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THE CONTEXT OF JUVENILE DETENTION AND CORRECTIONAL PLANNING IN THREE STATES

*Prepared for the Assessment of Space Needs
in Juvenile Detention and Corrections, a
project of the Urban Institute for the Office
of Juvenile Justice and Delinquency
Prevention (OJJDP)*

by

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with

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NOVEMBER 2001



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Acknowledgements

This report was prepared by Daniel P. Mears, Ph.D., a Research Associate with the *Assessment of Space Needs in Juvenile Detention and Corrections* project. The study was housed within the Urban Institute's Justice Policy Center, directed by Dr. Adele Harrell. Development of the study and the products resulting from it benefited from significant contributions by Joseph Moone, Program Specialist in OJJDP's Research and Program Development Division. Each of the state profiles in this report were created by drawing on a wide range of materials. These included interviews with researchers and administrators in juvenile justice agencies, review of statistical and annual reports from states department of justice, analysis of arrest and custodial/placement data, and review of legislation.

Assistance with collecting data and reports, creating tables and figures, writing certain sections of this report, and/or providing editorial suggestions was provided by Dr. Jeffrey Butts, Alexa Hirst, Paul DeMuro, and Emily Busse. Dr. Butts is a Senior Research Associate at the Urban Institute's Justice Policy Center and the Principal Investigator for the *Space Needs* project. Alexa Hirst and Emily Busse are Research Associates at the Urban Institute's Justice Policy Center (currently employed elsewhere). Paul DeMuro, an expert on juvenile justice programs and policies, served as a consultant. The project, funded by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), is housed within The Urban Institute's Justice Policy Center, directed by Dr. Adele Harrell.

The Urban Institute and OJJDP gratefully acknowledge the considerable assistance provided by the State officials who made this report possible, including Dr. Ralph Kelly, Commissioner of the Kentucky Department of Juvenile Justice, Manfred Holland, Director of the West Virginia Division of Juvenile Justice, and Eurial Jordan, Administrator, and Silvia Jackson, Deputy Administrator, of the Wisconsin Division of Juvenile Corrections.

Particularly helpful assistance was provided by several officials who agreed to edit, supplement, and ensure the accuracy of the final drafts of this report. Pam Thomas, at the Kentucky Department of Juvenile Justice, systematically updated information and data on the Kentucky detention and correctional systems, added new information on, and corrected and revised earlier drafts of the Kentucky state report. Johnny L. Richardson, Jr., at the West Virginia Division of Juvenile Service, provided helpful and ongoing assistance throughout the project. Finally, Shelley Hagan, at the Wisconsin Department of Juvenile Corrections, suggested many revisions that improved the final report.

This report was prepared under grant number 98-JB-VX-K004 from the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice.

Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of OJJDP, the U.S. Department of Justice, the Urban Institute, its board, or sponsors.

The Office of Juvenile Justice and Delinquency Prevention is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime.

Background of the OJJDP Space Needs Assessment Study

This report was prepared as part of the OJJDP Space Needs Assessment Study. On November 26, 1997, as part of Public Law 105-119, Congress requested that the U.S. Department of Justice conduct a "national assessment of the supply and demand for juvenile detention space," including an assessment of detention and corrections space needs in 10 States. In particular, Congress expressed this concern:

The conferees are concerned that little data exists on the capacity of juvenile detention and corrections facilities to handle both existing and future needs and direct the Office of Justice Programs to conduct a national assessment of the supply of and demand for juvenile detention space with particular emphasis on capacity requirements in New Hampshire, Mississippi, Alaska, Wisconsin, California, Montana, West Virginia, Kentucky, Louisiana, and South Carolina, and to provide a report to the Committees on Appropriations of the House and the Senate by July 15, 1998.

OJJDP responded to this request by taking two actions. The first action was to submit a report to Congress in July 1998 (see *An Assessment of Space Needs in Juvenile Detention and Correctional Facilities, Report to Congress*, Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, July 1998). It was prepared by OJJDP with assistance from The Urban Institute, the National Center for Juvenile Justice, the National Council on Crime and Delinquency, and The American University in Washington, DC.

The second action taken by OJJDP was to fund a more extensive investigation as part of the Juvenile Accountability Incentive Block Grants (JAIBG) program. The investigation, known as the Assessment of Space Needs in Juvenile Detention and Corrections project, was conducted by The Urban Institute and focused on the methods used by States to anticipate future demand for

juvenile detention and corrections space. The project's advisors and consultants are listed below.

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THE CONTEXT OF JUVENILE DETENTION AND CORRECTIONAL PLANNING IN THREE STATES

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INTRODUCTION

Understanding how States plan for detention and correctional bed space needs would, at first glance, appear to be a straight-forward matter. Presumably states examine juvenile crime rates, and if there are increases, states build more facilities. Similarly, if states enact “get tough” laws, such as occurred during the 1980’s and 1990’s, then there should be more pressure to build beds to meet the increased demand. In reality, however, juvenile justice detention and correctional policy is situated within a broad-based context, one that includes many other factors that can affect bed space construction.

To illustrate the range of factors that can bear on juvenile detention and correctional bed space construction and use, this report describes the context of juvenile justice bed space planning as it occurs in three states: Kentucky, West Virginia, and Wisconsin. The planning processes used by these states have had to contend with many of the most important factors bearing on juvenile detention and correctional planning nationwide. Together, the

Juvenile Justice Bed Space Planning in 3 States In 1997, Congress requested that the U.S. Department of Justice conduct a national assessment of detention and correctional space needs in ten states, with a focus both on current and future bed space needs. This request resulted in a preliminary report to Congress in July 1998 (*An Assessment of Space Needs in Juvenile Detention and Correctional Facilities*, Report to Congress, Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention). A more extensive investigation was undertaken by the Urban Institute, through the *Assessment of Space Needs in Juvenile Detention and Corrections* project, funded by OJJDP. As one part of the larger project, researchers at the Urban Institute focused on providing descriptive accounts – presented in this report – of the context of juvenile justice detention and correctional planning in three states (Kentucky, West Virginia, and Wisconsin).

descriptions of each state illustrate the types of issues involved in bed space planning, issues that must be taken into account to understand and plan effectively for detention and correctional needs.

The report consists of profiles of the three states. Each profile describes the:

- recent history of juvenile correctional planning;
- organization of juvenile justice;
- stages of case processing;

- confinement capacity, including detention and correctional bed space;
- decision-making context, including organizational, legislative, and economic factors;
- process used to anticipate and project future needs for bed space.

A Brief Comparison of Three States

The resident population of Kentucky, West Virginia, and Wisconsin are predominantly white/Caucasian (Table 1). Roughly one-fourth of the population in each state is under 18 years old. West Virginia has the smallest total population and, because of its geographic size relative to this population, the lowest population density. Proportionally, therefore, West Virginia is a more rural state. By contrast, Kentucky and Wisconsin have similar population densities (102 and 99, respectively) even though Wisconsin has 1.5 million more people.

Of the three states, Kentucky and West Virginia are most similar with respect to median family income, per capita income, and per capita tax burden, all of which are substantially lower than for Wisconsin and the nation. Kentucky and West Virginia also have higher levels of poverty (12% and 16%, respectively) as compared with Wisconsin (9%). Employment levels, home ownership, and changes in education funding are relatively comparable across the three states and reflect national patterns.

The violent crime rate, as of 1999, was lower in Wisconsin (246) than in Kentucky (301) and West Virginia (351). All three states have violent crime rates substantially lower than the national average (525). Arrest data for youthful offending has not been consistently reported for these states, not only for 1999 but in prior years as well. For example, not all counties provided complete reports of juvenile arrests to the Federal Bureau of Investigation (FBI), which is responsible for compiling arrest data as part of the Uniform Crime Reports. As a result, it is not possible to draw reliable conclusions about state-level differences in juvenile arrest rates using UCR data.

The total number of youth incarcerated in residential placement facilities, including detention and

correctional placements, varies considerably across the three states, with a low of 398 in West Virginia to a high of 2,013 in Wisconsin. The rates of residential placements reflect these numbers: the rate in West Virginia is 201, compared with 244 in Kentucky and 359 in Wisconsin.

According to data from the National Association of State Budget Administrators, between 1994 and 1998, state expenditures for juvenile justice residential placements increased dramatically. In Kentucky, the increase (53%) was substantially lower than the national increase (69%). By contrast, West Virginia's increase (68%) was almost identical, while the increase in Wisconsin (88%) was substantially higher.

The patterns are somewhat different for adult corrections in each state. West Virginia has the lowest number and rate of adult incarceration, but, in contrast to the pattern for juvenile residential placements, Kentucky, not Wisconsin, has the highest adult incarceration rate. Per capita expenditures for adult corrections is markedly higher in Wisconsin (\$122) than in Kentucky (\$75) and West Virginia (\$66). Between 1990 and 1998, however, per inmate spending increased much more in West Virginia (195%) than in Kentucky (83%) or Wisconsin (87%).

From this brief comparison, it is not possible to identify a single pattern that can aptly characterize each of the states, much less one that can account for the different juvenile incarceration rates. However, that fact itself highlights an important point: it is necessary to explore more closely what drives juvenile incarceration rates, including planning for and construction of bed space. It also highlights that certain common sense ideas do not always prove true when predicting juvenile incarceration trends. For example, many might assume that states with the highest adult incarceration rates would also have the highest juvenile incarceration rates. But, as Table 1 shows, that does not hold true for the three states in this report: Kentucky, for instance, has the highest adult incarceration rate while Wisconsin has the highest juvenile incarceration rate.

Table 1. Statistical Profiles of Three States: Kentucky, West Virginia, and Wisconsin

	Kentucky	West Virginia	Wisconsin	U.S.
DEMOGRAPHIC				
Population, 2000	4,041,769	1,808,344	5,363,675	281,421,906
Percent White Population, 2000 (for U.S., 1999)	89%	95%	88.9%	82%
Percent Black Population, 2000 (for U.S., 1999)	7%	3%	6%	13%
Percent Hispanic Population, 2000 (for U.S., 1999)	2%	1%	4%	12%
Percent Population Change, 1990-2000	10%	1%	10%	13%
Percent of Persons Under 18 Years Old, 2000	25%	22%	26%	26%
Population Density (Persons per Square Mile), 2000	102	75	99	80
SOCIAL				
Median Household Income, 1999	\$33,901	\$29,433	\$45,825	\$40,816
Per Capita Personal Income, 1999	\$23,237	\$20,966	\$27,390	\$28,542
Percent of Population Living in Poverty, 1999	12%	16%	9%	12%
Percent of Adult Population Unemployed, 1999	5%	7%	3%	4%
Percent Homeowners of Occupied Units, 2000	71%	75%	68%	66%
Percent Change in Education Expenditures, 1997-1998	4%	-4%	5%	7%
CRIME				
Violent Crime (Reported) per 100,000 Residents, 1999	301	351	246	525
Juvenile Violent Crime (Arrests) per 100,000 Residents, 1999	516*	95*	N/A*	366*
JUVENILE JUSTICE				
Juveniles in Residential Placement (1-day count), 1997	1,079	398	2,013	105,790
Juvenile Residential Placements per 100,000 Juveniles, 1997	244	201	359	368
State Residential Placement Expenditures, 1994, in Millions	\$28	\$12	\$30	\$1,662
State Residential Placement Expenditures, 1998, in Millions	\$43	\$19	\$56	\$2,810
Percent Increase in State Placement Expenditures, 1994-1998	53%	68%	88%	69%
CRIMINAL JUSTICE				
Prisoners Under State Jurisdiction, 1998	14,987	3,478	18,451	1,178,978
State Prison Incarceration Rate per 100,000 Residents, 1999	385	196	375	476
State Corrections Expenditures, 1998, in Millions	\$304	\$120	\$655	\$30,601
Per Capita Corrections Expenditures, 1998 (2000 Pop.)	\$75	\$66	\$122	\$109
Per Inmate Spending, 1990	\$11,118	\$11,699	\$18,965	\$15,586
Per Inmate Spending, 1998	\$20,307	\$34,506	\$35,475	\$25,955
Percent Change in Per Inmate Spending, 1990-1998	83%	195%	87%	67%

SOURCES: National Association of State Budget Associations. 1999. *State Juvenile Justice Expenditures and Innovations*. Washington, D.C.: NASBA. Pew Center on the States. 2001. *State Facts and Information*. Washington, D.C.: Pew Center on the States. On-line: <http://www.stateline.org/stateindex.cfm>. Sickmund, Melissa, and Yi-chun Wan. 1999. *Census of Juveniles in Residential Placement: 1997 Databook*. On-line: <http://ojjdp.ncjrs.org/> (01/07/2000). Data source: Office of Juvenile Justice and Delinquency Prevention (1998) Census of Juveniles in Residential Placement 1997 [machine readable data file]. Washington, D.C.: OJJDP. Snyder, Howard. 2000. *Juvenile Arrests 1999*. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention. Snyder, Howard, and Melissa Sickmund. 1999. *Juvenile Offenders and Victims: 1999 National Report*. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention. U.S. Bureau of the Census. 2001. *State and County Quick Facts*. Washington, D.C.: U.S. Bureau of the Census. On-line: <http://www.census.gov>.

* Caution should be exercised in interpreting juvenile arrest rates because the percentage of counties reporting was quite low (11% in Kentucky, 52% in West Virginia, 0% in Wisconsin, and 69% nationally). This pattern is similar for prior years.

KENTUCKY

Introduction

In the past decade, Kentucky has transformed the structure and focus of its juvenile justice system. These changes stemmed from concerns about rising juvenile crime, especially violent offending, and media coverage identifying significant problems with the conditions in institutional and treatment facilities. To address these concerns, Kentucky established tougher sanctions and created a continuum of interventions, including prevention and early intervention programs, to address the needs of its youthful offenders. Kentucky also established a state-run system of detention facilities while maintaining a relatively stable population of youths committed to secure facilities. Kentucky's approach to juvenile detention and correctional planning cannot, however, be understood without first understanding the history of and the wide-ranging changes to the State's juvenile justice system.

The Care and Custody of Children: Background and History

Prior to 1996, the Kentucky Cabinet for Human Resources was responsible for the care and custody of all children committed to the state, including public offenders, youthful offenders, status offenders, and children committed to the state due to abuse, neglect or dependency. Care was provided through a combination of state-operated residential facilities, state foster homes and contracted beds provided through private child care providers. The responsibility for the detention of juveniles was vested in county governments, and juvenile detention facilities were, in most cases, operated as a part of the county jail system.

In the early 1990's, the issue of juvenile crime and the state system for the treatment and confinement of juvenile offenders began to receive much attention from state and local government

leaders, federal agencies, the news media, and the general public. The renewed interest in Kentucky was the result of several factors, including increased national attention to the subject, a rash of high profile juvenile crimes within the state, a series of articles published by a major newspaper in the state criticizing the conditions of confinement and lack of programming in state operated facilities for committed youth, increasing costs borne by county governments to house juveniles accused of committing crime, and the loss of federal Juvenile Justice and Delinquency Prevention Act (JJDP Act) funding as a result of the state being found out of compliance with the core requirements relating to appropriate juvenile detention practices (Commonwealth of Kentucky, 1998a).

In 1995, several additional events occurred that led to sweeping legislative action during the 1996 session of the Kentucky General Assembly, dramatically changing the juvenile justice system in Kentucky. Those events included the following:

- The U.S. Department of Justice initiated an investigation of residential juvenile treatment facilities operated by the Cabinet for Human Resources, which resulted in a critical report indicating that civil action was likely.
- A juvenile justice task force was created by the state legislature to prepare for potential legislative action during the 1996 legislative session.
- In December 1995, outgoing governor Brereton Jones signed a Consent Decree with the U.S.

JJDP Act Core Requirements

The JJDP Act, passed by Congress in 1974, provides federal funds for states to develop and support several different juvenile justice and delinquency prevention initiatives. From 1991 to 1997, Kentucky was out of compliance with all four requirements of the act and received no federal funding.

De-institutionalization of Status Offenders: Requires that juveniles convicted of status offenses not be placed in secure detention facilities.

Separation: Requires that juveniles not be detained or confined in an institution where they have contact with incarcerated adults.

Jail and Lockup Removal: Requires removal of juveniles from adult jails and backups.

Disproportionate Minority Confinements: Requires states to determine if the proportion of minority youth in confinements exceeds the proportion of minority youth in the population. If this is the case, the state must conduct a study of the issue and develop programs and initiatives to address the issue.

Source: Crank, 1995.

Department of Justice agreeing to make substantial improvements in the system of care for committed youth.

- Lieutenant Governor Paul Patton, a former County Judge Executive, was elected as Governor on a platform that included a strong commitment to the funding of juvenile justice programs, including state operated detention centers to remove this responsibility from county governments, and prevention programs to reduce juvenile crime (Commonwealth of Kentucky, 1998a).

Juvenile Justice Organizations

Department of Juvenile Justice

After much debate and discussion, the Kentucky General Assembly determined that the best way to reform the juvenile justice system in Kentucky was to establish a new department and to vest that department with responsibility for the care and custody of public and youthful offenders. The Kentucky Department of Juvenile Justice was created by HB 117, a juvenile justice reform bill enacted during the 1996 legislative session. The General Assembly called for the establishment of the Department of Juvenile Justice by July 1, 1997, but did not dictate a particular administrative structure.

In August 1996, the Governor signed an executive order that officially established the Department of Juvenile Justice as part of the Justice Cabinet. Ralph E. Kelly was hired as the first Commissioner of the Department. In December 1996, six months ahead of schedule, the responsibility for all juveniles adjudicated as public or youthful offenders was transferred from the Cabinet for Human Resources to the Department of Juvenile Justice, along with the necessary programs, funding and staff.

As a result of the transfer, the Department of Juvenile Justice became responsible for the operation of virtually all state operated residential programs for committed youth, and for meeting the requirements of

the Consent Decree. The Department of Juvenile Justice also assumed responsibility for developing a statewide detention plan. Under this plan, the State, not individual counties, would be accountable for the operational and fiscal management of juvenile detention.

The State of Kentucky estimated that the change of jurisdiction involved the transfer of at least 48 facilities or programs, 761 staff members, 1,283 beds, and the allocation of over \$31 million for DJJ's operating budget (Commonwealth of Kentucky, 1998b). The transfer included:

- 13 treatment centers with a combined capacity of 455 beds and 434 staff positions
- 17 group homes with a capacity of 136 beds and 90 staff positions
- 18 day treatment centers with a capacity of 692 with 60 staff positions
- funds for private childcare facilities that house approximately 274 offenders
- 99 field staff that maintain case management responsibility in the youth's home community
- 78 administrative, trainers, clerical, and other support staff.

These events not only changed the organization of Kentucky's juvenile justice system but the manner in which the system handles young offenders. DJJ now operates juvenile facilities and administers programs that promote the prevention of juvenile crime and early intervention strategies for public offenders, and offers services to law enforcement, victims, and the public. DJJ also supports eight local juvenile prevention councils that develop local juvenile delinquency prevention plans, and that recommend local programs for state general fund grant programs to support and implement the local plans (Commonwealth of Kentucky, 1999a).

By February 1998, the State was compliant with three of the four requirements of the JJDP Act, and received 75 percent (\$847,000) of the possible funding. By January 2000, Kentucky had once again achieved full compliance with the four core requirements of the JJAP Act (Commonwealth of Kentucky, 1998a). In addition, the 2000 Kentucky General Assembly passed H.B. 296, which amended the juvenile

code to bring Kentucky's laws regarding the detention of status offenders into compliance with the provisions of the JJDP Act (Commonwealth of Kentucky, 2000a:7). In May 2001, the U.S. Department of Justice found Kentucky to be in full compliance with the terms and conditions required by the federal Consent Decree, and the Decree was officially lifted. Additional detailed information about the existing programs and services operated by the Department of Juvenile Justice is provided in a later section of this report.

The Cabinet for Families and Children

The Cabinet for Families and Children (CFC), previously part of the Cabinet for Human Resources (CHR), has statutory responsibility for cases involving status offenders and children committed because of abuse, neglect, or dependency. (The CHR was split into the CFC and the Cabinet for Health Services by executive order in 1997 and confirmed by Kentucky's General Assembly in 1998.) The

agency may place a child at home, with relatives, in an emergency shelter, in an approved foster home, or in a private residential facility, but not in secure detention. Status offenders, however, whether committed to CFC or not, can be sentenced to detention for up to 180 days under the contempt powers of the court for the violation of a valid court order.

CFC-committed children generally remain in the community at home, with relatives or in foster homes, and attend local public schools. Children who require out of home residential placement are housed through contracts with private child care providers across the state. State law generally prohibits CJC-committed children from placement in facilities operated by DJJ (the one exception is for DJJ-run group homes). DJJ and CFC children may also be housed together and involved in the same programs in

Memorandum of Understanding between the Department of Juvenile Justice and the Cabinet for Families and Children

To address the needs of children who have issues that require the involvement of both DJJ and CFC, the two agencies have entered into a Memorandum of Understanding. That agreement, signed in March 1999, establishes procedures for determining responsibility for children who are committed to both agencies, and for the transfer of children between agencies as conditions and circumstances necessitate (Commonwealth of Kentucky, 1999c).

private child care facilities. The CFC and the Department of Mental Health and Mental Retardation also deliver programs that address the needs of dependent children who have experienced emotional disturbance as a result of abuse and neglect. These services include psychiatric hospital care, residential psychiatric treatment programs, and outpatient services in community mental health centers (Commonwealth of Kentucky, 1998b, 2000a).

System Flow

A juvenile is defined under Kentucky's juvenile code as any child who has not reached his or her 18th birthday, or any person who was under the age of 18 at the time he or she committed a public offense. Under certain circumstances, the jurisdiction of the District Court may be extended to 21 years of age for juveniles committed to the Department of Juvenile Justice or the Cabinet for Families and Children (Commonwealth of Kentucky, 2000a). Juveniles 16 years of age or older taken into custody upon the allegation that they have committed a motor vehicle offense are treated as adults for purposes of the juvenile code, and have the same conditions of release available to adults (KRS 610.015(1)(a)).

Types of Juvenile Offenders

Kentucky's Unified Juvenile Code (Chapters 600 through 645 of the Kentucky Revised Statutes), covers dependency, neglect and abuse, termination of parental rights, status offenders, public offenders, youthful offenders, and mental health actions involving juveniles. This portion of the juvenile code addresses juvenile offenders and establishes the operating procedures for processing juveniles at various stages in the juvenile justice system, from law enforcement through disposition and ultimate release. The Kentucky juvenile justice system primarily handles three types of offenders: status, public, and youthful offenders. These categories are defined as follows (Juvenile Code 600.020, KRS chapters 600 to 645):

- **Public Offender:** A juvenile who commits an act that would be a crime (misdemeanor, felony, or violation) if committed by an adult.

- **Status Offender:** A juvenile who commits an act that would not be a crime if committed by an adult (e.g., truancy, curfew violation, runaway).
- **Youthful Offender:** Any youth transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and subsequently convicted as an adult in Circuit Court.

Law Enforcement

Youth usually enter Kentucky's juvenile justice system after contact with law enforcement or school referrals to law enforcement. Kentucky has over 300 law enforcement units, including municipal, county, state, park, and other specialized police departments, as well as sheriff's offices. In urban areas, law enforcement departments usually dedicate some personnel exclusively to juvenile divisions, but those serving less-populated areas generally do not have specialized juvenile officers. Law enforcement agencies deal with crimes committed both by and against juveniles, and may take youth into custody in either situation.

Kentucky's juvenile code delineates the specific responsibilities of a law enforcement officer taking a child into custody. The general presumption under Kentucky's code is that the officer will release the child to a parent or other responsible adult unless the child is subject to trial as an adult or the nature of the offense or other circumstances indicate a need to retain the child in custody (KRS 610.200). If the child is not released, the law enforcement officer is required to contact the Court Designated Worker (CDW), who is responsible for managing further processing of the juvenile.

