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COMMON GROUND:

LESSONS LEARNED FROM FIVE STATES THAT REDUCED JUVENILE CONFINEMENT BY MORE THAN HALF

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JUSTICE POLICY INSTITUTE

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PART 1: INTRODUCTION

After decades of expanding correctional populations in the United States, there is a growing awareness that we need to end the era of over-incarceration. Primarily this realization has formed around the adult correctional population, with less attention paid by the media or the general public to young people who are confined for delinquent behavior or prior to adjudication. This is perhaps because of the small percentage of youth that makeup the total incarcerated population: in 2010, approximately 2,270,100 adults were incarcerated in the U.S., compared to 70,792 youth.[1]

Simply by its scale, the "adult problem" dominates the conversation. However, as confinement is the least effective method of addressing delinquent behavior in young people and increases the likelihood that they will become justice-involved adults,[2] systemic reforms that will reduce the number of confined youth are urgently needed.

Such reforms–including reducing the number of youth held in secure confinement, improving the conditions of juvenile facilities and expanding community-based services that can be used instead of confinement, among other issues–have been aggressively pursued in a number of states around the country for over a decade. In fact, juvenile correctional populations have dropped by about a third, nationally, since 1999, when they peaked at over 107,000 confined youth.

Restructuring the "fiscal architecture" of juvenile justice is one approach to reducing youth confinement that has attracted national attention. This approach seeks to remove the incentive of counties and local jurisdictions to send youth to state-run and state-funded institutions. Certainly, the current economic environment has played a role in states wanting to reduce their juvenile corrections expenses, which run upwards of $240 per day, per youth.[3] Creating financial incentives for counties to keep youth close to home has the potential to lower net costs (state confinement and local community-based services), and improve outcomes for youth. Because this approach has showed early success in several states, other jurisdictions are considering whether they, too, should reform the fiscal architecture of their state juvenile justice systems to reduce youth confinement.

Four years ago, the Justice Policy Institute, in its publication, *Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense*, highlighted fiscal reform as a promising practice. Given the drop in juvenile confinement just in the past four years, we decided to look at what role fiscal

changes–and other reforms–have played in reducing the number of youth locked up in the U.S.

We discovered that adjusting funding schemes was just one of many successful strategies for juvenile confinement reform and, in fact, there are many states that have significantly reduced their juvenile confined populations without fiscal reform. States have initiated top-down policy changes, requiring police and courts to treat juveniles differently, resulting in fewer youth confined. Others have simply closed their state's juvenile correctional facilities, forcing judges to adopt less restrictive responses to juvenile delinquency. What follows is a critical analysis of those elements that appeared to contribute to the greatest reductions in rates of confinement over the past decade.

Keeping in mind juvenile justice in each state operates as a *system*, the actors, policies and problems are necessarily intertwined. For example, the creation of a juvenile justice reform committee within a state is one way to further deinstitutionalization reforms but this process is often the result of settlement agreements among litigants over poor juvenile justice conditions. In this report, each of these strategies will be addressed.

After discussing commonalities of reform activities among the states, we provide a brief overview of each state's experience. These are not case studies per se of specifics of each state's work, but more of an aerial view to further describe the transformations made.

Through the diversity of strategies, as well as the commonalities between states, we hope advocates and policymakers who seek better outcomes for youth will find inspiration and pursue those strategies that are fiscally and politically achievable in their jurisdictions.

PART 2: MEASURING REFORM: FOCUS ON JUVENILE CONFINEMENT

Juvenile corrections is a multi-faceted and complex topic with policies and practices that vary from state to state and sometimes from courthouse to courthouse. Finding uniform measures and comparable data can be challenging. For that reason, the current report takes the snapshot approach; examining states within a set time period across a limited number of variables.

Such a method is imperfect and will surely miss examples that lie outside of such rigid criteria, but the goal is to engage the reader in a conversation about reducing juvenile confinement and to open minds to new paths to juvenile correctional reform. The methods used to look at various juvenile justice outcomes are described in detail in this section.

Data from the U.S. Office of Juvenile Justice and Delinquency Prevention's (OJJDP) Easy Access to the Census of Juveniles in Residential Placement (EZACJRP) were used for our analysis.[4] It provides the only federal repository of such information but is limited in its coverage and how it defines various aspects of youth incarceration such as 'residential' and 'diversion.' It is, however, the only data set available at this time.[i]

Using these data, the five states that showed the greatest drop in the rate of juveniles in residential placement per 100,000 in the population between the years 2001 and 2010 were chosen. They are: Connecticut (-57.2%), Tennessee (-55.0%), Louisiana (-52.7%), Minnesota (-50.6%) and Arizona (-50.2%).[ii] These states managed to reduce their youth confinement rates by at least half during the period.[iii]

However, using the same criteria within a different date range, say between 1997 and 2006, changes the above list of states dramatically, with only Louisiana remaining. Again, this method and this report are meant to expand the conversation about confinement reform rather than provide a detailed history of all such efforts.

