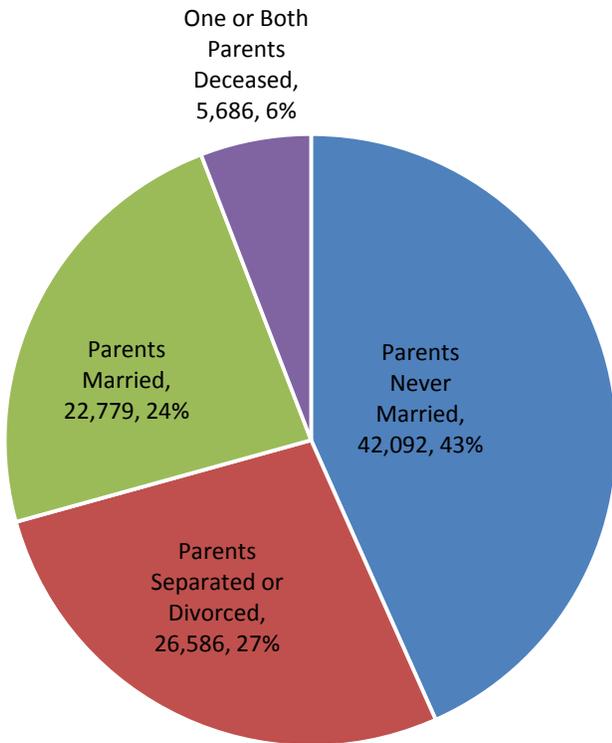
<sup>45</sup> American Psychological Association, *Single Parenting and Today's Family*. <http://apa.org/helpcenter/single-parent.aspx>.

<sup>46</sup> Parke, Mary (2003) *Are Married Parents Really Better for Children? What Research Says About the Effects of Family Structure on Child Well-Being*. Center for Law and Social Policy, p.2.

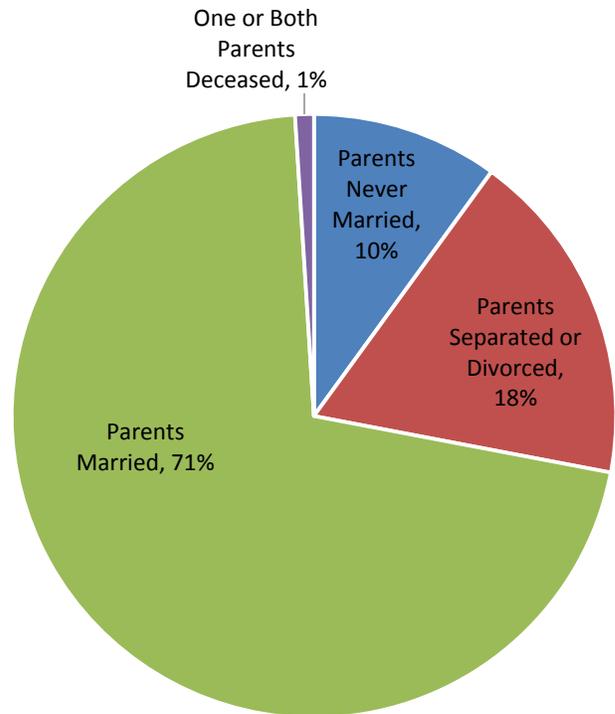
<sup>47</sup> Annie E. Casey Foundation, *2014 Kids Count Data Book* <http://www.aecf.org/m/resourcedoc/aecf-2014kidscountdatabook-2014.pdf>.

While approximately 71% of our nation's children are being raised in families where their parents are married, the biological parents of children whose cases were closed in Pennsylvania's juvenile justice system between 2007 and 2012 were never married in 43% of the cases, and in another 27% of the cases, the parents of these children were separated or divorced.<sup>48</sup>

**Family Status of All Juveniles  
in Recidivism Sample:  
Juveniles with Cases Closed 2007–2012**



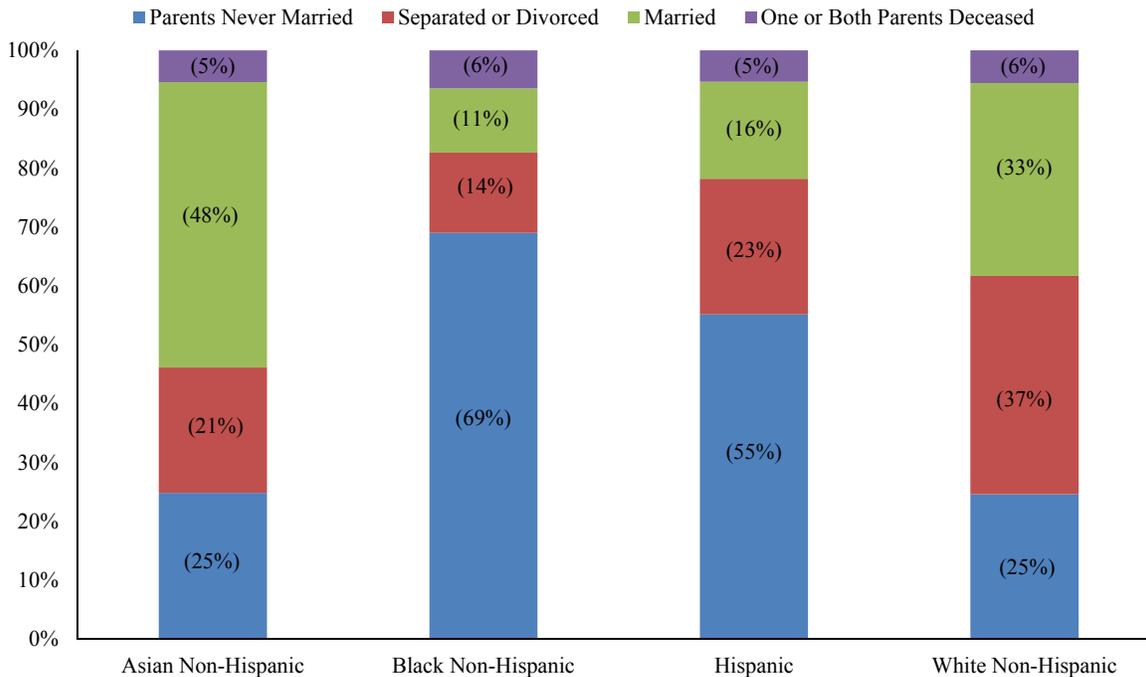
**Family Status of All Juveniles  
Aged 9–18 in the United States:  
Estimates for 2007, 2008, 2009, and 2010\***



<sup>48</sup> *The Pennsylvania Juvenile Justice Recidivism Report: Juveniles with Cases Closed in 2007, 2008, 2009, 2010, 2011 and 2012* (Pennsylvania Juvenile Court Judges' Commission, 2016).

The situation is even more troubling for the minority youth whose cases were closed in Pennsylvania’s juvenile justice system between 2007 and 2012. Black Non-Hispanic juveniles were most likely to have a family status of parents never married (69%); Hispanic juveniles were most likely to have a family status of parents never married (55%); and White Non-Hispanic juveniles were most likely to have a family status of separated/divorced (37%). Only Asian Non-Hispanic juveniles were most likely to have a family status of married (48%).

**Family Status of All Juveniles in the Pennsylvania Juvenile Justice Recidivism Report 2007–2012 by Race/Ethnicity<sup>49</sup>**



The marital status of a child’s parents impacts the life of the child in many ways. However, regardless of marital status, it is important to provide every parent who is committed to being meaningfully engaged in the life of his or her child opportunities to do so.

It is well established that minority youth become involved in our nation’s juvenile justice systems at disproportionately high rates when compared with the proportion of juvenile justice-involved white youth. This situation has been an issue of focus and concern for juvenile justice policymakers, practitioners, and researchers for many years.

In 1988 the federal Juvenile Justice and Delinquency Prevention Act (JJDPA) of 1974 (P.L. 93-415, 42 U.S.C.5601 *et seq.*) was amended to require states that received formula funds from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to ascertain the proportion of minority youth detained in secure detention facilities, secure correctional facilities, and lockups compared with the general population and, if the number of minority youth was disproportionate, to develop and implement plans to reduce the disproportionate representation. In 1992, the JJDPA was amended to make “disproportionate minority confinement” (DMC) a core requirement and 25 percent of a state’s formula grant funds could be withheld if states did not comply. In 2002, Congress modified the DMC mandate to require states to implement juvenile delinquency prevention and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups who come “into contact with” the juvenile justice system. The 1992 JJDPA reauthorization changed the DMC core requirement from “confinement” to “contact,” and states were for the first time required to implement strategies aimed at reducing DMC.

As noted by the Committee on Assessing Juvenile Justice Reform in the National Research Council’s (NRC) groundbreaking 2013 publication *Reforming Juvenile Justice: A Developmental Approach*, explanations for DMC have gen-

<sup>49</sup> *The Pennsylvania Juvenile Justice Recidivism Report: Juveniles with Cases Closed in 2007, 2008, 2009, 2010, 2011 and 2012* (Pennsylvania Juvenile Court Judges’ Commission, 2016).

erally fallen into broad categories, which the Committee noted have been incorrectly viewed as competing rather than complementary explanations for DMC: “Some scholars emphasize “differential offending” as the root source of disproportionate minority involvement in the juvenile justice system and of the system’s differential response. This approach points, in effect, to real, underlying differences between white and minority youth in the actual extent of engaging in (or the severity of) law-breaking behaviors. Other researchers point to “differential selection” by the justice system (by the police in enforcement and by prosecutors, intake officers, judges, and other justice system officials thereafter) as the primary source of racial disparities.”<sup>50</sup>

With respect to the hypothesis of “differential offending, the Committee explained that ... “there are more similarities than differences among youth across races with respect to offending patterns in self-reported data, with the exception of participation in serious violence. As noted, minority youth (especially black youth) tend to offend more with respect to serious person crimes, and they have also been found to persist in crime into early adulthood at a higher rate than whites. This finding is important because research shows that serious violence is more likely to be reported to the police, more likely to result in the offender’s apprehension, and more likely to trigger severe juvenile and criminal justice sanctions. And although research shows that much of the minority overrepresentation in secure confinement and prisons can be attributed to differences among racial groups in arrests for crimes that are most likely to lead to confinement, this same research also shows that it is unlikely that behavioral differences account for all minority overrepresentation.”<sup>51</sup>

With respect to the theory of “differential selection,” the Committee noted that “the differential selection hypothesis asserts that a combination of differential enforcement (differing police presence, patrolling, and profiling in minority and nonminority neighborhoods) and differential processing by the juvenile justice system (differing dispositions and placements in the courts and correctional systems) leads to more minority youth being arrested, convicted, and subsequently confined than white youth. This hypothesis may be especially pertinent to victimless crimes, such as drug use and sales and public order crimes, in which more discretion is available to formal social control agents, especially police, and virtually all interactions (especially among police and juveniles) are made out of the public eye. Thus, the differential selection hypothesis would anticipate that minority youth emerge in official records at a disproportionate rate because of differential police, court, and correctional decisions.”<sup>52</sup>

While both of the preceding theories must be understood and considered in addressing the DMC issue, it is the theory of risk-focused prevention that must continue to be at the foundation of PCCD’s strategy. Many of the complex and interrelated issues that have been shown to place minority youth at higher risk of juvenile justice system involvement were succinctly summarized by the Committee:<sup>53</sup>

“Minorities, especially blacks are more likely than whites to live in economically disadvantaged communities.<sup>54</sup> Such communities have distressed education, child welfare, and public health systems.<sup>55</sup> <sup>56</sup> They also tend to have many social structural conditions that contribute to delinquency, crime, and violence, such as poverty, disorder, residential segregation, and neighborhood disadvantage.<sup>57</sup> These effects tend to compound and accumulate in mainly minority communities so that poor, inner-city residents find it difficult to move out of this urban core and escape to more affluent neighborhoods that come with improved opportunities for education and employment. The ramifications of these minority-centered contexts of risk include poor health care (and subsequent

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<sup>50</sup> National Research Council (2013). *Reforming Juvenile Justice: A Developmental Approach*. Committee on Assessing Juvenile Justice Reform, Richard J. Bonnie, Robert L. Johnson, Betty M. Chemers, and Julie A. Schuck, Eds. Committee on Law and Justice, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press, p.223.

<sup>51</sup> *Ibid.*, p.223.

<sup>52</sup> *Ibid.*, p.225.

<sup>53</sup> *Ibid.*, pp.224–225.

<sup>54</sup> Sampson, R.J., and Wilson, W.J. (1995). Toward a theory of race, crime, and urban inequality. In J. Hagan and R.D. Peterson (Eds.), *Crime and Inequality* (pp. 37–54). Stanford, CA: Stanford University Press.

<sup>55</sup> Sharkey, P., and Sampson, R.J. (2010). Destination effects: Residential mobility and trajectories of adolescent violence in a stratified metropolis. *Criminology*, 48(3), 639–681.

<sup>56</sup> Ryan, J., Chiu, Y.-L., and Williams, A. (2011). *Knowledge Brief: Is There a Link Between Child Welfare and Disproportionate Minority Contact in Juvenile Justice?* Models for Change System Reforms for Juvenile Justice. Chicago, IL: John D. and Catherine T. MacArthur Foundation.

<sup>57</sup> Wilson, W.J. (1987). *The Truly Disadvantaged: The Inner City, the Underclass, and Public Policy*. Chicago, IL: University of Chicago Press.

health) and substance abuse problems and disparities,<sup>58</sup> low-performing schools, absence of recreation programs or other organized activities for youth,<sup>59</sup> disadvantaged familial and community-level socialization and controls,<sup>60</sup> and greater exposure to violence and other negative experiences.<sup>61</sup> The totality of these risk factors is such that minority youth are born into and raised in severely compromised familial, community, and educational environments that set the stage for a range of adverse behaviors and outcomes, including problems in school, relationships, and engaging in pro-social behavior. Investigating this phenomenon, Fite and colleagues (2009) noted that differences observed in offending across race/ethnicity (and in subsequent juvenile and criminal justice experience) could be traced to the fact that minority (especially black) youth display and experience more risk factors for offending and risk, such as poor health care and compromised education systems. They examined the effect of exposure to early risk factors on arrest rates and found that the risk factors themselves were predictive of a juvenile arrest. In fact, the risk factors accounted for 60 percent of the total effect between race and general arrest.<sup>62</sup> Exposure to concentrated disadvantage can also have detrimental and long-lasting consequences even after a youth leaves a severely disadvantaged neighborhood.<sup>63</sup>

The risk factors summarized in *Reforming Juvenile Justice* are present in the lives of minority youth in many Pennsylvania communities. While it is estimated that approximately 14% of white youth under the age of 18 are living in poverty, it is estimated that 41% of black Pennsylvania youth and 38% of Hispanic/Latino Pennsylvania youth are living in poverty.<sup>64</sup>

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<sup>58</sup> Piquero, A.R., Moffitt, T.E., and Lawton, B. (2005). Race and crime: The contribution of individual, familial, and neighborhood-level risk factors to life-course-persistent offending. In D.F. Hawkins and K. Kempf-Leonard (Eds.), *Our Children, Their Children: Confronting Racial and Ethnic Differences in American Juvenile Justice* (pp. 202–244). Chicago, IL: University of Chicago Press.

<sup>59</sup> Bishop, D.M., and Leiber, M.J. (2012). The Role of Race and Ethnicity in Juvenile Justice Processing, in B.C. Feld and D.M. Bishop (Eds.), *The Oxford Handbook of Juvenile Crime and Juvenile Justice* (pp. 445–484). New York: Oxford University Press.

<sup>60</sup> Sampson, R.J., Morenoff, J.D., and Raudenbush, S. (2005). Social Anatomy of Racial and Ethnic Disparities in Violence. *American Journal of Public Health*, 95(2), 224–232.

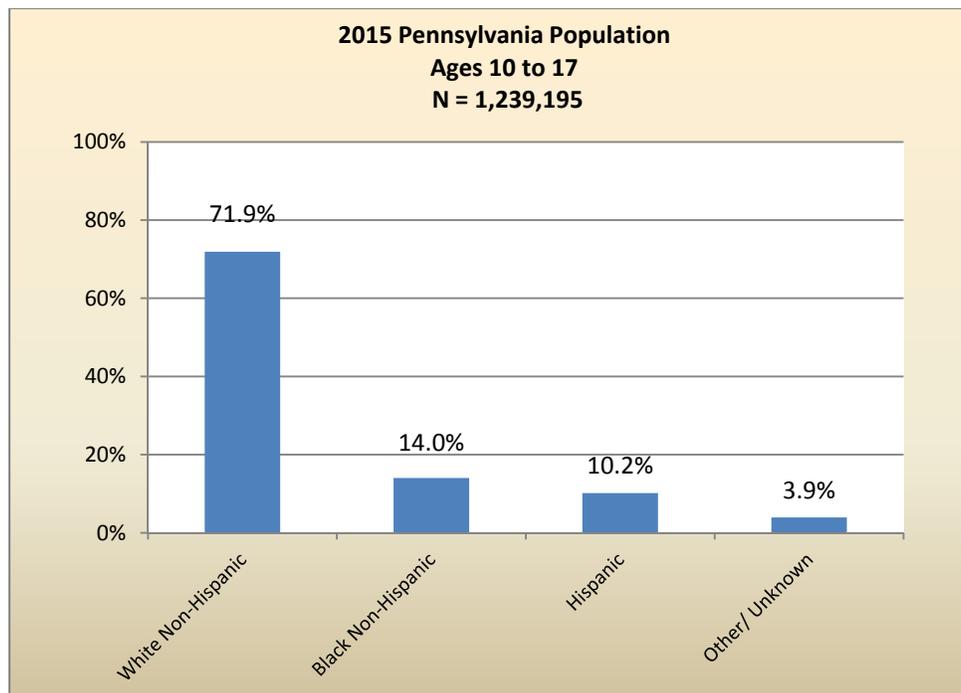
<sup>61</sup> Crouch, J.L., Hanson, R.F., Saunders, B.E., Kilpatrick, D.G., and Resnick, H.S. (2000). Income, race/ethnicity, and exposure to violence in youth: Results from the national survey of adolescents. *Journal of Community Psychology*, 28(6), 625–641.

<sup>62</sup> Fite, P.J., Wynn, P., and Pardini, D.A. (2009). Explaining discrepancies in arrest rates between black and white male juveniles. *Journal of Consulting and Clinical Psychology*, 77(5), 916–927.

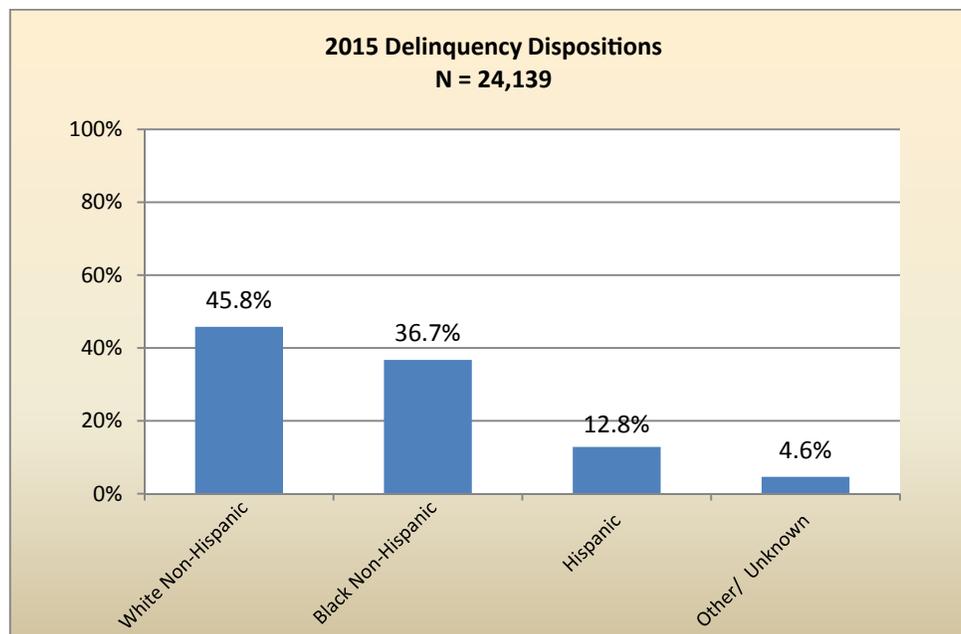
<sup>63</sup> Sampson, R.J., Sharkey, P., and Raudenbush, S.W. (2008). Durable effects of concentrated disadvantage on verbal ability among African American children. *Proceedings of the National Academy of Sciences of the United States of America*, 105(3), 845–52.

<sup>64</sup> United States Census Bureau/American FactFinder. “Selected Population” 2015 1-Year American Community Survey. U.S. Census Bureau’s American Community Survey Office, 2016. Web. 20 October 2016 [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_15\\_1YR\\_S0201&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_15_1YR_S0201&prodType=table).