The CDW can authorize the law enforcement officer to retain custody of a child for up to 12 hours for the purpose of investigation, identification and locating parents. If a child needs temporary placement prior to an initial court appearance, the CDW arranges that placement. In some instances, the CDW may contact a judge to authorize the secure detention of a child. If a child is detained, a detention hearing must be held within 24 hours exclusive of weekends or holidays for status offenders, and within 48 hours exclusive of weekends or holidays for public offenders, to establish probable cause, and to determine the

necessity for continued detention (KRS 610.265).

Court Intake and Pre Adjudication Processing

In 1986, the Kentucky General Assembly enacted legislation that required the Administrative Office of the Courts to establish a Court Designated Worker Program (CDW) in each judicial district. The CDW receives, reviews and investigates all juvenile complaints except abuse, neglect, dependency and mental illness actions. Juveniles who do not enter the juvenile justice system through an initial police contact enter the system through a direct complaint filed by a parent or school with the CDW. The CDW arranges for temporary placement of children as needed prior to an initial court appearance, conducts preliminary intake inquiries on all complaints to determine if further action should be taken, and supervises juveniles who enter into voluntary diversion agreements.

In the case of public offense complaints, the CDW forwards all complaints to the county attorney for review and the county attorney determines whether to proceed or dismiss the complaint. (This is true except in cases involving felony use of a firearm, which are referred directly to the Commonwealth Attorney, who, as a circuit court prosecutor, reviews the case. By law, these offenses, if charged as felony firearm crimes, result in an automatic waiver to adult court.) If the county attorney elects to proceed, the CDW conducts a preliminary intake inquiry to determine whether, in the interest of justice, the complaint can be resolved informally without the filing of a petition.

At the time the CDW begins the preliminary intake inquiry, notification must be provided to the child and the child's parent in writing of (1) the opportunity to be present at the preliminary intake inquiry, (2) the right to have counsel present at the inquiry as well as the formal conference, (3) the fact that participation in the inquiry or any resulting diversion is voluntary, (4) the fact that information provided to the CDW is confidential, and (5) the fact that the child can deny the charge and demand a formal court proceeding (KRS 635.010).

At the end of the preliminary intake inquiry, the CDW makes a recommendation regarding the case.

The CDW must conduct a formal conference with the child and the child's parents to review the information from the preliminary intake and to review the process for determining the recommended course of action. The CDW may recommend that a petition be filed or, in qualifying cases and with the approval of the county attorney, recommend that a public offense action not be filed. If this determination not to file is made, the complainant and victim must be notified and given 10 days to request a special review. The only real difference in the processing of status offense complaints is that there is no requirement that the complaints be forwarded to the county attorney for review, although the law does permit the county attorney to direct that all status complaints be forwarded to him as well, if he so desires.

At the conclusion of the preliminary intake inquiry, the court designated worker may, with appropriate notice:

- Determine that no further action need be taken (after a probable cause review)
- Refer the child to community based services
- Enter into a diversionary agreement
- Refer the case to court for an informal adjustment
- Refer the case to court for a further hearing.

The statutory jurisdiction of CDWs to divert youth is limited by statute to three nonfelony diversions per child. Felonies cannot be diverted and any complaints beyond three may not be diverted. Further, the court or the county attorney may review any decision of the court designated worker at any time.

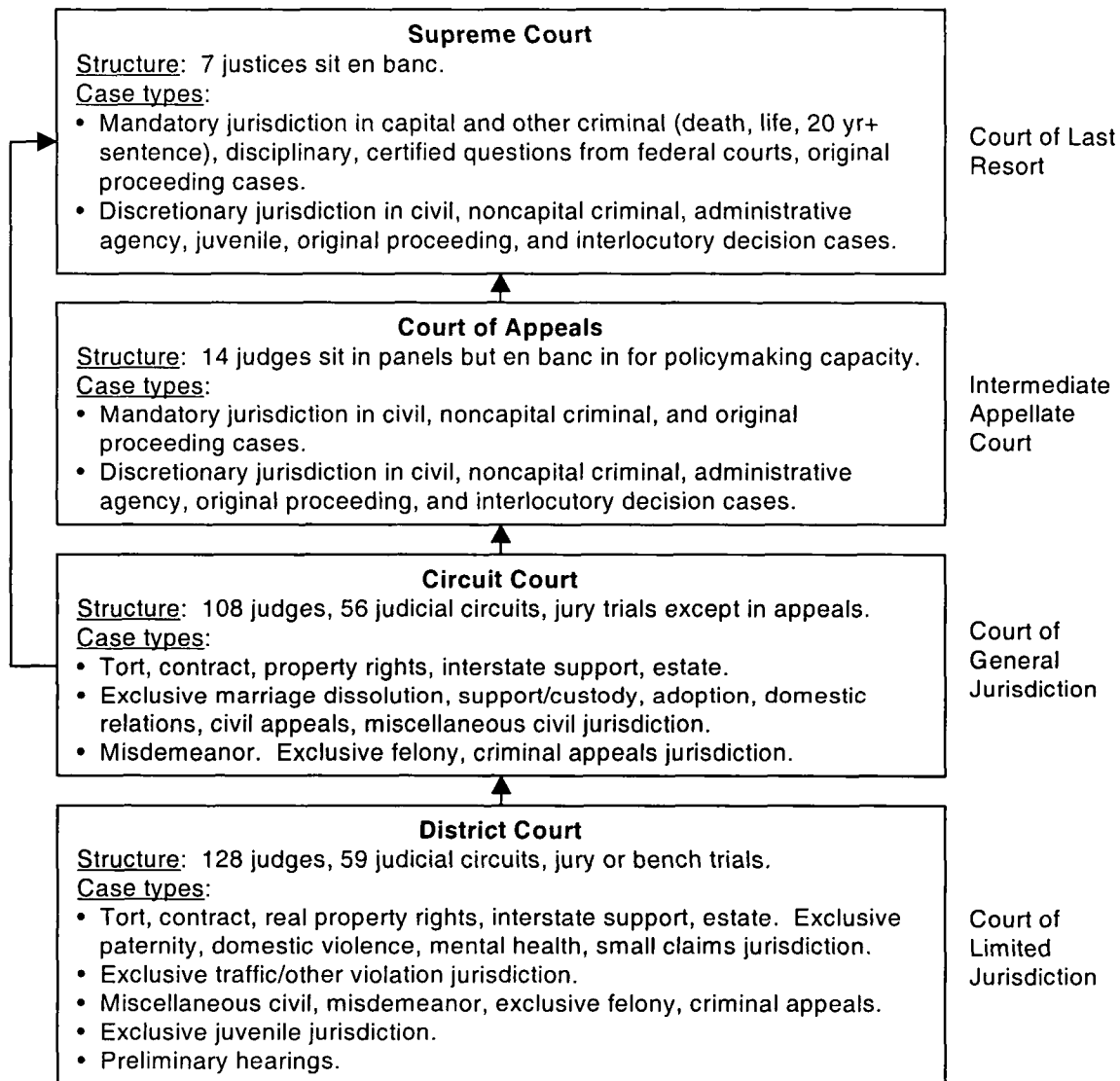
Participation of qualifying youth in a diversion program is voluntary. If the youth agrees to participate in the diversion program, the youth enters into an agreement with the CDW, which may last for a maximum of six months. If the case is diverted through the CDW, there is no record of the case with the court or in the court clerk's office. Diversion alternatives may include community service hours, counseling, law education classes, and contracts to attend school without absences. If the juvenile successfully completes the diversion agreement, no charges are filed. If the child fails to comply with the

terms of the diversion, charges are filed and the case is set for arraignment. The involvement of the court designated worker ends at the time a petition is filed initiating formal court action. In FY 1999-2000, the CDW program received a total of 41,526 new complaints. Of those complaints, 35,552, or approximately 86 percent were processed by the CDW, with 76 percent of these being public offenses, and 24 percent being status offenses (Commonwealth of Kentucky, 2000a).

Court Process and Structure

The Kentucky court system includes four levels of courts that hear different types of cases (see Figure 1). The District Court is a court of limited jurisdiction. It hears matters directed to it by statute, and is vested with the original jurisdiction of all juvenile matters. The Circuit Court is the court of general jurisdiction in Kentucky. All matters not directed by statute to originate in the District Court originate in the Circuit Court. The Circuit Court also hears the cases of juveniles who are tried as adults. The Court of Appeals serves as the intermediate appeals court, and the Supreme Court as the court of last resort and final interpreter of state law. Kentucky also has eight family courts that hear all abuse, neglect and status actions, along with custody, divorce and other family related matters in the counties they serve. With the exception of one jurisdiction (Jefferson County Family Court, created in 1991), all of Kentucky's family courts are relatively new and still developing. There is currently a debate in Kentucky about whether the State Constitution permits the creation of family courts. A question will appear on the ballot during the next general election seeking to amend the Constitution to allow for the establishment of family courts.

Figure 1: Court System in Kentucky



Source: Rottman et al. 2000:335.

Judicial districts vary in size and caseloads. Some judicial districts in more populous areas have several district judges, while other districts have one judge that serves several counties. The same is true for judicial circuits. The distribution of judges and how judges manage their dockets can have a substantial impact on bed space, especially in detention facilities.

Juvenile Court

The operating policies and procedures of juvenile courts are governed by statute and the rules of civil and criminal procedure developed by the Kentucky Supreme Court. The general public is excluded from juvenile court proceedings in Kentucky, and all cases are heard by a judge without a jury. If a child has been detained, the juvenile court process begins with a detention hearing, which must be held within 24 hours exclusive of weekends and holidays if the child is alleged to be a status offender, or 48 hours exclusive of weekends and holidays if the child is alleged to be a public offender. The purpose of the detention hearing is to establish probable cause, and to determine the necessity of detaining the juvenile pending further court action. A majority of detained juveniles are released at the detention hearing.

Subsequent to the detention hearing or if the child was not initially detained, the judge determines whether a formal proceeding is required. If so, the child and his or her parents are brought before the court, and notified of the right to counsel, the right against self-incrimination, the right to confront witnesses, and the right to appeal (KRS 610.060). An arraignment is held and at that time, the judge may informally adjust the case or docket the case for further court action. Following arraignment, a juvenile court status conference is held. If the offense committed by the youth qualifies for waiver to adult court, a decision will be made at this time whether the child will be proceeded against in district or circuit court.

In cases that remain in district court, a pre-trial conference is held. The pre-trial conference may result in an informal adjustment, or formal trial. Juvenile proceedings in district court consist of two distinct hearings, which must be held on separate days unless waived by a child after consultation with an attorney. The first hearing is the adjudication, where the truth or falsity of the allegations are determined based upon confession or the taking of evidence. The standard of proof for adjudication is “beyond a reasonable doubt” (KRS 610.080). The second hearing is the disposition, where the court determines what will happen to the child. Unless waived by the child, the court must receive a predisposition investigation report prior to the dispositional hearing that advises the court about the circumstances of the child and the child’s family, and that makes a recommendation for a suitable disposition (KRS 610.100).

Several dispositional options are available under Kentucky's juvenile code. If the child is a status offender, the child and his or her family may be ordered to attend counseling or may be referred to services in the community to assist in addressing any issues the youth may have and solving problems. The child may be committed to the custody of the Cabinet for Families and Children. CFC can place the child at home, in foster care, in a temporary shelter, with relatives, or in a private childcare facility. The law requires that any placement of a status offender by the cabinet must be community based and non-secure (KRS 630.120). Status offenders held in contempt of a valid court order, however, may be placed in detention.

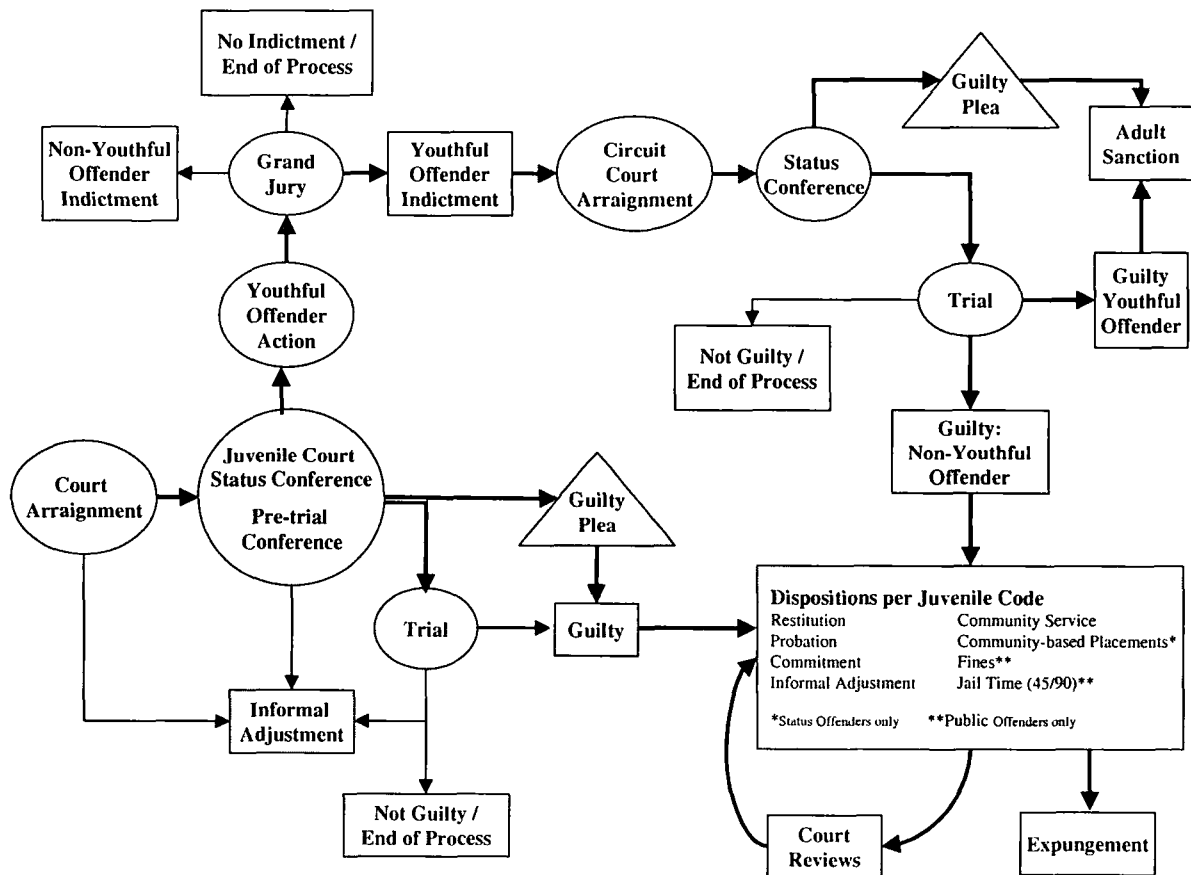
Public offenders may be ordered to perform community service, pay a fine, make restitution, be placed on probation, ordered to participate in counseling services, placed in detention for up to 90 days, or committed to DJJ for placement or further supervision (KRS 6535.060).

Under specific circumstances, a juvenile may be waived to circuit court to be tried as an adult. Youth convicted as adults are subjected to criminal sanctions. Waiver is automatic for any youth age 14 or older charged with felony use of a firearm. In certain cases, discretionary waivers may be made by the county attorney, in consultation with the Commonwealth's attorney and with the approval of the judge based upon statutory criteria. Discretionary waiver applies to youth 14 or older charged with a capital offense, Class A, or Class B felony; youth 16 or older and charged with a Class C or D felony with one prior adjudication for a felony; or youth charged with a felony with a previous youthful offender conviction. If a juvenile is sent to the adult (Circuit) court for a transfer-eligible offense but then a grand jury indicts for a transfer-ineligible offense, the youth may be sent back to juvenile court (reverse waiver) (National Center for Juvenile Justice, 2000).

In juvenile cases waived to Circuit Court, the court processes the case exactly like that of an adult. The juvenile must be indicted by a grand jury, and if an indictment is issued the case proceeds with an arraignment, status conference and trial. If the juvenile pleads guilty or if the court finds him or her guilty after trial, it imposes an adult sanction. However, the criminal justice system must confine the youth in a

juvenile facility until he or she is 18 (Commonwealth of Kentucky, 1998b). If the grand jury does not indict the juvenile as a youthful offender, the court transfers the case back to District Court for regular juvenile proceedings.

Figure 2: Movement of Youthful Offenders, Public Offenders, and Status Offenders through the Kentucky Courts



Note: Shaded regions indicate processes that occur for both status and public offenders. Non-shaded regions indicate court processes that can occur only in cases involving youthful offenders.

Source Material: Kentucky Department of Juvenile Justice "Annual Report" (series).

Confinement Capacity

DJJ's challenges include developing comprehensive prevention and diversion programming, planning for long-term confinement needs, and implementing effective treatment and aftercare services.

In addition, the agency develops and manages Kentucky's statewide detention system. Responsibility for detention, including facility operation and fiscal responsibility, recently was transferred from local jurisdictions to the State.

In 1997, based on a one-day count, 71 percent of incarcerated juvenile offenders in Kentucky were held in state facilities, and 29 percent were held in private facilities (Sickmund, 2000). In that same year, Kentucky had 1,107 juvenile offenders in detention or in residential facilities as part of a court-ordered disposition (Table 1). Most of those juveniles were in placement for person offenses (375) or property offenses (348), with the remainder in placement for drug offenses (63) and miscellaneous public order (135) and status offenses (129). These patterns are largely similar for both commitments and detention.

Detention

The recent transformation of detention services in Kentucky from a patchwork of facilities operated by county governments to a state-operated regional system was a particular challenge for DJJ. Before 1996, Kentucky relied on a mixture of juvenile facilities operated by local governments to provide juvenile detention. The available facilities included 11 small, limited use intermittent holding facilities, ten juvenile holding facilities, and four secure juvenile detention facilities. There was also one facility, the Gateway Diversion Project, funded through JJDP nonparticipating state funds and a direct state appropriation, providing non-secure, short-term custodial care for juveniles who would otherwise be securely detained.

Intermittent, Holding, and Secure Detention Facilities

An **intermittent holding facility** is a physically secure setting approved by DJJ which is entirely separated from sight and sound from all other portions of the jail containing adult prisoners, in which children are supervised and observed on a regular basis. Public offenders may be held in these types of facilities for up to 24 hours exclusive of weekends and holidays prior to a detention hearing.

A **juvenile holding facility** is a physically secure setting approved by DJJ which is an entirely separate portion or wing of a building containing an adult jail which provides total separation between juveniles and adults and which is staffed 24 hours per day by juvenile holding facility staff.

A **secure juvenile detention facility** is a separate, stand alone juvenile facility.

Table 1. Census of Juveniles in Residential Placement (1-Day Count): Offense Profile by Placement Status, Kentucky, 1997

	Total	Placement Status		
		Committed	Detained	Voluntary Admission
Total	1,107	870	225	12
Delinquency	978	780	192	6
Violent Crime Index*	237	198	39	0
Property Crime Index**	288	249	39	3
Person	375	303	69	3
Criminal homicide	1215	9	3	0
Sexual assault	66	63	3	0
Robbery	99	84	15	0
Aggravated assault	60	42	18	0
Simple assault	72	54	15	3
Other person	63	51	15	0
Property	348	294	51	3
Burglary	225	201	24	0
Theft	27	18	6	3
Auto theft	33	24	9	0
Arson	6	6	0	0
Other property	57	45	12	0
Drug	63	51	12	0
Trafficking	30	21	9	0
Other drug	36	30	3	0
Public order	135	102	36	0
Weapons	24	18	6	0
Alcohol	6	6	0	0
Other public order	105	78	27	0
Technical violation	57	30	27	0
Status offense	129	90	33	6
Running away	24	15	6	3
Truancy	18	12	6	0
Incorrigibility	81	60	18	3
Curfew violation	0	0	0	0
Underage drinking	3	0	3	0
Other status offense	3	3	0	0

* Includes criminal homicide, violent sexual assault, robbery, and aggravated assault.

** Includes burglary, theft, auto theft, and arson.

Note: To preserve the privacy of the juvenile residents, cell counts have been rounded to the nearest multiple of three. Committed juveniles include those placed in the facility as part of a court ordered disposition. Detained juveniles include those held awaiting a court hearing, adjudication, disposition or placement elsewhere. Voluntarily admitted juveniles include those in the facility in lieu of adjudication as part of a diversion agreement.

Source: Sickmund and Wan, 1999.

These facilities did not operate as a system, and counties that did not have a local juvenile detention facility were often forced to drive four or more hours to access the nearest available detention bed. With the increase in juvenile crime and juvenile arrests in the early 1990's. Counties experienced a dramatic increase in the cost of incarcerating juveniles. Those with juvenile facilities charged other counties in excess of \$100 per day to house juveniles. Governor Paul Patton, elected to his first term in 1996, had been a county judge executive from a county without a juvenile facility, and was aware of the fiscal strain that juvenile detention costs could place on local governments. As a candidate for governor, he promised that his administration would relieve county courts of both the fiscal and operational burden of juvenile detention.

In keeping with the Governor's promise, the Department of Juvenile Justice developed a regional detention plan calling for a network of ten regional, state-operated facilities, none of which could be located further than 60 miles from any county. As of July 2001, DJJ was operating four newly constructed regional detention facilities, with two additional facilities slated to open in early 2002. The General Assembly had approved funding for the construction of three additional facilities, which were in various stages of development. In addition, DJJ intended to assume operation of the existing juvenile detention facility located in Jefferson County during FY 2002 - 2003. The state secure detention system was projected to have 527 beds when fully operational (Commonwealth of Kentucky, 2001b; see also facility and county table).

As DJJ began to open each new state-operated secure facility, the intermittent holding facilities, juvenile holding facilities, and locally operated secure juvenile detention facilities in that designated catchment area were slated to close, and those counties would no longer bear the burden of finding an available detention bed for a juvenile. Any time a DJJ facility was full, the Department would be responsible for securing appropriate placement for the youth (Commonwealth of Kentucky, 2001b).

Table 2: Counties Served by Regional Detention Facilities

Regional Center	Counties Served	Regional Center	Counties Served
Adair Regional JDC 10 beds (opened February 2001)	Adair, Casey, Clinton, Cumberland, Green, Metcalfe, Monroe, Russell, Taylor and Wayne	Hardin Regional JDC 48 beds (projected for summer 2003)	Anderson, Breckenridge, Bullitt, Franklin, Grayson, Hardin, Hart, Larue, Marion, Meade, Nelson, Shelby, Spencer, and Washington
Boyd Regional JDC 48 beds (projected for Summer 2003)	Bath, Boyd, Carter, Elliott, Fleming, Greenup, Johnson, Lawrence, Lewis, Mason, Martin, Nicholas, and Rowan	Jefferson Co. JDC 96 beds (contracting with county expected to begin 2002)	Jefferson
Breathitt Regional JDC 64 beds (opened Nov 1997 with 32 beds expanded to 64 beds)	Breathitt, Estill, Floyd, Knott, Lee, Leslie, Letcher, Magoffin, Menifee, Montgomery, Morgan, Owsley, Perry, Pike, Powell and Wolfe	Laurel Regional JDC 48 beds (projected for 2002)	Bell, Boyle, Clay, Garrard, Harlan, Jackson, Knox, Laurel, Lincoln, Madison, McCreary, Mercer, Pulaski, Rockcastle, and Whitley
Campbell Regional JDC 52 beds (opened August 1999)	Boone, Bracken, Campbell, Carroll, Gallatin, Grant, Harrison, Henry, Kenton, Oldham, Owen, Pendleton, Robertson, and Trimble	McCracken Regional JDC 48 beds (opened August 1999)	Ballard, Caldwell, Calloway, Carlisle, Christian, Crittenden, Graves, Fulton, Hickman, Hopkins, Livingston, Lyon, Marshall, Trigg, McCracken, Union, and Webster
Fayette Regional JDC 65 beds (projected for summer 2003)	Bourbon, Clark, Fayette, Jessamine, Scott and Woodford	Warren Regional JDC 48 beds (projected for winter 2001)	Allen, Barren, Butler, Daviess, Edmonson, Hancock, Henderson, Logan, McLean, Muhlenberg, Ohio, Simpson, Todd and Warren

In addition to opening secure facilities to serve designated catchment areas, DJJ ensures that an array of non-secure detention custody options are available to serve juveniles who do not require secure placement, thus creating a detention custody continuum. Services available include tracking, electronic monitoring, custodial foster care, emergency shelter care and community work projects. Funds made available under Title II of the JJDP Act have been used to develop and support these alternative programs.

