

# The Comeback States

Reducing youth incarceration in the United States

**AUTHORED BY:  
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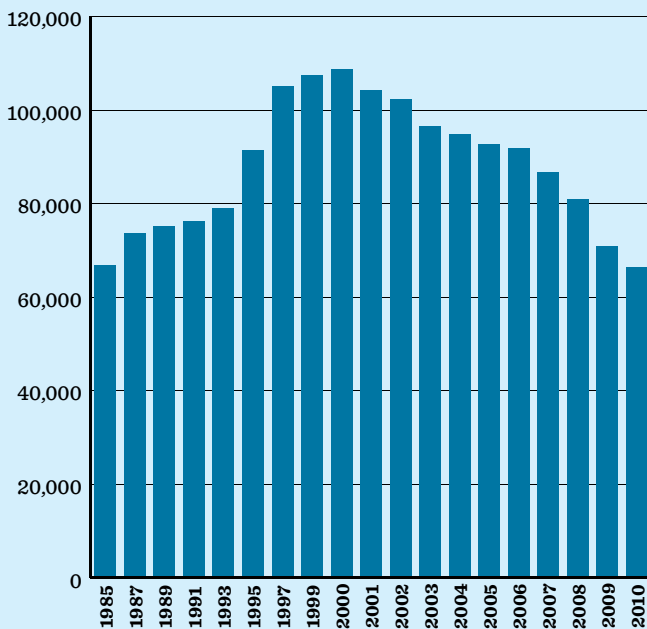
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# EXECUTIVE SUMMARY

In 2000, a record-setting 108,802 youth were held in detention centers awaiting trial or confined by the courts in juvenile facilities in the United States. In a dramatic turnaround, by late-2010, the number of youth confined in state and county juvenile facilities had plummeted by 39 percent to 66,322. This reversal erased a 63 percent increase in the number of confined youth that began in 1985, when 66,762 youth were confined—an increase driven by highly publicized increases in youth arrests, growing public concern about youth crime, and state juvenile justice policies favoring increased reliance on incarceration. This report uses new federal data to document and analyze national and state incarceration trends.

Figure 1ES. Number of Youth in Residential Placement



The turnaround is associated with changes in state policies since 2001 that reflected declines in youth arrests, new understandings of the teenage brain, less-costly, evidence-based alternatives to incarceration, and constrained state budgets.

A regression analysis of annual data found that although the decline in arrests helped explain the decline in confinement, post-arrest decisions by law enforcement officials, which are often shaped by state juvenile justice policies, also had a potent impact.

Six policies were identified in this report that have been adopted by states since 2001 and encourage reductions in reliance on detention and incarceration. These changes:

- increase the availability of evidence-based alternatives to incarceration;
- require intake procedures that reduce use of secure detention facilities;
- close or downsize youth confinement facilities;
- reduce schools' overreliance on the justice system to address discipline issues;
- disallow incarceration for minor offenses; and
- restructure juvenile justice responsibilities and finances among states and counties.

Nine “comeback” states were singled out for their leadership in adopting these policies. They include California; Connecticut; Illinois; Ohio; Mississippi; New York; Texas; Washington; and Wisconsin. The report profiles each of the states with regard to: 1) the growth of their reliance on youth incarceration during the 1980s and 1990s; 2) reversal of that reliance during the 2001-to-late-2010 period; and 3) the incarceration-reduction policies that they have adopted since 2001. The “comeback” states were selected because they adopted at least four of the six policies, exceeded the national-average reduction in youth confinement for the 2001-to-2010 period, and experienced a decline in youth arrests (as a proxy for greater public safety) between 2000 and 2010.

Table 1ES. Comeback States: *Changes in Confinement; Adoption of Incarceration-Reducing Policies*

State	Change in Youth Confined, Public Facilities Only 1985-2000 <sup>1</sup>	Change in Youth Confined, Public Facilities Only 2001-2010	Change in Youth Confined, All Facilities 2001-2010	Community Alternatives	Restrictions on Use of Detention	Facility Closings and Down-sizing	Shrinking School-to-Prison Pipeline	Not Confined for Minor Offenses	Realign, Reinvest Statewide
CA	40%	-41%	-36%						
CT	37%	-26%	-50%						
IL	100%	-35%	-38%						
MS	94%	-69%	-48%						
NY	91%	-60%	-43%						
OH	47%	-38%	-37%						
TX	200%	-35%	-37%						
WA	45%	-40%	-36%						
WI	91%	-54%	-43%						

Some conclusions from state profiles include: 1) One size has not fit all. The states vary in the degree to which they have been able to reduce overreliance on youth incarceration. 2) Support for smarter juvenile justice cut across regions as well as ideological stereotypes. 3) Bigger reductions could be on the horizon for California, Ohio and Texas given new reforms since 2010.

This report differs from other recent reports on youth confinement in the following ways:

- new nationwide data from the U.S. Department of Justice on the number of offenders in residential placement nationwide were used here to produce an up-to-date view of the trend in youth detention and incarceration;
- the forces driving the surge in youth confinement in the 1980s and 1990s were examined in detail to place the reversal in perspective;
- both policy and outcomes-oriented criteria were used to select the “comeback” states;
- this report is a partnership between nonpartisan authors with different constituencies, reflecting a growing consensus across the ideological spectrum on juvenile incarceration issues.

<sup>1</sup> For 1985, only data for youth confined in public facilities were available for individual states. However, the direction and magnitude of trends in public facility populations tend to mimic trends in private and public facilities combined. Between 2001 and 2010, the number of youth confined in public facilities in the nine states dropped 41 percent, from 37,164 to 21,838, which was lower than the 22,627 youth confined in public facilities in 1985. Similarly, for all facilities (i.e., both public and private), between 2001 and 2010, the number of confined youth declined by an average of 38 percent for the group of nine states.

Although the report applauds the national reversal and the use of state policies that discourage reliance on youth detention and imprisonment, it also makes the case that more work still needs be done:

- on average, the nine states adopted only 4.3 of the 6 incarceration-reducing policies;
- taxpayer and other costs of youth incarceration are still dauntingly high – annual costs of incarcerating a youth in some states easily exceed \$100,000;
- proven, cost-effective alternatives to incarceration have not been widely utilized – only an estimated five percent of eligible youth participate in such programs; and
- far too many young people are still being confined for non-serious offenses that do not threaten public safety – in 2010, 41,877 were confined for offenses such as breaking school rules, running away from home, and missing a parole hearing.

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## FOREWORD: A NOTE FROM THE AUTHORS

It's an exciting time to be involved in juvenile justice policy. The past decade has seen a remarkable change in approaches to youth in trouble with the law across the country, at both the state and local levels. Among other things, evidence-based practices have become more widespread; awareness about disparities across various demographic groups and jurisdictions has grown; appreciation for the importance of family involvement, effective school discipline policies, and collaboration with child welfare and mental health systems has increased; the automatic transfer of youth to adult court has been curtailed; and several significant Supreme Court decisions have made adolescent development an important factor in policy discussions.

Nowhere has the change in policy been more evident than in the nationwide trend to find alternative ways to hold young people accountable without confining them in jail, detention or youth prisons. Rigorous research consistently shows that community-based alternatives are in most cases more beneficial for community safety than incarceration, and the financial costs of maintaining large secure facilities have made it critical to rethink juvenile justice in every community.

In fact, the most recent research about what works and what doesn't has fostered the creation of a general consensus around key policies in the juvenile justice system, making it possible for advocates of all stripes to work together to achieve changes that benefit youth in the system and their families, save taxpayer money, and make communities safer. Case in point: the National Juvenile Justice Network (NJJN) and the Texas Public Policy Foundation collaborated on this report.

We did so, even though we have different constituencies and priorities. NJJN is an organization that represents state-based advocacy organizations striving to make the justice system fairer and more equitable for all, while Texas Public Policy Foundation and its Right on Crime project champions applying conservative principles such as limited government and personal responsibility to criminal justice. Our differences are

apparent in much of our work. For instance, NJJN has established as a governing principle the importance of correcting any disparate treatment of youth of color in the justice system. At the same time Texas Public Policy Foundation focuses its research on issues such as restorative justice and wasted government dollars. And yet, even though we don't agree on everything, we agree that:

- Incarceration is often over-utilized and that states now have a range of more cost-effective alternatives that better serve public safety.
- A growing body of research shows that incarcerating youth can have lasting negative impacts on their prospects as future citizens and on public safety.
- The high recidivism rates associated with many youth lockups partly stem from disconnecting youth from their families, religious and spiritual connections, schools, and other pro-social elements of civil society that enrich neighborhoods and communities.
- Though we applaud the hard work that many states have undertaken to reduce the unnecessary confinement of youth in trouble with the law, there's a long road ahead, not just for the nine states profiled in this report, but for every jurisdiction.

That we have so many areas of agreement should give juvenile justice reformers and policymakers hope. Our common ground, we hope, might become a symbol of this moment in the history of juvenile justice policy, when allies of all kinds can join together in the service of stronger, safer communities through a smart approach to juvenile crime and youth in trouble with the law.

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# **INTRODUCTION: SHEDDING NEW LIGHT ON YOUTH INCARCERATION IN THE U.S.**

## **1. Shifts in Reliance on Incarceration since the Mid-1980s**

For most of the two decades prior to the onset of the 21<sup>st</sup> century, the number of American children who were placed in county detention centers and state youth prison facilities throughout the U.S. grew rapidly. State policy makers, district attorneys and juvenile court judges during the 1980s and 1990s increased the use of confinement to address delinquent behavior. Tens of thousands of youth were placed in secure facilities that offered little if any rehabilitative programming and reduced pathways to an offense-free future.

In the very late 1990s and the beginning of the new century, however, a constellation of new developments paved the way for reconsideration of key policies and practices of the previous era, especially the reliance on secure confinement. Youth arrest rates declined; state and county budgets were hemorrhaging red ink; evidence regarding best practices to curtail delinquency in youth became widespread and widely accepted. Public opinion began to shift away from a “one-size-fits-all” juvenile justice system, especially as lawsuits and state scandals publicized the horrific and inhumane conditions of confinement in youth prisons. And, evidence-based alternatives to incarceration were shown to be both more effective for most youth who commit offenses and less costly.

These developments underpin a quiet revolution in juvenile justice that has been underway throughout the country, led by substantial reductions in youth incarceration and the adoption of statewide policies that reduce unnecessary reliance on detention and imprisonment.

Despite this new trend in incarceration reduction, juvenile justice officials around the nation are still grappling with very serious problems. Youth crime, while significantly reduced, still affects communities

and families, all while federal lawsuits and eye-opening state and federal investigations have alleged unacceptable conditions in youth facilities, significant safety issues for confined youth, deprivation of legal due process, concerns with confinement of youth in adult facilities, and disproportionate arrests of youth of color. Those and other unresolved issues continue to challenge criminal justice officials across the nation.

Nonetheless, as this report shows, the enactment of incarceration-reducing policies that has occurred since the year 2000, when the number of youth committed to residential facilities by the courts peaked, marks a reversal of the policies and practices of previous eras, and the emergence of a new juvenile justice mentality that revolves around reforms that both cost less and improve public safety. The emerging paradigm starts from a recognition that one-size-fits-all justice is ineffective. It capitalizes on the latest science concerning adolescent development and behavior, seeks fiscally responsible policy options, and harnesses proven alternatives to incarceration that reduce youth delinquency while setting more youth on the path to a productive future.

## **2. Highlighting State Policy Changes That Help Pave the Way**

The trend away from incarceration, if sustained, has the power to reduce youth crime, even as it reverses the course of the lives of thousands of youth who would otherwise be incarcerated and further criminalized before they have the chance and support to develop into responsible, contributing adults. We know that the stakes associated with those reversals are high not only for the youth who commit offenses themselves, but also for their families, their communities and state taxpayers alike.

While there are cases where public safety requires youth incarceration, incarcerating youth in cases where other methods would be equally or more effective in protecting the public comes with several drawbacks:

- It is costly to state taxpayers, who have to fund the construction, maintenance, and operation of expensive secure facilities. Operating costs per

youth for a year's stay can exceed \$100,000.<sup>1</sup>

- Incarceration also severely reduces education and income-earning capacity and can often lead to youth who commit offenses becoming reliant on government social programs (also at taxpayer expense) even if they manage to steer clear of the criminal justice system.
- It breaks apart the families of those youth, who suffer the despair of losing their loved ones and bear large travel, lodging, and court costs that many of them can ill-afford.
- And local communities pay a price, because the failure to use effective alternatives to incarceration reduces public safety when formerly incarcerated youth come home from harmful prison environments and continue to commit offenses.

The purpose of this report, however, is *not* to describe and document all of the reasons why incarceration is a poor choice for holding youth who commit offenses accountable for their mistakes and crimes. That case has already been made repeatedly, in compelling fashion, over the past decade.<sup>2</sup>

Rather, the main goal of this report is to bring the critical but quiet revolution in policies affecting youth incarceration to the attention of policy makers, the news media, and the public. To do so, the report identifies nine states that are leading examples

of the recent trend. The nine states, located in five of the seven major regions of the country and represent both so-called “red” and “blue” political areas, are, in alphabetical order, California, Connecticut, Illinois, Mississippi, New York, Ohio, Texas, Washington, and

“A quiet revolution in juvenile justice has been underway throughout the country, led by substantial reductions in youth incarceration and the adoption of statewide policies that reduce reliance on detention and correctional facilities.”

Wisconsin.

Since the year 2000, those nine states have not only greatly reduced the number of youth that are unnecessarily imprisoned or placed in detention centers, but they have also adopted policies that can pave the way for continued and safe reductions in secure confinement. The states were identified as leading examples of the de-incarceration trend for two primary reasons: 1) between 2001 (the year after youth confinement peaked nationwide) and 2010 (the last year for which data were available) the rate at which they reduced the number of youth they incarcerated exceeded the average reduction nationwide; and 2) since the year 2001, they adopted at least two-thirds of the statewide policies highlighted below as contributing to reductions in incarceration.

Why did we choose to focus on state policy? While we recognize that a myriad of county and local level policy and practice changes can have a huge impact on incarceration levels, as can litigation over conditions of confinement, neither of these approaches necessarily creates long-term paths out of incarceration for all youth in a state. Statewide policy change, on the other hand, if properly implemented, ensures the large-scale adoption of any incarceration-reducing practices. In addition, for the purposes of this type of study, identifying nationwide trends can best be accomplished through the use of readily available statewide data and state-to-state comparisons of similar state-level policy choices.

