

# Youth Justice Task Force Report



State of New Jersey  
The Task Force for the Continued  
Transformation of Youth Justice in New Jersey

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## **INTRODUCTION**

Executive Order No. 42 was signed by Governor Philip D. Murphy on October 26, 2018, establishing the Task Force for the Continued Transformation of Youth Justice in New Jersey (“Task Force”). The executive order charged the Task Force with providing recommendations to the legislative and executive branches on strategies for continuing the reform of the state’s youth justice system.

Since its adoption of the Juvenile Detention Alternatives Initiative (JDAI) over 15 years ago, New Jersey has achieved remarkable success in transforming its youth justice system — success that has been recognized nationally. Through years of hard work and collaboration with system stakeholders, New Jersey, the first state to implement JDAI statewide, has eliminated the chronic, dangerous overcrowding that plagued county youth detention centers. Data-driven analysis has focused on insuring that detention is reserved for only those youths who cannot be monitored safely in the community and that their stays in detention are as short as possible.

As a result of these efforts, from 2003 to 2018, the number of youth in detention dropped by 70 percent, from about 12,000 to 2,300 a year, with youth of color accounting for more than 90 percent of the decrease. During this same period, the number of youth incarcerated with the state Juvenile Justice Commission (JJC) decreased by 85 percent, from about 1,200 to 150 a year. Reliance on incarceration for minor offenses has been virtually eliminated. Legislation has also been passed to ensure that juveniles sentenced to incarceration in the adult system can initially serve their time in a youth facility instead of an adult prison. In fact, many young people remain in the custody of the JJC into their early 20s.

With these reforms, the typical youth in the justice system — particularly in secure care — has changed dramatically. Today, nearly three-quarters of the custodial population is over the age of 18 (with an average age of 18.5 years). There are more than 60 residents serving adult sentences with the JJC, and more than 85 percent of all youth in custody have a history of violent offenses, including homicide, sexual assault, carjacking, aggravated assault and armed robbery, and are committed on sentences that average five years, with some ranging from 10 to 30 years.

As the court-involved population shifts — and as New Jersey continues to work to keep as many youth in the community as possible, consistent with public safety — we must consider what changes are needed to allow juveniles touched by the justice system to grow and thrive. We need to ensure, for example, that the system incorporates our current knowledge of adolescent brain development. We also need additional strategies to eliminate the continued overrepresentation of youth of color. Despite dramatic overall reductions in the number of youth detained, efforts to eliminate disproportionate minority representation in detention have not been as successful, and troubling inequities continue to characterize the state.

The work of the Task Force has been animated by one overriding principle: No youth is beyond redemption. As we know from the brain science, adolescence continues into the mid-20s. It is a time of significant growth and maturation. It presents, therefore, a critical opportunity

for redirection. And all young people, whatever harm they may have caused, deserve just that, with a robust assortment of programs and opportunities for growth and rehabilitation.

## **EXECUTIVE SUMMARY**

Since its creation in the fall of 2018, the Task Force has embraced the governor's ambitious charge. The work, divided among four subcommittees, has been arduous. As reflected in Executive Order No. 42, we have been asked to examine every facet of the youth justice system, from diversions on the front end to formal dispositions and parole decisions on the back end. We have reviewed data on the current system, researched best practices, heard from experts, visited programs and held a listening session with incarcerated youth.

Our mission has been aided immeasurably by extensive efforts at public outreach. During three consecutive weeks in January of 2020, the Task Force conducted listening sessions throughout the state. More than 900 residents attended these sessions, in Newark, Trenton and Camden, and many shared with the Task Force their vision for the state's youth justice system. Written testimony and online comments were also solicited.

What emerged from this community engagement and the Task Force's lengthy deliberations was a sense that, while New Jersey has transformed its system in recent years, leading to a substantial decline in the number of youth in custody, considerable work remains. There was near unanimity that the trend toward decarceration must continue. To the extent possible, court-involved youth should be supervised in the community, and family ties — critical to a young person's rehabilitation — should remain intact. If sentencing guidelines compel a commitment to the custody of the JJC, efforts at rehabilitation and community reintegration must continue, not in prison-like structures, but in small, campus-like secure facilities that foster healing and growth without compromising public safety.

There was also a feeling, shared by every member of the Task Force and the community at large, that issues of racial equity must be imbedded at every point in the legal and treatment continuum, from curbside adjustments to post-incarceration supervision. Although JDAI has contributed to a precipitous decline in the number of youths detained — and children of color have been the beneficiaries of this overall trend — New Jersey still struggles with racial disparities that are among the worst in the nation. If this is to change, it will require the single-minded commitment of everyone connected to the youth justice system.

Our report is divided into four major parts, each incorporating the critical work of one of our subcommittees. We begin with facilities for an obvious reason: It was the state's decision in 2017 to close the antiquated Training School at Jamesburg and the Hayes facility for females that provided the impetus for the formation of this Task Force. We then discuss sentencing and parole, which have been the subject of intense legislative activity lately.

Our report concludes with sections on stationhouse adjustment, a diversionary program generally reserved for first-time offenders, and Youth Services Commissions, the county entities through which flow the lion's share of the funding for community-based programming. By placing these topics at the end, we do not mean to diminish their significance. To the contrary, we believe that, to be truly transformative, New Jersey must make a substantial investment —

as much as \$100 million — on the front end of the system. Only then can we accelerate the trend toward decarceration and tackle the seemingly intractable issue of racial disparity.

What follows is a summary of the recommendations made by the Task Force. Taken together, these recommendations, which touch every part of the system, are calculated to advance the continued transformation of youth justice in New Jersey. Because many of these recommendations will necessitate training, we urge the governor's office and the legislature to identify recurring funding sources for that training. We also believe that any program supported by public dollars should be subject to performance review, to ensure that it is operating in compliance with its stated goals and objectives.

## **RECOMMENDATIONS**

### **Residential and Secure Facilities**

- As New Jersey prepares for the closure of the New Jersey Training School and the Female Secure Care and Intake Facility, the state should begin construction of smaller replacement facilities that promote healing, rehabilitation and the reintegration of committed youth into their communities, consistent with public safety.
- No new secure-care facility should be larger than 48-beds.
- Secure-care facilities should be in locations readily accessible to families and communities.
- The new secure-care facilities should adhere to the architectural prototype presented to the Task Force (see Appendix) and must incorporate principles of transformative care.
- The state must develop a plan for the eventual closure of the Juvenile Medium Security Facility (JMSF) in Bordentown.
- At the same time secure care is being reimagined, the state must strengthen programming and therapeutic practices in the JJC's residential community homes (RCHs) and other out-of-home placements.
- To enhance the experience of all youth in JJC custody, the state must apply the principles of transformative care to the RCHs and allocate sufficient resources to the JJC to support essential physical improvements to the RCHs.
- The state must support the JJC's efforts, currently underway, to transform the agency's culture and practice and to ensure that each committed youth is safe, treated with fairness, connected with family and community and otherwise given the tools to grow and thrive; families and communities must be actively engaged in these ongoing efforts to improve practice.
- Because affordable housing is so sparse, the state must support the JJC's plan to develop transitional housing and independent living options for paroled and released youth who need safe places to stay.
- The Governor's Office should facilitate ongoing, inclusive discussion and deliberation regarding the ultimate disposition of the properties currently housing the New Jersey Training School and Hayes. Decisions regarding the disposition of these properties should consider 1) the principles of youth justice transformation articulated throughout this report, 2) the will and interests of the local community and 3) whether any of the



programs and services recommended in this report, including restorative justice or job training centers, are well-suited to these properties.

### **Sentencing and Parole**

- Because delinquency proceedings are unique, prosecutors, public defenders and judges should be encouraged to specialize in juvenile justice; the rotational assignments that have long characterized the family court should be discouraged.
- To the extent possible, family court assignments should be made with a view to increasing racial and ethnic diversity; judges, court employees and other participants in judicial proceedings — including police officers — should receive ongoing training on implicit bias and racial, ethnic and cultural competency.
- All youth charged with acts of delinquency should be deemed indigent and hence eligible, at no cost to them or their families, for representation by the Office of the Public Defender.
- The state should establish minimum and maximum ages for prosecution in juvenile court, consistent with developmental science, international human rights standards and the practice in several states. The precise ages should be set after further study by a separately constituted working group or the existing Criminal Sentencing and Disposition Commission.
- The state should consider adopting a different model of justice altogether for individuals between the ages of 18 and 25. That consideration should include shifting all or a portion of this group to the juvenile system and providing, among other things, additional support services and expungement opportunities. For those individuals who remain in the adult system, consideration should be given to an option for “reverse” waiver to the juvenile system upon a showing of rehabilitative capacity.
- There needs to be a careful review and possible revision of those sections of the juvenile code governing sentencing and incarceration.
- Principles of restorative justice should be applied at all points in the juvenile justice system.
- Because financial assessments exacerbate poverty, heighten racial disparities and increase recidivism, a concerted effort should be made to identify and eliminate all fines and fees imposed on youth, other than restitution, not explicitly covered by Senate Bill No. 48, consistent with the spirit of that legislation.
- Senate Bill No. 48’s elimination of fines and penalties should be applied retroactively to adjudicated youth, to the extent legally permissible.

- The JJC, in collaboration with the Administrative Office of the Courts, should produce statewide reports on the dispositional outcomes in juvenile court, according to county, race/ethnicity, gender and offense type.
- The legislature should amend Senate Bill No. 48 to vest with the JJC exclusive decision-making authority on questions related to early release, conditions of parole, revocation of parole and post-incarceration supervision.
- In promulgating regulations to effectuate Senate Bill No. 48, the JJC should establish clear, objective criteria for determining a youth's projected release date and the conditions of parole and post-incarceration supervision; the conditions of release — which should be conveyed to the youth in clear, developmentally appropriate language — should comport with the expressed intent of Senate Bill No. 48 and should constitute the least restrictive conditions necessary to promote the youth's rehabilitation.
- To the extent permitted by law, the joint parole panel established by Senate Bill No. 48 should reevaluate all youth placed on post-incarceration supervision prior to the effective date of Senate Bill No. 48 to determine, consistent with the legislation, whether continued supervision is necessary.
- The Office of the Public Defender, in consultation with the JJC and the Parole Board, should be responsible for providing representation to youth at parole revocation hearings.
- The governor should create a separate advisory board to consider the continued application of Megan's Law, in whole or in part, to juvenile sex offenders.

### **Stationhouse Adjustment**

- Every police department in the state should afford youthful offenders access to stationhouse adjustments.
- Stationhouse adjustments — which should be the first response considered for eligible offenses — should be applied evenly across geographic, socio-economic, racial and demographic lines.
- Training and uniform data-collection should be required to ensure consistency in the application of curbside and stationhouse adjustments.
- While victim input is a critical factor in determining the appropriateness of a stationhouse adjustment, it should not be the sole factor.

- Prior participation in a stationhouse adjustment should not be an automatic bar to participation in another adjustment.
- Once a police department has determined, in consultation with the county prosecutor, if necessary, that a stationhouse adjustment is appropriate, a partner agency should be contacted to provide services; police officers should not be expected to perform case management.
- There should be sufficient funding to ensure a full range of support services for adjusted youth.
- Principles of restorative justice should be applied to stationhouse adjustments.
- The categories of offenses eligible for stationhouse adjustments should be expanded.
- Protocols for curbside and stationhouse adjustments should not be so onerous that police departments are deterred from offering them.

#### **Youth Services Commissions and Investment in Community-Based Programs**

- The state should triple annual funding for Youth Services Commissions (YSCs).
- The State and YSCs should prioritize investment in restorative justice practices, including investment in restorative justice centers, as well as job training and apprenticeship programs.
- The funding formula that governs the allocation of YSC funds among counties must be revised and reapplied.
- The enabling statute should be amended to increase the comprehensive planning period for YSCs from three to five years.
- The JJC must be given adequate resources to provide technical assistance and oversight to the YSCs.
- Counties should promote community participation in the YSC process.
- YSCs and the JJC should offer guidance and technical support to applicants for YSC funds, to promote innovation and the participation of grassroots organizations; by demystifying the RFP process, YSCs can expand their networks of service providers and facilitate community engagement.
- YSCs should promote cross-agency communication and the coordinated delivery of services.

**Additional Recommendations**

- The governor and the legislature should identify recurring funding sources for any training associated with the implementation of the Task Force's recommendations.
- Any program supported by public dollars should be subject to performance review to ensure that it is operating in compliance with its stated goals and objectives.

## **SUBCOMMITTEE REPORTS**

### **Residential and Secure Facilities**

#### ***Subcommittee Charge***

*The subcommittee will make recommendations concerning how best to provide residential and secure care for youth in the custody of New Jersey's Juvenile Justice Commission so that each youth gets a rehabilitative experience in an appropriate, least restrictive and non-prison-like setting.*

#### ***Background***

New Jersey has been engaged in reforming the juvenile justice system for more than a decade. It has been a pioneer in expanding community options for court-involved youth. In 2004, it became one of the first states to embrace the Juvenile Detention Alternatives Initiative (JDAI). Since then, New Jersey has become the only state to implement detention alternatives statewide, in all of its 21 counties. As a result, New Jersey is considered a trailblazer in championing juvenile justice reforms that make our system fairer and keep us safe.

New Jersey's reform efforts have led to a remarkable reduction in the number of youth held in secure facilities. Through the collaborative implementation of JDAI, the number of youth in detention has dropped by 70 percent, from about 12,000 a year to 2,300, with youth of color accounting for more than 90 percent of the decrease. Additionally, the number of youth committed by the family court to the state Juvenile Justice Commission (JJC) has decreased by 85 percent, from about 1,200 to 150 a year. Importantly, New Jersey has achieved these results by ensuring that youth with low-level offenses and limited delinquency histories are served in the community. These changes also set the stage for legislation that took effect in 2016 that allows juveniles sentenced to prison in the adult system to begin their time in a JJC facility.

As a result of these reforms — and a declining reliance on incarceration, particularly for minor offenses — the profile of the typical youth committed to state custody has changed significantly. Over 70 percent of the committed population is over the age of 18 (the average age is 18.5 years); more than 60 residents are serving adult sentences in JJC facilities, instead of adult prison. And the charges for which they are doing time are among the most serious: Approximately 85 percent of all youth in custody have a history of violent offenses, including homicide, sexual assault, carjacking, aggravated assault and armed robbery, and are committed on sentences that average five years, with some youth sentenced to terms of 10 years or more.

In order to meet the complex needs of this changing population and improve outcomes, in 2017, the JJC initiated a comprehensive assessment of its facilities and practice model. The resulting JJC reform plan called for expanding and strengthening the programming offered in residential and secure facilities, to better equip young people with the skills needed to live safely and responsibly upon returning to their communities.

