

MARYLAND
JUVENILE JUSTICE
REFORM COUNCIL

FINAL REPORT

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Juvenile Justice Reform Council: Membership

The JJRC is a diverse, inter-branch, bipartisan group of juvenile justice stakeholders from across the state. In addition to legislators, the Council consists of representatives from the judiciary, prosecutorial and defense bars, state child-serving agencies, law enforcement, and various representatives from national and local organizations with experience in juvenile justice policy reform. The Secretary of the Maryland Department of Juvenile Services (DJS), Sam Abed, serves as the chair of the JJRC.

Sam J. Abed	Secretary, Department of Juvenile Services
Sen. Will Smith	District 20, Montgomery County, Chair, Judicial Proceedings Committee
Sen. Bobby Zirkin*	District 11, Baltimore County, Chair, Judicial Proceedings Committee
Sen. Jill P. Carter	District 41, Baltimore City
Sen. Chris West	District 42, Baltimore County
Del. Luke Clippinger	District 46, Baltimore City, Chair, Judiciary Committee
Del. Michael Jackson	District 27B, Calvert/Prince George's Counties, Vice Chair, Appropriations Committee
Del. Jesse Pippy	District 4, Frederick and Carroll Counties
Robert L. Green	Secretary, Dept. of Public Safety and Correctional Services
Betsy Fox Tolentino	Assistant Secretary, Dept. of Juvenile Services
Hannibal Kemerer	Office of the Attorney General
Jenny Egan	Office of the Public Defender
Hon. Michael J. Stamm	St. Mary's County Circuit Court, County Administrative Judge and Chair, Juvenile Law Committee, Maryland Judicial Council
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Terry Dodson	Youth Representative
V. Glenn Fueston, Jr.	Exec. Director, Governor’s Office of Crime Prevention, Youth, and Victim Services
Stuart Campbell	Director, Community Programs, Dept. of Housing and Community Development
Heather Chapman	Vice-President, United Way of Central Maryland and Chair, State Advisory Group
Rosemary King Johnston	Chair, State Advisory Board, Dept. of Juvenile Services
Jinney Smith, Ph.D.*	Associate Director, Maryland Data Analysis Center
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Ricardo Flores*	Office of the Public Defender
Shanna Wideman*	Behavioral Health Administration, Dept. of Health
Valerie Douglas	Deputy Executive Director for Programs and Outcomes Improvement, Dept. of Human Services

* Indicates members who only served during 2019.

Executive Summary / Overview of Recommendations

The JJRC, with the assistance of the Vera Institute of Justice, has spent the last year researching best practices regarding the treatment of juveniles who are subject to the criminal and juvenile justice systems and identifying recommendations to limit or otherwise mitigate risk factors that contribute to juvenile contact with the criminal and juvenile justice systems.

The JJRC respectfully makes the following recommendations to the Governor, Maryland General Assembly, and DJS.

Minimum Age of Jurisdiction

Recommendation 1. Establish a minimum age of juvenile court jurisdiction by modifying Md. Courts and Judicial Proceeding Art., 3-8A-03 as follows:

- A. The juvenile court does not have jurisdiction over a child under the age of 10 years old.
- B. The juvenile court has jurisdiction over a child at least 10 years old alleged to have committed any of the following crimes, as well as all other charges against the child arising out of the same incident:
 1. a crime punishable by life imprisonment if committed by an adult;
 2. first degree child abuse under § 3-601 of the Criminal Law Article;
 3. sexual abuse of a minor under § 3-602(b) of the Criminal Law Article;
 4. second degree murder under § 2-204 of the Criminal Law Article;
 5. armed carjacking under § 3-705 of the Criminal Law Article;
 6. second degree rape under § 3-304(c)(1) of the Criminal Law Article;
 7. continuing course of conduct with a child under § 3-315 of the Criminal Law Article; and
 8. third degree sexual offense under § 3-307 of the Criminal Law Article.
- C. The juvenile court should have jurisdiction over a child at least 13 years old alleged to have committed a delinquent act.
- D. The Council recommends the Maryland General Assembly consider the following acts as potential exceptions under section B:

1. armed robbery;
2. manslaughter; and
3. carjacking.

Juvenile Community Supervision/Probation

Recommendation 2. Set statutory length of supervision for juvenile probation as follows:

- A. If the child is adjudicated for an offense that would be a misdemeanor if committed by an adult, the initial term of community supervision shall not exceed six (6) months, unless the court finds after a hearing that there is good cause to extend the term of community supervision for the purposes of completing a treatment program or rehabilitative services. Additional supervision terms shall not exceed three months. The maximum community supervision term shall not exceed a total twelve (12) months.
- B. If the child is adjudicated for an offense that would be a felony if committed by an adult, the initial term of community supervision shall not exceed twelve (12) months, unless the court finds after a hearing that there is good cause to extend the term of community supervision for the purposes of completing a treatment program or rehabilitative services. Additional supervision terms shall not exceed three months. The maximum term of community supervision shall not exceed twenty-four (24) months. The Court may extend community supervision up to a maximum of thirty-six (36) months, if after a hearing the court finds by clear and convincing evidence good cause that extending community supervision is in the best interest of the child.

If the child is adjudicated for an offense that would be a crime that carries a penalty of life imprisonment if committed by an adult, the term of community supervision shall not exceed twenty-four (24) months, unless the court finds after a hearing that there is good cause to extend the term of community supervision for the purposes of completing a treatment program or rehabilitative services. Additional supervision terms shall not exceed three months. Community supervision may continue as long as the court has jurisdiction (until age 21).

Recommendation 3. Establish a statutory process to return certain petitions forwarded to the court back to DJS intake for assessment, services, and supervision. The process requires that all the parties, including the child, the child’s counsel, the prosecutor, and the court agree to return the petition to intake for an informal adjustment. If the informal pre-court supervision is successful, the petition will be dismissed. If unsuccessful, the petition may move forward through the formal court process.¹

¹ See HB 842 proposed during the 2020 session of the Maryland General Assembly, <https://mgaleg.maryland.gov/mgaweb/Legislation/Details/hb0842?ys=2020RS&search=True>.

Recommendation 4. Prohibit the use of detention or commitment to DJS due to a technical violation of community supervision, as currently defined in § 6-101 of the Correctional Services Article.

Recommendation 5. Establish a legislatively enacted workgroup consisting of a Maryland institute for public policy, a University of Maryland evidence-based and culturally competent practice institute, DJS, the Department of Human Services (DHS), and relevant stakeholders. The collaborative should be directed to publish descriptive definitions of evidence-based and culturally competent, research-based, and promising practices in the areas of child welfare, juvenile rehabilitation, and children’s mental health services. The collaborative should be required to prepare an inventory of evidence-based and culturally competent, research-based, and promising practices for prevention and intervention services that will be used for the purpose of completing the baseline assessment and be periodically updated as more practices are identified. In identifying evidence-based and culturally competent, research-based services, the collaborative should be directed to: (1) consider any available systemic evidence-based assessment of a program’s efficacy and cost-effectiveness; (2) attempt to identify assessments that use valid and reliable evidence; and (3) identify ways to make assessments available to community-based organizations to help validate successful programming already in existence with an emphasis on programs that represent under-served communities. Using state, federal, or private funds, DJS should be required to prioritize the assessment of promising practices with the goal of increasing the number of such practices that meet the standards for evidence-based and culturally competent research-based practices.

Juvenile Detention Utilization

Recommendation 6. Require courts to consider the findings of a validated risk assessment, in addition to the other statutory factors, when making a pre-adjudication detention decision.

Recommendation 7. Require courts to review a child’s detention status at least every 14 days.

Recommendation 8. Require DJS to develop and submit a community release plan within 10 days of a decision to detain a child.

Recommendation 9. Amend State law to prohibit the use of pre-adjudication detention for an offense that would be a misdemeanor if committed by an adult, unless:

- A. the offense is a violation involving a handgun under the Criminal Law Article or Public Safety Article, or
- B. the child has been adjudicated delinquent two (2) or more times in the previous twelve (12) months.

Recommendation 10. Require DJS to report to the Maryland General Assembly within one year of the issuance of the JJRC’s report on plans for implementing the following:

- an annual report by DJS and the Maryland Department of Health (MDH) on the utilization of the Facility for Children and the length of stay in detention waiting for a placement in

the Facility for Children when ordered for a competency evaluation and/or attainment services;

- publication of data by DJS related to the risk assessment tool, specifically overrides, in DJS' annual Data Resource Guide;
- utilization of “community detention”, the development of forms that do not include total house arrests, and a requirement that DJS maintain a robust continuum of community-based alternatives to detention in every jurisdiction;
- access to mental health services for all young people, not only acute/crisis intervention, and mandate that detention facilities have mental health professionals on site at all times;
- quality, evidence-based programming for detained youth, including at least 3 hours of programming on school days and 6 hours of programming on non-school days, and including structured activities planned for every weekend, including activities that engage family members at least every other weekend;
- the established criteria and use of electronic surveillance and community detention for children on probation;
- increasing the number of shelter beds available, especially beds available for young women; with a requirement that DJS regularly report how many nights children spend in detention after being ordered to shelter care;
- minimum standards for detention center staff training and require functioning security camera systems in all areas of DJS facilities;
- minimum standards for family engagement at all facilities operated by DJS, including requirements for daily contact with family;
- requiring and defining standards for defense counsel to access young people at every juvenile facility; and
- adopting a cognitive behavioral therapy curriculum and restorative justice training for staff at every juvenile facility.

Juvenile Commitments for Out-of-Home Treatment Programs

Recommendation 11. Amend State law to prohibit commitment of a child to DJS if the child is:

- A. adjudicated delinquent for an offense that would be a misdemeanor if committed by an adult, unless the adjudication is for a second or subsequent offense involving a firearm; or

- B. found in violation of community supervision for a technical violation, as defined in § 6-101 of the Correctional Services Article.

Recommendation 12. DJS should establish a plan to transition from the current slate of committed facilities to ensure every region has access to nonresidential and residential community-based services that employ evidence-based, culturally competent programming.

Recommendation 13. DJS should ensure access to comprehensive educational programming in all DJS facilities.

Recommendation 14. DJS should ensure that every DJS facility and contracted program offers access to Technical and Vocational Education and Training with highly qualified teachers and on-the-job training.

Juvenile Diversion

Recommendation 15. Remove barriers to informal/pre-court supervision as follows:

- Amend Md. Code Ann., Cts. & Jud. Proceedings § 3-8A-10 to require informal adjustment of all first referrals for misdemeanor and non-violent felonies to DJS. Firearm offenses are not eligible for a mandatory informal adjustment but may be referred for an informal adjustment.
- Amend Md. Code Ann., Cts. & Jud. Proceedings § 3-8A-10 to eliminate the requirement of victim consent for an informal adjustment to proceed. DJS must make all reasonable efforts to contact and notify the victim of DJS' decision, and invite the victim to engage in restorative practices.
- Eliminate the requirement found in Md. Code Ann., Cts. & Jud. Proceedings § 3-8A-10 that requires DJS to forward all complaints alleging non-violent felonies to the State's Attorney for review for approval for informal adjustment.

