



The New Jersey Institute for Social Justice
Policy Brief:
Youth Incarceration in New Jersey
December 2016

Notwithstanding significant decreases in New Jersey’s youth incarceration rates, the default for too many young people, especially Black children, remains incarceration in youth prisons. New Jersey should instead adopt a system of care in which children receive rehabilitation and treatment close to home with critical community support, rather than being funneled into youth prisons.

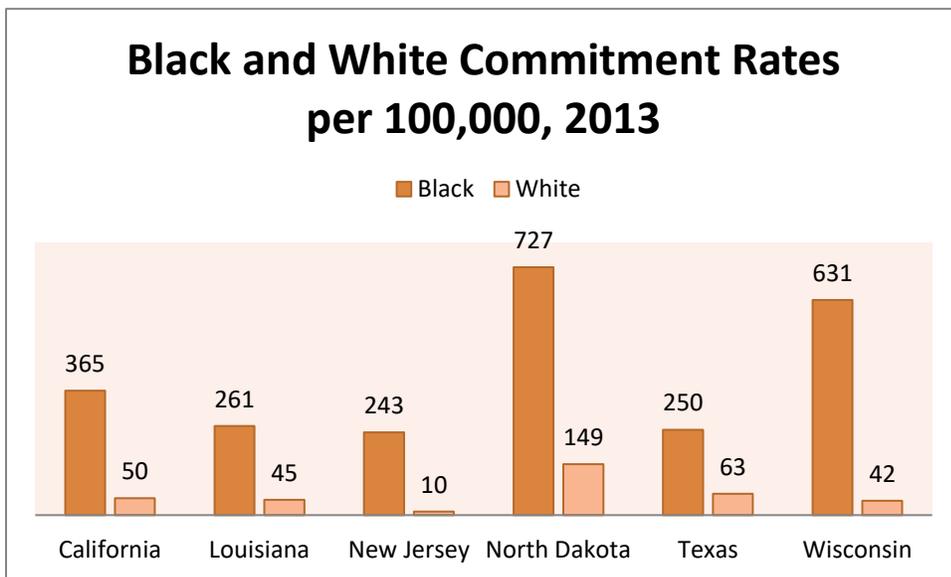
Overview: Like many states across the nation, New Jersey’s youth incarceration rates have decreased significantly. Between 1997 and 2010, the total population of confined youth in juvenile residential facilities was cut by over half (53%). This reduction is due in large part to the commitment of the New Jersey Judiciary and the Juvenile Justice Commission (JJC) to implement the Juvenile Detention Alternatives Initiative (JDAI), a program focused on decreasing the number of youth detained before trial. This trend makes sense, as research shows that decreasing the pre-trial detention population makes it less likely that a child will ultimately be committed to a youth prison.

In New Jersey, however, more than 550 young people are currently ensnared in “deep end” of the juvenile justice system—either through commitment to a state facility, probation, or aftercare (post-release supervision and services).

Racial Disparities: While fewer youth are being incarcerated, staggering racial disparities persist: in New Jersey, Black kids are, incredibly, 24.3 times more likely to be committed to a secure juvenile facility than their white counterparts. New Jersey has the third-highest Black-white commitment disparity rate in the nation: of the 289 young people currently committed to a state juvenile facility, three-quarters (73%) of them are Black.

But this is not because Black youth are more criminally culpable—there is little difference between Black and white youth in terms of delinquent behavior and status offending (conduct that is only criminalized if committed by a minor, such as truancy or underage drinking).

Instead, these stark racial disparities reflect racially discriminatory policy decisions and practices that determine which kids get sentenced to youth prisons.



Non-Violent Offenses: Rather than only confining the youth who pose a serious risk to public safety, our youth prisons have many young people who either have committed non-violent offenses or violations of probation or parole, which may, in some cases, mean they committed no new offense at all. This is so because violations of probation/parole include technical violations, which can range from failure to pay restitution to failure to appear for drug tests or meetings. As a result, our young people can be placed in youth prison due to circumstances often outside of their control—such as transportation issues, changing court dates, and poverty.

For every year in which data is available, the vast majority of incarcerated youth in our country are confined for non-violent offenses—in 2013, 74% percent of all committed youth had been adjudicated for a nonviolent offense.

Of the 507 youth committed in New Jersey at the time of a 2013 one-day count, fifty seven had committed a technical violation as their most serious offense, twenty four had committed a drug offense, and eighty four had committed a property offense—totaling almost one-third (32.5%) of then-confined youth.