The JJC currently operates three secure and 11 non-secure residential community homes (RCHs or “residential facilities”). One of the RCHs is partially secure, with additional fencing and restrictions on residents’ off-site privileges; this RCH serves as a 60-day stepdown placement for youth transitioning from a secure to a fully non-secure residential facility. In 2019, the average daily population in secure facilities was 178 youth; in residential facilities, it was 134. Ninety-five percent of the JJC population is male, and five percent is female.

Unfortunately, racial disparities continue to plague the system. According to the Sentencing Project, in 2017, a black youth in New Jersey was over 20 times more likely to be incarcerated than a white youth. This disparity reflects the complex interplay of multiple factors and cannot be solved by just one change. All system actors must share a single-minded commitment to identifying its causes and developing solutions. In addition to more directly analyzing decision points at every stage of justice system involvement, to ensure fairness and equity in decisions regardless of race, ethnicity, gender and neighborhood, it is paramount that the communities most impacted by poverty and violence receive adequate resources for youth and families and that therapeutic approaches are utilized to address trauma.

The three secure facilities — the Juvenile Medium Security Facility (JMSF), the New Jersey Training School (NJTS) and the Female Secure Care and Intake Facility, known as Hayes — are old, outdated and were designed according to adult correctional standards. They are inadequate to meet the needs of today’s youth, many of whom have experienced significant trauma and require healing and therapeutic rehabilitation. Moreover, the facilities are located in Monroe Township and Bordentown, far from the residents’ homes, and are not easily accessible by public transportation. This makes it difficult for the residents’ family members and support networks to visit them while they are in custody. Most of the RCHs are also old and outdated and, with the exception of one residential program located in Newark, are a great distance from the residents’ communities.

In 2017, a decision was made to close NJTS and the Hayes facility, and bond funding was secured to build significantly smaller, more therapeutic and developmentally appropriate replacement facilities. The bond funding secured was based on estimates for constructing three 48-bed facilities that could be regionalized (in northern, central and southern New Jersey) so that committed youth could be housed geographically closer to their families and communities. Importantly, implementation of this plan would represent a 42 percent reduction in the JJC’s secure-care capacity, resulting in the elimination of 222 beds. The state conducted a property search to identify three locations for siting the new, smaller facilities, though only two locations were approved during the bond process.

In undertaking its charge, the facilities subcommittee met with and considered the input of youth charged with serious and violent offenses. The subcommittee considered the voices of these committed youth — the population most impacted by proposed changes — critical. These young people shared with the subcommittee their aspirations and offered concrete suggestions on how New Jersey should address those similarly charged. Among the themes to emerge were the need to strengthen communities, address the root causes of recidivism and focus on healing

and rehabilitation. The young people also emphasized the need to expand resources, especially for older JJC residents with longer sentences who need education, vocation and employment credentials to prepare for their futures. The youth with whom the subcommittee met made it clear that, if placement in secure care was necessary, they preferred living quarters with their own rooms and campus-like settings filled with a broad array of therapeutic and vocational opportunities.

The subcommittee also focused on how facilities could be improved to strengthen family and community engagement, to provide youth in custody with the necessary tools to succeed in life and to maximize the use of non-secure options.

### ***Information Reviewed***

To achieve its aspirations for youth in custody, the subcommittee reviewed and based its recommendations on the following sources of information:

- visits to six of the JJC's existing RCHs, including the Northern Region Independence & Reentry Success Center (Newark), Voorhees RCH (Glen Gardner) and Warren RCH (Oxford) in northern New Jersey, and Albert Elias RCH (Bordentown), Ocean RCH (Forked River) and Southern RCH (Egg Harbor City) in southern New Jersey;
- visits to identified sites for secure replacement facilities in Ewing and Winslow Townships;
- JJC census reports and population trends;
- surveys conducted with youth in JJC custody, conversations with JJC's Resident Youth Council and observation of a Resident Youth Council meeting;
- input from the public obtained through three community listening sessions;
- review of the *Eight Principles to Transform Care*, published by the Annie E. Casey Foundation in September 2019 and developed over several years in consultation with practitioners who work with youth with complex risk and trauma profiles, judges, advocates, impacted youth and families;
- JJC's reform plan for transforming agency practice and culture, developed in consultation with youth in JJC facilities, JJC staff, the Annie E. Casey Foundation, the Vera Institute of Justice and the Missouri Youth Services Institute;
- assessment of the requirements and limitations of the bonds already acquired for smaller, secure replacement facilities through presentations from a representative of the Office of the Attorney General familiar with the bond process and a social impact bond investor and portfolio manager from AllianceBernstein; and

- review of the architectural prototype for the smaller, more therapeutic secure facilities, along with a presentation from the principal architect.

In light of the 2017 decision to close and replace two of the existing secure facilities (NJTS and Hayes), the subcommittee decided it was necessary to get more information about the bond requirements for the construction of the smaller, replacement facilities. As a result of a presentation from a representative of the Office of the Attorney General, the subcommittee learned that the bonds currently allow for the building of smaller facilities in two identified locations, Ewing and Winslow Townships; in order to change these locations or to add a site, the bonds would need to go through a cumbersome amendment and approval process. It was further determined that the existing bond funding can only be used for the construction of replacement facilities and cannot be diverted for community programming. In other words, any savings realized by spending less than the full bond amount could not be used to fund community-based alternatives.

It is of paramount importance to the subcommittee that bond funding be used to create not just smaller replacement facilities but healing environments for residents, while also providing programming space for community organizations serving populations of at-risk youth. A healing setting is critical to the kind of rehabilitation necessary to protect public safety because if people “don’t transform their pain, then they will continue to transmit it and inflict it.” (This according to Father Greg Boyle, founder and executive director of Homeboys Industries, the largest gang-intervention and re-entry program in the United States.)

An asset manager from AllianceBernstein, who invested in the secure facilities bonds as a “social impact investor,” spoke to the subcommittee and explained why he chose to invest in this project. As a social impact investor, he explained, the key to his investment was New Jersey’s history of successful juvenile justice reform, its embrace of JDAI and its commitment to eliminating the youth-prison model in favor of a healing design consistent with the architectural prototype shared with the Task Force.

The investor explained that the social impact investment decision was part of a broader intention to pursue decarceration and community transformation. New Jersey is among a small number of states that acknowledge adolescent brain science by allowing juveniles who are prosecuted as adults on serious offenses to begin their custodial terms in a youth facility rather than adult corrections. Consequently, closing and replacing youth prisons requires meaningful partnership, collaboration with system stakeholders and investment in an array of more effective interventions.

The asset manager also outlined key performance indicators (KPIs) used to measure the social impact of an investment. The KPIs offered by the bond investor included: investments must not expand criminalization and mass incarceration; programs must be built on principles of restorative justice, culturally based healing and personal transformation; and investments must be accessible to and engage community-based organizations with effective alternatives and



preventive interventions. The social impact bond investor viewed construction of the smaller, replacement facilities as part of a broader move toward decarceration. The investor indicated a willingness to continue to partner with New Jersey as we move toward this goal, with an interest in the eventual repurposing of the secure facilities for community-based programming when deeper decarceration is achieved. Finally, the investor did acknowledge that failure to move forward with this comprehensive reform plan, including the timely construction of the smaller, replacement facilities and the resulting closure of NJTS and Hayes, could lead to divestment in the project and discourage a continuing partnership with New Jersey on justice system reform efforts.

Regarding the architectural prototype for the smaller, 48-bed replacement facilities, two presentations were made to the full Task Force and considered by the subcommittee. The first presentation was a detailed analysis of how the state arrived at a proposal that called for three 48-bed facilities to replace the substantially larger facilities slated for closure. The second presentation focused on the design process and features of the proposed replacement facilities.

From a process perspective, the subcommittee learned that the architects received significant input from the youth presently residing with the JJC. The architects also engaged staff from all disciplines within the JJC, including teachers, social workers, mental health professionals, custody and youth workers. The subcommittee also learned that — consistent with best practice, the acclaimed “Missouri Model” and ratios mandated by the federal Prison Rape Elimination Act — the prototype is based on youth living and participating in programming in very small groups, just eight people to a housing unit.

The presentation also revealed that the prototype is based on a compact, single-story, campus-style approach, with separate cottages, dining areas, recreational structures and educational space. The presentation emphasized that the goal of this design is to achieve a normative, non-institutional environment, by providing sufficient indoor and outdoor space for youth to experience multiple settings — and multiple programs and opportunities for growth — on any given day. Rather than simply housing youth who may be in custody for many years in a small building with limited space, the design focuses on meeting the adolescent development and skill-building needs of youth who have experienced chronic trauma and require a comforting space to pursue lasting transformation. Natural light and warm color schemes, fresh air and areas for a variety of artistic and recreational expressions are paramount. And space that can be accessed and utilized by community organizations that otherwise lack sufficient programming space for youth in the community is a unique feature.

Because most subcommittee members had already visited New Jersey’s secure care facilities, but not the non-secure RCHs, visits were made to six residential facilities in northern and southern New Jersey. The subcommittee also visited the sites in Ewing and Winslow Townships that were approved as locations for the smaller replacement secure facilities. In addition to visiting these two locations and discussing the need for a third location in northern New Jersey, the full Task Force, at the subcommittee’s recommendation, submitted a request to the Office of the Governor to commence a search for a third property in the northern part of the

state, readily accessible to Newark, and to conduct a due-diligence search for a potential alternative site in the southern part of the state, more accessible to Camden than the identified site in Winslow Township. Task Force members were encouraged to share any information they or their community partners had on properties that might meet the specifications necessary to support the prototype, in anticipation of possible approval from the Office of the Governor to extend the search.

The JJC census and population reports that were reviewed by the subcommittee highlighted the nature of the population served by the JJC, in both secure and residential settings. The reports also revealed annual population trends. The data indicate that, while the number of youth in JJC custody has declined substantially over the past decade, youth in custody are now older, with more serious offense histories. Interestingly, 2019 was the first year in more than a decade that witnessed a stabilization in what had been a steadily declining custody population. The subcommittee found, however, that this was largely due to new legislation allowing youth tried as adults to be housed with the JJC, at least initially, instead of in adult prisons.

Turning to the principles for achieving transformative care issued by the Annie E. Casey Foundation: These represent a new gold standard for providing services to youth in custody. Fundamentally, they recognize that building a world where all young people are able to grow into responsible adults requires a more sensitive, trauma-informed approach that acknowledges the severe harm many youthful offenders have experienced. The eight principles, which were shared with the Task Force, seek to elevate the standard of care for youth in custody by focusing on rehabilitation and resilience and by promoting a healing environment that allows youth to achieve their full potential without compromising public safety.

The subcommittee also considered the JJC's plan for transforming agency practice and culture, which seeks to achieve two primary goals: (1) developing and implementing the programming and supports necessary for youth to grow and thrive; and (2) ensuring that young people develop the capacity — and have the opportunity — to build and sustain strong and healthy relationships with peers, staff, family and community. The JJC reported that it is pursuing its reforms through the lens of safety, purpose, fairness and connection. Young people grow and thrive and develop strong relationships in safe and purposeful environments that actively promote fairness and connection.

The reforms being advanced by the JJC include the introduction of the community treatment model, which relies on the creation of small, cohesive teams of youth and staff in all JJC facilities (often referred to as the Missouri Youth Services Institute Model); the implementation of the healing circle approach of the Inside Circle Foundation, which encourages system-involved mentors, self-selected staff and community members to participate in an intensive group therapeutic process with JJC residents; the significant expansion of post-secondary educational and career training opportunities for youth; the development of transitional housing and independent living options for youth returning home; and the strengthening of family partnership efforts, including the development of a family council to assist in ongoing efforts to improve practice.

At the community listening sessions, there was substantial support for the idea that secure care facilities should not look or feel like prisons; that they should be closer to the homes of the committed youth to maximize family and community connections; and that they should operate according to trauma-informed and healing principles. There was also clear support for enhancing the programming provided in facilities, including career and vocational training, the acquisition of entrepreneurial and life skills, mental health treatment, post-secondary education and college courses, and mentoring. As many speakers noted, incarceration that is neither trauma-informed nor invested with services can cause lasting emotional damage and actually inhibit rehabilitation.

Those who spoke at the listening sessions also emphasized the importance of reentry supports and services and the need to help youth returning from JJC facilities obtain employment and stable housing. These latter needs were also expressed by the JJC's Resident Youth Council, whose members emphasized the necessity of acquiring life skills in the areas of parenting, adulthood and financial literacy and identified a wide variety of occupations to which they aspired (e.g., plumbing, carpentry, culinary, computer technology, automotive, barbering, HVAC, administrative).

### ***Major Questions and Considerations***

The following questions and considerations shaped the subcommittee's work:

- whether converting JJC residential programs from non-secure to secure would effectively serve the population of older youth who are often in custody for many years;
- whether youth currently in custody — given their offense history and risk profile — would be appropriate for neighborhood or community placements;
- the number of secure facilities and overall capacity needed to accommodate youth requiring custody;
- what the bond funding allows and disallows;
- the best options, given the available properties, for creating replacement secure facilities that promote healing, are smaller than existing facilities — but still offer sufficient space for programming and adolescent development — and allow committed youth to maintain connections to family and community; and
- options for closing all existing juvenile prisons, in order to promote healing and rehabilitation without compromising public safety.

## ***Major Findings***

Taking into consideration all relevant information and other questions pertinent to the subcommittee's charge, our findings are as follows:

1. The JJC serves a population that has become significantly older in recent years, with an average age of 18.5 for committed youth and an age range between 16 and 25; many of those in JJC secure care are charged as adults and sentenced to more than five years in custody for violent offenses.
2. Under current sentencing schemes, youth charged with violent offenses or youth charged as adults are less likely to be sentenced by a judge to a community (non-custody) setting. Indeed, if there did not exist options for secure care within the juvenile justice system, more young people would be waived for prosecution and incarceration in the adult criminal system.
3. Young people in custody want more extensive programming, including mentorship, life skills, exposure to trades and other career opportunities, in order to secure employment and reintegrate themselves into their communities upon release. Secure facilities must have ample space to accommodate these programmatic needs. Youth surveyed on facility design indicated a strong preference for a campus-like setting (79 percent) and for single rooms in their living quarters (67 percent).
4. It is widely agreed that more investment in community programs would reduce the necessity for out-of-home placements by preventing serious delinquency in the first place. Consequently, a greater financial investment in community-based programming, with a focus on prevention and early intervention, is warranted.
5. The existing secure facilities (JMSF, NJTS and Hayes) have an adult corrections design and feel, and youth placed in custody in these facilities typically have high recidivism rates.
6. When the decision was made in 2017 to close two secure juvenile facilities, NJTS and Hayes, and replace them with smaller, regional buildings more suitable for rehabilitation, bonds were secured as part of the agreement to build new facilities. The bond funding is for the construction of replacement secure facilities and cannot be used for community programming.
7. A prototype for a new, therapeutic secure facility was developed, leveraging the best available information on how architecture and design can influence wellbeing, even in environments where liberty is constrained.
8. Most of the existing RCHs are inadequate to repurpose into secure facilities. They are small and lack sufficient outdoor space to maximize programming opportunities for youth serving longer sentences; nor do they have sufficient space to accommodate community

programming. The average age of the buildings is 75 years. Most are not accessible by public transportation and are more than a 90-minute drive from family members who may or may not have cars to visit. Additionally, upgrading the RCHs would require approvals because they are all governed by the rules of at least two different state regulatory commissions; and all but one are governed by at least three regulatory commissions (e.g., historical societies, preservation commissions, wetlands mitigation commissions, etc.). Finally, due to the age of the buildings, renovations would likely require significant expenditures because, under current code, any renovation impacting 30 percent of the building would require the entire structure to be updated to conform to current code.