Recommendation 16. Narrow the definition of "delinquent act" in Maryland to exclude the following conduct, mirroring the language already found in Maryland's Code of Regulations: "Delinquent acts do not include conduct which has been traditionally treated as a matter of discipline to be handled administratively by the particular school."

Recommendation 17. Eliminate the requirement that certain citations must be forwarded to the State's Attorney, allow for the use of citations for misdemeanor offenses, and allow for police citations to be resolved through police diversion or through complaint to DJS.

Recommendation 18. The Governor's Office of Crime Prevention, Youth, and Victim Services should develop a model law enforcement diversion program, evaluate funding opportunities to support local diversion programs, and collect and evaluate data related to implementation of these diversion programs.

Youth Charged as Adults

Recommendation 19. Improve data-sharing among agencies that serve youth charged as adults by requiring the Governor’s Office of Crime Prevention, Youth, and Victim Services to work with key stakeholders to develop a data collection plan to collect, collate, and ultimately analyze data from criminal justice agencies, including law enforcement, corrections, and the courts, in order to better understand the issue of youth charged as adults at every level of the adult criminal justice system from arrest to case resolution.

Recommendation 20. JJRC should be extended to continue researching and evaluating opportunities to improve Maryland’s juvenile justice system.

Section 1 – Juvenile Justice Reform Council Background

During the 2019 session of the Maryland General Assembly, the legislature passed and Governor Hogan signed Senate Bill 856 / House Bill 606 establishing JJRC to be staffed by the Department of Legislative Services. JJRC was charged with:

1. using a data-driven approach to develop a statewide framework of policies to invest in strategies to increase public safety and reduce recidivism of youth offenders;
2. researching best practices for the treatment of juveniles who are subject to the criminal and juvenile justice systems; and
3. identifying and making recommendations to limit or otherwise mitigate risk factors that contribute to juvenile contact with the criminal and juvenile justice systems.

Additionally, the JJRC was directed to convene an advisory stakeholder group that includes representatives from organizations with experience in juvenile justice policy reform, advocating for groups with disproportionate contact with the criminal and juvenile justice system, advocating for victims of crime, and restorative justice. JJRC was required to work with the advisory stakeholder group to conduct roundtable discussion forums to seek public input regarding juvenile justice system reform in all geographic regions of the state.² Lastly, JJRC was required to utilize a technical assistance provider to help carry out the mission of the Council.

The JJRC submitted an interim report³ in December 2019 and was required to report on JJRC's final findings and recommendations to the Governor and the General Assembly in December 2020.

Pursuant to the enabling legislation, the JJRC solicited⁴ requests for proposals from technical assistance providers to assist the Council in evaluating juvenile justice reform opportunities. The JJRC reviewed proposals and ultimately selected the Vera Institute of Justice⁵ (Vera) from among several competing organizations. The JJRC recognized that Vera was in an ideal position to support the work of JJRC through data research methods, emphasizing the racial and ethnic disparities that permeate juvenile justice systems.

Recognizing the key role of racial equity in reforming juvenile justice, JJRC invited Lisa Garry, Executive Director of DJS' Office of Equity and Inclusion, to present an overview of the principles of race equity, the disproportionate outcomes for youth of color in Maryland, and opportunities to approach reform initiatives through a race equity framework.

² Find out more regarding the Statewide Listening Sessions in Section 2 of this report.

³ 2019 Juvenile Justice Reform Council – Interim Report.

<http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/mjjrc-dlh-signed-copy.pdf>.

⁴ Juvenile Justice Reform Council – Notice of Funding Availability.

<http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/TAApplcationSolicitation.pdf>.

⁵ Vera Institute of Justice, Supporting Maryland in Creating an Equitable Youth Justice System.

<http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Vera-Supporting-Maryland-in-Creating-an-Equitable-Youth-Justice-System.pdf>.

The JJRC voted to include race equity measures when reviewing specific issue areas and to review recommendations through a race impact assessment.



FIND THE FULL OVERVIEW “RACE EQUITY
FOR LEADERS”

[http://dls.maryland.gov/pubs/prod/NoPblTabMtg/
CmsnJuvRefCncl/Equity_JJAC_Nov2019.pdf](http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Equity_JJAC_Nov2019.pdf)

SECTION 2 – COVID-19 RESPONSE

DJS briefed the Council on the agency’s response to the COVID-19 pandemic, an event which impacted the timeline of Council meetings and which resulted in major alterations to the juvenile and adult justice systems nationwide.

To manage this challenge, DJS immediately implemented health and safety measures, adhering to CDC and MDH guidance, to prevent the spread of COVID-19 in DJS detention and committed facilities and to keep youth and staff safe.

DJS COVID-19 response included a focus on the following areas:

- Communication
- Contact Tracing and Testing
- Community & Residential Operational Response
- Data to Illustrate the Impact of COVID-19 on the Juvenile System
- Impact on Racial and Ethnic Disparities



FIND THE FULL OVERVIEW “DJS DATA TRENDS & RESPONSE TO COVID-19”

<https://djs.maryland.gov/Documents/COVID-19/MD-JJRC-Data-Trends-and-Response-to-COVID-19.pdf>

Nathaniel Balis, the Director of the Juvenile Justice Strategy Group at the Annie E. Casey Foundation, presented a national overview of the impact of COVID-19 on young people and juvenile justice systems across the country. Mr. Balis’ presentation illustrated, through national data, the presence of COVID-19 in juvenile justice facilities, changes in the incarceration of young people, and the rates of over-representation of young people of color in juvenile detention.



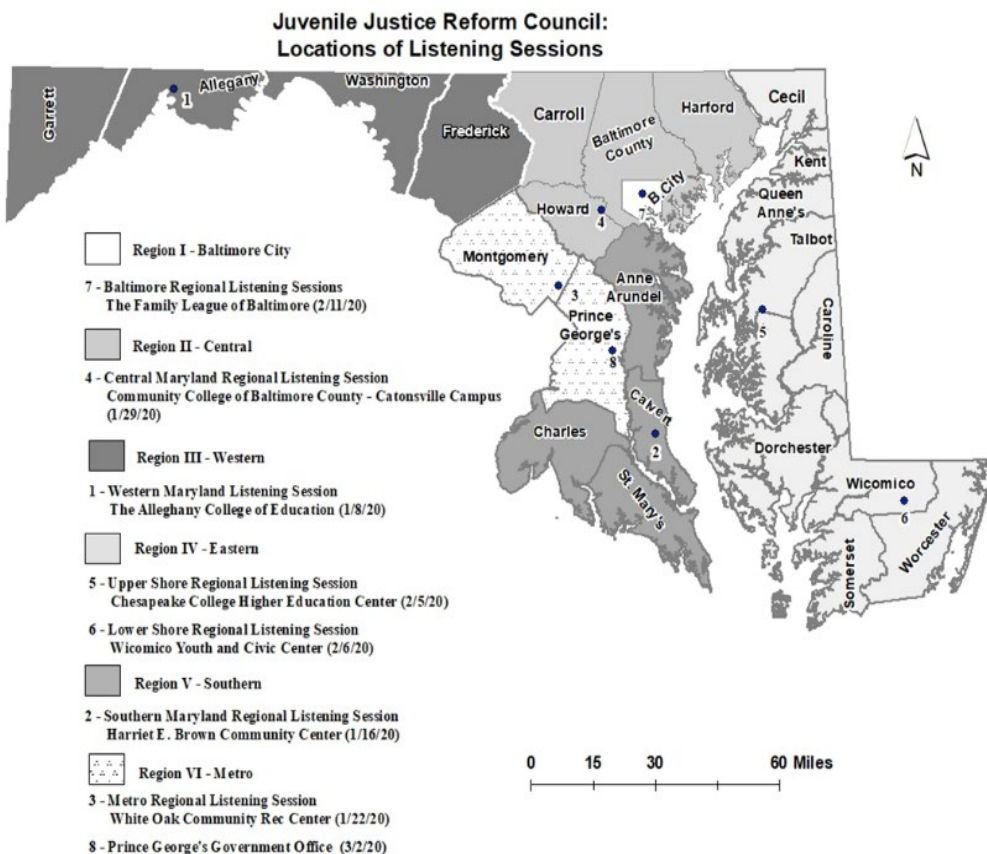
FIND THE FULL OVERVIEW “YOUTH JUSTICE IN THE TIME OF COVID-19”

http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Youth_Justice_in_the_Time_of_COVID-19.pdf

SECTION 3 – Statewide Listening Sessions

As part of its charge, JJRC was required to conduct roundtable discussion forums seeking public input in all geographic regions of the State. To complete this task, JJRC worked with the Local Management Boards (LMBs) to plan, coordinate, and ultimately conduct 16 regional listening sessions from January 2020 through March 2020. The goal of the listening sessions was to seek input from the public, advocates, justice system stakeholders, families, and young people as to their experience with the system and opportunities for reform.

With the assistance of the LMBs, JJRC was able to receive public testimony from over 530 individuals around the state regarding issues related to education, family and youth engagement, community safety, community programming, and behavioral health and substance use services. Public testimony also identified several policy areas that shaped the JJRC agenda during the remainder of JJRC’s mandated term. Those issues included juvenile probation, minimum age of juvenile court jurisdiction, diversion, out-of-home placements, education, and youth charged as adults.



STATEWIDE LISTENING SESSIONS

- 16 Listening sessions were held, covering each geographic region of the State.
- Sessions occurred between January 2020 and March 2020.
- Over 530 individuals participated.
- All sessions were recorded.
- The listening sessions were made possible through a partnership with Maryland’s Local Management Boards.

Find the links to the all recorded listening sessions at:

<http://dls.maryland.gov/policy-areas/juvenile-justice-reform-council>

Find the overview presentation at:

“Juvenile Justice Reform Council: Themes from Listing Session”
http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvR efCncl/Juvenile_Justice_Reform_Council_Themes_from_Listening_Session.pdf.

SECTION 4 – Juvenile Justice Reform Opportunities

Topic Section and Prioritization

Building on the information gathered from the Statewide listening sessions and the results of council-wide surveys, JJRC prioritized several juvenile justice policy areas for further review.

Council Priorities

- **Minimum Age of Juvenile Court Jurisdiction:** reviewing the minimum age at which the Maryland juvenile justice system should have jurisdiction over a young person alleged to be involved in an act that would be a crime if committed by an adult;
- **Juvenile Probation:** focusing on the purposes of probation, best practices related to community supervision, and the length of probation terms;
- **Out of Home Placement/Commitment and Detention Use:** reviewing out-of-home and out-of-community placements, and continuing release and detention practices initiated during COVID-19 set out in the Court of Appeals' April 13, 2020 Administrative Order;
- **Youth Charged as Adults:** exploring changes to statutory requirements for adult court jurisdiction;
- **Diversion:** reviewing opportunities for diversion through DJS' diversion authority and connections to services;
- **Services:** ensuring that individuals who are diverted or otherwise maintained in the community receive quality, culturally competent services and exploring alternate methods of delivering in-person services where appropriate;
- **Education:** expanding and improving vocational and non-traditional high school educational options for youth in the community and in DJS facilities to foster greater youth engagement.⁶



FIND THE FULL OVERVIEW “JUVENILE JUSTICE REFORM COUNCIL: FALL PRIORITIES SURVEY RESULTS”

http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/JJRC_Priorities_Presentation.pdf

⁶ Due to limited time, JJRC was unable to evaluate reform opportunities related to education. However, education in juvenile and detention facilities was briefly discussed when reviewing issues related to out-of-home placement.