Looking at the recent statistics on the offense categories for which young people are currently committed to JJC custody in New Jersey, property offenses represent almost one-fifth (18.63%) of the total offenses, and drug offenses over seven percent (7.6%). It must be noted, however, that the current weekly statistics provided by the JJC do not further disaggregate the types of property offenses and drug offenses for which these young people are incarcerated, does not provide a

number for how many are serving terms of confinement for technical violations, and does not distinguish between violations of parole and probation.

Children are Different: Studies make clear that involvement in delinquent and criminal behavior peaks around ages sixteen and seventeen, followed by a decline in antisocial behavior as an adolescent matures to adulthood. Moreover, during adolescence the brain undergoes a “rewiring” process that is not complete until around twenty-five years of age. Significant changes occur in brain maturation during this period—such as changes in the limbic system, which may “impact self-control, decision making, emotions, and risk-taking behaviors.” As a result, adolescents are “more likely to weigh positive experiences more heavily and negative experiences less so than adults,” leading them to be more likely to engage in risky activities. Relatedly, research has also uncovered that the frontal lobe—which contains the area responsible for judgment of consequences, impulse control, and planning—is the most underdeveloped portion of the juvenile brain. Notably, these findings indicate that juvenile offending is a reflection of psychological immaturity, rather than an indication of innate criminality, and will often cease as “a natural consequence of growing up.”

Public Safety: Incarceration of youth is ineffective as a crime prevention strategy. In fact, studies have shown that long-term juvenile incarceration, rather than reducing crime, increases recidivism rates.

Indeed, 70% to 80% of youth released from incarceration are rearrested within two to three years and 38%-58% of youth released are found guilty of new offenses within two years.

In New Jersey, of the approximately 652 juveniles released from juvenile correctional facilities in 2011, 84% had a new court filing/arrest, 71.9% had a new adjudication/conviction, and 32.4% were recommitted within three years of release. Black kids are disproportionately represented at all three of these decision points—86.8% of Black kids had a new court filing/arrest vs. 76.1% of white youth; 74% had a new adjudication vs. 67.2% of white youth, and 33.8% had a new commitment vs. 22.4% of white youth. Importantly, these high recidivism rates are not a reflection of the criminal culpability of Black kids, but instead are driven by a racially discriminatory system of juvenile incarceration that disproportionately ensnares Black youth.

Alternatives Work: Community-focused diversion and incarceration alternatives offer greater potential to rehabilitate our youth and prevent recidivism. Community-based programs allow young people to live at home while receiving intensive wrap-around services.

Research has shown that children are better served by treatment-intensive community programs rather than incarceration, and that such programs result in positive outcomes for children, are more cost-effective, and reduce recidivism rates. For example, research by the John Jay College of Criminal Justice Research and Evaluation Center has shown that, of 3,523 high-risk youth participating in an intensive community-based program, 86% remained arrest free during the

program and 93% remained at home at the end of services. To safely keep our children in their communities and out of youth prisons, New Jersey must transform its juvenile justice system to a community-based system of care because it works.

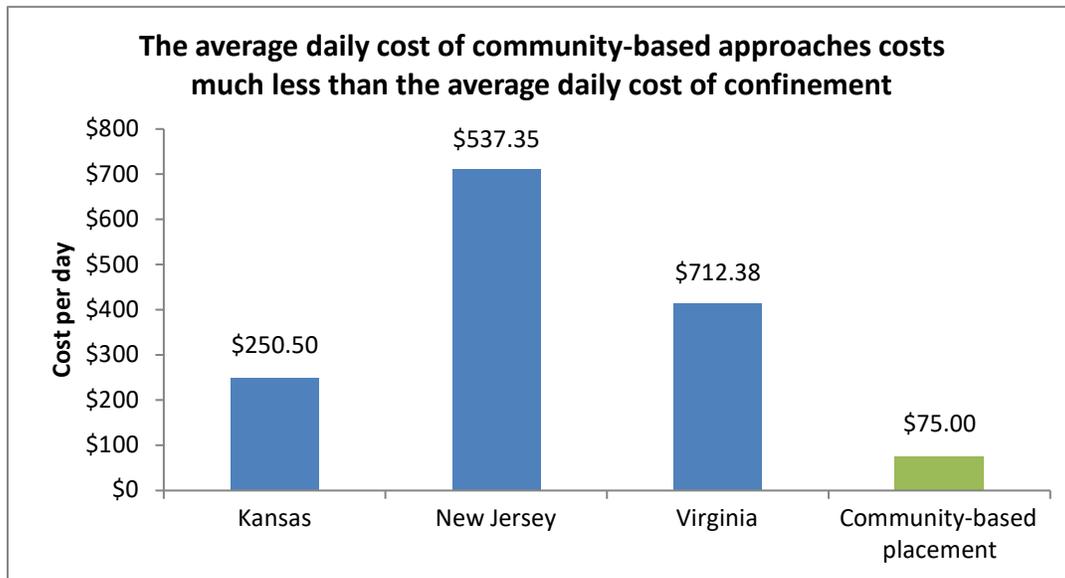
While there are numerous diversion options and alternatives to incarceration available within New Jersey's juvenile justice system to prevent children from entering youth prisons, children of color, in particular, are not provided equal access to these programs.