- While there is disagreement about the various explanations for DMC, it is clear that minority youth are disproportionately involved in Pennsylvania’s juvenile system when compared to the racial composition of all Pennsylvania youth age 10–17.<sup>65</sup>

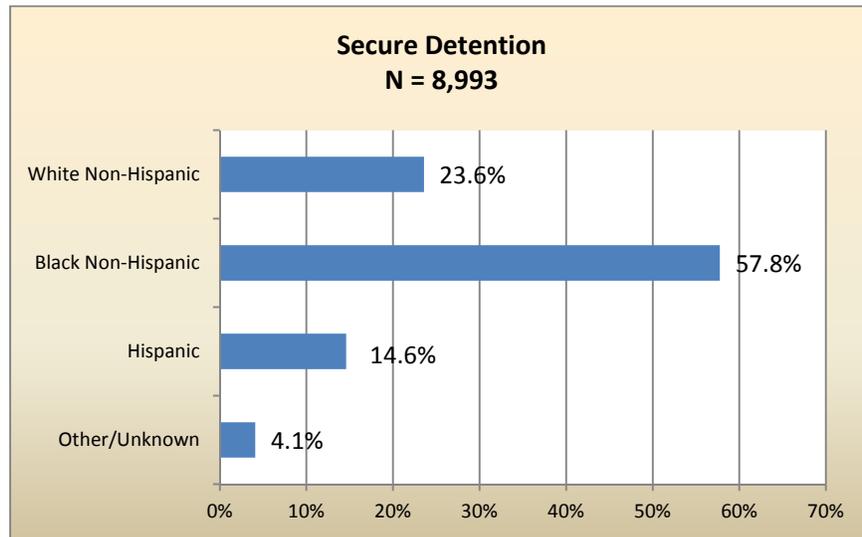


- In 2015, White Non-Hispanic youth represented the largest racial/ethnic category for all juvenile delinquency dispositions in Pennsylvania. However, in comparison to the racial/ethnic distribution of all youth in Pennsylvania ages 10–17 the representation of Black Non-Hispanic youth is disproportionate: 14.0% of the total population versus 36.7% of all delinquency dispositions.

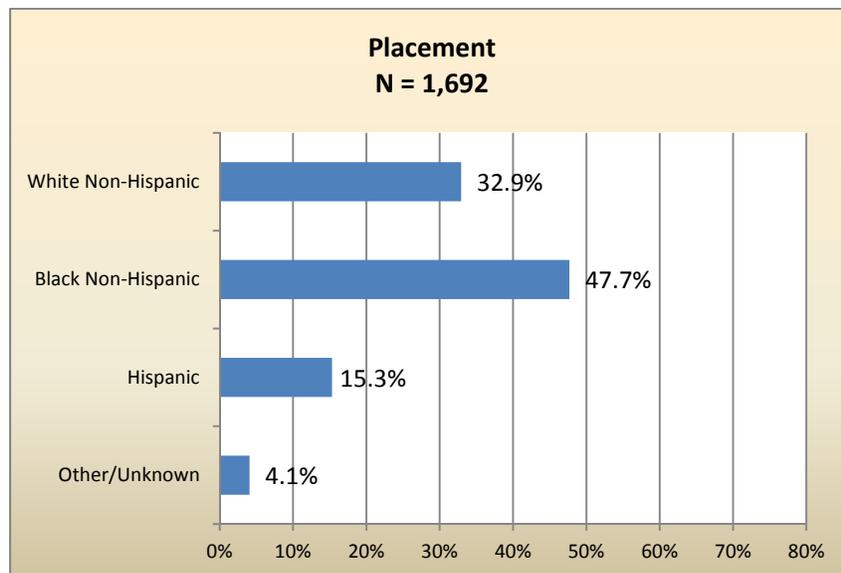


<sup>65</sup> 2015 Pennsylvania Juvenile Court Dispositions, Juvenile Court Judges’ Commission, pages 28–30.

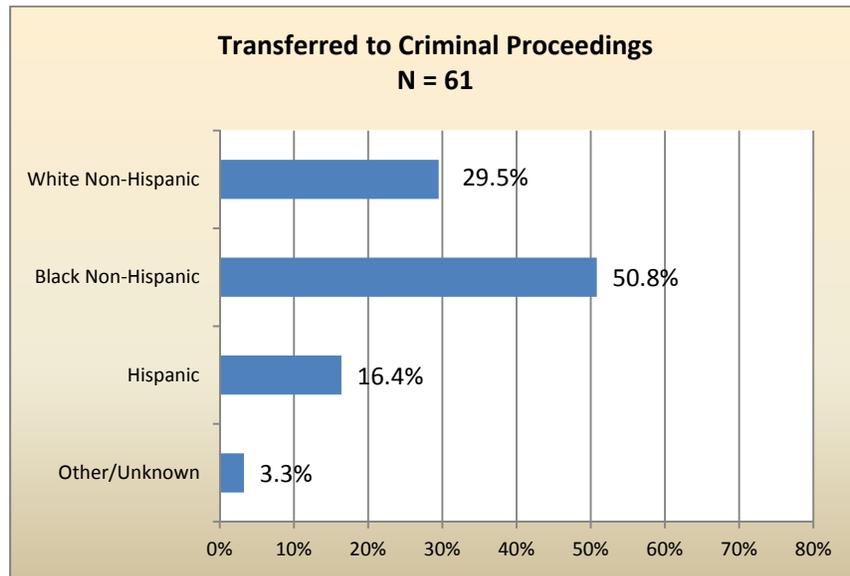
- For secure detention, the 2015 statewide rate of disproportionality was more substantial, with Black Non-Hispanic youth comprising 57.8% of all secure detention admissions in 2015.



- In 2015, the proportion of both Hispanic (15.3%) and Black Non-Hispanic (47.7%) youth whose delinquency dispositions resulted in an out-of-home placement (not including disposition reviews and placement reviews) exceeded their respective proportions of all delinquency dispositions.



- In 2015, Black Non-Hispanic youth comprised 50.8% of the cases transferred to criminal proceedings.

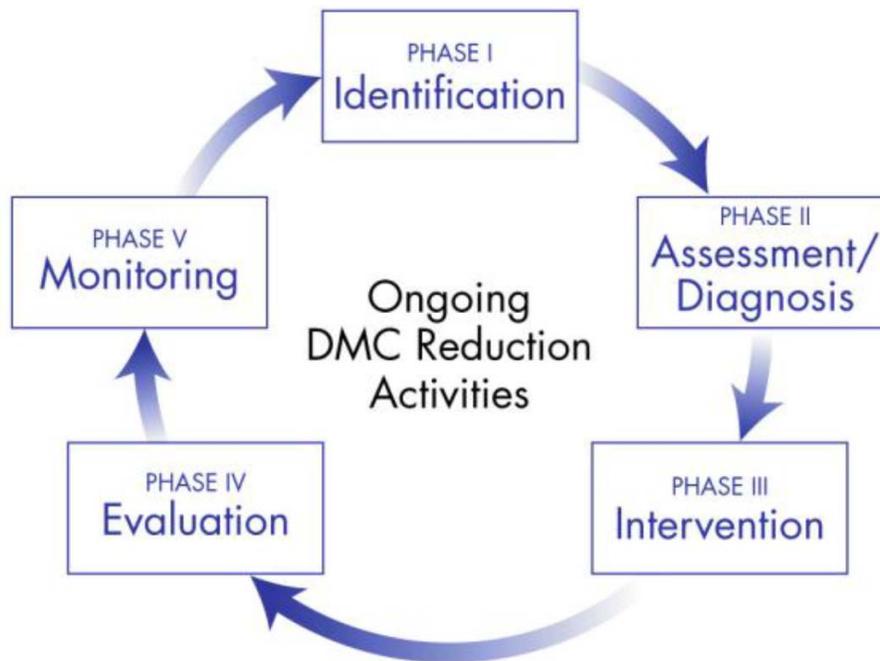


# Pennsylvania's DMC Reduction Strategy

The federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) has adopted a five-phase DMC Reduction Model to assist states in determining whether DMC exists and to guide efforts to address it:

- **Identification.** To determine the extent to which DMC exists.
- **Assessment.** To assess the reasons for DMC, if it exists.
- **Intervention.** To develop and implement intervention strategies to address these identified reasons.
- **Evaluation.** To evaluate the effectiveness of the chosen intervention strategies.
- **Monitoring.** To note changes in DMC trends and to adjust intervention strategies as needed.<sup>66</sup>

The DMC Reduction Cycle <sup>67</sup>



The method that OJJDP has selected for the **identification** stage is termed the **Relative Rate Index (RRI)**. This method involves comparing the relative volume (rate) of activity for each major stage of the juvenile justice system for minority youth with the volume of that activity for white (majority) youth. The RRI provides a single index number that indicates the extent to which the volume of that form of contact or activity differs for minority youth and white youth. In its simplest form, the RRI is simply the rate of activity involving minority youth divided by the rate of activity involving majority youth.<sup>68</sup>

The **identification** stage, and the use of the Relative Rate Index in this stage, is designed to help narrow the field of inquiry for the **assessment** stage, which describes the process of identifying the likely mechanisms that create differences in juvenile justice system contacts for minority youth and which, in turn, leads to the **intervention** stage.

The following chart depicts Pennsylvania's statewide RRI for various juvenile justice decision points and outcomes in 2015. As an example, in 2015 non-minority (White) youth represented 72% of Pennsylvania's total youth population (age 10–17), black youth were more than four times as likely (4.46 RRI) to be arrested as white youth, and 1½ times as likely (1.52 RRI) to be committed to out-of-home placement as white youth. The RRI has been an important tool in beginning discussions at the community level regarding DMC and in developing strategies to address DMC where it is found to exist.

<sup>66</sup> OJJDP In Focus 2012, U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

<sup>67</sup> DMC Technical Assistance Manual, 4th Edition, Chapter 1 (William Feyerherm, Howard N. Snyder, and Francisco Villarruel) Office of Juvenile Justice and Delinquency Prevention U.S. Department of Justice Office of Justice Programs 2009.

<sup>68</sup> Ibid.

## Pennsylvania's Statewide Relative Rate Index (RRI) 2015

	Total Youth	White	Black/ African American	Hispanic/ Latino	Asian/ Pacific Islander	American Indian/ Alaska Native	Other/ Mixed	All Minorities
<b>Juvenile Population</b>	1,239,195	890,780	173,705	126,079	46,277	2,354	0	348,415
<b>Juvenile Arrests</b>			4.46	1.39	0.02	4.98	—	2.76
<b>Referrals to Juvenile Court</b>			0.92	1.42	**	0.09	**	1.09
<b>Cases Diverted</b>			0.72	0.84	0.99	**	1.09	0.78
<b>Cases Involving Secure Detention</b>			3.08	2.17	1.96	**	0.85	2.69
<b>Cases Petitioned</b>			1.24	1.13	1.01	**	0.93	1.19
<b>Cases Resulting in Delinquent Findings</b>			0.96	0.99	0.62	**	1.11	0.98
<b>Cases Resulting in Probation Placement</b>			0.80	0.95	**	**	0.76	0.83
<b>Cases Resulting in Out-of-Home Residential Placement</b>			1.52	1.36	**	**	1.35	1.47
<b>Cases Resulting in Confinement in Secure JUVENILE Correctional Facilities</b>			1.56	2.37	**	**	**	1.69
<b>Cases Referred to Adult Court</b>			1.79	1.75	**	**	**	1.74

PCCD's comprehensive DMC Reduction Strategy is coordinated by the JJDPC's DMC Subcommittee, which was established in 1990, and which has been lauded nationally for its work. The PCCD DMC Reduction Strategy is research-based and data driven, and involves partnering with law enforcement, courts and community agencies that provide services with minority communities.

PCCD develops a competitive solicitation through which local jurisdictions can apply for federal JJDPA funds to support local initiatives. Applicants are required to describe their local coalition or DMC Workgroup, demonstrate an understanding of their local RRI data, identify the juvenile justice system contact point(s) they intend to target, and the program/approach/activity they will implement, if funded. Applicants are also required to explain how their proposed approach relates to the identified contact points, and identify the data that will be collected and reported to PCCD. Based on PCCD's analysis of the county RRI data, the competitive solicitation may limit applicant eligibility.

To aid local jurisdictions with their DMC initiatives, PCCD has funded the Philadelphia-based DMC Youth-Law Enforcement (YLE) Corporation to provide training and technical assistance, and to disseminate training on the Pennsylvania YLE Curriculum. The Corporation is comprised of a 16-member Board of Directors that includes four current or retired law enforcement officers, two Juvenile Probation Supervisors, and a Deputy District Attorney. The Corporation's mission is to identify and develop concrete, viable and measurable strategies that will improve relationships between minority youth and members of law enforcement. It is anticipated that improving these relationships will lead to less volatile interactions and mutual cooperation that will benefit minority youth, law enforcement, and the community.

Since 2013, PCCD has used federal JJDP funds to support nine local DMC Projects in seven Pennsylvania counties. Some of these—like Montgomery and Chester—work in partnership with existing *Communities That Care (CTC)* sites operating in their counties. The majority of the local DMC projects use funding to support planning and hosting DMC Youth/Law Enforcement Forums, which are designed to bring together local youth (usually middle school classes from a partnering school) and local law enforcement to meet, discuss, role play and interact for the purpose of improving police-youth relations with the hope of impacting DMC at the arrest stage.

Of particular importance is that these forums have opened the door to providing the opportunity for both the participating law enforcement officers and youth to understand and to begin addressing the issue of implicit bias within their communities. Implicit bias is the bias in judgment and/or behavior that results from subtle cognitive process (e.g., implicit attitudes and implicit stereotypes) that often operate at a level below conscious awareness and without intentional control.<sup>69</sup> Implicit bias can develop over time with the accumulation of personal experience. Personal experiences include not only traditional learning experiences between the individual and the target of bias,<sup>70</sup> but also social learning experiences (i.e., observing parents, friends, or influential others).<sup>71</sup> As an overarching strategy, PCCD, with the support of the DMC Subcommittee, is dedicated to bringing attention to and understanding of the complexities of implicit bias in the context of strengthening law enforcement, court and community relations.

It must be noted that, despite the considerable body of research on minority children in America, there is concern that this research is not as “rich, nuanced or prevalent as that for white children. Studies of middle-class minority families, for example, are rare. Most of the classic studies on minority children are based on low-income families who are likely to experience hardship due to economic, social and language barriers. These studies have provided important information about the problem behaviors or academic failure of minority children but less about the considerable within-group variation regarding family’s education, income, beliefs, values, childrearing styles and the economic and social investments families make in their children, which can result in positive outcomes.”<sup>72</sup>

While many studies have shown that low-income minority children in general have deficits in areas such as receptive language and vocabulary mainly as a result of the economic hardship they experience, recent research suggests that prior studies might have overlooked or understudied developmental assets among minority children. Recent findings show that minority children show strengths in both social competence and language.<sup>73</sup>

PCCD’s commitment to building on the strengths of minority children and their families, while striving to address the risks that are present in their communities, is a central tenet of PCCD’s *Communities That Care (CTC)* risk-focused prevention strategy.

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<sup>69</sup> *Helping Courts Address Implicit Bias FAQ*, (2012) National Center for State Courts. <http://www.ncsc.org/~media/Files/PDF/Topics/Gender%20and%20Racial%20Fairness/Implicit%20Bias%20FAQs%20rev.ashx>.

<sup>70</sup> Olson, M. and Fazio, R., (2001) *Implicit Attitude Formation through Classical Conditioning Attitudes*, *Psychological Science* 12, pp. 413–417.

<sup>71</sup> (Greenwald, A. and Banaji, M, (1995) *Implicit Social Cognition: Attitudes, Self-Esteem, and Stereotypes*, *Psychological Review*, 102, pp. 4–27.

<sup>72</sup> Cabrera, Natasha J, *Minority Children and Their Families: A Positive Look*, in *Being Black Is Not a Risk Factor: A Strengths-Based Look at the State of the Black Child*, National Black Development Institute, p.4.

<sup>73</sup> *Ibid.*, p.6.

## CTC Risk Factors and Related Behaviors

	Substance Abuse	Delinquency	Teen Pregnancy	School Dropout	Violence	Depression and Anxiety
<b>Community Domain Risk Factors</b>						
Low Neighborhood Attachment	X	X			X	
Perceived Availability of Drugs	X				X	
Perceived Availability of Handguns		X			X	
Law and Norms Favorable to Drug Use	X	X			X	
<b>Family Domain Risk Factors</b>						
Family History of Antisocial Behavior (ASB)	X	X	X	X	X	X
Poor Family Management	X	X	X	X	X	X
Parental Attitudes Favorable to Drug Use	X	X			X	
Parental Attitudes Favorable to Antisocial Behavior	X	X			X	
Family Conflict	X	X	X	X	X	X

	Substance Abuse	Delinquency	Teen Pregnancy	School Dropout	Violence	Depression and Anxiety
<b>School Domain Risk Factors</b>						
Academic Failure	X	X	X	X	X	X
Low Commitment to School	X	X	X	X	X	
<b>Peer-Individual Domain Risk Factors</b>						
Rebelliousness	X	X		X	X	
Perceived Risk of Drug Use	X				X	
Attitudes Favorable to Drug Use	X				X	
Attitudes Favorable to Antisocial Behavior	X	X	X	X	X	
Sensation Seeking	X	X			X	X
Rewards for Antisocial Behavior	X	X	X	X	X	
Friends' Use of Drugs	X	X	X	X	X	
Interaction with Antisocial Peers	X	X	X	X	X	
Depressive Symptoms	X	X				X

### *The Communities That Care (CTC) risk-focused prevention model*

It is well established that the presence of certain key factors in the life of a child places the child at increased risk of a myriad of adolescent problem behaviors. These factors include certain characteristics of individual communities, schools, and families, as well as the characteristics, attitudes, behavior, and peer relationships of a child. The identification, assessment, and prioritization of these risk factors are a key aspect of the *Communities That Care (CTC)* risk-focused prevention framework that is at the foundation of PCCD's comprehensive prevention strategy.

Research has established, as well, that *protective factors* also exist in communities, schools, and families, and in the characteristics, attitudes, behavior, and peer relationships of children. These *protective factors* will buffer the impact of the factors that place a child at risk of problem behaviors as an adolescent. *Protective factors* include certain characteristics of an individual child, including high intelligence, resilient temperament, pro-social orientation, competence, and skills; pro-social opportunities; reinforcement for pro-social involvement; bonding; and healthy beliefs and clear standards.

The *Communities That Care* framework uses the "Social Development Strategy," which is a research-based model that organizes known *protective factors* into a guiding framework for building positive futures for children; assesses *risk and protective factors*; matches risk and protection profiles with tested, effective programs; and promotes positive youth development by reducing risk *and* enhancing protection. The *Communities That Care (CTC)* Social Development Strategy includes the following key components:

- Assessing community levels of risk and protection
- Prioritizing elevated risks and depressed protective factors
- Including individuals and groups exposed to the highest levels of risk and the lowest levels of protection
- Matching tested, effective programs to the community's risk and protection profile
- Selecting tested, effective programs that address the racial, economic, and cultural characteristics of the community
- Implementing chosen programs, policies, and practices with fidelity and intensity at the appropriate ages

# CTC Protective Factors and the Social Development Strategy

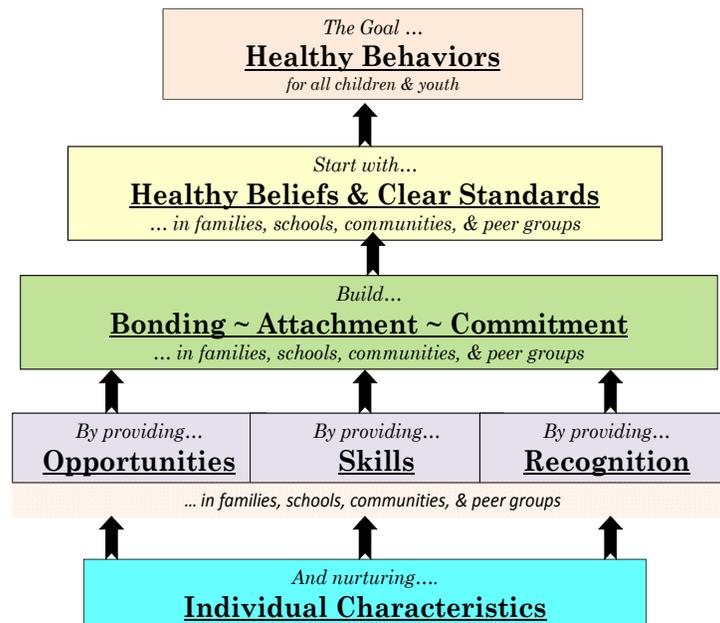
	Healthy Beliefs/ Clear Standards	Bonding	Opportunities	Skills	Recognition
<b>Community Domain Protective Factors</b>					
Community <b>Opportunities</b> for Prosocial Involvement		X	X		
Community <b>Rewards</b> for Prosocial Involvement		X			X
<b>Family Domain Protective Factors</b>					
Family Attachment		X			
Family <b>Opportunities</b> for Prosocial Involvement		X	X		
Family <b>Rewards</b> for Prosocial Involvement		X			X

	Healthy Beliefs/ Clear Standards	Bonding	Opportunities	Skills	Recognition
<b>School Domain Protective Factors</b>					
School <b>Opportunities</b> for Prosocial Involvement		X	X		
School <b>Rewards</b> for Prosocial Involvement		X			X
<b>Peer-Individual Domain Protective Factors</b>					
Belief in the Moral Order	X				
Religiosity	X				

## Blueprints for Healthy Youth Development

As explained in the Introduction, the Center for the Study and Prevention of Violence (CSPV), at the Institute of Behavioral Science, University of Colorado Boulder, designed and launched a national youth prevention initiative in 1996, with funding assistance from PCCD, to identify and replicate violence, delinquency, and drug prevention programs that had been demonstrated as effective. This project, initially called “*Blueprints for Violence Prevention*,” identified prevention and intervention programs that met a strict scientific standard of program effectiveness. Today, “*Blueprints*” has been rebranded as “*Blueprints for Healthy Youth Development*,”<sup>74</sup> and is funded by the Annie E. Casey Foundation. With funding from the Casey Foundation, outcomes have been expanded to include not only problem behavior, but also education, emotional well-being, physical health, and positive relationships.