The data on the number of youth incarcerated tell a compelling story about the changes that have occurred since the year 2001. That story, however, is a view through the rearview mirror. Over time, the number of youth arrests may rise and fall; government budgets will fluctuate; and public attitudes will shift back and forth. If, however, states opt for fiscally sound, evidence-based statewide policies that hold youth who commit offenses accountable while providing better outcomes for them, their families and their communities, then the trend toward reduced reliance on youth incarceration is likely to be sustained.<sup>3</sup>

The six statewide changes highlighted in this study:

1. make available evidence-supported alternatives to incarceration;
2. require intake procedures that reduce use of secure detention facilities;
3. close or downsize secure facilities;
4. reduce excessive reliance on the justice system by schools to address discipline issues;
5. disallow incarceration for minor offenses; and
6. restructure juvenile justice responsibilities and finances among states and counties.

### 3. Landscape of the Report

In the next section of the report, we use federal data to document the trend toward increased reliance on incarceration that dominated much of the 1980s and the 1990s. Some of the key forces driving policy decisions made by the public, law enforcement officials, juvenile court judges, and state policy makers are also examined in that section.

Next, we examine government data for the 2001-to-2010 period on youth incarceration nationwide and in the nine states in detail. The data tell a convincing story of the recent reversal of the frequent over-utilization of incarceration. We discuss, at length, the likely reasons for those reversals, which are mentioned above.

The focus of the report then shifts to the nine states that provide leading examples of the new trend away from the reliance on incarceration. We present data-rich highlights of each state's reversals and descriptions of the incarceration-reducing policies they have adopted since the year 2000, adding to the evidence that a paradigm shift concerning youth incarceration is well underway in the U.S.

Despite the incarceration reductions documented here, the report does not attempt to make the case that juvenile justice reform in the U.S. is near completion, or that incarceration reductions necessarily imply substantial progress in other areas of the juvenile

justice system. Rather, in the next-to-last section of the report, it is argued that, if anything, further improvements and research into secure confinement and its alternatives need to be accelerated. To capture this reality, the report:

- explores the ongoing fiscal and individual costs of secure confinement;
- compares youth incarceration levels in the nine states with that of the U.S. as a whole;
- examines the extent to which alternatives have actually been used and incarceration-reducing policies have been adopted; and
- reviews the latest data on the degree to which incarcerated youth are still being confined for non-serious offenses.

We conclude with a wrap-up of the key empirical findings and conclusions from our original data analysis and the review of incarceration-reducing policies in the nine trend-leading states.

### 4. How This Report Differs from Recent Reports on Youth Incarceration Reduction

Two other publications were released in late-February of 2013 that cover some of the data addressed in this report. A report by the Justice Policy Institute (JPI) examined state and nationwide data on changes in youth incarceration levels between 2001 and 2010 and used that data to create profiles of the five states with the highest percentage reductions in youth incarceration during that period.<sup>4</sup>

In addition, the Annie E. Casey Foundation (AECF) released a set of national and state data fact sheets through its network of state KIDS COUNT organizations on the reductions in incarceration between 1995 and 2010.<sup>5</sup>

This report differs from the JPI and AECF publications in a number of ways:

- This report is a partnership between nonpartisan authors with different constituencies, reflecting a growing consensus



across the ideological spectrum on juvenile incarceration issues.

- The study utilizes new data from the U.S. Department of Justice on the number of offenders in residential placement nationwide to produce an up-to-date view of the trend in youth detention and incarceration.
- It places the reduction in youth incarceration that has occurred since the year 2001 in a larger historical context by examining the soaring youth confinement levels that occurred in the 1980s and 1990s. This helps to put the scope and significance of recent reductions in youth incarceration into context.
- Using federal government data, the report also analyzes some of the key causes of the shift away from unnecessary incarceration in the 1980s and 1990s and makes the case for accelerating the shift.
- The nine states profiled in this report were selected for their reductions in incarceration rates and because they have led the way in recently adopting policies that will help sustain the pace of those reductions in youth incarceration, while continuing to see lower youth crime rates.<sup>6</sup>

# THE SURGE IN RELIANCE ON YOUTH INCARCERATION

This section of the report documents the increased reliance in the U.S. on youth incarceration and examines the relevant data for the nation and the nine states for the 1980s and 1990s. That information shows the scale of the upswing in youth incarceration during those two decades and is essential to understanding the significance of the reversal that has occurred since 2001.

## 1. The End of a Youth Rehabilitation Era

There is little disagreement among juvenile justice experts that the 1980s and 1990s represented a dramatic turning point in how law enforcement officials, judges and the public viewed youth crime and youth incarceration. Juvenile justice throughout most of the mid-twentieth century was dominated by a rehabilitation orientation that was based, in large part, on the belief that the behavior of most youth who commit offenses could be changed. That decades-long orientation, however, was largely cast aside during the 1980s and 1990s. Among other things, highly publicized violent youth crimes ushered in and sustained a two-decade increase in reliance on youth incarceration.

During that period, incarceration was considered to be the best way to address delinquency. The heavy costs associated with secure youth detention and imprisonment were largely considered acceptable or overlooked as youth who committed offenses, even minor ones, were drawn into a vortex of punitive state and local criminal justice systems.

This change in policy was largely driven by policymakers' and the public's desire to address rising crime rates. It led, for example, to the creation of new laws that defined more behavior as crimes and made criminal penalties more punitive. These changes were accompanied by a boom in the construction of youth correctional facilities. Policymakers who sought to act decisively to address their constituents' concerns about rising crime rates did not have the benefit of the full evidence and experience available to us today. In

the 1980s and early 1990s, much of the data that exists now, demonstrating that alternatives to incarceration are more effective in reducing recidivism for most youth, had not yet emerged. Furthermore, a theory promoted by Princeton criminologist John DiIulio in 1995, arguing that a new breed of teen "super-predators" had arisen (a theory since discredited and repudiated by DiIulio himself) received broad media attention and would continue to metastasize, fueling the public's fear of youth crime, and spurring many policymakers to respond with sweeping measures intended to demonstrate they were cracking down on juvenile crime.

## 2. Data on Youth Arrests and Incarceration: *A Fresh Analysis of the 1980s and 1990s*

The available national data on the confinement of youth for the 1980s and 1990s capture key impacts of the increased reliance on incarceration that dominated that period. The number of confined youth in the country grew steadily and substantially between 1985 and the year 2000.<sup>7</sup> According to federal census reports for juvenile facilities, from 1985 to 2000, the number of youth who committed delinquent or status offenses and were sent by the courts to "residential placement" in the U.S. jumped from about 67,000 to nearly 109,000, a 63 percent increase.<sup>8</sup> (See Figure 3 below for a visual depiction of the increase in confinement for the 1985-to-2010 period.)

(For this analysis, the year 1985 was selected as the beginning year of the period of rising reliance on confinement for the following reasons: 1) 1985 is when violent crime arrest rates began to climb; 2) right after 1985, youth confinement leaped to a new level, jumping 10 percent between 1985 and 1987; and 3) prior to 1985, the data on youth in confinement were collected at a different time of the year than data collected in later years, resulting in potentially different census counts. The year 2000 was selected since it was the year in which the number of youth committed to residential facilities reached its peak.)<sup>9</sup>

A substantial rise in the number of youth arrests accompanied the rise in the number of youth confined after 1985. As illustrated in Figures 1 and 2, however, federal data also indicate that the increase in reliance

on confinement after 1985 cannot be attributed solely to the increase in the number of arrests. Growth in confinement and arrests is charted in Figures 1 and 2 for both the 1985-to-1997 and 1985-to-2000 periods to account for the peak in youth arrests that occurred in 1997 and the peak in youth confinement that occurred in 2000.<sup>10</sup> Figure 2 presents changes in confinement and arrests adjusted for increases in the U.S. youth population.

First, the growth in youth confinement substantially outpaced the growth in youth arrests, even after the increase in the youth population is taken into consideration. The wide gaps between the growth in arrests and the growth in confinement, in both charts for the 1985-to-2000 period, is partly the result of a decline in arrests during the 1997-to-2000 period. Over those three years, despite the decline in arrests, confinements remained quite stable, and even increased, as illustrated in Figure 3.

Second, the ratio of confinements to arrests (i.e., the number of confinements divided by the number of arrests), which captures the tendency of the juvenile justice system to confine youth who have been arrested, also increased after 1985. Between 1985 and 2000 (the year confinements peaked) the ratio of confinements to arrests grew by 44 percent, indicating that arrested youth were confined more frequently over time. The ratio grew by 14 percent between 1985 and 1997, the peak year for youth arrests.

Clearly, the increase in the number of arrests during the mid-to-late 1980s and most of the 1990s resulted in more children being channeled into the law enforcement system, thereby increasing the likelihood that the number of youth in confinement would also increase. However, the fates of those arrested between 1985 and 2000 also hinged on decisions made by county and state officials after youth had been arrested. As the data above suggest, those decisions, like the increase in arrests, contributed to the observed increase in reliance on confinement as a way of addressing youth crime between 1985 and 2000.<sup>11</sup>

Figure 1. Growth in Youth Arrests and Confinements

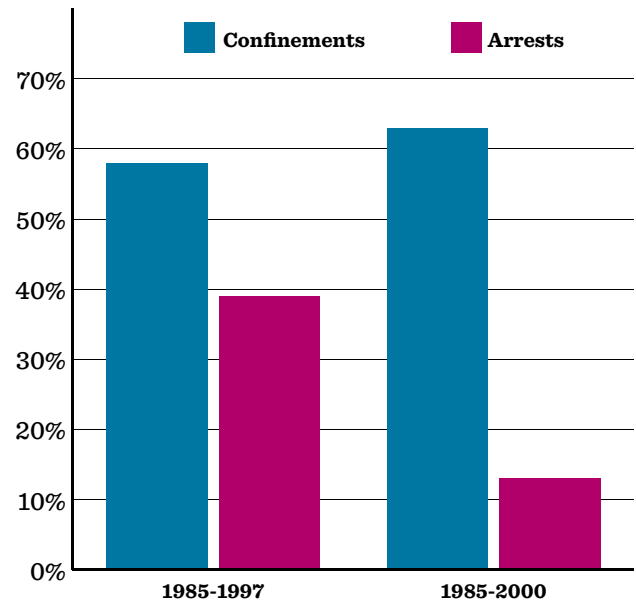
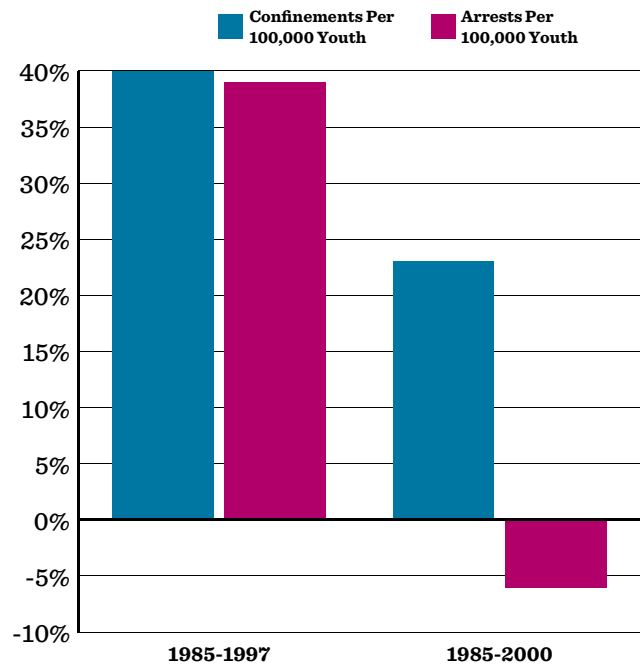


Figure 2. Growth in Population-Adjusted Arrest and Confinement Rates



Although the wave of reliance on incarceration swept through most of the nation during the 1980s and 1990s, there were a few isolated exceptions that could be considered harbingers of the widespread reversal that was to occur after the turn of the century. One notable example is Ohio's RECLAIM program, which was launched statewide in 1994. RECLAIM was designed to expand judicial options for low- and medium-risk youth who commit offenses, leading to the substitution of community-based rehabilitation for punishment and incarceration.<sup>12</sup> Those efforts led to a 14 percent decline in the number of confined youth in Ohio from the peak year of 1991 to 1999.<sup>13</sup>

In summary, two decades of increases in youth arrests, heightened public fears, and actions by state policymakers and law enforcement officials led to a surge in youth incarceration levels throughout the U.S. The strength and duration of the youth incarceration wave in the 1980s and 1990s makes the reversal in reliance on incarceration documented in the next section that much more stunning.

# THE TWENTY-FIRST CENTURY REVERSAL: REDUCING RELIANCE ON YOUTH INCARCERATION

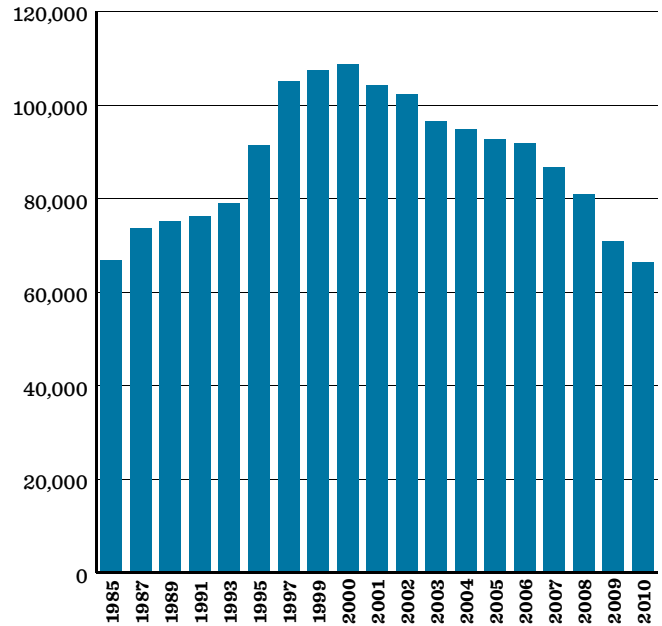
By the late-1990s, a convergence of forces helped set the stage for a reversal of the growth in incarceration. This section extends the examination of the changes in the nation's orientation to youth incarceration through the year 2010. Five of the major developments behind that reversal are also examined to help shed light on the strength and sustainability of the new trend. Those developments include:

- the drop in youth crime in the post-2000 period;
- recent research on adolescent brain development;
- fiscal pressures on state and local governments;
- the availability of proven alternatives to incarceration; and
- the changing political climate for juvenile justice issues, which was shaped in part by growing public awareness of the terrible conditions in youth prisons and the efforts of policymakers, foundations, advocates, and by public officials who embraced smart-on-crime principles.