These alternative services are accessed through the Detention Alternative Coordinator (DAC). Each facility has at least one DAC, who is responsible for screening all eligible juveniles, and for placing juveniles in the most appropriate supervision program available in the DJJ detention custody continuum.

DACs also attend juvenile court sessions and assist courts in developing alternative dispositions for juveniles other than secure detention.

In addition to the facility based DACs, the Juvenile Justice Advisory Committee (Kentucky's State Advisory Group under the JJDP Act) and DJJ have funded Detention Alternative Coordinator (DAC) positions, and have provided funding to support the provision of alternatives to secure detention services in twelve counties not currently served by a DJJ secure detention facility. In these areas, the DACs work directly with CDWs, judges, and community service providers to identify youth who may need supervision but not secure detention. These community-based DACs are then responsible for the coordination of services and programs and for reporting back to the court about youth placed in the alternative programs. Program services are provided through contracts with private child care providers. When DJJ facilities are opened in the counties served by the community based DACs, they will transfer to the DJJ detention facility and serve in the same capacity as the facility based DACs.

Current Status of Detention Capacity

As DJJ moves toward full implementation of its statewide detention plan, a mixture of county and state-operated facilities will continue to serve the detention needs of the State (Table 3). In addition to the secure detention beds, alternative programs provided through facility-based and community DACs offer additional options for judges and CDWs, and increase the total number of slots available for juveniles in the detention continuum.

Table 3: Juvenile Detention Facilities and Rated Bed Capacity, 2001

<u>Facility</u>	<u>Bed Capacity</u>
Detention Facilities	
Adair County (State)	10
Breathitt County (State)	64
Campbell County (State)	52
Daviess County (Closing in Oct '01) ¹ (County)	56
Hardin County (County)	42
Jefferson (County)	96
Lexington/Fayette County (County)	61
Juvenile Holding Facilities (all county)	
Big Sandy Area	13
Big Sandy Regional	10
Boyle County (Closing early 2002)	11
Clark County	24
Franklin County	13
Jessamine County	6
Madison County (Closing early 2002)	10
Warren County (Closing Oct 2001)	10
Intermittent Holding Facilities	
Allen County	4
Barren County	4
Bell County	1
Total	487

Notes: The Adair detention facility is co-located with Kentucky's maximum security post-dispositional facility. The detention facility is located in a separate wing of the facility and the detention population is not mixed with the treatment population. The Daviess facility is slated to close when the DJJ facility in Warren County opens. The Warren County facility will have 48 beds. Boyle County and Madison County will be served by the DJJ facility located in Laurel County, which is scheduled to open in early 2002.

Source: Pamela Thomas, Special Projects Coordinator, Kentucky Department of Juvenile Justice, October 12, 2001 (personal communication).

Figures based on 1999 facility admission logs indicate that Kentucky's detention facilities accepted 11,298 admissions in 1999. Secure detention centers accepted about 67 percent (7,484 of 11,298) of these admissions. Across facility types, 77 percent (7,484 of 11,298) of admissions were for public offenses. These numbers represent a significant reduction in overall admissions from those recorded in 1998, when a total of 12,690 youth were admitted to detention.

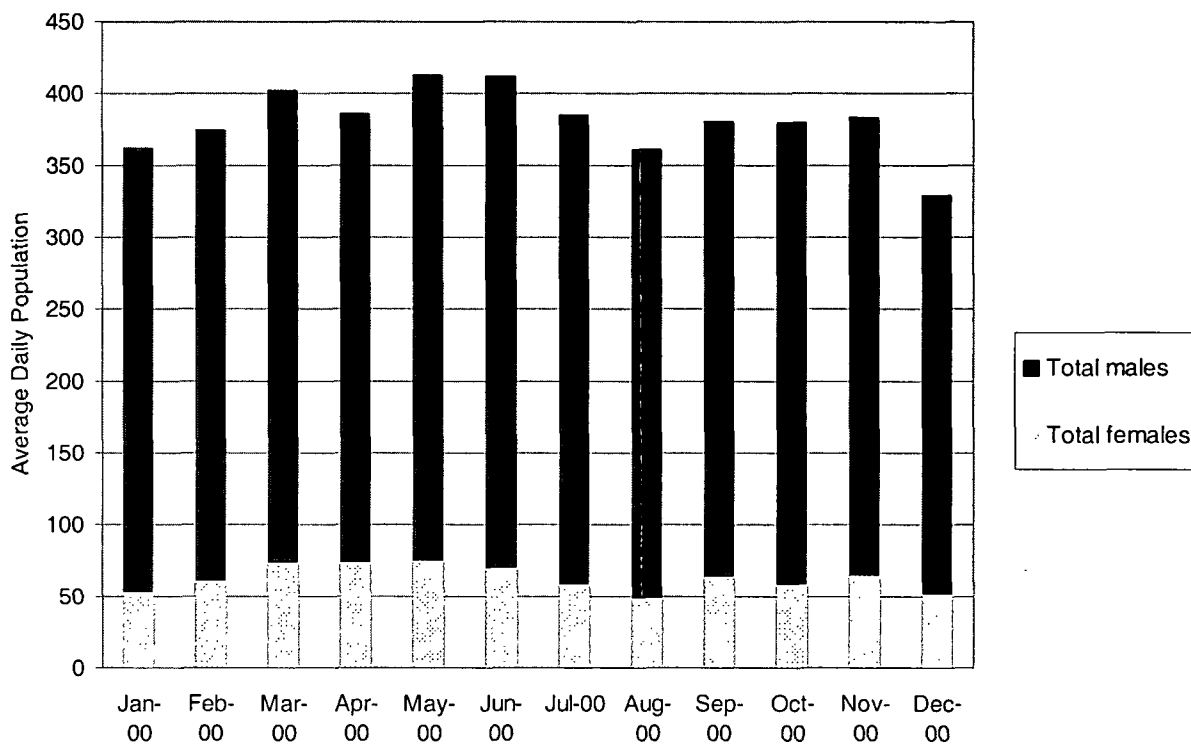
Table 4: Juvenile Admissions by Type of Facility and Offense, 1999

Facility Type	Offense Type				Total
	Contempt	Status	Public	Other	
Secure Detention	1,182	334	5,920	48	7,484
Holding	678	255	2,511	37	3,481
Intermittent	22	33	277	1	333
Total	1,182	622	8,708	86	11,298

Source: Commonwealth of Kentucky (2000a).

Average daily population for all secure juvenile detention facilities in Kentucky during calendar year 2000 ranged from a low of 329 in December to a high of 413 in May (Figure 3). Average daily population in 2000 for males and females showed similar variation throughout the year.

Figure 3. Average Daily Population of Youth in Secure Detention, Holding, and Intermittent Facilities: January to December 2000



Source: Pamela Thomas, Special Projects Coordinator, Kentucky Department of Juvenile Justice, October 12, 2001 (personal communication, citing Jon Hill).

Detention Capacity: Other Considerations in Anticipating Future Bed Space Needs

Kentucky has never experienced the severe overcrowding that has plagued detention facilities in other states. In fact, during recent years, Kentucky's existing system of secure detention facilities has often operated at 60 to 70 percent of capacity. Many factors affect, or have the potential to affect, the number of juveniles in the detention continuum, including those housed in the secure detention centers. However, several specific factors relate to the lack of overcrowding in Kentucky.

- **The detention population:** Kentucky law and practice permits the detention of three distinct populations of youth. Each type of youth that may be detained presents special circumstances and issues that relate specifically to bed space and needed capacity.
 - **Pre –disposition youth awaiting further court action**
 - * DJJ has the statutory authority to screen these youth, and to place them in the most appropriate, least restrictive placement available in the detention continuum without judicial permission. This allows DJJ some control over this segment of the detention population.
 - * Recent legislative changes have limited the ability of judges to use secure detention for status offenders. This legislation has increased the need for alternative program slots, while reducing the need for secure detention beds. The same is true for both status offenders and status offenders found to be in contempt of court.
 - **Youth committed to DJJ awaiting placement**
 - * Any youth charged with public offenses who are placed in detention must be placed within 35 days. No such requirement exists for youthful offenders. The ability of DJJ to meet these requirements is dependent in part on the bedspace availability in the post-dispositional treatment facilities and the time it takes for the youth's case worker to submit the necessary paperwork to classification. In recent years, DJJ has become more efficient in moving youth promptly from detention to placement, reducing the length of stay for this category of offender. DJJ also uses lower level detention continuum placements rather than secure detention for youth who are awaiting placement in a less secure treatment program.
 - * The number of youthful offenders in the system has decreased substantially over the past two years. As of July 1, 2001, Kentucky had 44 youthful offenders in its residential population. In 1999, 114 youthful offenders exited the system, and in 2000 an additional 68 exited the system (Reed, 2001). The reduction in these numbers affects detention populations because youthful offenders tend to remain in detention longer pending further court action. With fewer youth being waived, there are fewer youth taking up detention bed space for an extended period of time.
 - **Youth sentenced to serve detention time as a disposition, either for contempt of court or as a disposition for the commission of a public offense**
 - * DJJ does not have the legal authority to place youth sentenced to secure detention as a disposition in a less secure setting without judicial permission. However, the Detention Alternative Coordinators have been working with local judges through their involvement in the court process, and many judges agree to either allow youth to serve detention in a less

restrictive setting, or agree to revisit the case after a limited number of days at which time, if the youth had done well, they are moved to a less restrictive placement.

- * One of the alternative programs offered that helps to impact this segment of the detention population is the community work project. Judges typically sentence juveniles to detention strictly as a punishment. The community work project serves the same purpose, is less costly, and results in something good happening for the local community. Judges in districts where this program is available are amenable to its use in many cases.
- **Assumption of the full cost of detaining juveniles by DJJ:** Historically, counties have been responsible for paying the costs of securely detaining youth from that county. As a part of its overall detention plan, DJJ gradually assumed responsibility for the cost of detaining public offenders. State officials believed that this change in fiscal responsibility would have a dramatic impact on the use of detention, especially as a sanction, since counties no longer had to be concerned about the cost of detention. However, no dramatic increases in the use of detention resulted.
- **Education and legal representation:** DJJ has provided the Department of Public Advocacy (DPA) with \$100,000 each year for the past three years to develop a program to address the inappropriate detention of status offenders from a legal standpoint. As a part of this program, DPA has produced a “know your legal rights” video for youth in detention. A DPA attorney visits each detention facility in Kentucky several times each year to show the video and answer any questions that youth might have. The DPA attorney responsible for the program has also filed successful appeals in several cases where youth were improperly detained or not represented. The result of these actions has been more widespread than just the immediate case affected by the court decision. Judges in general have become more knowledgeable about the law relating to detention, and inappropriate usage has decreased substantially.

Department of Juvenile Justice Continuum of Care

The DJJ offers a continuum of programs and facilities for committed youth that place youth in the least restrictive setting while ensuring public safety. A youth may be placed at home with special conditions and community-based services, or if circumstances require, the youth may be placed in therapeutic foster care or a residential program. Kentucky’s residential system focuses on treatment and rehabilitation and relies on small facilities rather than large institutions.

Classification and Placement Process

Upon commitment to DJJ, each youth is assigned a Juvenile Services Worker (JSW), who serves as the youth’s case manager. The JSW is responsible for developing an individual treatment plan for each youth, and for monitoring and managing the progress of each youth. Approximately 75 percent of the adjudicated youth served by DJJ are placed in the community, rather than a residential facility (Kentucky

Department of Juvenile Justice, 2001b).

If it is determined that a youth needs to be placed out of the home, the JSW prepares a packet of information and contacts the Juvenile Services Worker (JSS). The JSS serves as the liaison between the community and the centralized classification branch. The JSS completes an objective assessment, including the youth's history of violence, the severity of the current offense, treatment history, family history, and program needs. The objective assessment results in the assignment of a classification score for the youth. The JSS submits the assessment to the centralized classification branch for review and recommended placement.

All out of home placements are made through the centralized classification branch. Based upon the youth's score and other information provided, the classification branch assigns the youth a classification level and identifies the level of structure and supervision needed for each youth as well as any special needs the youth may have (Figure 4). The youth is then placed in the least restrictive environment in which his/her treatment needs can be met without jeopardizing public safety. The classification branch manager may override an initial classification level if the situation warrants an override. For example, a youth's treatment needs may necessitate a higher classification level than initially identified through the scoring process (Kentucky Department of Juvenile Justice, 2001c).

Some youth are initially sent to the Bluegrass Assessment Center for a more thorough assessment process prior to placement. The Bluegrass Assessment Center is used for assessment, orientation pre-treatment/treatment, and research. The Assessment Center has 16 beds, and serves males ages 11 –17. Placement at the center is typically for 30 days. While at the center, youth are assessed for medical, behavioral, emotional, social, educational, vocational, substance abuse, and mental health needs. Youth are also provided with an orientation to DJJ, including the Department's philosophy, policies and procedures. The use of the center results in easier transitions and more appropriate placements for youth. Youth are introduced to the staff from the facility where they will be going while at the assessment center, and families are included in the planning and assessment process to the extent possible. Some youth who

were originally slated for residential placement are able to return home with additional supports after being assessed at the center (Kentucky Department of Juvenile Justice, 2000d).

Figure 4. Kentucky Department of Juvenile Justice Classification System

<u>Classification</u> <u>Level</u>	<u>Level Description</u>
Level I	Supervised Community Placement. Youth resides at home or with a relative – classification is not involved if this is the initial placement. May attend public school or be required to attend a Day Treatment program. Also used as a step down for youth returning to the community from out of home placement.
Level II Minimum	Youth is placed in a home-like residential environment that provides a daily routine with increased monitoring of daily activities and coordination with service providers. Youth attend public schools or Day Treatment programs. Also used as a step down for youth returning to the community from residential placement.
Level III Minimum	Youth is placed in a community-based residential program that provides supervision 24 hours per day, 7 days per week. Youth are involved in the community and may attend public school or day treatment and may obtain public employment.
Level IV Medium	Youth is placed in a DJJ-operated or contracted residential program that provides supervision 24 hours per day 7 days per week. Youth attend on-site school and may be involved in the community with staff supervision. Unsupervised day releases or furloughs may be permitted. Security is provided through staff supervision, interaction and communication Locked security rooms may be used.
Level V Maximum	Youth is placed in a maximum security, DJJ-operated facility. All activities including school, medical appointments and visitation occur on site. Direct sight/sound supervision is provided by staff or cameras at all times. Exit doors are locked and under the strict control of staff. Internal doors are locked to control youth access. Security fencing is used to control access to outside areas.

Source: Kentucky Department of Juvenile Justice, 2001c.

Youth are moved within the continuum of supervision levels noted above based upon their own behavior and compliance with program requirements. Kentucky officials believe that some of the reasons that Kentucky has not experienced the overcrowding apparent in most other states include the fact that Kentucky's system offers a variety of small geographically scattered programs rather than large institutions, and that youth are moved within the continuum of care as their needs and behavior warrant. Most youth who have been in a residential placement are gradually transitioned back into the community through placement in a group home or foster home before returning to their homes (Kentucky

Department of Juvenile Justice, 2001c).

Community Supervision

The least restrictive form of placement for committed or probated youth is supervised community placement. In FY 2000, DJJ served 5,487 adjudicated youth in the community. (This number includes youth who may have been served in a residential placement part of the year and in the community part of the year.) These 5,487 youth constitute approximately 77 percent of all youth served (Commonwealth of Kentucky, 2000b). Youth are placed with a parent, guardian or relative, and have terms of supervised community placement that they must abide by. Failure to comply with the terms of placement may result in stricter terms, or revocation and placement in a residential facility.

DJJ also operates the Juvenile Intensive Supervision Team (JIST) in some areas of the state. JIST teams consist of one law enforcement officer and one community worker. JIST workers have caseloads of six to ten youth. JIST teams supervise youth whose needs are best met in the community, but who need more intensive supervision. JIST teams make regular home, school and work visits to enforce conditions of supervised placement. In some instances, electronic monitoring is also used (Commonwealth of Kentucky 2000b).

Day Treatment

One of the reasons Kentucky has been able to retain large numbers of youth in the community is the availability of 26 day treatment programs across the state. Six of the programs are operated by DJJ and the other 20 are operated by school districts or other contractors. Day treatment programs offer educational alternatives for youth between the ages of 12 and 17 whose behavior precludes participation in a regular school setting.

Day treatment programs provide a less restrictive, cost effective alternative to institutional care for many youth. The day treatment program is organized around a normal classroom schedule, with highly

individualized instruction. Youth in the program also receive group, individual and family counseling. Each program serves an average of 30 youth. Some programs offer an extended day, and keep the youth until 8:00 p.m., reducing the unsupervised hours for participating youth. Day treatment programs include a mix of DJJ committed youth and other youth from the community who have been referred by the courts or schools (Commonwealth of Kentucky, 2000b).

Out of Home Programs

Foster Care

The least restrictive out of home placement for a youth is foster care or therapeutic foster care. This resource is used for youth who do not present a significant risk to the public, but who need to be placed out of their homes. All foster care services are provided by private childcare providers. Each child in foster care has a caseworker assigned by the private childcare provider. In addition, youth in therapeutic foster care receive a full range of services including individual and group counseling, socialization groups, and recreation and educational programs. At any given time, DJJ has approximately 120 youth in foster care, including initial placements and “step downs” from residential placements (Commonwealth of Kentucky 2000b).

Residential Programs

DJJ offers a range of residential placements to serve the needs of committed youth. All facilities except the Adair Youth Development Center and the Northern Kentucky Youth Development Center are nonsecure, and rely primarily on staffing, programming, and supervision for security. In FY 2000, Kentucky had 1,957 youth in secure facilities. (This number includes youth who may have been served in more than one facility during the fiscal year.) Approximately 38 percent (745) of the youth in secure facilities were served in DJJ-operated residential facilities, 35 percent (684) were served in privately

operated child care facilities, 17 percent (331) were served in group homes, 4 percent (79) were in the Cadet Leadership Training Program (CLEP), and 5 percent (108) passed through the Bluegrass Assessment Center (Table 5).

Table 5: Placement in Secure Facilities, Department of Juvenile Justice, 2000

<u>Type of Program</u>	<u>Total Beds or Treatment Slots</u>
DJJ-Operated Facilities	745
Privately Operated Child Care Facilities	684
Group Homes	331
Cadet Leadership Training	79
Bluegrass Assessment Center	108
Total	1,947

Source: Pamela Lester, Special Projects Coordinator, Kentucky Department of Juvenile Justice, October 12, 2001 (personal communication).

Group Homes

The DJJ uses group homes as a less restrictive placement, and as an interim placement for public offenders between the ages of 12 and 18 who are transitioning back to the community. It operates ten group homes and contracts with a private child care provider to run two additional group homes (Commonwealth of Kentucky, 1999a:1). These programs serve eight to ten youth per home. Group home residents attend local public schools or day treatment programs and many have jobs in the community and are involved in community service (Commonwealth of Kentucky, 2000b).

Residential Centers

Twelve DJJ-operated Youth Development Centers (YDC) statewide house both youthful and public offenders who have been committed to the state (Reed, 1999a). Youth in these facilities pose community risk or lack sufficient controls to operate in a less secure environment. Staff at each YDC develop an individual treatment plan for each youth and provide services that include individual, group, and family counseling; psychiatric and psychological services; academic instruction that includes remedial education,

GED, vocational training, and college courses; drug and alcohol treatment; conflict resolution; and relapse prevention services intervention (Commonwealth of Kentucky, 1998b, 2000b). The YDCs range in size from 30 to 60 beds (Reed, 1999a).

The number of juveniles confined in residential treatment centers has remained relatively constant since 1990, with about 392 juveniles confined in September 1997. By the end of 1997, the state held 460 juveniles in residential treatment centers. The current assigned total capacity of these centers is 463. Juvenile offenders in residential treatment facilities in 1996 stayed an average of five to seven months. Younger juvenile offenders usually stay longer, and females average stays one month longer than their male counterparts (Kentucky Department of Juvenile Justice, 1998a). Youthful offenders spent an average of 12 months in confinement after admission and comprised 10 percent of all admissions.

DJJ Operated Residential Care Facilities in Kentucky, 2000

	<u>Bed Capacity</u>
Eastern Region	
Green River	36
Lincoln Village	40
Mayfield Boys	36
CLEP	40
Central Region (Lexington)	
Cardinal	33
Adair	60
Rice	36
Western Region	
Lake Cumberland	40
Morehead Girls	32
Northern Kentucky	40
Owensboro	30
Woodsbend	40
State Total	463

Source: Kentucky Department of Juvenile Justice (Reed, 1999a).

Private Childcare Providers

DJJ contracts with several licensed private childcare agencies in the state for an additional 200 residential beds, in a structured, non-secure community setting for both offender and non-offender youth. Private providers are also used to provide 125 therapeutic foster care beds. In addition, the state contracts for psychiatric care with six private childcare services using Medicaid funds (Reed, 1999a).

Other Residential Diversion Programs

Two other residential programs offered for youth in Kentucky are the Wilderness/Intensive Probation Program (WIPP) and the Youth Challenge Program. WIPP is offered through a contractual arrangement with the Presbyterian Child Welfare Agency (PCWA/Buckhorn). The program includes a 60 day residential component with a five month intensive in-home aftercare component. The purpose of the residential phase of the program is to prepare the youth for the services they will receive in the community. The residential component involves a wilderness experience that emphasizes taking responsibility for behavior, learning to work as a team, and developing trusting relationships. PCWA/Buckhorn works with the family in the community while the youth is attending the residential phase of the program. This program is available for probated rather than committed youth. Attendance is ordered through the court and is made a condition of probation. Failure to satisfactorily complete the program results in a probation violation, which may ultimately lead to commitment. This program was recently initiated as a pilot program in limited areas of the state (Kentucky Department of Juvenile Justice, 2001d).

The Youth Challenge Program (YCP) is the product of a collaborative effort involving DJJ and the Kentucky National Guard. The YCP is available to youth between the ages of 16-18 at the start of the program who have dropped out of high school and who have not attained a GED. The mission of the program is to provide training, education, and mentoring to selected youth so that they can become productive members of society. The program involves a 22-week residential component set in a quasi-military environment, with a one year follow up program. This program is available only to youth who are not seriously involved with the criminal justice system. Youth accepted into the program receive room and board and a weekly living allowance during the residential phase.

Upon completion of the residential phase, each cadet receives a stipend that can be used toward continuing education or employment related expenses during the one year follow up phase. During the follow up phase, the youth has regular contact with a mentor, and is provided assistance in pursuing

further education or obtaining a job. Two class cycles are conducted each calendar year running from January – June and July – December. Class size is limited to 130 per session (Kentucky Department of Juvenile Justice, 2001d).

Other Community-Based Diversion Programs

DJJ recently funded the Kentucky Intensive Services Project (KISP), a two-year demonstration project (9/1/99 to 8/30/01) to divert youth from residential placement by providing intensive home-based counseling. KISP serves at least 165 youth and their families for 16 weeks at 8 hours per week. Program sites include Christian, McCracken, Davies, Henderson, Jefferson, Fayette, and Kenton counties. Implementation of the program has differed across counties due to processing issues (Reed, 1999b).

Funding

The DJJ had a budget of \$101.9 million for FY 2000, with the majority of funds allocated to DJJ to support residential treatment and services (\$35.3 million), private child care (\$17.7 million), detention services (\$14.4 million) and community-based services (\$14 million). Most employees of the DJJ work in residential facilities (53%), followed by community services (18%) and group homes (11%) (Commonwealth of Kentucky, 2000b).