Minimum Age of Jurisdiction

Maryland’s minimum age of jurisdiction was a predominate topic in nearly all of the statewide listening sessions, and JJRC members identified juvenile court jurisdiction as a topic area that required a policy and data review. For this discussion, the minimum age of juvenile court jurisdiction is referring to the minimum age a child may be subjected to formal prosecution and court processes.

Current Maryland Law

Maryland does not have a minimum age of jurisdiction for minors alleged to have committed a delinquent act.

Policy Summary

A growing body of evidence has found that pre-teens have diminished neurocognitive capacity to be held culpable for their actions; likewise they have little ability to understand delinquency charges against them, their rights and role in an adversarial system, and the role of adults in this system.⁷

Recognizing this developmental science, as well as recognizing the damage inflicted by putting relatively young children into the juvenile justice system, several states have recently moved to create a minimum age of juvenile court jurisdiction. The behavioral issues of children below that age are handled in the child welfare and mental health systems. California, Massachusetts, and Utah have recently raised the age of juvenile court jurisdiction to 12.⁸ California and Utah have some exceptions for very serious violent behavior, and Massachusetts does not. These states’ practices are in line with the median age of criminal responsibility internationally which is 12 years old.⁹ However, the recommendation of the Committee on the Rights of the Child of the United Nations, based on “documented evidence in the fields of child development and neuroscience,” is that the minimum age of jurisdiction should be at least 14.¹⁰



FIND THE FULL POLICY REPORT, “NATIONAL PRACTICE FOR RAISING THE AGE OF JUVENILE COURT JURISDICTION”

http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/NATIONAL_CONTEXT_Under13_Presentation_VeraFormat.pdf

⁷ Elizabeth Scott and Thomas Grisso. “Developmental Incompetence, Due Process and Juvenile Justice Policy.” *North Carolina Law Review*. 83, 812-812, (2005).

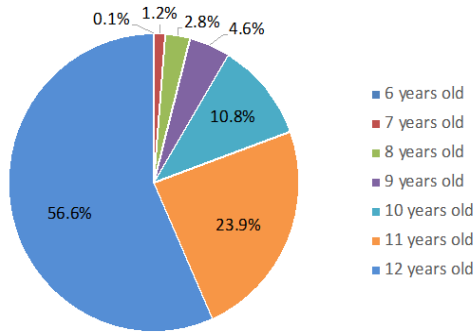
⁸ California SB 439 (2018); Massachusetts SB 2371 (2018); Utah HB 262 (2020).

⁹ 2019 United Nations Global Study of Children Deprived of Liberty, page 279. [Full-Global-Study_Revised-Version.pdf](https://www.unicef.org/globalstudyofchildrendeprivedofliberty/files/Full-Global-Study-Revised-Version.pdf) ([childrendeprivedofliberty.info](https://www.unicef.org/globalstudyofchildrendeprivedofliberty/info)).

¹⁰ Convention on the Rights of the Child. [CRC/C/GC/24](https://www.unicef.org/crc/C/GC/24) ([bettercarenetwork.org](https://www.bettercarenetwork.org)). page 6.

Key Findings

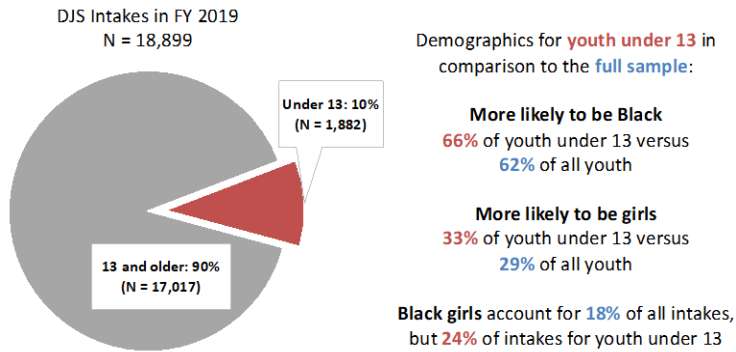
% of Cases for Youth Under 13 by Age



Vera

14

Demographic Characteristics



MINIMUM AGE OF JUVENILE COURT JURISDICTION

Data Source: DJS, all complaints for FY 2019

- Young people under the age of 13 accounted for about 10% of all DJS intakes in FY 2019.
- In comparison to the full sample, Black youth and girls accounted for a larger percentage of intakes for youth under the age of 13.
- Black girls accounted for almost a quarter of all intakes for youth under the age of 13.
- 90% of cases for this group of youth are dismissed/withdrawn at some point.
- 10-12 year-olds accounted for over 90% of intakes for kids under the age of 13.

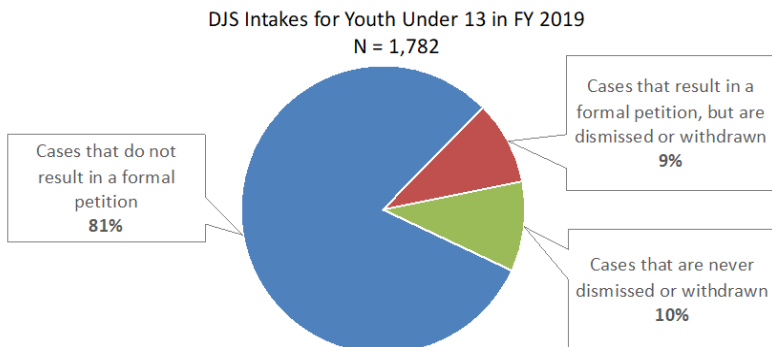
Full Data Report:

“Demographic and Geographic Characteristics, Charges, and Court Outcomes for Youth under age 13 in Maryland”

http://dls.maryland.gov/pubs/prod/NoPbITabMtg/CmsnJuvRefCncl/Under13_Findings_Final.pdf

Case Processing

For youth under 13, **90% of cases are dismissed or withdrawn at some point**



Vera

6

Recommendations

The Council reviewed recommendations presented by the Office of the Public Defender (OPD) relating to a minimum age of juvenile court jurisdiction.¹¹

After review and discussion, the Council adopted the following recommendations.

- A. The juvenile court should not have jurisdiction over a child under the age of 10 years old.
- B. The juvenile court should have jurisdiction over a child at least 10 years old alleged to have committed any of the following crimes, as well as all other charges against the child arising out of the same incident:
 1. a crime punishable by life imprisonment;
 2. first degree child abuse under § 3-601 of the Criminal Law Article;
 3. sexual abuse of a minor under § 3-602 of the Criminal Law Article;
 4. second degree murder under § 2-204 of the Criminal Law Article;
 5. armed carjacking under § 3-705 of the Criminal Law Article;
 6. second degree rape under § 3-304(c)(1) of the Criminal Law Article;
 7. continuing course of conduct with a child under § 3-315 of the Criminal Law Article; and
 8. third degree sexual offense under § 3-307 of the Criminal Law Article.
- C. The juvenile court should have jurisdiction over a child at least 13 years old alleged to have committed a delinquent act.
- D. The Maryland General Assembly should consider the following acts as potential exceptions under section B:
 1. armed robbery;
 2. manslaughter; and
 3. carjacking.

¹¹ Maryland Office of the Public Defender – Minimum Age of Jurisdiction – Policy Review and Recommendations. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/MOPDRaisettheMinimumAgeRecommendation.pdf>.

Juvenile Probation

Stakeholders and JJRC requested a review of Maryland’s juvenile probation system, data, and a national overview of other states approaches to designing and implementing community supervision models that support young people, families, and communities. Specifically, topics for policy presentations and discussion included the length of probation terms, access to evidence based services and treatment interventions, and the appropriate utilization/purpose of probation.

Current Maryland Law

Youth who are adjudicated and found delinquent by the juvenile court may be placed on probation under the supervision of a DJS case management specialist.¹² Generally, probation requires a young person to abide by general court ordered supervision conditions, as well as individualized treatment recommendations. Maryland law does not provide for any statutory limits on the length of probation supervision, resulting in the possibility that a young person may be supervised until the age when juvenile court jurisdiction must be terminated at age 21.¹³

Policy Summary

Probation is the most common juvenile court disposition. More than half of youth adjudicated delinquent are sentenced to probation.¹⁴ Youth have better safety outcomes when the juvenile justice system helps them set rehabilitation goals and accomplish them, as opposed to merely surveilling them through long periods of probation supervision.¹⁵ In line with these findings, several states have recently passed legislation to make probation shorter and more goal-oriented. Utah established a presumptive probation duration period of four-to-six months depending upon each child’s individualized programmatic needs.¹⁶ South Dakota similarly limited probationary periods for justice-involved youth to six months unless they require a program for high-risk or high-need youth, wherein the supervision period may extend in six-month-intervals up to a maximum of 18 months.¹⁷ In Kentucky, the presumptive maximum probationary terms for violations; misdemeanors; and low level (Class D) felonies are 30 days, 6 months, and 12 months, respectively. If the alleged top charge is more serious, the youth may remain on probation until their 18th birthday.¹⁸ In order to orient young people towards the goal of following their treatment plan and adapting their behavior, South Carolina allows the Department of Juvenile Justice to reduce probationary periods by ten days for each month a child is compliant with the terms and conditions of their probation.¹⁹



FIND THE FULL POLICY REPORT, “NATIONAL PRACTICE FOR JUVENILE PROBATION”

http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Vera_Probation_Powerpoint.pdf

¹² Md Code, Courts and Judicial Proceedings, 3-8A-19.

¹³ Md Code, Courts and Judicial Proceedings, 3-8A-07.

¹⁴ Annie E. Casey Foundation. “Transforming Juvenile Probation.” (2018).

¹⁵ Id pages 9-10.

¹⁶ Utah Code 78A-6-117.

¹⁷ SDLRC 26-8C-14.

¹⁸ Id.

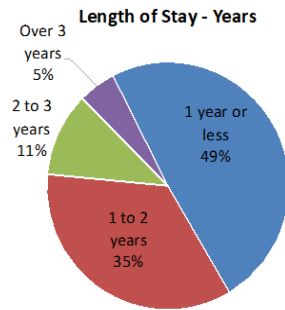
¹⁹ SC Code § 63-19-1835.