As a point of reform, by shifting state funding from youth prisons to community-based alternative programs, Black children in our state can fully benefit from the rehabilitative care that the juvenile justice system was originally designed to provide, and that their white peers more often experience.

Financial Cost: Youth incarceration is incredibly expensive, particularly when compared to various available community-based alternatives to incarceration. Annually, our nation bears an estimated \$8-\$21 billion in long-term costs—costs associated with continuing recidivism and lost educational opportunities, etc.—to incarcerate our youth. According to Justice Policy Institute's 2014 report, *Sticker Shock: Calculating the Full Price Tag for Youth Incarceration*, the average cost of the most expensive confinement for a young person—based on a survey of state confinement expenditures in 46 states—is \$148,767 a year.

For New Jersey, youth incarceration is more expensive: as of 2014 New Jersey spends up to \$196,133 to incarcerate one young person each year (the twelfth highest expenditure of the forty-six states reporting). By contrast, in-state tuition, fees, and room and board for the prestigious The College of New Jersey is \$28,674 a year.

And this exorbitant spending persists even though the state's youth prisons are largely underutilized. As of March 2016, the New Jersey Training School for Boys (the state's largest youth prison), which has a maximum capacity of 330 youth, housed only 140 young people. Even more troubling, as of March 2015, the Female Secure Care and Intake Facility, the only youth prison for girls, housed only eight young women, approximately seventeen percent (16.7%) of its maximum capacity of forty-eight.



While the average cost of youth incarceration in New Jersey is approximately \$537.35 per day, the associated cost of keeping a child in a community-based program with wrap-around services has a daily average cost of \$75.

Youth Advocate Programs, Inc. (YAP), a national non-profit committed to providing community-based alternatives to out-of-home placement through direct service, advocacy, and policy change, has had a history of successful outcomes for youth at a fraction of the cost of incarceration. Of a sample of 1,851 YAP cases between the ages of 14 and 17, over 87% of the sample was living in the community, and less than 5% was in secure placement, between six and twelve months after being discharged from YAP. In addition, youth with prior out-of-home placements were more likely to stay in their community, and less likely to be in a secure facility, six to twelve months following their discharge from YAP. YAP is just one example of the programming that can be used to keep our young people out of youth prisons and in their communities.

Here in New Jersey, it is evident that moving children (and funding) from under-utilized state facilities to smaller, community-based program placements, will have a positive effect on decreasing state costs.

SO, WHAT CAN BE DONE?

Black and white children generally commit similar types of offenses at similar rates. Yet, Black children are more likely to be sent to a prison cell and less likely to be diverted than their white peers.

The following policy recommendations urge New Jersey to provide all of its justice-involved young people with the treatment that has been shown to work: community-based programming with intensive wrap-around services.

POLICY PROPOSALS

Policy Proposal # 1: The New Jersey Legislature Should Redirect Funds from Youth Prisons to Community-Based Intervention, Prevention, Diversion, and Incarceration Alternatives Programs.

There is a financial incentive to keeping our children in community-based programs with wrap-around services rather than youth prisons. Currently, at least two out of the three youth prisons—the New Jersey Training School and the Female Secure Care and Intake Facility—are significantly underpopulated. It makes little fiscal sense to continue to fund and operate large facilities, far away from children’s communities, for only a handful of youth who could likely be more effectively treated using an alternative model rather than incarceration.