Decision-Making Context

Organizational Factors

State Agency Leadership

During his first term (1996-1998), Governor Paul Patton, who was re-elected in 1998, recruited and hired an experienced, knowledgeable juvenile justice professional to head the Department. Commissioner

Ralph Kelly is reported to have had the Governor's active support. To date, DJJ has obtained state funding to address and correct the problems within the system. Its newly centralized system also means that the bulk of funding for juvenile justice programs and facilities funnel through one entity, which reduces competition between agencies over resources.

Data-Driven Planning

The DJJ is currently developing a statewide, computerized information system. Kentucky intends to use these data to measure outcomes of different types of interventions and placements and to increase accountability. The focus on outcomes is a result of the DJJ's leadership and its commitment to research and outcome-based management.

Regional Service System with Beginnings of Emphasis on Community-Based Prevention

The state has focused on developing small, regional facilities. Most of the DJJ's residential programs are relatively small non-secure facilities. Kentucky also uses a system of 26 day-treatment centers as alternative community-based treatment options across the state. The state is working to strengthen its graduated sanctions programming. DJJ envisions that these programs will offer a full range of services, including drug treatment and testing. The agency is also cooperating with superintendents, schools, and other community-based educational agencies to create more prevention programs (Children's Alliance, 1999), and has given \$3 million annually to support local prevention efforts in Kentucky.

Additional prevention programming includes a statewide campaign to promote public awareness about and community involvement in substance abuse prevention; development of a drug-free school initiative; implementation of an early intervention program aimed at diverting substance abusing youthful offenders to treatment; and the funding of eight local prevention planning councils in the counties with the highest arrest rates of juvenile offenders (Commonwealth of Kentucky, 2000b:23-28).

Tracking Outcomes and Developing Aftercare

In order to introduce more accountability into the process of dealing with juvenile offenders, the state hopes to track the outcomes of youth leaving its facilities. DJJ also will develop new means of dealing with high-risk youth leaving facilities that are still in need of intensive supervision. In addition, DJJ's Classification Branch is developing new policies and procedures for processing youthful offenders, improving parole communication, and database development (Commonwealth of Kentucky, 1998a:8).

Legislative Factors

During the late 1990's, the Louisville Courier Journal ran a series of articles criticizing the state for failing to provide appropriate housing for incarcerated youth and adequate treatment (Commonwealth of Kentucky, 1998c:8). At the same time, Kentucky was cited for not complying with the federal JJDP Act, resulting in the loss of federal

Juvenile contribution to crime: In Kentucky, as in other states, changes to the juvenile justice system were motivated in part by concerns about juvenile offending. However, youth in Kentucky actually are significantly underrepresented in arrest data. For example, in 1998 youth represented 18.4% of the state's population but only 4% of all arrests, 11.3% of Index offense arrests, 7.9% of Index violent arrests, and 12.5% of index property arrests.

Note: The violence index includes murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault. The property index includes burglary, larceny-theft, auto theft, and arson.

Source: Commonwealth of Kentucky (2000:34).

funding. In addition, an investigation by the U.S. Department of Justice led to even more focus on the need for changes to the state's juvenile justice system.

The result was a series of reforms, as well as a statewide consent decree with the U.S. Department of Justice, ensuring that Kentucky will continually emphasize reform, especially around conditions of confinement, and that legislative resources will continue to be devoted to system reform (Commonwealth of Kentucky, 1998a:15, 1998b:11). In addition, the Governor and DJJ have consistently stated that developing a more efficient and effective juvenile justice system is a top priority.

Evidence of this commitment comes from the establishment in 1996, through Executive Order 96-

1069, of the Department of Juvenile Justice within the Justice Cabinet. Legislatively, this commitment is reflected in a series of laws enacted by the Kentucky General Assembly in 1998, including provisions that create Local Juvenile Delinquency Prevention Councils, develop a statewide detention system, give DJJ greater flexibility in its revocation hearings, and promote information sharing between DJJ and law enforcement agencies (Commonwealth of Kentucky, 1998a:10). Currently, there are eight local Delinquency Prevention Councils, which cover eleven counties and include 146 stakeholders (Commonwealth of Kentucky, 1999a:3).

Economic Factors

Budget

Of DJJ's \$101.9 million budget in 2000, 56 percent went to detention (\$14.4 million), group homes (\$7.3 million), and residential services (\$28 million), 20 percent to day treatment (\$5.4 million) and community services (\$14 million), 17 percent to private child care (non-secure residential placement, including independent living, group homes) (\$17.7 million), and 14 percent to central/regional office administration (\$15.1 million). DJJ does not foresee budget considerations limiting its scope of services in the future. It derives funds from a variety of sources, and has been proactive in efforts to solicit more funding. Currently, the agency has a \$3.2 million block grant, money from Department of the Interior, Byrne grants, a \$9 million federal grant, and a \$9 million Appalachian Mental Health Grant for use in school programming. The state also collects Medicaid funds for placements in its non-secure beds (Commonwealth of Kentucky 2000b).

Reducing the Number of Beds

In 1997, based on a one-day count, 71 percent of juvenile offenders in residential placement in Kentucky were held in public facilities, and 29 percent were held in private, in-state facilities (Sickmund,

2000). Kentucky is making an effort to reduce its number of beds to avoid paying for space that it does not use (Commonwealth of Kentucky, 1998b). However, it must decide whether to cut private facilities, from which it receives Medicaid money, or state facilities, which would require laying off DJJ employees. It also must determine whether existing space needs projections are adequate for planning purposes.

Space Needs Projections

Recent Trends in Juvenile Crime

According to a study done by the National Council on Crime and Delinquency (NCCD) for the State of Kentucky, demographic growth is not expected to significantly affect admissions into the Kentucky juvenile justice system. In many parts of Kentucky, projections indicate that the number of youth between 10 and 18 years of age will decline between 1996 and 2006.

Increases in serious crime in Kentucky were below the national average between 1991 and 1995. During this period, the number of juveniles arrested for violent crimes increased two percent per year while the number of juveniles arrested for serious property crimes decreased 5.5 percent per year. Between 1991 and 1995 juvenile arrests for any offense declined 20 percent. These declines have continued (Commonwealth of Kentucky, 2000a:56). Most recently, between 1998 and 1999, violent juvenile arrest rates declined for both violent and property offending, from 566 to 516 violent crimes per 100,000 youth ages 10-17, and from 2,543 to 2,291 property crimes per 100,000 youth (Snyder, 1999, 2000). Thus, based on available UCR arrest statistics alone, substantial declines in admissions and daily average populations might be anticipated in the future.

Bed Space Projections

The number of juveniles housed in residential treatment facilities and group homes has been below their design capacity since 1989. The Department of Juvenile Justice commissioned the NCCD to develop

estimates of future residential juvenile and youthful offender populations across the state, as well as estimates of future bed space requirements for adjudicated and pre-adjudicated juvenile and youthful offender populations. NCCD projected the number of committed juveniles that will be housed in state facilities between 1998 and 2007, and the number of juveniles to be confined in secure detention facilities during that period.

NCCD derived its population projections for Kentucky using software that simulates the movement of cases through facilities. The NCCD projection involved three key assumptions to estimate future bed space needs for both post dispositional residential beds and detention:

- future volume of admissions into the system,
- profiles of the types of committed juveniles, and
- lengths of stay.

The projection targeted three separate populations: juveniles housed in state group homes, private contract beds, and juveniles confined in residential treatment facilities (Kentucky Department of Juvenile Justice, 1998a).

Detention

NCCD projected future detention bed space needs using the following set of assumptions (Kentucky Department of Juvenile Justice, 1998b):

- As a result of recent legislation (HB 117), DJJ is developing a network of secure detention facilities that are within 60 miles of each county seat.
- The profile of future detained juveniles resembles admitted juveniles.
- Information about profiles and lengths of stay from Jefferson, Fayette, and Daviess Counties is representative of future statewide profiles and lengths of stay. The information from these counties was used as a baseline for the future network of secure detention facilities.

- Future admissions growth will mirror the Census's demographic projections for the population aged 10 to 19.
- The current average length of stay (11 to 12 days) will not change.
- Twenty to thirty percent of future admissions will be "sentenced" juveniles.

Based on these assumptions, NCCD predicted that the number of juveniles in detention facilities would increase by 33 percent, from 345 at the end of 1997 to an average monthly population of 459 by the year 2000 (Kentucky Department of Juvenile Justice, 1998b). The average monthly population is projected to reach 470 juveniles by 2002 and to increase by 45 percent to 500 juveniles by 2007.

Correctional

NCCD forecasted future bed space needs for offenders committed to residential facilities using the following set of assumptions:

- There will be moderate growth in future admissions – only a 1.1 percent increase per year for the next ten years. Admissions will increase at the same rate as Census projections of the growth of the youth population (Kentucky Department of Juvenile Justice, 1998a).
- The profile of 1998 admitted juveniles, in terms of their committing charges, risk/needs and criminal charges, will not change from those admitted in 1996-1997 (Kentucky Department of Juvenile Justice, 1998a).
- Recent legislation enlarged the numbers of potential youthful offenders by expanding the criteria for certain 16 and 17 year-old juveniles charged with a C or D felony to be prosecuted as youthful offenders in adult court. These changes in the youthful offender law will not have a significant impact on increasing admissions in state-run facilities, but will increase the length of stay, thereby decreasing the number of available beds.
- Recent legislation required courts to mandate a minimum of two years and a maximum of three

years of treatment for sexual offenders, which will increase the length of stay and decrease the number of available beds.

Based on these assumptions, NCCD predicted that the bed space required to house juvenile offenders in all types of facilities would increase 16 percent from approximately 870 juveniles in 1997 to 1,000 juveniles in 2002. The projections estimated the number of admitted juveniles and those awaiting placement in facilities. By 2007, the total population was projected to be 1,056. The maximum number of juveniles in residential treatment centers was estimated to increase from 460 to 554 by 2002, and to exceed 600 juveniles in 2007. This represents a 35 percent growth in needed bed space. The number of beds in group homes and private contracts needed in the future was not projected. The placement of juveniles in these facilities is based on DJJ policy decisions, and not on the assumptions used to predict bed space for residential treatment centers.

Planning for Future Bed Space

In addition to establishing the Department of Juvenile Justice in 1996, Kentucky made a commitment to improve its ability to monitor juvenile justice needs by establishing a statewide, computerized information system. The impetus for this commitment was the lack of reliable historical data on processing and corrections trends that would facilitate empirically-based bed space planning (Commonwealth of Kentucky, 1998c). It was not possible, for example, to generate accurate profiles of detained or incarcerated youth or how long they were in confinement.

The result was an inability to monitor accurately changes in detained and incarcerated juvenile populations or, consequently, changes in the need for more bed space or alternatives to incarceration. In addition, any projections of future bedspace needs were largely speculative, even when based on empirical data, because of the inability to draw on accurate data for the entire state. For example, in some counties judges sentence youth to a term of detention to be served on consecutive weekends, with each admission counted as a new detention. Similarly, some counties have youth serve their detentions after

attending school, with each daily admission counting as a new detention. In both cases, the result in aggregate is the appearance of multiple detentions when in reality there was only one youth and one term of detention (Thomas, 2001a). The new statewide database system, along with the DJJ's commitment to outcome-based planning, will enable Kentucky to improve the reliability and accuracy of its data (e.g., by identifying such patterns) and to plan better for future bed space needs.

A number of factors make planning for bedspace in Kentucky difficult. One of the primary reasons is variation among counties in processing, the availability of diversion options, and the use of detention and residential placement. At present, the state is unable to provide systematic assessments of how youth in each county are processed, but studies of specific counties provides evidence of considerable differences in how admissions are counted and in processing. Some counties count detentions that are served over consecutive weekdays or weekends as separate admissions, while others do not. Similarly, some counties count time served after school as a new (daily) admission (Thomas, 2001b).

There also are local practices that any statewide planning effort will need to address. For example, analysis of admissions to the 23 facilities operating in 1998 shows that only Fayette and Jefferson counties detained any youth under the age of 11, with youth 12-and-under comprising 6 percent (367 of 6,113) of all of Fayette County's admissions (Thomas, 2001a). Comparison of the two counties shows that Fayette's detention admission rate in 1999 was 561 per 10,000 youth, whereas Jefferson's was 179 (Thomas, 2001a). In addition, Jefferson County accounted for 23 percent of Kentucky's 126,435 juvenile offenses for 1997-1999, compared with 9.5 percent for Fayette County (Commonwealth of Kentucky, 2000:57). Such differences, and how they change over time, create the need to carefully monitor and plan around trends within and across counties.

Funding Future Bed Space

In recent years, Kentucky has significantly increased its funding of the juvenile justice system. For example, between 1994 and 1998 the state's expenditures for residential facilities, community-based

services, delinquency prevention, and post-residential care rose by 65 percent, from \$32 to \$54 million, with \$2.5 million set aside for prevention services (National Association of State Budget Organizations, 1999). In 1998, 80 percent (\$43 million) of the state's \$54 million in total expenditures on juvenile justice was used to provide placements in residential settings. In 2000, 66 percent (\$67.4 million) of DJJ's \$101.9 million budget was spent on providing placements in residential settings and detention (Commonwealth of Kentucky, 2000b).

Kentucky receives various grants to be used for prevention, diversion, accountability, and delinquency programs. These grants include Community Juvenile Justice Partnership Grants, Juvenile Accountability Incentive Block Grants (JAIBG), Title V, Title II, and Challenge Grants. The JAIBG funds totaled \$3.5 million for distribution in fiscal year 2000 to 2001 (Commonwealth of Kentucky, 1999a:7). This and other federal funding from OJJDP is used to provide delinquency prevention programming and to promote greater accountability (Kentucky Department of Juvenile Justice, 1999a).

Conclusion

Kentucky has faced enormous challenges in planning for juvenile detention and correctional bed space. These challenges have included operating in a context in which the federal government was investigating the State's residential treatment facilities and in which federal funding was withheld due to non-compliance with core requirements of the Juvenile Justice and Delinquency Prevention Act. Kentucky responded to these challenges by enacting many reforms, including the establishment of a state-run detention system. The State's approach to detention and correctional bed space planning occurred within a broader context of juvenile justice reform, one that not only involved a concern with juvenile crime but that also required consideration of the legislative, political, and economic realities of the past decade.

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WEST VIRGINIA

Introduction

West Virginia's juvenile justice system changed dramatically during the past decade, especially after a 1996 summit convened by Governor Cecil Underwood. The summit resulted from concerns about juvenile crime, overcrowding and conditions in detention and correctional facilities, and inadequate coordination of services between child welfare and juvenile justice agencies. State officials were especially concerned about a long-standing and increased reliance on out-of-state placements (by 1996, close to half of all juvenile offenders reportedly were placed out of state).

The most significant change emerging from the Governor's summit involved the creation, in 1997, of one umbrella agency responsible for overseeing the juvenile justice detention and correctional system. Other significant changes included: lowering the age of transfer for certain offenses; creating an extended jurisdiction provision allowing some youth to be committed to juvenile correctional facilities until age 21; abolishing a requirement that courts choose the "least restrictive alternative" when imposing a disposition; and requiring courts, rather than the directors of correctional institutions, to determine when youth can be released (Division of Criminal Justice Services, 2000:55).

These changes created new opportunities to address juvenile crime, but they also led to new challenges in anticipating detention and correctional bed space needs. While developing a continuum of more and better integrated services, the West Virginia greatly expanded its detention and correctional capacity. The decision to increase bed space capacity arose from analysis of arrest trends, consultation with professional consultants, an inter-departmental working group of state officials, and the judgements and recommendations of the Division of Juvenile Services (DJS) and its Steering Committees and Subcommittees. To understand fully these decisions requires an understanding of the more general context within which juvenile justice planning occurs in West Virginia.

Justice System Organizations

With the passage of House Bill 2680 in 1997, the West Virginia Legislature created the Division of Juvenile Services (DJS) to serve as an umbrella agency for overseeing the State's juvenile justice system (Division of Juvenile Services, 1998a). DJS is located within the Department of Military Affairs and Public Safety, one of six major departments in the State government. It operates or contracts for all five of the State's detention (pre-dispositional) centers as well as the State's two juvenile correctional facilities (National Center for Juvenile Justice, 2000). Previously, the Department of Health and Human Resources (DHHR) and the West Virginia Department of Corrections (DOC) were responsible for juvenile detention and corrections (Division of Criminal Justice Services, 1999). DHHR now is responsible for shelters and group homes, as well as for contracting for out-of-state placements (Table 1).

In 1999, the West Virginia Legislature required that DJS and DHHR develop a more cohesive and collaborative strategy for working together (Criminal Justice Statistical Analysis Center, 1998b; Division of Criminal Justice Services, 2000:55). House Bill 1002 required that DJS develop prevention programming and community-based alternatives to detention or incarceration and create a comprehensive plan for coordinating juvenile justice and child welfare needs for youthful offenders not yet adjudicated. These changes continued the reorganization that began in 1997, with the intent of developing a more cohesive and integrated juvenile justice system.

The Regional Jail and Correctional Facility Authority (RJCFA) plans and secures funding for all new detention and secure institutional facilities in West Virginia. Although DJS provides input regarding the need for new facilities, responsibility for deciding whether and when to build a facility rests with the RJCFA.

The Division of Criminal Justice Services (DCJS) collects data and conducts empirical analyses for assessing and planning the State's juvenile justice system. DCJS is West Virginia's criminal and juvenile justice planning agency. It is staffed by 32 full-time employees, four of whom focus completely on juvenile justice program and policy analysis (Division of Criminal Justice Services, 2000:3).

In addition to the DCJS, the Juvenile Justice Subcommittee of the

Governor's Committee on Crime Delinquency and Correction is responsible for statewide juvenile justice planning. As such, it serves as West Virginia's State Advisory Group (SAG) for the Office of Juvenile Justice and Delinquency Prevention (OJJDP). In this capacity, the Juvenile Justice Subcommittee coordinates and assists with the implementation of OJJDP's Juvenile Justice and Delinquency Prevention Grant Program (JJDP), the Juvenile Accountability Incentive Block Grant Program (JAIBG), and the Enforcing the Underage Drinking Laws Grant Program (EUDL) (Division of Criminal Justice Services, 2000:4).

Table 1: Agency Responsibilities for Juvenile Justice in West Virginia

Division of Juvenile Services

- Operates secure detention centers and state-run institutions for adjudicated delinquents.

Department of Health and Human Resources

- Contracts with in-state group homes, day treatment programs, and shelter care.
- Contracts for out-of-state placements.
- Licenses DJS facilities annually.

Regional Jail and Correctional Facility Authority

- Plans and secures funding for major renovations and the construction of secure juvenile detention centers and state-run facilities for committed youth.
- Relies on DJS for guidance regarding when construction of new facilities is needed.

Division of Criminal Justice Services

- Collects and analyzes all empirical data concerning DJS, including the juvenile detention screening, intake, and release needs assessment forms that detention center staff complete.

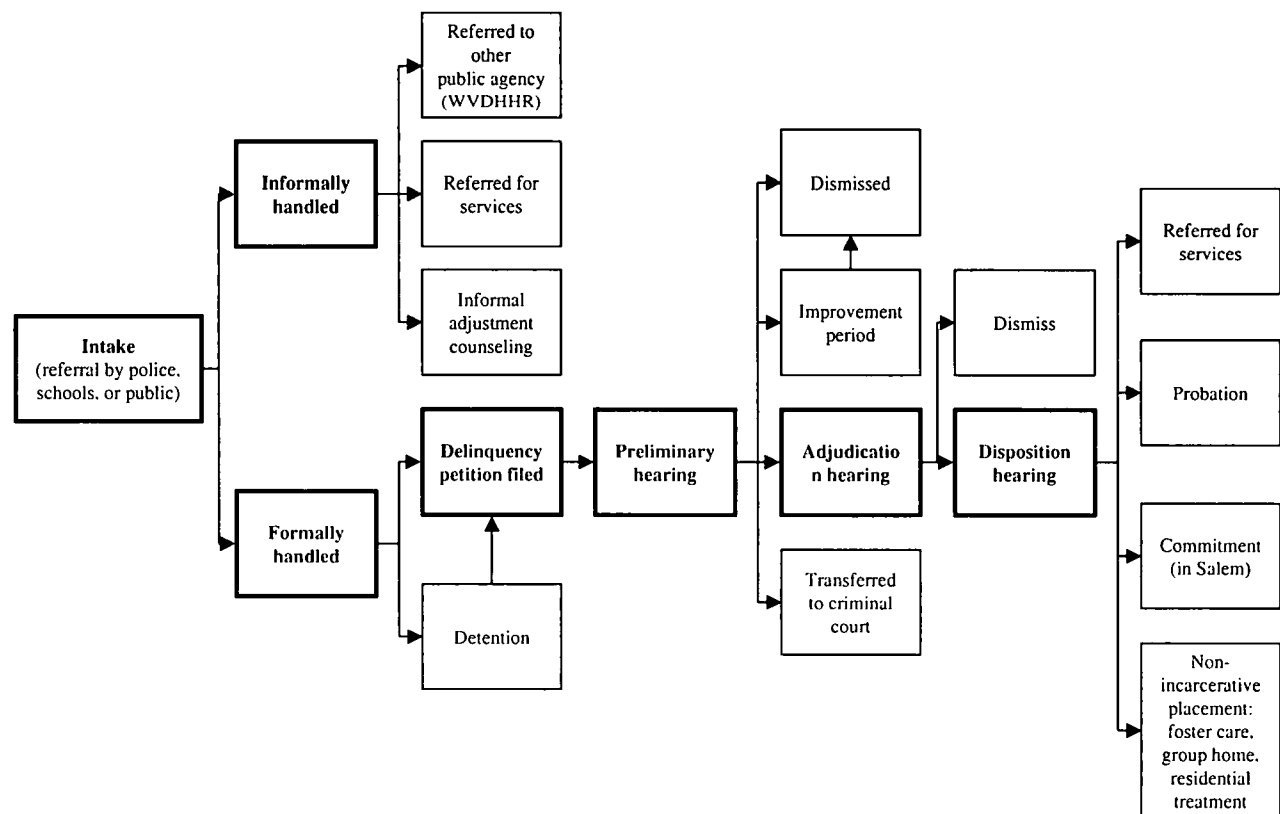
Source: Richardson, 1999a.

Justice System Organizations

Most youth enter the juvenile justice system through referrals from law enforcement (Figure 1). Whether handled through magistrate, municipal, or circuit courts, cases may be informally or formally disposed.

The court detains youth, pending submission of a delinquency petition and a preliminary hearing, considered to be at risk to themselves or others. At this hearing, the court decides whether the case should be transferred to criminal court, referred for services, dismissed, or proceed to an adjudicatory hearing. If a youth is adjudicated to be a delinquent, a hearing occurs to determine what disposition the youth should receive. Possible dispositions include dismissal, referral for services or special programming, probation, or institutionalization in a secure facility.