## The Social Development Strategy



The identification of **Blueprints Model and Promising programs** is based upon an initial review by CSPV of a program's evaluation evidence and a final review and recommendation from a distinguished advisory board, comprised of six experts in the field of positive youth development. More than 1,400 programs have been reviewed, but only a small portion of them have been designated as **Model or Promising programs** based on their ability to effectively improve developmental outcomes in the areas of behavior, education, emotional well-being, health and positive relationships. Promising programs meet the minimum standard of effectiveness. **Model programs** meet a higher standard and provide greater confidence in the program's capacity to change behavior and developmental outcomes.

**Blueprints Promising programs** meet the following standards:

- **Intervention specificity:** The program description clearly identifies the outcome the program is designed to change, the specific risk and/or protective factors targeted to produce this change in outcome, the population for which it is intended, and how the components of the intervention work to produce this change.
- **Evaluation quality:** The evaluation trials produce valid and reliable findings. This requires a minimum of (a) one high quality randomized control trial or (b) two high quality quasi-experimental evaluations.
- **Intervention impact:** The preponderance of evidence from the high quality evaluations indicates significant positive change in intended outcomes that can be attributed to the program and there is no evidence of harmful effects.
- **Dissemination readiness:** The program is currently available for dissemination and has the necessary organizational capability, manuals, training, technical assistance and other support required for implementation with fidelity in communities and public service systems.

**Blueprints Model programs** meet these additional standards:

- **Evaluation Quality:** A minimum of (a) two high quality randomized control trials or (b) one high quality randomized control trial plus one high quality quasi-experimental evaluation.
- **Positive intervention impact is sustained for a minimum of 12 months after the program intervention ends.**

**Blueprints Model Plus programs** meet one additional standard:

- **Independent Replication:** In at least one high quality study demonstrating desired outcomes, authorship, data collection, and analysis has been conducted by a researcher who is neither a current or past member of the program developer's research team and who has no financial interest in the program.

Currently, only **14** programs are considered **Blueprints Model** or **Model Plus programs**.

## PCCD's Resource Center for Evidence-Based Prevention and Intervention Programs and Practices

PCCD's nationally recognized **Resource Center for Evidence-Based Prevention and Intervention Programs and Practices** was created to support the proliferation and sustainability of high quality and effective juvenile justice intervention and delinquency prevention programs, and has three main focuses:

- supporting the quality implementation of established evidence-based program models;
- incorporating research-based principles and practices into existing local juvenile justice programs; and
- supporting community planning and implementation of evidence-based prevention program models in Pennsylvania.

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<sup>74</sup> [www.blueprintsprograms.com](http://www.blueprintsprograms.com)

## The Evidence-based Prevention and Intervention Support Center (EPISCenter)

The **Evidence-based Prevention and Intervention Support Center (EPISCenter)**<sup>75</sup> was established as a component of the Resource Center to advance high quality implementation, impact assessment, and sustainability of specific evidence-based programs identified by the JJDPC. The **EPISCenter** is housed within the Prevention Research Center (PRC) at Penn State University, and is funded by PCCD and the DHS Office of Children, Youth and Families. The **EPISCenter** plays a fundamental role in connecting science to policy and practice by providing technical assistance and support for the following evidence-based programs:

- Aggression Replacement Training,
- Big Brothers Big Sisters,
- Functional Family Therapy,
- Incredible Years,
- Life Skills Training Program,
- Multisystemic Therapy,
- Olweus Bullying Prevention Program,
- Project Toward No Drug Abuse,
- Promoting Alternative Thinking Strategies,
- Strengthening Families Program 10–14, and
- Treatment Foster Care Oregon

In January 2015, six new programs were added to the list of models eligible to be funded via the Violence Prevention Programs initiative. They included:

- Familias Fuertes,
- Family Bereavement Program,
- Positive Action,
- Triple P (The Positive Parenting Program),
- Strong African American Families, and
- Trauma-Focused Cognitive Behavioral Therapy

The **EPISCenter** has developed the capacity to estimate the significant return-on-investment of PCCD's

evidence-based prevention initiative, based upon the highly regarded approach of the Washington State Institute for Public Policy (WSIPP).<sup>76</sup> Since the 1990s, the Washington State legislature has directed WSIPP to identify “evidence-based” policies, toward the goal of providing Washington policymakers and budget writers with a list of well-researched public policies that can, with a high degree of certainty, lead to better statewide outcomes coupled with a more efficient use of taxpayer dollars.

To draw conclusions about what works, and what does not, to achieve particular outcomes, WSIPP first systematically assesses all high-quality studies from the United States and elsewhere to identify policy options that have been tried and tested and found to achieve improvements in outcomes. WSIPP then determines how much it would cost Washington State taxpayers to produce the same results, and calculates how much it would be worth to achieve the improved outcome. That is, in dollars and cents terms, WSIPP compares the benefits and costs of each policy option. Finally, WSIPP assesses the risk in the estimates to determine the odds that a particular policy option will at least break even.<sup>77</sup> Although the WSIPP benefit-cost estimates pertain specifically to Washington State, their analyses are used throughout the nation to assess the efficacy of a wide range of criminal justice, juvenile justice, child welfare and other governmental programs and practices.

The **EPISCenter** began estimating the return on investment of PCCD's prevention initiatives in 2008 utilizing a simple formula of numbers served in Pennsylvania multiplied by the Washington State Institute of Public Policy benefit-cost estimates for each program. In 2012, the **EPISCenter** improved this process by analyzing actual PCCD grant dollars awarded divided by each project's proposed number served. In the past two years the **EPISCenter** has continued to improve the accuracy of this analysis by using actual numbers served, and presenting cost per youth as an estimated range.

<sup>75</sup> <http://episcenter.psu.edu/>.

<sup>76</sup> [www.wsipp.wa.gov](http://www.wsipp.wa.gov).

<sup>77</sup> Ibid.

- The EPISCenter estimates that the Return-On-Investment (ROI) of PCCD’s Prevention Initiative for projects funded between 2010 and 2013 between \$41 million and \$59 million.<sup>78</sup>

Program <sup>79</sup>	Mean Cost Per Participant—Based on Analysis of 2010–2013 Grantee Budgets (+/- Range)	Benefit Per Participant (WSIPP as of July 2016 <sup>80</sup> )	Number of Participants Served by Projects Funded in 2010–2013	Mean Estimated Total Return on Investment (+/- Range)
Aggression Replacement Training (probation)	\$1,223 (+/- \$549)	\$12,327	665	\$7,384,087 (+/- \$365,187)
Big Brothers/Big Sisters Mentoring Program	\$3,394 (+/- \$1,847)	\$13,190	1,649	\$16,153,566 (+/- \$3,046,265)
Incredible years (Parent Only)	\$4,872 (+/- \$2,973)	\$2,153	1,244	<b>-\$3,382,168</b> (+/- \$3,697,743)
Life Skills Training	\$328 (+/- \$216)	\$1,706	4,225	\$5,820,712 (+/- \$913,702)
Strengthening Families Program 10–14	\$2,092 (+/- \$412)	\$4,126	1,423	\$2,894,887 (+/- \$586,745)
Promoting Alternative Thinking Strategies	\$229 (+/- \$59)	\$7,560	2,837	\$20,797,463 (+/- \$166,215)
Project Toward No Drug Abuse	\$89 (+/- \$31)	\$427	2,781	\$939,015 (+/- \$87,104)
<b>Total</b>			14,824	\$50,607,562 (+/- \$8,862,962)

- The EPISCenter projects that the Return-On-Investment (ROI) of PCCD’s Prevention Initiative based on just one year of youth served in 2015–2016 will be between \$12 million and \$17 million:

Program	Mean Cost Per Participant—Based on Analysis of 2010–2013 Grantee Budgets (+/- Range)	Benefit Per Participant (WSIPP as of July 2016)	Number of Participants Served by Projects Funded in FY 2015	Mean Estimated Total Return on Investment (+/- Range)
Aggression Replacement Training (probation)	\$1,223 (+/- \$549)	\$12,327	406	\$4,508,180 (+/- \$229,956)
Big Brothers/Big Sisters Mentoring Program	\$3,394 (+/- \$1,847)	\$13,190	427	\$4,182,882 (+/- \$788,815)
Incredible years (Parent Only)	\$4,872 (+/- \$2,973)	\$2,153	279	<b>-\$758,541</b> (+/- \$829,317)
Life Skills Training	\$328 (+/- \$216)	\$1,706	3,393	\$4,674,479 (+/- \$733,773)
Strengthening Families Program 10–14	\$2,092 (+/- \$412)	\$4,126	256	\$520,795 (+/- \$105,556)
Promoting Alternative Thinking Strategies	\$229 (+/- \$59)	\$7,560	220	\$1,612,775 (+/- \$12,889)
Project Toward No Drug Abuse	\$89 (+/- \$31)	\$427	237	\$80,024 (+/- \$7,423)
<b>Total</b>			5,218	\$14,820,594 (+/- \$2,700,730)

<sup>78</sup> The range of cost per participant is calculated by analyzing the natural variation in implementation costs across PCCD grantees and is calculated at a .05 confidence interval. Presenting this range provides a more accurate reflection than presenting only the mean cost per youth.

<sup>79</sup> The Olweus Bullying Prevention Program is not included in this estimate due to a lack of benefit information from the Washington State Institute of Public Policy.

<sup>80</sup> The Washington State Institute of Public Policy updates their cost benefit estimates twice per year, for the most current estimates please go to <http://www.wsipp.wa.gov/BenefitCost>.

In addition, the **EPISCenter** provides detailed data on the functioning and impact of Multisystemic Therapy (MST) and Functional Family Therapy (FFT). Historically this support has also been provided to Treatment Foster Care Oregon which no longer operates in Pennsylvania. Originally funded through PCCD grants, these programs are now primarily funded by the Department of Human Services to work with both juvenile justice system youth, as well as youth who are exhibiting problematic behaviors, but who are not yet in the juvenile justice system. The **EPISCenter** has worked with communities and service providers throughout the Commonwealth to ensure that these programs are implemented with fidelity. Between 2012 and 2015 the cumulative impact of these three evidence-based programs was significant:

- **88.2% of youth remained in the community at the end of treatment,**
- **88.0% committed no new criminal offenses while involved in the program,**
- **80.3% experienced improved family functioning,**
- **70.1% of youth showed improved school attendance, and**
- **68.7% of youth showed improved school performance.<sup>81</sup>**

In addition to the positive outcomes for youth, these programs also provide significant immediate and long-term cost savings for the Commonwealth. Although MST, FFT, and MTFC have been shown to have similar cost benefits with youth who are not in the juvenile justice system, the chart below presents a conservative approach to cost savings for juvenile justice-involved youth. Below we estimate savings of more than \$4 million in FY 2015–2016 through the use of MST and FFT in lieu of placing youth in juvenile justice residential facilities:

### **MST and FFT Cost Savings Associated with FY 2015–2016 Juvenile Justice-Referred Youth**

	FFT	MST (Standard)	Total
<b># of Clinical Discharges</b>	168	382	550
<b>% at Risk of Placement</b>	37.70%	58.60%	52.18%
<b># of Clinical Discharges at Risk of Placement (# of clinical discharges x percent at risk)</b>	63	224	287
<b># of Youth Placed at Discharge</b>	32	53	85
<b>EBI Cost per Youth<sup>82</sup></b>	\$3,918	\$9,030	
<b>Placement Cost per Youth<sup>83</sup></b>	\$41,975	\$41,975	
<b>Calculations of Cost</b>			
<b>Estimated Potential Placement Cost (# at risk x placement cost per youth)</b>	<b>\$2,658,533</b>	<b>\$9,396,203</b>	<b>\$12,054,736</b>
<b>Estimate of Actual Program Costs (# discharged x EBI cost per youth)</b>	\$658,301	\$3,449,319	\$4,107,620
<b>Estimate of Actual Placement Costs (# placed x placement cost per youth)</b>	\$1,343,202	\$2,224,679	\$3,567,881
<b>Estimated Actual Total Costs (EBI program + placements)</b>	<b>\$2,001,504</b>	<b>\$5,673,997</b>	<b>\$7,675,501</b>
<b>Total Net Savings (Potential–Actual Costs)</b>	<b>\$657,030</b>	<b>\$3,722,206</b>	<b>\$4,379,236</b>
<b>Savings per Youth Served</b>	<b>\$3,911</b>	<b>\$9,744</b>	<b>\$7,962</b>

<sup>81</sup> For more detailed information please see the Three Years of Data (Fiscal Years 2012–2015). Reports located on this page of the EPISCenter website: <http://www.episcenter.psu.edu/EBIReports>.

<sup>82</sup> Program cost per youth is based on average across providers or sites for each program, using the average BH-MCO rate as reported by providers in a 2015 Rate Survey and average length of stay for completed cases in FY 2012-2013.

<sup>83</sup> Calculated by dividing the total FY 2014–2015 juvenile delinquency placement expenditures from DHS/OCYF data (\$230,646,228) by the total FY 2014–2015 juvenile delinquency days of care from DHS/OCYF data (1,302,278) to determine an average per diem cost of \$177.11, which was then multiplied by the 2015 median length of stay from JJC data (7.9 months [237days]).

In addition to immediate cost savings realized from using MST and FFT in lieu of residential placement, research has also established a significant economic benefit related to the prevention of future delinquency and crime. According to the economic forecasts of the Washington State Institute for Public Policy (WSIPP), MST and FFT show significant benefits associated with future crime reduction.<sup>84</sup>

- **Using the WSIPP approach it is estimated the Commonwealth will see an economic benefit of approximately \$4,789,682 associated with future crime reduction for juvenile justice system youth receiving MST and FFT services in FY 2015–2016.**

### **MST and FFT Savings Associated with Future Crime Reduction FY 2015–2016 Juvenile Justice-Referred Youth**

Program	WSIPP Benefit— PA Cost per Youth <sup>85</sup>	Clinical Discharges Juvenile Justice-Referred Youth FY 2015–2016	Estimated Economic Benefit (crime reduction)
FFT	\$18,398	168	\$3,090,787
MST	\$4,447	382	\$1,698,895
<b>Total Savings</b>			<b>\$4,789,682</b>

The role of the EPISCenter expanded in July 2012 to support the implementation of the Standardized Program Evaluation Protocol (SPEP) to evaluate both brand-name and Pennsylvania “homegrown” programs against evidence-based best practice standards in conjunction with implementation of the Juvenile Justice System Enhancement Strategy (JJSES), and to provide training and technical assistance to probation departments and service providers.

## The Pennsylvania Youth Survey

Since 1989, the Commonwealth has conducted a biennial survey of school students in the 6th, 8th, 10th, and 12th grades to learn about their behavior, attitudes and knowledge concerning alcohol, tobacco, other drugs and violence. The “**Pennsylvania Youth Survey**” (PAYS) is sponsored and conducted in the fall of odd-numbered years by PCCD. The data gathered in the PAYS serve two primary needs. First, the results provide school administrators, state agency directors, legislators and others with critical information concerning the changes in patterns of the use and abuse of harmful substances and behaviors. Second, the survey assesses risk factors that are related to these behaviors and the protective factors that help guard against them. This information allows community leaders to direct prevention resources to areas where they are likely to have the greatest impact.

The **2015 Pennsylvania Youth Survey Project** was funded by PCCD, DDAP, and PDE, and this funding enabled the PAYS to be offered at no charge to any school or district (public, private, charter, and parochial) that wished to participate for the second administration in a row. The Pennsylvania State University and Bach Harrison, L.L.C. oversaw the survey process and reporting.

Participation in the **2015 PAYS** continues to increase from prior administrations, with a total of 356 school districts and 37 private/parochial school/charter/cyber schools participating, compared to a total of 342 districts in 2013. A total of 229,845 public and private school students in the eligible grades throughout the state participated in the **2015 PAYS**, up from 216,385 in 2013.

The EPISCenter plays a critical role in supporting the PAYS through on-site presentations in conjunction with PCCD and local coalitions about the value of the PAYS data with the aim of encouraging ongoing local school district participation, by partnering with PCCD to present at various statewide conferences regarding the PAYS, and by working with PCCD to produce and circulate a “How To Guide” to assist local school officials in making the best use of their PAYS data. The EPISCenter also partners with PCCD to produce series of webinars on a variety of PAYS-related topics.

<sup>84</sup> Data used in these calculations is from the July 2016 WSIPP estimates. For the most current estimates please go to <http://www.wsipp.wa.gov/BenefitCost>.

<sup>85</sup> Program cost per youth is based on average across providers or sites for each program, using the average BH-MCO rate as reported by providers in a 2015 Rate Survey and average length of stay for completed cases in FY 2012–2013.

Over the last several survey administrations, the **PAYS** has added additional questions about problem behaviors based on areas of particular interest to state and local leaders. These include questions around: illegal prescription drug use (including sources where students obtained them), gambling, depression/suicidal ideation, violence on school property, bullying (physical and online), school climate, Internet safety, gang involvement, and use of e-cigarettes/vaping. After each survey administration, Pennsylvania stakeholders review the survey instrument to determine if there are additional areas of importance that should be included in the next cycle or if some items have outlived their value and should be removed.

Questions are asked across four domains (community, school, family, and peer/individual) to help determine community strengths that can be brought to bear to assist students. The questions also help determine where potential problems may exist outside of school that can have an impact on a student's readiness to learn when they arrive at their school each morning. This includes questions on having enough food, transitions in housing, trauma and grief, or loss of a close family member or friend.

The **PAYS** is administered in individual school buildings, using either paper/pencil or online tool at the school's discretion. The survey is voluntary—youth are able to skip any questions they do not wish to answer or to opt out of the survey entirely. Additionally, students are made aware that their responses will remain anonymous and confidential. No individual student-level data can be obtained from the data set, and the results are reported in aggregate at the local, county, and state levels.

The **PAYS** is a primary tool in Pennsylvania's prevention approach of using data to drive decision making. Unlike many school surveys, **PAYS** provides information on **risk factors** (conditions that can increase the likelihood of students engaging in problem behaviors) and **protective factors** (people or conditions in a student's life that can buffer them from risk). By looking not just at rates of problem behaviors, but also at the reasons behind those behaviors, the **PAYS** enables schools and communities to identify and address the root causes (such as a lack of commitment to school) rather than only looking at the symptoms after the fact (like poor grades). This approach has been repeatedly shown in national research studies to be the most effective in helping youth develop into healthy, productive members of their communities.

The **PAYS** data allows for the identification of **local** problems, and therefore, for the selection and implementation of the evidence-based programs to address those problems specific to a community.

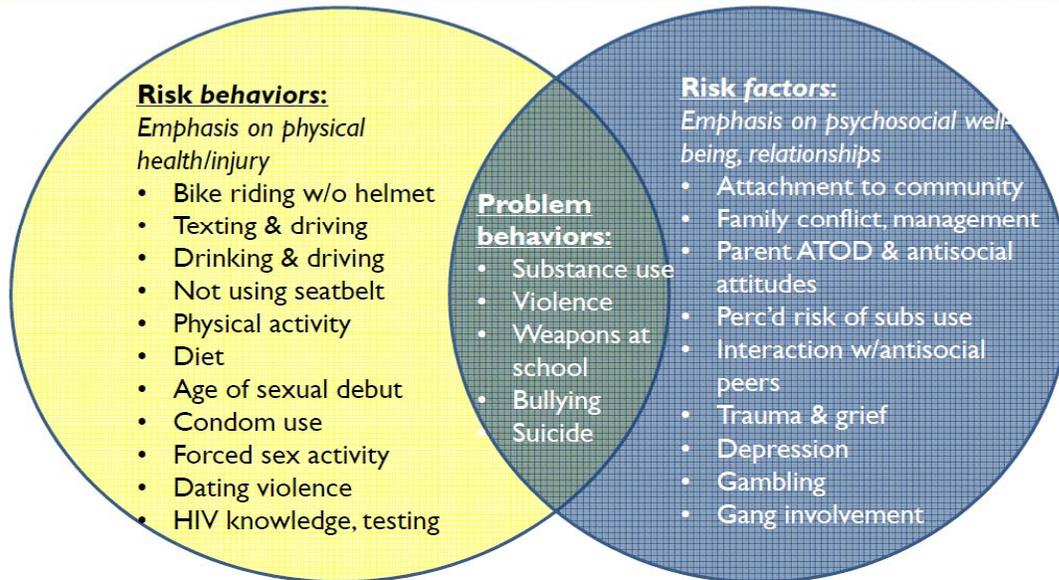
While school district participation in the **PAYS** is increasing, it is significant that, at present, the Pittsburgh and Philadelphia School Districts continue to choose not participate in the **PAYS**. In the case of Philadelphia, the most frequent reason cited is that the district utilizes the **Youth Risk Behavior Surveillance Survey (YRBSS)** developed by the Centers for Disease Control and Prevention (CDC).