9. Repurposing the RCH in Newark, which is in the downtown, would create a series of problems. For one, it would displace many youth who are in need of a non-secure residential placement accessible to their families (the purpose currently served by the facility). Also, the Newark RCH sits on the smallest parcel of land used by the JJC; therefore, its indoor and outdoor space is insufficient for youth requiring longer-term, secure placement. The use of a space of this size would foreclose the creation of a campus-like setting that young people currently in the care of the JJC identified as a priority. To convert a building like the Newark RCH into a secure facility, even if the structure had the capacity, would require permission to modify the bond requirements, authorization from local governing bodies and new architectural designs at additional cost.

## ***Recommendations***

Based on what the subcommittee learned from materials reviewed and information shared, the Task Force recommends the following to best provide rehabilitative residential and secure care for youth in the custody of JJC:

1. As New Jersey prepares for the closure of NJTS and Hayes, the state should move forward with the construction of much smaller replacement secure facilities that promote healing, rehabilitation and the reintegration of committed youth into their communities, consistent with public safety. The new facilities should not be “youth prisons” but, instead, should be therapeutic spaces where young people charged with serious crimes can safely receive the services they need to improve their opportunities for successful futures. The new facilities must have sufficient space to accommodate the diverse programming needs of youth in custody and to incorporate community programs intended to serve the at-risk population. In the event the committed population drops, the facilities should be designed to ensure that they can be converted to community use. The architectural prototype presented to the Task Force reflects these aspirations. NJTS and Hayes should close permanently upon the opening of the new facilities.

2. The location of these facilities should render them geographically accessible to families and communities, and no new facility should be larger than 48 beds; therefore, a third location in the northern part of the state should be identified to ensure that the goals of regionalization are achieved. Wherever the facilities are ultimately located, the JJC should ensure that transportation is made available to family members, to ensure that committed young people can maintain critical connections with family members.
3. The new facilities should adhere to the prototype developed and presented to the Task Force and must adopt principles of transformative care. Specifically, any new facilities must:
  - incorporate values that promote well-being and equity by ensuring that all staff are trauma-informed and receive training around healing and resilience;
  - reflect the values of a healing, safe environment; the facilities should have natural light, inviting and warm color schemes and pictures, include places to relax and learn and provide separate spaces for therapeutic conversations;
  - recruit and develop staff who excel in building positive and supportive relationships;
  - provide ample programming that addresses the needs and interests of committed youths and fills their days with engaging and purposeful activities that tap their curiosity, teach them useable skills and offer them opportunities to lead;
  - ground service delivery, staff training and organizational culture in knowledge of adolescent development;
  - treat family members as essential partners in planning for the long-term success of committed youths;
  - encourage connections with community organizations and mentors who have navigated the juvenile justice system themselves; and
  - incorporate quality-assurance measures informed by both data and the input of youth, families and community members.
4. The State must develop a plan for the ultimate closure of the Juvenile Medium Security Facility. NJTS, Hayes and JMSF are all youth prisons that are too big, too far from the homes of their residents and offer too few therapeutic options. While current numbers do not allow for the simultaneous closure of all three facilities, if the committed

population housed in secure care continues to decline and is sustained below the total capacity of the new facilities, New Jersey must move toward the closure of JMSF.

5. At the same time the design of secure facilities is being reimagined, the State must strengthen programming and therapeutic practices in the JJC's RCHs and any out-of-home facility in which youth are placed.
6. To enhance continuity of experience across classification levels for young people in JJC's custody, the State must apply the aforementioned principles of transformative care (referenced in recommendation #3) to the RCHs and allocate sufficient financial resources to the JJC to support the necessary physical improvements to the RCHs.
7. The State must support the JJC's efforts, currently underway, to transform the agency's culture and practice and to ensure that each committed youth is safe, treated with fairness, connected with family and community and otherwise given the tools to grow and thrive; families and communities must be actively engaged in these ongoing efforts to improve practice.
8. Additionally, because affordable housing options are so sparse, the state must support with the necessary resources the JJC's plan to develop transitional housing and independent living options for paroled and released youth who need safe places to stay.
9. Finally, the Task Force recommends that the Governor's Office facilitate ongoing, inclusive discussion and deliberation regarding the ultimate disposition of the properties currently housing the New Jersey Training School and Hayes. Decisions regarding the disposition of these properties should consider 1) the principles of youth justice transformation articulated throughout this report, 2) the will and interests of the local community and 3) whether any of the programs and services recommended in this report, including restorative justice or job training centers, are well-suited to these properties.

## **Dissent to Task Force Recommendation on JJC Secure-Care Facilities**

*By NAACP New Jersey State Conference, Latino Action Network,  
Salvation and Social Justice and the New Jersey Institute for Social Justice*

New Jersey is at a critical youth justice moment.

Following a historic announcement that two of New Jersey's three youth prisons will close, the state has the opportunity to transform its shameful youth justice system — in which a Black kid is 21 times more likely to be detained or committed than a white youth, the highest racial disparity in America — to one in which all kids are given the opportunity to thrive. New Jersey also has the fourth highest Latino-to-white youth incarceration disparity rate in the country: A Latino child in the Garden State is four times more likely to be detained or committed than a white child.

New Jersey needs meaningful youth justice transformation.

Although Black and white kids commit most offenses at similar rates, New Jersey, a state of 9 million people, has 8 white kids in prison as of May 1, 2019.

But such a precious opportunity for transformation will be squandered if Governor Murphy decides to simply construct new youth prisons on the other side of closing larger ones.

In support of the voices heard from the community during the three public hearings across New Jersey and beyond, Task Force members NAACP New Jersey State Conference, Salvation and Social Justice and the New Jersey Institute for Social Justice oppose the construction of new youth prisons.

As the more than 900 community members who attended the three Task Force public hearings held in Newark, Trenton and Camden made clear, New Jersey does not need to construct new youth prisons. Last May, more than 500 people in Newark echoed the same position when they surrounded a location in Newark to defeat a proposal to construct a new youth prison and urged Governor Murphy not to build a prison there or elsewhere in New Jersey.

Instead, as community members — including impacted youth, adults, and their families — made clear, young people who need to be out of home for public safety reasons should be housed in renovated or repurposed existing JJC residential community homes. This would prevent New Jersey from expanding its carceral footprint and broadening mass incarceration of our young people.

Indeed, because New Jersey's youth prisons are at less than half capacity, based on average daily population numbers available in the most recent budget, nearly every incarcerated young person could be moved to an empty bed within a residential community home. And, where necessary, non-secure residential community homes can be made more secure, as has already



occurred with at least one facility. Where it is not possible to renovate or repurpose residential community homes, New Jersey should repurpose or renovate community-based facilities located in or near communities where young people reside — not construct new youth prisons.

New Jersey cannot transform its youth justice system by simply replacing old youth prisons with new, smaller youth prisons. That is not transformation, but maintaining the status quo.

Finally, New Jersey must deepen its investment in building kids, not new youth prisons for them. Under Governor Murphy's administration, New Jersey has *increased* its investment in youth incarceration, spending an incredible \$289,287 to incarcerate each child in a state youth prison — an almost \$50,000 increase over 2018 — and expects to spend the same amount in 2020.

To be clear, given New Jersey's staggering racial disparities, this is a specific and intolerable investment in incarcerating Black and Latino kids. This investment in Black and Latino kids' incarceration occurs even as New Jersey's youth prison population has declined from 215 kids in 2018 to 188 in 2019 — the same number is estimated for 2020.

New Jersey has not, however, increased its funding for the state/community partnership grant program, which provides county Youth Services Commissions with funds to support community-based programs (including prevention, diversion and dispositional option programs) aimed to keep young people out of incarceration, for, at least, the past decade.

To make youth transformation real in the Garden State, New Jersey must take the following actions:

- Halt any plans to construct new youth prisons;
- Utilize, renovate, and/or repurpose existing non-secure residential community homes and other community-based facilities for the small number of young people who need to be kept out of home for public safety reasons;
- Address the racial disparities that characterize the youth justice system;
- Make an annual \$100 million investment in community services and programming in the communities most impacted by youth incarceration;
- Break down silos across state department funded programs (e.g. County Youth Services Commissions, Family Success Centers, and Full Service Schools); and
- Engage impacted youth, adults, and families in the efforts to transform New Jersey's youth justice system.

### **Facility Subcommittee's Response to Dissent**

The primary position offered by the dissenting opinion is that New Jersey should not invest in new youth prisons. With that assertion, there is no disagreement. Nor do we disagree that we are at a transformative moment in the history of juvenile justice in New Jersey. That is why the facilities subcommittee, in addition to endorsing the closure of the state's existing youth prisons, is recommending the construction of three regionalized facilities that will create healing, therapeutic environments for committed youth.

It is important to recall the charge of the facilities subcommittee: It is to find secure options for young people adjudicated of serious and violent offenses who are currently housed in the New Jersey Training School, the Juvenile Medium Security Facility and Hayes — ancient facilities that indisputably qualify as prisons. The imperative of the subcommittee is to identify options that will ensure the closure of these degrading facilities as quickly as possible, without compromising public safety.

A smaller, state-of-the-art facility that promotes healing, rehabilitation and reentry into society — the option on which we settled — is hardly a “prison.” To the contrary, these campus-like structures are intended, in both physical and programmatic design, to give committed youth the space they need to heal and the skills they need to return to their communities. To call them “prisons” is a disservice to the long-term, multidisciplinary efforts that have gone into the thoughtful design of these facilities. Indeed, the dissent's suggestion that the construction of these healing communities would expand New Jersey's “carceral footprint and broaden mass incarceration of our young people” is fundamentally irresponsible and risks upending a plan that is truly transformative and, in truth, is consistent with the broader objectives the dissent is trying to achieve (and that we share).

The dissent also seems to ignore the purpose of placement and the challenges associated with serving a population of high-risk youth with complex and chronic trauma. The youth committed to the custody of the JJC have been adjudicated of serious and violent offenses by the family court; they cannot simply be moved, like pieces on a game board, from a secure facility to a retrofitted RCH that happens to have an empty bunk. These young people have different risk and classification profiles, different service needs and different geographic requirements, to ensure access to their families and communities.

The dissent underappreciates another logistical reality: You cannot slap bars on the windows of an RCH, which has an average age of 75 years, call it “secure” and expect to replicate the gold-standard healing spaces achieved by the prototype endorsed by the subcommittee. Nor can you assure public safety, which undoubtedly will prompt prosecutors to file more waiver motions and consign more young people to adult convictions and lengthy sentences served in adult prison cells, giving new and tragic meaning to the phrase “unintended consequences.”

Southern RCH (the one residential facility cited by the dissent that has been converted to secure care to accommodate a short-term “stepdown” population) highlights the dissent's

dilemma. Everything about this depressing facility feels correctional. It would be woefully inadequate as a long-term secure facility. It has insufficient program space both indoors and outdoors. In fact, the greenhouse that was accessible when Southern RCH was a non-secure facility can no longer be used by current residents because the JJC was unable to build a fence around it.

There would be similar challenges in attempting to retrofit the other RCHs. Additionally, most of the RCHs are in remote locations, too inaccessible to be converted to community space in the event decarceration proceeds apace.

Although the dissent claims to have considered the voices of impacted youth, adults and their families, its principal proposal ignores the explicit wishes of young people currently housed in JJC facilities, who hope for campus-like therapeutic environments. By suggesting that RCHs be converted into secure facilities, the dissent relegates young people to long placements in locations far from their homes, largely inaccessible by public transportation, and to aging facilities that do not have the physical capacity to create healing, therapeutic environments.

Finally, the claim that the 900-plus people who attended the community listening sessions were opposed to the subcommittee's recommendations is inaccurate. The attendees did not speak with a single voice; nor did any but a handful express views that addressed the question of whether New Jersey should opt for repurposing or the construction of new facilities. Those who did speak about facilities expressed concern about building archaic prisons, not brand-new structures that incorporate the trauma-informed, therapeutic approach our subcommittee is recommending.

Many attendees also spoke in favor of increasing investment in community supports and interventions, a point the facilities subcommittee has embraced. Building a therapeutic model and investing in the community are not mutually exclusive goals. In fact, they are complementary goals and are consistent with the continuum of care that is reflected in the subcommittee's recommendations.

## **Sentencing and Parole**

### ***Subcommittee Charge***

*The subcommittee is charged with examining and making recommendations concerning the juvenile parole system, post-incarceration supervision, racial disparities in early release and release revocation decision-making and the overall effectiveness of the current sentencing laws.*

### ***Background***

In New Jersey, all custodial juvenile dispositions are indeterminate, meaning that family court judges set a maximum term of incarceration but youth can be released early on parole if they pose a sufficiently low risk of re-offending. Many studies have shown that the longer a young person is incarcerated, the more likely he or she is to reoffend. Because of this, decisions on whether and when to release someone on parole are critical to the rehabilitation process. Yet, the number of JJC residents who are currently being denied parole and serve their entire terms approaches 70 percent — far higher than both incarcerated adults and incarcerated youth in other states. There are also profound racial disparities in parole decision-making: white youth are significantly more likely to be granted early release than black youth.

Concerns about these disparities and the overall low rate of early release led Governor Murphy to sign Senate Bill No. 48 on January 20, 2020. This landmark legislation amended the standards for granting or revoking parole, with a goal of making the process more objective, transparent and geared toward the young person's successful return to the community. It also established a right to appointed counsel for youth in parole revocation proceedings.

Under the new law, for the first time, the JJC will have a direct role in parole decision-making. Until now, New Jersey was one of only a handful of states that accorded early release and release-revocation authority to the adult parole board rather than the juvenile justice agency or the juvenile court<sup>1</sup>; pursuant to the new law, the parole board and the JJC will share that authority. The specifics of how this new system will work still need to be developed through regulations.