Figure 1: Movement of Juvenile Offenders through the West Virginia Justice System



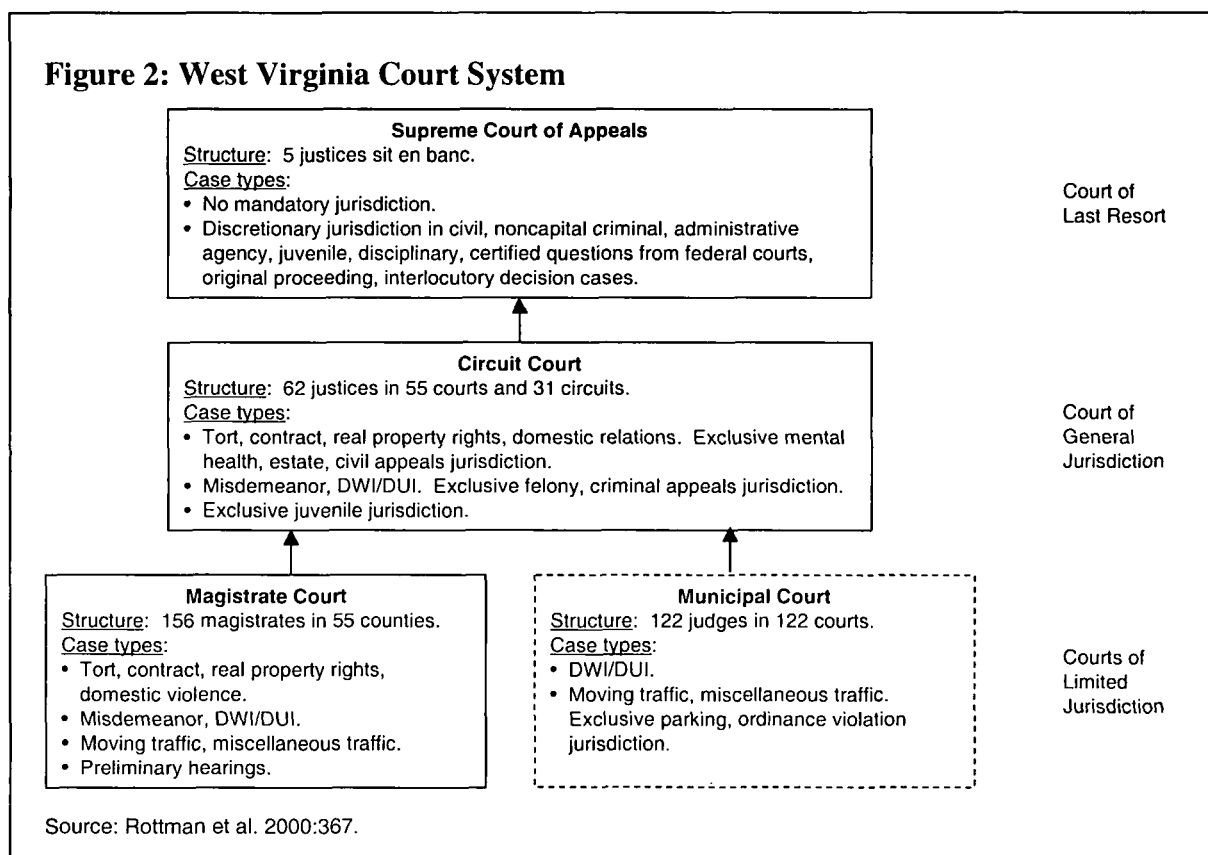
Source: Division of Criminal Justice Services, 1998.

Court System

The magistrate courts, circuit courts, and Supreme Court of Appeals comprise the West Virginia court system (Figure 2). All judges within these courts are elected, although the lengths of their terms vary. Three magistrates in counties with large juvenile populations are designated as “juvenile referees” and hear all juvenile cases processed in their county (Division of Criminal Justice Services, 1998). Once a juvenile has been adjudicated to be a delinquent, the circuit court’s jurisdiction extends until the youth is 21 years old (Division of Criminal Justice Services, 2000:45).

All 55 counties in West Virginia have an elected prosecutor who serves as the county’s chief law enforcement officer. These prosecutors, as well as state officials and agencies, receive written opinions about legal matters from the State Attorney General. However, the Attorney General is not actively

Figure 2: West Virginia Court System



involved in prosecution and has no jurisdiction in criminal matters. The West Virginia Public Defender Services provides legal representation to indigent persons. Approximately 95 public defenders and numerous attorneys statewide provide this service *pro bono* (Division of Criminal Justice Services, 1998). Other juveniles are represented by private counsel.

Case Processing

Youth who enter the juvenile justice system pass through several stages. At each stage, court practitioners make critical decisions as to how the case will be handled and, ultimately, what type of disposition if any a youth will receive.

Law Enforcement

West Virginia has approximately 3,200 law enforcement officers, including municipal officers, county officers, state police, and college and university officers. Municipal governments usually appoint municipal police chiefs; counties elect sheriffs; and state police are assigned to detachments throughout the state (Division of Criminal Justice Services, 1998). The police can handle cases informally, refer them to magistrate or municipal courts (e.g., for violation of traffic laws or municipal ordinances), or refer them to circuit courts (e.g., for criminal behavior). West Virginia's circuit courts serve as juvenile courts and handle all delinquency matters.

Informal Resolution

Cases involving minor offenses may be handled informally. Law enforcement officers may issue a verbal reprimand or warning. If referred to juvenile court, a probation officer conducts an initial inquiry to determine if the case can be resolved informally. The probation officer may determine that a verbal warning or counsel and advise is appropriate. If a youth is then released, the duration of the counsel and advise, which can include counseling for up to six months, and can be extended to twelve months by the

court (Division of Criminal Justice Services, 2000:45).

Petition

If a probation officer determines that a youthful offender requires formal processing, the case is referred to a prosecutor. To begin formal proceedings, the prosecutor must submit a petition to the circuit court in the county in which the delinquency occurred (Division of Criminal Justice Services, 2000:46). The petition must include a description of the alleged offense and the fact that the juvenile has the right to counsel at every stage of the court proceedings. The youth, along with his or her parents, guardians, or custodians, must appear in court on a specified day and time to be formally presented with the charges established in the petition. The time and place for the preliminary hearing is then established and counsel appointed. Youth who are detained must also appear for the petition hearing.

Detention Hearing

If a juvenile is taken into custody and is not released, a detention hearing must occur within one day after he or she was taken into custody. Detention hearings occur before a judge, referee, or magistrate. Counsel is appointed at this time if one has not already been retained. The main issue addressed at the hearing is whether the health, safety, or welfare of the youth is at risk, or if the youth is a risk to others (Division of Criminal Justice Services, 2000:47).

Preliminary Hearing

At a preliminary hearing, conducted by a circuit judge or referee, the state must establish probable cause that a delinquent or status offense occurred. Detention and preliminary hearings can occur at the same time if the juvenile, his or her defense counsel, and the prosecutor are prepared to conduct both hearings and if all parties agree. Otherwise, preliminary hearings must occur within ten days of the first day of detention. With the advice of counsel, the preliminary hearing may be waived by the juvenile

(Division of Criminal Justice Services, 2000:48).

Pre-Adjudicatory Improvement

Juveniles may request a pre-adjudicatory improvement if they feel that they can demonstrate significant rehabilitative progress within a set time period, usually up to one year. The court establishes the conditions for improvement. If the juvenile then meets these conditions successfully, the court dismisses the petition. Otherwise,

Transfer to Adult Court. West Virginia provides for discretionary and mandatory waiver as mechanisms for transferring youths to the criminal justice system. Prosecutors may seek discretionary waiver for any youth who has committed a felony offense. However, for youths under the age of 14, the court must show there is probable that the youth would have been mandatorily transferred if 14 or older. Youths of any age can be transferred for commission of drug offenses that would be felonies if committed by adults. Youths 14 or older can be transferred at the prosecutor's discretion if the use or threat of force against a person was involved, the youth has a prior felony adjudication, or a deadly weapon was used. The prosecutor must establish "clear and convincing evidence" that the youth committed the offense for which transfer is sought. Orders granting transfer can be appealed directly to the Supreme Court of Appeals. The appeal process can be initiated during the transfer proceedings or upon conviction (National Center for Juvenile Justice, 2000; Division of Criminal Justice Services, 2000:48).

Mandatory waivers to the criminal justice system occur when the court establishes probable cause that a youth 14 or older committed specified offenses or meets prior record/offense criteria for transfer. These offenses include treason, violent felonies committed by youths previously adjudicated of violent felonies, any felony committed by a youth with at least two prior felony adjudications, murder, armed robbery, kidnapping, first degree sexual assault, and first degree arson (National Center for Juvenile Justice, 2000).

adjudicatory proceedings commence, but the improvement period cannot be construed as an admission of guilt or as evidence that can be used against the juvenile (Division of Criminal Justice Services, 2000:48).

Adjudicatory Hearing

Similar to the guilt/innocence phase of criminal court processing, adjudicatory hearings are used to determine, beyond a reasonable doubt, whether a youth committed the act of delinquency identified in the petition. In cases involving status offenses, the burden of proof is "clear and convincing proof." If adjudicated delinquent, the youth then is given a disposition, or discharged if not found delinquent (Division of Criminal Justice Services, 2000:49).

Disposition

After adjudication as a delinquent, youth receive a disposition, equivalent to a “sentence” in adult court. Dispositions can include: dismissal, referral for services, probation, commitment to foster care or the custody of DHHR, commitment to DJS for placement in a correctional facility, or commitment to a mental health facility subsequent to a mental hygiene hearing (Division of Criminal Justice Services, 2000:53). The court also can impose a fine of up to \$100 and require restitution to the victim or public service. Juveniles cannot be placed in a child welfare facility if DHHR lacks room at that facility.

Status Offender Provisions. Youths adjudicated as status offenders must be referred to the West Virginia Department of Health and Human Resources (DHHR). DHHR must provide individualized and rehabilitative services to adjudicated status offenders and report back to the court every 90 days (Division of Criminal Justice Services, 2000:49). The case remains with DHHR until it is dismissed by the court. DHHR may petition the court to require or enforce service plans, including psychiatric/psychological, medical, education, welfare, or other social services for youths, their parents, or family members.

Confinement Capacity

In 1997, based on a one-day count, 82 percent of incarcerated juvenile offenders in West Virginia were held in state facilities, and 18 percent were held in out-of-state facilities (Sickmund, 2000). In that same year, West Virginia had 333 juvenile offenders in residential facilities as part of a court-ordered disposition (Table 2). Most of those juveniles were in placement for person offenses (99) or property offenses (126), with the remainder in placement for drug offenses (24) and miscellaneous public order (18) and status offenses (51). These patterns are largely similar for both commitments and detention.

Secure Detention

Secure detention houses juveniles awaiting court proceedings, post-dispositional youth awaiting placement, and youth waived to adult court awaiting further proceedings. Twenty percent of juveniles held in secure detention are on adult transfer status (Division of Criminal Justice Services, 1998:8).

The State currently owns and operates four secure detention facilities, the Eastern Regional Center, North Central, and Northern Regional, and the planned Donald R. Kuhn Center, with a total capacity of 60 beds. Previously, DJS contracted for an additional 16 secure detention beds with the Northern Regional Juvenile Detention Center, run by a non-profit, community-based direct service organization, Youth Services System, Inc. In December 2000, the State closed the South Central center and relocated youth to the West Virginia Industrial Home for Youth, resulting in an increase from 19 to 25 beds (Richardson 2001). The Donald R. Kuhn Juvenile Center, originally planned to open in May 2001, has not yet been constructed (Criminal Justice Statistical Analysis Center, 2001b; Richardson 2001).

Overcrowding in the State's detention centers has traditionally been an ongoing challenge for West Virginia policymakers. In 1999, the average daily population in the State's centers was 78, compared to the licensed capacity of 70 (Criminal Justice Statistical Analysis Center, 2001b:1). The detention centers varied in the extent to which they were over capacity on an annual basis, with a low of 139 days to a high of 300 days over capacity. Combined, all of the centers were over capacity 83 percent of the year.

West Virginia officials have noted steady increases in regional detention facility populations (Criminal Justice Statistical Analysis Center, 1998a). The biggest increase in the average monthly number of youth in each detention facility occurred between 1992 and 1995, rising from 16 to 24 youth per month. During this same period, the total number of youths detained by the State increased 50 percent.

Average lengths of stay for youth also increased during the same time period, from 19 to 27 days. Between 1996 and 1998, detention admissions declined slightly, but by 1999 had increased again to the peak levels evident earlier in the decade. At the same time, the average length of stay for youth in detention rose to 29 days (Criminal Justice Statistical Analysis Center, 2001b:2). A small percentage of youth (1.2) were detained more than 6 months. In some cases, overcrowding led the State to rely on cots and mattresses rather than standard beds (State of West Virginia, 1998c).

Table 2. Census of Juveniles in Residential Placement (1-Day Count): Offense Profile by Placement Status, West Virginia, 1997

	Total	Placement Status		
		Committed	Detained	Voluntary Admission
Total	333	123	207	6
Delinquency	282	102	180	0
Violent Crime Index*	63	15	48	0
Property Crime Index**	102	36	63	0
Person	99	33	63	0
Criminal homicide	15	6	9	0
Sexual assault	6	0	6	0
Robbery	9	0	9	0
Aggravated assault	33	6	27	0
Simple assault	27	18	9	0
Other person	6	0	6	0
Property	126	45	81	0
Burglary	60	24	36	0
Theft	12	3	9	0
Auto theft	21	9	12	0
Arson	6	0	6	0
Other property	24	9	15	0
Drug	24	9	15	0
Trafficking	12	3	9	0
Other drug	15	6	6	0
Public order	18	9	6	0
Weapons	3	0	3	0
Alcohol	6	6	0	0
Other public order	6	3	3	0
Technical violation	15	3	15	0
Status offense	51	21	27	6
Running away	6	0	6	0
Truancy	18	12	6	0
Incorrigibility	24	9	15	3
Curfew violation	0	0	0	0
Underage drinking	0	0	0	0
Other status offense	3	0	0	0

* Includes criminal homicide, violent sexual assault, robbery, and aggravated assault.

** Includes burglary, theft, auto theft, and arson.

Note: To preserve the privacy of the juvenile residents, cell counts have been rounded to the nearest multiple of three. Committed juveniles include those placed in the facility as part of a court ordered disposition. Detained juveniles include those held awaiting a court hearing, adjudication, disposition or placement elsewhere. Voluntarily admitted juveniles include those in the facility in lieu of adjudication as part of a diversion agreement.

Source: Sickmund and Wan, 1999.

The growing number of youth referred to West Virginia's regional juvenile detention centers during the late 1990's resulted from a range of factors, according to the West Virginia Criminal Justice Statistical Analysis Center (1998b):

- Statutory changes lowering the transfer age from 16 to 14, which resulted in more presumptive commitments.
- Lack of bed space for committed youth at the West Virginia Industrial Home.
- Longer trial times for youth awaiting criminal court transfer.
- Increased prevalence of youth charged with serious or violent offenses who were more likely to be committed. In 1999, 29 percent of detained youth were charged with Part I violent crimes, compared with 14 percent in 1992. (Part I offenses include murder, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson.)

Corrections

West Virginia operates two juvenile corrections facilities: the West Virginia Industrial Home for Youth, expanded during the 1990's to its current 248 bed capacity, and the Davis Center, with a 60-bed capacity. The Davis Center (minimum-security) serves only males 16 to 21 years old, and its average daily

Offenses of Youths Placed in Detention Centers, 1999

	Percent
Person offenses	29%
Property offenses	33
Public order offenses	29
Drug law violations	8
Status offenses	1
Miscellaneous offenses	<1
Total (N = 1,401)	100%

Source: Criminal Justice Statistical Analysis Center, 2001b:5.

Bed Space Capacity at the Industrial Home for Youth in Salem, West Virginia, 1999

	Beds
• admissions/orientation unit	30
• general male (10-17) unit	50
• male (18-21) unit	30
• female unit	30
• behavior management unit	20
• diagnostic unit	30
• infirmary unit	10
• special population youths unit	48
Total	248

Source: Criminal Justice Statistical Analysis Center, 2001a:6.

population in recent years has remained at or near its maximum allowable capacity.

The West Virginia Industrial Home for Youth (maximum-security) accepts males aged 10 to 18 and females aged 12 through 18. Its licensed capacity of 248 includes 30 diagnostic beds. Forty-eight of the 248 beds are in the old Standard Building and are to be used for special population youth (Criminal Justice Statistical Analysis Center, 2001a). Since 1997, the average daily population has stayed at its maximum capacity, and some youth spend up to seven months (often in secure detention) on a waiting list prior to being placed in Salem.

Among youth placed in juvenile correctional facilities in 1999, close to half (49%) were institutionalized for property offenses, 29 percent for person offenses, 14 percent for public order offenses, 5 percent for drug law violations, and 1.7 percent for status offenses. Public order offenses included traffic, weapons, and animal offenses, obstruction of justice, fraudulent activities, and disorderly conduct involving other more serious charges. Youth committed for status offenses (e.g., truancy, underage drinking, incorrigibility) invariably had been charged with other more serious offenses.

Offenses of Youths Placed in Correctional Facilities, 1999

	Percent (N=300)
Person offenses	29%
Property offenses	49
Public order offenses	14
Drug law violations	5
Status offenses	2
Miscellaneous offenses	1
Total	100%

Source: Criminal Justice Statistical Analysis Center, 2001a:5.

The average length of stay among youth released from West Virginia juvenile correctional facilities in 1999 was 8.9 months (Criminal Justice Statistical Analysis Center, 2001a:2). Overcrowding of juvenile correctional facilities in West Virginia has apparently prompted a surge in out-of-state placements, which are funded by the DHHR. This type of placement increases cost and transportation problems for state agencies, and burdens youth and their families. In the early 1990's, as many as 700 youth were residing in out-of-state residential facilities, but the number has now dropped to 250 to 300 youth.

Residential Facilities

Residential Children's Services – Level I

Residential Children's Services provide a structured 24-hour group care setting for youth with a DSM-IV diagnosis who can function in a community-based setting and require a minimum of supportive services and behavioral interventions.

Residential Children's Service - Level I	
Facility	Bed Capacity
Davis-Stuart, Inc.	18
Daymark, Inc.	12
Genesis Youth Center, Inc.	6
New River Ranch, Inc.	16
Shawnee Hills Community Center, Inc.	5
Stepping Stones, Inc.	27
Sugar Creek Children's Center	12
West Virginia Children's Home	35
State Total	131
Source: Ferguson, 2000	

Residential Children's Service – Level II

Residential Children's Service - Level II	
Facility	Bed Capacity
Burlington United Methodist Family Services, Inc. Craig House	7
Burlington United Methodist Family Services, Inc. Keyser Group Home	6
Cammack Children's Center	32
Children's Home of Wheeling	20
Children's Home of Wheeling Group Home	6
Davis-Stuart, Inc.	44
Family Connections Res. Care and Treat.	9
Florence Crittenton Home and Services	42
Golden Girls, Inc.	20
Potomac Center Birch Lane Group Home	6
Pressley Ridge Schools	49
Pretera Ctr. for Mental Health Services, Inc. Cedar Ridge	5
St. John's Home for Children	6
State Total	245
Source: Ferguson, 2000	

Level II facilities provide a structured group care setting for youth with a DSM-IV diagnosis and moderate to severe adjustment difficulties. These youth cannot function in the community without

significant psychosocial and educational support.

Residential Children's Services – Level III – Residential Treatment

These services provide a very structured, intensive 24-hour group care setting for youth with a DSM-IV diagnosis and severe disturbances in conduct and emotions. These youth cannot function in the community, and residential treatment facilities operate behavioral programs and interventions for them to help stabilize their mental condition.

Residential Children's Service - Level III	
Facility	Bed Capacity
Burlington United Methodist Family Services, Inc. (Main Campus)	18
Burlington United Methodist Family Services, Inc. (Beckley Campus)	20
Elkins Mountain School	44
Pressley Ridge Schools at White Oak	55
State Total	137
Source: Ferguson, 2000.	

Psychiatric Residential Treatment Facilities

Psychiatric residential treatment facilities serve youth under age 21 in a medically supervised program of behavioral health treatment. These programs offer individual treatment for the youth and his or her family.

Psychiatric Residential Treatment	
Facility	Bed Capacity
Barboursville School	22
Chestnut Ridge Hospital	27
Olympic Center	30
HCA Riverpark	35
State Total	114
Source: Ferguson, 2000.	

Residential Crisis Support

Residential crisis support services offer short-term placement during crisis situations and may provide counseling, basic needs, problem solving courses, and medical treatment.

Diversion Programs

The Division of Criminal Justice Services funds several diversion

programs, including the Enforcing Underage Drinking Laws Grant Program, Juvenile Justice and Delinquency Prevention programs, Residential Substance Abuse Treatment Programs, and Safe and Drug-Free Communities.

Prior to fiscal year 2001, DJS operated one day treatment program: Job Corps. The Kanawha County Juvenile Probation Department, DJS, and the Charleston Job Corps Center collaborated to offer this program, which provided the opportunity for up to 25 juveniles at any stage in justice system processing to attain a GED, receive vocational training, gain college acceptance, and find a job. Probation officers identified appropriate candidates for referral to the program (Division of Juvenile Services, 1999b). The inability to place sufficient numbers of youth led to the closing of this program (Richardson 2001).

Decision-Making Context

Bed space planning occurs within a larger decision-making context governed by organizational factors, legislative changes, and fiscal and political concerns. This context affects the general climate of

Residential Crisis Support	
Facility	Bed Capacity
Appalachian Community Health Center	8
Beckley Shelter	8
Davis Shelter	10
Gustke Shelter	8
Huntington Shelter	10
Lewisburg Shelter	8
Martinsburg Shelter	8
Paul Miller Home	10
Romney Shelter	10
Daymark, Inc.	10
Genesis Youth Ctr.- Emerg. Crisis Shelter	12
Monongalia County Youth Services Center	8
Potomac Highland Guild	2
Time Out Youth Shelter	12
Helenski Shelter	12
Samaritan House	12
Tipton Center	6
State Total	154
Source: Ferguson, 2000.	

opinion about juvenile crime and influences the process of making projections and planning for detention and correctional bed space needs.

Organizational Factors

Overcrowding and Out-of-State Placements

Increased reliance on out-of-state placements constituted one of the primary reasons for increasing state detention and correctional capacity. It was reported, for example, that by 1996, half of all youth placed in secure facilities were in out-of-state placements. Overcrowding appears to have been the primary cause of the use of out-of-home placements. Since 1997, for example, some youth committed to the State for secure placement reportedly wait up to seven months prior to bed space opening for their placement at the Salem correctional facility. However, some observers noted that judges in different counties applied different criteria, as well as preferences, for placing youth in out-of-state facilities. According to these observers, such preferences suggested that expansion of the Salem Industrial Home would not alleviate overcrowding and might even result in unused bed space.

Organizational Cooperation

Prior to the passage of House Bill 2680 in 1997, several agencies shared responsibility for planning and administering the juvenile system. This situation led to a lack of cooperation among agencies. For example, juvenile justice practitioners reported considerable problems with State juvenile justice and child social service agencies coordinating responsibility for paying for custody of youths who were awaiting placement in non-institutional settings. This situation appears to have been largely resolved through the creation of the Division of Juvenile Services as an umbrella agency for overseeing juvenile justice operations throughout West Virginia.

The Need for Alternatives

The lack of an extensive and readily available system of detention and commitment alternatives likely contributed to the real and/or perceived need for secure beds. The relative lack of strong aftercare supports for youth released from secure care compounded this problem. Recently, however, the State has initiated development of a Reentry Court Initiative designed to provide more and improved aftercare.

Use of Data

The Division of Criminal Justice Services, through the Criminal Justice Statistical Analysis Center, has improved West Virginia's capacity to gather and analyze criminal justice data. However, policymakers have often made decisions regarding secure bedspace needs without the benefit of a rigorous data analysis to inform the projection process before deciding upon the absolute number of expansion beds. At times, data analysis appears to have occurred after a decision has been made to expand secure beds. For example, the decision to expand the Industrial Home for Youth in Salem resulted from a desire to reduce the number of out-of-state placements, but the State reportedly undertook no assessment about the needs of these youth or whether qualified program staff could be recruited.

The State's ability to conduct empirical analyses of its detention and correctional populations is nominal. Prior to the creation of DJS in 1997, the State collected no data about detention and secure beds (Division of Criminal Justice Services, 1998:31). However, the State has made significant advances in developing database capabilities and in planning for bed space needs. The State appointed several task forces for assessing the need for detention bed space and how best to address bed space planning. One outcome included the formation of the Coordinating Council in 1999, which monitors and implements the coordinated and comprehensive juvenile justice and child welfare plan developed by the Juvenile Detention Task Force in 1998.

Developing Policy and Program Options

When developing their secure bed space need estimates, West Virginia policymakers sometimes assume that past practice will continue into the future and have made projections premised on this assumption. For example, the State's 1998 estimate of future secure bedspace needs assumed that the average lengths of stay in secure detention from the previous five years -- 23 days -- would continue unchanged (Division of Criminal Justice Services, 1998:35).