As detailed below, although both instruments address the problem behaviors of substance abuse, violence, weapons at school, bullying, and suicide; it is the position of PCCD that the **PAYS'** focus on **risk factors**, as well as **protective factors**, is preferable to the **YRBSS risk behaviors** approach.

# YRBSS & PAYS Data

Youth Risk Behavior Surveillance Survey (YRBSS)

Pennsylvania Youth Survey (PAYS)



Other commonalities: administered in odd-numbered years, middle school & high school students (but PAYS in 6,8,10,&12).

PCCD will continue to work with the school districts of both Philadelphia and Pittsburgh toward the goal of gaining their support for participation in the fall 2017 administration of the PAYS.

It is clear that the **Pennsylvania Youth Survey (PAYS)** should be the preferred means of gathering information regarding the attitudes and behavior of our Commonwealth's children, and that **Communities That Care (CTC)** should be the preferred means of engaging communities in the process of identifying and developing solutions to their problems.

## PCCD's Evidence-based Approach: A Proven Foundation for a Comprehensive Prevention Strategy for the Commonwealth

The success that PCCD has had in implementing **Communities That Care (CTC)** and **Blueprints** programs is well documented, as are the strong partnerships and working relationships that PCCD's professional staff have within state government and with local government and community leaders throughout the Commonwealth.

However, the Commonwealth's current approach to assisting and providing prevention-related funding to communities is not as well coordinated as it needs to be. In addition to PCCD, the Departments of Health(DOH), Education (PDE), Drug and Alcohol Programs (DDAP), Liquor Control Board (PLCB), and Human Services (DHS) each devote financial and staff resources to preventing adolescent problem behaviors.

The appropriations that support prevention-related initiatives include, but are not limited to:

- PCCD's Violence Prevention appropriation, which for FY 2016–2017 provides \$4.5 million to support proven delinquency and violence prevention programs;
- PDE's Safe Schools Targeted Grant Program, which for FY 2016–2017 provides \$3.9 million for school resource officers and school police officers and \$2.6 million to address school safety and violence;

- PDE's federally-funded 21st Century Community Learning Centers (21st Century) Program, which totals \$18 million for 2015–2018;
- PLCB's Alcohol Education Grant Program, through which approximately \$1.1 million was awarded in FY 2016–2017;
- the prevention-related expenditures of Single County Authorities (SCAs), which totaled approximately \$27.9 million for FY 2014–2015;
- DHS's Nurse Family Partnership Program, which totals \$11.9 million for FY 2016–2017;
- DHS's Children's Trust Fund, which in FY 2014–2015 awarded nearly \$1 million for the prevention of child abuse and neglect; as well as
- a portion of DHS's \$1.46 billion FY 2016–2017 county child welfare appropriation.
- **It is clear that the Commonwealth must develop and implement a comprehensive inter-departmental, evidence-based, and trauma-informed strategy to prevent delinquency, youth violence, and other adolescent problem behaviors, including substance abuse, teen pregnancy, and school failure.** Such a strategy is essential to PCCD's efforts to address the disproportionate numbers of minority youth who become involved in Pennsylvania's juvenile justice system.

PCCD is uniquely positioned to coordinate such an effort by virtue of its proven track record; the technical assistance and quality assurance expertise that PCCD has made available to communities through the **Evidence-based Prevention and Intervention Support Center (EPISCenter)** at Penn State; as well as PCCD's clear statutory mandate to design research-based initiatives of this type.

Among the duties of PCCD set forth at 71 P.S. § 1190.23 are the following:

*“To define and collaborate with all State agencies on planning and programming related to juvenile delinquency prevention and the reduction and prevention of violence by and against children,”* and

*“To design and promote comprehensive research-based initiatives to assist communities and community-based organizations in reducing risk to and promoting the positive development of children and in preventing juvenile delinquency and youth violence.”*

The broader implementation of both **Communities That Care (CTC)** and the implementation **Blueprints Model and Promising programs** with fidelity will not only reduce the likelihood of adolescent problem behaviors in at-risk children, but will also reduce the likelihood that these children will be incarcerated as adults.

This will only occur though a mandatory, comprehensive, and coordinated strategy that includes identification of a designated funding stream to support the implementation of evidence-based prevention programs and practices.

Currently, one-year of PCCD support for evidence-based practices (EBPs) reaches an average of 5,380 youth/families. Cost-benefit analyses of EBPs demonstrate that such programs can produce powerful change. EBPs can impact a youth's ability to successfully engage in their school environment by forming pro-social relationships with teachers and peers and by developing skills for successfully managing important relationships and common life stressors. In fact, many of the EBPs supported by PCCD and EPISCenter are estimated to produce a positive return on investment to the Commonwealth specifically through impacts associated with graduating high school. The more social and emotional skills youth develop over their educational career, the more likely they are to graduate high school, and go on to be productive citizens with paying jobs.

Moreover, some EBPs have been demonstrated to prevent prescription opioid misuse from middle school through early adulthood. Preventing just one person from advancing to prescription opioid misuse results in \$7,500 of savings to taxpayers and society (which is considered a very conservative estimate). Researchers have demonstrated a 5 percent lower prevalence of prescription opioid misuse in youth who receive the Strengthening Families 10–14 program and the LifeSkills Training program compared to youth who do not receive these programs. In a relatively small school district of 1,000 youth, this rate of return equates to 50 youth avoiding misuse, equaling \$375,000 in savings to society (i.e., \$7,500 per youth x 50 youth).

An increase of \$5 million in funding to support proliferation of EBPs such as Promoting Alternative Thinking Strategies (PATHS), LifeSkills Training (LST), Strengthening Families 10–14 (SFP 10–14), and Project Toward No Drug Abuse (TND), would provide the following benefits to the Commonwealth:

- 9,903 additional youth per year would receive school-based pro-social EBPs, with estimated additional net benefits to society of \$32,606,373 per year.

- An additional 626 youth will receive the benefit of SFP, generating an additional net benefit of \$1,199,570 per year.
- This amounts to a total of additional youth served of 10,529 over one year, and 52,646 youth over a five-year period.
- The total additional net benefit to society would be \$33,805,943 the first year (based on PCCD average cost for each model) and total net benefit across five years of \$169,029,714.

### **Recommendations**

- *It is recommended that the Governor, by Executive Order, direct PCCD and DDAP to develop a strategic plan to coordinate the Commonwealth's delinquency, youth violence, and substance abuse prevention programming, inclusive of the programming of DHS, DOH, PDE, DDAP, PCCD, and PLCB.*
- *It is recommended that the Governor propose \$9,569,000 in FY 2017–2018 for PCCD's violence prevention appropriation, representing a \$5,000,000 increase over the FY 2016–2017 appropriation, as the first step in a multi-year strategy to ultimately provide the equivalent of 1% of the Department of Corrections (DOC) general fund budget to support PCCD's evidence-based delinquency and violence prevention programming.*

# Chapter 2

## Juvenile Justice System Enhancement



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# Chapter 2

## Juvenile Justice System Enhancement

### The Pennsylvania Juvenile Justice System Enhancement Strategy (JJSES)

- *The Commonwealth must continue to aggressively pursue implementation of the Pennsylvania Juvenile Justice System Enhancement Strategy (JJSES).*

As previously explained, Pennsylvania’s status as a national leader in juvenile justice policy and practice and the strong commitment throughout the juvenile justice system to achieving its balanced and restorative justice mission were key factors in the decision of the John D. and Catherine T. MacArthur Foundation, in 2004, to select Pennsylvania as the first state to participate in its *Models for Change* juvenile justice reform initiative.

In June 2010, with the Commonwealth’s five-year *Models for Change (MFC)* partnership with the MacArthur Foundation drawing to a close, the Executive Committee of the Pennsylvania Council of Chief Juvenile Probation Officers and Juvenile Court Judges’ Commission (JCJC) staff concluded that it was essential to develop a strategy to consolidate the various *Models for Change*-related initiatives “under one roof,” and to sustain and enhance the gains of the previous five years. Following an intensive review of the impact of and the many lessons learned through this partnership, it was agreed that the JCJC and Pennsylvania Council of Chief Juvenile Probation Officers would work together with PCCD and other system partners to develop and implement a comprehensive “*Juvenile Justice System Enhancement Strategy*” (JJSES) as the means to achieve this goal.

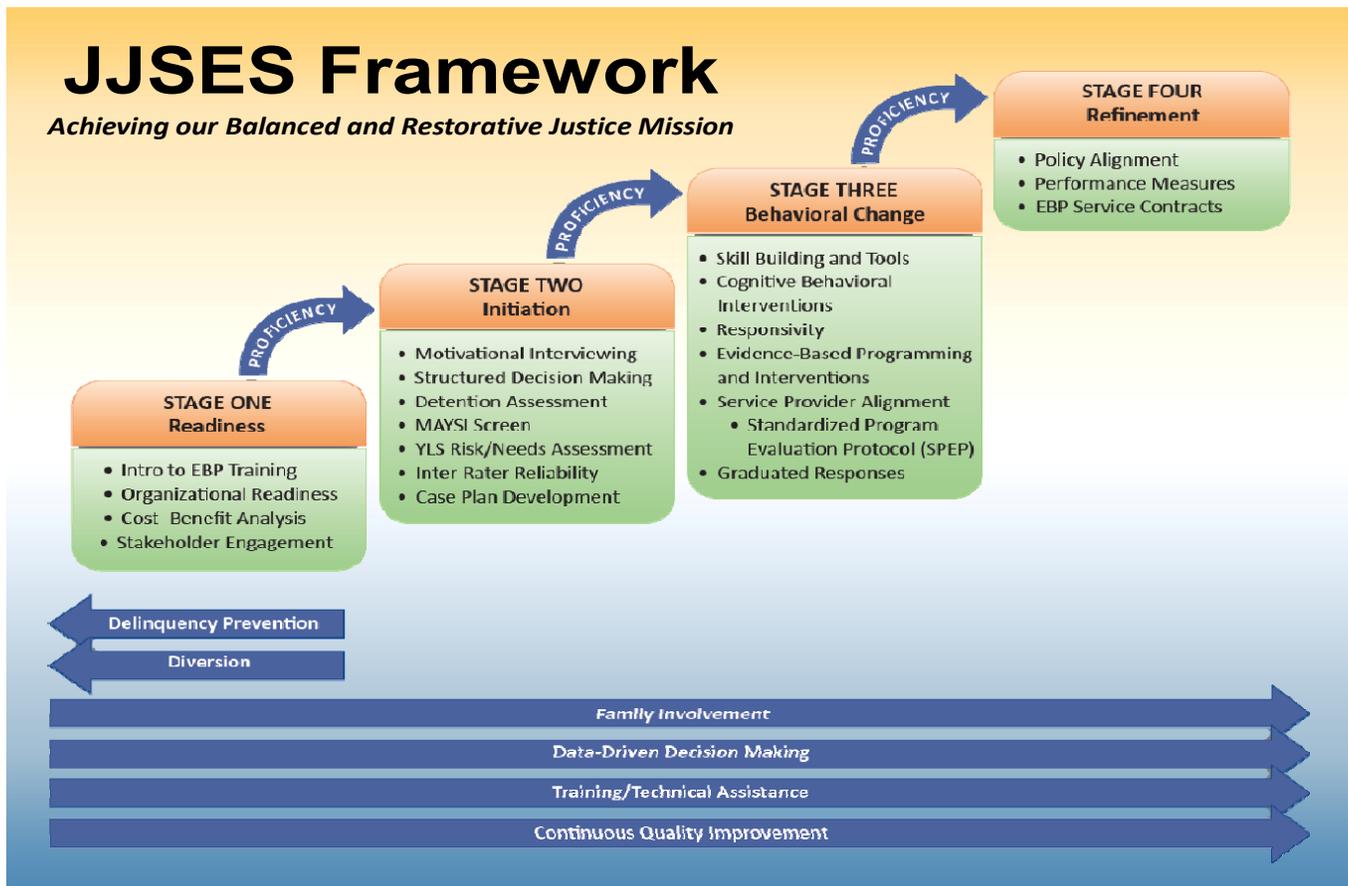
On November 4, 2010, the Juvenile Court Judges’ Commission (JCJC) unanimously endorsed the following Statement of Purpose as the foundation for Pennsylvania’s Juvenile Justice System Enhancement Strategy:

#### JJSES Statement of Purpose

**We dedicate ourselves to working in partnership to enhance the capacity of Pennsylvania’s juvenile justice system to achieve its balanced and restorative justice mission by**

- **employing evidence-based practices, with fidelity, at every stage of the juvenile justice process;**
- **collecting and analyzing the data necessary to measure the results of these efforts; and, with this knowledge,**
- **striving to continuously improve the quality of our decisions, services and programs.**

As noted in the introduction, the **JJSES Statement of Purpose** has been strongly endorsed throughout the juvenile justice system, and the JCJC is coordinating the implementation of the JJSES with the assistance of the **JJSES Leadership Team**, comprised of key leaders from the Pennsylvania Council of Chief Juvenile Probation Officers, PCCD’s Office of Juvenile Justice and Delinquency Prevention, and the JCJC.



As explained in the monograph *Pennsylvania’s Juvenile Justice System Enhancement Strategy—Achieving Our Balanced and Restorative Justice Mission Through Evidence-based Policy and Practice*, the JJSES, which is the framework within which evidence-based practices will become a reality throughout Pennsylvania’s juvenile justice system, consists of four stages of implementation: **Readiness; Initiation; Behavioral Change; and Refinement.**<sup>86</sup>

The expertise and support of PCCD’s Office of Juvenile Justice and Delinquency Prevention has been critical to the success of the JJSES initiative from the outset. Critically important, as well, has been the funding which has been awarded by PCCD, upon the recommendation of the JJDC, to support the initiative, including funding to the Pennsylvania Council of Chief Juvenile Probation officers to support the technical assistance provided by The Carey Group; the development of the monograph “*Pennsylvania’s Juvenile Justice System Enhancement Strategy—Achieving Our Balanced and Restorative Justice Mission Through Evidence-based Policy and Practice*,” six regional training programs in Spring 2012 for teams from all 67 counties; funding for JJSES planning and implementation grants to the counties; and funding to support the development of baseline statewide and county-specific recidivism rates for juvenile delinquency cases closed in 2007, 2008, 2009, 2010, 2011, and 2012 as one means of determining the impact of JJSES implementation.

Essential to the underlying philosophy of the JJSES is the concept that juvenile justice interventions and programs are considered effective when they reduce a juvenile’s risk to reoffend, and that the application of evidence-based practices will enhance public safety. The principles of *risk*, *need*, and *responsivity* form the foundation of evidenced-based juvenile justice practices. As summarized in the JJSES Monograph, the *risk principle* helps identify *who* should receive juvenile justice interventions and treatment. The *need principle* focuses on *what* about the young person must be addressed. The *responsivity principle* underscores the importance of *how* treatment should be delivered, with behavioral and cognitive behavioral skill-building techniques being the most effective.<sup>87</sup>

<sup>86</sup> *Pennsylvania’s Juvenile Justice System Enhancement Strategy—Achieving Our Balanced and Restorative Justice Mission Through Evidence-based Policy and Practice* (Juvenile Court Judges’ Commission and Pennsylvania Council of Chief Juvenile Probation Officers, April 2012)

p.4.

<sup>87</sup> Ibid.

## Statewide Implementation of the YLS Risk/Needs Assessment

Equally important as tenets of the JJSES are the concepts of fundamental fairness and structured decision making as a tool to help system professionals make consistent, appropriate, effective, and fundamentally fair decisions. The JJSES Leadership Team recognized that if Pennsylvania's juvenile justice system was to achieve a reduction in recidivism through the prevention of delinquent behavior, an essential step in addressing the principles of risk, need, and responsibility would be the use of a valid and reliable assessment instrument to measure both a youth's risk and needs. This information can then be used to determine appropriate levels of supervision, to establish measurable, case-specific goals, and to better allocate resources in order to achieve effective outcomes for juveniles who come within the jurisdiction of our courts.

In June 2008, the Executive Committee of the Pennsylvania Council of Chief Juvenile Probation Officers and staff from the JCJC undertook a comprehensive review of various risk assessment tools designed specifically for juvenile offenders. With the assistance of the National Youth Screening and Assessment Project (NYSAP) and support from the MacArthur Foundation, members of the Executive Committee chose to pilot the **Youth Level of Service/Case Management Inventory (YLS/CMI)** risk assessment instrument. The YLS/CMI is a valid and reliable risk instrument that assesses risk for recidivism by measuring 42 risk/need factors within the following eight domains:

- prior and current offenses (antisocial history)\*
- attitudes/orientation (antisocial thinking)\*
- personality/behavior (antisocial temperament)\*
- peer relations (antisocial companions)\*
- family circumstances/parenting
- education/employment
- substance abuse
- leisure/recreation

*\* domains that research has shown to be the strongest predictors of recidivism*

Any of the domains may also be identified as an area of strength. Ultimately, a youth is assigned an overall risk level of **Low, Moderate, High, or Very High**, based on the aforementioned domains and other factors gathered through a structured interview/information-gathering process. The assessed risk level is to be used to inform the juvenile probation officer and juvenile court judge throughout the process of determining case dispositions, as well as supervision and intervention targets for juvenile offenders.

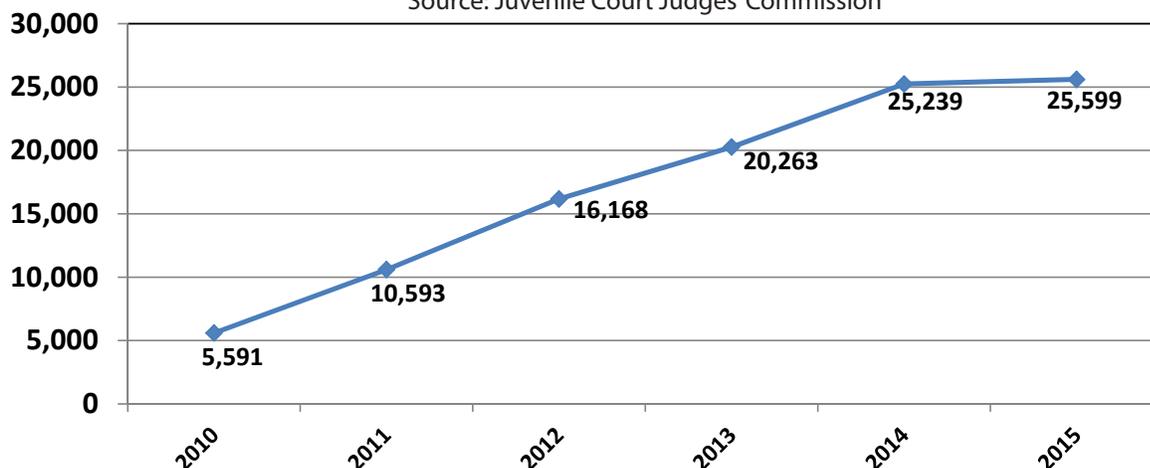
Early in the pilot phase of the YLS/CMI, the JJSES Leadership Team determined that statewide implementation of the YLS/CMI would necessitate the integration of the YLS/CMI into the JCJC's Pennsylvania Juvenile Case Management System (PaJCMS). However, the Leadership Team concluded that the case plan section of the YLS/CMI did not appropriately meet the needs of Pennsylvania's juvenile justice system, and that there was the need to develop a standardized case plan format and structure to address the key elements of balanced and restorative justice, as well as the risk and needs identified by the YLS/CMI. As a result, a standardized, goal-focused, and strength-based case plan was developed that is being fully integrated into the PaJCMS. The success of the YLS pilot confirmed that statewide implementation of the YLS should be pursued as a key component of the JJSES. With the strong support of the Pennsylvania Council of Chief Juvenile Probation Officers, the JCJC, and PCCD, implementation of the YLS/CMI throughout Pennsylvania's juvenile justice system became a realistic goal.

In FY 2013–2014, the JCJC approved a new allocation methodology for the agency's Juvenile Probation Services grant program to counties which made a county's eligibility for any JCJC grant funds contingent upon the submission of a plan to the JCJC that must address the implementation of the YLS risk/need assessment instrument; the development of recommendations to the court based upon the YLS results, including the identified risk and needs of each juvenile; and the development and implementation of a case plan based upon YLS results, which targets services to meet the identified risk and needs of each juvenile.

- This policy decision of the JCJC has had a dramatic impact on the pace of YLS implementation. Currently, 66 of Pennsylvania’s 67 counties are in the process of implementing the YLS, and juvenile delinquency dispositions and case plans throughout the juvenile justice system are increasingly being crafted and implemented to meet the specific risk and needs of each juvenile based on the results of the YLS.