The subcommittee also undertook a holistic review of the juvenile code. Pursuant to the new legislation, juvenile court decision-making must now be based on objective measures, reserve incarceration for only those youth who cannot remain safely in the community, consider conditions of confinement and combat racial and ethnic disparities. Youth who are adjudicated delinquent will no longer be subject to mandatory minimums for motor vehicle or eluding offenses.

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<sup>1</sup> See Children and Family Justice Center – Northwestern Pritzker School of Law, *Rehabilitative Release of Youth from Illinois Prisons: Removing Bureaucratic Barriers to Re-Entry Success* 22 (2016). It is worth noting that, according to this study, no other state vests release authority jointly in the juvenile justice agency and parole board, rendering New Jersey's new system untested and an outlier.

Moreover, the new law eliminates the juvenile court's discretion to impose monetary fines on youth and the mandatory Drug Enforcement and Demand Reduction (DEDR) and Violent Crimes Compensation Board (VCCB) penalties. These are significant improvements to the sentencing laws, but the new law does not address all of the deficiencies noted by the subcommittee and addressed in its recommendations.

Additionally, concerns about the link between New Jersey's lack of a minimum age of prosecution; the maximum jurisdictional age of 18 for family court jurisdiction; and the established links among jurisdictional boundaries, racial disparities in arrests and prosecution and the school-to-prison pipeline, led the subcommittee to review the relevant literature and make recommendations for statutory change in this area.

Finally, the subcommittee gathered information and organized presentations to the full Task Force on the inclusion of adjudicated youth on the state's sex offender registry. This review was prompted by growing evidence that youth registration causes substantial, often life-altering harms to young people, despite the extraordinarily low recidivism rates among youth who commit sex offenses and the high costs of registration. Presenters to the Task Force included Dr. Elizabeth LeTourneau, a professor at Johns Hopkins University and one of the country's leading experts on youth registration; Deputy Public Defender Fletcher Duddy, director of the Office of the Public Defender's Special Hearings Unit; and Jessica Oppenheim, Esq., director of the Arc of New Jersey's Criminal Justice Advocacy Program, who, as an assistant attorney general, drafted and implemented the attorney general's Megan's Law guidelines.

### ***Information Reviewed***

The subcommittee reviewed and based its recommendations on the following sources of information:

- data on lengths of stay in JJC custody, releases on parole, revocations of parole, post-incarceration supervision, racial disparities in the parole decision-making process and juvenile recidivism rates in New Jersey and nationally;
- general and specific examples of conditions of juvenile parole;
- governing statutes and regulations relating to parole and sentencing;
- nationwide surveys of juvenile parole and sentencing schemes;
- scientific studies and literature on the impact of placement of youth on sex offender registries and the imposition of fines and fees on youth;
- review of neuroscience and social science literature relevant to the jurisdictional boundaries of juvenile court (i.e., minimum and maximum ages of juvenile court prosecution);

- feedback from counsel who represent incarcerated youth in post-disposition matters;
- a presentation given by experts regarding the effectiveness of juvenile sex offender registration laws and the impact of those laws on youth;
- feedback from JJC's Resident Youth Council; and
- feedback from public listening sessions.

### ***Major Questions and Considerations***

The following questions and considerations shaped the subcommittee's work:

- How should the new system of parole decision-making be structured?
- What conditions should be imposed on youth who are on parole and post-incarceration supervision, and who should determine those conditions?
- What additional steps can be taken to eliminate racial and geographic disparities in the sentencing and parole process?
- Should young people be included on the sex offender registry? And should registration continue to be mandatory, or should juvenile court judges have discretion to decide which children must register?
- Should the remaining monetary fees and assessments imposed on youth be eliminated?
- Do the sentencing laws take into account the emerging science and literature on adolescent development and behavior?
- Should New Jersey enact a minimum age for juvenile court jurisdiction or increase its maximum age and, if so, what should those ages be?

### ***Major Findings***

1. The average term of commitment for all youth admitted to JJC custody is now five years. Those youth who are sentenced as juveniles and therefore are subject to the juvenile parole system (unlike waived youth who are governed by adult parole provisions) serve 81 percent of their sentence, with only 33 percent granted early release on parole.

2. When young people are reincarcerated for parole violations, it disrupts their education, employment and reengagement with their families and communities.
3. Delinquency matters require specialization and training for all participants, including the judiciary, probation officers, prosecutor and the young person's counsel.
4. The current sentencing laws need to be re-evaluated and modernized to account for emerging scientific knowledge concerning adolescent development and how it affects decision-making, rehabilitation and recidivism.
5. Fines imposed on youth exacerbate poverty, heighten racial disparities and increase recidivism.
6. Those youth who are released from JJC custody and have no safe home environment to which they can return should be provided transitional or long-term housing to ensure a successful re-integration into society.
7. When young people know that following the rules, avoiding negative behavior and actively engaging in rehabilitative programming directly impacts their release date, disciplinary incidents decrease, and a sense of fairness increases, which creates a safer, more dignified environment for youth and staff alike. Treatment goals are also more often met, which increases community safety, as youth embrace the tools needed to successfully transition home upon release. The best way to maximize the intended, positive impact of Senate Bill No. 48 is to establish a standardized, objective process for making release decisions, with days added or subtracted from a projected release date according to a youth's behavior and engagement in rehabilitative programming, and to clearly communicate those objective standards to the youth.
8. Developmental science and continuing racial disparities in arrests and prosecution of young children support enactment of a minimum age of juvenile court jurisdiction and an extension of the family court's jurisdiction to youth who are beyond the age of 18 at the time of the commission of the offense.

### ***Recommendations***

Based on the subcommittee's review and findings, the Task Force makes the following recommendations:

#### **Parole**

1. As is the practice in the vast majority of states, the JJC should have exclusive decision-making authority on questions related to early release, conditions of parole, revocation of parole and post-incarceration supervision. The legislature should amend Senate Bill No. 48 to accomplish this goal.

2. As the JJC undertakes the process of promulgating regulations that will implement the newly enacted changes to parole and post-incarceration supervision, we make the following observations and recommendations:
  - a. Senate Bill No. 48 requires the youth justice system to utilize objective criteria and processes to determine the length of time a young person should remain in custody. In promulgating regulations to effectuate the legislation, the JJC should establish clear, objective criteria — to be applied in a uniform, standardized way — for setting a projected early release date and for adding or subtracting days to that date, based on a youth's behavioral adjustment and engagement in rehabilitative programming. In any case where the panel's parole release decision deviates from that recommended by the objective criteria, JJC regulations should require written justification. Finally, a written record of the votes cast by both the JJC and the parole board should be maintained for all parole-related decisions.
  - b. The JJC should also establish clear, objective criteria for decision-making related to the conditions of parole, conditions of post-incarceration supervision and length of post-incarceration supervision.
  - c. The regulations should require that the objective criteria described above be conveyed in writing to youth in custody, in clear, developmentally appropriate language, when they enter the JJC and repeatedly during their terms of incarceration.
  - d. The regulations should require the joint panel to impose conditions of parole and post-incarceration supervision that comport with the goals and standards established by the new legislation and ensure that any conditions imposed constitute the least restrictive condition(s) necessary to promote each young person's rehabilitation. The regulations should insure that post-incarceration supervision is imposed only when necessary to achieve the goals of the juvenile code and that any period of supervision is the shortest term necessary to achieve those goals.
3. To the extent permissible by law, the joint panel established by Senate Bill No. 48 should reevaluate all individuals placed on post-incarceration supervision prior to the effective date of the law. The evaluations should occur no later than 60 days after that effective date and should utilize the standards and time limits established by Senate Bill No. 48 to determine, on a case-by-case basis, whether there is a need for continued supervision.



4. The Office of the Public Defender, in consultation with the JJC and the parole board, should implement a system of immediate assignment of trained, skilled counsel for any young person who is the subject of a parole revocation hearing.
5. The JJC should explore policy changes that would allow youth, following release, to continue to maintain contact with JJC employees with whom they bonded during their time in custody.

### **Specialization and Training for All Participants in Juvenile Court Proceedings**

1. Juvenile delinquency matters are unique and specialized types of proceedings that require a deep understanding of not only the juvenile code but of: (1) the child welfare, behavioral health and special education systems; (2) emerging scientific knowledge concerning adolescent development and how it affects decision-making, rehabilitation and recidivism; (3) collateral consequences of adjudication; (4) evidence-based approaches for responding to substance abuse and mental health issues; (5) racial, ethnic and cultural competency; and (6) how to appropriately address youth and engage and involve their parents or guardians. It takes significant time and training to gain the necessary experience in juvenile law, which is difficult to achieve when judges, probation officers, prosecutors and public defenders are rotated into family court on temporary or short-term assignments. We therefore recommend that, to the extent possible, a more specialized approach be adopted to encourage more permanent assignments to juvenile court and to provide regular trainings on the various areas that intersect with juvenile law and the evolving social science on adolescent development. Similar training also should be provided to police officers who interact with children, adolescents and young adults.
2. To the extent possible, family court assignments should be made with a view to increasing racial and ethnic diversity; likewise, judges, court employees and all participants in judicial proceedings — including police — should receive ongoing training on implicit bias and racial, ethnic and cultural competency.
3. We further recommend that the Administrative Office of the Courts (AOC), Prosecutor's Offices, the Office of the Public Defender and law enforcement agencies be required to collect data documenting implementation of the above recommendations, including the number and content of trainings, the number and agency affiliations of training participants and the effects of the training on police and court practices and outcomes.
4. We also recommend that the JJC, in partnership with the AOC, produce statewide reports on the dispositional outcomes in juvenile court, similar to those produced through JDAI for detention decisions, by county, race/ethnicity, gender and offense type.

## **Restorative Justice**

We recommend that the state embrace restorative justice principles at every point in the system, including but not limited to adjustment and diversion; alternatives to formal dispositions; juvenile court proceedings; violations of court-ordered conditions; probation and parole; and restitution hearings. Restorative justice embodies what the juvenile court system was created to do: not to punish young people for misdeeds, but to intervene, teach, mend relationships and repair harm to victims. Restorative justice is “an option for doing justice after the occurrence of an offense that is primarily oriented towards repairing the individual, relational, and social harm caused by that offense.”<sup>2</sup> Restorative justice, whether between youth, youth and their families, or youth and offended parties, can occur in schools, communities, courts, probation departments or residential and secure detention locations. Commitment to incorporating these principles requires stakeholders to utilize only professionals who are trained in restorative justice modalities and practice.

## **Re-examination of Sentencing Laws**

There is a need for a careful review — and possible revision — of those sections of the juvenile code governing sentencing and incarceration. Of particular concern are the wholesale incorporation of adult criminal code aggravating and mitigating factors into the juvenile code, without regard to the unique characteristics of youth or developmental science, and the maximum terms of incarceration permitted by N.J.S.A. 2A:4A-44. The subcommittee believes, however, that deeper data review and analysis are necessary. It therefore recommends that the governor, the chief justice and/or the legislature either convene a working group to study these issues and recommend possible revisions or task the existing Criminal Sentencing and Disposition Commission with undertaking that review.

## **Fines and Fees**

1. The passage of Senate Bill No. 48 eliminates discretionary fines on youth under the juvenile code and removes the mandatory DEDR and VCCB penalties for juveniles. We recommend that, to the extent permitted by law, these changes be deemed retroactive and that any such outstanding fines and fees imposed on adjudicated youth be forgiven.
2. While the new legislation eliminates judicially imposed penalties in delinquency actions, there are additional mandatory costs imposed on adjudicated youth by other agencies. Recognizing that financial penalties exacerbate poverty, heighten racial disparities and increase recidivism, the Task Force recommends the elimination of all fines and fees imposed on youth, other than restitution, consistent with the spirit of Senate Bill

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<sup>2</sup> See Lode Walgrave, *Restorative Justice, Self-interest and Responsible Citizenship* 21 (2008).

No. 48. It further recommends that all children and youth who are the subject of juvenile delinquency complaints be deemed indigent and eligible for representation by the Office of the Public Defender, at no cost to them or their families.

### **Post-Release Housing**

For those youths who, upon release from JJC custody, do not have a safe environment to which they can return, we recommend that post-release housing be created across the state to help support their successful return to the community. These placements should not be treated as a condition for early release. Rather, they should be reserved as a voluntary and optional placement for youth who are no longer in the physical custody of the JJC. The state should allocate funds to support the JJC in its endeavor to create a statewide stock of post-release housing for youth released from custody and remove any barriers (such as exclusionary criteria) that prevent youth from accessing subsidized housing.

### **Amending the Lower and Upper Age of Juvenile Court Jurisdiction**

1. No statute specifies the youngest age at which a juvenile can be arrested, prosecuted or adjudicated delinquent in New Jersey. Because younger children are inherently more vulnerable and less able to understand or participate in legal proceedings, they should not be subject to the potential harms of juvenile court and the long-term consequences that follow involvement in the juvenile legal system. Importantly, New Jersey's Children's System of Care, the only statewide behavioral health system of its kind in the country, provides services to children age 5 and up and is well-positioned to intervene with children under any established minimum age of juvenile court jurisdiction who are in need of clinical services and supports to address their behavior. The Task Force therefore recommends that the state set a minimum age of prosecution in juvenile court, consistent with developmental science, international human rights standards and practice in several cohort states. The Task Force recommends that the governor, the chief justice and/or the legislature either convene a working group to determine the appropriate minimum age of jurisdiction, including whether any exceptions to the minimum age are necessary, or task the existing Criminal Sentencing and Disposition Commission with reviewing this issue.
2. Similarly, the juvenile court currently has jurisdiction only over those offenses alleged to have been committed prior to a young person's 18th birthday. Based on the empirical science tracking development of the adolescent brain and maturation, 18 is an arbitrary number; most youth do not mature fully until they are at least 25 years old.<sup>3</sup> The Task Force therefore recommends raising the age of juvenile court jurisdiction. The Task Force further recommends that the governor, the chief justice

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<sup>3</sup> See, e.g., Dr. Susan M. Sawyer et al., *The Age of Adolescence*, 2 THE LANCET: CHILD AND ADOLESCENT HEALTH 223 (March 2018).

and/or the legislature either convene a working group to determine the appropriate maximum age of jurisdiction or task the existing Criminal Sentencing and Disposition Commission with reviewing this issue.

3. In view of the studies referenced in the two preceding recommendations, the Task Force believes the state should consider adopting a different model of justice for individuals 18 to 25 years of age. That consideration should include shifting all or a portion of this group to the juvenile system. Additionally, for those aged 18 to 25, in either the juvenile or adult system, the state should consider providing, among other things, additional support services, expungement opportunities and, for those who remain in the adult system, an option for reverse waiver to the juvenile system upon a showing of rehabilitative capacity.