Funding for youth prisons should instead be redirected to community-based programs, focusing on intervention, prevention, and enhancing incarceration alternatives programs—which are currently sufficiently underfunded by the state. Of note, shifting funds to prevention and intervention programs helps ensure that young people do not become system-involved in the first place. Targeting the front-end of the system not only makes economic sense—as Gloucester County noted in its comprehensive plan of county youth programming, “[p]revention continues to be a much cheaper service than diversion or incarceration and reaches more youth”—but it is also the first step in keeping children home.

In addition, funds should be reinvested into employment preparation and skills development programs. Providing a child with a job or the opportunity to develop a marketable skill can go far to prevent him or her from entering the juvenile justice system. Programs such as YAP’s MERGE (Males Engaged in Reducing Violence through Gainful Employment)—a three-year program in Atlantic City which helped at-risk young men with, among other things, job training and placement—provide examples of the progress that can be made with such initiatives for both young men and women; over 60% of all participants who had set a goal of continuous employment or half-time self-employment had successfully achieved this goal by the end of the MERGE program.

But, importantly, these programs must be well-funded to ensure broad success—for example, the MERGE program was only funded for three years. In addition, while Newark has a youth summer program, which aims to train and employ 2,700 of the city’s young people, needs additional funding, a fact evidenced by a number of children who were waitlisted for the program.

New Jersey should also do an assessment of the funds that it already has available for juvenile justice reform, and evaluate how these funds can be better allocated to support keeping our youth at home with intensive services. For example, federal funds available through the Victims of Crime Act—which provides support for victims of crime, including incarcerated victims—can be used for trauma-based diversion programs, restorative justice programming, and school-based peer support groups.

Policy Proposal # 2: The New Jersey Legislature Should Reevaluate Its Sentencing Structure And Cases Requiring Prosecutorial Consent to Ensure Youth Who Do Not Pose A Serious Risk to Public Safety Are Not Incarcerated.

While our ultimate goal should be to move decidedly away from youth prisons, we should, at a minimum and urgently, reevaluate our sentencing structure to ensure that no youth is incarcerated for a nonviolent offense. Too many young people incarcerated in youth prisons in New Jersey for property offenses, drug offenses, and technical violations. Legislation should be proposed to prohibit incarcerating youth for non-violent offenses.

These offenses provide ideal circumstances for youth to participate in a community-based program to remedy the harm and their behavior. For example, youth adjudicated for a property offense, instead of being incarcerated, could be asked to repair the property damage through community service or some other restorative justice mechanism.

The New Jersey legislature should also prohibit the imposition of mandatory minimums for juvenile delinquency offenses—specifically, it should repeal the provisions of N.J. Stat. Ann. §2A:4A-43 that impose mandatory minimums for certain offenses. Doing so would enable judges to consider the unique circumstances of each child’s situation, and their potential for rehabilitation, rather than having to adhere to overly-punitive laws. In addition, the legislature should consider eliminating non-violent fourth degree offenses and non-violent disorderly persons offenses from the categories of offenses that require prosecutorial consent before family court intake services can recommend diversion. This change would provide this body with greater flexibility to divert these young people to community-based alternatives, rather than pushing them further into system-involvement.

Policy Proposal # 3: The Attorney General, in conjunction with the JJC, Should Launch a Targeted Initiative to Combat Disproportionate Minority Contact in Detention Centers and Youth Prisons.

Despite the decrease in juvenile incarceration, stark racial disparities continue to characterize our state’s juvenile justice system. As a state receiving Office of Juvenile Justice and Delinquency Prevention funds, New Jersey is required to address disproportionate minority contact in its system, including by developing and implementing intervention strategies to address this issue.

The JJC should intensify its efforts to build an internal infrastructure to address racial disparities in New Jersey’s youth detention centers and youth prisons. The Burns Institute’s previous project to decrease racial and ethnic disparities in detention populations was highly successful in its four operating counties. Since that time, however, the program is no longer active, even as disproportionate minority contact persists. The JJC should reengage the Burns Institute or some other organizational partner, or launch its own initiative, to satisfy its JJDPa mandate, and to expand the efforts to address disproportionate minority contact statewide.

Policy Proposal #4: Where Placement in a Secure Facility May be Warranted, Such Facilities Should be Small, Residential, and Located Close to Youths' Families.

In some instances, placing a young person in a secure facility may be necessary for safety reasons. Even in these instances, children should not be sent to large youth prisons that offer little treatment and services, particularly given that other jurisdictions have demonstrated that youth can thrive in smaller, secure placements, close to their communities and families, with intensive services, counseling, and other treatment.