## 1. Evidence for the Reversal of the Incarceration Surge

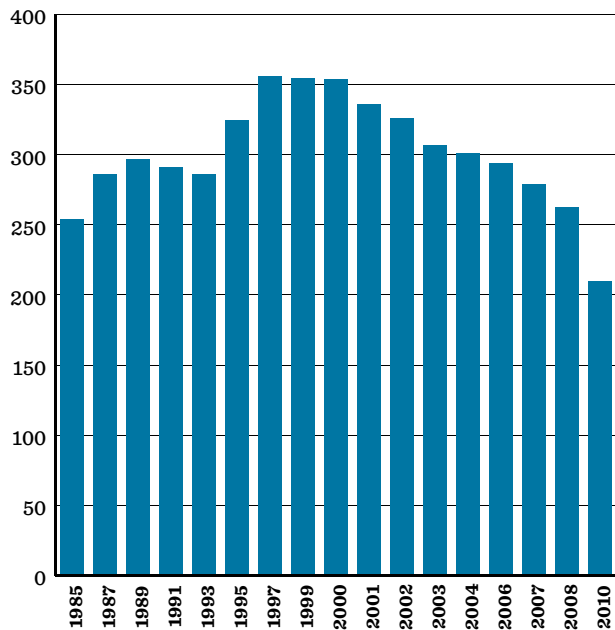
The recent decline in the number of youth confined to residential facilities in this country marks a complete reversal of the national youth incarceration buildup that occurred between 1985 and the year 2000.<sup>14</sup> After peaking in the year 2000 at nearly 109,000, between 2001 and 2010 (the last year for which nationwide data were available) the number of confined youth in the U.S. declined by 32 percent. In the last quarter of 2010, the number of confined youth (66,322) dropped below the level that prevailed in 1985 (66,762).<sup>15</sup> As Figure 3 demonstrates, it took just ten years to fully reverse the 16-year run-up in commitments of youth to residential facilities.<sup>16</sup>

Figure 3. Number of Youth Committed to Residential Placements, 1985-late 2010



One of the variables that can affect the number of youth placed by the courts in residential facilities is population growth. Figure 4 provides a population-adjusted depiction of the trends in youth confinement by reporting the number of youth in residential facilities per 100,000 youth in the overall population between the age of 10 and the states' upper age limit for placement in juvenile facilities.<sup>17</sup> As Figure 4 shows, the rate of placements per 100,000 youth in the general population rose sharply between 1985 and the late 1990s, peaked between 1997 and 2000, and fell sharply during the 2001-to-2010 period. By 2010, the population-adjusted rate of youth confinement was 17 percent lower than the rate that prevailed in 1985, confirming the conclusion that the 2001-to-2010 period represented a dramatic turnaround in the reliance on youth confinement.<sup>18</sup>

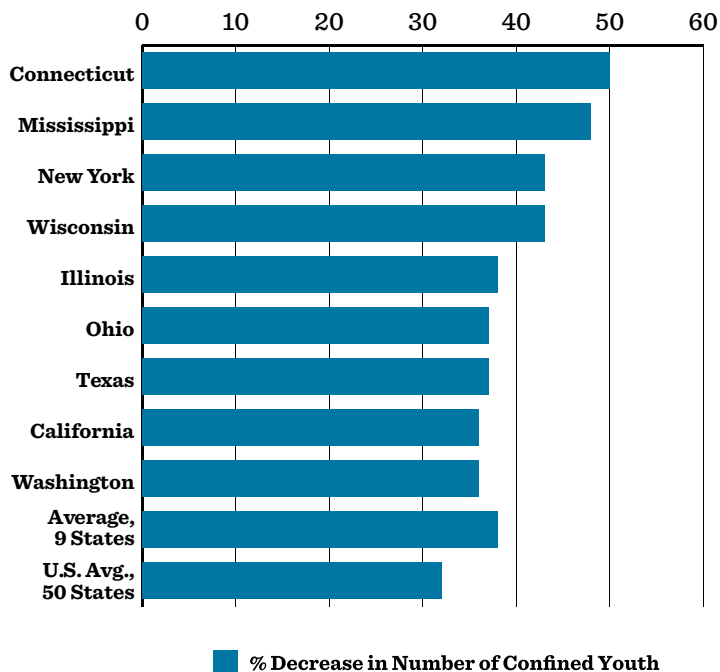
Figure 4. Number of Youth in Residential Placement per 100,000 Youth in U.S. Population



As a group, the nine states highlighted in this report clearly out-performed the average state in reducing youth incarceration. Each distinguished itself by exceeding the national average (32 percent) for reducing youth confinement during the 2001-2010 period. Those state reductions are reported in Figure 5. Together, these nine states, which represent 43 percent of the U.S. population of children between the ages of 10 and 17<sup>19</sup>, accounted for 51 percent of the decline in the number of confined youth throughout the U.S. during the 2001-to-2010 period.

“.....it took just ten years to fully reverse the 16-year run-up in commitments of youth to residential facilities.”

Figure 5. Decline in Youth Confinement, Nine ‘Comeback’ States in Descending Order, 2001-2010



The vast majority of states throughout the U.S. reflected the national trend. Forty-four of the fifty states reduced the number of youth that they held in confinement during the 2001-to-2010 period. Only Arkansas, Hawaii, Nebraska, Pennsylvania, South Dakota and West Virginia showed increases, but the increases for those six states were small, averaging only five percent.

## 2. Forces Behind the Reversal in Reliance on Incarceration

Although the data tell a convincing story of how reliance on youth incarceration began to erode in the year 2001, they shed little light on why such a dramatic change occurred. This was no accident simply waiting to happen. A unique and timely convergence of forces pushed the juvenile justice system to reverse course after the year 2000.

This subsection of the report examines five of the key forces that paved the way for those reductions in youth confinement and created a favorable climate for the adoption of the six types of statewide incarceration-reducing policies highlighted in this report. Together,

these forces combined to undermine the alarm, attitudes, politics and economics that had given rise to the wave of unnecessarily high rates of youth incarceration of that period. They include the following:

- a substantial decline in youth arrests;
- a growing body of widely accepted research demonstrating the developmental differences between teenage and adult brains that paved the way for a widespread understanding that youth need to be treated differently than adults and can be easily rehabilitated after making serious mistakes;
- the convergence of the emerging fiscal crises of county and state governments, the heavy burden to governments of financing the building, maintenance, and operation of youth confinement facilities and defending them against federal lawsuits, and the ability to reduce juvenile justice costs substantially by safely reducing populations of youth incarceration facilities;
- the availability of strong evidence proving that more effective, less-costly, evidence-driven, and community-based practices for rehabilitating youth who commit offenses exist; and
- a changing political landscape, including shifting public attitudes, a shift in focus by news media from youth violence to scandals about conditions in youth correctional facilities, and the growing appeal of strategies to right-size incarceration across Right and Left ideologies.

### *Youth Arrests*

For the 2001-to-2010 period, both the number of youth arrests and the number of youth committed to residential facilities declined substantially.<sup>20</sup> As illustrated in Figure 6,<sup>21</sup> although population-adjusted rates of arrests and commitments to residential facilities tended to move together, they were not completely in synch throughout much of the 1997-to-

2000 and 2001-to-2010 periods.<sup>22</sup>

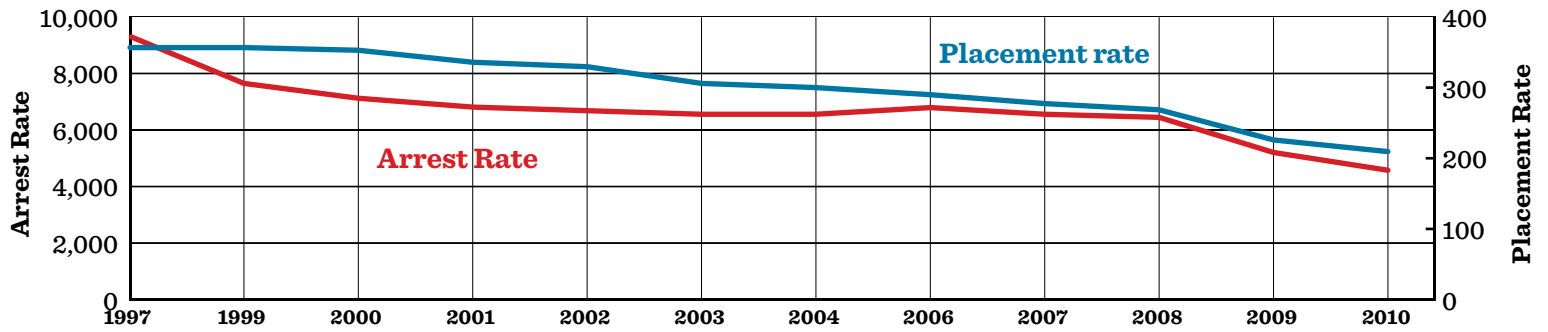
The 20 percent decline in youth arrests in the four years between 1997 and 2001 appears to have helped open the door for reduced reliance on commitments in the years that followed. Despite the steep drop in youth arrests between 1997 and 2001, the number of youth confined dropped only one percent in that same period, suggesting a lag in the response of the juvenile justice system. It wasn't until after 2001 that the number of committed youth began to drop significantly. On the other hand, the number of youth arrested dropped only two percent during the six years between 2001 and 2007 while the number of committed youth dropped by 17 percent.<sup>23</sup>

In addition to making fewer arrests, the pace at which law enforcement systems in the U.S. committed arrested youth to residential facilities declined during the 2001-to-2010 period. That pace, which is expressed as the ratio of arrests to commitments, decreased by 14 percent between 2001 and 2010, enhancing the reduction in commitments above and beyond the effect of the decline in the number of youth arrested.

To help shed light on the role of changes in the number of youth arrests on observed levels of commitments of youth to residential facilities during the 2001-to-2010 period, two research questions were asked:

1) What impact did the decline in youth arrests between 2001 and 2010 have on the level of youth commitments to residential facilities; and 2) what impact did the decline in the rate with which arrested youth were committed between 2001 and 2010 have on the actual number of youth placed in residential facilities?

Figure 6. Youth Arrests and Commitments Per 100,000 Youth in General Population



To determine the respective impacts of the two variables, a regression analysis was undertaken. In the regression model, the number of annual commitments to juvenile residential facilities was the dependent variable, while the independent (or explanatory) variables included: the number of annual arrests; the ratio of annual commitments to arrests; and the annual number of youth in the general population between 10 years of age and the upper age limit for commitment to a youth facility. The results of the regression analysis<sup>24</sup> led to the following findings:

- 1) the decrease in the number of arrests between 2001 and 2010 was associated with 21,522 fewer commitments during that period (or 57 percent of the actual decline in commitments between 2001 and 2010); and
- 2) the decrease in the ratio of commitments to arrests between 2001 and 2010 was associated with 15,670 fewer commitments during that period (or 41 percent of the actual decline in commitments between 2001 and 2010).

While the application of the results of the regression analysis indicates that the large decline in the number of youth arrested between 2001 and 2010 was the more potent force in driving down the level of commitments, the decline in the ratio of commitments to arrests, which reflect decisions made by law enforcement officials after youth had been arrested, was also an important factor.

In other words, other forces in addition to the reduction in the number of youth arrests were at work in producing the sustained reduction in youth incarceration observed during the 2001-to-2010 period. During the earlier period of rising arrests, concerns about the impact of crime by the public, policymakers, and judges contributed to higher confinement rates. In turn, the recent *decline* in youth arrests likely *lessened* these concerns, providing greater opportunity for the following developments to influence the use of incarceration.

#### *Adolescent Development Research*

The first major wave of juvenile justice reform in the U.S. began in the early twentieth century with the establishment of the first juvenile courts. The then-revolutionary principle underlying that epochal development was that children are fundamentally different from adults and, as a result, youth who commit offenses should be treated differently by the criminal justice system. In addition, it was assumed that approaches to juvenile justice should reflect those differences, especially with respect to culpability and the potential for rehabilitation.

Ironically, the push for improvements during the early 21<sup>st</sup> century has, in some key respects, returned juvenile justice reform to its early 20<sup>th</sup> century roots. The current wave of reform, however, has benefited from new advances in science and academic inquiry and has been built to a large extent on a foundation of relatively recent research into neurology and developmental psychology.



For example, Elizabeth S. Scott and Laurence Steinberg sum up the argument as follows: “Research in developmental psychology supports the view that several characteristics of adolescence distinguish young who commit offenses from adults in ways that mitigate culpability. These adolescent traits include deficiencies in decision-making ability, greater vulnerability to external coercion, and the relatively unformed nature of adolescent character.”<sup>25</sup> Additional neurological research on adolescent brain development has reinforced this link between law and developmental psychology by demonstrating that teenage brains, in key areas that control decision making, such as the prefrontal cortex, are not fully developed.

In a relatively early (1999) article, *US News and World Report* observed that, “Until the past decade, neuroscientists believed that the brain was fully developed by the time a child reached puberty and that the 100 billion neurons, or nerves, inside an adult’s skull—the hardware of the brain—were already in place by the time pimples began to sprout...But the neural circuitry, or hardware, it turns out, isn’t completely installed in most people until their early 20s.”<sup>26</sup> In 2002, PBS produced a TV segment, “Inside the Teenage Brain,” characterizing the adolescent brain development as a work in progress.<sup>27</sup>

More recently (2007), an Associated Press article run by *USA Today* stated that “the [U.S. Supreme Court ruling [outlawing the death penalty for juveniles] relies on the most recent research on the adolescent brain, which indicates the adolescent brain is still maturing in the teen years and reasoning and judgment are developing well into the early to mid 20s. It is often cited as state lawmakers consider scaling back punitive juvenile justice laws passed during the 1990s.”<sup>28</sup> A 2010 *Parade Magazine* piece and a 2012 cover story by *National Geographic* further illustrate the broad appeal of the issue beyond academic, legal and policymaker audiences.<sup>29</sup>

### *Heavy Taxpayer Costs and the Fiscal Crises of States and Counties*

The vast majority of the states, which fund most of the nation’s juvenile justice programs, have dealt with

deep state budget deficits. The high costs of youth detention and commitments to secure confinement, especially when unnecessarily employed, markedly impacts state budgets and taxpayers.