### Youth Level of Service (YLS) Administrations in Pennsylvania’s Juvenile Justice System 2010–2015

Source: Juvenile Court Judges’ Commission



The availability of YLS scores, as a result of the JJSES, is becoming increasingly important to judges in crafting, implementing, and monitoring dispositions in juvenile delinquency cases, and in complying with both statutory and procedural rule mandates. Prior to entering an order of disposition in a juvenile delinquency case, the judge is required to state the disposition and the reasons for the disposition on the record in open court, together with the goals, terms and conditions of that disposition. If the child is to be committed to out-of-home placement, the judge must also state the name of the specific facility or type of facility to which the child will be committed, and the judge’s findings and conclusions of law that formed the basis of his/her decision, consistent with the Juvenile Act’s “balanced attention” mandates. In addition, the judge is required to explain why commitment to that facility or type of facility was determined to be the least restrictive placement that is consistent with the protection of the public and best suited to the child’s treatment, supervision, rehabilitation and welfare.<sup>88</sup>

<sup>88</sup> 42 Pa.C.S. § 6352(c) and Pa.R.J.C.P. 512(D).

## Statewide Baseline Recidivism Rates for Pennsylvania’s Juvenile Justice System

The development of statewide and county-specific baseline recidivism rates is a particularly noteworthy JJSES accomplishment. Pennsylvania is one of the few states with the capacity to develop information of this type. For the purposes of this research, recidivism is defined as a subsequent adjudication of delinquency or conviction in criminal court for a misdemeanor or felony offense within two years of case closure; with the exception of expunged cases, which were not available for inclusion in this research. The baseline state-wide and county-specific recidivism rates established in conjunction with the JJSES will continue to provide an important means to measure the impact that the implementation of evidence-based practices is having. Statewide recidivism rates, by year, for the six years studied thus far are as follows:<sup>89</sup>

### Six-Year Average Recidivism Rates: Juveniles with Cases Closed 2007–2012

	2007	2008	2009	2010	2011	2012
<b>Recidivists</b>	3,827	4,132	4,206	3,624	3,498	3,679
<b>Non-Recidivists</b>	15,055	14,778	14,233	13,176	15,437	15,529
<b>Total</b>	18,882	18,910	18,439	16,800	18,935	19,208
<b>Recidivism Rate</b>	20.3%	21.8%	22.8%	21.6%	18.5%	19.2%

**The 18.5% recidivism rate for cases closed in 2011 represented approximately a 14% reduction from the 21.6% recidivism rate for cases closed in 2010, as well as a 14% reduction from the four-year average recidivism rate of 21.6% for cases closed in 2007, 2008, 2009, or 2010. This dramatic reduction in the statewide recidivism rate for cases closed in 2011 was especially significant because 2011 was the first year that the implementation of evidence-based practices through the JJSES could reasonably have been expected to have had an impact. Although the statewide recidivism rate for cases closed in 2012 rose to 19.2%, that rate is 11% lower than the pre-JJSES recidivism rate for cases closed in 2007–2010.**

From the outset, the architects of the JJSES understood that the calculation of “expected recidivism rates” would be critical to effectively gauging the performance of the Pennsylvania juvenile justice system. In 2015, staff from the Juvenile Court Judges’ Commission and research staff from the University of Pittsburgh sought to determine the impact of shifting juvenile offender populations on expected recidivism rates.

The research project introduced “corrections” into recidivism calculations by assessing changes in the characteristics of youth who had cases closed from the Pennsylvania juvenile justice system between 2007 and 2011.

Given the JJSES goal of diverting low risk youth away from the juvenile justice system, it would be reasonable to expect recidivism rates to increase over time because the types of youth who are entering the juvenile justice system are more likely to be youth who are at moderate and high risk to re-offend.

By calculating what the expected recidivism rate should be given the case characteristics of youth who had actually been under juvenile court supervision to the observed recidivism rate, stakeholders can better gauge the performance of the Pennsylvania juvenile justice system. If the observed recidivism rate is higher than the expected recidivism rate, it can be concluded the system performed worse than predicted. Conversely, if the observed recidivism rate is lower than the expected recidivism rate, it can be concluded the system performed better than predicted.

The research staff from the University of Pittsburgh first concluded that there were indeed changes in the characteristics of juveniles with cases closed over the five-year time period examined. For example, they discovered that a higher proportion of minority youth had cases closed in each successive year between 2007 and 2011. The researchers also determined that there was a slight downward trend in property crimes in the five-year time period analyzed, with a slight upward trend in person crimes.

<sup>89</sup> *The Pennsylvania Juvenile Justice Recidivism Report: Juveniles with Cases Closed in 2007, 2008, 2009, 2010, 2011, and 2012* (Pennsylvania Juvenile Court Judges’ Commission, 2016).

Following this, the research staff calculated expected recidivism rates. Since YLS data was not available for juveniles with cases closed between 2007 and 2011, a proxy risk score was assigned to each youth in the sample using the variables of gender, race, age at first written allegation, age at case closure, number of written allegations, county, prior adjudication, placement experience, serious, violent, or chronic offender status, and offense type.

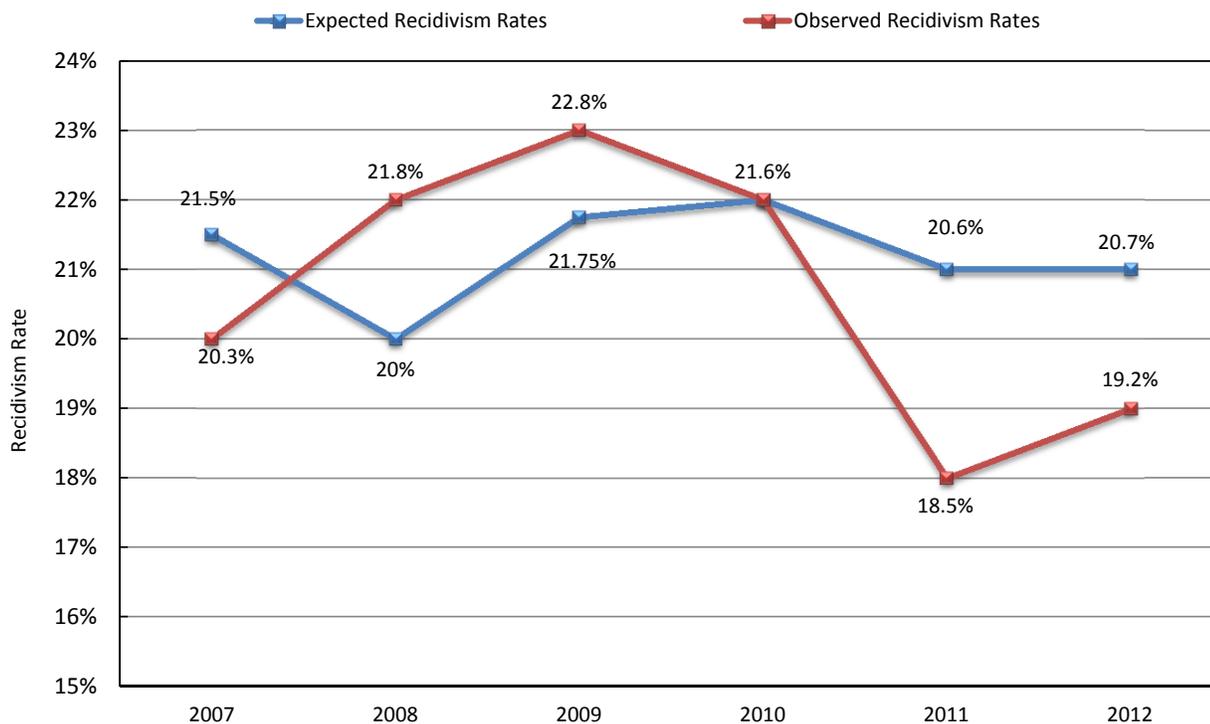
Depending on how a juvenile “scored” on each of these variables, the juvenile was assigned a “likelihood to re-offend number,” ranging between 0 and 1. For example, a juvenile who was very young at the time of his first written allegation to a juvenile probation department would score higher than a juvenile who was older at the time of his first written allegation to a juvenile probation department. Once each of the juveniles was assigned a “likelihood score,” the average likelihood score of all youth was calculated, resulting in the expected recidivism rate for each cohort year.

After calculating the “expected recidivism rates” for 2007, 2008, 2009, 2010, and 2011, the “observed recidivism rates” were then compared to each year. For cases closed in 2007, the observed recidivism rate was lower than the expected recidivism rate; for cases closed in 2008 and 2009, the observed recidivism rate was higher than the expected recidivism rate; and, there were no differences between the observed recidivism rate and the expected recidivism rate for cases closed in 2010. However, in 2011, the observed recidivism rate was lower than the expected recidivism rate.

Drawing on the work that was completed during this research project, staff from the Juvenile Court Judges’ Commission replicated the process for youth with cases closed in 2012. As illustrated below, the observed recidivism rate was again lower than the expected recidivism rate for cases closed in 2012, meaning the Pennsylvania juvenile justice system performed better than anticipated given the types of juveniles who had cases closed that year.<sup>90</sup>

It should be noted that the expected recidivism rates do not take into account the specific treatment and services that were provided to juveniles while under supervision, and therefore cannot be linked to specific JJSES activities or evidenced-based practices that have been implemented. However, this analysis serves to confirm that even though the juvenile offender population has changed over time, the juvenile justice system is doing a better job of reducing the likelihood of recidivism for youth under its jurisdiction.

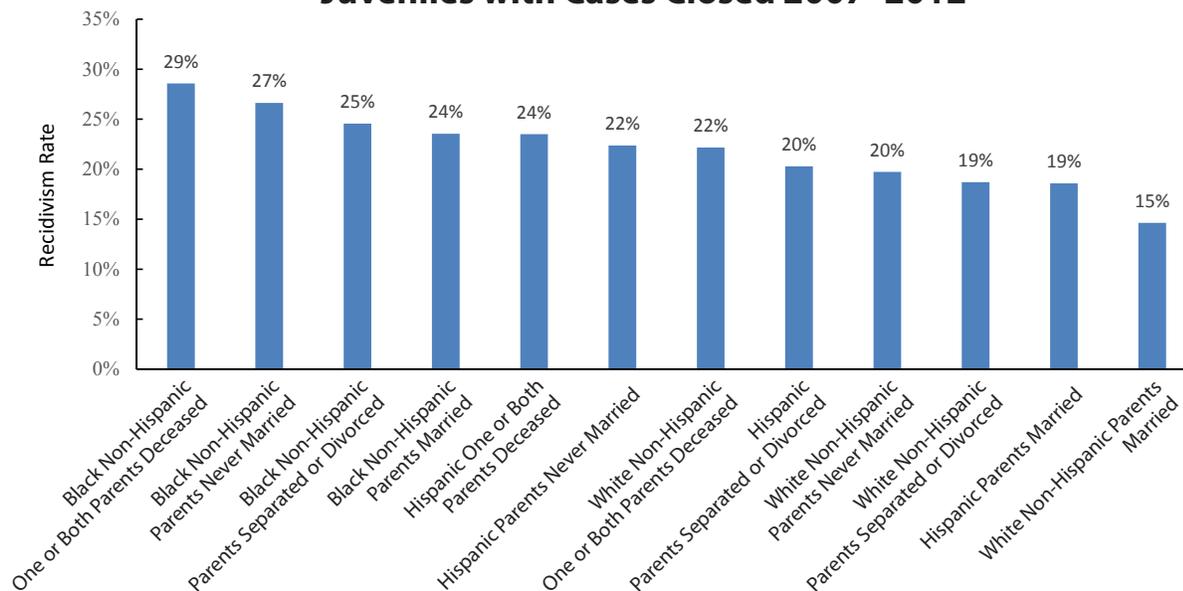
### Expected Recidivism Rates vs. Observed Recidivism Rates by Year: Juveniles with Cases Closed 2007–2012



<sup>90</sup> Ibid., pp. 8–10.

As explained in Chapter 1, minority youth are disproportionately represented in Pennsylvania’s juvenile justice system. The recidivism research conducted by the Juvenile Court Judges’ Commission also confirmed that minority youth also have some of the highest recidivism rates. Between the three major race groups, Black Non-Hispanic juvenile offenders were generally most likely to recidivate across the six years examined, regardless of their family status, compared to White Non-Hispanic juvenile offenders and Hispanic juvenile offenders. Within each race group, juveniles with a family status of one or both parents deceased re-offended at the highest rates.

**Recidivism Rate by Race/Ethnicity and Family Status:  
Juveniles with Cases Closed 2007–2012**



## The Pennsylvania Detention Risk Assessment Instrument (PaDRAI)

Detention-related decisions are among the most significant decisions made in the juvenile justice system, and these decisions should be based on clearly defined, objective criteria. In 2011, the Commonwealth became actively engaged in the Juvenile Detention Alternatives Initiative (JDAI) of the Annie E. Casey Foundation,<sup>91</sup> as an important component of the JJSES. The counties of Allegheny, Lancaster, Lehigh and Philadelphia were selected as pilot sites because each of these counties had been utilizing a detention risk assessment instrument (DRAI) to provide a more structured approach to detention decision-making in conjunction with their development of evening reporting centers through grants from PCCD. Each of these jurisdictions engaged in a comprehensive juvenile detention-related initiative based on the eight core strategies of JDAI:

- Collaboration
- Collection and utilization of data
- Objective admissions screening
- Alternatives to detention
- Case processing reforms
- Flexible policies for special detention cases
- Attention to racial disparities
- Conditions of confinement

The Pennsylvania Detention Risk Assessment Instrument (PaDRAI) modeled after instruments developed through JDAI and is designed to assess the risk of a youth to: 1) commit additional offenses while awaiting his/her juvenile court hearing; and/or 2) fail to appear for his/her scheduled juvenile court hearing. JDAI-type detention risk assessment instruments have been in use for more than 20 years and replicated in more than 300 jurisdictions in 39 states and the District of Columbia. The PaDRAI is a brief structured decision-making instrument used to assist in the critical decision of whether to securely detain a youth, release to an alternative to detention (ATD), or release to the custody of a parent or responsible adult during the period that the youth is awaiting his/her juvenile court hearing.

<sup>91</sup> www.aecf.org.

The principles that underlie the use of the PaDRAI are to minimize bias and promote fair, unbiased, and transparent detention decisions. The use of detention for a youth is a critical decision in the juvenile justice system process. The PaDRAI aids in the decision to target the use of secure detention for youth who pose a significant risk to community safety or are at risk to not appear for their subsequent juvenile court hearings. When utilized properly, the PaDRAI can minimize the costly, unnecessary use of secure detention for youth who do not pose a risk to reoffend or abscond while awaiting their juvenile court proceedings.

The following principles are central to the use of detention risk assessment instruments:

- **Objectivity:** *Detention decisions should be based upon neutral and objective factors rather than on the screener's subjective opinion about an individual youth. Objective criteria anchor detention decisions in ascertainable facts such as the nature and severity of the offense, the number of prior referrals, or the youth's history of flight from custody.*
- **Uniformity:** *Local criteria should be uniform in the sense that they are applied equally to all youth referred for a detention decision. To achieve the desired level of uniformity, the criteria must be in a written (or electronic) format and must be incorporated into a screening process that is standardized for all referrals.*
- **Risk-based:** *The criteria should be risk-based, meaning that they should measure specific detention-related risks posed by the minor. These risks are: the risk of reoffending before adjudication and the risk of failing to appear at a court hearing.<sup>92</sup>*

An extensive review and testing process, involving representatives from county juvenile probation departments and state juvenile justice officials, resulted in the development of the Pennsylvania-specific PaDRAI. The involved counties conducted retrospective reviews and field tests of the instrument, participated in an implementation study to identify best practices, and were subjected to a rigorous scientific study to validate the instrument across multiple counties. The counties of Allegheny, Chester, Lancaster, Lebanon, Lehigh, Franklin, and Philadelphia counties participated in the validation study. The validation study (N=954) resulted in a 93% success rate in which youth, who were released to a responsible adult or placed on alternative to secure detention while awaiting their Juvenile Court hearing, did not re-offend or fail to appear for their hearing.

Currently, 32 counties are engaged in some aspect of implementation of the PaDRAI, including: stakeholder education; policy and protocol development; staff training; use of the instrument; and ongoing management and evaluation. The PaDRAI is being integrated into the JCJC's Pennsylvania Juvenile Case Management System (PaJCMS), and statewide implementation is being considered.

## The Standardized Program Evaluation Protocol (SPEP)

The Standardized Program Evaluation Protocol (SPEP™) is a validated, data driven rating scheme for determining how well an existing program matches research evidence for the effectiveness of that particular type of intervention for reducing the recidivism of juvenile offenders. The SPEP scheme is based on a meta-analysis of over 700 studies conducted by Dr. Mark Lipsey of Vanderbilt University and his colleagues over the last 20 years.<sup>93</sup>

In late 2011, Pennsylvania was one of four states chosen to participate in the Juvenile Justice System Improvement Project (JJSIP)<sup>94</sup> of Georgetown University's Center for Juvenile Justice Reform, with Berks County as a pilot site. The JJSIP takes the vast amount of knowledge gained through Dr. Lipsey's meta-analysis of effective juvenile justice programs which he utilized to develop the SPEP™, and embeds it within the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders of the federal Office of Juvenile Justice and Delinquency Prevention.

The JJSIP model is designed to assist states in improving outcomes for juvenile offenders by translating existing research on evidence-based practices into policy and practice—an approach very consistent with the JJSES. One of the primary factors that influenced Pennsylvania's decision to participate in the JJSIP was the opportunity to learn more about the SPEP™ for possible inclusion in the JJSES. The SPEP™ process includes provider interviews and the review of data from the JCJC's Pennsylvania Juvenile Case Management System (PaJCMS) database, which has been used to identify statewide utilization rates of delinquency service providers. Probation officers and service providers jointly

<sup>92</sup> Steinhart, David, Esq., *Juvenile Detention Risk Assessment: A Practice Guide to Juvenile Detention Reform*, (2006), pg. 7. Juvenile Detention Alternatives Initiative, The Annie E. Casey Foundation, Baltimore, MD.

<sup>93</sup> <https://my.vanderbilt.edu/spep/>.

<sup>94</sup> <http://cjjr.georgetown.edu/jjsip/jjsip.htm>.

contribute to the SPEP™ assessment process and work together to create and implement Performance Improvement Plans. Cooperation throughout this process has deepened systemwide understanding of provider programs and services. As a result, judges and probation officers can more easily refer “the right kids, to the right programs, for the right amount of time.”

With funding from PCCD, the role of the **EPISCenter** at Penn State was expanded in July 2012 to support the implementation of the SPEP™ beyond Berks County, to providers utilized by Allegheny, Dauphin, Lehigh and Bucks Counties. Juvenile Justice System Improvement Specialists from the **EPISCenter** support the evaluation of both brand name and locally developed programs against evidence-based best practice standards in conjunction with implementation of the JJSES. In October 2014, Dr. Mark Lipsey trained and certified seven individuals from Pennsylvania to be trainers of SPEP™, making Pennsylvania the first state to develop “in-house” SPEP™ training expertise. In 2015, six additional counties—Luzerne, Lycoming, McKean, Mercer, Venango, and York—had juvenile probation officers trained as SPEP Specialists by Pennsylvania’s Level II trainers, who were responsible for the creation and delivery of the curriculum. The **EPISCenter** Juvenile Justice System Improvement Specialists also provide training and technical assistance to probation departments and service providers as needed or when requested.

To date, more than 100 community-based and residential services have been assessed or reassessed. In 2016 and beyond, SPEP™ assessments of residential services will be prioritized. Focusing SPEP™ assessments on these services will increase the capacity of the SPEP™ to impact youth from Pennsylvania counties not currently participating in the SPEP project.

SPEP™ findings have been promising to date. More than 81% of services evaluated have achieved an initial SPEP™ score of more than 50, which implies that those services are likely contributing to reducing recidivism. Ninety-five percent of services assessed or re-assessed thus far are operating with medium or high quality of service delivery. The project has also revealed that more effective information sharing is occurring between service providers and juvenile probation officers.

## Reforming Juvenile Justice: A Developmental Approach

In 2013, *Reforming Juvenile Justice: A Developmental Approach*<sup>95</sup> was published by the National Research Council (NRC). In that report, a committee charged with assessing recent initiatives in juvenile justice strongly endorsed a framework of reform based on a scientific understanding of adolescent development. The report was very well received nationally, and shortly after its publication the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) discussed the possibility of a follow-up study with the NRC to develop an implementation plan for OJJDP. With funding from the John D. and Catherine T. MacArthur Foundation and the Annie E. Casey Foundation, the project was funded

- Accountability without Criminalization;
- Alternatives to Justice System Involvement;
- Individualized Response Based on Assessment of Needs and Risks;

and an expedited study was undertaken. Early in 2014, *Implementing Juvenile Justice Reform: The Federal Role*<sup>96</sup> was completed to provide specific guidance to OJJDP regarding the steps that OJJDP should take to facilitate juvenile justice reform throughout the nation based on knowledge about adolescent development.

*Implementing Juvenile Justice Reform: The Federal Role* identified seven hallmarks of a developmental approach to juvenile justice, which would put into practice what is known from research about adolescent development and about the effectiveness of various juvenile justice interventions. According to the report, these seven hallmarks provide a template to guide system reform:

- Confinement Only When Necessary for Public Safety;
- A Genuine Commitment to Fairness;
- Sensitivity to Disparate Treatment; and
- Family Engagement.<sup>97</sup>

<sup>95</sup> National Research Council (2013). *Reforming Juvenile Justice: A Developmental Approach*. Committee on Assessing Juvenile Justice Reform, Richard J. Bonnie, Robert L. Johnson, Betty M. Chemers, and Julie A. Schuck, Eds. Committee on Law and Justice, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press.