### **Juvenile Sex Offender Registration and Notification**

Following a presentation from several experts, the Task Force voted to create a working group on juvenile sex offender registration and notification. The working group included representatives from the Office of the Attorney General, the County Prosecutors Association, the Office of the Public Defender, the ACLU of New Jersey, the Latino Action Network, the New Jersey State Conference of the NAACP and the Department of Children and Families.

#### ***Recommendations:***

Ultimately, the working group determined that this important issue required further study and broader stakeholder engagement. Wanting to neither delay the work of the Task Force nor give short shrift to these critical issues, the working group proposed the creation of an advisory committee separate from the Task Force.

1. The advisory committee should be comprised of representatives from law enforcement; prosecutors; public defenders; civil rights organizations; victims' groups; juvenile registrants and/or their families; the Administrative Office of the Courts; the Department of Education; mental health professionals and other clinicians; experts in registration, notification, adolescent brain development and psychosexual evaluation; and community stakeholders.
2. After consulting with experts and reviewing data, the advisory committee should consider, among other things, whether it is advisable to:
  - a. reduce the number of crimes that trigger sex offender registration requirements. Specific attention should be paid to crimes where registration is mandated for juveniles but not for adults, such as: criminal sexual contact under N.J.S.A. 2C:14-3b where the victim is a minor; criminal restraint under N.J.S.A. 2C:13-2 or false imprisonment under N.J.S.A. 2C:13-3 where the victim is a minor and the offender

is not the parent of the victim; and endangering the welfare of a child under N.J.S.A. 2C:24-4.

- b. exempt juvenile offenders under a certain age from the registry or create a presumption against their inclusion.
- c. give courts discretion, except perhaps in the case of a few of the most serious offenses, to place a juvenile on the registry after weighing a variety of factors. Psychosexual evaluations should guide judges' discretion. In considering this recommendation, the advisory committee should be mindful that the exercise of judicial discretion must not give rise to unacceptable disparities in treatment.
- d. ensure that the system includes options for appropriate supervision and treatment so that judges have the tools to guarantee that dispositions are tailored to individual needs.
- e. consistent with research on adolescent brain development, provide periodic reviews of an offender's status to determine whether the juvenile no longer poses a risk of sexual recidivism and can be removed from the registry short of the 15-year waiting period applicable to adults.
- f. mandate the collection of comprehensive data on juvenile sex offenders.

## **Stationhouse Adjustment**

### ***Subcommittee Charge***

*The subcommittee was charged with reviewing stationhouse adjustment data and practices and developing standards to increase uniformity and accountability across the state.*

### ***Background***

Stationhouse adjustments are one of two diversionary programs authorized by New Jersey Attorney General Directive No. 2008-2 (“the Directive”), which defines stationhouse adjustment as “an alternative method that law enforcement agencies may use to handle first-time juvenile offenders who have committed minor juvenile delinquency offenses within their jurisdiction.”

The purpose of an adjustment is to provide immediate consequences for the juvenile (for example, through the imposition of community service or restitution) and a prompt resolution for the victim, while allowing the juvenile to avoid the stigma of formal prosecution. Directive No. 2008-2 establishes guidelines intended to standardize adjustment practices across the state and addresses issues related to equity and access to this diversionary tool. Under the Directive, every law enforcement agency with patrol jurisdiction in the state is required to establish a program to administer stationhouse adjustments.

### ***Information Reviewed***

To complete its charge, the subcommittee reviewed:

- stationhouse adjustment data from 2017-2018 obtained from the New Jersey Office of the Attorney General (OAG);
- New Jersey Attorney General Directive No. 2008-2;
- published research and policy documents on youth diversion at the point of police contact;
- reports from prior JDAI and New Jersey Council on Juvenile Justice System Improvement (NJCJJSI) subcommittee efforts on stationhouse adjustment and disproportionate minority contact;
- other states’ policies and practices on youth diversion;
- email correspondence with prosecutors’ offices; and
- input from public listening sessions.

## ***Major Questions and Considerations***

- What are the challenges that limit the current use of stationhouse adjustments?
- Which jurisdictions are successfully diverting youth and what lessons can be derived from those examples?
- Using the lens of racial equity, how can we rigorously assess potential solutions?

## ***Major Findings***

*Mandatory Availability of Stationhouse Adjustment:* Directive No. 2008-2 clearly states that “[a]ll municipal and other law enforcement agencies having patrol jurisdiction within the State of New Jersey shall make stationhouse adjustments available as a method of handling minor juvenile delinquency offenses within their jurisdiction” and establishes a minimum standard for the most basic of stationhouse adjustments. The Directive makes the office of the county prosecutor responsible for overseeing implementation of stationhouse adjustment programs and for reporting county-level data on the programs to the OAG.

Even though the Directive makes stationhouse adjustments mandatory, a review of data provided by the OAG reveals that there was considerable variation in the way adjustments were being used and reported. Across two years, 2017 and 2018, only 17 counties reported any data, and only 14 reported data in both years reviewed. Additionally, the subcommittee heard anecdotal descriptions of stationhouse adjustment programs operating in at least some municipalities in counties not represented in either the 2017 or 2018 data.

The OAG data also reflects the number of law enforcement agencies included in the county-level reports. This number varied by quarter, but in each quarter less than 40 percent of the included agencies reported stationhouse adjustment activity. Across the entire reporting period, the total number of included agencies in each quarter ranged between 220 and 283, despite the fact that New Jersey has over 500 law enforcement agencies; the 2018 JDAI report shows juvenile arrests in 2017 for all counties except Hunterdon County. The data clearly shows that stationhouse adjustments are not uniformly reported across the state, or even across counties. Although it cannot be determined solely on the basis of this data, the subcommittee’s inquiries confirmed that stationhouse adjustments are not consistently available across the state.

The need for more oversight and accountability in the process was a sentiment expressed in the public listening sessions. There was a feeling that prosecutors need to hold law enforcement agencies accountable for using stationhouse adjustment and, as one community member said is currently done in some departments, have officers explain why they chose not to offer one in instances where an adjustment seemed indicated.

*Demographics:* The OAG submitted data on the age, race and sex of the young people involved in incidents where stationhouse adjustment was attempted, as well as whether the

young people were known to have had prior contact with law enforcement. The average age across all counties reporting data was 14.5 in 2017, with 72 percent of those young people recorded as male. The average age was 14.9 in 2018, with 66 percent of those young people recorded as male.

The data on the racial composition of the juveniles involved in attempted adjustments reveal a wide variation across the state. Overall, the OAG reports that 45.3 percent of the youths in 2018 were categorized as “minority,” with a range between 0 percent in Warren County (12 contacts) and 80 percent in Hudson County (90 contacts). Data from the prior year indicate the percentage of “minority” adjusted youth was 49.1 percent, ranging from 0 percent in Warren County (47 contacts) to 100 percent in Salem County (4 contacts); the second highest percentage was Cumberland County with 74.8 percent (135 contacts).

*Offenses Eligible for Stationhouse Adjustment:* The Directive states that “ordinance violations, petty disorderly persons offenses, and disorderly persons offenses shall be considered for stationhouse adjustment.” Fourth-degree offenses may also be considered if the young person has no known prior record. The Directive lists additional categories of offenses that shall not be adjusted, as well as categories that are eligible for adjustment with approval from the county prosecutor.

<b>Shall not be adjusted</b>	<b>Shall not be adjusted without approval from the county prosecutor</b>
First-degree offenses	Offenses involving the use or possession of a controlled dangerous substance or drug paraphernalia
Second-degree offenses	Bias offenses
Offenses committed by a young person who the law enforcement agency is aware has other charges pending before the court	Sexual offenses
Offenses committed by a young person who is already on probation, parole, home detention or other court-ordered disposition	Offenses resulting in serious or significant bodily injury
	Third-degree offenses

*Offense Information:* The 2017-2018 data reported by the OAG divided contacts into the following offense categories: assault, criminal mischief, trespass, shoplifting, theft, possession of alcohol, disorderly conduct, harassment, drugs, ordinance, weapons and other. In both years, the largest percentage of contacts was categorized as “other,” 21.8 percent in 2017 and 20.36 percent in 2018. The reported offenses were divided broadly across the remaining categories, in



both years. Several counties had a particularly large proportion of their reported contacts falling into one particular category. Cape May County, for example, reported that 129 of their 280 contacts in 2018 were for possession of alcohol, which accounted for 82 percent of the contacts for possession of alcohol across all counties. Atlantic County reported that 111 of their total 232 contacts in 2018 were for ordinance violations, but in the prior year, 122 of their 229 contacts were for “other” offenses. This shift seems just as likely due to a change in data-collection or policing protocol as to a change in behaviors by youth.

*First-time offenses:* Stationhouse adjustments are primarily used for first-time contacts with law enforcement. The vast majority of adjusted youth had no known prior contacts with law enforcement, 90 percent and 91 percent in the two years reviewed. However, the subcommittee heard that some counties were taking steps to expand the use of adjustments to subsequent law enforcement contacts. We believe that this is consistent with what is known about adolescents, that is, the fact that they are still developing adult decision-making capacity and are prone to making mistakes — even the same mistakes — multiple times. Because stationhouse adjustments are available to young people throughout their adolescence, limiting adjustments to one per youth does not always allow departments to make the best use of this tool.

*Successful Completions:* According to the OAG data, the rate of success for attempted adjustments is high. The average rate of completion was over 80% in each year reviewed. When we remove cases where the parent was unavailable, the youth refused or the victim insisted on filing a complaint, the completion rate is even higher, over 90 percent in each year reviewed.

*Minimum Required Procedures:* The Directive lays out the minimum requirements for a stationhouse adjustment: cautioning the youth about continued misbehavior; parental involvement or involvement of another trusted adult; victim consent; and an agreement by which the youth admits involvement in the offense and is given conditions to follow or terms to complete.

The subcommittee included members with direct knowledge of adjustment practices from their current or previous work. We also reviewed the 2018 ACLU report *Missed Opportunities: Youth Diversionary Programs in New Jersey*, an examination of stationhouse adjustments and curbside warnings in New Jersey. Based on this information, it is clear that despite the stated goals of the current directive, there remains significant inconsistency in the application of adjustments statewide, not only in terms of access and reporting, as described above, but also in terms of how the stationhouse programs are administered.

In many jurisdictions, the programs are overseen by the police officers themselves. The Directive suggests that juvenile officers administer the program whenever possible, either directly or in consultation with another detective or officer. Our subcommittee heard anecdotal reports indicating that there is little guidance provided in many jurisdictions as to appropriate conditions for stationhouse adjustments, or options for appropriate referrals. The Directive suggests maintaining lists of possible referrals, which may be obtained from the local YSC.

To be sure, many youth who encounter police on minor incidents will be best served with a straightforward and time-limited response that is proportional to the incident. Contact with police — especially in heavily policed communities — does not in and of itself indicate a need for services. However, police do encounter other youth who are in need — often desperate need — of intervention, support and opportunities, as well as families who are in crisis or who also would benefit from supportive services. Our subcommittee heard of officers trying to Google services in an attempt to help. We believe it does not fall within the core skill set, training or appropriate law enforcement role of officers to triage the needs of a youth or a family or to case-manage the process of obtaining services.

The ACLU report documents a wide range of conditions imposed as part of an adjustment, including the requirement that youths “learn to keep their mouths shut.” Given the wealth of knowledge developing in the field and the need to incorporate positive youth-development approaches into best practices, it is clear that more comprehensive guidance and support of this important intervention is warranted statewide.

Our subcommittee did learn about counties going well beyond the minimum required procedures. In these instances, in the communities they protect and serve, law enforcement agencies can and should facilitate youth development and improved well-being, not function solely as an entry point to the legal system. The models that stood out generally centered on partnerships with a social service organization or other resources in the police department or in the county.

Enhanced stationhouse adjustment models in Camden and Ocean Counties were developed with the acknowledgement that, while in many cases a simple warning or a requirement to write an apology letter is considered best practice from a justice system standpoint, those interventions may not address the underlying needs of the youth. Partnerships were developed with Family Crisis Intervention Units (FCIUs), which formalized the relationships between departments and the FCIUs, with the goal of creating a clear referral path for police encountering young people or families in need of services.

A 2014 evaluation by the JDAI Racial and Ethnic Disparities Subcommittee revealed that the enhanced stationhouse adjustment programs in Camden and Ocean Counties contributed to the overall decrease in delinquency petitions between 2013 and 2014, and that there was no evidence that the programs contributed to “net-widening,” that is, unwittingly drawing young people further into the justice system as a result of programming designed to meet their needs. The JDAI subcommittee concluded that enhanced stationhouse adjustment was a viable strategy to respond to low-risk/high-need youth and should be expanded to other counties.

Other models include the stationhouse adjustment model in the Cumberland County Positive Youth Development Coalition (CCPYDC), described as “a collaboration between police departments, school districts, chaplains and social service programs.” This collaborative model redesigned the adjustment process to establish greater consistency across police departments;

it also expanded the universe of eligible offenses and included juveniles with second or third arrests.

Cumberland County has partnered with the Rand Corporation for assistance with data-tracking and analysis, and according to the CCPYDC's website:

Data collected indicates that CCPYDC's Stationhouse Adjustment [SHA] effort has been widely successful. Between 2013 and 2015, Cumberland County SHAs increased by 122% ... The recidivism rate (a subsequent contact with law enforcement or an arrest) of youth who were administered a SHA in 2015 is very low at only 12.9%. SHAs appear to be benefiting youth in a multitude of positive ways: in addition to stemming repeat of delinquent behavior, the majority of parents/guardians surveyed reported a positive change in their child's behavior after the completion of their SHA.

Cumberland County has described its partnership with the chaplain program as invaluable. The ability to hand off the process to a trusted partner contributed tremendously to the willingness of officers to offer stationhouse adjustment to youth. The program accepts young people regardless of faith, and the chaplains complete training to assist them in drawing boundaries between their faith-based role and the role they play in the adjustment program.<sup>4</sup>

Passaic County has at least two departments that operate stationhouse adjustment programs. Information and 2014-2016 data on those programs were included in the 2018 ACLU report, but the OAG data did not have Passaic County data for 2017-2018 for more updated comparisons. These stationhouse adjustment programs operate in close partnership with the YSC in Passaic County.

The subcommittee found that because of local variations, no single adjustment model will work for all counties, but the core idea of partnership is one that can be replicated statewide. This idea was echoed in the public listening sessions, with community members expressing support for the partnership model and indicating that having the officers manage this process alone is far from ideal.