Key Findings

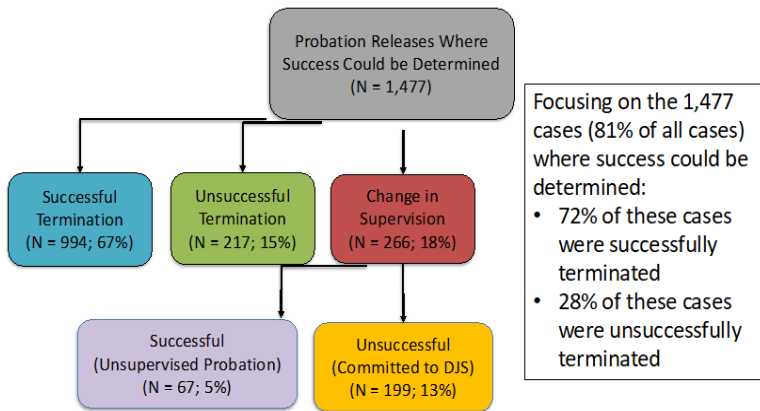
Length of Stay on Probation

For this cohort of probation releases, length of stay on probation ranged from 0 to 2,744 days (91.5 months)

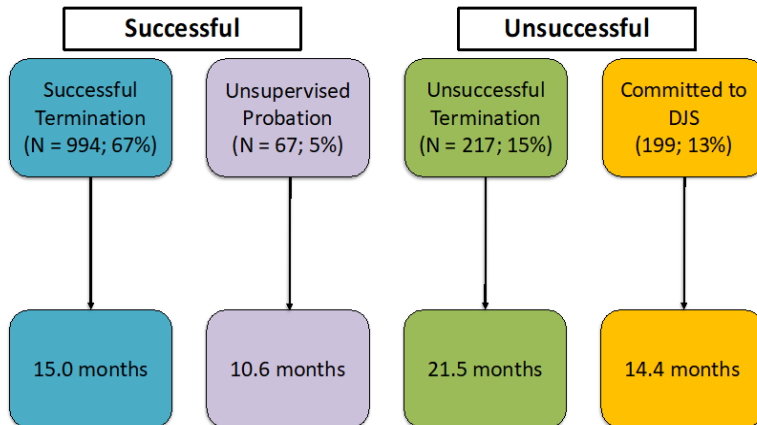
Average length of stay: 450 days (15.0 months)



Probation Release Reasons



Average LOS by Termination Reason



LENGTH OF JUVENILE COMMUNITY SUPERVISION / PROBATION

Data Source: DJS, all probation releases for FY 2019

- The average length of stay for young people on probation was about 15 months.
- For cases where probation termination success could be determined, 72% of cases terminated successfully, while 28% terminated unsuccessfully.
- Cases resulting in unsuccessful termination (excluding the subset that were unsuccessful due to a new DJS commitment) had a significantly longer average length of stay on probation than other termination reasons.

Full Data Report:

“Probation Experiences of Maryland Youth”

http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/PowerPointJJRC_Probation_Analyses_Final.pdf

Recommendations

The JJRC reviewed recommendations from OPD²⁰, and JJRC member, Dr. Melissa Sickmund related to juvenile probation practices.²¹ After review and discussion, the Council adopted the following recommendations:

- Set statutory length of supervision for juvenile probation, as follows:
 - A. If the child is adjudicated for an offense that would be a misdemeanor if committed by an adult, the initial term of community supervision shall not exceed six (6) months, unless the court finds after a hearing that there is good cause to extend the term of community supervision for the purposes of completing a treatment program or rehabilitative services. Additional supervision terms shall not exceed three months. The maximum community supervision term shall not exceed a total twelve (12) months.
 - B. If the child is adjudicated for an offense that would be a felony if committed by an adult, the initial term of community supervision shall not exceed twelve (12) months, unless the court finds after a hearing that there is good cause to extend the term of community supervision for the purposes of completing a treatment program or rehabilitative services. Additional supervision terms shall not exceed three months. The maximum term of community supervision shall not exceed twenty-four (24) months. The Court may extend community supervision up to a maximum of thirty-six (36) months, if after a hearing the court finds by clear and convincing evidence good cause that extending community supervision is in the best interest of the child.
 - C. If the child is adjudicated for an offense that would be a crime that carries a penalty of life if committed by an adult, the term of community supervision shall not exceed twenty-four (24) months, unless the court finds after a hearing that there is good cause to extend the term of community supervision for the purposes of completing a treatment program or rehabilitative services. Additional supervision terms shall not exceed three months. Community supervision may continue as long as the court has jurisdiction (until age 21).
- Establish a statutory process to return certain petitions forwarded to the court back to DJS intake for assessment, services, and supervision. The process requires that all the parties, including the child, the child's counsel, and the prosecutor, and the court agree to return the petition to intake for an informal adjustment. If the informal pre-court supervision is successful, the petition will be dismissed. If unsuccessful, the petition may move forward through the formal court process.
- Prohibit the use of detention or commitment to DJS due to a technical violation of community supervision, as currently defined in § 6-101 of the Correctional Services Article.

²⁰ Maryland Office of the Public Defender – Probation – Policy Review and Recommendations. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/MOPDProbationRecommendations.pdf>.

²¹ <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Probation-Purpose.pdf>.

- Establish a legislatively enacted workgroup consisting of a Maryland institute for public policy, a University of Maryland evidence-based and culturally competent practice institute, DJS, DHS, and relevant stakeholders. The collaborative should be directed to publish descriptive definitions of evidence-based and culturally competent, research-based, and promising practices in the areas of child welfare, juvenile rehabilitation, and children’s mental health services. The collaborative should be required to prepare an inventory of evidence-based and culturally competent, research-based, and promising practices for prevention and intervention services that will be used for the purpose of completing the baseline assessment and be periodically updated as more practices are identified. In identifying evidence-based and culturally competent, research-based services, the collaborative should be directed to: (1) consider any available systemic evidence-based assessment of a program’s efficacy and cost-effectiveness; (2) attempt to identify assessments that use valid and reliable evidence; and (3) identify ways to make assessments available to community-based organizations to help validate successful programming already in existence with an emphasis on programs that represent under-served communities. Using state, federal, or private funds, DJS should be required to prioritize the assessment of promising practices with the goal of increasing the number of such practices that meet the standards for evidence-based and culturally competent research-based practices.

Detention Utilization

The utilization and impact of incarcerating young people is a topic that has been reviewed and studied by researchers, policy organizations, system stakeholders, and advocates. Although in recent years Maryland has experienced a decline in admissions to the seven State-run juvenile detention facilities, the topic of detention was one that was forwarded to the attention of JJRC through the listening sessions and JJRC membership.

Current Maryland Law

Upon arrest and request from law enforcement, juvenile detention or community detention may be authorized by a DJS intake officer on a temporary basis. DJS is empowered by statute to detain or place a young person on community detention who either poses a clear risk to themselves or others, or is deemed likely to leave the court jurisdiction. The emergent decision is subject to court review on the next court day.

Maryland law requires that a detention hearing must occur no later than the next court day after an initial detention decision, unless extended for no more than five days for good cause shown.²² The Court may only continue the detention or community detention of a young person if the court finds such action is required to protect the child or others, or the child is likely to leave the jurisdiction of the court, unless the young person is under the age of 12. In that case, the court may only continue detention of a young person under the age of 12 if the young person is alleged to have committed an act that, if committed by an adult, would be a crime of violence, or the child is likely to leave the jurisdiction of the court.²³

Policy Summary

National practice increasingly recognizes that young people should be held in the least restrictive setting while their case is pending. Even short stays in pretrial detention can increase recidivism, particularly for children with little prior history.²⁴ Detained youth show greater trauma and markers for severe mental health issues such as suicidal ideation are higher than in the general population.²⁵ Detention interrupts and interferes with education and employment.²⁶



FIND THE FULL POLICY REPORT, “NATIONAL
LANDSCAPE FOR JUVENILE DETENTION
DECISION-MAKING”

[http://dls.maryland.gov/pubs/prod/NoPbITabMtg/
CmsnJuvRefCncl/National_Landscape_for_Juvenile
_Detention_Decisionmaking.pdf](http://dls.maryland.gov/pubs/prod/NoPbITabMtg/CmsnJuvRefCncl/National_Landscape_for_Juvenile_Detention_Decisionmaking.pdf)

²² Md. Code Ann., Cts. & Jud. Proceedings § 3-8A-15.

²³ *Id.*

²⁴ Hertig Walker, “The Impact of Pretrial Juvenile Detention on 12-Month Recidivism: A Matched Comparison Study” June 2020, Sage Publications (studied 32 jurisdictions).

²⁵ Office of Juvenile Justice Delinquency and Prevention (OJJDP). “Suicidal Thoughts and Behaviors among Detained Youth.” (2014).

²⁶ Annie E. Casey Foundation. “Kids Deserve Better: Why Juvenile Detention Reform Matters.” (June 2018).

Some states, such as Delaware, New Jersey and California, have created a legislative presumption in favor of release so that the judge’s detention decision-making is weighed towards keeping a child out of jail pre-adjudication.²⁷ Hawaii says that detention may be considered only “when other control measures have failed.”²⁸ Other states, such as Florida and Delaware, seek to bring a child’s assessed risk of flight or of committing new crimes into a judge’s consideration so that a judge can release those who are not a high risk.²⁹ Additional options include creating categories of youth ineligible for detention by charge or age.

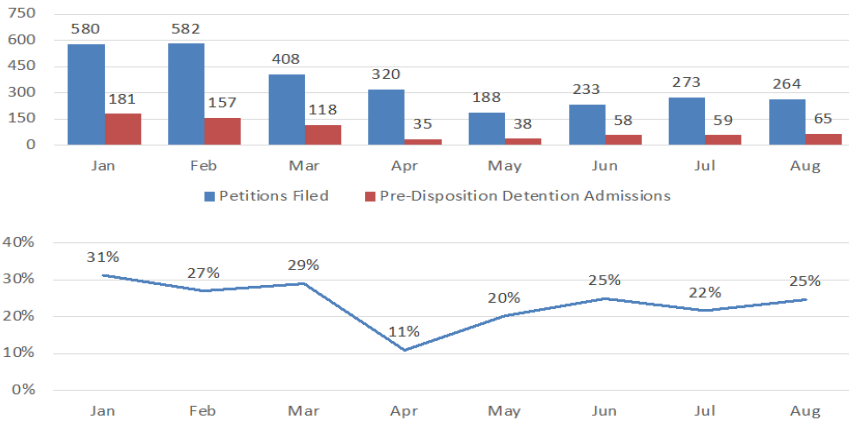
²⁷ Delaware Revised Code Title 10 §1007; New Jersey Administration of Civil and Criminal Justice §2A:4A-34; California Welfare and Institutions Code § 635.

²⁸ Hawaii Revised Code §571-31.1(2)(B).

²⁹ Florida Criminal Procedure and Corrections §985.245; Delaware Revised Code Title 10 §1007.

Key Findings:

Pre-Disposition Detention Admissions as % of Petitions Filed



Note: Includes all detention admissions, not just youth detained for a new complaint

Vera

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JUVENILE DETENTION ADMISSIONS

Data Source: DJS, all detention admissions for January – August 2020. FY 2019 data is from the DJS Data Resource Guide.

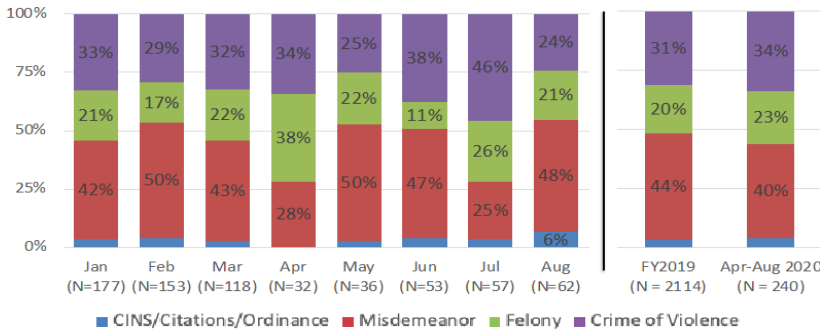
- With the exception of April, pre-disposition detention admissions accounted for about 20-30% of petitions filed in 2020.
- Misdemeanor offenses accounted for about 40% of pre-disposition detention admissions both in 2019 and in the April-August period of 2020, though they accounted for a smaller percentage of the weekly ADP.
- Black youth were disproportionately represented in pre-disposition detention admissions both in 2019 and in the April-August period of 2020.