<sup>96</sup> National Research Council. (2014). *Implementing Juvenile Justice Reform: The Federal Role*. Committee on a Prioritized Plan to Implement a Developmental Approach in Juvenile Justice Reform, Committee on Law and Justice, Division of Behavioral and Social Sciences and Education Washington, DC: The National Academies Press.

<sup>97</sup> Ibid., p.2.

The report explains in detail how these hallmarks of a developmental approach to juvenile justice should be incorporated into policies and practices within OJJDP, as well as into the policies and practices of state juvenile justice systems. It is notable that the JJSES embodies these principles, further solidifying Pennsylvania's status as a national leader in juvenile justice reform, and placing Pennsylvania in a unique position to provide a template for other states seeking to undertake juvenile justice reform based on the principles of the developmental approach.

**Recent trends regarding juvenile violent crime arrest rates, juvenile delinquency dispositions, juvenile delinquency placements, and juvenile detention center admissions all serve to confirm the efficacy of the evidence-based practices that now form the foundation of Pennsylvania's juvenile justice system. If these trends are to continue, it is essential that the Commonwealth aggressively pursue implementation of the Juvenile Justice System Enhancement Strategy (JJSES). Moreover, the JJSES is the means through which the higher recidivism rates of minority youth can best be addressed.**

The JCJC's Juvenile Probation Services appropriation is the state appropriation that has been most critical to the early success of the JJSES, and the evidence-based

practice conditions of this grant program will be critical to the future success of the initiative as well. The JCJC's county grant-in-aid program must be increased to enable the JCJC to provide the resources, training and technical assistance needed by juvenile courts and juvenile probation departments, and to expedite JJSES-related program evaluation, enhancement, and research.

#### **Recommendation**

- *It is recommended that the Governor propose \$23,945,000 for the Juvenile Probation Services appropriation of the Juvenile Court Judges' Commission (JCJC) in FY 2017–2018, representing a \$5,000,000 increase over the FY 2016–2017 appropriation, to support the continued implementation of Pennsylvania's Juvenile Justice System Enhancement Strategy (JJSES).*

# High Priority Juvenile Justice System Funding and Regulatory Issues

➤ ***Pennsylvania’s juvenile justice system must be supported by a funding and regulatory structure that is consistent with the system’s statutory mission.***

It is critically important that priority be given to creating and sustaining a funding and regulatory structure that is consistent with the juvenile justice system’s statutory mandate to provide a disposition in the case of every delinquent child which provides “balanced attention” to the protection of the community, accountability for the offenses committed, and to the development of competencies that will enable that child to become a responsible and productive member of his/her community.

## **The Human Services Code must be amended to include both juvenile justice and child welfare funding goals.**

The Commonwealth’s funding of services to children in both the child welfare and juvenile justice systems is governed by the “needs-based budgeting process” set forth in the Human Services Code,<sup>98</sup> and by DHS Regulations.<sup>99</sup> The objectives, service projections, and service budgets in needs-based plans submitted to DHS by the counties are required by DHS regulation to be consistent with the achievement of “Commonwealth objectives for the delivery of children and youth social services” which, according to these regulations are:

- (1) To protect children from abuse and neglect.
- (2) To increase the use of in-home services for dependent and delinquent children.
- (3) To use community-based residential resources, whenever possible, when placement is necessary.
- (4) To reduce the use of institutional placements for dependent and for delinquent children.
- (5) To reduce the duration of out-of-home placements.<sup>100</sup>

These goals, although laudable, are clearly inconsistent with the statutory “balanced attention” mandate for Pennsylvania’s juvenile justice system set forth in the Juvenile Act:

***“consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community.”<sup>101</sup>***

This inconsistency between the Juvenile Act’s statutory mandates and DHS regulations must be corrected to ensure that funding is available for essential juvenile justice services. Moreover, the Commonwealth’s “child welfare” goals should not be found only in DHS regulations, but should likewise be set forth in the Public Welfare Code. After considerable study of this issue, it is recommended that the Public Welfare Code be amended to establish a new purpose clause for Article VII (relating to children and youth) to specifically set forth “child welfare” goals consistent with the Juvenile Act’s mandates relating to dependent children, and “juvenile justice” goals consistent with the Juvenile Act’s mandates relating to delinquent children.

### **Recommendation**

➤ *It is recommended that the Governor support amending the Human Services Code to include both juvenile justice and child welfare goals that are consistent with the statutory mandates of the Juvenile Act.*

<sup>98</sup> 62 P.S. § 709.1 (relating to needs-based budgeting process).

<sup>99</sup> 55 Pa. Code Ch. 3140 (relating to planning and financial reimbursement requirements for county children and youth social service programs).

<sup>100</sup> 55 Pa. Code § 3140.16 (relating to content and plan of the budget estimate).

<sup>101</sup> 42 Pa.C.S. § 6301(b) (relating to purposes).

The following legislative proposal is offered for consideration:

62 P.S. § 701.1. Purpose.

(a) The purpose of this article is:

- (1) To protect children from abuse and neglect.
- (2) To provide for the care, protection, safety and wholesome mental and physical development of children coming within the provisions of the act of July 9, 1976 (P.L. 586, No. 142), known as the "Juvenile Act" or children who are receiving services enumerated in this Article.
- (3) To preserve the unity of the family whenever possible or to provide an alternative permanent family as soon as possible when the unity of the family cannot be maintained.
- (4) Consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community.
- (5) To achieve these purposes in a family environment whenever possible, separating the child from parents only when necessary for the child's welfare, safety or health or in the interests of public safety.

(b) In accordance with the purposes and the mandate of the act of July 9, 1976, (P.L. 586, No. 142), known as the "Juvenile Act" that the court, upon finding a child to be a dependent child, shall enter an order of disposition that is best suited to the safety, protection and physical, mental, and moral welfare of the child, the department will seek to accomplish the following objectives with respect to dependent children:

- (1) To increase the use of non-placement services designed to prevent child abuse and neglect and to strengthen families so that children's safety is increased and the risk to children is minimized.
- (2) When placement is necessary, to use kinship care as the first priority. If kinship care is not available or appropriate, to use family foster care as an alternative.

(3) To reduce the use of congregate-living and institutional placements.

(4) To improve permanency for children and to reduce the duration of out-of-home placement.

(c) In accordance with the purposes set forth in paragraph (a), and the mandate of the act of July 9, 1976 (P.L. 586, No. 142), known as the "Juvenile Act" that the court, upon finding a child to be a delinquent child, shall enter an order of disposition that is determined to be consistent with the protection of the public interest, best suited to the child's treatment, supervision, rehabilitation, and welfare, and which provides balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable the child to become a responsible and productive member of the community, the department will seek to accomplish the following objectives with respect to delinquent children:

(1) To increase the use of in-home services when consistent with the protection of the public and the rehabilitation needs of delinquent children.

(2) With respect to the placement of delinquent children:

(i) To encourage use of the least restrictive placements that are consistent with the protection of the public and the treatment, supervision and rehabilitation needs of delinquent children.

(ii) To operate and encourage the development of placement resources that provide for a duration of placement that is consistent with the protection of the public and the treatment, supervision and rehabilitation needs of delinquent children.

(iii) To encourage use of community-based residential resources as alternatives to institutional placements when consistent with the protection of the public and the treatment, supervision and rehabilitation needs delinquent children.

(iv) To encourage the development of services and programming to facilitate the successful transition of delinquent children to their communities from periods of residential placement.

**In the event of a Commonwealth budget impasse, court-ordered services to children within Pennsylvania’s child welfare and juvenile justice systems must be considered essential services and funding to counties for these services must continue at the level approved for the prior fiscal year.**

The FY 2015–2016 Commonwealth budget impasse resulted in severe consequences for the private sector agencies that provide critically important services to children Pennsylvania’s child welfare and juvenile justice systems. Because these agencies were not being paid by the counties, many of these agencies were forced to cut back staff, exhaust agency reserves, and/or take out loans to provide the care, supervision, food, and transportation needed by the children who were placed by courts or who had otherwise been entrusted to their care. The services provided by the private sector are absolutely essential to the health, safety, and protection of Pennsylvania’s children and communities, and amendments to the Human Services Code are needed to ensure that these services will continue to be provided in the event of a future budget impasse.

**Recommendation**

➤ *It is recommended that the Governor support amendments to the Human Services Code to ensure that, in the event of a delay in the timely adoption of the Commonwealth’s budget, funding to reimburse counties for the cost of services to at risk, dependent, and delinquent children will continue uninterrupted at the level of funding approved for the prior fiscal year.*

**The following legislative proposal is offered for consideration:**

**62 P.S. § 704.1. Payments to counties for services to children**

(a) The department shall reimburse county institution districts or their successors for expenditures incurred by them in the performance of their obligation pursuant to this act and the act of December 6, 1972 (P.L. 1464, No. 333), known as the “Juvenile Act,” in the following percentages:

- (1) Eighty percent of the cost of an adoption subsidy paid pursuant to subdivision (e) of Article VII of this act.
- (2) No less than seventy-five percent and no more than ninety percent of the reasonable cost including

staff costs of child welfare services, informal adjustment services provided pursuant to section 8 of the act of December 6, 1972 (P.L. 1464, No. 333), known as the “Juvenile Act,” and such services approved by the department, including but not limited to, foster home care, group home care, shelter care, community residential care, youth service bureaus, day treatment centers and service to children in their own home and any other alternative treatment programs approved by the department.

(3) Sixty percent of the reasonable administrative costs approved by the department except for those staff costs included in clause (2) of this section as necessary for the provision of child welfare services.

(4) Fifty percent of the actual cost of care and support of a child placed by a county child welfare agency or a child committed by a court pursuant to the act of December 6, 1972 (P.L. 1464, No. 333), known as the “Juvenile Act,” to the legal custody of a public or private agency approved or operated by the department other than those services described in clause (2). The Auditor General shall ascertain the actual expense for fiscal year 1974–1975 and each year thereafter by the Department of Public Welfare for each of the several counties and each city of the first class whose children resident within the county or city of the first class directly received the benefit of the Commonwealth’s expenditure. The Auditor General shall also ascertain for each Commonwealth institution or facility rendering services to delinquent or deprived children the actual average daily cost of providing said services. The Auditor General shall certify to each county and city of the first class the allocated Commonwealth expenditures incurred on behalf of its children and notify the Secretary of Public Welfare and each county and city of the first class of same.

(5) Fifty percent of the reasonable cost of medical and other examinations and treatment of a child ordered by the court pursuant to the act of December 6, 1972 (P.L. 1464, No. 333), known as the “Juvenile Act,” and the expenses of the appointment of a guardian pendente lite, summons, warrants, notices, subpoenas, travel expenses of witnesses, transportation of the child, and other like expenses incurred in proceedings under the act of December 6, 1972 (P.L. 1464, No. 333), known as the “Juvenile Act.”

(6) Effective July 1, 1991, the department shall reimburse county institution districts or their successors one hundred percent of the reasonable costs of providing adoption services.

(7) Effective July 1, 1993, the department shall reimburse county institution districts or their successors eighty percent of the reasonable costs of providing fos-

ter home care, community residential care, supervised independent living and community-based alternative treatment programs.

(8) The department shall reimburse county institution districts or their successors for the reasonable costs of institutional services for dependent and delinquent children other than detention services for delinquents in accordance with the following schedule:

(i) Effective July 1, 1992, fifty-five percent.

(ii) Effective July 1, 1993, sixty percent.

(b) The department shall make additional grants to any county institution district or its successor to assist in establishing new services to children in accordance with a plan approved by the department for up to the first three years of operation of those services. In order to provide necessary information to the General Assembly relative to the grants provided under this subsection, a report will be developed by the Legislative Budget and Finance Committee and provided to the members of the General Assembly no later than July 1, 1980, concerning all grants made and expenditures accomplished under the provisions of this subsection for the period up to and including December 31, 1979. This report shall include information on the amount of moneys that went to individual counties and a description of activities and services financed with these moneys including the number and types of clients served under each of the grant programs and any other information necessary in order to fully inform the General Assembly on such programs. All officials of the Department of Public Welfare, grant recipient county organizations, and other agencies which receive State moneys under the provisions of this subsection shall cooperate with the committee and its staff in carrying out this reporting requirement, including making available all necessary fiscal and programmatic data.

(c) No payment pursuant to subsection (a)(2), (3) or (4) or of subsection (b) shall be made for any period in which the county institution district or its successor fails to substantially comply with the regulations of the department promulgated pursuant to section 703 including but not limited to those regulations relating to minimum child welfare services, minimum standards of child welfare services and minimum standards of child welfare administration on the merit basis.

(d) Amounts due from county institution districts or their successors for children committed to facilities operated by the department shall be paid by the counties to the Department of Revenue by orders to be drawn by the duly authorized agent of the Department of Revenue at each youth development center or forestry camp on the treasurers of such counties, who shall accept and pay the same to the Department of

Revenue. Promptly after the last calendar day of each month the agent of the Department of Revenue shall mail accounts to the commissioners of such counties as may have become liable to the Commonwealth during the month under the provisions of this section. These accounts shall be duly sworn or affirmed to, and it shall be the duty of said commissioners, immediately upon receipt of such accounts, to notify the treasurers of their respective counties of the amounts of said accounts, with instructions to pay promptly to the Department of Revenue the amounts of said orders when presented. It shall then be the duty of such county treasurers to make such payments as instructed by their respective county commissioners. In lieu of payments by the county to the Commonwealth, the department may deduct the amount due the Commonwealth from the reimbursement payments by the department to the county institution districts or their successors.

(e) If, after due notice to the parents or other persons legally obligated to care for and support the child, and after affording them an opportunity to be heard, the court finds that they are financially able to pay all or part of the costs and expenses stated in subsection (a), the court may order them to pay the same and prescribe the manner of payment. Unless otherwise ordered, payment shall be made to the clerk of the court for remittance to the person to whom compensation is due, or if the costs and expenses have been paid by the county, to the appropriate officer of the county.

(f) Deleted. 1991, Aug. 5, P.L. 315, No. 30, § 1, imd. effective.

(g) Except as provided by an executive approval or appropriation under the act of April 9, 1929 (P.L. 343, No. 176), known as The Fiscal Code, as amended, the department shall process payments to each county pursuant to this article from funds appropriated by the General Assembly, within fifteen days of passage of the general appropriation bill or by a date specified under paragraph (1), (2), (3), (4) or (5), whichever is later. The department shall process the following applicable payments to the county:

(1) By July 15, twenty-five percent of the amount of State funds allocated to the county under section 709.3.

(2) By August 31, or upon approval by the department of the county's final cumulative report for its expenditures for the prior fiscal year, whichever is later, twenty-five percent of the amount of State funds allocated to the county under section 709.3, reduced by the amount of aggregate unspent State funds provided to the county during the previous fiscal year.

(3) By November 30, or upon approval by the department of the county's report for its expenditures for the first quarter of the fiscal year, whichever is later,

twenty-five percent of the amount of State funds allocated to the county under section 709.3, reduced by the amount of unspent State funds already provided to the county for the first quarter of the fiscal year.

(4) By February 28, or upon approval by the department of the county's report for its expenditures for the second quarter of the fiscal year, whichever is later, twelve and one-half percent of the amount of State funds allocated to the county under section 709.3, adjusted by the amount of overspending or underspending of State funds in the previous quarters, but not to exceed eighty-seven and one-half percent of the county's approved State allocation.

(5) Upon approval by the department of the county's final cumulative report for its expenditures for the fiscal year, twelve and one-half percent of the amount of State funds allocated to the county under section 709.3, adjusted by the amount of overspending or underspending of State funds in the previous quarters.

(g.1) After the final cumulative report for expenditures has been approved, if a county has adjustments to revenues or expenditures for the time period covered by the expenditure report in addition to the payments under subsection (g), the county shall submit to the department a revised expenditure report. After the report is approved, the department may adjust any payment under subsection (g) to account for any revision to a county's expenditure report.

(g.2) Service contracts or agreements shall include a timely payment provision that requires counties to make payment to service providers within thirty days of the county's receipt of an invoice under both of the following conditions:

(1) The invoice satisfies the county's requirements for a complete and accurate invoice.

(2) Funds have been appropriated to the department or approved by the Governor for payments to counties under subsection (g).

**(g.3) In the event of a delay in the timely adoption of the Commonwealth's budget by July 1 of any given year, payments to counties to reimburse for the costs of care provided to at risk, dependent, and delinquent children under this section, and payments for other county-based human services included under the Human Services Block Grant Pilot Program, shall continue without disruption. This includes payments for in-home, community based, prevention and placement services purchased through contracts**

**with private providers. The funds available to continue these payments shall be based on the approved appropriation levels for the respective appropriations in the prior fiscal year, which shall be reconciled upon adoption of the Commonwealth's budget.**

(h) At the end of each of calendar years 1978 and 1979, every county shall compare the amount received in child welfare reimbursements for calendar year 1976 pursuant to section 704 of this act and section 36 of the act of December 6, 1972 (P.L. 1464, No. 333), known as the "Juvenile Act" with child welfare reimbursements received for each of calendar years 1978 and 1979 pursuant to this section. The resulting difference in reimbursements for child welfare services received between calendar year 1976 and each of calendar years 1978 and 1979 shall then be compared with the amount the county paid in each of calendar years 1978 and 1979 for youth development center or forestry camp commitments pursuant to subsection (a)(4). If there is an increase in reimbursements for child welfare services and that increase is less in either or both of calendar years 1978 and 1979 than the amount expended by the county for its share of the cost of youth development center and forestry camp commitments, then any such county shall be entitled to receive additional block grants as provided in subsection (b) equal to the amount of such difference.

## **Year-round education must be provided in residential programs for delinquent youth.**

In 2015, a total of 3,619 juvenile delinquency disposition and disposition review proceedings in Pennsylvania resulted in the commitment of youth to out-of-home placement. The overwhelming majority of these youth were significantly behind academically at the time of placement. However the Commonwealth's current funding scheme for educational programming in public and private sector residential programs limits the likelihood that these youth will make the educational gains while in placement to enable a successful return to school upon release from placement.

Statutory change is needed to enable the public and private sector agencies that provide placement services to these youth to provide year-round educational pro-

<sup>102</sup> *Reimbursement for Educational Services for Adjudicated Youth in Private Residential Facilities*, Legislative Budget and Finance Committee, February 2006.

<sup>103</sup> See Public School Code of 1949 §914.1-A (relating to contracts with private residential rehabilitative institutions; certain criteria in department audits).

gramming, as well as the essential remedial educational and career/technical education support that is not otherwise available through basic education programming and funding. In addition, it is essential that the Department of Education be committed to developing and maintaining a strong working partnership with PCCD, JCJC, DHS, and the Supreme Court's Office of Children and Families in the Courts to address this issue, and the myriad of other critical issues facing court-involved youth.

As noted in a 2006 report of the Legislative Budget and Finance Committee,<sup>102</sup> the Commonwealth's funding schemes and related policies governing the delivery of educational services to youth in residential placement are both complicated and inconsistent. The great majority of residential placement services in Pennsylvania's juvenile justice system are provided by private agencies. Educational services for adjudicated youth in private residential programs are generally provided in one of three ways—by host school district employees in district facilities or in the private facility; by intermediate unit (IU) employees; or by private provider employees themselves. In all cases, the host district can seek reimbursement from the resident district for the cost of educating the students. The applicable reimbursement rate, as well as the process for reimbursement, depends on who provides the educational services and where those services are provided.

When a school district or IU provides the educational services at the private facility, the adjudicated youth's resident school district is responsible for paying for actual costs incurred for educational services, up to 150 percent of the host district's tuition rate per child. This is also the case for a special class of private providers known as "private residential rehabilitation institutions" (PRRIs). Under Act 30 of 1980, as amended,<sup>103</sup> PRRIs are allowed to receive up to 150 percent of the host district's tuition, even if they educate the youth with their employees. PRRIs are also eligible to receive reimbursement for indirect costs and an "occupancy cost" allowance. However, other private residential facilities (non-PRRIs) who educate their youth using their own employees are only allowed to receive the actual costs of education up to 100 percent of the host school district's tuition rate. Non-PRRI facilities are also not eligible for the "indirect cost reimbursement" or the "occupancy allowance."

Although the 2006 report of the Legislative Budget and Finance Committee offered several options for the General Assembly to consider in addressing the educational reimbursement inequities between PRRIs and

non-PRRIs, no action has been taken to address the issue, due in part to the complexity involved with any funding-related Public School Code legislation.

However, the 2006 report specifically noted, as well, that private agencies explained that the children committed to their care needed year-round educational programming as well as remedial educational support, but that the Public School Code only provides for reimbursement of 180 days of instruction per school year. This significant shortcoming can be addressed by amending the Human Services Code to provide that the provision of educational services beyond 180 days in residential programs (up to a maximum of 250 days of instruction/year), and the provision of remedial educational support not otherwise available through basic education programming, are reimbursable through the needs-based budget process.