However, this assumption obscures considerable annual variation in average lengths of stay. For example, between 1992 and 1995, the average length of stay in secure juvenile detention increased from 19 to 27 days. By 1999, the average length of stay had increased to 29.3 days (Criminal Justice Statistical Analysis Center, 2001b:1).

The 1998 assessment thus significantly underestimated the average length of stay among detainees. Even so, other factors suggest that increased bed space would not necessarily be indicated. In fact, close to half of West Virginia's juvenile detainees are estimated to spend ten days or less in secure detention (Division of Criminal Justice Services, 1998:31). If local alternatives to secure detention existed, the courts could have diverted many of these youth who stayed ten days or less out of secure detention, reducing the need for secure detention beds. Such diversions are especially feasible if they target non-violent offenders.

Legislative Factors

In recent years, the West Virginia Legislature and West Virginia State Courts have made important changes to the juvenile justice system:

- Lowered the age of adult court transfer from 16 to 14 for serious or repeat offenders;
- Expanded the "extended jurisdiction" provision for juvenile cases to permit juvenile court sanctions to be imposed through age 21 (the age limit was previously 20);

- Abolished the statutory requirement that juvenile courts choose the least-restrictive alternative when disposing of delinquency cases;
- Eliminated the discretionary authority of the director of the correctional institution to release a youth when the youth has been adjudicated for a criminal violation (the case must return to court for review prior to any release decision);
- Revoked the availability of an interlocutory appeal of adult transfer status; and
- Transferred the responsibilities and control of juvenile detention and corrections operations from DHHR and DOC.

These laws, drafted in response to increasing juvenile crime rates, may lead to an even higher juvenile incarceration rate over the next ten years (Division of Criminal Justice Services, 1998). Many of the provisions, for example, increase the likelihood that more juveniles will be placed in correctional facilities and that they will stay there for lengthier terms.

Political Factors

Juvenile Crime Rates

State and local authorities in West Virginia became concerned about increases in juvenile crime during the early 1990's. The juvenile offender population doubled, and total juvenile arrests rose 15 percent between 1990 and 1996 (Division of Criminal Justice Services, 1998). At the same time, the State's detention and correctional facilities were consistently overcrowded.

Policymakers believed the high population of detained juveniles resulted from an increase in the number of juvenile offenders and in juvenile violent crime, as well as recent changes in the West Virginia Code involving stricter punishment of juvenile offenders (Division of Criminal Justice Services 1998).

National Trend to Get Tough on Juvenile Offenders

In the 1990's, most states responded to juvenile crime by adopting more punitive policies toward offenders. For example, many states, including West Virginia, enacted statutes that created more flexibility for transferring youth to adult court. Nationally, concerns about juvenile violence led to an increase both in the number of youth committed to juvenile institutions or transferred to adult court.

Despite the widespread belief that juvenile offenders have caused major increases in overall violent crime rates, the majority of arrests for serious and violent crimes involve persons 18 and older. In addition, most juvenile arrests involve property, drug, and less serious crimes rather than violent offenses. This is true in West Virginia as well: total arrests gradually increased throughout the 1990's, with violent arrests increasing initially but then stabilizing. On average, fewer than one-third of youth in West Virginia detention or correctional facilities were placed in them for commission of violent offenses (Criminal Justice Statistical Analysis Center, 1999, 2000).

The national trend of tougher treatment for juvenile offenders probably influences West Virginia policymakers' estimates of the need for future bedspace. It is difficult, however, to quantify its specific impact. The structures of the agencies responsible for planning and implementing new bedspace in the state illustrate how this trend to handle juveniles in the adult system has real effects on juvenile corrections. Current DJS leadership, despite its talent and good intentions, has more experience operating adult correctional institutions than designing a comprehensive juvenile justice system. In fact, the agency responsible for planning, funding, and building juvenile facilities in West Virginia, the Regional Jail and Correctional Facility Authority, was originally created in order to fund and build adult jails and prisons.

Political Realities

In most states, the size and location of new or newly-expanded secure juvenile institutions depends upon both local and statewide political issues. In West Virginia, particularly in rural areas, an influx of

stable state jobs that would accompany the development or expansion of a juvenile correctional institution would boost the economy. The relationship between influential political interests and the location and size of juvenile facilities in West Virginia may help to explain why the state encountered difficulties locating juvenile facilities in or near population centers.

In 1998, Community Research Associates, hired by OJJDP in response to West Virginia's request for technical assistance in gathering reliable information on the state's juvenile offender population, summarized several policy issues that influence bedspace needs in West Virginia's detention centers (State of West Virginia, 1998c). One policy issue centered around facility administrators not having control over the intake, release, or placement of youth. Another issue was that detention centers risked severe overcrowding and behavior management problems by placing violent offenders and adult transfer juveniles in the same detention facilities as younger and more vulnerable youth (Division of Criminal Justice Services, 1998). Senate Bill 1002, passed on March 22, 1999, created the Gatekeeping model to address both of these weaknesses.

Senate Bill 1002 required that DJS and DHHR establish joint prevention and diversion programs as well as community-based alternatives. The Gatekeeping model, implemented in July 1, 1999, established a continuum of care, diversion, and aftercare for youth. It implemented a standardized evaluation and classification system to provide an objective tool for assessing the needs of juveniles and placing them in appropriate modalities. Senate Bill 1002 had other implications. Most importantly, it placed responsibility with DJS, rather than the courts, for making decisions about placement of youth in specific institutions. This modification permits DJS to ensure that placements suit each child's needs as well as the needs of other detainees (Enrolled Senate Bill No. 1002).

Finally, the state lacks sufficient community-based detention alternatives for pre-dispositional youth as well as community-based alternative programs for adjudicated delinquents. With few exceptions, the courts may only use probation, out-of-state placements, or state-administered beds as options for committed youth. Until recently, the state has devoted few resources to developing a comprehensive

aftercare program for youth released from secure facilities.

Economic Factors

Fiscal Incentives

Between 1994 and 1998, West Virginia's expenditures for residential centers, including detention and correctional facilities, increased 68 percent, from approximately \$11.6 to 19.4 million (National Association of State Budget Organizations, 1999). At present, the State has few fiscal incentives to develop non-secure alternatives for juvenile offenders. When a judge places a non-violent offender in secure detention or commits him/her to the state, DJS bears the cost of the placement. Similarly, if a judge places a youth in a private out-of-state facility, DHHR pays for the placement. This may create a fiscal incentive for local jurisdictions and courts to use residential and secure placements as they do not have to pay the cost of those placements.

Motivation for constructing the new detention facilities stemmed in part from the fact that the majority of juvenile crime occurs in West Virginia's urban areas. Because many of the State's detention facilities are located in rural areas, juvenile offenders frequently must be transported, at considerable cost, a significant distance to place them in secure detention (Division of Criminal Justice Services, 1998).

Out-of-State Placements

Although policymakers pointed to the large number of youth placed in out-of-state facilities as a reason to expand the State's training school beds, particularly at Salem, no mechanism existed to ensure that judges would reduce out-of-state placements when more training school beds became available. In addition, youth sent to out-of-state placements typically are perceived to have special treatment needs, but DJS staff have little experience developing and managing specialized treatment programs. Thus, the expansion of training school beds may not result in a major reduction of out-of-state placements. The

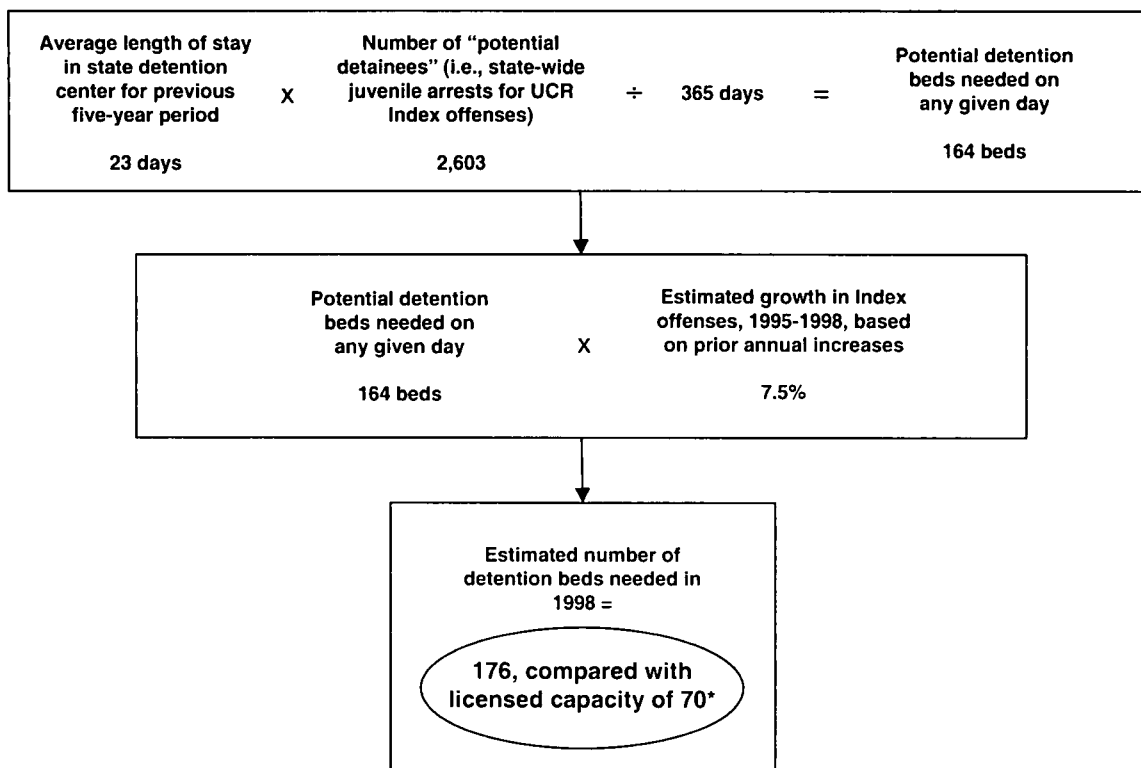
state currently sends around 450 to 500 youth out of state each year. Hoping to stem this flow of money out of West Virginia, legislators funded the building of a 200-bed maximum security facility to house youth from this group who are placed out-of-state for legal reasons. According to agency officials, DJS faces pressure to place youth in this facility, even if they need a treatment bed rather than a secure bed.

Planning for Future Beds

West Virginia has relied on several methods to anticipate juvenile detention and corrections needs. Each method provides different information for informing bed space planning and construction decisions.

The first method involves monitoring trends in juvenile arrests. The percentage increase in juvenile

Figure 3: West Virginia's Method of Estimating Detention Bed Space Needs



Note: The illustration draws on 1995 data used by the Criminal Justice Statistical Analysis Center to project detention bed space needs in subsequent years.

Source: Criminal Justice Statistical Analysis Center, 1998b:35; Collins 1998:51.

arrests for UCR Index offenses during previous years is used to estimate the likely increase in future demands for juvenile corrections and detention space (Figure 3). In 1999, the West Virginia Department of Military Affairs and Public Safety (MAPS) relied heavily on the analysis of juvenile arrest trends to determine there was a need for significant expansion of juvenile detention (MAPS 1999).

Second, the State draws on the judgement of professional consultants who advise the State about conditions of existing detention and correctional facilities. Consultants have advised DJS officials that current facilities are smaller than would be expected in other jurisdictions, and that the state of disrepair of some facilities suggests the need for new construction.

Third, the State obtains recommendations from DJS and its Steering Committees and Sub-committees. In February 1997, an inter-departmental group of West Virginia officials, known as the Thursday Group, endorsed recommendations for responding to the growing shortage of juvenile corrections, detention, and treatment resources in the state. Members of this group included current and former high-ranking officials from DJS,

**West Virginia Thursday Group
Recommendations, 1997**

- Phase in an additional 80 juvenile beds.
- Develop a separate facility for youths transferred to adult court and those awaiting placement in the Salem facility.
- Develop more juvenile programming (vocational, substance abuse treatment, educational, and life skills) to reduce the use of out-of-state placements, with particular emphasis on long-term substance abuse treatment beds.
- Decriminalize status offenses and require family participation in services.
- Maintain adequate resources for prevention programs.
- Add new community-level case workers (up to two times the current number of 50).
- Create state-of-the-art facilities and programs for clients and victims.

Source: Division of Criminal Justice Services, 2000:56.

Department of Corrections, the West Virginia Supreme Court, the Office of Social Services, and MAPS.

Recommendations from the Thursday Group focused on West Virginia's need for a range of services and sanctions for young offenders. Other workgroups prepared additional needs assessments for juvenile detention, programming, and bed space; review of legal issues; needs analysis for proposed co-located juvenile facilities; and the study of technology use for supporting education in non-traditional settings.

Present Expansion Plans

DJS incorporated most of the Thursday Group's recommendations into its Three Year Strategic Plan (February 1998), which the passage of HB 2680 required (Division of Criminal Justice Services, 1998). In this strategic plan, DJS estimated that "the need for additional [detention] beds will continue to grow at the rate of 2.5 percent annually" (p. 8). The agency based this projection on recent trends in juvenile arrests for Part I crimes (UCR Index offenses).

Expansion of Secure Detention Plans

The DJS Strategic Plan recommended the construction of four new detention facilities. Construction of the Donald R. Kuhn Juvenile Center, with a capacity of 48, will begin in late 2001. Construction of the Potomac Highlands Regional Juvenile Detention Center, with a capacity of 27, will begin in Spring 2002. North Central and Southern are both slated to be renovated and expanded. The Southern expansion

currently will result in the addition of 4 new beds and possibly a new 16-bed pod; however, if a proposed new detention facility is built, the number of new beds in the pod would be reduced to 10 (Criminal Justice Statistical Analysis Center, 2001b:2; Richardson 2001).

Planning for Future West Virginia Detention Facilities, 2001

	Current Capacity (Bed Space)	Planned Capacity (Bed Space)
Eastern Regional	10	10
North Central	10	25
Northern Regional	19	19
Donald R. Kuhn		48
Potomac Highlands		27
South Central Regional	25	24
Southern (Princeton)	15	19-35
Total	79	172-188

Sources: Criminal Justice Statistical Analysis Center, 2001b; Richardson 2001.

In December 2000, West Virginia closed the South Central Center, with bed space capacity of 19, because its DHHR license expired. The closing resulted in the relocation of youth at this facility to Salem Building-Jones II. A new South Central facility will be built in Spring 2002, raising West Virginia's

current total detention capacity from 79 to 188. This total includes the existing juvenile detention centers and those that are currently in construction or in planning.

Expansion of Corrections Beds

West Virginia currently has the capacity to house up to 308 youth in correctional facilities. This capacity results from recent expansions to both the Industrial Home for Youth and the Davis Center. The Industrial Home for Youth is a maximum-security facility for regular commitments (Criminal Justice Statistical Analysis Center, 2001a). By contrast, the Davis Center is a minimum-security facility that relies on a unit management model with treatment-oriented staff, employing a unit manager, one to two case workers, and one to four counselors.

Planning for Future West Virginia Correctional Facilities, 2001

	Current Capacity (Bed Space)
Industrial Home for Youth	248
Davis Center	60
Total	308

Source: Criminal Justice Statistical Analysis Center, 2001a.

Conclusion

Planning for detention and correctional bed space needs in West Virginia has been affected by a wide range of affected. Increases in juvenile arrests, overcrowding in detention and correctional facilities, and increases in out-of-state placements all factored into considerations to increase detention and correctional capacity. Still other considerations played a role, including organizational restructuring of juvenile justice operations, intra-agency coordination of efforts, and economic and political conditions. What the impacts of these decisions will be, and how bed space planning will proceed in coming years, remains to be seen.

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WISCONSIN

Introduction

The 1990's brought sweeping changes to the Wisconsin juvenile justice system. The most prominent change involved the transfer of authority for all juvenile delinquency programs and services to the Wisconsin Department of Corrections (DOC). A new Juvenile Justice Code also went into effect in 1996. Under the new Code, juvenile courts in Wisconsin were allowed to use secure detention as punishment. This change contributed to increased utilization of detention, after many years in which detention facilities operated significantly below capacity. Other legislative changes altered the juvenile justice system. For example, Wisconsin enacted a law excluding all 17-year-olds from juvenile court, which led to temporary reductions in the utilization of state-run juvenile correctional facilities. Still, in recent years the average daily population in correctional facilities increased, almost doubling between 1988 (516) and 1998 (951). The primary reason for this increase appears to be the State's creation of a Serious Juvenile Offender (SJO) designation, mandating lengthy minimum terms in correctional facilities, and not, as was anticipated, legislation that lowered the age of delinquency from 12 to 10-years-old.

The policy changes in Wisconsin's juvenile justice system have introduced significant challenges for agencies that need to anticipate future demand for juvenile detention and correctional bed space. Some Wisconsin officials believe they may have to address a declining demand, although different approaches to estimation can lead to different projections. The responsibility for interpreting future projections and planning for future space needs rests squarely with the Department of Corrections and its Division of Juvenile Corrections.

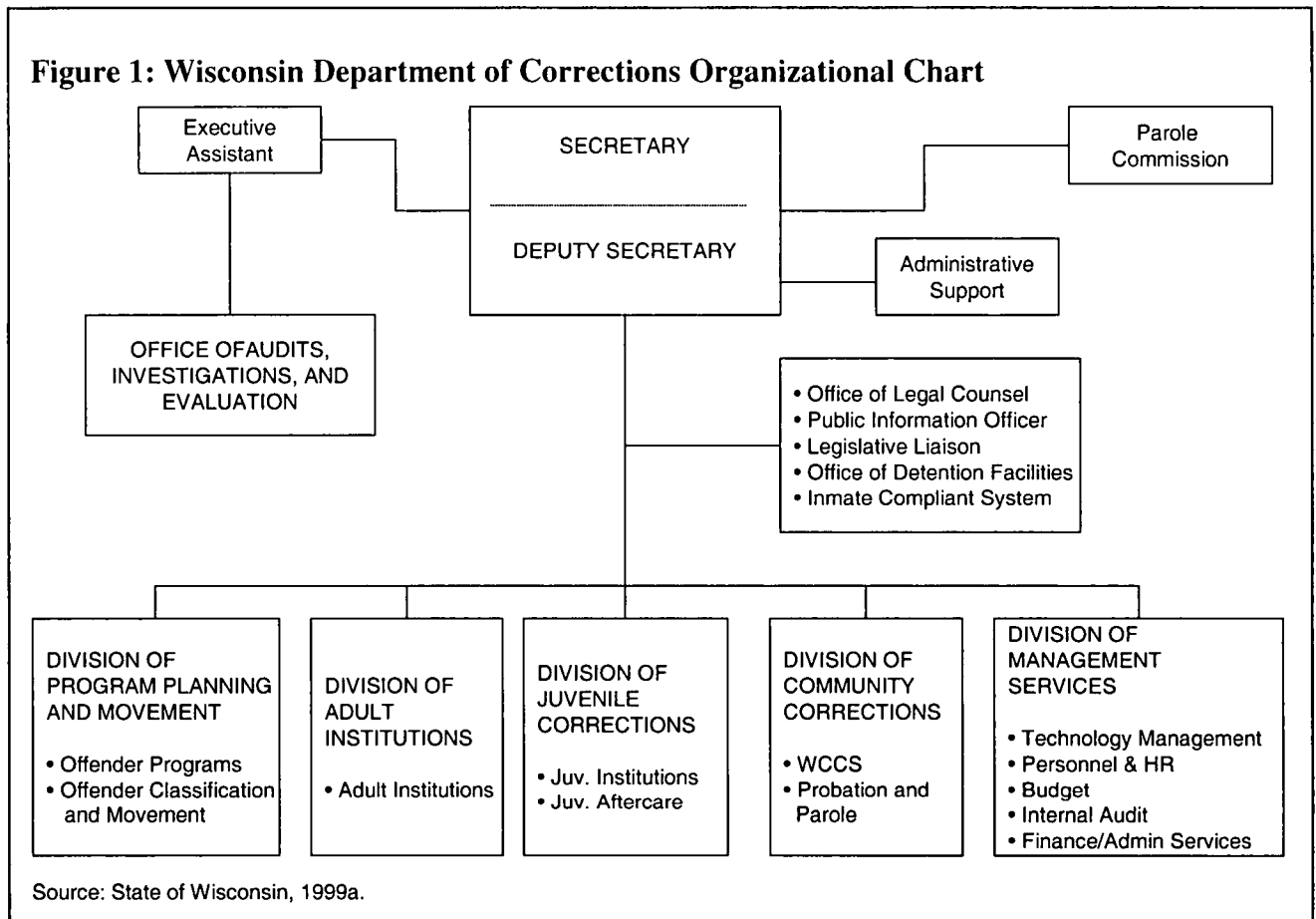
Justice System Organizations

Effective July 1, 1996, the Wisconsin State Legislature transferred authority over juvenile delinquency programs and services from the Department of Health and Social Services to the Department of Corrections (Wisconsin Legislative Fiscal Bureau, 1999). The Wisconsin Department of Corrections administers all correctional institutions and community corrections. As a branch of the DOC, the Division of Juvenile Corrections (DJC), oversees the State's juvenile institutions (Figure 1). Wisconsin operates five Juvenile Correctional Institutions (JCIs), and the Department of Health and Family Services operates a sixth juvenile correctional facility for mentally ill offenders. Counties operate secure juvenile detention facilities, but the state licenses and approves the facilities to assure that they meet minimum physical plant and programming requirements.

Wisconsin law defines a juvenile as any person under age 18. However, any person 17 or older who has violated a state or federal criminal law is treated as an adult for the purpose of prosecution and punishment. In addition, recent changes to the state's waiver statutes essentially exclude all 17-year-olds from the juvenile justice system through transfer to adult court. The result has been a dramatic decline in the juvenile justice workload that was only partially offset by other changes, such as lowering the age at which a youth can be adjudicated as delinquent from 12- to 10-years-old (Torbet et al., 2000).

Court Structure

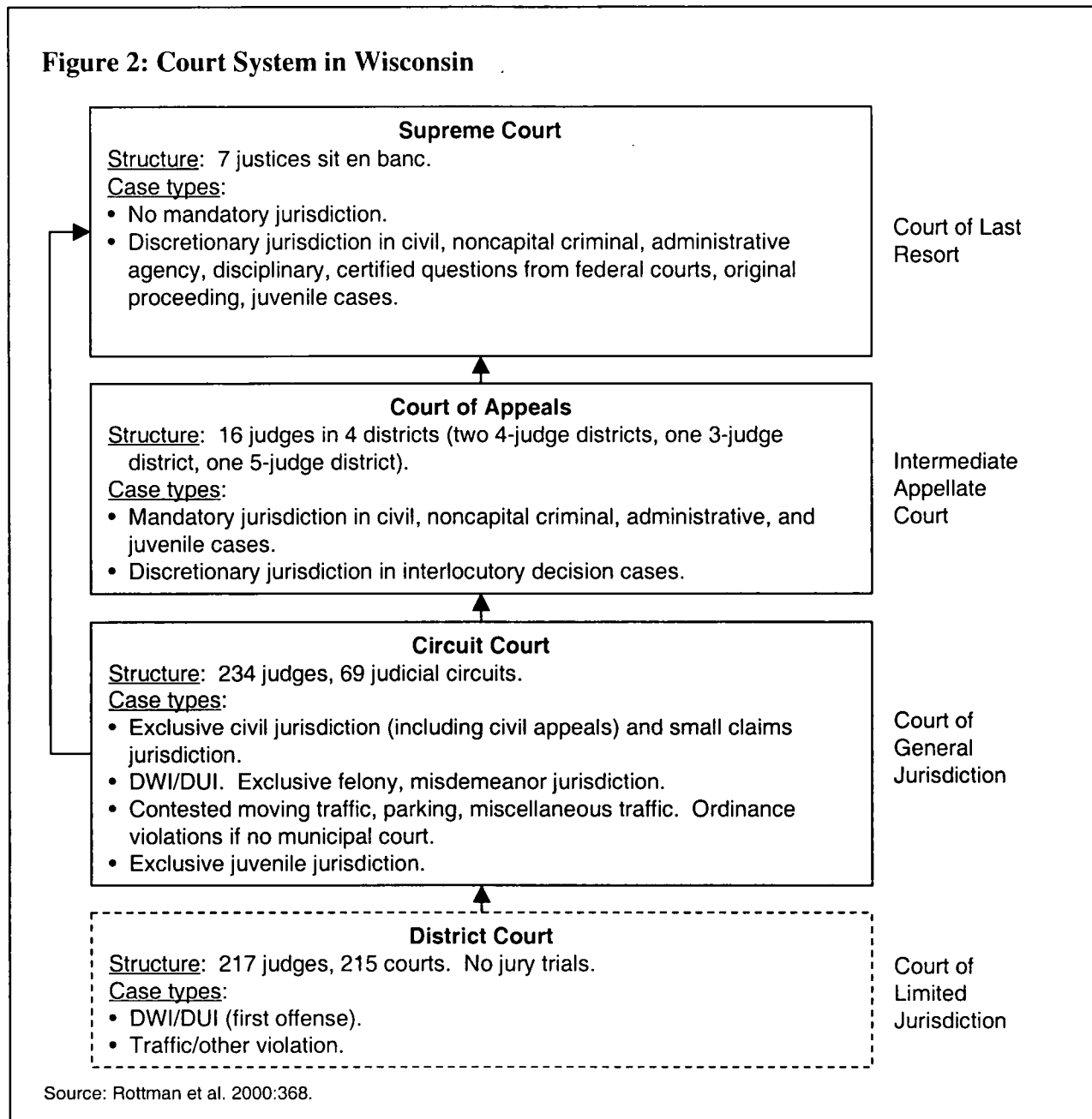
The municipal courts, circuit courts, courts of appeals, and the State Supreme Court comprise the Wisconsin court system (Figure 2). Circuit Courts, of which there are 69 with 234 sitting judges, serve as general jurisdiction trial courts and have jurisdiction over all delinquency proceedings. Circuit court judges are elected to six-year terms and vacancies are filled by gubernatorial appointment.