*Victim Consent:* The Directive requires that if there is a known victim in an incident, the victim must be notified and agree to the adjustment process. The Directive further indicates that, although a stationhouse adjustment can proceed without the active participation of the victim, the adjustment shall not proceed over a victim's objection.

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<sup>4</sup> It should be noted that the 2018 ACLU report raised concerns about using clergy and chaplains to administer stationhouse adjustment programming, citing the need to ensure that youth who practice other faiths, or no faith at all, have equal access to programming with which they feel comfortable.

OAG data reviewed from 2017 indicate that there were 86 reported instances of a victim insisting on a formal complaint; in 2018, there were 90. In each year, Atlantic County reported 52 instances of victims' objecting, accounting for over half of the reported cases statewide, which was consistent with information included in the ACLU report.

The subcommittee believes that victim input is an important consideration in determining the appropriateness of a stationhouse adjustment. However, it should not be the sole factor, and a victim's objection alone should not bar an adjustment. We found that numerous factors may influence a victim's willingness to agree, on the spot, to an adjustment. In many cases, therefore, it may be more appropriate for the law enforcement agency to forward the matter to the prosecutor for further review and consultation with the victim. We believe that there will be instances where the county prosecutor should approve an adjustment over a victim's objection and that state policy should allow for that.

*Curbside Warnings:* In addition to stationhouse adjustments, law enforcement agencies are currently able to respond to youth misconduct by informally counseling them about their behavior and issuing what are known as curbside warnings. Curbside warnings occur at the point of police contact and generally entail nothing more than an officer's attempt to verbally redirect or counsel a wayward youth. The ACLU report, citing a general order of the New Jersey State Association of Chiefs of Police, states that these warnings are supposed to result in detailed reports. However, other information received by the subcommittee indicates that at least some of these curbside warnings involve very limited interaction between the officer and the young person, such as verbal warnings issued from within a police vehicle to young people outside, making these interactions difficult to document without causing an additional level of interaction and placing an undue administrative burden on the officers.

Our subcommittee supports the use of curbside warnings whenever possible. This is consistent with best-practice research on diversion for minor offenses, which prescribes keeping involvement with the justice system as minimal as possible. Our subcommittee heard concerns about equity, in terms of which youth are most likely to receive curbside warnings, but also received information that the vast majority of these interactions are not reported or tracked, making it difficult to analyze the frequency of use and equity issues.

### ***Recommendations***

Based on what the subcommittee learned from materials reviewed and information shared, we recommend the following to safely and equitably maximize the use of stationhouse adjustment and curbside warnings with youth:

1. We recommend that the Attorney General encourage, as an alternative to formal delinquency proceedings, the use of stationhouse adjustments as an appropriate law enforcement response to many non-violent offenses committed by juveniles. At a minimum, the current Attorney General Directive needs to be updated and reissued,

but New Jersey should also consider whether legislation is needed to expand the use and consistent application of stationhouse adjustments.

2. All law enforcement agencies that are likely to encounter acts of juvenile delinquency — namely, every police department in the state and the New Jersey State Police — should offer access to stationhouse adjustments.
3. The OAG must promote uniformity and consistency in the application of diversion criteria across departmental and county lines. Practitioners must receive training on any new directive, and the public must be made aware of the changes. Beyond initial training, practitioners should receive refresher courses on a regular basis.
  - The OAG should update data-reporting mechanisms to make information about uniformity and equity available to the public and to those responsible for administering adjustment programs. The OAG should develop a protocol so that the data includes curbside warnings, even those resulting from fleeting interactions with young people. These protocols should entail minimal documentation or paperwork but should capture general demographic markers — without including individual identifiers — to improve monitoring of equity and disparities.
  - The AOC should consider adding a field in the electronic complaint system to indicate whether a stationhouse adjustment was offered. This will generate additional data and facilitate oversight of the process. The data should be shared with the OAG and the county prosecutors' offices on a regular basis so that they can ensure that the opportunity for stationhouse adjustments is occurring uniformly throughout the state.
  - The OAG's Division of Criminal Justice (DCJ) should be responsible for producing an annual data report.
  - DCJ should use this data to determine the need for further technical assistance and training on equitable access and research-informed practices related to diversion.
4. Police departments, in consultation with prosecutors' offices, if necessary, should make the determination about the availability and appropriateness of an adjustment, but then hand off the process to a partner agency or entity for determination of the need for services and any ongoing case management. It should be emphasized that contact with police does not necessarily indicate a need for services. However, where services are indicated, police officers should not be providing case management. Funding should not be a barrier to an adjustment, as many appropriate stationhouse responses include no-cost options, but in order to provide a fuller range of support to young people, funding should be available to create a robust assortment of programs. There are several successful models throughout the state; no one model should be

required. Examples of successful partnership models include: the Camden and Ocean County enhanced stationhouse adjustment programs that partnered with existing Family Crisis Intervention Units; Cumberland County's stationhouse chaplain program; the Passaic County stationhouse initiative that operates in partnership with the Youth Services Commission.

5. Victim input is an important factor in determining the appropriateness of a stationhouse adjustment, but it should not be the sole determining factor. If a victim objects to a juvenile's participation in a stationhouse adjustment, the matter can be referred to the county prosecutor or his/her designee for review. After consideration of the charges and consultation with the victim, the county prosecutor (or the designee) may send an otherwise eligible juvenile back to the police department for a stationhouse adjustment. The inclusion of programming that adheres to the principles and practices of restorative justice, as described elsewhere in this report, can be an asset in resolving cases where someone has been harmed.
6. Adjustments should be the first response considered for eligible offenses. Curbside warnings are preferred wherever possible.
7. Stationhouse adjustment should not be considered a one-time opportunity. Adolescents are still developing adult decision-making skills and are uniquely vulnerable to the influence of their peers and, consequently, are likely to make mistakes — even the same mistakes — more than once during the course of their young lives. Therefore, the subcommittee recommends that stationhouse adjustment not be a one-time proposition.
8. The categories of charges eligible for adjustment should be expanded.
  - Stationhouse adjustments “shall” be considered for ordinance violations, petty disorderly persons offenses and certain disorderly persons and fourth-degree offenses.
  - All other offenses (including bias offenses, sex offenses, violent offenses, first-, second- and third-degree offenses) should be eligible for adjustment, but only with the consent of the county prosecutor.
  - In responding to offenses involving or related to controlled dangerous substances (CDS), contact with police can represent an opportunity to intervene with young people who are struggling with substance use issues.
    - Disorderly person offenses involving controlled dangerous substances shall be considered for stationhouse adjustment, without obtaining consent from the county prosecutor's office.

- Not all youth who use substances require assessment or treatment. If, however, it is determined that intervention is clinically appropriate, juveniles should be referred for diagnostic assessments and appropriate treatment. Local planning bodies, including the Youth Services Commission and the CIACC (County Interagency Coordinating Council), can assist with identifying available assessment and treatment resources. Additional hotline numbers (PerformCare, 1877-652 7624, or 1 800 REACH NJ) should be included in the protocol.

## **Youth Services Commissions and Investment in Community-Based Programs**

### ***Subcommittee Charge***

*The subcommittee was charged with evaluating the current Youth Services Commission scheme and identifying areas to be strengthened and strategies to increase accountability, funding, community member involvement and data-reporting, as well as identifying opportunities for investment/reinvestment in a community-based continuum of care.*

### ***Background***

The subcommittee believes that to truly transform the youth justice system in New Jersey — the charge of this Task Force and the goal identified by many speakers at the public listening sessions — there must be a broad-based commitment not only to change the mechanics of the legal process but to increase the funding and resources available to the agencies and programs that comprise the system. A true transformation requires a legal system that not only delivers equitable outcomes and uses confinement as a last resort; it requires a commitment of resources to empower every youth- and family-serving agency to disrupt the pathways that drive young people — particularly those of color — into the legal system in the first place.

The Youth Services Commissions (YSC) and the JJC play critical roles in developing and maintaining a continuum of community-based programming for youth who are at risk of court-involvement, or who are already involved. Their work must be efficient, well-supported, focused and informed by the best available evidence from program evaluations and research and by the insights of young people, their families and their communities.

In 1995 the legislature established the State/Community Partnership Grant Program as part of the JJC. The purpose of the program is to support, through grants to the county YSCs, “services for juveniles adjudicated or charged as delinquents and programs for prevention of juvenile delinquency.” N.J.S.A. 52:17B-179. The YSCs serve as the stewards for these grants. They are required to make recommendations on grant proposals from community providers; monitor those providers and their programs to ensure compliance with JJC standards, policies and rules; and assess the impact of funded programs on the youths served by them.

In order to maintain their sharp focus on delinquency prevention and intervention, the YSCs and JJC must promote collaboration; they cannot operate separately from the other youth-serving systems and programs that are intended to meet the broader wellness needs of our young people. Similarly, communities have a role to play in transforming youth justice and in ensuring that all New Jersey’s children receive equitable chances to succeed and thrive. Involvement in the legal system does not diminish the need for community connections, child protection, education, recreation, and personal and mental health supports.



## ***Information Reviewed***

To complete its charge, the subcommittee reviewed:

- recommendations from the New Jersey Association of County Youth Services Commission Administrators;
- recommendations from the Juvenile Justice Commission;
- New Jersey Institute for Social Justice report *Bring Our Children Home: Building up Kids through New Jersey's Youth Services Commissions*;
- interviews with Rosy Arroyo, Camden County Youth Services Commission Administrator; Doris S. Darling, Director, Office of Local Programs and Services, Juvenile Justice Commission; and Andrea McChristian, Law and Policy Director, New Jersey Institute for Social Justice;
- data on 2018 YSC spending by category from JJC;
- spending formula information from other states (e.g., OH, IL, GA, WA); and
- input from three public listening sessions.

## ***Major Questions and Considerations***

- What are the successes and challenges of the current YSC system?
- How can we leverage the successes? How should we address the challenges?
- How can we increase community and grassroots involvement in the YSCs?
- How do we promote cross-system collaboration?
- How can YSCs, in collaboration with other agencies, disrupt the pathway of young people of color into the justice system?

## ***Major Findings***

*Youth Services Commissions:* Each of New Jersey's 21 counties<sup>5</sup> has a YSC responsible for planning and funding the county's youth prevention, diversion, detention, disposition and reentry programs and services. To receive funding, each YSC must submit a three-year

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<sup>5</sup> Some municipalities have Youth Services Commissions as well.

comprehensive planning document that reviews key data related to various points in the legal system (e.g., number of arrests), disaggregated by race, gender and other demographic categories, and other risk factors. The planning document then links the data to descriptions of community needs and makes recommendations for programs and services intended to address those needs. Once the three-year plan is approved, the YSC must provide annual updates on progress. The YSC also submits a yearly funding application identifying the programs and services it is seeking to fund to address needs in its comprehensive plan.

A YSC's application for funding is submitted to the JJC for review and approval, a process that is further overseen by the OAG. The application identifies members of the YSC, which must include, at a minimum, the following: presiding judge (Family Part), family division manager, chief probation officer, freeholder/county executive, county prosecutor, county public defender, county Division of Children & Families manager, county mental health administrator, county superintendent of schools, superintendent of the county vocational school, director of the county human services department, youth shelter director, youth detention center director, juvenile Family Crisis Intervention Unit director, a law enforcement representative, county alcoholism and drug abuse director, Workforce Investment Board representative and a business representative.

*Funding:* The formula established by the State/Community Partnership grant program to calculate the allocation of funding for each county YSC includes:

- a minimum base to each county of \$75,000;
- a formula based on the extent of youth justice problems in each county, which incorporates the following: (1) the county's percentage of the State's youth population; (2) the county's percentage of the State's total youth arrests for violent index crimes; and (3) the county's percentage of the State's total of persons living below the poverty level; and
- an equal allocation to each county of \$55,550 for program management.

There have been some changes to this funding formula over the years, but overall investment in this critical funding mechanism remains relatively modest. At the same time, administrative requirements and overall expectations of programs have increased, leading to a mismatch between the value and expectations placed on the YSCs and the level of resources provided to support their work.

Additionally, the formula has not been *revised* since 1995, when it was created. Nor, significantly, has it been *reapplied* to reflect fluctuations in any of the included factors in communities across the state. Further, the structure of the formula itself fails to reflect innovations in juvenile justice fiscal policy that have benefitted other states in transforming their systems. The more innovative states have used their allocation strategies to incentivize positive changes in system outcomes (e.g., reducing commitments) by reinvesting dollars in prevention and community-based programming.

*Quality Assurance:* An effective YSC funding strategy can enhance the likelihood that New Jersey will meet its commitment to keep at-risk youth at home with their families and communities whenever possible. It can also diminish racial disparities in the system. A well-resourced YSC system — one that offers a rich mix of high-quality programs — is critical to achieving goals of race equity.

An essential element of the YSC strategy must be a planning process grounded in local determination of community needs. Of course, it is also essential that this determination be informed by an evidence-based assessment of what is needed, as well as what works, to support young people and families in their communities. The evidence associated with this determination should blend insights from young people and families, from experiences of local community-based programs and from available program evaluations, outcome data and academic research.

New Jersey has shown its commitment to national “best practice” evidence through its long-standing participation in national juvenile justice initiatives like JDAI, which is data-driven and research-informed. Many of the policies and practices embedded in the state’s current youth justice system are drawn from what the broader youth justice field has taught us.

However, there is more to be done to ensure that these lessons find their way into the YSC planning processes — and to drive home the principle that even some of the field’s core practices must now be evaluated through an equity lens. Community members in listening sessions made this point forcefully, questioning whether the evidence in “evidence-based practices” was developed to serve families or communities that mirror their own and whether “best practices” really capture the *practice-based evidence* of the local programs in their communities. Further, many speakers said they wanted policies and programming shaped by, and in response to, their lived experiences and the lived experiences of their children, loved ones and neighbors impacted by the legal system. They — and others who informed this subcommittee’s work — urged strategies that are more inclusive and that prioritize local investment.

Our deliberations revealed that there are mechanisms in place to allow for local and state oversight of YSC-funded programs. However, at the local level, these are complex and tied to local contracting law, and at the state level, they do not include mechanisms that would allow the JJC to force corrective action to ensure that programs are having the desired impact. We believe that the JJC can play a larger role in ensuring the success of local programming, beyond simply monitoring basic compliance with administrative regulations.

*Investing in Local Solutions:* Youth justice systems across the country are investing in a range of programming, focusing not only on national models with track records of success but, increasingly, on local — and even hyper-local — solutions. However, this strategy does not come without challenges. The subcommittee heard about the difficulties that some local programs have in applying for, and complying with the requirements of, YSC funding.