Most states are still reeling from deep reductions in their revenue streams and increased spending on some social programs that were caused by the loss of revenues during the recent “Great Recession.” The combined deficits for states in the red in FY 2012 equaled \$107 billion, or 16 percent of their combined budgets, and those deficits have remained relatively stable. In FY 2009, for example, their combined deficits equaled \$110 billion, or 15 percent of their combined budgets.<sup>30</sup> Nor is this new: the combined deficits of states in the red reached \$79 billion in 2003 and \$84 billion in 2004.<sup>31</sup>

These deep deficits have put tremendous pressure on governors and state legislatures to find creative ways to reduce spending. It is no surprise then, given the eye-opening costs associated with juvenile incarceration, that many state policymakers have sought ways to safely reduce incarceration levels. The costs of incarcerating a youth for a year can easily exceed \$100,000. For comeback states for which recent estimates were available, the annual costs per incarcerated youth were: “about \$200,000” in California for the 2010-2011 fiscal year;<sup>32</sup> \$134,000 in Connecticut for 2009;<sup>33</sup> \$266,000 in New York for 2010;<sup>34</sup> and \$123,400 in Ohio for 2010.<sup>35</sup> In other words, incarcerating just eight youth for a full year can cost taxpayers between about a million and two million dollars.

These costs during times of fiscal stress make it all the more important to ensure that secure confinement is used only when necessary to protect public safety, and to target policies towards remedying the unnecessary placement of youth in facilities.

For more than a decade, researchers have documented the effectiveness of numerous community-based intervention programs that serve as alternatives to incarceration for youth who commit offenses.<sup>36</sup> The programs focus on the family, community, and youth development; none of them involve incarceration; and all of them deliver results. The mounting evidence that these programs are effective in preventing future criminal offenses and are highly cost-effective relative to incarceration has helped pave the way for juvenile justice decision makers, such as juvenile court judges, to reduce unnecessary reliance on youth incarceration.

The research has found that these interventions not only avoid the short-term and long-term negative impacts of imprisonment, but also substantially reduce the rate of reconnection with the criminal justice system. In the process, future crime is avoided, and more youth are put on the path to productive, law-abiding lives.<sup>37</sup>

Given their track records, these programs offer an attractive option for increasingly budget-conscious state policymakers in an era of severe fiscal constraints. The programs are far less costly than a prison bed, while offering substantial improvements in public safety through reduced recidivism rates. A process of right-sizing secure confinement facilities and redirecting a portion of the funding to youth intervention programs that work and do not have the damaging impacts of incarceration can simultaneously reduce crime, save more youths' futures, and help reduce state operating budgets.<sup>38</sup>

Recent public opinion surveys strongly suggest that unnecessary reliance on youth incarceration

no longer has the support of the American people. In particular, polling demonstrates broad public support for approaches that can rehabilitate, rather than simply punish, youth who commit offenses.

A 2007 poll of 1,043 U.S. residents conducted by Zogby International, for example, found that 91 percent of respondents believed that rehabilitative services and treatment for incarcerated youth can help prevent future crimes. In addition, more than 80 percent of respondents thought that spending on rehabilitation and

treatment for youth who commit offenses would save tax dollars.<sup>39</sup>

Another 2007 survey of 500 adults nationwide and 300 adults in Illinois, Louisiana, Pennsylvania and Washington conducted for the Center for Children's Law and Policy by Beldon, Russonello and Stewart<sup>40</sup> generated similar findings, including:

- 80 percent preferred the reallocation of state funding from incarceration to “programs that provide help and skills to enable youth to become productive citizens.”
- 62 percent preferred allowing youth who have committed nonviolent offenses to “live in their own homes, receiving counseling and other services under the close supervision of a caseworker,” rather than being confined in large youth incarceration facilities.

**“This was no accident simply waiting to happen. A unique and timely convergence of forces pushed the juvenile justice system to a tipping point that opened the door for the reversal observed since 2001.”**

A more recent national poll of 1,000 adults, conducted in 2011 for the Campaign for Youth Justice by GBA Strategies<sup>41</sup> produced results that support the rehabilitation model for particular youth who commit offenses. The poll found that:

- 77 percent of respondents preferred rehabilitation over incarceration for youth.
- 75 percent of respondents believed that “the juvenile justice system should provide youth with more opportunity to better themselves,” rather than “focus on punishing youth who have committed crimes”.

The overwhelming sentiment favoring rehabilitation over incarceration also cuts across ideological lines. GBA Strategies reported that more than 80 percent of self-identified moderates and liberals, and more than 70 percent of conservatives, favored rehabilitation.

This across-the-board public support is mirrored in the types of organizations and the political party affiliations of governors and state legislatures that support juvenile justice reforms that reduce incarceration. Although our two groups, the National Juvenile Justice Network and the Texas Public Policy Foundation,<sup>42</sup> typically approach juvenile justice issues from different ideological starting points, we solidly agree that incarceration is not a one-size-fits-all solution to the nation’s youth crime and justice issues. More important, state juvenile justice reforms in recent years have originated from governors’ mansions and state legislatures controlled by both Republicans and Democrats because liberals, centrists, and conservatives all see the need to reduce the rate at which we incarcerate youth. That kind of broad coalition provides a stable foundation, even in today’s highly partisan political environments, for the sustainability of the new era of juvenile justice reform.<sup>43</sup>

#### *Statewide Policy Changes – Both Cause and Effect*

The list of forces that have influenced the youth incarceration reversal would not be complete without including policies designed to reduce unnecessary incarceration that have been adopted by the states since the year 2000 and that are at the heart of this

report. In reality, those statewide policies have been both causes of the reversal and outcomes of the convergence of the other five forces discussed above.

Without changes in public attitudes, crime rates, and our understanding of adolescent development, for example, the climate for policy reform would not have been as favorable. By the same token, in the absence of policy reforms, there is little doubt that the reduction in incarceration since 2000 would have been less substantial. It is to those policy changes, particularly in the nine trend-leading states, that the report now turns.

# REDUCTION IN RELIANCE ON INCARCERATION IN NINE COMEBACK STATES

## 1. Identifying the Comeback States

To understand the recent changes that have occurred nationwide in youth incarceration requires an understanding of statewide policies that have been adopted since the year 2000, since the key decisions about juvenile justice and the fate of youth who commit offenses in this country occur largely at the state and county levels. This section of the report shifts the focus from the nationwide landscape to the view from the nine states we have identified as leading examples of the recent trend away from incarceration.

Three specific criteria were used to identify the nine states. To qualify, they had to: 1) reduce their use of youth incarceration between 2001 and 2010 by a percentage that exceeded the national average of 32 percent; 2) adopt, since the year 2000, at least four of the six statewide policies we have identified in this report as fostering reduced reliance on youth incarceration; and 3) have seen a decline in the number of youth arrested in their states during the 2001-to-2009 period.

**“For these nine states, it took only a decade after the turn of the century to more-than reverse the 15-year increase in the number of youth incarcerated in public facilities.”**

This triple-criteria approach ensures that the states selected were not only strong performers on incarceration reduction during the 2001-2010 period, but also limits the selections to states that were most likely to continue those reductions at a significant pace in the future and that were not in the process of experiencing apparent increases in youth crime reflected in increases in youth arrests.<sup>44</sup> States that reduced their youth incarceration levels between 2001 and 2010 by a large percentage, but lack a suite of state policies to drive incarceration reduction, may be vulnerable to future surges in youth crime or the

return of state and county budget surpluses. As those conditions change, incarceration levels in those states could quickly begin to rise again. States that have built in policy firewalls are more likely to sustain a long-term tide of reduction in reliance on youth incarceration and be able to withstand changes in personnel, stakeholders, or the political and fiscal winds that can affect criminal justice outcomes.

Six types of state policies stand out for their potential to spur reductions in reliance on youth incarceration while achieving other important public objectives, such as fiscal soundness, reliance on proven approaches to helping youth who commit offenses, and the protection of public safety. These policies:

1. authorize and fund the use of evidence-based, relatively inexpensive treatment alternatives to incarceration;
2. introduce policies and program options (such as requiring the use of risk assessments and customized treatment programs) that can reduce the likelihood that youth will be unnecessarily placed in secure detention facilities while awaiting disposition of their cases by juvenile courts;
3. close or downsize secure facilities, thereby reducing the supply of beds that could be filled and spurring consideration of alternative approaches;
4. shrink or eliminate school policies that place children in the juvenile justice system for misbehavior that could be handled by schools, families, and/or community interventions;
5. eliminate or reduce the ability to use incarceration as a means of addressing minor, misdemeanor, non-criminal, and status offenses (e.g., truancy and running away) and misdemeanors; and
6. realign how states and counties pay for youth in secure confinement in the juvenile justice system and/or redirect funding away from confinement facilities to alternative approaches.

We recognize that that other policies may also lead to decreased incarceration as well, such as an improved juvenile defense system, decreases in mandatory and lengthy sentences, and policies focused on disproportionate minority confinement, to name a few. However, we decided to highlight the six policies listed above because they are state-level and potentially resistant to changes in political climate.

As indicated in a previous section, the year 2001 marks the beginning of the steady decline in the number of delinquent youth in confinement throughout the U.S., after peaking at nearly 109,000 youth in the year 2000. Hence, we chose to focus on policies enacted after the year 2000.

## 2. Overview of the Nine States: *Recent Incarceration-Reducing Policies and Youth Arrests*

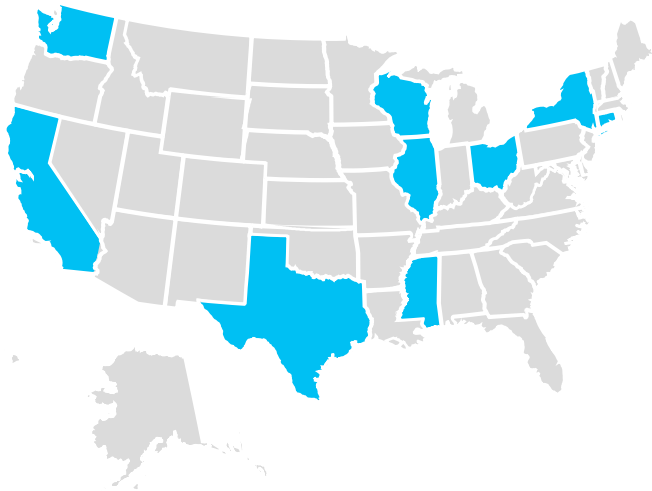
### *Incarceration-Reducing Policies Adopted during the 2001-to-2010 Period*

The nine states selected as leading examples of the reversal in incarceration-related policies since 2000 are, in alphabetical order: California, Connecticut, Illinois, Mississippi, New York, Ohio, Texas, Washington, and Wisconsin.

Table 1. Statewide Policies That Can Reduce Youth Confinement in Nine Comeback States

State	Change in No. of Youth Confined, Public Facilities 1985-2000 <sup>45</sup>	Change in Youth Confined, Public Facilities Only 2001-2010	Change in No. of Youth Confined, Public and Private Facilities 2001-2010	Community Alternatives	Restrictions on Use of Detention	Facility Closings and Down-sizing	Shrinking School-to-Prison Pipeline	Not Confined for Minor Offenses	Realign, Reinvest Statewide
CA	40%	-41%	-36%						
CT	37%	-26%	-50%						
IL	100%	-35%	-38%						
MS	94%	-69%	-48%						
NY	91%	-60%	-43%						
OH	47%	-38%	-37%						
TX	200%	-35%	-37%						
WA	45%	-40%	-36%						
WI	91%	-54%	-43%						
<b>Total 9 States</b>				9	7	9	2	6	6

As Table 1 shows, since the year 2001, each of the states experienced solid reversals in the levels of youth confinement that prevailed in their states during the 1990s. While the degree of the reversals varied from state to state, all of the shifts were dramatic.



For all nine states combined, incarceration levels declined by 38 percent between 2001 and 2010, exceeding the nationwide average decline (32 percent) by six percentage points. In 2001, 44,694 youth were incarcerated in these states. By 2010, the number of youth incarcerated in public facilities in these nine states (21,838) had dropped below the 1985 level (22,627). In other words, for these nine states, it took only a decade after the turn of the century to more-than reverse the 15-year increase in the number of youth incarcerated in public facilities.

In addition, in 2010, the rates of incarceration per 100,000 youth in the general population for the nine states were an average of 184, or 12 percent lower than the overall U.S. average rate of 210 that year. The average rate of the eight states other than California – the rate in California exceeded the U.S. average by 29 percent – was 140, or 33 percent lower than the U.S. average rate.

The adoption of incarceration-reducing policies by each of the nine states is also summarized in Table 1. From the policy reforms reported in the table, the following conclusions can be drawn about the nine states:

- *One size has not fit all.* The nine states vary in the degree to which they have been able to reduce reliance on youth incarceration. In addition, the states’ policy mixes differ. As the table indicates, the states have used varying policy combinations and pathways to reduce incarceration. Policies that enable the use of community-based alternatives were the most

popular, having been adopted by all of the states, while state-level policies designed to reform local school discipline practices were the least evident.

- *There’s still room for expansion of policy adoption.* On average, the nine states adopted 4.3 out of 6 of the incarceration-reducing policies highlighted here. None of the states adopted all six policies.
- *Further reductions in incarceration are likely on the horizon.* States that adopted the highest number of policies did not see the largest percentage reductions in incarceration between 2001 and 2010. This is partly a result of the timing of some of the policy changes, which occurred very recently for states like Texas, California and Ohio, and suggests, all other things constant, that in those states, sizeable reductions are still to come.
- *Support for smarter juvenile justice cut across geographic and political lines.* The nine states represent a diversity of U.S. regions. The Northeast, South, Midwest, Southern Plains, and West Coast are all represented in the group of ten. The Inter-Mountain and Central/Northern Plains regions are the only ones that are not represented. While five of the states (CA, CT, IL, NY and WA) have been primarily politically “blue” states since 2000, the other five have been either solidly “red” states (MS and TX) or battleground states (OH and WI). These geographic and political characteristics further indicate, as discussed in a previous section of this report, that support for the recent wave of reductions in reliance on youth incarceration has transcended ideological, political and geographic boundaries.

### *Youth Arrests During the 2001-to-2009 Period*

The number of youth arrests over time offers one indicator of changes in public safety, for which state-by-state data are relatively accessible. Youth arrests in each of the nine states were screened for the years between 2001 and 2009, the last year for which relevant data were available. The screening determined that all of the nine states experienced reductions in youth arrests for that period.

Arrest rates and percentage reductions in those rates for each of the nine states are reported in Table 2. The average state showed a rate reduction of 24 percent over the nine years, or an average of nearly three percent per year. Reductions ranged from 7 percent in Mississippi to 32 percent in Wisconsin.