In Wisconsin, the juvenile court holds exclusive jurisdiction over cases involving youth 10 to 16 years of age who violate state or federal criminal laws. The one exception involves youth are waived to adult court, where jurisdiction essentially is transferred to the adult court. The juvenile court also has jurisdiction over status offenders who are 17-years-old. Until recently, the juvenile court had jurisdiction over 17-year-olds who committed felonies, but in most instances such cases now are handled by the adult courts.

Wisconsin does not have an independent juvenile court system. Instead, circuit courts serve as juvenile courts. Youth ages 12 to 16 who violate a county, town, or municipal ordinance fall under municipal court jurisdiction. Under the state's juvenile code, youth age 10 and younger who commit delinquent acts are handled under the juvenile justice code but typically are referred to services or protective care (Hall and Arnesen, 1996).

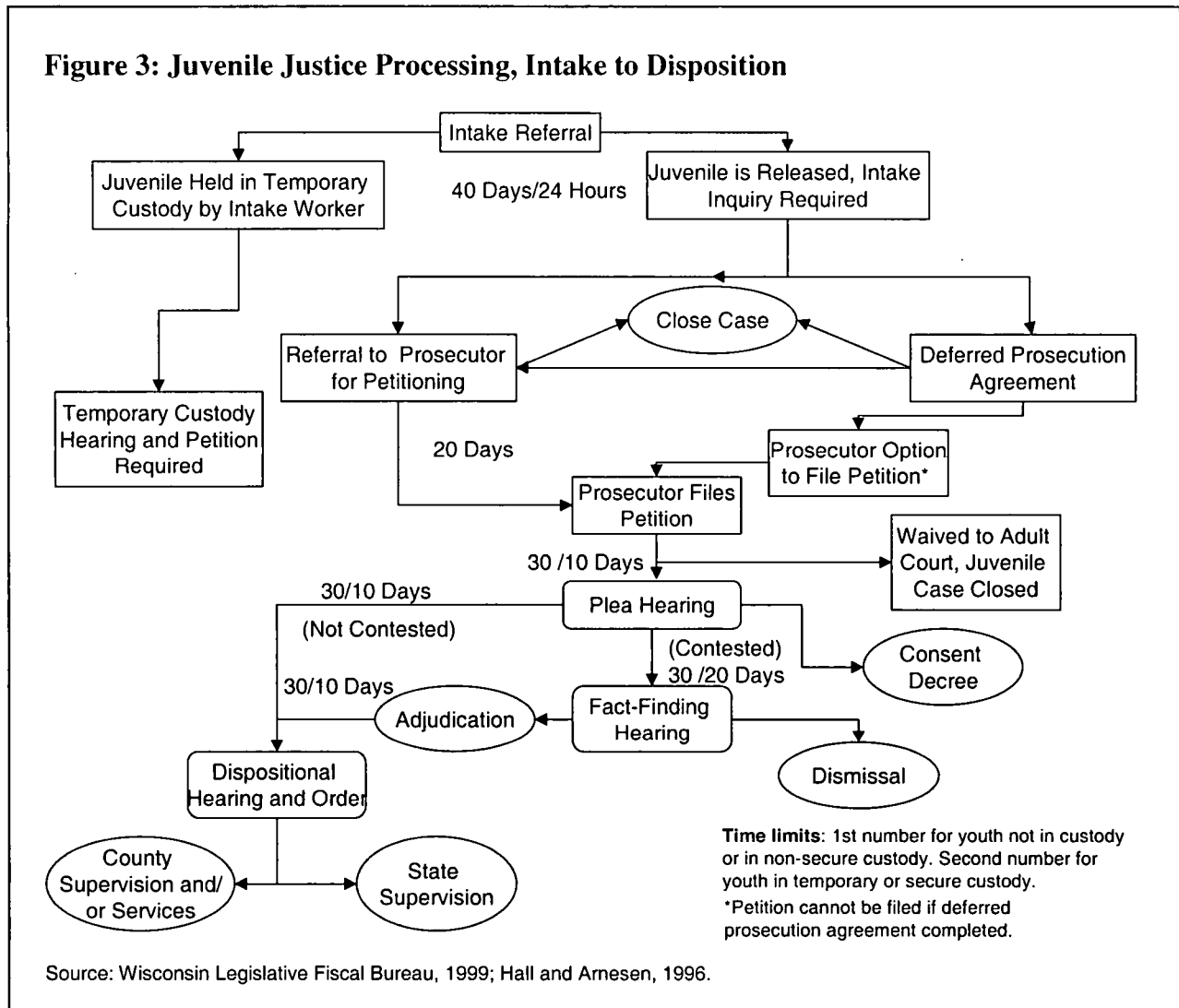
Figure 2: Court System in Wisconsin



Intake Process

After arrest, intake is the next major stage of processing in the juvenile justice system (Figure 3). Law enforcement officers, school officials, parents, or other parties may refer a youthful offender to intake. An intake worker then screens a juvenile upon referral. The intake stage serves several purposes: to determine whether and where the state will hold the youth; to conduct inquiries about the case; to

Figure 3: Juvenile Justice Processing, Intake to Disposition



develop a referral plan; and to provide counseling, referral services, and assistance to the court (Wisconsin Legislative Fiscal Bureau, 1999).

The intake worker has several dispositional options. He or she may: dismiss the case; recommend a deferred prosecution agreement with the juvenile (which may not involve any out-of-home placement); implement a consent decree (Figure 4), which establishes an informal sanction involving the youth and his or her parents; or request that the District Attorney initiate formal delinquency proceedings (Hall and Arnesen, 1996). Intake workers must make a determination as to legal sufficiency within 40 days of referral and then make a recommendation to the district attorney (National Center for Juvenile Justice, 2000). For deferred prosecution, youth are referred for counseling and agree to participate in community-

Figure 4: Consent Decrees in Wisconsin

- Written agreement between child, parents, social worker, and court.
- Entered into after filing of delinquency petition, but before adjudication. Often entered at plea hearing.
- Decree can be in effect for one year, and may be extended another year.
- If child or parent does not meet decree conditions, formal proceedings may resume. Otherwise, no further action may be based on the original charges

Source: Hall and Arnesen, 1996:30.

based services (Figure 5). If appropriate, the youth provides restitution to a victim. Juveniles who comply with the conditions of the deferred prosecution receive no formal charges or dispositions.

Temporary Custody

The state may not hold a juvenile in secure detention unless an intake worker has interviewed him or her and approved the youth for temporary

custody. The youth then may be held in non-secure custody, a secure detention facility, a county jail, or a municipal lockup. If the youth is not released, a judge or juvenile court commissioner must hold a hearing within 24 hours. If the state has not filed a petition to initiate proceedings against the youth by the time of the hearing, the youth must be released, although a judge or juvenile court commissioner may extend temporary custody for another 48 hours (Wisconsin Legislative Fiscal Bureau, 1999).

Intake Inquiry

If the state does not hold a juvenile in physical custody, an intake worker reviews the case and then makes recommendations regarding the type of legal proceedings that should be filed. The intake worker may close the matter with no action, recommend deferred prosecution or a consent decree, or request the initiation of formal delinquency proceedings. Consent decrees differ

Figure 5: Deferred Prosecution Agreements in Wisconsin

- Agreement between juvenile court worker, child and parents. Can only be entered into before filing of delinquency petition.
- May include elements such as supervision, curfews, counseling for the youth and/or parents, restitution, or community service.
- If child and parents comply, no formal charges may be filed on the original referral.
- Generally cannot exceed one year.

Source: Hall and Arnesen, 1996.

from deferred prosecution in that they can occur after a delinquency petition has been filed but prior to adjudication. Typically they are introduced at plea hearings and involve the child, his or her parents, a social worker, and the court (Hall and Arnesen, 1996:30).

Delinquency Proceedings and Hearings

If a district attorney files a delinquency proceeding, three types of hearings follow for the adjudication and disposition of the juvenile's case. At a *plea hearing*, held within 30 days of the filing of a juvenile delinquency petition, the court accepts a plea from the youth. If the youth does not contest the charges in the petition, the judge may schedule a dispositional hearing.

If the youth does contest the charges, then, within 30 days, the court first holds a *fact finding hearing*. This hearing resembles an adult court trial without a jury. The judge uses the fact finding hearing to determine whether the juvenile committed the offense in question.

If a youth is adjudicated delinquent, the court holds a *dispositional hearing*, at which the court makes a dispositional order. The court must hold this hearing within 30 days, or 10 days if the child is in secure detention (Hall and Arnesen, 1996). The dispositional order lists specific services to which the court refers the juvenile, states conditions with which the juvenile must comply, and outlines a supervision plan. These orders generally remain effective for up to one year. However, if the court places the youth in a juvenile correctional facility, the orders hold for two years or until the youth reaches age 18, whichever comes first. If the court disposes the youth as a Serious Juvenile Offender (SJO), the order applies for five years in the case of Class B felonies or until the youth is 25 in the case of a Class A felony (Wisconsin Legislative Fiscal Bureau, 1999).

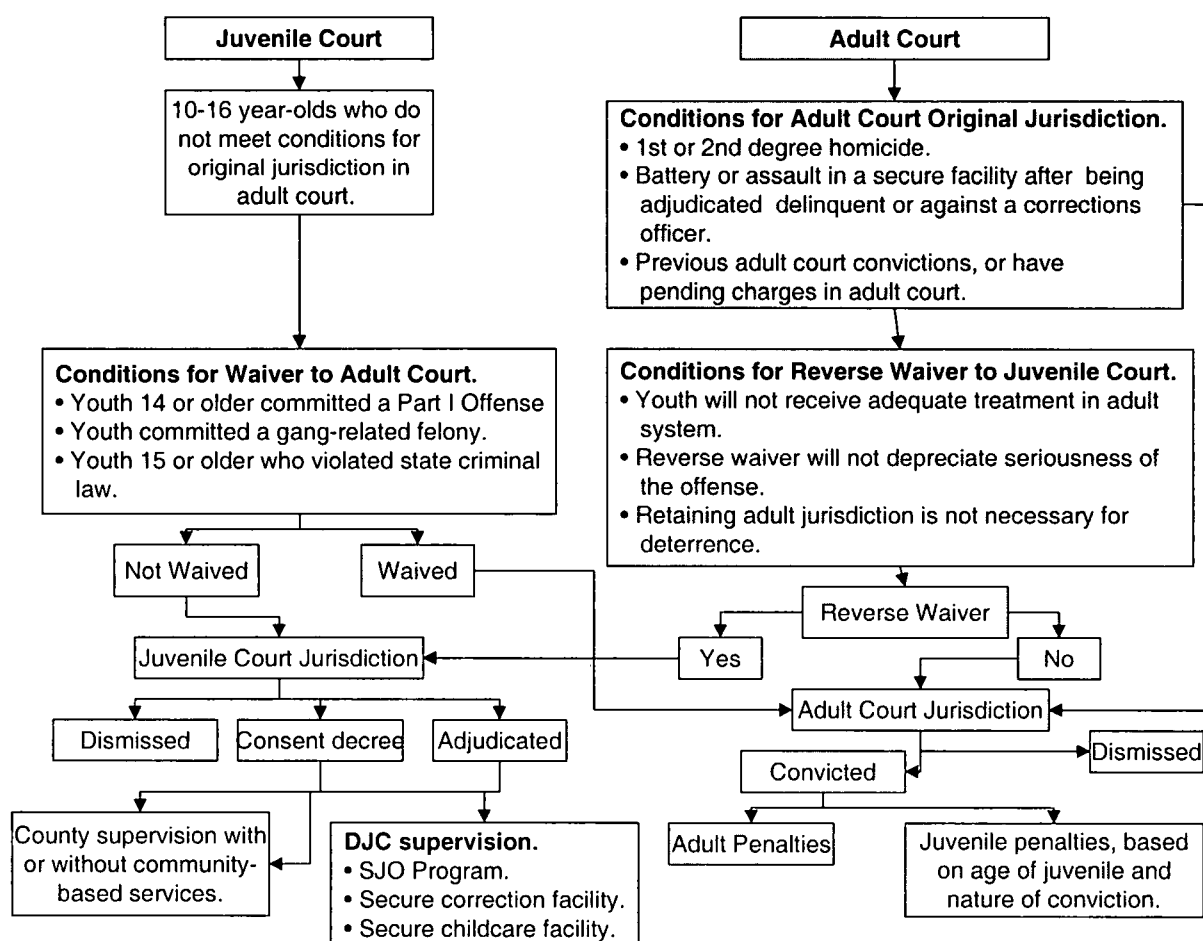
Original Adult Court Jurisdiction and Waiver to Adult Court

Adult courts have original jurisdiction over cases involving serious crimes or youth with prior adult court convictions (Figure 6). In these cases, youth remain in the adult system, but can be transferred back

to the juvenile system under three conditions: if the court determines that the juvenile will not receive adequate treatment; the youth can receive an appropriate punishment in the juvenile system; or waiving the case to juvenile court will be sufficient to deter other offenders. The court may not return youth to juvenile court in cases of first-degree homicide by youth age 15 or older (Wisconsin Legislative Fiscal Bureau, 1999).

Juvenile offenders who commit any criminal offense and are age 15 or older may be waived to adult court. Youth are statutorily excluded from the juvenile justice system for commission of first degree intentional homicide, attempted first degree intentional homicide, first degree reckless homicide, and

Figure 6: Court of Jurisdiction in Wisconsin



Source: Wisconsin Legislative Fiscal Bureau, 1999.

second degree intentional homicide, as well as for assault or battery committed by an adjudicated delinquent against a DOC employee, officer, inmate, or any visitor to the DOC. The minimum age of transfer is age 14 for specified offenses, including felonies committed on behalf of gang members, felony murder and second degree reckless homicide, first or second degree sexual assault, hostage taking, kidnapping, armed robbery, armed burglary, and manufacture, distribution, and/or delivery of a controlled substance.

Youth in adult court face regular criminal court proceedings and penalties, except under certain conditions where the court may impose a juvenile penalty. In such cases, either the offense does not mandate original court jurisdiction, or the court finds that a juvenile disposition would serve the best interests of the juvenile and the public.

In cases not involving statutory exclusion to adult court but where waiver is an option, a district attorney, the juvenile, or a judge may petition for waiver of the case to adult court. However, the case must meet certain eligibility conditions. These include the youth's age and the type and seriousness of offense committed, as well as the youth's prior record, his or her personality, the adequacy of services in the adult system, and the desirability of processing youthful offenders alongside of adult offenders who have been charged with similar offenses (Hall and Arnesen, 1996:30). At a waiver hearing, the juvenile does not have a right to a jury, but may present testimony on his or her own behalf and cross-examine witnesses. Adult court procedures, including the right to a jury trial, apply to those youth who are waived to the criminal justice system.

If an adult court sentences a youth under age 16 to a state prison, DOC places him or her in a secure juvenile facility. The DOC then has discretion over when and if they transfer juveniles to adult prison, but youth must be at least 15-years-old (Wisconsin Legislative Fiscal Bureau, 1999; Hall and Arnesen, 1996:31).

Confinement Capacity

On October 29, 1997, Wisconsin had 2,285 juvenile offenders in secure and non-secure residential facilities or placed in detention (Table 1). Most were in placement for person offenses (681) or property offenses (795), yet many were in placement for miscellaneous public order (297) and status offenses (132). These patterns are largely similar whether one looks at placements or detention.

Detention

Youthful offenders are placed in secure detention for three primary reasons: prior to adjudication, as a disposition, or as a temporary placement pending a longer term placement in a secure institutional setting. Although the state regulates and monitors secure detention facilities, Wisconsin law prohibits the use of state funds to pay for construction or operation of secure detention facilities. As a result, responsibility for funding secure detention rests completely with counties (Bezruki, 1999:11). County boards of supervisors may also contract with DOC to use state secure correctional facilities for detaining youth when local jurisdictions have no available detention beds. They may also contract with private facilities for the secure detention space (Wisconsin Legislative Fiscal Bureau, 1999).

As of October 1999, the state licensed 16 secure juvenile facilities with a combined capacity of 541 beds. Data from 1998 indicate that most counties have underutilized their existing bedspace capacity (Table 2). The statewide average daily population (ADP) was 67 percent of the maximum capacity in that year (519). In all but two counties, utilization rates were significantly below capacity, with a low of 40 percent in Marathon County and 45 percent in Racine County, which has the largest detention facility in the state.

Table 1. Census of Juveniles in Residential Placement (1-Day Count): Offense Profile by Placement Status, Wisconsin, 1997

	Total	Placement Status		
		Committed	Detained	Voluntary Admission
Total	2,285	1,860	408	18
Delinquency	2,154	1,794	354	6
Violent Crime Index*	348	330	18	0
Property Crime Index**	669	591	78	0
Person	681	603	75	0
Criminal homicide	33	33	0	0
Sexual assault	108	99	9	0
Robbery	147	144	3	0
Aggravated assault	63	57	6	0
Simple assault	285	228	54	0
Other person	48	45	3	0
Property	795	684	108	3
Burglary	219	183	33	0
Theft	147	135	15	0
Auto theft	285	258	27	0
Arson	18	15	3	0
Other property	126	93	30	3
Drug	171	150	21	0
Trafficking	75	75	0	0
Other drug	99	75	21	0
Public order	297	267	27	3
Weapons	108	99	9	0
Alcohol	0	0	0	0
Other public order	189	168	21	3
Technical violation	210	90	120	0
Status offense	132	66	54	12
Running away	48	9	33	3
Truancy	27	18	6	3
Incorrigibility	39	27	9	3
Curfew violation	3	0	3	0
Underage drinking	12	9	3	3
Other status offense	3	3	0	0

* Includes criminal homicide, violent sexual assault, robbery, and aggravated assault.

** Includes burglary, theft, auto theft, and arson.

Note: Placements include secure and non-secure facilities. To preserve the privacy of the juvenile residents, cell counts have been rounded to the nearest multiple of three. Committed juveniles include those placed in the facility as part of a court ordered disposition. Detained juveniles include those held awaiting a court hearing, adjudication, disposition or placement elsewhere. Voluntarily admitted juveniles include those in the facility in lieu of adjudication as part of a diversion agreement.

Source: Sickmund and Wan, 1999.

After the new Juvenile Justice Code took effect in 1996, and as a result of increased authority to use secure detention as punishment, the number of delinquents in secure detention has increased (Bezruki, 1999). In addition, under the 1996 reform, judges were authorized to place delinquents in secure detention facilities for up to 30 days, which greatly extended the ten-day limit established in 1987. Previously, once a youth was adjudicated delinquent, the only options available to judges were non-secure placement or commitment to a state correctional facility

Table 2: Detention Resources in Wisconsin, 1998

Location	Capacity (bedspace)	Average Daily Population (ADP)	ADP as Percentage of Capacity
Brown County	12	14	117
Dane County	18	19	106
Eau Claire County	28	21	75
Fond du Lac County	17	12	71
La Crosse County	26	17	65
Manitowac County	21	16	76
Marathon County	20	8	40
Milwaukee County	120	99	83
Oconto County	10	7	70
Outagamie County	26	22	85
Ozaukee County (males only)	14	9	64
Portage County	14	9	64
Racine County	131	59	45
Rock County	35	21	60
Sheboygan County	9	6	67
Waukesha County	18	10	56
Total	519	349	67

Note: In 1999, total capacity increased to 541 (State of Wisconsin, 1999c).
Source: Bezruki, 1999:13.

The lack of available secure detention beds may lead counties to develop alternatives to detention. Alternatives include: holdover rooms (usually a room in an administrative area of a county safety building), home detention and/or electronic monitoring, shelter care, or foster care. The State has

developed these options to reduce the number of youth in detention and, in turn, to comply with the OJJDP Act. Compliance with this Act is necessary if the State is to continue to receive federal funds.

Corrections

The court may place any adjudicated juvenile in a secure correctional facility if he or she is older than 12. If the juvenile is younger than age 12, the court typically places the youth in a Department of Corrections juvenile reception facility or in a specialized treatment facility. Juveniles who have committed offenses equivalent to Class A and B felonies can be disposed as Serious Juvenile Offenders (SJOs) and placed in

a secure correctional facility. Juvenile court or the DOC may also grant Type 2 institutional status to an offender, meaning that he or she may serve all or part of his or her sentence in a less restrictive community placement rather than in a Type 1 secure correctional facility (Wisconsin Legislative Fiscal Bureau, 1999).

The population of youth in juvenile correctional facilities has steadily increased (Table 3). The average daily population nearly doubled between 1986 and 1996 (511 to 981). It then stabilized, ranging in recent years between 900 to 950. As of April, 2001, the total population of juveniles in JCIIs was estimated to be 947 (State of Wisconsin, 2001).

The DJC operates five correctional facilities – four for males and one for females – that hold committed juvenile offenders in Wisconsin (Table 4). One of the five, SPRITE (Support, Pride, Respect,

Table 3. Average Daily Populations of Secure Juvenile Correctional Facilities, 1986-1998

Year of Release (Calendar Year)	Average Daily Population
1986	511
1987	514
1988	516
1989	557
1990	579
1991	624
1992	660
1993	749
1994	867
1995	963
1996	981
1997	909
1998	951

Source: Wisconsin Legislative Fiscal Bureau, 1999:43.

Table 4: Juvenile Corrections Facilities in Wisconsin, 2001

Facility	Capacity (bed space)	Population
Ethan Allen School	342	451
Lincoln Hills School	298	329
Southern Oaks Girls School	57	92
Youth Leadership Training Center	48	20
SPRITE	12	12
Mendota Juvenile Treatment Center	43	43
State Total 2001	800	947

Source: State of Wisconsin, 2001; pop. as of 4/6/01.

Initiative, Teamwork, and Education), is an adventure-based education program for males that uses an off-site facility in Oregon. In July 1999, the State began converting another large facility in Prairie du Chien, from a prison for young adult offenders ages 15 to 21 into a juvenile facility

with 138 beds. However, because of declines in juvenile commitments to secure facilities, this conversion was stopped. The Department of Health and Family Services (DHFS) operates the Mendota Juvenile Treatment Center, a secure mental health unit for male juveniles from other secure correctional facilities.