Full Data Report:

“Admissions to Detention in 2020 – Changes and Consistencies”

http://dls.maryland.gov/pubs/prod/NoPblTabMtg/Cm snJuvRefCncl/Admissions_to_Detention_in_2020-Changes_and_Consistencies.pdf

Pre-Disposition Detention Admissions by Charge Severity



A larger percentage of pre-disposition detention admissions were for crimes of violence and other felonies in April-August 2020 than in FY 2019

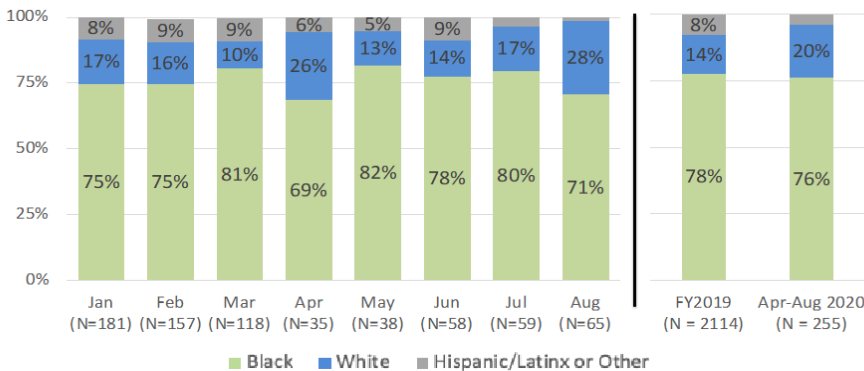
Note: Offense may not be the reason for placement

Note: Charge composition calculated as % of admissions with charge data (N); in 2020, about 3% were missing charge data

Vera

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Pre-Disposition Detention Admissions by Race/Ethnicity



Black youth accounted for about the same percentage of pre-disposition detention admissions in April-August 2020 as in FY 2019

Vera

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Recommendations

The JJRC reviewed recommendations from OPD³⁰ and the Maryland Youth Justice Coalition related to juvenile detention utilization.³¹ After review and discussion, the Council adopted the following recommendations:

- require courts to consider the findings of a validated risk assessment, in addition to the other statutory factors, when making a pre-adjudication detention decision;
- require courts to review a child’s detention status at least every 14 days;
- require DJS to develop and submit a community release plan within 10 days of a decision to detain a child;
- amend State law to prohibit the use of pre-adjudication detention for an offense that would be a misdemeanor if committed by an adult, unless:
 - a. the offense is a violation involving a handgun under the Criminal Law Article or Public Safety Article, or
 - b. the child has been adjudicated delinquent two (2) or more times in the previous twelve (12) months; and
- require DJS to report to the Maryland General Assembly within one year of the issuance of JJRC’s report on plans for implementing the following:
 - an annual report by DJS and MDH on the utilization of the Facility for Children and the length of stay in detention waiting for a placement in the Facility for Children when ordered for a competency evaluation and/or attainment services;
 - publication of data by DJS related to the risk assessment tool, specifically overrides, in DJS’ annual Data Resource Guide;
 - utilization of community detention, the development of forms of community detention that do not include total house arrests, and a requirement that DJS maintain a robust continuum of community-based alternatives to detention in every jurisdiction;

³⁰ Maryland Office of the Public Defender – Detention – Policy Review and Recommendations.

<http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/JJRCMOPDDetentionRecommendations.pdf>.

³¹ Maryland Youth Justice Coalition – Detention and Placement Recommendations. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/MYJCDetentionandPlacementRecommendations.pdf>.

- access to mental health services for all young people, not only acute/crisis intervention, and mandate that detention facilities have mental health professionals on site at all times;
- quality, evidence-based programming for detained youth, including at least 3 hours of programming on school-days and 6 hours of programming on non-school days, and including structured activities planned for every weekend, including activities that engage family members at least every other weekend;
- the established criteria and use of electronic surveillance and community detention for children on probation;
- increasing the number of shelter beds available, especially beds available for young women; with a requirement that DJS regularly report how many nights children spend in detention after being ordered to shelter care;
- minimum standards for detention center staff training and require functioning security camera systems in all areas of DJS facilities;
- minimum standards for family engagement at all facilities operated by DJS, including requirements for daily contact with family;
- requiring and defining standards for defense counsel to access young people at every juvenile facility; and
- adopting a cognitive behavioral therapy curriculum and restorative justice training for staff at every juvenile facility.

Utilization of Out-of-Home Committed Treatment Programs

Just as with detention utilization, Maryland has experienced a decline over several years of the number of young people that have been committed to a DJS out-of-home treatment program. Maryland operates a continuum of treatment options ranging from community-based foster care placements to facilities that provide treatment in a secure setting. The JJRC requested a policy review of the utilization of such placements and potential reforms focused at reducing the use of intensive treatment options for lower level or lower risk offenders.

Current Maryland Law

After an adjudicatory hearing, if the young person is found involved in the alleged delinquent offense, the court is required to hold a separate disposition hearing. In making a disposition, the court may place a young person on probation or commit the child to the custody of DJS, MDH, the Department of Social Services, or another child-serving public or licensed private agency. The court may also identify the type of facility at which a young person is to be accommodated, for example, a hardware secure facility, community-based residential placement, or a residential treatment center.



FIND THE FULL POLICY REPORT, “REDUCING
OUT OF COMMUNITY PLACEMENTS:
NATIONAL EXAMPLES”

http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Reducing_Out_of_Community_Placements-National_Examples.pdf

Policy Summary

Sending a young person away from home as part of a response to delinquent behavior keeps a child away from their most important source of support during their rehabilitation: the child’s family; or other mentors. Previous research from Vera found that benefits of visits and contact from loved ones include face-to-face contact, increased motivation, and emotional regulation.³²

Three (3) states have recently implemented changes to move people committed to juvenile custody away from facilities far from family to commitments close to home. New York’s Close to Home legislation, passed in 2012, requires all New York City children found delinquent and requiring placement to be placed in NYC community-situated placements operated by nonprofits. New York’s commitments inside and outside of the Close to Home program have dropped dramatically, from nearly 1,500 commitments in 2009 to 363 in 2019, of which 94 are New York City placements.³³ Illinois’ Redeploy Illinois program was created in 2005 as an alternative to state placement for youth who would otherwise be in Illinois Department of Juvenile Justice facilities. All crimes except Class X (the highest level of felony) are eligible for alternative placement. Counties that divert at least 25% of commitment-bound youth receive

³² Ryan Shanahan, Sandra Aguledo. “Families as Partners: Supporting Incarcerated Youth in Ohio.” Vera Institute of Justice. 2012.

³³ New York State Office of Children and Family Services. “Annual Report Youth in Care 2019”; NYC Administration for Children’s Services Flash Monthly Reports.

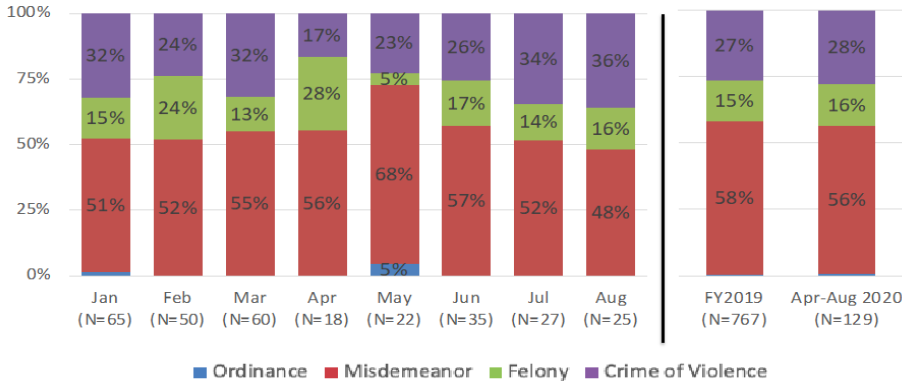
savings from redeployment. Since inception, there has been a 58% reduction in commitments to Illinois Department of Juvenile Justice facilities.³⁴ Finally, in September 2020, California passed legislation to close all state youth facilities as of July 1, 2021, transferring treatment and custody of delinquent youth to counties.³⁵

³⁴ Redeploy Illinois. “2014 Annual Report.”

³⁵ SB 823 (2020).

Key Findings

Commitment Admissions by Charge Severity



Commitment admissions by charge severity in April-August 2020 were not demonstrably different from FY 2019

COMMITTED PROGRAM ADMISSIONS

Data Source: DJS, all commitment admissions for January – August 2020. FY 2019 data is from the DJS Data Resource Guide.

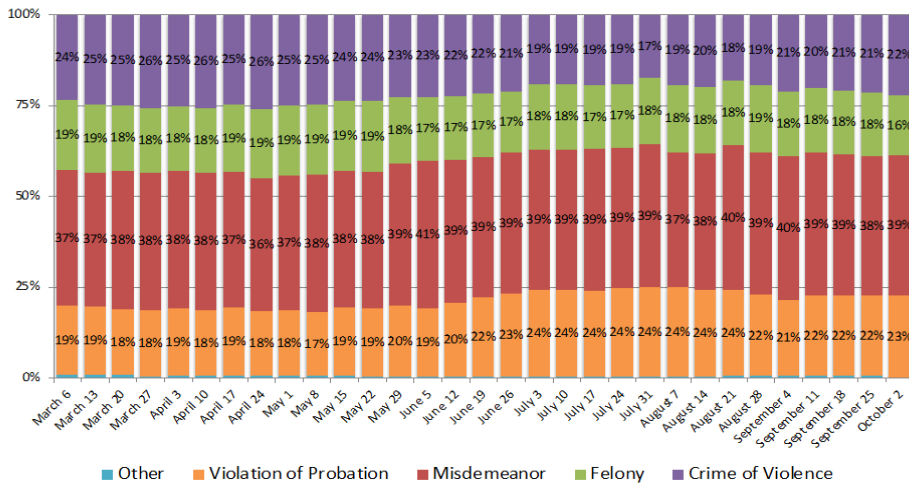
- Misdemeanor offenses accounted for over half of commitment admissions both in 2019 and in the April-August period of 2020, though they accounted for a smaller percentage of the weekly ADP.
- While still overrepresented in commitment admissions, Black youth accounted for a smaller percentage of commitment admissions in the April-August period of 2020 than in 2019.