The YSC application process is complex and opaque, and many community programs do not have grant writers, legal staff, evaluation staff or other resources to fulfill the requirements associated with applications, complicated contracting processes or outcome reporting. The subcommittee heard testimony that some programs have decided to forego applying because these onerous requirements outweigh the benefit of the programming funds. Finally, the need to demonstrate outcomes quickly can discourage new, innovative programs from participating.

Beyond the application and reporting challenges, the subcommittee also heard about delays in contract processing and approval processes. We also heard about mismatched fiscal timelines that prevent funds from flowing efficiently. Funds are awarded to counties based on a county's calendar year (January to December) budget, whereas the JJC's budget is on a July-to-June fiscal year budget. This results in funding awards that cross two state fiscal years. As there is no carry-forward language for the funding, this results in many challenges; funding not expended by June 30 is at risk of being lost, and extensions beyond December can only be given to counties until March 30 of the following year. These kinds of delays can have an outsized impact on smaller community programs and, therefore, must be addressed in order to meet goals of inclusiveness.

*Community Participation:* Across the state, county YSCs are using a wide range of strategies to elicit and incorporate the voices of community members into their planning and oversight processes. Some counties circulate surveys or schedule meetings at different times or in different locations; others have created podcasts with opportunities for community members to participate by submitting questions from the comfort of their own homes. Some counties have youth or community members at the table; others have created partnerships with trusted community leaders to facilitate community conversations that may not happen in a formal government meeting. Some counties have prioritized youth participation and have taken steps to support young people's meaningful involvement, either directly or through liaisons.

In terms of transparency, the New Jersey Association of County Youth Services Commission Administrators (NJACYSCA) established a website in 2019 that weaves together information from YSCs across the state, to enable community members to better understand the planning process and how to get involved.

There are lessons to be learned from each of these strategies; the variation reflects the delicate balance between concerns about a lack of statewide standardization in ensuring youth and community participation and the potential strength of committing to local solutions to achieve that participation. To be sure, no one strategy will succeed for every county, or even for every community. However, there are steps that can and must be taken to raise the level of community participation statewide.

*Service Gaps and Challenges in Coordination:* Throughout the community listening sessions, as well as in subcommittee deliberations and testimony, the challenges associated with service awareness, availability and program coordination were emphasized again and again. As noted above, YSCs and the JJC cannot be — and should not be — responsible for meeting all the

needs that a young person or a family might present or providing all the opportunities that they may require. This means that the YSCs must be closely connected to other youth-serving agencies and programs that are adequately resourced, and that there must be policies and practices that support a holistic and coordinated approach to service planning and delivery.

Unfortunately, as described by both professionals and the public during the listening sessions, there is, with a few exceptions, a tremendous amount of conflicting information and confusion as to how to find and access the right supports at the right time for young people and their families. Community members especially emphasized wanting ready access to quality interventions and to opportunities that allow hope to flourish (e.g., mental health supports, housing, vocational training, education); they made clear they viewed these as investments in public safety.

The subcommittee heard descriptions of “justice by geography,” where a young person in one county could reliably access a particular service while a youth only a few miles away, in a contiguous county, could not. Our deliberations revealed that this is a perennial challenge because, depending on the composition of the county, the peculiar need of one child may not rise to the level of a county need and would not necessarily be provided through the YSC comprehensive plan. The YSCs do reserve, however, some “client-specific” funds to fill these programmatic gaps.

Addressing concerns about service availability and quality is critical at every point in the justice continuum but most urgent at points where a young person’s liberty is at risk. Task Force members raised concerns whether, under current mechanisms, providers are able to refuse to serve challenging young people, leaving those most in need of high-level community interventions underserved and potentially at risk of commitment to the JJC. It is vital that the range of community-based options be robust, with a particular emphasis on dispositional options for those youths who pose the most challenging needs and risks, including those who have committed harm to others.

Some of the needs that fell into this category involved behavioral health or other clinical needs. PerformCare, the contracted system administrator for the Children’s System of Care within DCF, is authorized to provide biopsychosocial assessments and clinical services to meet identified clinical needs; it can also provide care coordination and management to help families navigate available services. There is a continuum of services available through PerformCare, from mobile crisis response to out-of-home treatment. Along that continuum there might be a wide span of wait times, for reasons ranging from service availability or capacity, to specific assessments not being in place, to the absence of follow-through or families not having the right information to set the process in motion.

Challenges of these types are perhaps to be expected in a large managed-care operation, and quality assurance protocols are built into the process to identify emerging needs, respond to crises and improve processes. However, when the timing of the processes is not aligned with the

pace of delinquency case-processing, or not meeting an urgent need, frustrations arise. In some instances, YSCs are paying for clinical services with the client-specific funds.

It is also important to remember that because services through the Children's System of Care are designed to meet clinical needs, the YSCs remain an important source of funding for other services — like workforce development opportunities — that are critical to a young person's development and well-being and have been shown to contribute to reductions in recidivism.

Some advocates referenced the Multi-Disciplinary Team (MDT) process as a useful vehicle for resolving service barriers in individual cases but conceded that this process is available only to families whose children have reached a certain level of court-involvement; they also noted that there is significant variation across the state in terms of the way that MDTs function. Some counties have robust planning processes that yield creative individualized plans, while others seem less rigorous; some MDTs invite providers to be present and others do not, and only some convene reentry MDT meetings for youth returning from JJC custody. Most stakeholders agreed that the MDT regulations are in need of an update in order to achieve standardization statewide and to ensure an optimized experience for the youths and families who rely on the MDT. (In fact, we are advised that a review and revision is in process at the JJC.)

An additional challenge in efficiently meeting individual needs is the fact that the current definition of "reentry" does not include reentry from detention, which in some counties includes 60-day commitments in the detention center. As a result, in this situation, YSC-funded services cannot be targeted to support the reintegration of young people into their communities.

### ***Recommendations***

Based on the information reviewed and major findings, the subcommittee presents the following recommendations to strengthen the effectiveness and transparency of county Youth Services Commissions:

1. The total dollar amount available for distribution to YSCs should be substantially increased.
  - Separate and apart from any long-term savings anticipated from changes in facility operations within the JJC, we recommend that New Jersey substantially increase investment in young people and families served by the YSC funding stream. We believe that the legislature should increase the current annual budgeted amount of \$16 million to a total of \$50 million statewide, in keeping with New Jersey's commitment to transforming youth justice. This increased funding should be supported by sustainable revenues. The additional funding will allow counties to invest more heavily in delinquency prevention and diversion — including services connected to the point of police contact/stationhouse adjustment — as well as expand their delivery of community-based services and alternatives to custody at the

points of detention, disposition and reentry. These services should address the needs of a full range of youth, including those with aggressive behaviors, while ensuring public safety.

- This investment must increase both administrative and programmatic funds to the YSCs, ensuring that each county YSC can devote sufficient administrative and leadership support to the important work it does without having to pull from programmatic investments.
2. The State and YSCs should prioritize investment in restorative justice practices, including investment in restorative justice centers, as well as job training and apprenticeship programs.
    - As discussed on p. 27, the Task Force recommends that the State embrace restorative justice principles at every point in the system. Restorative justice practices focus on resolving conflicts and harmful behavior through youth, family, victim and community engagement, and dialogue instead of punishment. Consensual resolution and decision-making processes render discernments in a dignified manner to bring about a positive change in people, relationships, and the community. We urge the State and YSCs to prioritize funding for restorative justice programming, including the creation of community-based restorative justice centers. The goal is to create safe spaces where youth who commit harm – and people harmed – can talk about conflicts and harms and decide how to resolve and help divert young people away from incarceration.
    - Additionally, job training and apprenticeship programs should be a funding priority. Feedback from youth and testimony provided by system-impacted people made clear that jobs, job training and employment opportunities are top priorities. When contemplating the development of restorative justice centers, the State and YSCs should consider creating multi-purpose spaces that might also provide these types of employment services and build partnerships with professional unions and trade organizations in furtherance of this goal.
  3. The legislature should amend the enabling legislation (N.J. Stat. Ann. § 52:17B-180) to increase the comprehensive planning period from three to five years.
  4. The formula that governs the total amount of funds that each county receives must be revised and reapplied.
    - The original formula has not been updated or reapplied in decades. New Jersey should follow the lead of states that incorporate new metrics that incentivize positive system changes through a revised formula for distributing funds. New Jersey can also look to those innovative states in devising a new formula that can be applied every five years, to align with the longer comprehensive planning period.

5. The JJC must be given adequate resources to provide assistance and oversight to the counties.
  - With the additional resources, the JJC should coordinate training and technical assistance to support counties in delivering high-quality programming that aligns with state-of-the-science practices; the JJC should also assist the counties with data-reporting and measuring the impact of programs.
  - The JJC should be allocated adequate resources to hire staff for the YSC grants management unit; to provide program support to the counties; and to satisfy the resulting reporting requirements.
  - The JJC should also be allocated adequate resources to hire staff for: (a) its information technology department, to support compliance with the online reporting and management systems used by over 400 individuals statewide; and (b) its research and evaluation department, to provide technical support to counties and coordinate evaluations of the YSC programs.
6. Strategies should be developed to increase community participation in the YSC process, to enrich the process and enhance accountability to the public.
  - Counties should be required to detail in their comprehensive plans their strategies for optimizing community participation. Strategies can and should vary across the state, taking into account local needs. They can include exploring changing the time and location of meetings; publicizing the meetings differently; hosting “open houses” for community members to learn about the YSC and opportunities for involvement; having members operate as liaisons to community groups and report back; and creating subcommittees on youth and community engagement.
  - The JJC should work with the counties to enhance public awareness of YSCs and to develop tools to enhance youth and community participation in YSC processes.
  - The composition of YSCs should be expanded to include roles for youth, family and community members.
7. YSCs must tailor their processes to encourage and support participation from a range of community-based programs.
  - YSCs should implement strategies to educate community-based programs about the YSC application process. These strategies can include open houses, webinars and application/grant-writing workshops and other tools and options that can help



organizations new to the YSC process succeed. These strategies should be detailed in the YSC's comprehensive plan.

- YSCs and the JJC should collaborate to provide technical assistance to build capacity in community-based organizations and to help them design and implement internal data-keeping and evaluative processes.
  - YSCs should consider modifying their programmatic and administrative requirements (for example, on outcome reporting) to accommodate new, innovative or grassroots programs.
8. YSCs should develop and invest in a coordinated community-based approach that spans state agencies.
- Increased YSC funding is only one part of the equation. To achieve a true transformation, the state must adopt a holistic approach. The phrase “youth justice” should not relate solely to the legal system. Instead, it should entail a coordinated, multi-system approach to providing services and opportunities to our young people.
  - To do this, the state must enhance the delivery of community-based programming by creating policies and processes that strengthen communication and collaboration between social service agencies and YSCs and between these agencies and the communities they serve. Some examples:
    - DCF (or another suitable agency) should convene meetings of child-serving agencies in order to troubleshoot cross-cutting challenges and to document and encourage learning from successes.
    - The regulations that govern the MDT processes should be reviewed and updated to achieve increased standardization across the state.
    - Counties should implement strategies to increase cross-agency awareness of local and state resources that families can access, particularly those resources that can be accessed without contact with the legal system, like Family Success Centers and similar organizations.
    - Finally, every youth- and family-serving agency must play a role in this comprehensive approach to positive youth and family development. The total commitment across state agencies — including the YSC and JJC investments detailed above — will be commensurate with the goal of transforming youth justice in New Jersey and will total at least \$100 million.

## **CONCLUSION**

We would like to thank the governor for selecting us to serve on this Task Force. We are grateful for the opportunity to participate in the continued transformation of New Jersey's youth justice system. The work has been as rewarding as it has been challenging.

It is our hope that this report can provide the state with a blueprint for moving forward. But that hope is coupled with a very real fear: that this report, like those of so many other task forces, will be relegated to a dusty bookshelf and not be used as a framework for the continued reform it envisions.

To avoid that possibility — and to ensure that the community remains aware of the implementation of the Task Force's recommendations — we urge the governor to provide periodic public accountings of progress. Because the implementation of our recommendations will require the mobilization of other branches of government and public agencies, we urge the governor, in undertaking this reporting, to solicit information from the legislature, the Administrative Office of the Courts and other stakeholders in the youth justice system. We trust the governor will then determine the method of reporting that best apprises the public of the progress of this transformative work.

**APPENDIX A**  
**EXECUTIVE ORDER NO. 42**

WHEREAS, through a partnership led by the Juvenile Justice Commission ("JJC") and the Judiciary, New Jersey is recognized as a national leader in the Juvenile Detention Alternatives Initiative ("JDAI") as a result of successfully, sustainably, and safely reducing its incarcerated youth population; and

WHEREAS, while in 2003, the year before the JJC launched JDAI, there were approximately 12,000 youth admitted to county detention centers pending the resolution of their court cases, that number has dropped by almost 80% and, today, approximately 2,500 youth are admitted to such facilities pending the resolution of their cases; and

WHEREAS, a major focus of JDAI has been to reduce the disparate use of pretrial detention for minority youth, with youth of color accounting for 80% of the approximately 9,500-person reduction in youth incarcerated pending the outcomes of their cases; and

WHEREAS, while in 2003, the courts committed approximately 1,200 young people to the care of the JJC, by 2017, this number was reduced by 85%, to approximately 176 statewide, with youth of color accounting for 85% of this reduction; and

WHEREAS, the JJC has not only led efforts to impact meaningful legislative change and amend state regulations, but also has reevaluated its own classification process and the criteria used in placement decisions for community residential homes, to allow the transfer of more youth from secure care to residential programs; and

WHEREAS, as a result of these changes, the percentage of JJC's youth in a community residential home instead of a secure facility has increased from 26% to 37% since September 2017; and

WHEREAS, through its partnership with the Annie E. Casey Foundation, a national leader in improving outcomes for young people, the JJC is committed to safely and significantly reducing out of home placement and incarceration, particularly for youth of color, in the most difficult cases; and

WHEREAS, for example, reforms in Camden, including changes to diversion practices that narrow the prison pipeline, enhanced community-based programs, and innovative probation practices, have reduced out of home placements between 2014 and 2017 by 33%, with youth of color accounting for 92% of the decrease; and

WHEREAS, in 2017, New Jersey committed to closing the New Jersey Training School for Boys, known as Jamesburg, and replacing it with smaller, regional facilities; and

WHEREAS, New Jersey is now the only state to be designated as a national model for juvenile detention reform by the Annie E. Casey Foundation; and

WHEREAS, although New Jersey is making significant strides, there is still significant work to be done, as the State, despite the efforts of all involved, currently has extreme racial disparities in youth incarceration rates, with a black child significantly more likely to be detained or committed than a white child, even though research shows black and white youth commit most offenses at similar rates; and

WHEREAS, the effectiveness and transparency of county Youth Services Commissions in creating impactful community-based programs varies across counties, and certain mandatory preventive and diversionary programs, such as the Attorney General Directive on Stationhouse Adjustments, are not being uniformly implemented across law enforcement agencies;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established the Task Force for the Continued Transformation of Youth Justice in New Jersey (the "Task Force"), which shall be responsible for providing recommendations to

the Governor's Office, the Department of Law and Public Safety, other Executive Branch departments and agencies, and the Legislature on strategies and actions to continue the reform of New Jersey's Youth Justice System, including but not limited to the following:

a. Racial Disparities: Exploring an innovative and multifaceted approach to addressing New Jersey's severe racial disparities, drawing upon national best practices and community input;

b. Stationhouse Adjustments: Reviewing stationhouse adjustment data and developing standards to increase uniformity and accountability;

c. Youth Services Commissions and Community-Based Programs: Evaluating the current Youth Services Commission scheme and identifying areas to be strengthened and strategies to increase accountability, including funding, community member involvement, and data reporting;

d. Residential Facilities: Engaging in a comprehensive review of JJC non-secure facilities to ensure that those facilities are appropriate placements for youth and evaluating how they can more effectively be used as rehabilitative settings;

e. Reinvesting Funds into the Creation of a Community-Based System of Care: Conducting a fiscal analysis to determine the potential reinvestment of current youth incarceration funds into community-based programming, particularly programs in those communities most impacted by youth incarceration. The Task Force shall analyze funding streams and costs to provide for an appropriate reinvestment plan that reflects the realities of our current Youth Justice system, including the possibility of creating a dedicated funds lockbox for innovative community-based programs;

f. Facility Closure: Developing a deadline for the closure of the New Jersey Training School for Boys and the Female

Secure Care and Intake Facility, and making recommendations on subsequent land use after the facilities have closed, and assessing the potential for closure of the Juvenile Medium Security Facility;

g. New Youth Facilities: Conducting a comprehensive review of national best practices in the development of secure youth facilities and making recommendations that will inform the creation of the new youth rehabilitation centers; and

h. The System of Granting Juvenile Parole: Conducting an analysis of national models for granting early release to youth in state custody, analyzing current practice in New Jersey, and making related recommendations.