Where a secure facility is determined to be the most appropriate placement for a young person, he or she should be kept as close to his or her community as feasible, to draw on familial support and extended networks to aid in rehabilitation and development. In addition, these facilities should be treatment-focused, and should allow our young people access to counseling, needed social services, educational support, and mental and emotional health treatment.

Policy Proposal #5: The Attorney General Should Issue Directives Aimed at Stemming the Flow of Youth Referrals by Law Enforcement to the Juvenile Justice System.

Law enforcement should seek to help keep youth at home in their communities.

Although stationhouse adjustments have been developed as one mechanism to accomplish this goal, this practice has not been equally implemented across New Jersey's twenty-one counties. This is a practice in dire need of reform.

First, law enforcement departments should use stationhouse adjustments more, and those who are not utilizing this system at all should start doing so. Second, there should also be a uniform implementation process across counties. The Attorney General's Guidelines only outline the "minimum stationhouse adjustment process," and its training guide does not provide specific examples of strategies employed by individual counties; is not uniformly followed given the discrepancies across agencies in the use of stationhouse adjustments; and was and appears to have been created and used for training purposes over ten years ago. To ensure greater uniformity, the Attorney General should issue a formal directive to provide more comprehensive guidance regarding the use of stationhouse adjustments and to encourage greater use of the program. And this directive should also grant law enforcement officers the flexibility to divert some offenses, such as certain drug and bias offenses, without prosecutorial consent.

To combat the underutilization of such an important diversion tool, the Division of Criminal Justice should identify local police departments and counties with successful stationhouse adjustments plans. For example, the Cumberland County Positive Youth Development Coalition—a county-wide juvenile delinquency effort—has engaged in successful stationhouse adjustments practices that led to a 122% increase in stationhouse adjustments between 2013 and 2015. The Division should then

record best practices of these departments and, perhaps working with an external research partner or juvenile justice advocates, develop a best practices guide with real-life examples that can be distributed to police departments statewide. By doing so, not only will the stationhouse adjustments program become more standardized, but each police department will be informed by best practices in diverting cases in its community. Last, a publicly-available data collection and distribution component would also strengthen the stationhouse adjustments program, as further described in policy proposal #6.

[Policy Proposal #6: There Should Be Increased Data Collection and More Accessible Information.](#)

Finally, New Jersey must provide more data on what is happening to young people at each pivotal point of the juvenile justice system, and ensure that current data is made publicly available. Data collection and dissemination efforts concerning law enforcement and JJC operations should be expanded.

Law Enforcement: Law enforcement diversion data is not easily accessible. Although law enforcement agencies are required to issue a quarterly stationhouse adjustments report—which includes data by race, sex, prior contact, age, offense, and success rate—they are not required to make this information easily accessible; currently it is only available through an OPRA request. To make it easier for parents and advocates to hold their police departments accountable, each department should be required to post its quarterly stationhouse adjustments data on its website or publish this information through some other publicly-available means.

Police departments should also create accountability measures for their stationhouse adjustment numbers. For example, in Newark, Newark Community Solutions, the Newark Police Department, and the Rutgers School of Criminal Justice, have entered into a partnership to develop a web-based data collection system for juveniles referred to non-profit agencies as part of the City of Newark's stationhouse adjustments initiative. The data generated will track eligible cases in Newark, collecting case characteristics that lead to successful diversion.

JJC: The JJC collects significant data to monitor its progress, which is commendable. There are several ways that the JJC can continue this progress, and achieve greater transparency and accountability. First, the JJC should update its website to include only current information on newly-introduced programming, such as its deep-end JDAI reform efforts in Camden. Second, the weekly juvenile demographics and statistics posted on the website should give a breakdown of how many youth reside in each youth prison, and further disaggregate the types of offenses young people are being incarcerated for, including distinguishing between violations of probation and parole, and reporting how many youth are currently committed for technical violations.

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About the Institute:

The Institute's mission is to empower urban residents to realize and achieve their full potential. Established in 1999 by Alan V. and Amy Lowenstein, the Institute's dynamic and independent advocacy is aimed at toppling load-bearing walls of structural inequality to create just, vibrant, and healthy urban communities. We employ a broad range of advocacy tools to advance our ambitious urban agenda, including research, analysis and writing, public education, grassroots organizing, communications, the development of pilot programs, legislative strategies, and litigation.

Using a holistic approach to address the unique and critical issues facing New Jersey's urban communities, the Institute advocates for systemic reform that is transformative, achievable in the state, and replicable in communities across the nation.