Full Data Report:

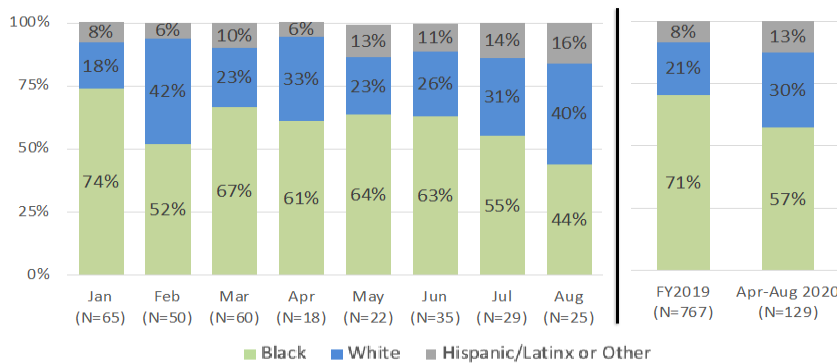
“Admissions to Out-of-Home Commitments in 2020”

http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Admissions_to_Out-of-Home_Commitments_in_2020.pdf

Weekly Trends in Commitments by Charge Severity



Commitment Admissions by Race/Ethnicity



Black youth accounted for a smaller percentage of commitment admissions in April-August 2020 than in FY 2019

Recommendations

The JJRC reviewed recommendations from OPD³⁶ and the Maryland Youth Justice Coalition related to out-of-home residential programs.³⁷ After review and discussion, the Council adopted the following recommendations:

- amend State law to prohibit commitments of a child to DJS if the child is:
 - A. adjudicated delinquent for an offense that would be a misdemeanor if committed by an adult, unless the adjudication is for a second or subsequent offense involving a firearm; or
 - B. found in violation of community supervision for a technical violation, as defined in § 6-101 of the Correctional Services Article.
- DJS should establish a plan to transition from the current slate of committed facilities to ensure every region has access to nonresidential and residential community-based services that employ evidence-based, culturally competent programming;
- DJS should ensure access to comprehensive educational programing in all DJS facilities; and
- DJS should ensure that every DJS facility and contracted program offers access to Technical and Vocational Education and Training with highly qualified teachers and on-the-job training.

³⁶ Maryland Office of the Public Defender – Maryland Youth Prisons – Policy Review and Recommendations. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/MOPDRecommendationsMarylandYouthPrisons.pdf>.

³⁷ Maryland Youth Justice Coalition – Detention and Placement Recommendations - <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/MYJCDetentionandPlacementRecommendations.pdf>.

Diversion in the Juvenile Justice System

Information related to diversion opportunities was presented at nearly all the Statewide listening sessions and was a topic of interest for JJRC members. Although young people may be diverted from nearly every stage of the juvenile justice system, the focus of the JJRC was directed at the opportunities for DJS to divert young people from the formal court system.

Current Maryland Law

Within 25 days of receiving a complaint, a DJS intake officer decides whether there is juvenile jurisdiction and if court action is appropriate.³⁸ The intake officer may decide to: (1) file a petition or a peace order request or both with the juvenile court; (2) if the victim agrees, informally dispose of a case by allowing a young person to go home and work with a community program under the supervision of DJS; or (3) refuse to authorize the filing of a petition or peace order.

If the complaint involves an act that would be a felony if committed by an adult, the State's Attorney may overrule the intake officer's decision and file a petition or peace order, or both. If the intake officer decides not to file a petition or peace order, the victim, arresting officer or complaining person or agency may appeal the decision to the State's Attorney.

Policy Summary

Young people should be diverted from formal juvenile justice system involvement whenever possible in order to limit undesirable outcomes like stigmatization and increased odds for recidivism.³⁹ To boost the use of pre-arrest diversion, Florida⁴⁰ and California⁴¹ passed legislation encouraging participating counties to develop comprehensive and coordinated approaches. In Florida, the law reportedly bolstered the success of the state's longstanding civil citation program (a diversion program) and helped decrease juvenile recidivism across the state by as much 5% when compared to the average recidivism rates of other diversion programs.⁴² In California, the law funded the creation of a community-based diversion infrastructure in five counties to link youth to culturally-relevant, trauma-informed, and developmentally-appropriate programs and services proven effective at promoting positive youth development and community health and safety. The California diversion programs remain within a three-year pilot phase and do not yet have outcomes.

³⁸ MD Code, Courts and Judicial Proceedings, 3-8A-10.

³⁹ Development Services Group, Inc. 2017. MPG I-Guides: Diversion Programs. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention. <https://www.ojjdp.gov/mpg-iguides/topics/diversion-programs/>.

⁴⁰ SB 352 (2011).

⁴¹ SB 433 (2019).

⁴² A 2017 study found that, while other diversion programs in Florida had a 9 percent recidivism rate on average, the average recidivism rate for civil citation programs was 4 percent statewide (Caruthers, 2017). Betsinger, A., Farrell, J. & Hammond, P. (2018). Best Practices in Youth Diversion: Literature Review for the Baltimore City Youth Diversion Committee. <https://theinstitute.umaryland.edu/media/ssw/institute/md-center-documents/Youth-Diversion-Literature-Review.pdf>.

Kentucky⁴³, Kansas⁴⁴, South Dakota⁴⁵, and Utah⁴⁶ passed legislation recently to divert youth after arrest or when cases are referred to the juvenile justice system. Each state made diversion the presumptive default for most misdemeanor offenses, so long as varied aggravating factors such as multiple prior adjudications or high-risk scores were not established. Researchers have studied the effects of Kentucky’s 2012 diversion law, which requires diversion for all misdemeanors and permits diversion for nonviolent felonies, and found that 9 out of 10 youth successfully completed diversion, and the legislation has had no negative effect on public safety.⁴⁷ The South Dakota and Kansas codes include time limits on the length of diversion. South Dakota reduced its standard diversion period from six (6) months to four (4) months.⁴⁸ Kansas introduced a standard diversion period of six (6) months.⁴⁹ Both states’ laws lay out procedures for extending probationary periods where youths need extra time to complete treatment services or other programming.



FIND THE FULL POLICY REPORT,
“IMPROVING DIVERSION AND YOUTH
OUTCOMES”

[http://dls.maryland.gov/pubs/prod/NoPblTabMtg/
CmsnJuvRefCncl/Improving_Diversion_and_Youth_
Outcomes.pdf](http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Improving_Diversion_and_Youth_Outcomes.pdf)

⁴³ SB 200 (2014).

⁴⁴ SB 367 (2015).

⁴⁵ SB 73 (2015).

⁴⁶ HB 239 (2017).

⁴⁷ Samantha Harvell, Leah Sakala, Daniel S. Lawrence, Robin Olsen, and Constance Hull. “Assessing Juvenile Diversion Reforms in Kentucky.” Urban Institute. (2020).

⁴⁸ SB 73 (2015).

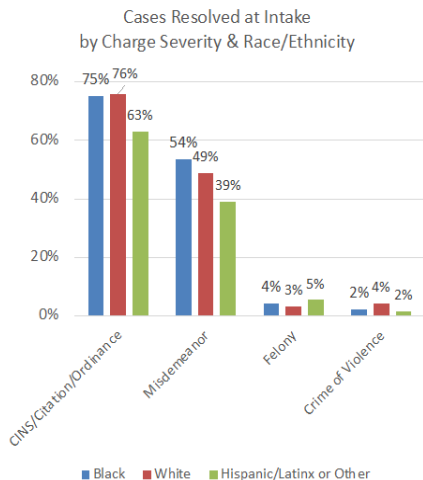
⁴⁹ SB 367 (2015).

Key Findings

Cases Resolved at Intake in FY19

Overall, 45% of cases in FY2019 were resolved at intake

	% of Cases Resolved at Intake
Boys	40.7%
Girls	56.1%
Black	43.6%
White	51.2%
Hispanic/Latinx or Other	36.7%
Baltimore City	17.7%
Central	48.6%
Eastern Shore	56.6%
Metro	29.0%
Southern	58.5%
Western	37.5%
CINS/Citation/Ordinance	74.0%
Misdemeanor	51.2%
Felony	4.3%
Crime of Violence	2.6%



DJS DIVERSION

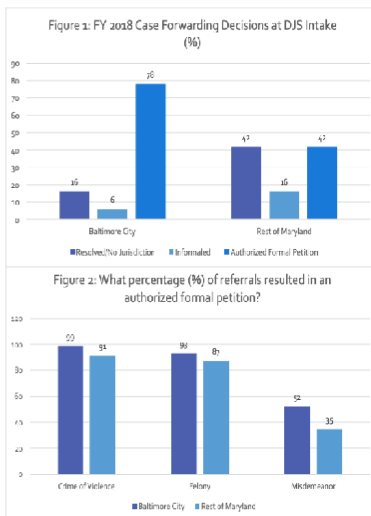
Data Source:

1. DJS, all complaints for FY 2019 - slides on % of cases resolved at intake/pre-court.
 2. Baltimore Youth Diversion Assessment, Center for Children’s Law & Policy (April 2019) – slide on diversion for Baltimore City versus rest of Maryland.
 3. DJS Alternatives to Detention and Informal Case Processing Performance Report (December, 2019) - slide on pre-court supervision completion & slide on recidivism.
 4. Summary of MST and FFT Outcomes for Pre-Court Youth (September, 2020) – slide on recidivism.
 5. DJS Intake Programs & Services by Region Spreadsheet (October, 2020) – slide on services by region.
- In 2019, 45% of cases were resolved at intake while 17% resulted in pre-court supervision.
 - Girls and white youth have the largest percentage of cases diverted through resolution at intake or pre-court supervision.
 - Hispanic/Latinx youth were least likely to have their cases resolved at intake for low-level offenses while Black youth were least likely to receive pre-court supervision for low-level offenses.

DJS Diversion – Baltimore City and the Rest of Maryland

22% of cases in Baltimore City were diverted in FY2018 in comparison to 58% for the rest of MD

- Baltimore City has a much larger percentage of more serious offenses (60%) in comparison to the rest of Maryland (17%)
- Even for misdemeanors, a larger percentage result in a formal petition in Baltimore City (52%) in comparison to the rest of Maryland (35%)
- Different booking process in Baltimore in comparison to the rest of Maryland



Severity of Offenses in FY2018

	Misdemeanor	Felony	Crime of Violence
Baltimore City	40%	30%	30%
Rest of MD	70%	7%	10%

Data Source: Baltimore Youth Diversion Assessment, Center for Children’s Law & Policy (April, 2019)

Services by Region

At intake, youth are screened by an intake decision tool to determine their needs and connect them to appropriate services in the community

Region	# of Programs Available	Most Common Services (programs providing service as a % of all programs in a region)		
		Mental Health	Family Focused	Substance Use Disorder
Baltimore City	27	63%	19%	41%
Central	81	56%	31%	16%
Eastern Shore	81	53%	31%	27%
Metro	15	33%	33%	13%
Southern	49	35%	24%	18%
Western	59	39%	25%	15%

Other less common types of services that can be matched to youths’ needs include education, employment, community service, mentorship, victim awareness, anger management, etc.