- The Ethan Allen School (EAS), near Milwaukee, opened in 1959 and has a bedspace capacity of 342.
- Lincoln Hills School (LHS), near Wausau, opened in July 1970 as a boys' school, but began to include girls in the population during 1972. LHS has a 298 bedspace capacity.
- The Southern Oaks Girls School (SOGS) opened in October 1994 to accommodate girls then at LHS, and began accepting new court commitments in November of that year. The institution has 57 beds.
- The Youth Leadership Training Center, established in 1996, is a boot camp that typically runs for four months. The program primarily serves older youth and includes a focus on military drills and instruction, vocational training, treatment for anger management, adventure-based activities, community service, and five months of aftercare.

Of those offenders held in non-secure or secure detention or correctional facilities on October 29, 1997, 69 percent were held in public facilities, and 31 percent were held in private, in-state facilities (Sickmund, 2000). According to 1998 data from the DOC, juveniles in Wisconsin's secure correctional facilities ranged in age from 12- to 20-years old, with males averaging 16.4 years-of-age and females averaging 15.7 years. Most of these youth originated from densely populated counties of southern and southeastern Wisconsin.

As of April 6, 2001, the state had a total of 947 youth assigned to secure correctional facilities, exceeding total available capacity and leading to double-celling of juveniles at facilities (Table 4). The overutilization is in part due to two trends during the past decade: increased ADPs (Table 3), which have stabilized in recent years, and a relatively consistent

Table 5. Average Length of Stay at Correctional Facilities, 1991-1998

Year of Release	Days
1991	253
1992	237
1993	237
1994	253
1995	276
1996	276
1997	276
1998	269

Note: Average length of stay includes youths committed to SPRITE and to mental health facilities.

Source: Jackson. 2000.

average length of stay. As Table 5 shows, the average length of stay has typically ranged between 8 and 9 months (Wisconsin Legislative Fiscal Bureau, 1999). The opening of a new facility at Prairie du Chien may help to alleviate the overutilization problem (Jackson, 2000).

The Department of Corrections does not anticipate significant growth in the population at juvenile justice facilities over the next biennium. Given that populations do not appear to be increasing, the Department has no plans to expand the number of secure juvenile correctional beds.

Release from Juvenile Correctional Institutions

Upon release from juvenile correctional facilities, the Office of Juvenile Offender Review (OJOR) transitions youth into specific programming or placement. Most youth are released to their parents (34%)

or placed in a group home (16%) or child caring institution (16%) (Table 6). The remainder are placed with other relatives, in foster homes, independent living, or some other arrangement (State of Wisconsin 2001b).

Alternatives to Secure Corrections

When possible and appropriate, Wisconsin diverts juveniles from secure correctional facilities into alternative placements, including the juvenile corrective sanctions program, boot camp (Youth Leadership Training Center), and SPRITE. Current law requires the DOC to provide a Corrective Sanctions Program that serves 136 juveniles. The

Table 6. Placement of Youths Released from Juvenile Correctional Institutions, 1997

Type of Placement	Number	Percent
Parental home	401	34%
Other relative home	43	4
Foster home	33	3
Group home	186	16
Child caring institution	196	16
Independent living	11	1
Other	194	16
Unknown	125	11
Total	1,189	100

Source: State of Wisconsin, 2001b.

Office of Juvenile Offender Review in the DOC selects juveniles eligible for the program, which involves community supervision and intensive surveillance (including electronic monitoring). The boot camp provides military academy-style training for 16 weeks, with a 20-week aftercare program in the community. SPRITE, an outdoor adventure program in Oregon, runs for 28 days (Wisconsin Legislative Fiscal Bureau, 1999).

Residential Treatment Centers/Child Caring Institutions

Child caring institutions (CCIs) offer the most restrictive placement after juvenile correctional facilities, and are more expensive. Although most CCIs are non-secure, 1995 legislative changes allowed them to develop secure facilities. Recently, 60 percent of CCI populations were delinquents, and almost all youth placed in CCIs are there by court order. In response to increasing costs of placement at CCIs,

counties have been decreasing lengths-of-stay at these facilities, and combining stays with community-based programs (Hall and Arnesen, 1996:30).

Community-Based Juvenile Justice Programs

Wisconsin counties provide or contract for community-based programs and services for delinquents and at-risk youth. There are five main types of community-based programs in the state.

- **Early Intervention.** These programs target juveniles at risk of delinquency or those who have already committed minor offenses. They include school programs to identify at-risk children, and provide mentors and counseling.
- **Day Treatment.** Day treatment incorporates educational programming, counseling, recreational activities, and work programs into a program for delinquent juveniles. These youth generally remain on-site during the entire day.
- **Intensive Supervision.** Under this program, counties purchase or provide surveillance, which may include electronic monitoring, and treatment services to youth who have been adjudicated delinquent and ordered to participate in intensive supervision. An intensive supervision caseworker may not have more than 10 youth on his or her caseload, and must have at least one face-to-face contact with each youth per day. Intensive supervision is often part of an aftercare program.
- **Restitution.** The court may order juveniles who injure others or damage property to make restitution to the victim as a condition of a deferred prosecution agreement, a consent decree, or a delinquency disposition. The restitution is part of a more general attempt to implement restorative justice principles, and can include community service, attendance at victim awareness classes, or offender/victim conferences.
- **Aftercare.** When a youth is placed in a JCI, the court order must require aftercare, which

includes supervision in the youth's own community, with the supervision continuing until the court order expires. Aftercare is designed to ease the return of youth to the community, as well as monitor the risk of that youth to the community. It may include a stay in foster care or group homes. Regular or intensive aftercare may be provided. Regular aftercare includes 2 or fewer contacts per week with the youth and family, and little or no contact with schools or other agencies. Caseworkers supervise at least 20 of these cases at a time. Intensive aftercare services include 3 or more contacts per week with the youth, weekly contact with parents, and several monthly contacts with the school and other agencies. By DJC policy, youth released from the Youth Leadership Training Center are placed on intensive supervision, and must receive state-provided aftercare. Many counties operate their own aftercare, but almost half purchase aftercare services from the state. Approximately 70 percent of youth released from a JCI to juvenile supervision are on state-provided aftercare, and 30 percent on county-provided aftercare.

Decision-Making Context

Organizational Factors

In Wisconsin, individual counties determine how a youth is detained. This situation creates some conflict between state and local jurisdictions, and it creates inconsistency in processing. For example, there are documented differences in judicial decision making at the county level (Bezruki, 1999:23). Some judges afford considerable leeway to intake workers and caseworkers to impose conditionally suspended sanctions, while in others judges rarely grant such discretion. In addition, some county boards give intake workers and caseworkers the power to place juveniles in 72-hour holds in secure detention facilities for violation, or alleged violation, of court-ordered supervision (Bezruki, 1999:25).

The diffusion of authority across counties also leaves data collection and reporting at the discretion of the counties. As a result, not all jurisdictions report information to the state. When they do, the

inconsistency in jurisdictional reporting and the lack of a state-level court processing database makes it difficult to monitor or track processing trends.

Economic Factors

Youth Aids

The Community Youth and Family Aids program (Youth Aids) allocates money to each county from state and federal funds. Counties may use these funds to pay for juvenile delinquency-related services, such as out-of-home placements, non-residential, and community-based services for youth. The state bills each county for the cost of holding juveniles in the state's secure correctional facilities and for community placements following these commitments.

Table 7. County vs. State (Youth Aids) Funding for Juvenile Justice System Operations, 1988-1999

Year	County Expenditures	Youth Aids Allocation	Total County Expenditures	County Contribution to Total (%)
1988	\$19,329,038	\$66,373,857	\$85,702,895	23
1989	\$28,237,743	\$68,513,655	\$96,751,398	29
1990	\$29,860,911	\$73,108,324	\$102,969,235	29
1991	\$34,758,583	\$78,619,659	\$113,378,242	31
1992	\$43,302,073	\$79,518,237	\$122,820,310	35
1993	\$53,775,584	\$80,302,559	\$134,078,143	40
1994	\$63,459,634	\$83,343,531	\$146,803,165	43
1995	\$77,508,684	\$85,656,291	\$163,164,975	48
1996	\$89,076,836	\$80,607,118	\$169,683,954	53
1997	\$99,138,906	\$82,301,632	\$181,440,538	55
1998	\$118,818,792	\$83,557,512	\$202,376,304	59
1999	\$121,019,972	\$86,564,211	\$207,584,183	58
Increase, 1988-1999	515%	26%	142%	160%

Note: Totals do not include funding for law enforcement or administration. When counties place youths in Juvenile Correctional Institutions, they must reimburse the State for the placement and for any post-release community placements.

Source: Hagan, 2001a.

Created in 1979, the Youth Aids program originally did not require counties to reimburse the state for juveniles placed in state secure correctional facilities. Concerns arose that this system created a fiscal incentive for placing juveniles in secure care. As a result, the State Legislature enacted the Youth Aids program (Wisconsin Legislative Fiscal Bureau, 1999).

Since the inception of Youth Aids, the percentage of county juvenile delinquency service expenditures the program funding covers has fallen dramatically. The decline results in part from the fact that counties must reimburse the state for using state-run correctional institutions and that they increasingly are relying non-incarcerative sanctioning alternatives. Counties increasingly have shouldered the costs of juvenile justice operations, even though state contributions have increased over time (Table 7). For example, from 1988 to 1999, the county-level contribution to juvenile justice system operations increased from 23 percent in 1988 to 58 percent in 1999. Although Youth Aids contributions to counties increased 26 percent during this time period, county contributions increased 515 percent.

The Youth Aids funding has not kept pace with county contributions because the formula used to determine Youth Aids allocations, which includes county juvenile populations, number of juvenile arrests, and secure facility placements, has not been updated since 1981. If charges to the counties for secure facility placement follow recent trends, they likely will continue to increase. For example, rates rose from around \$108.75 per day to \$154.94 per day between 1992 and 1997, as a result of higher facility operating costs and lower juvenile populations.

Although counties can reduce costs by sending fewer juveniles to state facilities, lower average daily populations also increase the cost to the state of operating these facilities. Reducing the number of youth in the facilities increases the cost per youth, and thus the cost passed on to the counties from which these youth originate. This increase results from the fact that fixed costs incurred for security, utilities, and administration remain relatively stable regardless of population fluctuations. At the same time, however, as the number of youth in a facility decrease, so, too, do the variable costs, such as those associated with staffing, meals, and treatment. This variable cost reduction can offset the per-youth increase (State of

Wisconsin, 1998b).

County-Administered System

Wisconsin reports that counties base detention decisions on two factors: the availability of beds, and more importantly, the cost of those beds. Counties usually look for the cheapest alternative for detaining juveniles, which in turn has affected the number of placements in state facilities. For example, after Wisconsin initiated the Youth Aids program, which required counties to reimburse the state for placements in its facilities, placements in state institutions dropped 50 percent. Now, state facilities compete with private facilities for youth. State facility prices have remained at about \$150 per day per youth, while private facility prices have risen to around \$200 per day per youth. Mental health costs are even higher, averaging \$400 per day per youth. The state lowered its costs to the county by increasing the amount of state money that it devoted to its facilities, as well as by reducing staffing.

Budget

Between 1991 and 1998, expenditures for juvenile justice in Wisconsin increased 84 percent, from \$113 million in 1991 to \$208 million in 1999 (Hagan, 2001b). Of the state's \$202 million in total juvenile justice expenditures in 1998, 26 percent (\$52 million) funded placements in juvenile correctional institutions, 23 percent (\$46 million) in inpatient and institutional care, and 24 percent (\$48 million) in community residential services. Expenditures per client also have steadily increased over time, from \$3,635 in 1991 to \$5,400 in 1998 (State of Wisconsin, 2000). Although the State of Wisconsin had a \$1 billion budget surplus at the end of 1999, none of it was targeted for building new juvenile correctional facilities. Rather, the state focused on developing multi-purpose uses for its institutions, based on local need.

Legislative Factors

In the 1990's, concerned by increases in the amount and severity of juvenile crime in the state and the nation, Wisconsin legislators and the public called for reform of the state's juvenile justice system. A series of recent changes, most significantly the creation of *Chapter 938, The Juvenile Justice Code*, affected the number and characteristics of youth entering the juvenile corrections system and the range of responses available to the system for dealing with youth offending (Torbet et al., 2000). Several revisions to juvenile justice law and policy have had significant effects on juvenile corrections.

Exclusion of 17-year-olds from juvenile court

Wisconsin reduced the upper age of original juvenile court jurisdiction from 17 to 16. As of 1996, all 17 year-olds are treated as adults during investigations and prosecutions for law violations (1997 Wisconsin Act 27, Section 2423 et seq.).

During the following two years, the number of admissions of youth aged 17 and over into juvenile correctional institutions dropped by over 50 percent from 1995 levels. This in turn reduced the overall population at Wisconsin's juvenile institutions. Although this legislation reduced population pressure on juvenile facilities, it increased that on adult facilities, where the state began to send most of these youth.

Motivation for the exclusion of 17-year-olds and above originated in part with an interest in achieving consistency with neighboring states and their justice systems. Policymakers in Wisconsin were concerned, for example, that Chicago-based offenders were using Wisconsin youth to expand illicit drug markets (Torbet et al., 2000:8). By placing older youth in the adult system, policymakers believed they would be able to discourage the expansion of drug markets into Wisconsin's urban areas.

Lower age of delinquency

The state lowered the age, from 12- to 10-years-old, at which a child can be adjudicated as a

delinquent. There are no special restrictions on the dispositions available for these younger offenders. The state anticipates that this expansion may result in greater demand for staff and program resources for younger youth.

Creation of Serious Juvenile Offender (SJO) designation

This legislation pertains to juveniles who have committed acts categorized as Class A or B felonies. For juveniles given the SJO disposition, juvenile courts must commit the cases to the Department of Corrections for a minimum of 5 years or up to age 25, with the state assuming the costs for these commitments (Wisconsin Legislative Fiscal Bureau, 1999). In March 1997, 28 institutionalized youth were designated SJO. By March 1998, the number had grown to 86 (State of Wisconsin, 1998b). By the end of 1999 there were approximately 200 SJO cases, and the number of these youth was growing at a rate of 5 to 6 per month (Jackson, 1999a). Costs to the state have gradually increased as more offenders have received SJO designation and hence lengthier terms of incarceration.

Secure detention as a disposition

County boards have the discretion to permit juvenile courts to detain youth for up to 30 days as an alternative to state correctional placement or to divert youth from correctional placement. As of 1996, 40 courts could use secure detention as a disposition, but few have taken advantage of this option.

Use of correctional institutions for short-term sanctioning of youth in community placement

Youth who violate probation or community program rules may be incarcerated for up to ten days without an administrative hearing. But this option applies only to youth who have received a special Type II facility status placement by the court. According to the Division of Juvenile Corrections, the number of youth sanctioned in this manner increased 38 percent in 1998.

Secure detention in correctional institutions

Under certain conditions, counties may purchase secure detention services (including short-term holds and up to 30 days of detention as a disposition) from state institutions. The number of youth that counties place in a detention unit depends greatly on the availability of private detention centers in the area (Hall and Arnesen, 1996).

Expansion of community-based interventions

County agencies and juvenile courts have access to electronic monitoring, intensive supervision, and other program resources that are intended to reduce demand on correctional institutions whenever appropriate. Additional community-based interventions include the first offender program in Winnebago County, the Coordinated Drug Treatment for Youth Project in Kenosha County, the Intensive Supervision Program in Oconto County, the Community Adolescent Program in Dane County, and the Restitution and Community Service Program in Waukesha County (Hall and Arnesen, 1996:42-44).

Planning for Future Bedspace

Prior to enactment of the new Juvenile Justice Code, Wisconsin experienced an extended period of growth in its juvenile correctional institutions, which nearly doubled between 1988 and 1995 (Torbet et al., 2000:10). Within a year of the effective date of the new Juvenile Justice Code, and following an April 1996 peak population of 1,066 juveniles, the average daily populations at juvenile correctional institutions dropped by almost 100 youth in 1997 (State of Wisconsin, 1998b). ADP at the end of 1999 was 975 (Jackson, 1999b) and currently is 947 (State of Wisconsin, 2001a).

To anticipate and address future bedspace needs, the DOC produces population projections for every biennial budget. It also considers a range of strategies to prevent bed space demand and to address that demand when it arises.

The DOC develops its empirical projections from analyses of juvenile referral and correctional population trends. For example, juvenile referrals in Wisconsin dropped 25 percent between 1995 and 1997, which may have contributed to the initial decline in the State's Juvenile Correctional Institutions (Torbet et al. 2000:10).

In addition to referral and correctional projections, the DOC also relies on assumptions about potential changes in processing due to new legislation or reforms. For example, after the reforms in 1996, Wisconsin experienced a decrease in the population of youth incarcerated in Juvenile Correctional Institutions. This decrease was attributed not only to declining referrals but also to the exclusion of 17-year-olds. It also was attributed to a new law allowing for dispositions of 30-day commitments to secure detention and licensed private residential care facilities (Torbet et al., 2000:11).

State officials also monitor ongoing JCI population trends and adjust bed space policy accordingly. The initial declines in the JCI population were, for example, followed by an increase back to pre-reform levels. Although Wisconsin currently lacks the descriptive data necessary to make an exact determination, the return to pre-reform levels was thought to have been driven in part by longer periods of incarceration for SJO offenders. Youth incarcerated as Serious Juvenile Offenders typically serve a minimum of 5 years or up to age 25.

It is important to emphasize that the State's approach to bed space policy is not simply to ask whether more or fewer beds are needed. DOC, DJC, and policymakers also ask whether changes in demand will be short-lived and whether there are other measures that can be taken during temporary increases or decreases in correctional populations (Butts, 2000). They also place a greater emphasis on developing and promoting community-based alternatives to corrections than justifying the need for increased bed space. As the Secretary of the Department of Corrections noted:

If you focus on projections, if you are going to pay for projections, all you are going to do is grow. . . . But if you are looking at alternatives, look for disincentives for your counties . . . to put people in an incarcerated setting (Litscher, 2000).

In developing its 1999-2001 biennial budget, the DOC took these different considerations into account. It assumed, for example, that no new legislation would be introduced that would significantly affect juvenile system operations. The DOC then developed a straight-line projection based on data about the ADP at the state's facilities during the prior two years. The resulting projection indicated that correctional populations would stabilize, rising and falling incrementally with the number of juveniles in the population as a whole and with the rate of juvenile offending (State of Wisconsin, 1998b:2). After examining the projections, the DOC predicted that anticipated growth in juvenile offenders committed to correctional institutions would not be significant enough to warrant construction of more facilities in the near future, and that a focus on community-based initiatives would be a more effective target for resources. Since then, the average daily population has remained relatively stable, continuing to range between 900 and 1,000 youth as it has throughout the past decade (Torbet et al., 2001:12).

Planning for Changes in Bed Space Needs

The DOC's analyses led them to focus on addressing a relatively unique phenomenon among correctional systems -- the possibility of reduced demand for state correctional bed space in future years. Whether due to declines in referrals or changes in state funding allocations to counties, operation of local facilities at less than peak utilization can result in significant cost inefficiencies. They concluded, however, that caution should be exercised in closing existing facilities. Closures can result in reduced costs but they can come at the expense of decreased quality of services for youth transferred to other facilities. The DOC thus recommended restructuring several of the state's juvenile correctional facilities, such as putting responsibility for placement of mentally ill juvenile offenders with the DOC rather than DHFS (State of Wisconsin, 1999:6). They also suggested contracting with other states to provide bedspace and services to their youth during periods when JCI populations remain considerably lower than at full capacity.

Wisconsin's other primary approach to addressing changes in bed space demands has been to

develop policies that affect county-level practices. One of the State's primary strategies has been to create incentives to counties to place youth locally and to divert serious offenders, while at the same time encouraging, through the elimination of fiscal disincentives, placement of the most serious or violent offenders in State facilities (Hall and Arnesen, 1996; Butts, 2000).

This focus on de-emphasizing the role of correctional institutions in part reflects a different orientation toward incarceration generally, one

that views the experience of incarceration, rather than the amount, as critical to effective intervention. As the Secretary of the DOC noted:

The reason we are unique is not . . . because of a massive population coming into our institutions. The reason we are unique is that we are looking at what type of programs we put into our institutions to allow kids to come back to the community and be a productive young person. . . . Don't focus on beds in Wisconsin, because that is not the issue. [The issue] is how to deliver a program, the quality of that program, and what are the reintegration possibilities after that program (Litscher, 2000)?

Such statements reflect on the State's orientation toward correctional policy. But they also reflect the State's focus on promoting local, community-based interventions and placements as a primary means of addressing juvenile crime. As Secretary Litscher stated: "The counties should go for the best alternatives

Factors Influencing Bed Space Policy in Wisconsin

- Examination of referral trends.
- Analysis of correctional population trends, including average daily population.
- Assumptions about the enactment and effects of new legislation (e.g., exclusion of 17-year-olds from the juvenile justice system, inclusion of 10- and 11-year-olds).
- Assessments of potential impacts of closing existing facilities (e.g., reduction in quality of services for youths transferred to other facilities, costs associated with transportation from rural areas).
- Creation of legislation and policies to reduce use of existing bed space (e.g., placing financial responsibility on counties for funding state correctional bed space, promoting diversion and use of non-incarcerative sanctions).
- Short- and long-term arrangements among county boards, juvenile courts, and law enforcement within and across counties on how to address bed space needs.
- Development of plans for accepting youths from other counties or states during periods of underutilization.

Source: Hall and Arnesen, 1996; Butts, 2000.

in dealing with young people. Incarceration has to be, must be, aggressively pursued in every state, but always as a last alternative.”

State planning also is affected indirectly by decisions made by specific counties. For example, if counties build new detention facilities, there is less pressure to place youth in state-run JCI. How counties make these decisions can vary. In some, increases in detention utilization may spark political debate and short-term strategies to relieve overcrowding. It may also result in changes to intake and detention decision-making, through new policies and procedures and use of empirically-based decision-making instruments. In one county, for example, the development of a database for tracking juvenile court referrals convinced judges to support revision of policies about the use of detention (Butts, 2000).

In other counties, increased reliance on transporting youth to other counties may provide the impetus to build a new facility. In still others, cooperative arrangements may emerge informally between counties. Mary Pat McKinley, the Superintendent of the Washington County Juvenile Detention Center, described the way in which bed space needs were addressed in her county:

We have a county [nearby] that does not have their own facility. In talking to the sheriff, he said ideally that would be fine, we would like to use [your facility]. Another county has a juvenile detention facility, but they only house males, and so in talking to that sheriff informally, sheriff-to-sheriff, he is saying, “Can we use your facility for our females”? We detain both males and females. We have had conversations with a bigger county, which has their own juvenile detention facility. But they have a small facility and their need exceeds their ability to detain, so they are talking about [using] maybe three or four of [our] beds. [In discussing whether to build our own facility], we got the idea, [based on consideration of these types of factors], that if we built it, there will be people using it (McKinley, 2000).

Not all counties communicate with each other or have arrangements to offset bed space needs when they arise. But informal discussions and relationships between some counties can result in creation of a facility that each county shares or in more efficient utilization of existing bed space. The state in turn experiences less pressure to build new correctional facilities.

Conclusion

Wisconsin has faced considerable challenges, including rapidly changing juvenile crime rates, in anticipating and addressing juvenile detention and correctional bed space needs. Through several changes, including transferring authority of all juvenile delinquency programs and services to the DOC, the State has attempted to overcome these challenges. Nonetheless, planning for bed space remains an ongoing challenge. The underutilization of detention facilities in the early 1990's has been paralleled by a marked reduction in correctional bed space utilization in recent years. In the interim, juvenile correctional populations almost doubled between 1988 and 1998, due primarily to the creation of a sentencing category associated with minimum lengths of incarceration. Wisconsin is making strides towards improving its database and forecasting capabilities in hopes that such efforts will help the State to anticipate better the changing demand for detention and correctional bed space.

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