Table 2. Youth Arrests for the Nine States, 2001 to 2009<sup>46</sup>

<b>State</b>	<b>Violent + Property Crime Arrest Rate 2001</b>	<b>Violent + Property Crime Arrest Rate 2009</b>	<b>% Reduction in Arrest Rate, 2001-2009</b>
CA	1,742	1,437	18%
CT	1,715	1,392	19%
IL	3,529	2,656	25%
MS	1,857	1,718	7%
NY	1,670	1,318	21%
OH	1,544	1,146	26%
TX	1,623	1,372	15%
WA	2,532	1,757	31%
WI	3,925	2,674	32%
9 State Average	2,237	1,719	23%

### 3. The Nine States: *Highlights and Overviews of Recent Policy Changes*

In this section of the report, the highlights of the nine states' performance regarding changes in youth incarceration levels for the 1979-to-1999 and 2001-to-2010 periods are presented, along with the policies that they have adopted since the year 2000 that can reduce unnecessary incarceration. Policies that were adopted after 2010 (the last year for which comparative state youth incarceration data were available) are included, since they enhance the likelihood that the pace of incarceration reduction will continue to be swift in those states in the post-2010 period.

#### CALIFORNIA



#### Highlights at a Glance:

- *The peak.* The number of youth confined in public facilities increased from 12,519 in 1985 to 17,551 in 2000, a 40 percent jump.
- *The reversal.* The number of youth confined in public facilities decreased from 16,548 in 2001 to 9,781 in 2010, a 40 percent decline. For all facilities (i.e., public and private), the number of youth decreased from 18,144 in 2001 to 11,531 in 2010, a 36 percent decline.
- *Current youth incarceration rate.* In 2010, 271 youth aged 10-to-17 were confined per 100,000 youth aged 10-to-17 in the state's population. Although that rate is 29 percent higher than the 2010 U.S. average of 210, reductions in California's reliance on youth incarceration are expected to pick up speed given very recent policy changes. From 2010 to 2011, for example, according to state documents the state experienced a substantial eight percent decline in youth confinement during that one-year span.<sup>47</sup>

### Recent Incarceration-Reducing Policies

Since the year 2007, California has adopted four of six types of incarceration-reducing policies highlighted in this report: 1) evidence-based alternatives to incarceration; 2) facility closings; 3) elimination or reduction of incarceration for minor offenses; and 4) additional statewide realignment that shifts responsibility for youth who commit offenses to counties.

Since 1996, subsequent California state legislatures have mandated three major realignments between state and county responsibilities and funding arrangements. The 1996 realignment imposed a sliding-scale fee schedule that required counties to pay a substantial share of the costs to confine youth who commit low-level offenses in state facilities. As a result, the number of youth in state prisons fell from about 10,000 in 1996 to about 2,500 in 2007, the year that the next state realignment occurred, while the number in county facilities remained about the same.<sup>48</sup> In 2007 and 2012, legislators mandated two more realignments for the purpose of both further reducing youth populations in state facilities and facilitating the use of community-based alternatives to confinement at the local level.

#### *Community-Based Alternatives*

- In 2007, as part of a budget "trailer bill," state legislators further realigned the state's juvenile justice system by banning confinement of youth in state facilities for nonviolent offenses and providing block grants to counties of more than \$100,000 per youth for managing those youth in community-based programs.<sup>49</sup>

#### *Facility Closings*

- By early 2010, when the California Division of Juvenile Justice (formerly the California Youth Authority) closed the Heman G. Stark Youth Correctional Facility in Chino, the state's largest prison for youth, the number of state youth facilities had been reduced from eleven in 2003 to three.<sup>50</sup>



### *Minor Offenses*

- The 2007 reform reduced reliance on youth incarceration by prohibiting youth who commit low-level, nonviolent offenses from being committed to state facilities. (See “Community-Based Alternatives” above.)

### *Realignment and/or Reinvestment*

- In addition to the realignment that occurred as a result of the 2007 law, the 2010-2011 budget gave counties full responsibility for supervising, within their communities, all youth released from state Department of Juvenile Justice custody. To facilitate those transfers, the state set up the Juvenile Reentry Grant program to give ongoing funding for managing the released youth.<sup>51</sup>
- In the state’s 2012-2013 budget, lawmakers substantially increased the disincentive for counties to commit youth to state facilities, as opposed to treating them through community programs or housing them locally, by substantially increasing the annual fees charged by the state to \$24,000 per youth. The new fees are about ten times the amount charged previously by the state.<sup>52</sup>

## Highlights at a Glance:

- *The peak.* The number of youth confined in public facilities increased from 202 in 1985 to 276 in 2000, a 37 percent increase.
- *The reversal.* The number of youth confined in public facilities decreased from 291 in 2001 to 216 in 2010, a 26 percent decline. For all facilities (i.e., public and private), the number of youth decreased from 630 in 2001 to 315 in 2010, a 50 percent drop.
- *Current youth incarceration rate.* In 2010, 78 youth were confined for every 100,000 youth aged 10-to-16 in the state's population. That's the lowest rate among the nine states and is 63 percent lower than the U.S. average rate of 210 in 2010.

## Recent Incarceration-Reducing Policies

Connecticut shares the top spot with Illinois and Texas among the states highlighted in this report in terms of the number of policies it has adopted in recent years that contribute to reduced incarceration. It began doing so in 2001 – a time when few changes were occurring in the other nine states highlighted in this report – and has, as of this date, adopted five of the six policies highlighted in this report: 1) evidence-based alternatives to incarceration; 2) policies and program options that divert youth from secure detention; 3) facility closures; 4) reduction of the school-to-prison pipeline; and 5) elimination or reduction of incarceration for minor offenses.

### *Community-Based Alternatives*

- In 2001, the legislature passed a state law telling the Commissioner of the Department of Children and Families (DCF) to promote the use of mental health services in community-based programs, to minimize youth involvement in the juvenile justice system.<sup>53</sup>

- In 2004, a state law was passed requiring the DCF Commissioner, in consultation with the judicial branch and service providers, to produce a plan (and submit it to relevant state legislative committees) for developing a continuum of community-based services, such as substance abuse and mental health treatment, designed to prevent the incarceration of girls who commit status and other offenses.<sup>54</sup>
- In a 2007 law, judges were prohibited from ordering confinement of youth if there are less restrictive alternatives appropriate to the child's and community's needs.<sup>55</sup>
- Also in 2007, the state budget required the state to provide Family Support Centers (FSCs) for high-risk youth who commit status offenses, and their families, with the purpose of keeping youth out of the juvenile justice system. FSCs are designed to proactively provide these youth and families with the supports they need to prevent entry into the delinquency system. In 2009, despite a tight budget, the legislature funded six additional FSCs.<sup>56</sup>

### *Reduction in the Use of Detention*

- The 2007 law also prohibited classifying a child from a “family with service needs” (FWSN) as delinquent if the child violates a FWSN court order and prevents a child from a FWSN from being held in secure detention. 2007 legislation also provides treatment options to-at-risk youth on a voluntary basis, without the filing of a FWSN petition, with the goal of keeping children in their communities and out of detention.<sup>57</sup>
- A 2011 law places new restrictions on the ability of law enforcement to commit a child to secure detention. A court order is now required for all juvenile detention center admissions. Previously, police could admit youth to detention at their discretion. Now, the court must demonstrate “probable cause,” be able to show that a youth is a flight risk, and

determine that a less-restrictive alternative is not available.<sup>58</sup>

### *Facility Closings*

- The state government closed the New Haven Detention Center in 2011, reducing the number of state detention centers to two. The facility closure made possible the reinvestment of \$3 million for alternative programming and eliminated a total of 94 detention beds.<sup>59</sup>

### *School Discipline*

- The Connecticut Judicial Branch, in an effort to reduce the number of arrests made in schools for behavior that could have been addressed by school officials, adopted a policy in 2011 that requires screening of all police summonses for youth arrested for minor offenses in schools. The screening is designed to determine whether the circumstances warrant a court referral and send rejected summonses back to the schools. The process is intended to ensure that no court involvement is needed for typical adolescent behavior and that valuable court resources are reserved for true public safety issues.<sup>60</sup>

### *Minor Offenses*

- A state law was implemented in 2007 that prohibited youth who committed status offenses and who violated court orders from being classified as delinquent or held in a detention center.<sup>61</sup>



## Highlights at a Glance:

- *The peak.* The number of youth confined in public facilities increased from 1,534 in 1985 to 3,074 in 2000, a 100 percent jump.
- *The reversal.* The number of youth confined in public facilities decreased from 3,003 in 2001 to 1,949 in 2010, a 35 percent decline. For all facilities (i.e., public and private), the number of youth decreased from 3,561 in 2001 to 2,217 in 2010, a 38 percent decline.
- *Current youth incarceration rate.* In 2010, 119 youth aged 10-to-16 were confined in juvenile facilities per 100,000 youth aged 10-to-16 in the state's population. That's 43 percent below the 2010 U.S. average rate of 210.

## Recent Incarceration-Reducing Policies

Since the year 2004, Illinois has adopted five of the six types of incarceration-reducing policies highlighted in this report: 1) evidence-based alternatives to incarceration; 2) policies and program options that divert youth from secure detention; 3) facility closings; 4) elimination or reduction of incarceration for minor offenses; and 5) statewide realignment of and reinvestment within the juvenile justice system.

The milestone moment and cornerstone of Illinois' leadership in reducing youth incarceration was the establishment of the "Redeploy Illinois" program, which was modeled after Ohio's "RECLAIM Ohio" program. Redeploy Illinois, which began in 2004, used a phased realignment between state and county funding for juvenile justice to reduce incarceration of low-risk youth and enhance the use of community-based alternatives for those youth.

Prior to these reforms, the Illinois juvenile justice system was hampered by financial incentives for counties to incarcerate low-risk youth, because the state took responsibility for the costs of youth incarceration, despite the increase in recidivism rates that result when low-risk youth are securely confined.

Since counties lacked the resources to develop and implement community-based alternatives, judges placed youth in state secure facilities.<sup>62</sup>

## Community-Based Alternatives

- In 2004, state law established Redeploy Illinois pilot projects to reduce the institutionalization of certain youth by providing a statutory incentive to reach a confinement reduction goal in counties that could provide local, community-based treatment alternatives.<sup>63</sup> The state law restricted youth who committed violent offenses and those charged with certain high-level crimes from this program.
- In 2009, the state legislature made Redeploy Illinois a permanent state program and expanded it to offer some level of support to all Illinois counties. As a result, about 70 more counties were eligible to participate in the program.<sup>64</sup>
- 2011 legislation required Illinois judges to ensure that incarceration is the last-resort option by confining youth only if it is the least restrictive appropriate alternative. Secure confinement cannot be selected until judges have reviewed the results of behavioral assessments and the youth's criminal history, educational background, learning disabilities, and physical, mental and emotional health.<sup>64</sup>

## Reduction in the Use of Detention

- Illinois is one of the statewide sites of the Juvenile Detention Alternatives Initiative (JDAI). One of the key goals of the JDAI is to "eliminate the inappropriate or unnecessary use of secure detention." In their pursuit of that goal, JDAI sites share a commitment to: collaboration between the major juvenile justice agencies, other governmental entities, and community organizations to ensure effective implementation of reforms; use of accurate data; objective admissions criteria and instruments to replace subjective decision-making in placing children in secure

custody; availability of new or enhanced non-secure alternatives to detention to increase the options for arrested youth; and expedited flow of cases through the system to reduce lengths of stay in custody and increase availability of non-secure program slots.<sup>65</sup> Reducing detention in these ways actually increases public safety. In 2009, JDAI sites nationally reported a 7.2 percent decrease in youth failing to appear for their court dates, and 6.1 percent fewer youth committed a new offense while awaiting adjudication compared to the (baseline) year before the sites were established.<sup>67</sup>

### *Facility Closings*

- As part of the FY 2013 state budget, the youth prisons in Murphysboro and the Illinois Youth Center in Joliet have been closed. The closures also allow the Illinois Department of Juvenile Justice to use its budget differently, to shift resources away from under-capacity facilities and instead establish a statewide, community-based aftercare program.

### *Minor Offenses*

- In 2006, a law was passed to increase the use of preventative intervention options for chronically and habitually truant youth and their families. The action by the legislature was an attempt to avoid confining youth for this status offense and address truancy before it led to more serious delinquent behavior and incarceration.<sup>68</sup>

### *Realignment and/or Reinvestment*

- Redeploy Illinois legislation offered participating counties state funds for community-based alternatives, provided that the counties agreed to reduce commitments to state juvenile prisons by at least 25 percent compared to their previous 3-year average. This fiscal realignment increased counties' abilities to address locally the needs of youth and greatly reduced the incentive for counties to let the state handle youth in the system

even if incarceration was not the appropriate approach. Further, if the county failed to meet its minimum reduction requirement of 25 percent, the state had a "clawback" mechanism that allowed it to recoup funds based on a formula for each youth committed in excess of the required reduction.

- The Redeploy initiative led to serious reductions in confinement. Between 2005 and 2010, counties participating in Redeploy Illinois reduced commitments to Illinois prisons by 51 percent (from 1,737 to 854). During that period, the 28 participating counties kept 886 youth away from state prisons, saving the state an estimated \$40 million.<sup>69, 70</sup>



## Highlights at a Glance:

- *The peak.* The number of youth confined in public facilities increased from 405 in 1985 to 785 in 2000, a 94 percent jump.
- *The reversal.* The number of youth confined in public facilities decreased from 678 in 2001 to 211 in 2010, a 69 percent decline. For all facilities (i.e., public and private), the number of youth decreased from 693 in 2001 to 357 in 2010, a 48 percent decline.
- *Current youth incarceration rate.* In 2010, 106 youth aged 10-to-17 were confined per 100,000 youth aged 10-to-17 in the state's population. That's 50 percent less than the U.S. average of 210 in 2010.

## Recent Incarceration-Reducing Policies

Mississippi offers one of the top examples of a solidly “red” state that has taken important steps in recent years towards right-sizing its juvenile justice system. Much of the progress was made in 2005 and 2006, when two pieces of juvenile justice reform legislation, the Mississippi Juvenile Justice Reform Act and the Mississippi Juvenile Delinquency Prevention Act, were enacted.

Since the year 2005, Mississippi has adopted four of the six types of incarceration-reducing policies highlighted in this report: 1) evidence-based alternatives to incarceration; 2) policies and program options that divert youth from secure detention; 3) facility closings; and 4) elimination or reduction of incarceration for minor offenses.