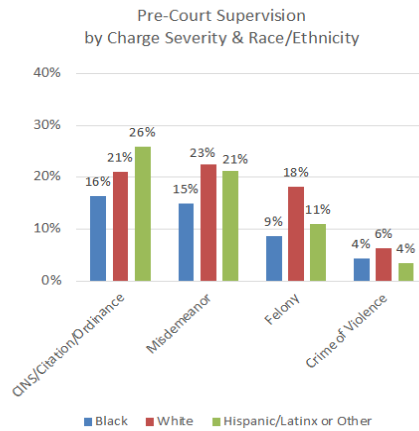
Note: Services are not mutually exclusive, one program can provide multiple types of services

Key Findings - Continued

Cases Resulting in Pre-Court Supervision in FY19

Overall, 17% of cases in FY2019 resulted in pre-court supervision

	% of Cases Resulting in Pre-Court Supervision
Boys	14.3%
Girls	18.7%
Black	13.0%
White	21.0%
Hispanic/Latinx or Other	19.2%
Baltimore City	8.1%
Central	10.6%
Eastern Shore	14.7%
Metro	26.0%
Southern	14.3%
Western	22.7%
CINS/Citation/Ordinance	20.3%
Misdemeanor	17.5%
Felony	10.6%
Crime of Violence	4.6%



DJS DIVERSION

Data Source: DJS

- About 80% of young people who take part in pre-court supervision successfully complete it.
- 90% of young people who complete pre-court supervision are not re-adjudicated/re-convicted within one (1) year.

Full Data Report:

“Diversion Opportunities and Services in the Community in Maryland”

http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Diversion_Opportunities_and_Services_in_the_Community_in_Maryland.pdf

Pre-Court Supervision Completion

The % of youth that successfully complete their pre-court supervision has remained stable over time at about 80%			
	FY2016	FY2017	FY2018
% Successful Completion	81.2	79.2	78.2
% Unsuccessful/Non-compliant	18.8	20.8	21.8

For cases that were <u>unsuccessful</u> , between 35-40% were forwarded to the State’s Attorney			
	FY2016	FY2017	FY2018
% of Unsuccessful Cases Forwarded to State’s Attorney	38.7	35.3	40.1

Data Source: Maryland DJS Alternatives to Detention & Informal Case Processing Performance Report (December, 2019)

Recidivism Outcomes

The recidivism rate (juvenile) for youth on pre-court supervision within 12 months after the complaint decision date was 9%			
	Formal Referral (N=3,481)	Pre-Court Supervision (N=2,379)	Case Resolved at Intake (N=5,938)
New, Sustained Juvenile Offense	532 (15%)	216 (9%)	437 (7%)

Data Source: Maryland DJS Alternatives to Detention & Informal Case Processing Performance Report (December, 2019)

Recidivism (juvenile & adult) within 12 months after completing MST and FFT		
	Multi-systemic therapy (N=18)	Family functional therapy (N=45)
Referred to DJS/Arrested	6 (33%)	17 (38%)
Adjudicated delinquent/Convicted	1 (6%)	6 (13%)
Committed to DJS/Incarcerated	0 (0%)	3 (7%)

Data Source: Summary of MST and FFT Outcomes for Pre-Court Youth (September, 2020)

Recommendations

The JJRC reviewed recommendations from OPD⁵⁰ and the Maryland Youth Justice Coalition related to increased access to diversion from formal court interventions.⁵¹ After review and discussion, the Council adopted the following recommendations.

- Remove barriers to informal/pre-court supervision by taking the following actions.
 - Amend Md. Code Ann., Cts. & Jud. Proceedings § 3-8A-10 to require informal adjustment of all first referrals for misdemeanor and non-violent felonies to DJS. Firearm offenses are not eligible for a mandatory informal adjustment, but may be referred for an informal adjustment.
 - Amend Md. Code Ann., Cts. & Jud. Proceedings § 3-8A-10 to eliminate the requirement of victim consent for an informal adjustment to proceed. The Department must make all reasonable efforts to contact and notify the victim of the Department's decision, and invite the victim to engage in restorative practices.
 - Eliminate the requirement found in Md. Code Ann., Cts. & Jud. Proceedings § 3-8A-10 that requires DJS to forward all complaints alleging non-violent felonies to the State's Attorney for review for approval for informal adjustment.
- Narrow the definition of "delinquent act" in Maryland to exclude the following conduct, mirroring the language already found in Maryland's Code of Regulations: "Delinquent acts do not include conduct which has been traditionally treated as a matter of discipline to be handled administratively by the particular school."
- Eliminate the requirement that certain citations must be forwarded to the State's Attorney, allow for the use of citations for misdemeanor offenses, and allow for police citations to be resolved through police diversion or through complaint to DJS.
- The Governor's Office of Crime Prevention, Youth, and Victim Services should develop a model law enforcement diversion program, evaluate funding opportunities to support local diversion programs, and collect and evaluate data related to implementation of these diversion programs.

⁵⁰ Maryland Office of the Public Defender – Diversion – Policy Review and Recommendations. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/MOPD-Diversion.pdf>.

⁵¹ Maryland Youth Justice Coalition – Youth Justice and Diversion in Maryland – Issue Brief and Policy Recommendations. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/MYJC-Youth-Justice-and-Diversion-in-Maryland.pdf>.

Youth Charged in the Adult Criminal Justice System

Over the years, there has been a constant interest in reviewing the policies and practices related to charging certain young people in Maryland’s adult criminal justice system, rather than the juvenile justice system. The JRRC voted to ensure this issue was evaluated by the council through data and policy presentations.

Current Maryland Law

Generally, the juvenile court handles complaints involving youth who are under the age of 18. However, there are multiple ways a young person under the age of 18 may be subjected to adult criminal jurisdiction. Maryland law has two pathways that can result in adult criminal court involvement, waiver, and direct file.

Maryland law requires young people who are 14 and older, and charged with a crime that carries a sentence of life imprisonment if committed by an adult, to be charged directly in the adult criminal justice system. Young people who are 16 and older and charged with one of 33 crimes also are required to be automatically charged as an adult. In both instances, young people directly charged in the adult criminal justice system are tried and sentenced in that system unless their case is transferred back to the juvenile justice system. Most young people are eligible to request their case be transferred to the juvenile court, unless the young person is 16 or 17 and charged with one of four offenses.

Additionally, youth charged as adults who are eligible to file for transfer to juvenile court are presumed eligible to be held in a secure juvenile detention facility while pending the transfer decision, unless:

- (1) the young person is released;
- (2) there is no capacity in the secure juvenile facility; or
- (3) the court finds that detention in a secure juvenile facility would pose a risk of harm to the child or others. Md. Code Ann., Crim. Pro. §4-202.

Young people may be subjected to adult criminal jurisdiction if their juvenile case is waived to the adult court. Waiver is initiated when prosecutor requests the juvenile case be moved to adult court. A hearing is conducted and a judge decides to deny or grant the request. Individuals as young as 14 years old may have their cases waived to the adult court.

AUTOMATIC ADULT JURISDICTION Source: § 3-8A-03 of the Maryland Courts & Judicial Proceedings Article		
AGE 14 AND OLDER	AGE 16 AND OLDER	
<ul style="list-style-type: none"> • Murder – 1ST Degree • Rape – 1ST Degree • Any attempts of above • Any conspiracies of above <p>Abbreviations: CL = Criminal Law Article CP = Criminal Procedure Article PS = Public Safety Article</p>	<p>Serious/Violent Offenses:</p> <ul style="list-style-type: none"> • Kidnapping • Assault – 1st Degree (CL, §3-202) • Carjacking & Armed Carjacking (CL, §3-405) • Murder – 2nd Degree <ul style="list-style-type: none"> • Attempted Murder –2nd Degree (CL, §2-206) • Voluntary Manslaughter • Rape – 2nd Degree <ul style="list-style-type: none"> • Attempted Rape – 2nd Degree (CL, §3-310) • Robbery w/ Dangerous Weapon <ul style="list-style-type: none"> • Attempted Robbery w/ Dangerous Weapon (CL, §3-403) • Sex Offense– 3rd (CL, §3-307(a)(1)) (IF force, a weapon, or threat of force used) 	<p>Firearms Offenses:</p> <ul style="list-style-type: none"> • Wear, Carry, Transport Handgun (CL, §4-203) • Possession of Unregistered Short-barreled Shotgun or Short-barreled Rifle (PS, §5-203(a)) • Possession of Regulated Firearm (PS, §5-133--convicted of prior disqualifying offense, etc.) • Minor in Possession of Regulated Firearm (PS, §5-133(d)(1)) • Use Wear, Carry, Transport Firearm during Drug Trafficking Crime (CL, §5-621) • Use of Firearm in Commission of Crime of Violence or Felony (CL, §4-204) • Possess, Own, Carry, Transport Firearm by Drug Felon (CL, §5-622) • Possess, Sell, Transfer Stolen Regulated Firearm (PS, §5-138) • Sell, Rent, Transfer Regulated Firearm (PS, §5-134(b)) • Sell, Rent, Transfer Regulated Firearm to Minor (PS, §5-134(d)) • Use or Possess Machine Gun in commission/attempted commission of Crime of Violence (CL, §4-404) • Use or Possess Machine Gun for Offensive or Aggressive Purpose (CL, §4-405) <p>Miscellaneous:</p> <ul style="list-style-type: none"> • Any felony IF prior felony conviction as an adult • Non-incarcerable Traffic & Boating Offenses • Domestic Violence Peace Order requests are heard in the adult court where the victim is: the current or former spouse of the respondent; a cohabitant of the respondent; a person related to the respondent by blood, marriage or adoption; a parent, stepparent, child, or stepchild of the respondent or victim who resides or resided with the respondent or victim for at least 90 days within 1 year before the filing of the petition; a vulnerable adult; or an individual who has a child in common with the respondent. CP, §3-8A-03(d)(6). The juvenile court retains jurisdiction over violations of this section by a juvenile.
Automatic Adult Jurisdiction – When Transfer to Juvenile Court is Prohibited (CP, §4-202(c))		
<ul style="list-style-type: none"> • In an unrelated case, Juvenile was <u>convicted</u> of any of the above offenses (excluding “non-incarcerable traffic & boating” and excluding if adult jurisdiction is created only by a prior, non-excluded felony offense). • Offense is 1st degree murder and the juvenile was 16 or 17 years of age when the alleged crime was committed 		

Policy Summary

Adolescence brings changes in the limbic brain resulting in greater sensitivity to rewards, threats, novelty, and peer influence.⁵² In contrast, it takes longer – up to age 25 -- for the cortical region, which implicates cognitive control and self-regulation, to develop.⁵³ Accordingly, charging youths in adult court does not take into account that they are physiologically disadvantaged to adjust their behavior to the mandate of the law. The juvenile justice system, given its established responsibility to promote the best interests of children while helping them to adjust their behavior, is better suited to adjudicate youth cases than adult criminal courts. Evidence shows that youth and public safety outcomes suffer when children are charged in the adult criminal legal system.⁵⁴

Several states are working to keep more young people 18 years and older out of the adult criminal court. Vermont recently became the first state to set its juvenile justice age threshold above 18.⁵⁵ By 2022, with some exceptions for violent offenses, 19-year-olds will be treated as juveniles.⁵⁶ Recent proposals in California⁵⁷ and Massachusetts⁵⁸ suggest the states are working to follow suit. If passed, the California bill will extend the age of original juvenile court jurisdiction to 19 years and would allow jurisdiction to extend to a person’s 21st birthday. The Massachusetts bill created the Task Force on Emerging Adults in the Criminal Justice System to consider the advisability, feasibility, and impact of raising the cutoff age of juvenile court jurisdiction from 18 years to 20 years.