2. Members of the Task Force will be appointed as follows:

a. A representative from the JJC, appointed by the Governor;

b. The Attorney General, or his designee;

c. A representative of the New Jersey Institute for Social Justice, appointed by the Governor;

d. A representative from the Division of Criminal Justice, appointed by the Governor;

e. A representative from the County Prosecutors Association of New Jersey who is actively and presently involved in juvenile matters, appointed by the Governor;

f. A representative from the New Jersey Juvenile Officers Association, appointed by the Governor;

g. One representative each from the Annie E. Casey Foundation and Vera Institute of Justice, both appointed by the Governor;

h. The Public Defender, or his designee;

i. The Commissioner of the Department of Children and Families, or her designee;

j. The Commissioner of Education, or his designee;

k. A current Family Court Judge, to be chosen by the Administrative Director of the Administrative Office of the Courts;

l. The Chair of the Governor's Juvenile Justice Delinquency and Prevention Committee;

m. Two members appointed by the Governor upon the recommendation of the President of the Senate;

n. Two members appointed by the Governor upon the recommendation of the Speaker of the General Assembly;

o. A representative of the NAACP New Jersey State Conference, appointed by the Governor;

p. A representative of Salvation and Social Justice, appointed by the Governor;

q. A representative from the faith-based/ethical community in New Jersey, appointed by the Governor;

r. A representative from the County Youth Services Commission Administrators, appointed by the Governor;

s. A representative of an employee organization representing employees who work at juvenile justice facilities, appointed by the Governor; and

t. Three representatives who have been involved with the New Jersey juvenile justice system, appointed by the Governor, including at least one representative of a non-profit organization that deals with juvenile justice issues and at least one individual who has been subject to the custody of the juvenile justice system.

3. All appointees by the Governor shall serve at the pleasure of the Governor. The Governor may, as determined to be appropriate, appoint additional members to the Task Force, who shall also serve at the pleasure of the Governor.

4. The Governor shall select a chairperson from among the members of the Task Force.

5. Task Force members shall be appointed within 30 days of this Order and the first meeting of the Task Force shall occur within 60 days of this Order.

6. The members of the Task Force shall serve without compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties, within the limits of funds appropriated or otherwise made available to the Task Force for its purposes.

7. The Task Force shall hold no less than three public hearings, with no less than one public hearing each in the northern, central, and southern regions of the State.

8. The Task Force shall be authorized to call upon any department, office, division, or agency of this State to supply it with information or other assistance as the Task Force determines to be necessary to discharge its duties under this Order. Each Executive Branch department and agency is hereby required, to the extent not inconsistent with law, to cooperate fully with the Task Force within the limits of the department or agency's statutory authority and to furnish the Task Force with such assistance on as timely a basis as is necessary to accomplish the purposes of this Order. The Task Force may consult with experts or other knowledgeable individuals in the public or private sector with respect to any aspect of its mission.

9. The Task Force shall issue a report of its findings and recommendations to the Governor, the Attorney General, and the Legislature no later than six months after the effective date of this Order. The report shall be made available to the public at the same time.

10. Nothing in this Order shall be construed to supersede any federal, State, or local law.



11. Nothing in this Order shall be construed to halt progress on any reforms currently underway under the purview of the Juvenile Justice Commission.

12. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

13. This Order shall take effect immediately.

[seal] GIVEN, under my hand and seal this  
26<sup>th</sup> day of October,  
Two Thousand and Eighteen, and  
of the Independence of the  
United States, the Two Hundred  
and Forty-Third.

/s/ Philip D. Murphy  
Governor

Attest:

/s/ Parimal Garg

Deputy Chief Counsel to the Governor

## APPENDIX B



### Eight Principles to Transform Care for Young People in the Justice System

We all want a world where young people — no matter their race, ethnicity, gender or neighborhood — can realize their potential, even when they make mistakes and violate the law in serious ways.

Building a world where all young people are able to thrive and grow into responsible adults, requires us to respond more effectively when young people experience harm and when they offend. Instead of using concrete cells and barbed wire to intimidate and control young people in prison-like settings, we would provide young people with steady **relationships with caring adults**.

We would have **effective community responses**, including options that keep some kids away from the justice system altogether. We would work to create a continuum of options where young people would find **guidance and support networks in their own communities** that connect them to education and job skills and help them repair the harm they've caused to others.

We'd have strategies that are powerful enough to **dismantle generations of structural racism** that has put young people of color at a disadvantage and deprived their communities of important resources. Our new world would **heal** young people who have been exposed to traumatizing violence.

But building this new world with the right programs and responses takes time — and young people experiencing youth corrections today can't wait. How do we make progress toward this vision while helping the 43,000 young people who are in custody **today**, who are disproportionately and overwhelmingly youth of color?

It starts with **eight principles** that every juvenile justice system should embrace **right now**, even as they plan for the future. To get to that future, states, counties or cities must dramatically reduce confinement and build stronger community-centered responses. At the same time they must elevate the standard of care for youth in custody. These principles can **accelerate progress** on both fronts by advancing public safety through restorative responses and helping systems and communities do better by young people.

1. **Lead with values that promote well-being and equity.** Leadership and staff working with young people have to demonstrate that they believe **all** youth deserve a happy, healthy and productive future, no matter their race or ethnicity. That includes being aware of how chronic trauma may have affected the lives of youth in systems and responding in appropriate, caring ways that promote healing and resilience.
2. **Maintain a healing and safe environment.** Make sure the space reflects these values, physically and emotionally. It should have natural light, inviting and warm color schemes and pictures. In place of gray

walls, windowless rooms and caged-in recreational spaces typical of many correctional designs, secure settings would include places to relax and learn and separate space for therapeutic conversation.

3. **Develop staff to excel in building positive and supportive relationships.** Staff must be able to guide young people through transformation. Leaders have an obligation to support this skill development. When staff are happy, enjoy working with youth and feel safe, de-escalation and conflict resolution seem natural. A mutual respect is evident.
4. **Provide plentiful and purposeful programming.** The science is clear: Young people are in a period of rapid learning, growth and heightened curiosity. Instead of being idle or watching television for most of the day, their days should be filled with engaging and purposeful activities that tap their curiosity, teach them valuable skills and offer opportunities to lead.
5. **Ground service delivery, staff training and organizational culture in knowledge of adolescent development and strengths.** Research shows young people respond best to approaches that build on their strengths, develop a positive sense of themselves at a critical time of brain development and make space for their voices. Effective approaches offer choices and incentives that encourage positive behavior.
6. **Treat family members as essential partners in planning for young people's long-term success.** Young people placed in secure settings or otherwise living outside their homes should have plenty of opportunities to maintain meaningful contact with the people they consider to be their family — whether or not they are biologically related. Family and caregivers should be consulted in decisions concerning their children, such as planning for treatment and what happens when the young person returns home.
7. **Encourage community connections.** Community organizations and people who have been through the system themselves often have credibility with young people who are hard to reach. They should be trained as mentors, welcomed into facilities and encouraged to participate in activities. These partnerships can promote healing, build social and emotional skills and develop hobbies. Also, they may open doors for jobs and internships.
8. **Incorporate continuous quality improvement.** As leadership and staff strive to improve the well-being of young people in their care, quantitative data and input from young people, families and community members should tell them how they're doing. The information they collect should be in service of doing better.

Juvenile justice system leaders, researchers and advocates across the country agree that with these principles, we can promote **both community safety and youth well-being** — for a better today and a much brighter future.

We can help young people in custody to get on the right track while we work toward an end to the youth prison model. **Learn more** at [www.aecf.org](http://www.aecf.org).

## **APPENDIX C**

### **Juvenile Justice Commission Continuing Reform Plan: Overview of Goals and Activities**

<b>GOAL 1: To develop and implement purposeful programming and supports that provide the opportunities and stability necessary for youth to grow and thrive</b>	
<b>ACTIVITIES</b>	1.1 Implement the Inside Circle Foundation’s trauma-informed healing approach
	1.2 Develop a consortium of community-based providers to bring a wide array of prosocial activities and growth opportunities to youth in facilities that can be continued upon return home
	1.3 Strengthen post-secondary educational and career/job skill development opportunities for JJC youth
	1.4 Develop a program to hire released youth as part-time, temporary (e.g., 12-24 months) JJC youth worker trainees; consider expanding to other types of trainee positions that might be appropriate
	1.5 Develop process for communicating JJC values during process of onboarding staff
	1.6 Attend to JJC staff well-being by implementing strategies to address staff trauma and creating opportunities to strengthen staff supports
	1.7 Create social business enterprise partnerships
	1.8 Create transitional housing options for youth; consider both short-term (respite/shelter) options and longer-term (independent living) options
<b>GOAL 2: To ensure that young people develop the capacity and opportunity to build and sustain strong and healthy relationships with peers, staff, family and community</b>	
<b>ACTIVITIES</b>	2.1 Create community treatment model that relies on small, cohesive teams of youth and staff for all JJC programs and facilities (MYSI Model)
	2.2 Examine feasibility of modifying residential program use to prioritize placement according to geography to allow youth to be closer to home
	2.3 Enhance Youth Voice by strengthening Resident Council
	2.4 Create inside/out staffing model, whereby positions are redefined, roles are reimagined, and/or policies are revised to ensure continuity in connection between the staff youth work with while in custody vs. while on parole
	2.5 Enhance quality of day-to-day life in secure and residential facilities
	2.6 Enhance opportunities for family partnership and connection
<b>GOAL 3: To develop and implement a strategy for measuring the impact of the reform plan</b>	
<b>ACTIVITIES</b>	3.1 Identify outcome measures that align with each goal and where baseline “pre-reform plan” measures have been taken; implement outcome measures and report outcomes on a periodic basis

## **ACKNOWLEDGEMENTS**

The Governor's Task Force for the Continued Transformation of Youth Justice received extraordinary support from a number of individuals and organizations over the course of its work. The Task Force extends its deepest gratitude to all those who helped us fulfill our mandate, including:

- experts and professionals who gave presentations to the full Task Force on topics under review, including Fletcher Duddy, Esq., Deputy, Office of the Public Defender's Special Hearings Unit, Rob Montalbano, Deputy Executive Director, Juvenile Justice Commission, Jessica Oppenheim, Esq., Director, Arc of New Jersey's Criminal Justice Advocacy Program, Dr. Elizabeth LeTourneau, Director, Moore Center for the Prevention of Child Sexual Abuse and professor, Johns Hopkins University;
- professionals who met with subcommittees to provide information or input regarding recommendations, including Rosy Arroyo, Camden County Youth Services Commission Administrator, Doris S. Darling, Director, Office of Local Programs and Services, Juvenile Justice Commission, Eric Glass, Portfolio Manager, Fixed Income Impact Strategies, AllianceBernstein, Christina Hollenback, Chair, Working Group on Equal Justice, NEXUS, and Andrea McChristian, Law and Policy Director, New Jersey Institute for Social Justice;
- the Juvenile Justice Commission's Resident Youth Council and, in particular, the Council President, for providing important advice and feedback to the Task Force through facilitated discussion and surveys;
- the institutions that graciously agreed to host the community listening sessions, including Barringer High School in Newark, Mercer County Community College; James Kerney Campus in Trenton; and the KROC Corps Community Center in Camden; as well as Trevor Melton, Department of Education, for his efforts in coordinating with these sites;
- the approximately 900 individuals who attended the community listening sessions and the approximately 120 people who provided oral or written testimony, especially youth and system-impacted individuals;
- non-Task Force members who served as proxies for members when they were unavailable, which helped ensure the work moved forward in a timely and informed manner, including Retha Onitiri, Project Management Consultant and Statewide Coordinator, New Jersey Institute for Social Justice; Elana Wilf, Clinical Fellow and Staff Attorney, Rutgers Law School; and Kristina C. Kersey, Deputy Public Defender, New Jersey Office of the Public Defender;

- senior staff from the Governor’s Office, including Reverend Derrick Green, Senior Advisor, and Dianna Houenou, Policy Advisor, who served as the Governor’s liaisons to the Task Force;
- Cynthia Mozee, Executive Assistant to the Executive Director, Juvenile Justice Commission, and Dawn Richardson, Administrative Assistant to the Executive Director, who provided staff support to the Task Force;
- staff and residents at the JJC’s Albert Elias Residential Community Home for routinely hosting Task Force and subcommittee meetings; and
- members of the Task Force who volunteered to serve as subcommittee chairpersons, leading and coordinating multiple subcommittee meetings and preparing written reports, including Laura Cohen, Natalie Kraner, Krista Larson, Kevin Walker, and Tanya Washington.