### *Community-Based Alternatives*

- A law enacted in 2005 provided for the establishment of community-based alternatives to youth incarceration in every county of the state.<sup>71</sup>
- A 2006 law required that evidence-based

practices and positive behavioral intervention must be part of community-based alternatives to incarceration. In addition, the law established a \$5 million grant program to safely reduce incarceration through the use of community-based alternatives.<sup>72</sup>

- A 2010 law established a new intensive home-based supervision program that will offer additional community-based alternatives to incarceration for certain youth. Slots were created for 75 youth in each county. The program provides needs assessments and individualized treatment plans developed by a multi-disciplinary team of experts and the families of the youth.<sup>73</sup>

### *Reduction in the Use of Detention (See also “Minor Offenses” below.)*

- The 2005 legislation also required that youth who commit a first, non-violent offense could not be placed in detention unless there were no other available options.<sup>74</sup>
- Mississippi is in the process of becoming a statewide Juvenile Detention Alternatives Initiative (JDAI) site. (See the discussion of JDAI in the Illinois subsection of this report.)
- In 2012, the state established a juvenile detention and alternatives task force. The mission of the task force is to ensure that only youth who pose public safety risks to society will be detained. The task force is recommending alternatives that can be used by all of the state's counties to prevent the unnecessary detention of youth. The task force is also exploring the development of a risk assessment instrument that will define which youth should be in detention and which youth should be handled by alternatives to detention. It will also recommend cost-effective alternatives and strategies for their successful implementation.<sup>75</sup>
- In 2012, the legislature amended the juvenile court code to state that a youth can only be placed in custody if a judge has issued an

order to do so and can only do so if there is no reasonable alternative to custody.<sup>76</sup>

- In 2009, the legislature required that youth be represented by counsel at critical stages of the juvenile court process, including detention hearings.<sup>77</sup>

#### *Facility Closings and Downsizing*

- One of the reforms enacted in 2005 put an end to boot camps and paramilitary programs for youth in the system.<sup>78</sup>
- Columbia Training School closed in 2008; Lauderdale Juvenile Detention Center closed in 2012; and Pike County Juvenile Detention Center closed in 2013.
- A 2010 reform resulted in the downsizing of Mississippi's Oakley Training School.<sup>79</sup>

#### *Minor Offenses*

- In 2005, the legislature prohibited youth from being taken into custody for a status offense.<sup>80</sup>
- A 2006 law prevents youth from being sent to a detention facility as a result of committing a status offense and prohibits sending youth who committed their first, non-violent offense to a commitment facility unless all other options have been considered.<sup>81</sup>
- Legislation enacted in 2009 prevents youth who committed their first, non-violent offense or youth under the age of 10 from being sent to a state training school without first assessing what is in the child's best rehabilitative interest, evaluating what is in the best interest of the community, and determining that there is no reasonable alternative to secure confinement.
- 2010 legislation prohibits any youth who has been classified as delinquent for a nonviolent felony or fewer than three misdemeanors from being confined in a state training school.<sup>82</sup>



### Highlights at a Glance:

- *The peak.* The number of youth confined in public facilities increased from 1,511 in 1985 to 2,883 in 2000, a 91 percent jump.
- *The reversal.* The number of youth confined in public facilities decreased from 2,517 in 2001 to 1,005 in 2010, a 60 percent decline. For all facilities (i.e., public and private), the number of youth decreased from 4,593 in 2001 to 2,637 in 2010, a 43 percent decline.
- *Current youth incarceration rate.* In 2010, 84 youth aged 10-to-15 were confined per 100,000 youth aged 10-to-15 in the state's population. That's 60 percent lower than the 2010 U.S. average of 210.

### Recent Incarceration-Reducing Policies

In recent years, New York has adopted four of the six types of incarceration-reducing policies highlighted in this report: 1) evidence-based alternatives to incarceration; 2) policies and program options that divert youth from secure detention; 3) facility closings; and 4) statewide realignment that shifts responsibility for youth who commit offenses to counties.

Over the years, New York has been a steady adopter of incarceration-reducing policies, with statute-based funding for alternatives to incarceration for youth in the adult system and a robust continuum of alternatives for youth, particularly in New York City. Moreover, in the past five years, New York has accelerated this deincarceration trend by closing secure juvenile facilities that were largely under-utilized and had been under federal lawsuits over their conditions of confinement. As a result, the state was able to save its critical justice resources. Then in 2012, the state passed legislation that encouraged counties to use tools that would reduce use of secure detention facilities. These state policy changes have the potential to substantially reduce state costs.<sup>83</sup>

During the same legislative period, the state passed the "Close-to-Home" initiative, which brings youth from New York City back from upstate limited-secure and non-secure facilities to local facilities, thus creating opportunities for the City to help these youth stay connected to their families and other local supports, and to ultimately develop community-based supervision options for them.

### Community-Based Alternatives

- In 2011, the state created a permanent funding stream to support community-based services for youth in the justice system.<sup>84</sup>
- New York City, as part of the statewide Close-to-Home reforms enacted in 2012, adopted a continuum of local care options for youth. Ultimately, the City hopes to move these youth to community-based supervision in order to support youth "in a youth development framework to bolster youth resiliencies and prepare them for a productive and offense-free lifestyle in the community wherever possible."<sup>85</sup>

### Reduction in the Use of Detention

- In the 2011 state budget, the New York legislature enabled counties to apply state detention funding to detention alternatives, including community-based supervision and treatment programs. Through the "Supervision and Treatment Services for Juveniles Program" (STSJP), the state would reimburse 100 percent of a municipality's expenditures in the first year of implementation, and 62 percent in following years.<sup>86</sup> Counties would have a strong financial incentive to adopt such programs since, for the first time, the state capped funding for secure detention and would reimburse counties for community-based supervision programs at a higher rate than for detention.<sup>87</sup>
- Also in 2011, the state required all counties to use a pre-trial detention risk assessment instrument to improve decision-making regarding placement in secure detention



versus alternative options, with the intention that its use would ultimately help jurisdictions limit secure detention to the highest-risk youth.<sup>88</sup>

#### *Facility Closings and/or Downsizing*

- As of mid-2011, the state had downsized or closed 31 facilities since 2007.<sup>89</sup> By 2010, there were nearly 3,000 fewer youth in state custody than in 2007.<sup>90</sup> The Commissioner of the state Office of Children and Family Services recognized that the agency could invest the savings in the juvenile facility budget in more effective community-based alternatives.<sup>91</sup> In the 2012 state budget, legislators encouraged downsizing and closure of additional facilities.

#### *Realignment and/or Reinvestment*

- The FY 2012-2013 state budget mandated a major realignment between New York State and New York City, localizing the responsibility for the care and control of youth from New York City. The “Close to Home” initiative moves control of youth who committed lower-level offenses (usually misdemeanors or non-violent felonies) from New York State to New York City. As a result, these youth would be able to be treated through effective, local care, rather than being sent unnecessarily to upstate secure facilities far from their downstate residences and families.<sup>92</sup>

**Highlights at a Glance:**

- *The peak.* The number of youth confined in public facilities increased from 2,961 in 1985 to 4,342 in 2000, a 47 percent jump.
- *The reversal.* The number of youth confined in public facilities decreased from 4,050 in 2001 to 2,508 in 2010, a 38 percent decline. For all facilities (i.e., public and private), the number of youth decreased from 4,554 in 2001 to 2,865 in 2010, a 37 percent reduction.
- *Current youth incarceration rate.* In 2010, 228 youth aged 10-to-17 were confined per 100,000 youth aged 10-to-17 in the state's population. That's nine percent higher than the U.S. average of 210 in 2010. However, like California, Ohio adopted legislation very recently that is expected to generate significant reductions in the number of youth incarcerated in the state. For example, between July 2010 and June 2012, according to state government data, the number of youth committed to Ohio Department of Youth Services' (DYS) facilities, which house a third of all children in youth facilities statewide, declined by 36 percent.<sup>93</sup>

**Recent Incarceration-Reducing Policies**

In recent years, Ohio has adopted four of the six types of incarceration-reducing policies highlighted in this report: 1) evidence-based alternatives to incarceration; 2) policies and program options that divert youth from secure detention; 3) facility closings; and 4) statewide realignment and reinvestment.

Ohio has been in the vanguard of states that have promoted the widespread adoption of community-based alternatives to incarceration through the reinvestment of resources freed by reductions in secure confinement. In 1993, legislation was passed to launch statewide the "RECLAIM Ohio" program (Reasoned and Equitable Community and Local Alternatives to the Incarceration of Minors), with \$71 million in funding

for Ohio counties, of which \$17.6 million went to the courts. RECLAIM Ohio was implemented statewide in 1995. Resources provided through RECLAIM enabled counties to develop programs such as substance abuse treatment, monitoring, restitution and community service, educational, and family preservation programs. RECLAIM incentivized counties to invest in community-based treatment by setting the counties' share of relatively expensive confinement in a state facility higher than their share of the cost of relatively inexpensive community-based services.<sup>94</sup>

*Community-Based Alternatives*

- The legislature appropriated \$5.1 million in new funding for community-based services for youth in FY 2010, \$3.3 million of which went to a Targeted RECLAIM Ohio initiative and the remainder to the Behavioral Health/Juvenile Justice initiative. In the first year, this money was funded through facility closures. DYS planned to use the funding to reduce commitments to state facilities by 20 percent in six counties.<sup>95</sup>
- By mid-2011, the state's commitment to RECLAIM Ohio to counties had nearly doubled, from the initial \$17.6 million in 1995 to \$30.6 million in 2013.<sup>96</sup> A 2011 law gave judges ongoing jurisdiction over committed youth to allow for early release opportunities, and revised the existing mandatory sentencing for gun offenses to allow for judicial discretion in cases where the youth was not the main actor.
- Nearly all of Ohio's 88 juvenile courts have staff certified in the use of the statewide Ohio Youth Assessment System, which assists courts to make appropriate placements.

*Reduction in the Use of Detention*

- Ohio is a statewide Juvenile Detention Alternatives Initiative (JDAI) site. (See the discussion of JDAI in the Illinois subsection of this report.)

### *Facility Closings*

- Since mid-2009, the state has shuttered four youth facilities and downsized its remaining youth facilities. The closings have been attributed to the availability of community-based alternatives through the RECLAIM and Targeted Reclaim programs, state budgetary pressures, and a 2008 class action lawsuit. The closures reduced youth facility expenses by \$57 million.

### *Realignment and/or Reinvestment*

- Since the launch of RECLAIM, the state has continued to support the reinvestment principle embodied in the initiative. In addition to a 74 percent increase in RECLAIM, in 2011 for example, a new state law allowed state officials to reinvest a portion of the funds from facility closures into community services. The budget contained a provision that urged that up to 45 percent of resources saved from youth correctional facility closures be reinvested in community services. Since mid-2009, some of the savings from the closure of secure facilities were reinvested in two community-based initiatives, Targeted RECLAIM and the Behavioral Health Juvenile Justice Initiative. In fact, \$7 million has been added to those two initiatives, which fund only evidence-based and/or model programming.<sup>97</sup>

**Highlights at a Glance:**

- *The peak.* The number of youth confined in public facilities increased from 2,156 in 1985 to 6,475 in 2000, a 200 percent jump, the highest among the nine states. (Some of Texas’ surge in youth arrests can be attributed to rapid population growth, which rose by 50 percent between 1980 and 2000.)
- *The reversal.* The number of youth confined in public facilities decreased from 6,900 in 2001 to 4,451 in 2010, a 35 percent decline. For all facilities (i.e., public and private), the number of youth was reduced from 8,523 in 2001 to 5,352 in 2010, a 37 percent decline.
- *Current youth incarceration rate.* In 2010, 139 youth aged 10-to-16 were confined per 100,000 youth aged 10-to-16 in the state’s population. That’s 34 percent lower than the U.S. average of 210 in 2010.

**Recent Incarceration-Reducing Policies**

Texas joins Connecticut and Illinois at the top of the list of the nine states highlighted in this report with respect to the number of effective and efficient statewide policies that it has adopted. Like New York, the state began its post-2000 run of youth incarceration-reducing reforms toward the end of the decade.

Since 2007, the state has adopted five of the six types of incarceration-reducing policies highlighted in this report: 1) evidence-based alternatives to incarceration; 2) facility closings; 3) reduction of misbehaving youth that schools send to court; 4) elimination or reduction of incarceration for minor offenses; and 5) statewide realignment and reinvestment. The most improvement may be still to come, since the state enacted a major juvenile justice realignment in 2011 that could give rise to a substantial additional shift away from reliance on incarceration toward community-based alternatives.

*Community-Based Alternatives*

- In 2007, the Texas legislature opted to reinvest a portion of the saved funds proposed for new prison construction in alternative strategies to encourage the development of community-based programming.<sup>98</sup>
- Also in 2007, a new law prohibited state incarceration of youth who commit misdemeanors. To address the needs of those youth, the state provided funding for the counties to make available more community-based programming.<sup>99</sup>
- In 2009, the state established a budget provision that created an optional “fiscal incentive program, whereby localities could obtain additional funds for community-based programs if they agreed to a target of fewer Texas Youth Commission commitments.”<sup>100</sup> The Commitment Reduction Program (CRP) was funded by a portion of the money saved by avoiding future prison construction. The CRP provided funding to counties to develop and implement community-based youth programming, which was required to be evidence-based, meaning the programs had prior success in other communities. Participation in the CRP was dependent on the counties’ ability to propose goals for reducing placements in state facilities and strategies for achieving those goals.<sup>101</sup>
- One of the primary goals of the realignment of state agencies handling juvenile justice in 2011 – see below – was to prioritize alternatives to youth incarceration that shift the focus toward community-based programs.

*Facility Closings*

- In 2007, four maximum security, state-level youth correctional facilities were closed, including the Marlin Orientation and Assessment Center, the John Schero State School, the Coke County Juvenile Justice Center, and the Sheffield Boot Camp.<sup>102</sup>

- A law passed in 2007 to prevent confinement of youth in a state facility for misdemeanors dramatically reduced the state’s confined youth population, leading to the closing of five facilities between mid-2007 and mid-2010.<sup>103</sup>
- In 2011, three more state secure facilities were closed and two more were consolidated.<sup>104</sup> All told, between 2007 and 2011, nine youth facilities were closed in Texas.<sup>105</sup>

Youth Commission and the Texas Juvenile Probation Commission (TJPC) into a first-ever state Juvenile Justice Department. The new department is charged with prioritizing proven community-based programs, which have been shown to be both less expensive and more effective than large, remotely located, state-run lockups. The law will continue the practice of performance-based funding for counties, which reduces unnecessary incarceration and incentivizes the use of evidence-based, low-cost treatment alternatives administered by the counties to youth who do not need to be incarcerated.<sup>109</sup>

### *School Discipline*

- In 2007, a bill was passed that repealed a provision in the state’s education code that allowed students to be ticketed for any violation of a student code of conduct.<sup>106</sup>
- In 2011, a new law prohibited schools from ticketing students ages 10-11 and 18-21 for truancy. The law also requires schools to develop and implement measures to prevent truancy that would reduce truancy referrals to the juvenile justice system. Another law in 2011 prohibited ticketing youth in grades six or below for “disruption of class” and some disorderly conduct offenses.<sup>107</sup>

### *Minor Offenses*

- A 2007 law prevents juvenile courts from sending youth convicted of anything other than a felony offense (e.g., misdemeanors) to Texas Youth Commission facilities, and requires local jurisdictions to manage their cases.<sup>108</sup>

### *Realignment and/or Reinvestment*

- A law enacted in 2007 prohibiting the courts from sending those who commit misdemeanor offenses to state facilities had important realignment implications. This action shifted responsibility for thousands of youth from the state to the counties and created new incentives for the replacement of confinement by community based alternatives.
- A 2011 law mandated the merger of the Texas



### Highlights at a Glance:

- *The peak.* The number of youth confined in public facilities increased from 1,339 in 1985 to 1,938 in 2000, a 45 percent jump.
- *The reversal.* The number of youth confined in public facilities decreased from 1,905 in 2001 to 1,134 in 2010, a 40 percent decline. For all facilities (i.e., public and private), the number of youth decreased from 2,055 in 2001 to 1,305 in 2010, a 36 percent reduction.
- *Current youth incarceration rate.* In 2010, 183 youth aged 10-to-17 were confined per 100,000 youth aged 10-to-17 in the state's population. That's 13 percent below the 2010 U.S. average of 210.