### Recommendation

➤ *It is recommended that the Governor support amending the Human Services Code to provide that the provision of educational services beyond 180 days in residential programs (up to a maximum of 250 days of instruction/year), and the provision of remedial educational support not otherwise available through basic education programs, are reimbursable through the Needs-Based Budget process.*

The following legislative proposal is offered for consideration:

62 P.S. § 704.1. **Payments to Counties for Services to Children.**--(a) The department shall reimburse county institution districts or their successors for expenditures incurred by them in the performance of their obligation pursuant to this act and [the act of December 6, 1972 (P.L.1464, No.333), known as the "Juvenile Act,"] **42 Pa.C.S. Ch. 63 (relating to juvenile matters)** in the following percentages:

- (1) Eighty percent of the cost of an adoption subsidy paid pursuant to subdivision (e) of Article VII of this act.
- (2) No less than seventy-five percent and no more than ninety percent of the reasonable cost including staff costs of child welfare services, informal adjustment services provided pursuant to [section 8 of the act of December 6, 1972 (P.L.1464, No.333), known as the "Juvenile Act,"] **42 Pa.C.S. § 6323 (relating to informal adjustment)**, [and]

such services approved by the department, including but not limited to, foster home care, group home care, shelter care, community residential care, youth service bureaus, day treatment centers and service to children in their own home and any other alternative treatment programs approved by the department, **and the cost of providing year-round educational programming for children receiving group home care, shelter care, community residential care, or care by a public or private agency included in clause (4), in excess of costs reimbursed by the school district of a child's residence or the Commonwealth and to a maximum of 250 days of instruction per year, as well as the cost of providing remedial educational support to children, including remedial career and technical education support, not otherwise available through basic education programs.**

(3) Sixty percent of the reasonable administrative costs approved by the department except for those staff costs included in clause (2) of this section as necessary for the provision of child welfare services.

(4) Fifty percent of the actual cost of care and support of a child placed by a county child welfare agency or a child committed by a court pursuant to the act [the act of December 6, 1972 (P.L.1464, No.333), known as the "Juvenile Act,"] **42 Pa.C.S. Ch. 63 (relating to juvenile matters)** to the legal custody of a public or private agency approved or operated by the department other than those services described in clause (2). The Auditor General shall ascertain the actual expense for fiscal year 1974-1975 and each year thereafter by the Department of Public Welfare for each of the several counties and each city of the first class whose children resident within the county or city of the first class directly received the benefit of the Commonwealth's expenditure. The Auditor General shall also ascertain for each Commonwealth institution or facility rendering services to delinquent or deprived children the actual average daily cost of providing said services. The Auditor General shall certify to each county and city of the first class the allocated Commonwealth expenditures incurred on behalf of its children and notify the Secretary of Public Welfare and each county and city of the first class of same.

(5) Fifty percent of the reasonable cost of medi-

cal and other examinations and treatment of a child ordered by the court pursuant to the act of December 6, 1972 (P.L.1464, No.333), known as the "Juvenile Act," and the expenses of the appointment of a guardian pendente lite, summons, warrants, notices, subpoenas, travel expenses of witnesses, transportation of the child, and other like expenses incurred in proceedings under the act of December 6, 1972 (P.L.1464, No.333), known as the "Juvenile Act."

(6) Effective July 1, 1991, the department shall reimburse county institution districts or their successors one hundred percent of the reasonable costs of providing adoption services.

(7) Effective July 1, 1993, the department shall reimburse county institution districts or their successors eighty percent of the reasonable costs of providing foster home care, community residential care, supervised independent living and community-based alternative treatment programs.

(8) The department shall reimburse county institution districts or their successors for the reasonable costs of institutional services for dependent and delinquent children other than detention services for delinquents in accordance with the following schedule:

- (i) Effective July 1, 1992, fifty-five percent.
- (ii) Effective July 1, 1993, sixty percent.

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**The Human Services Code must be amended to increase the rate of reimbursement for residential care for delinquent children ordered by the court following the court's consideration of the results of a validated risk/needs assessment instrument.**

The provisions of the Human Services Code that provide for the partial reimbursement to counties for the costs of institutional care for delinquent were initially established by Act 148 of 1976 and became effective on January 1, 1978.<sup>104</sup> As enacted, Act 148 was intended to provide a fiscal incentive for the use of community-based, non-secure services to delinquent youth rather than institutional services. This mechanism provided a higher level of reimbursement (75-90%) for in-home

<sup>104</sup> 62 P.S. § 704.1 added July 9, 1976 ( P.L. 846, No.148, §2, effective January 1, 1978).

services, foster care, group home care, shelter care, day treatment, and other forms of community-based residential services than for services to delinquent youth provided in secure or non-secure institutional settings (50%). Act 30 of 1991 increased the reimbursement rate for institutional services, with the exception of detention services, to 55% effective July 1, 1992, and to 60%, effective July 1, 1993.<sup>105</sup> Act 30 of 1991 also provided that, effective July 1, 1993, counties would be reimbursed for 80% of the reasonable costs of providing foster home care, community residential care, supervised independent living and community-based alternative treatment programs.

As explained earlier in this chapter, The Juvenile Court Judges' Commission (JCJC) now requires that a county's eligibility for any JCJC grant funds is contingent upon the submission of a plan to the JCJC that must address the implementation of the Youth Level of Service (YLS) risk/need assessment instrument; the development of recommendations to the court based upon the YLS results, including the identified risk and needs of each juvenile; and the development and implementation of a case plan based upon YLS results, which targets services to meet the identified risk and needs of each juvenile.

In addition, the Juvenile Act mandates that courts employ evidence-based practices whenever possible, and that courts utilize the least restrictive alternative that is consistent with protection of the community, the imposition of accountability for offenses committed and the rehabilitation, supervision and treatment needs of the child.<sup>106</sup> Moreover, both the Juvenile Act and the Pennsylvania Rules of Juvenile Court Procedure require that if a judge determines that a child is to be committed to out-of-home placement following an adjudication of delinquency, the judge must state on the record, and in open court, why commitment to that facility or type of facility was determined to be the least restrictive placement that is consistent with the protection of the public and best suited to the child's treatment supervision and welfare.<sup>107</sup>

It is no longer sound public policy to maintain a fiscal disincentive for institutional based services that are ordered by a court following the court's consideration of the results of a validated risk/needs assessment instrument. Increasingly, juvenile court judges in Pennsylvania are considering Youth Level of Service (YLS) recidivism risk levels prior to determining the

dispositions in juvenile delinquency cases. Because this evidence-based practice should be encouraged as a matter of public policy, the costs of institutional care of a delinquent child ordered by a court following the court's consideration of a YLS risk/need determination should be reimbursed at an 80% the same rate as foster care and community residential care.

#### **Recommendation:**

➤ *It is recommended that the Governor support amending the Human Services Code to provide that institutional services for delinquent youth ordered by the court following the court's consideration of the results of a validated risk/needs assessment instrument shall be reimbursed at the following rates through the county Needs-Based Budget process:*

**Effective July 1, 2017—70%**

**Effective July 1, 2018—80%**

**The following legislative proposal is offered for consideration:**

#### **62 P.S. § 704.1. Payments to counties for services to children**

(a) The department shall reimburse county institution districts or their successors for expenditures incurred by them in the performance of their obligation pursuant to this act and the act of December 6, 1972 (P.L. 1464, No. 333), known as the "Juvenile Act," in the following percentages:

- (1) Eighty percent of the cost of an adoption subsidy paid pursuant to subdivision (e) of Article VII of this act.
- (2) No less than seventy-five percent and no more than ninety percent of the reasonable cost including staff costs of child welfare services, informal adjustment services provided pursuant to section 8 of the act of December 6, 1972 (P.L. 1464, No. 333), known as the "Juvenile Act," and such services approved by the department, including but not limited to, foster home care, group home care, shelter care, community residential care, youth service bureaus, day treatment centers and service to children in their own home and any other alternative treatment programs approved by the department.
- (3) Sixty percent of the reasonable administrative costs

<sup>105</sup> 62 P.S. § 704.1(a)(8) added August 5, 1991 ( P.L. 315, No.30, §2, immediately effective).

<sup>106</sup> 42 Pa.C.S. § 6301(b)(3).

<sup>107</sup> 42 Pa.C.S. § 6352(c) and Pa.R.J.C.P 512(D).

approved by the department except for those staff costs included in clause (2) of this section as necessary for the provision of child welfare services.

(4) Fifty percent of the actual cost of care and support of a child placed by a county child welfare agency or a child committed by a court pursuant to the act of December 6, 1972 (P.L. 1464, No. 333), known as the “Juvenile Act,” to the legal custody of a public or private agency approved or operated by the department other than those services described in clause (2). The Auditor General shall ascertain the actual expense for fiscal year 1974–1975 and each year thereafter by the Department of Public Welfare for each of the several counties and each city of the first class whose children resident within the county or city of the first class directly received the benefit of the Commonwealth’s expenditure. The Auditor General shall also ascertain for each Commonwealth institution or facility rendering services to delinquent or deprived children the actual average daily cost of providing said services. The Auditor General shall certify to each county and city of the first class the allocated Commonwealth expenditures incurred on behalf of its children and notify the Secretary of Public Welfare and each county and city of the first class of same.

(5) Fifty percent of the reasonable cost of medical and other examinations and treatment of a child ordered by the court pursuant to the act of December 6, 1972 (P.L. 1464, No. 333), known as the “Juvenile Act,” and the expenses of the appointment of a guardian pendente lite, summons, warrants, notices, subpoenas, travel expenses of witnesses, transportation of the child, and other like expenses incurred in proceedings under the act of December 6, 1972 (P.L. 1464, No. 333), known as the “Juvenile Act.”

(6) Effective July 1, 1991, the department shall reimburse county institution districts or their successors one hundred percent of the reasonable costs of providing adoption services.

(7) Effective July 1, 1993, the department shall reimburse county institution districts or their successors eighty percent of the reasonable costs of providing foster home care, community residential care, supervised independent living and community-based alternative treatment programs.

(8) The department shall reimburse county institution districts or their successors for the reasonable costs of

institutional services for dependent and delinquent children other than detention services for delinquents in accordance with the following schedule:

(i) Effective July 1, 1992, fifty-five percent.

(ii) Effective July 1, 1993, sixty percent.

**(8.1) The department shall reimburse county institution districts or their successors for the reasonable costs of institutional services for delinquent children ordered by the court following the court’s consideration of the results of a validated risk and need assessment in accordance with the following schedule:**

**(i) Effective July 1, 2017, seventy percent.**

**(ii) Effective July 1, 2018, eighty percent.**

### **The Human Services Code must be amended to provide funding for indigent juvenile defense services.**

In the landmark case of *Gideon v. Wainwright*, the U.S. Supreme Court ruled that free counsel for criminal defendants who cannot afford to hire an attorney is mandated by the Sixth Amendment of the U.S. Constitution.<sup>108</sup> The U.S. Supreme Court has subsequently extended the requirement of free counsel from the felony prosecution involved in *Gideon* to misdemeanor prosecutions and juvenile proceedings and from the trial itself to all “critical proceedings” after arrest.

Juveniles who come within the jurisdiction of Pennsylvania’s juvenile justice system are required to be represented by an attorney at every important hearing because all juveniles are presumed indigent and the waiver of counsel by juveniles has been virtually eliminated.<sup>109</sup> In addition, a juvenile may not enter an admission to an offense unless a mandatory written admission colloquy form has been reviewed and completed with the juvenile by an attorney and reviewed by the court.<sup>110</sup>

In 2013, juveniles alleged to be delinquent were represented by public defenders in 72.7% of formal delinquency proceedings.<sup>111</sup> Even though these due process protections are mandated by the Juvenile Act and the Pennsylvania Rules of Juvenile Court Procedure, the quality of representation provided by public defenders varies widely across the Commonwealth due to the lack of a state funding stream for these essential services.

The study of the Commonwealth’s indigent defense system published in 2003 by the **Pennsylvania Su-**

<sup>108</sup> 62 P.S. § 704.1 added July 9, 1976 ( P.L. 846, No.148, §2, effective January 1, 1978).

<sup>109</sup> 62 P.S. § 704.1(a)(8) added August 5, 1991 ( P.L. 315, No.30, §2, immediately effective).

<sup>110</sup> 42 Pa.C.S. § 6301(b)(3).

<sup>111</sup> 42 Pa.C.S. § 6352(c) and Pa.R.J.C.P 512(D).

**preme Court Committee on Racial and Gender Bias** concluded that the Supreme Court’s indigent defense mandate had been ignored by the General Assembly, and was not being fulfilled in Pennsylvania:

“Despite the expansive procedural rights afforded under law, indigent criminal defendants in Pennsylvania are not assured of receiving adequate, effective representation. Notably, Pennsylvania, South Dakota, and Utah are the only three states that provide no state funds to ensure that indigent citizens are afforded adequate criminal defense services. Pennsylvania also does not provide any statewide oversight of indigent defense systems. The study reported here ... indicates that Pennsylvania is generally not fulfilling its obligation to provide adequate, independent defense counsel to indigent persons. Contributing factors include the Commonwealth’s failure to provide sufficient funding and other resources, along with a lack of statewide professional standards and oversight. In addition, efforts to improve the indigent defense system have been impeded by the lack of reliable, uniform statewide data collection.”<sup>112</sup>

In 2011, the **Report of the Task Force and Advisory Committee on Services to Indigent Criminal Defendants**, developed in response to Senate Resolution 42 of 2007, concluded that ... “In the intervening eight years, the only significant change is that South Dakota and Utah now do provide some state funding for indigent defense, leaving Pennsylvania as the *only state* that does not appropriate or provide for so much as a penny toward assisting the counties in complying with *Gideon’s* mandate.”<sup>113</sup>

The 2011 report specifically addressed the issue of the lack of funding for indigent juvenile defense noting that ... “**Nowhere is the lack of resources, personnel, and funding available to meet the needs of indigent defense felt more keenly than in juvenile justice. Like other indigent defense, the defense of indigent juveniles receives no funding from the Commonwealth.**”<sup>114</sup> However, the report noted in a footnote that “**Some counties received small amounts that helped**

**support indigent defense for juveniles in FY 2010–2011 and earlier fiscal years through the Department of Public Welfare (DPW), but that funding has been terminated for FY 2011–2012. There has never been a line item in the Commonwealth budget specifically for funding indigent defense, nor do our statutes provide for funding through a special fund or any similar mechanism.**”<sup>115</sup>

The funding to counties for indigent juvenile defense services referenced in the 2011 Senate Resolution 42 report was in the form of reimbursement through the needs-based budget process pursuant to Section 704.1(a)(5) of the Human Services Code.<sup>116</sup>

62 P.S. §704.1. **Payments to Counties for Services to Children.**--(a) The department shall reimburse county institution districts or their successors for expenditures incurred by them in the performance of their obligation pursuant to this act and the act of December 6, 1972 (P.L.1464, No.333), known as the “Juvenile Act,” in the following percentages:

- (1) Eighty percent of the cost of an adoption subsidy paid pursuant to subdivision (e) of Article VII of this act.
- (2) No less than seventy-five percent and no more than ninety percent of the reasonable cost including staff costs of child welfare services, informal adjustment services provided pursuant to section 8 of the act of December 6, 1972 (P.L.1464, No.333), known as the “Juvenile Act,” and such services approved by the department, including but not limited to, foster home care, group home care, shelter care, community residential care, youth service bureaus, day treatment centers and service to children in their own home and any other alternative treatment programs approved by the department.
- (3) Sixty percent of the reasonable administrative costs approved by the department except for those staff costs included in clause (2) of this section as necessary for the provision of child welfare services.
- (4) Fifty percent of the actual cost of care and support of a child placed by a county child welfare agency or a child committed by a court pursuant to the act of December 6, 1972 (P.L.1464, No.333), known as the “Juvenile Act,” to the legal custody of

<sup>112</sup> *Final Report of the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Judicial System (Racial and Gender Bias Report)* (n.p.: Pennsylvania Supreme Court, 2003), 164–65.

<sup>113</sup> *A Constitutional Default: Services to Indigent Criminal Defendants in Pennsylvania—Report of the Task Force on Services to Indigent Criminal Defendants*, Joint State Government Commission, December 2011, p.1.

<sup>114</sup> *Ibid.*, p.99.

<sup>115</sup> *Ibid.*, p.1.

<sup>116</sup> 62 P.S. § 704.1 (relating to payments to counties for services to children).

a public or private agency approved or operated by the department other than those services described in clause (2). The Auditor General shall ascertain the actual expense for fiscal year 1974–1975 and each year thereafter by the Department of Public Welfare for each of the several counties and each city of the first class whose children resident within the county or city of the first class directly received the benefit of the Commonwealth’s expenditure. The Auditor General shall also ascertain for each Commonwealth institution or facility rendering services to delinquent or deprived children the actual average daily cost of providing said services. The Auditor General shall certify to each county and city of the first class the allocated Commonwealth expenditures incurred on behalf of its children and notify the Secretary of Public Welfare and each county and city of the first class of same.

**(5) Fifty percent of the reasonable cost of medical and other examinations and treatment of a child ordered by the court pursuant to the act of December 6, 1972 (P.L.1464, No.333), known as the “Juvenile Act,” and the expenses of the appointment of a guardian *pendente lite*, summons, warrants, notices, subpoenas, travel expenses of witnesses, transportation of the child, and other like expenses incurred in proceedings under the act of December 6, 1972 (P.L.1464, No.333), known as the “Juvenile Act.”**

(6) Effective July 1, 1991, the department shall reimburse county institution districts or their successors one hundred percent of the reasonable costs of providing adoption services.

(7) Effective July 1, 1993, the department shall reimburse county institution districts or their successors eighty percent of the reasonable costs of providing foster home care, community residential care, supervised independent living and community-based alternative treatment programs.

(8) The department shall reimburse county institution districts or their successors for the reasonable costs of institutional services for dependent and delinquent children other than detention services for delinquents in accordance with the following schedule:

(i) Effective July 1, 1992, fifty-five percent.

(ii) Effective July 1, 1993, sixty percent.

((a) amended Aug. 5, 1991, P.L.315, No.30).

Although 62 P.S. § 704.1(a)(5) does not specifically provide for reimbursement of the costs for providing counsel or a guardian *ad litem* for a child in the context of a dependency proceeding under the Juvenile Act, or

for the costs of providing counsel for an indigent child in the context of a delinquency proceeding, it had been DPW’s policy for a number of years to reimburse for these costs as “other like expenses” to those specifically set forth in (a)(5) which are incurred in proceedings under the Juvenile Act. Following the policy change by DPW in FY 2011–2012, DPW ceased reimbursing for indigent juvenile defense costs, but has continued to reimburse for the cost of providing counsel or a guardian *ad litem* for a child in the context of a dependency proceeding.

62 P.S. § 704.1(a)(5) should be amended to specifically require reimbursement for the costs of providing counsel or a guardian *ad litem* for a child in the context of a dependency proceeding, as well as the cost of providing counsel for an indigent child in the context of a delinquency proceeding. However, the language in (a)(5) that provides reimbursement for expenses related to the appointment of a guardian *pendente lite* should be deleted because the term is not relevant to Juvenile Act proceedings.

#### Recommendation

➤ *It is recommended that the Governor support amending the Human Services Code to provide that indigent juvenile defense services are reimbursed at a 50% rate through the county Needs-Based Budget process, the same rate as guardians-ad-litem and counsel in dependency proceedings.*

**The following legislative proposal is offered for consideration:**

62 P.S. § 704.1. Payments to Counties for Services to Children.--(a) The department shall reimburse county institution districts or their successors for expenditures incurred by them in the performance of their obligation pursuant to this act and [the act of December 6, 1972 (P.L.1464, No.333), known as the “Juvenile Act,”] **42 Pa.C.S. Ch. 63 (relating to juvenile matters)** in the following percentages:

(1) Eighty percent of the cost of an adoption subsidy paid pursuant to subdivision (e) of Article VII of this act.

(2) No less than seventy-five percent and no more than ninety percent of the reasonable cost including staff costs of child welfare services, informal adjustment services provided pursuant to [section 8 of the act of December 6, 1972 (P.L.1464, No.333), known as the “Juvenile Act,”] **42 Pa.C.S. § 6323 (relating to informal adjustment)** and such

services approved by the department, including but not limited to, foster home care, group home care, shelter care, community residential care, youth service bureaus, day treatment centers and service to children in their own home and any other alternative treatment programs approved by the department.

(3) Sixty percent of the reasonable administrative costs approved by the department except for those staff costs included in clause (2) of this section as necessary for the provision of child welfare services.

(4) Fifty percent of the actual cost of care and support of a child placed by a county child welfare agency or a child committed by a court pursuant to the act [the act of December 6, 1972 (P.L.1464, No.333), known as the “Juvenile Act,”] **42 Pa.C.S. Ch. 63 (relating to juvenile matters)** to the legal custody of a public or private agency approved or operated by the department other than those services described in clause (2). The Auditor General shall ascertain the actual expense for fiscal year 1974-1975 and each year thereafter by the Department of Public Welfare for each of the several counties and each city of the first class whose children resident within the county or city of the first class directly received the benefit of the Commonwealth’s expenditure. The Auditor General shall also ascertain for each Commonwealth institution or facility rendering services to delinquent or deprived children the actual average daily cost of providing said services. The Auditor General shall certify to each county and city of the first class the allocated Commonwealth expenditures incurred on behalf of its children and notify the Secretary of Public Welfare and each county and city of the first class of same.