FIND THE FULL POLICY REPORT, “YOUTH CHARGED AS ADULTS”

<http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/Youths-charged-as-adults-policy-presentation.pdf>

Several states have recently required all cases involving youth to begin in juvenile court. While some youth’s cases may ultimately be moved to adult court, the burden now falls on state actors to establish why juvenile adjudication would be inappropriate. Three states – California⁵⁹, Kansas⁶⁰, and New Jersey⁶¹ – recently repealed presumptive waiver provisions that automatically move cases to adult court. Florida⁶² and Oregon⁶³ repealed laws that previously granted adult criminal courts exclusive jurisdiction over many offenses. Florida now requires a due process hearing which acts as a “second opinion” on the prosecutor’s request to file the case in adult

⁵² Steinberg, L., Cauffman, E., & Monahan, K. C. (2015, March). Psychosocial maturity and desistance from crime in a sample of serious juvenile offenders. *Juvenile Justice Bulletin*. Retrieved from www.ojjdp.gov/pubs/248391.pdf.

⁵³ *Id.*

⁵⁴ Centers for Disease Control and Prevention. “Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Court System: A Report on Recommendations of the Task Force on Community Preventative Services.” (November 30, 2007).

⁵⁵ S.234 (Act 201). 2018. <https://legislature.vermont.gov/bill/status/2018/S.234>.

⁵⁶ *Id.*

⁵⁷ SB 889 (2020).

⁵⁸ SD 2840 (2018).

⁵⁹ Prop 57 (2016).

⁶⁰ SB 367 (2017).

⁶¹ S2003 (2015).

⁶² HB 339 (2019).

⁶³ SB1008 (2019).

court. Oregon did away with its previous requirement that “Measure 11” crimes – which include serious person to person crimes – begin in adult court.

Other states have recently narrowed their list of crimes that must begin in adult court, the so-called statutory exclusions. These states include Delaware, Illinois, Utah, and Washington State.⁶⁴ South Carolina raised the age for transfer to adult court to 17.⁶⁵

⁶⁴ Delaware HB 9 (2017); Illinois HB 3718 (2015); Utah HB 239 (2020); Washington State SB 6160 (2018).

⁶⁵ S 916 (2016).

Key Findings

Profile of Cases for Youth Charged as Adults

MDEC COUNTIES (DC & CC)

Total Cases: 1,295

Average Age: 16.5 years old

89.3% Boys
10.0% Girls
0.7% Unknown

72.8% Black
21.2% White
6.0% Other/Unknown

% of cases that include an exclusionary offense: 85%

% of cases where an exclusionary offense is the top charge: 77%

BALTIMORE CITY (CC)

Total Cases: 476

Average Age: 16.5 years old

95.2% Boys
4.6% Girls
2.1% Unknown

94.1% Black
2.1% White
3.8% Other/Unknown

% of cases that include an exclusionary offense: 93%

% of cases where an exclusionary offense is the top charge: 91%

YOUTH CHARGED IN THE ADULT CRIMINAL JUSTICE SYSTEM

Data Source: Maryland Administrative Office of the Courts, all cases for youth charged as adults in MDEC Counties District & Circuit Courts and Baltimore City Circuit Court from 2107 -2019.

- Black youth accounted for 73% of youth charged as adults in MDEC Counties, and 94% of youth charged as adults in Baltimore City.
- First degree assault accounts for the largest percentage of cases in MDEC Counties and Baltimore City; in Baltimore City, this is followed by handgun/firearm possession and armed carjacking.

Youth Charged as Adults by Exclusionary Offenses & Age Group, MDEC Counties

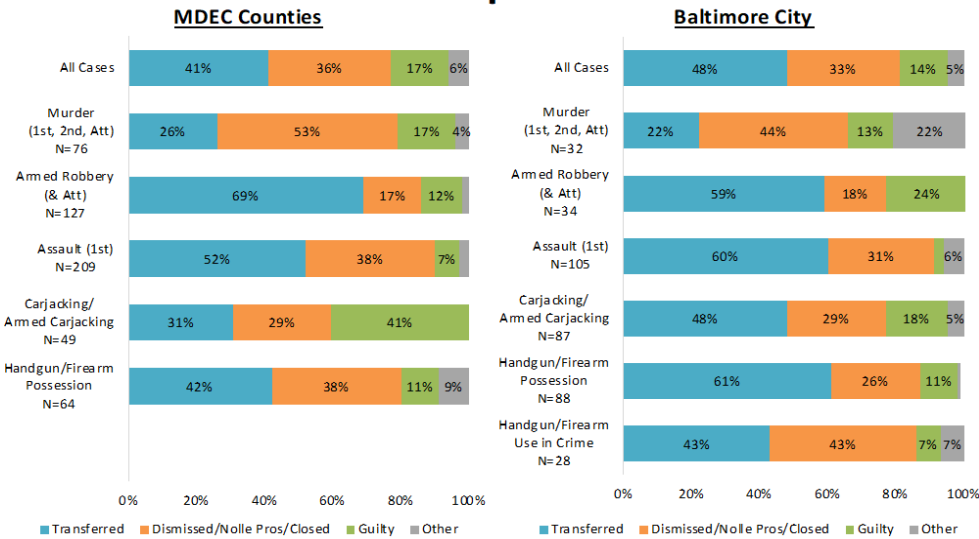
	# of Youth Charged by Age Group	% of All Offenses for Age Group
Ages 13 and younger		
Youth Charged as Adults (< 14)	5	100%
Ages 14-15		
Murder (1st, Att)	31	55%
Rape (1st, Att)	0	0%
Other Offenses	25	45%
Youth Charged as Adults (14-15)	56	100%
Ages 16-17		
Murder (1st, 2nd, Att)	100	8%
Rape (1st, 2nd, Att)	48	4%
Armed Robbery (& Att)	163	13%
Assault (1st)	454	37%
Carjacking	29	2%
Armed Carjacking	31	3%
Kidnapping	18	1%
Sex Offense (3rd)	9	1%
Voluntary Manslaughter	2	0%
Use of Firearm in Crime of Violence	11	1%
Handgun/Firearm Possession	201	16%
Other Offenses	163	13%
Youth Charged as Adults (16-17)	1,229	100%
Total Youth Charged as Adults (all ages)	1,295	--

Note: 5 cases did not include age information

Youth Charged as Adults by Exclusionary Offenses & Age Group, Baltimore City

	# of Youth Charged by Age Group	% of All Offenses for Age Group
Ages 13 and younger		
Youth Charged as Adults (< 14)	3	100%
Ages 14-15		
Murder (1st, Att)	6	38%
Rape (1st, Att)	4	25%
Other Offenses	6	38%
Youth Charged as Adults (14-15)	16	100%
Ages 16-17		
Murder (1st, 2nd, Att)	31	7%
Rape (1st, 2nd, Att)	8	2%
Armed Robbery (& Att)	38	8%
Assault (1st)	117	26%
Carjacking	12	3%
Armed Carjacking	87	19%
Kidnapping	0	0%
Sex Offense (3rd)	0	0%
Voluntary Manslaughter	0	0%
Use of Firearm in Crime of Violence	30	7%
Handgun/Firearm Possession	111	24%
Other Offenses	23	5%
Youth Charged as Adults (16-17)	457	100%
Total Youth Charged as Adults (all ages)	476	--

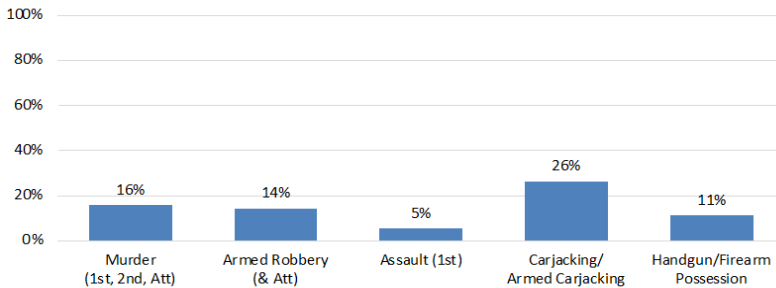
Case Dispositions



Notes: N = cases with dispositions; limited to offense categories with at least 10 cases

% of Cases Charged in Adult Court that Result in a Conviction

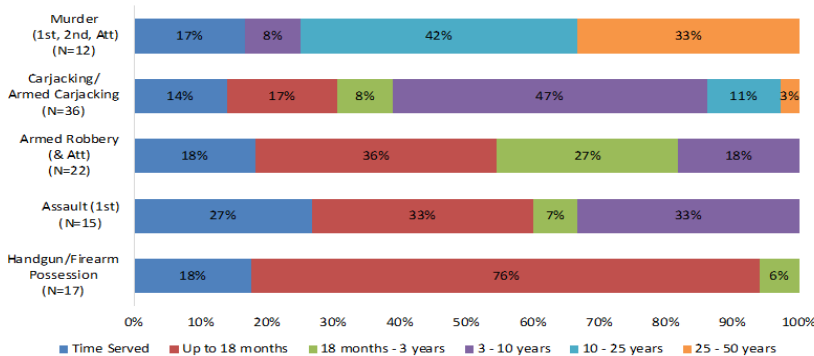
Offense Category	Charged as an Adult	Convicted in Adult Court	%
Murder (1st, 2nd, Att)	108	17	16%
Armed Robbery (& Att)	161	23	14%
Assault (1st)	314	17	5%
Carjacking/Armed Carjacking	136	36	26%
Handgun/Firearm Possession	152	17	11%



Notes: cases from MDEC Counties and Baltimore City are combined; includes only cases with dispositions

Actual Sentence Length, MDEC Counties & Baltimore City Combined

This reflects the total length of a sentence that a person is required to serve (sentence – suspended sentence = time incarcerated)



Notes: N = cases with a documented sentence length, excludes 5 cases with a life sentence; limited to offense categories with at least 10 cases

YOUTH CHARGED AS ADULTS

- In both MDEC Counties and Baltimore City, over three-quarters of cases are transferred down to juvenile court or dismissed.
- The percentage of young people charged in adult court who are convicted varies by offense; only 5% of youth charged in adult court for first degree assault are convicted.
- Most young people sentenced in adult court for armed robbery and assault receive an actual sentence of 3 years or less; the actual sentence length for all young people sentenced in adult court for handgun possession was 3 years or less.
- Young people currently spend about 3.5 months detained in juvenile facilities pending transfer hearing.

Full Data Report: “Preliminary Findings: Youth Charged as Adults in Maryland” <http://dls.maryland.gov/pubs/prod/NoPb/TabMtg/CmsnJuvRefCncl/Preliminary-Findings-Youth-Charged-as-Adults.pdf>.

Recommendations

The JJRC reviewed recommendations from OPD related to charging youth in Maryland’s adult criminal justice system.⁶⁶ After review and discussion, the Council adopted the following recommendations.

- Improve data-sharing among agencies that serve youth charged as adults by requiring the Governor’s Office of Crime Prevention, Youth, and Victim Services to work with key stakeholders to develop a data collection plan to collect, collate, and ultimately analyze data from criminal justice agencies, including law enforcement, corrections, and the courts in order to better understand the issue of youth charged as adults at every level of the adult criminal justice system, from arrest to case resolution.
- The JJRC should be extended to continue researching and evaluating opportunities to improve Maryland’s juvenile justice system.

⁶⁶ Maryland Office of the Public Defender – Raise the Age – Policy Review and Recommendations. <http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnJuvRefCncl/MOPD-Raise-the-Age.pdf>.