### Recent Incarceration-Reducing Policies

Since 2005, Washington has adopted four of the six types of incarceration-reducing policies highlighted in this report: 1) evidence-based alternatives to incarceration; 2) policies and program options that divert youth from secure detention; 3) facility closings; and 4) statewide realignment.

#### *Community-Based Alternatives*

- Because youth adjudicated in Washington are subject to determinate sentences, judges had little discretion to opt for community-based alternatives until the legislature created alternatives, including the Suspended Disposition Alternative, or "Option B", created in 2003. This followed the adoption of the Chemical Dependency Disposition Alternative (CDDA) in 1997, along with the Deferred Disposition statute, which provides for community-based treatment and supervision in lieu of commitment to a detention facility.<sup>110</sup>
- In 2005, the Washington State legislature directed the Washington State Institute for Public Policy (WSIPP) to determine if there were evidence-based programs that could:

reduce the need for youth confinement, reduce state and local spending, and help lower crime rates. A 2006 WSIPP report found that a moderate-to-aggressive portfolio of community-based programs could achieve those objectives.<sup>111</sup> Washington has also been a particular leader in the analysis of the costs and benefits of community-based programs and in promoting those programs statewide.

- In 2007, funding was provided to expand the use of evidence-based treatment and training programs in the state. That action enabled the juvenile courts to use those programs to serve an additional 2,147 youth by the end of fiscal year 2009. The WSIPP forecasted that those investments would reduce demand for more than 300 prison beds by 2017.<sup>112</sup>
- The legislature passed a law in 2012 to solidify the position of evidence-based intervention services within the state's juvenile justice system by requiring that those services be primarily evidence- and research-based, and be provided in a culturally competent manner. The law authorized WSIPP and the University of Washington's Evidence-Based Practice Institute to create an inventory of those services and required relevant state agencies to assess whether their current services meet evidence- and research-based criteria.<sup>113</sup>

#### *Facility Closings*

- In 2011, the state closed Maple Lane School, a medium/maximum security youth facility located near Centralia, WA.

#### *Reduction in the Use of Detention*

- The state of Washington is listed as a state Juvenile Detention Alternatives Initiative (JDAI) site, having established multiple local JDAI sites.<sup>114</sup> (See a description of JDAI in the discussion of Illinois' incarceration-reducing policies.)
- The state developed a standardized risk assessment tool in 1998 and in 2000, the state juvenile court administrators adopted a Case

Management Assessment Process that is based on risk/need responsivity principles. There is an expectation across the state that probation will apply these principles to their case management, including using the standardized risk assessment tool, providing evidence-based intervention if available.

- Washington is unique in the nation because it has determinate sentencing for adjudicated youth—in other words, standard sanctions are imposed, over which judges do not usually have discretion. Since the late 1990's, the state legislature has created several alternative dispositions to promote shorter detention stays and fund community-based services. This has meant that the juvenile defense bar can and does play a greater role in advocating for alternatives to detention linked to community services than in many other states. In 2008, funding from the John D. and Catherine T. MacArthur Foundation helped establish a Special Counsel for Juvenile Defense that led to changes with statewide impact, including a court rule adopted in 2008 that prohibited waiver of counsel without first consulting with an attorney. As a result, youth in all Washington counties now have attorneys at their first appearance in juvenile court, where detention decisions are made and pleas accepted.

#### *Realignment and/or Reinvestment*

- In 2009, the state began to allocate funds to local jurisdictions in the form of a block grant. The purpose of the legislation was to reduce the number of youth sentenced to long-term incarceration by giving local jurisdictions the funding and incentives to use evidence-based programs and these alternative dispositions.



**Highlights at a Glance:**

- *The peak.* The number of youth confined in public facilities increased from 667 in 1985 to 1,271 in 2000, a 91 percent jump.
- *The reversal.* The number of youth confined in public facilities decreased from 1,272 in 2001 to 583 in 2010, a 41 percent decline. For all facilities (i.e., public and private), the number of youth declined from 1,941 in 2001 to 1,110 in 2010, a 43 percent drop.
- *Current youth incarceration rate.* In 2010, 150 youth aged 10-to-16 were confined per 100,000 youth aged 10-to-16 in the state’s population. That is 28 percent less than the U.S. average.

**Recent Incarceration-Reducing Policies**

Since 2005, Wisconsin has adopted four of the six types of incarceration-reducing policies highlighted in this report: 1) evidence-based alternatives to incarceration; 2) policies and program options that divert youth from secure detention; 3) facility closings; and 4) elimination or reduction of incarceration for minor offenses.

The state has been among the leaders in using available evidence to make better decisions about the futures of youth who commit offenses. During the past seven years, the state has taken important steps to promote evidence- and community-based programs for youth who commit offenses. In addition, the state has removed obstacles to screening youth to determine whether they should be detained or provided with community-based assistance.

*Community-Based Alternatives*

- In 2005, the Wisconsin Governor’s Juvenile Justice Commission worked with the University of Wisconsin to develop the What Works, Wisconsin series, which has continued to provide practitioners and policy makers with briefing papers on effective evidence-based prevention and intervention programs. The University of Wisconsin also produced

a self-assessment instrument to enable local practitioners to assess their programs and make them more-evidence-based.<sup>117</sup>

- More than thirty county departments of human services have participated in trainings on implementing evidence-based practices at the local level since mid-2011.<sup>118</sup>

*Reduction in the Use of Detention*

- In 2009, the Juvenile Justice Commission set up a partnership with the University of Wisconsin to train counties and Native American tribes on the use of evidence-based practices, including the use of risk and needs assessment tools. The commission also formed a committee to promote the use of risk and needs assessment tools throughout Wisconsin, including collaborating with the Department of Corrections to begin piloting a tool that counties could use at no charge (except for technology costs).<sup>119</sup>

*Facility Closings*

- In 2011, Wisconsin closed two youth facilities, the Ethan Allen School for Boys and Southern Oaks Girls School. The two closures leave only one remaining state youth correctional facility for those youth who do not have complex medical problems. The Ethan Allen facility closure was, in part, the result of recommendations of a committee appointed by the governor. The committee asserted its support for closing a facility as a step toward advancing the use of more effective community-based alternatives.<sup>120</sup>

*Minor Offenses*

- The state was able to lower the number of youth detained during the 2006-to-2011 period by reducing its use of the valid court order exception to hold youth who commit status offenses.<sup>121</sup>



# THE CASE FOR FURTHER REDUCTIONS IN YOUTH INCARCERATION

## *The Unfinished Business of Incarceration Reduction*

Thus far, we have made the case, based on the latest available government data, that a new era of reduction in unnecessary reliance on youth incarceration has been underway in the U.S. since the year 2000. The reversal of the surge in incarceration that occurred during the previous decades has been swift. Nonetheless, despite the leaps forward since 2001, the evidence also indicates that the job is far from complete.

There are at least four compelling reasons why incarceration-reduction remains a work in progress in the U.S. First, states have a strong motivation to reduce youth incarceration in general, because of its high costs. Second, far too many young people are still being incarcerated for non-serious offenses, and in some jurisdictions there are notable disparities in punishment across youth populations, leading to a lack of consistent fairness and equity in our systems' responses to crime. Third, proven, cost-effective alternatives to incarceration are available, but have still not been adopted as widely as possible, despite their benefits to taxpayers, youth, families and our communities. And fourth, even the nine states highlighted in this report have not adopted all of the incarceration-reducing policies available to them.

### **1. Costs Associated with Unnecessary Reliance on Incarceration**

The stakes associated with “getting juvenile justice right” are enormous. Each year, decisions about how to dispose of youth crime cases affect not only taxpayers, but also heavily impact the lives and futures of tens of thousands of individuals, including potential future victims, the youth who commit the offenses, and their families. Some of the most obvious costs of overreliance on incarceration include:

- the high cost of building, managing, operating and contracting for the use of youth incarceration facilities;
- the wasted government spending and harm to families (e.g., property loss or damage, physical and emotional harm, health care costs and lost earnings) associated with the failure to use alternative approaches that reduce recidivism; and
- the abuses that too often occur in correctional facilities.

The reduction in the quality and number of educational opportunities faced by youth taken out of their communities, detained and imprisoned is a classic example of the damage that can be done. Detention and incarceration can easily result in lower scholastic achievement and a reduction in future income earning opportunities.

One researcher reported that just 12 percent of formerly incarcerated youth had a high school diploma or GED by young adulthood; only about 30 percent of formerly incarcerated youth were in school or had a job one year after their release; and youth who commit offenses were seven times more likely to have a history of unemployment and welfare dependence as an adult.<sup>122</sup> By comparison, in 2009, 89.8 percent of all 18- through 24-year-olds in the U.S. not enrolled in high school had received a high school diploma or alternative credential.<sup>123</sup>

This “incarceration education gap” has serious economic consequences. U.S. Department of Education data indicate that, in 2009, an individual with a high school diploma earned an average of 72 percent more income than a high school dropout, or \$630,000 over a working lifetime.<sup>124</sup> In addition, individuals without a high school degree are much more vulnerable to being unemployed during a recession. In June of 2009, for example, the unemployment rate for individuals without a high school diploma was nearly 16 percent, compared to less than 10 percent for high school graduates.<sup>125</sup>

The states and the federal government are also negatively affected by the reduction in economic

opportunities for incarcerated youth. In addition to the sizeable direct costs of confining youth, the lifetime cost to governments of the failure of an individual to earn a diploma or credential was estimated for 2009 to be \$240,000 in lower tax contributions, greater reliance on Medicaid, Medicare and welfare, and higher rates of criminal activity.<sup>126</sup>

The ripple effects extend quickly beyond incarcerated youth and governments to the families trying to cope with the removal of their children from their homes.<sup>127</sup> For example, the location of youth incarceration facilities produces multiple costs for parents. Often those facilities are located in remote rural areas, hundreds of miles from the urban centers that generate most of each state's incarcerated youth population.<sup>128</sup>

In Nevada, for instance, the major secure state youth facility is located in Elko, Nevada, which is 430 miles – a seven-hour drive – from Las Vegas, the heart of Clark County, from which many of the facility's residents originate. Long distances can either produce burdensome transportation and lodging costs for low-income families and losses of precious earnings due to missed work days, or create a disincentive for families to stay closely connected to their imprisoned children. Moreover, time spent in prison not only prevents incarcerated youth from earning money for themselves, but also reduces household income, especially for low-income households whose children contribute to the household through part-time employment.

Other negative impacts of youth incarceration have been documented in recent summary reports that cite extensive university, government and nonprofit organizations' research and original research they've conducted. Examples include:

- A “criminogenic” effect that increases the likelihood of future criminal delinquent behavior, including “peer deviancy training,” which occurs when youth are grouped for treatment in prison and results in increased recidivism, substance abuse, school difficulties, delinquency, and violence.<sup>129</sup>

- Disruption of normal development, including delaying the normal pattern of “aging out” of delinquent behavior as a result of dramatic reduction in engagement with families, time in school, and work experience.<sup>130</sup>
- The expenditure by families of youth who commit offenses of a substantial percentage of their limited resources on court-and incarceration-related fees and costs in addition to detention fees mentioned above.<sup>131</sup>
- Unnecessary emotional and mental distress of the families of incarcerated youth, including grief of separation, stress of daily concern for the well-being of their youth, and “internalization of the stigma of involvement with the juvenile justice system.”<sup>132</sup>
- Sexual victimization by staff and other youth – in a recent survey, 12 percent of imprisoned youth reported experiencing one or more incidents of sexual victimization over a maximum period of a year.<sup>133</sup>
- Abusive confinement conditions in facilities in 32 states since 1990, and despite periodic federal lawsuits, continued documentation of maltreatment of youth in 22 states between 2000 and 2011, including violence, physical and other abuse by staff, fire safety violations, and environmental hazards.<sup>134</sup>

## **2. Alternatives to Incarceration Are Greatly Underutilized**

Although treatment alternatives to incarceration have a proven track record of success and cost savings, juvenile justice systems throughout the U.S. have not universally adopted them. One researcher concluded in 2008 that, “Despite more than ten years of research on the nature and benefits of evidence-based programs, such programming is the exception rather than the rule. Only about five percent of youth who should be eligible for evidence-based programs participate in one.”<sup>135</sup>

The impact of the low rate of adoption of these programs, given the costs of youth incarceration to taxpayers, imprisoned youth and their families, and to future crime victims, is likely to be enormous. The

waste of direct taxpayer dollars associated with this failure, for example, could well amount to billions of dollars annually (incarceration costs were estimated in 2008 to total \$5.7 billion), the cost savings from using evidence-based alternatives, and the fact that 60 percent of incarcerated youth are locked up for relatively minor offenses that are especially responsive to these interventions.

### **3. Incarceration for Non-Serious Crimes, Missed Opportunities, and Lack of Equity**

#### *A) Most Incarcerated Youth Have Not Committed the Most Serious Crimes*

Although the overall number of confined youth in the U.S. has declined substantially since 2001, the proportion of youth confined for less-serious offenses remains very high.

In 2010, almost 60 percent of confined youth in the U.S. (41,877) were still detained and imprisoned for offenses that do not pose substantial threats to public safety. These include misdemeanors, drug use, non-criminal or status offenses (e.g., curfew violations, truancy, running away), failure to show up for parole meetings, and breaking school rules.<sup>136</sup> Arguably, those 42,000 or so low-risk youth, who pose minimal public safety risks, face a fairly high risk of recidivating and losing their futures as productive citizens due to their incarceration experiences.