(5) [Fifty percent of the reasonable cost of medical and other examinations and treatment of a child ordered by the court pursuant to the act of December 6, 1972 (P.L.1464, No.333), known as the “Juvenile Act,” and the expenses of the appointment of a guardian *pendente lite*, summons, warrants, notices, subpoenas, travel expenses of witnesses, transportation of the child, and other like expenses incurred in proceedings under the act of December 6, 1972 (P.L.1464, No.333), known as the “Juvenile Act.”]

**Fifty percent of the following costs incurred in proceedings under 42 Pa.C.S. Ch. 63 (relating to juvenile matters):**

**(i) the reasonable cost of medical and other examinations and treatment of a child ordered by the court;**

**(ii) the appointment of a guardian ad litem for a child in the context of dependency proceedings;**  
**(iii) the appointment of counsel for a child in the context of dependency proceedings;**  
**(iv) the appointment of counsel for an indigent child in the context of delinquency proceedings;**  
**(v) summons, warrants, notices, subpoenas, travel expenses of witnesses, transportation of the child; and**  
**(vi) other like expenses incurred in these proceedings.**

(6) Effective July 1, 1991, the department shall reimburse county institution districts or their successors one hundred percent of the reasonable costs of providing adoption services.

(7) Effective July 1, 1993, the department shall reimburse county institution districts or their successors eighty percent of the reasonable costs of providing foster home care, community residential care, supervised independent living and community-based alternative treatment programs.

(8) The department shall reimburse county institution districts or their successors for the reasonable costs of institutional services for dependent and delinquent children other than detention services for delinquents in accordance with the following schedule:

(i) Effective July 1, 1992, fifty-five percent.

(ii) Effective July 1, 1993, sixty percent.

## **The legislative recommendations of the Rate Methodology Task Force must be enacted.**

The overwhelming majority of the services which are provided to children in both the child welfare and juvenile justice systems are delivered by the private sector. The quality and wide array of these services have contributed significantly to Pennsylvania’s status as a model juvenile justice system. However, concerns have been expressed for many years regarding the need to develop a fair and equitable process to determine allowable costs for private sector placement services. These services are funded through a combination of federal, state, and local funds, and DHS is required to maintain necessary documentation to support the reimbursement of these services.

Following an audit of then-DPW’s claims for federal reimbursement of certain out-of-home placement costs under Title IV-E of the Social Security Act for periods

between 1997 and 2002, the federal Administration for Children and Families (ACF) required that a Program Improvement Plan (PIP) be submitted and steps taken to assure DPW's compliance with Title IV-E and also 45 C.F.R. § 92.40(a), which includes the assurance of accurate and reasonable calculations of residential foster care per diems. The PIP included the requirement that DPW develop a standard format for contracting and invoicing that would support the portion of private sector per-diems allowable for Title IV-E reimbursement. As a result, DPW's Office of Children, Youth and Families (OCYF) issued a bulletin in 2008 that mandated counties and providers gather and forward certain fiscal information to DPW for the determination of maximum allowable state and federal Title IV-E reimbursement.

As a result of a lawsuit filed by several private service providers, the Supreme Court of Pennsylvania determined that DPW did not have the authority to institute the process through a DPW-issued bulletin, but should have followed the regulatory or legislative change process to require the submission of this cost information by the service providers. Upon issuance of the Supreme Court's decision on April 24, 2013,<sup>117</sup> DPW ceased the review of provider fiscal packets.

These issues were specifically addressed by Act 55 of 2013, which was signed into law on July 9, 2013. Among the most significant provisions of Act 55 was the creation of a new Section 704.3 (relating to provider submissions)<sup>118</sup> in the Human Services Code, which provided that for FY 2013–2014, a private provider of placement services would be required to submit documentation of its costs of providing placement services to DPW (now DHS) and DPW would be required to use the documentation to the extent necessary, to support DPW's claim for federal funding and for state reimbursement for allowable direct and indirect costs incurred in the provision of out-of-home placement services.

DPW was also required by Act 55 of 2013 to convene a task force to develop recommendations for a methodology to determine reimbursement for actual and projected costs, which are reasonable and allowable, for the purchase of services from providers and for other purchased services, and to provide written recommendations for the purchase of placement services from providers to the General Assembly no later than April 30, 2014. The task force was required by Act 55 to include representatives from public and private children

and youth social service agencies and other appropriate stakeholders as determined by the Secretary of Public Welfare or the DPW Deputy Secretary for the Office of Children, Youth and Families. The task force was also charged with providing written recommendations to the General Assembly for other purchased services no later than December 31, 2014.

Pursuant to Act 55, DPW convened **The Rate Methodology Task Force** to develop recommendations for a methodology to determine reimbursement for actual and projected costs of child welfare services which are reasonable and allowable. DPW convened a stakeholder steering committee in July 2013 to provide guidance to the Task Force and to develop a charter to guide the Task Force. The Task Force began meeting in September 2013, and identified the following as the goals for its work:

- To develop a fair and equitable process to set and reimburse provider rates.
- To increase awareness of the Task Force members as to operational and budgetary realities and constraints at all levels – providers, counties, state and federal.
- To address budget and contracting concerns in an open and transparent process that validates the partnership and relationship among providers, counties and the Department in responding to the public mandates addressing child safety and community protection.
- To consider funding implications related to the implementation of juvenile justice initiatives.
- To develop a defensible methodology addressing the purchase of service process between counties and providers, including identification of all costs based on actual and projected costs that are reasonable and/or allowable.
- To clearly identify the protocols to be followed to ensure that documentation requested from service providers and counties is sufficient to support claiming for federal and/or state dollars.
- To develop a fiscal reporting format that captures necessary data in a consistent and well-defined process.
- To develop recommendations as necessary for statutory and regulatory changes to support the process and protocols developed by the Task Force To consider funding implications related to the implementation of current and future federal and state statutes and regulations.
- To model a productive and respectful process sup-

<sup>117</sup> *Northwestern Youth Services, Inc. v. Comm. of Pa., Department of Public Welfare*, 66 A.2d 301 (Pa. 2013).

<sup>118</sup> 62 P.S. § 704.3 (relating to provider submissions).

porting broad systemic change that is to the benefit of the populations served and is reflective of the differences in the entities involved.

- To consider the implications of the federal child welfare demonstration project initiatives evolving in select counties.
- To consider funding implications related to implementation of the Human Services Development Block Grants, as they specifically relate to child welfare and juvenile justice.
- To consider funding implications and options related to emerging practice precepts such as performance-based contracting and outcomes-based payment contracts as they relate to equity in access to services as well as consistency in access to funds.<sup>119</sup>

The work of the Task Force included extensive research and analysis, and consultation with the federal Administration for Children and Families (ACF); a review of the rate methodology processes of other states; and a review of multiple rate methodology options. Ad hoc workgroups developed the detailed recommendations for the General Assembly based on the following concepts:

- **Cost Report/Audit Requirements**—development of a Cost Report for foster family care and congregate care providers to identify the total actual cost of care as well as identifying costs allowable under federal Title IV-E and state Act 148; development of independent auditor procedures for the review of provider cost reports (Agreed Upon Procedures), and the inclusion of a Rate Adjustment Factor as part of the process.
- **Standardized Service Descriptions/Standardized Position Descriptions**—allow for the development of a uniform methodology for time studies, comparisons across providers in terms of costs and services, and a common understanding of job functions across service types; including recommendations for administrative, legislative and regulatory changes as outlined.
- **State Review Process**—includes a timeline and process for a state-level review of provider Cost Reports to make Title IV-E allowability decisions and moni-

tor Act 148 funds; includes the recommendation for the development of a dispute resolution process to resolve areas of disagreement with the State Review Process findings.

- **County Review Process**—the development of a transparent county review and negotiation process that aligns the need for services, provider quality, and the reasonableness of costs as essential elements, while taking into account the timing of the Needs-Based Plan and Budget submission.
- **Mechanism for New Providers and New Services**—establishment of an alternate submission process based on budgeted costs for new providers, new placement services, and facilities licensed under Chapter 6400 regulations.<sup>120</sup>

The **Report and Recommendations of the Rate Methodology Task Force** were provided to the General Assembly by DPW (now DHS) on May 2, 2014. Based on the timelines included in Act 55, the report included a proposed interim procedure to ensure federal funding would not be jeopardized for the transition year FY 2014–2015. That procedure was set forth in Act 126 of 2014. The comprehensive report included a series of recommendations for DPW as well as a number of recommendations for legislative action.

Although DHS has taken steps toward implementing many of the DHS-focused recommendations, no action has been taken by the General Assembly regarding the critical issues that can only be addressed through the enactment of legislation. Although HB 1534 P.N. 2168 was introduced by Rep. Kerry Benninghoff on September 8, 2015 to address a number of the most significant of these issues, the bill was never considered by the House Committee on Health.

### Recommendation

- *It is recommended that the Governor support the reintroduction of HB 1534 of the 2015–2016 legislative session in response to the legislative recommendations of the Rate Methodology Task Force convened pursuant to Act 55 of 2013.*

<sup>119</sup> *Report and Recommendations of the Rate Methodology Task Force to the General Assembly*, Pennsylvania Department of Public Welfare, May 2014, p. 12.

<sup>120</sup> *Report and Recommendations of the Rate Methodology Task Force to the General Assembly*, Pennsylvania Department of Public Welfare, May 2014, p. 4.

# Ensuring that services within Pennsylvania’s juvenile justice system are provided by a diverse, experienced, and well-educated work force.

- ***The Commonwealth must ensure that services to children within Pennsylvania’s juvenile justice system are provided by a diverse, experienced, well-educated, and well-compensated workforce.***

The positive correlation between a well-educated and experienced workforce and positive outcomes for youth served is well established. Unfortunately, many public and private agencies providing essential services to youth within Pennsylvania’s juvenile justice system are experiencing increasingly serious challenges in recruiting and retaining a trained, competent, workforce that is racially culturally, and linguistically diverse. The reasons for this are varied and complex, and include, but are not limited to, non-competitive salaries and benefits; evening and over-night work requirements; limited advancement opportunities; the risks associate with working with an occasionally aggressive and volatile population; implicit biases; and negative public perceptions of the value of the work.

The quality and breadth of the private sector services provided within the juvenile justice system have been critical factors in Pennsylvania having been repeatedly been recognized as a national leader in juvenile justice policy and practice. If this status is to be maintained and if the JJSES goals of lower recidivism rates through evidence-based practices and long-term positive outcomes for system-involved youth are to be achieved, it is essential that the Commonwealth develop and implement a comprehensive strategy to address this escalating workforce crisis.

## Recommendation

- *It is recommended that the Governor support the introduction and adoption of a joint House/Senate Resolution directing the Joint State Government Commission to undertake a comprehensive study of, and develop a report containing recommendations to address, the critical workforce crisis within the Commonwealth’s juvenile justice and child welfare service delivery system.*

# Ensuring access to high quality secure juvenile detention services and alternatives

- ***The Commonwealth must ensure that every county has access to high quality juvenile detention services and detention alternatives.***

Throughout Pennsylvania’s juvenile justice system, there is a strong commitment to the philosophy that secure detention should be used only after less restrictive alternatives have been considered and rejected. The Juvenile Act<sup>121</sup> and Pennsylvania Rules of Juvenile Court Procedure<sup>122</sup> authorize the secure detention of juveniles for brief periods

<sup>121</sup> See 42 Pa.C.S. §6325 (relating to detention of child), 42 Pa.C.S. §6326 (relating to release or delivery to court), 42 Pa.C.S. §6331 (relating to release from detention or commencement of proceedings), 42 Pa.C.S. §6332 (relating to informal hearing), and 42 Pa.C.S. §6335 (relating to release or holding of hearing).

<sup>122</sup> See Pa.R.J.C.P. 240 (relating to detention of juvenile), Pa. R.J.C.P. 241 (relating to notice of detention hearing), Pa.R.J.C.P. 242 (relating to detention hearing), Pa.R.J.C.P. 243 (relating to detention rehearings), Pa.R.J.C.P. 313 (relating to detention from intake), Pa.R.J.C.P. 404 (relating to prompt adjudicatory hearing), Pa.R.J.C.P. 409 (relating to adjudication of delinquency), Pa. R.J.C.P. 510 (relating to prompt dispositional hearing), Pa.R.J.C.P. 605 (relating to detaining juvenile for modification of the dispositional order or violation of probation), Pa.R.J.C.P. 610 (relating to dispositional and commitment review), and Pa. R.J.C.P. 612 (relating to modification or revocation of probation).

of time and for very limited purposes. Moreover, the Juvenile Act specifically provides that its purposes are to be achieved by employing evidence-based practices whenever possible and, in the case of a delinquent child, by using the least restrictive intervention that is consistent with the protection of the community, the imposition of accountability for offenses committed, and the rehabilitation, supervision and treatment needs of the child.<sup>123</sup> The JCJC's *Standards Governing the Use of Secure Detention under the Juvenile Act*<sup>124</sup> provide even further due process protections and best practice guidance.

As previously explained, the Commonwealth became involved with the Juvenile Detention Alternatives Initiative (JDAI) of the Annie E. Casey Foundation<sup>125</sup> in 2011 as an important component of the JJSES. The counties of Allegheny, Lancaster, Lehigh and Philadelphia Counties were selected as pilot sites because each of these counties had been utilizing a detention risk assessment instrument (DRAI) to provide a more structured approach to detention decision-making in conjunction with their development of evening reporting centers through grants from PCCD.

The development of a DRAI that could be used throughout the Pennsylvania juvenile justice system was a major priority of the JDAI initiative. Considerable progress has been made toward the achievement of that goal with the development of the Pennsylvania Detention Risk Assessment Instrument (PaDRAI), which is modeled after instruments developed through the JDAI. The PaDRAI is a brief structured decision-making instrument used to assist in the critical decision of whether to securely detain a youth, release to an alternative to detention (ATD), or release to the custody of a parent or responsible adult during the period that the youth is awaiting his/her juvenile court hearing. The instrument is designed to assess the risk of a youth to: 1) commit additional offenses while awaiting his/her juvenile court hearing; and/or 2) fail to appear for his/her scheduled juvenile court hearing. Currently, 32 counties are engaged in some aspect of PaDRAI implementation.

As explained in the Introduction, admissions to secure juvenile detention centers declined 53.4% from 2007 to 2015. This dramatic reduction is due to a variety of reasons, including the increased use of detention risk assessment instruments, and the development of evening reporting centers and other alternatives to detention. As detention center populations decline, the cost-per-juvenile to operate the programs increases dramatically.

Although there is a strong commitment to utilizing secure detention only after less restrictive alternatives have been considered and rejected, there are situations in every jurisdiction that require the use of a secure detention facility. When this level of custody is needed in the case of a particular juvenile, it is essential that high quality secure detention services be available in close proximity to the juvenile's community. However, in an increasing number of jurisdictions, these services can be many hours away, limiting the access that the juvenile has to his attorney, and to his family. In addition, access to schools and community services can be compromised, as can the scheduling of, and preparation for, assessments, evaluations and hearings.

Since 2006, 10 juvenile detention centers have ceased operations:

<b>Facility</b>	<b>Closure date</b>	<b>Capacity</b>
N.W. Academy	January 2006	18 beds
Blair County <i>(operated by Adelphoi Village)</i>	August 2008	8 beds
Beaver County	July 2009	25 beds
Dauphin County	January 2010	36 beds
Pa. ChildCare	June 2010	12 beds
York County	July 2010	24 beds
Berks County	June 2012	48 beds
Lehigh County	March 2014	48 beds
Tioga County	July 2014	12 beds
Cambria County	June 2016	12 beds

<sup>123</sup> 42 Pa.C.S. §6301(b) (relating to purposes).

<sup>124</sup> See 37 Pa. Code §200.1 *et seq.*

<sup>125</sup> www.aecf.org.

At present, only 14 juvenile detention centers are providing secure detention services within Pennsylvania’s juvenile justice system:

<b>Detention Facility</b>	<b>Capacity</b>
Abraxas Academy <i>(in Berks County)</i>	54 beds
Abraxas Youth Center <i>(in Franklin County)</i>	18 beds
Allegheny County	120 beds
Bucks County	36 beds
Centre County	14 beds
Chester County	48 beds
Delaware County	66 beds
Erie County	20 beds
Lackawanna County	10 beds
Lancaster County	60 beds
Montgomery County	36 beds
Northampton County	36 beds
Philadelphia County	184 beds
Westmoreland County	12 beds
<b>Total Statewide Capacity</b>	<b>714 beds</b>

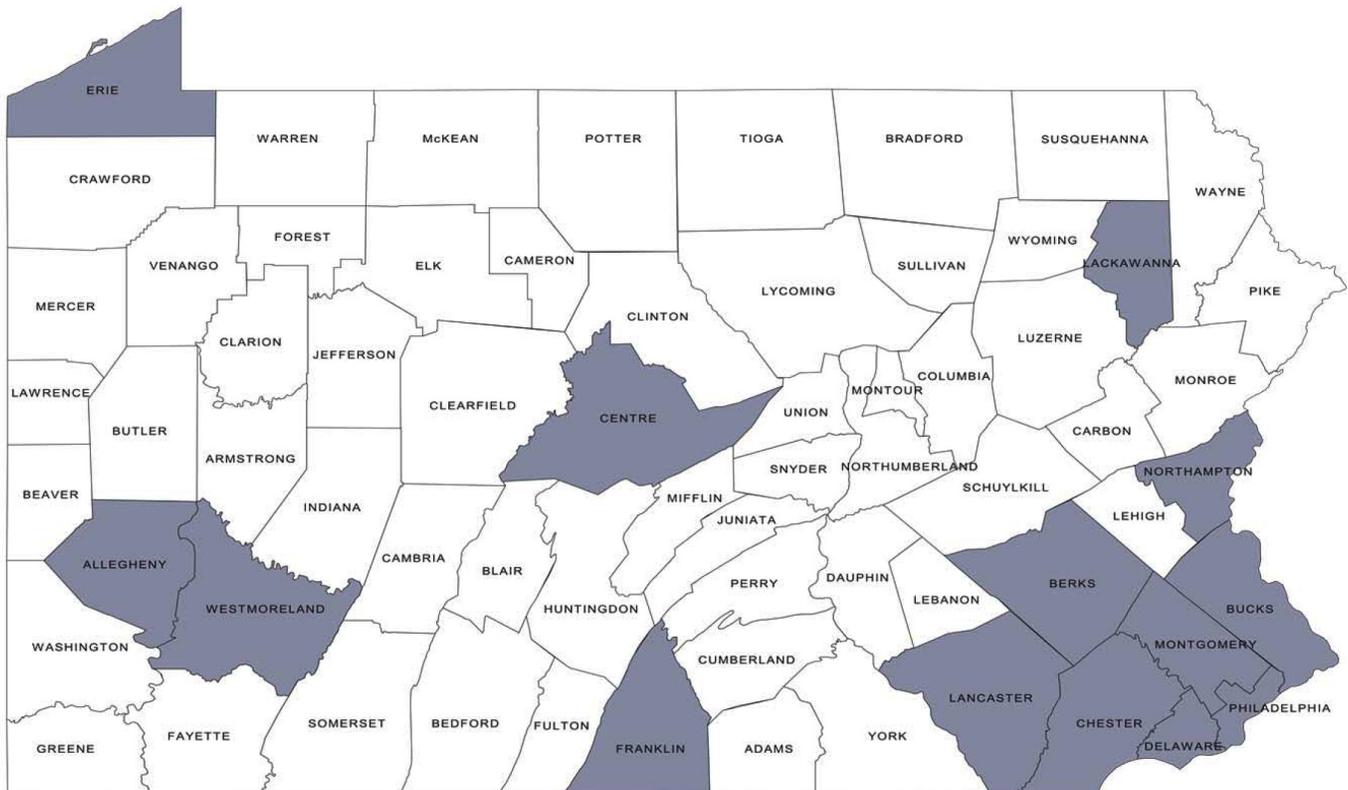
In this regard, it should be noted that, according to data compiled by the Juvenile Court Judges’ Commission, in 2015 there were 220 juvenile detention commitments from four Pennsylvania counties to the Jefferson County Juvenile Detention Center in Steubenville, Ohio. The following counties detained juveniles in the Ohio facility in 2015:

- Beaver County—(49 admissions)
- Butler County—(17 admissions)
- Fayette County—(6 admissions)
- Washington County—(148 admissions)

The Jefferson County, Ohio facility is being used due both to its proximity to these counties, and a per diem cost that is lower than detention centers in Pennsylvania.

Although the Juvenile Act requires the Department of Human Services to develop or assist in the development of approved shelter programs in each county for children taken into custody, and for children referred to or under the jurisdiction of the court,<sup>126</sup> no such requirement exists for juvenile detention services. Consequently, the decision of whether to continue operating a particular center is solely that of the county or service provider that owns the facility. The secure detention centers that remain open in the Commonwealth are not distributed evenly throughout the Commonwealth:

The Commonwealth must develop a strategy to ensure the availability of a range of detention alternatives in every county, and the availability of high quality secure detention services within a reasonable proximity of every county.



**Recommendation:**

- *It is recommended that the Governor request the JJDPC to develop a strategy to ensure that every county has access to high quality juvenile detention services and detention alternatives.*

<sup>126</sup> 42 Pa.C.S. § 6327(f)(relating to development of approved shelter care programs).