While there are other contexts where incarceration, particularly for a very brief period, may be appropriate, these data indicate that substantial adjustments still need to be made in the country's juvenile justice systems to avoid sentencing tens of thousands of young Americans to grim futures for the youthful mistakes they've made before they're fully capable of making adult decisions.

Nonetheless, there have been some indications of progress in recent years in reducing reliance on incarceration for non-serious offenses. Juvenile justice systems have been moving in the right direction, as evidenced by the increase in the percentage of youth in confinement due to serious offenses from 37 percent to

41 percent between 2001 and 2010.<sup>137</sup>

In general, this trend should be accelerated, to ensure that incarceration is viewed as an option of last resort, reserved for those who pose the highest public safety risks. Nonetheless, studies have found that even youth who have committed serious offenses may not need to be incarcerated for long periods, unless there are significant reasons to be concerned about public safety. The Pathways to Desistance Study – a longitudinal research study on youth who committed serious felony offenses – showed that there was no decrease in recidivism for holding youth longer than three months, and that the better their conditions of confinement, the lower the level of recidivism.<sup>138</sup>

#### *B) The Obligation to Ensure Equitable Accountability for All*

While the rate of juvenile incarceration has fallen in each of these states, the decline in incarceration in many jurisdictions has not been uniform across our entire youth population, with research demonstrating disparities across a variety of demographic traits.<sup>139</sup> Moving forward, in these nine states and across the country, policymakers and practitioners should identify any subsets of the youth population where incarceration rates may remain at or close to historically elevated levels, seek to ascertain the causes of these patterns, and determine if there is a system response that can correct disparities that are not linked to objective factors. Jurisdictions should ensure that once youth enter the juvenile justice system, they are treated in a way that is fair and commensurate with others who have committed a similar offense and have similar risks and needs. Thus, while the overall simultaneous drop in incarceration and juvenile crime represents a significant policy achievement, there may still be opportunities to reduce the use of unnecessary incarceration and to use incarceration resources in a manner that is consistent and fair to all.

#### **4. Key Policies to Reduce Incarceration Have Not Been Universally Adopted**

Twenty-eight (or 56 percent) of the fifty states failed to exceed the nationwide average level of reductions in youth confinement for the 2001-to-2010 period, suggesting that there is a great deal of room for future improvement across the country. And even though the nine comeback states have been leaders in adopting policies that help reduce unnecessary incarceration, they too still have a good deal of room for improvement. None of those states, for example, have adopted all of the incarceration-reducing policies available to them. As Table 1 indicates, the average number of policies adopted by the group of ten, was 4.3 (or 72 percent) of the six policies recommended in this report as likely to reduce the unnecessary incarceration of youth in the juvenile justice system. Only three of the nine states – Connecticut, Illinois and Texas – adopted five of the six policies in the table.

In addition, the nine states have unfinished business in other areas of juvenile justice. A number of federal and state lawsuits and investigations, for example, have been filed in California, Mississippi, New York, and Ohio, alleging systematic denial of due process to accused youth by juvenile courts, dangerous conditions in secure facilities, and maltreatment of incarcerated youth.<sup>140</sup> Also, some states, such as Mississippi and Washington, have missed out on grant opportunities because of failing to meet certain commitments, such as limiting the incarceration of youth who commit status offenses.<sup>141</sup> Fortunately, the successful, pro-active efforts by policymakers we have highlighted in this report suggest that these states are committed to a better future of fewer youth incarcerated and greater public safety.

## **PRIMARY SOURCES OF DATA**

### *Arrests in comeback states –*

Puzzanchera, Charles and Benjamin Adams. “Juvenile Arrests, 2009.” December, 2011; <http://www.ojjdp.gov/pubs/236477.pdf>.

Snyder, Howard. “Juvenile Arrests, 2001.” December, 2003. <https://www.ncjrs.gov/pdffiles1/ojjdp/201370.pdf>

### *Arrests nationwide –*

Puzzanchera, C., Adams, B., and Kang, W. “Easy Access to FBI Arrest Statistics 1994-2009.” 2012 <http://www.ojjdp.gov/ojstatbb/ezaucr/>

### *Confinement to juvenile facilities (U.S. and states) –*

Sickmund, M., National Center for Juvenile Justice. Personal communication. These include unpublished data from the *Juvenile Residential Facility Census* and the *Children in Custody Census*, which was replaced in 1997 by the *Census of Juveniles in Residential Placement*. (NCJJ maintains OJJDP data sets for youth in residential placement, youth arrests and juvenile court statistics.)

Sickmund, M., Sladky, T.J., Kang, W., and Puzzanchera, C. “Easy Access to the Census of Juveniles in Residential Placement.” 2011. <http://www.ojjdp.gov/ojstatbb/ezacjrp>

### *Rates of confinement per 100,000 youth in the general population (U.S. and States) –*

Sickmund, M., Sladky, A., and Kang, W. (2012). “Easy Access to Juvenile Court Statistics: 1985-2009.” 2012. <http://ojjdp.gov/ojstatbb/ezajcs/asp/methods.asp> (1985-2010 data for the number of youth in the U.S. population between age 10 and the juvenile court upper-age limits for the 50 states)

Puzzanchera, C., Sladky, A. and Kang, W. “Easy Access to Juvenile Populations: 1990-2011.” 2012. <http://www.ojjdp.gov/ojstatbb/ezapop/> (2001-2010 data on youth in the U.S. population and the comeback states)

## ENDNOTES

1. For a number of examples of these costs, see the third chapter of this report.
2. Examples of recent reports that have documented a wide range of negative impacts associated with reliance on youth incarceration include: Justice for Families. “Families Unlocking Futures: Solutions to the Juvenile Justice Crisis.” September, 2012. [http://www.njjn.org/uploads/digital-library/Fam\\_Unlock\\_Future\\_EXEC\\_SUMNOEMBARGO.pdf](http://www.njjn.org/uploads/digital-library/Fam_Unlock_Future_EXEC_SUMNOEMBARGO.pdf); Mendel, Richard. “No Place for Kids: The Case for Reducing Youth incarceration.” October, 2011. [http://www.aecf.org/~media/Pubs/Topics/Juvenile%20Justice/Detention%20Reform/NoPlaceForKids/JJ\\_NoPlaceForKids\\_Full.pdf](http://www.aecf.org/~media/Pubs/Topics/Juvenile%20Justice/Detention%20Reform/NoPlaceForKids/JJ_NoPlaceForKids_Full.pdf); National Juvenile Justice Network (NJJN). “The Real Costs and Benefits of Change: Finding Opportunities for Reform during Difficult Fiscal Times.” June, 2010. <http://www.njjn.org/our-work/juvenile-justice-fiscal-policy-the-real-costs-and-benefits-of-change>; and, Justice Policy Institute. “The Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense.” May, 2009. [http://www.justicepolicy.org/images/upload/09\\_05\\_REP\\_CostsofConfinement\\_JJ\\_PS.pdf](http://www.justicepolicy.org/images/upload/09_05_REP_CostsofConfinement_JJ_PS.pdf). For further discussion, see sections of this report below that address the forces behind reduction in the use of incarceration and the reasons that it should be accelerated.
3. “Incarceration is the result of policy choices. Policymakers allocate a certain amount of funding for juvenile justice services and decide how to distribute these funds among secure facilities and alternatives to incarceration. When suitable alternatives exist, juvenile courts are likely to utilize them for youth who might be responsive to community-based supervision and/or treatment.” Evans, Douglas. “Pioneers of Youth Justice Reform.” Research and Evaluation Center, John Jay College of Criminal Justice. July, 2012. <http://johnjayresearch.org/wp-content/uploads/2012/06/rec20123.pdf>
4. Justice Policy Institute. “Common Ground: Lessons learned from Five States That Reduced Juvenile Confinement by More Than Half.” February, 2013.
5. Annie E. Casey Foundation. “Data Snapshot: KIDS COUNT.” February, 2013.
6. Tennessee, for example, one of the five states profiled in the Justice Policy Institute report, was not included in this report despite having one of the highest percentage reductions in youth incarceration. It also experienced a 35 percent increase in youth arrests between 2001 and 2009.
7. For this study, youth in confinement or incarcerated youth refer to youth that have been assigned by county or state courts to live under supervised conditions in a wide range of facilities that include, for example, prisons, detention centers, camps, training schools, and group homes.
8. Data on confinement levels for the 1985-to-2000 period were drawn from three sources: 1) the biennial Census of Juveniles in Residential Placement (for the 1997-to-2010 period), which counts the number of youth who commit offenses held in local and state facilities. (See: Sickmund, M., Sladky, T.J., Kang, W., and Puzzanchera, C. “Easy Access to the Census of Juveniles in Residential Placement.” 2011. <http://www.ojjdp.gov/ojstatbb/ezacjrp/>); 2) the Juvenile Residential Facility Census (even years during the 2000-to-2010 period), which were supplied to the authors by Melissa Sickmund, Director, National Center for Juvenile Justice, the Research Division of the National Council of Juvenile and Family Court Judges.; and 3) the Children in Custody Census (for the 1985-to-1995 period), which were also supplied by Melissa Sickmund.
9. The recent KIDS COUNT report stated, on page 1, that “youth confinement peaked in 1995, at 107,637”. The recent Justice Policy Institute (JPI) report, on page 2, stated that “juvenile correctional populations have dropped by about a third, nationally, since 1999, when they peaked at over 107,000 confined youth”. According to the federal Juvenile Residential Facility Census (JRFC), however, youth confinement actually peaked in the year 2000 at 108,802.
10. Puzzanchera, C., Adams, B., and Kang, W. “Easy Access to FBI Arrest Statistics 1994-2009”. 2012 <http://www.ojjdp.gov/ojstatbb/ezaur/>
11. For an expanded look at the relationship between annual youth arrests and confinement, see the discussion of the regression analysis

in the next chapter of this report.

12. Evans, Douglas. "Pioneers of Youth Justice Reform." Research and Evaluation Center, John Jay College of Criminal Justice. July, 2012.
13. Sickmund, M., Sladky, T.J., Kang, W., and Puzzanchera, C. 2011.
14. Although the absolute size of the 2001-to-2010 national reversal in the number of committed youth virtually equaled the size of the 1985-to-2000 buildup, in percentage terms the decline (32 percent) was much smaller than the increase (63 percent) because the decline is calculated from a higher baseline (104,219), and the increase is calculated from a smaller one (66,762).
15. The number of youth in confinement reported in federal surveys used in this report reflect one-day snapshots for residential facilities for each year. These counts can be reduced by decreasing the number of youth admitted to such facilities and by shortening the average length of stay for those who have been admitted.
16. Ibid.
17. 1985-2010 data for the number of youth in the U.S. population between age 10 and the juvenile court upper age limits for the 50 states can be found at: Sickmund, M., Sladky, A., and Kang, W. (2012). "Easy Access to Juvenile Court Statistics: 1985-2009." 2012. <http://ojjdp.gov/ojstatbb/ezajcs/asp/methods.asp>
18. The values in Figure 2 for the 1985-to-1995 period are lower than those provided by a similar chart in the recent KIDS COUNT report. In Figure 2, the rates of placement were calculated from annual placements ordered only by juvenile courts, including only delinquency offenses and status offenses. The KIDS COUNT report, for the years prior to 1997, on the other hand, calculated the placement rates from annual placements ordered by the courts as well as voluntary admissions of emotionally disturbed individuals and others. For the 1997-to-2010 period, both this report and the KIDS COUNT report correctly calculated placement rates using only court placements due to delinquency and status offenses.
19. Puzzanchera, C., Sladky, A. and Kang, W. "Easy Access to Juvenile Populations: 1990-2011." 2012. <http://www.ojjdp.gov/ojstatbb/ezapop/>
20. Data on arrests in this subsection were drawn from: Puzzanchera, C., Adams, B., and Kang, W. , 2012.
21. Chart provided by Melissa Sickmund, National Center for Juvenile Justice.
22. This conclusion is supported by the work of a number of juvenile justice scholars. For example, according to Douglas Evans in a very recent report: "Although one would expect the crime rate to drive incarceration rates, there often is no relationship. Sometimes, the prevalence of incarceration correlates with the crime rate, other times, the two deviate completely." See: "Pioneers of Youth Justice Reform." Research and Evaluation Center, John Jay College of Criminal Justice. July, 2012. <http://johnjayresearch.org/wp-content/uploads/2012/06/rec20123.pdf>.
23. Youth arrests actually fluctuated up and down during the period, though within a fairly narrow range.
24. The multiple regression analysis used annual data for the 1985-to-2010 period and produced the following coefficients for the independent variables: 0.037069 (number of arrests); 2,421,976 (ratio of commitments to arrests); -0.000382 (youth in the general population). Each of the coefficients represents the amount that the dependent variable (i.e., the number of commitments) would change for a one unit change in the value of each of the independent variables. T statistics revealed that all independent variables were significant at the 95% confidence level. The adjusted R-squared value was 0.997, indicating a very high goodness of fit for the model. The calculated Durbin Watson Statistic of 1.89 led to the conclusion that the residuals (i.e., the differences between the values of the dependent variable given by the estimated regression equation and the actual observed values) were not auto-correlated.
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44. Tennessee, for example, which reduced its number of confined youth by 52 percent between 2001 and 2010, also experienced a 35 percent increase in youth arrests during the 2001-to-2009 period. Of course, arrest rates can themselves be driven by a number of policy choices unrelated to state policy on youth incarceration (e.g., decisions by police departments to focus on low-level offenders, funding adjustments that affect the number of officers on the street, etc.). We use the youth arrest rate here only as an approximate indicator of public safety.
45. For 1985, only data for youth confined in public facilities were available for individual states. However, the direction and magnitude of trends in public facility populations tend to mimic trends in private and public facilities combined. Between 2001 and 2010, the number of youth confined in public facilities in the nine states dropped 41 percent, from 37,164 to 21,838, which was lower than the 22,627 youth confined in public facilities in 1985. Similarly, for all facilities (i.e., both public and private), between 2001 and 2010, the number of confined youth declined by an average of 38 percent for the group of nine states. SOURCES: Sickmund, M. 2013. “Special analyses of 1985 Public Facility Data from the Children In Custody Census of Juvenile Detention, Correctional, and Shelter Facilities. Pittsburgh, PA: National Center for Juvenile Justice”; and Sickmund, M. 2013. Special analyses of Juvenile Residential Facility Census Data for 2000, 2002, 2004, 2006, 2008, and 2010. Pittsburgh, PA: National Center for Juvenile Justice”.
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