[i] For a more detailed discussion of the methods and limitations of the EZACJRP data, see http://www.ojjdp.gov/ojstatbb/ezacjrp/asp/methods.asp.

[ii] One explanation as to why these states, all with above average confinement rates in 2001, would have lower rates in 2010 is the phenomenon of *regression toward the mean*. That is, the tendency of sample outliers to move closer to the group mean on subsequent measurement.

[iii] This example further illuminates the imperfect nature of the snapshot method.

States and National Juvenile Confinement Rates and Ranking, 2001 and 2010

State	2001 Rate*	2001 Rank**	2010 Rate	2010 Rank	% change
Connecticut	215	42	92	49	-57.2
Tennessee	260	34	117	44	-55.0
Louisiana	505	3	239	19	-52.7
Minnesota	322	24	159	38	-50.6
Arizona	305	28	152	40	-50.2
United States	**335**	**n/a**	**225**	**n/a**	**-32.8**

*Youth under the age of 18 confined per 100,000 youth in population.
**Of 50 states and District of Columbia, with "1" having highest youth confinement rate.
Source: Easy Access to the Census of Juveniles in Residential Placement, http://www.ojjdp.gov/ojstatbb/ezacjrp/.

This report will examine the 'top performers' (the term to be used throughout) for the 2001 to 2010 period, defined as those states with the greatest decrease in juvenile incarceration rates (see above Table), according to the EZACJRP data. These states, each unique in its makeup, history and approach to juvenile justice, share some commonalities in their decreasing juvenile incarceration rates. Areas of continued need, such as the disproportionate incarceration of youth of color, will also be addressed.

METHODS

Time: For the current analysis, data on states' juvenile confinement were gathered for the time period between 2001 and 2010. This period was chosen because it is the most recent for which useful data are available and allows a look at recent success stories.

The risk of looking at many states across one time period is that such analysis may overlook states that successfully reduced their juvenile confinement numbers prior to 2001 or have more recently begun to make gains in that area. Readers should keep in mind that the current analysis is not meant to provide a definitive picture of all state reform efforts, only to shine a light on some recent successes and the themes that connect them.

Types of confinement: In this report the term 'confinement' is used to describe the experience that some juveniles face when held in secure or semi-secure residential facilities as a result of contact with the juvenile justice system. The OJJDP, which provides the data, defines three types of confinement as follows:

1. Commitment: juveniles include those placed in the facility as part of a court ordered disposition.
2. Detention: juveniles include those held awaiting a court hearing, adjudication, disposition or placement elsewhere.
3. Diversion (Shock): juveniles include those voluntarily admitted to the facility in lieu of adjudication as part of a diversion agreement.

The term 'diversion' carries a different meaning in the juvenile justice community than the OJJDP definition. It typically describes an intervention that

steers youth *away* from the justice system, rather than one that uses incarceration, even short-term, as a response. The OJJDP definition of the term describes what we will refer to as "shock" incarceration; that is, short-term periods of confinement meant to shock youth into compliance by introducing them to the harsh realities of incarceration.

Offenses: This report also examined the type of offense for which accused or adjudicated youth are confined. Typically, as states attempt to reduce the use of confinement, one method is to limit confinement eligibility to those charged with offenses against other persons or to youth deemed to be serious or repeat offenders.

Ethnicity: The OJJDP data we used provides a limited view of the ethnicity of confined youth. As the disproportionate confinement of youth of color remains a problem across the juvenile and adult justice systems, it is crucial to determine if current reform movements address such disproportionality or if the inequity has increased in recent years.

Arrests: Juvenile arrest rates have fallen steadily in recent years across the United States, decreasing by 27 percent between 2000 and 2010.[5] Most states have experienced a drop in the arrests of young people, to a greater or lesser extent. However, some states with minimal changes in arrest rates have made great gains in reducing confinement while others with significant arrest decreases have actually increased their rates of confinement. The absence of a correlation between arrest rates and confinement rates makes it clear that a state need not dramatically reduce the number of youth arrested in order to begin reforming their confinement practices.

CAVEATS ABOUT THE ANALYSIS

Sources: Almost invariably, as states reshape the way they handle youth in the juvenile justice system, there is a need is for richer, more accurate and complete data and for greater data accessibility. The current analysis uses data from a variety of sources which readers may find differ from what is available through alternative sources. For example, juvenile arrest counts, which have taken almost exclusively from state sources, often differ from the numbers provided by the FBI's Uniform Crime Reporting program. In fact, state arrest counts may differ from other state sources as some databases and reports are not always updated when numbers change. By exploring data across time from the same source, we can accurately show trends, even if the numbers may differ from source to source.

Ranking: The states have been ranked from 1 to 51, including the District of Columbia, by the percent change in juvenile confinement rates between 2001 and 2010. Ranking is a notoriously touchy endeavor as one party will inevitably bristle at having been placed below another in a list. While this ranking does not account for limitations and confounding factors that impact states' reduction of confinement rates, this approach is valid for this report's purposes for two reasons. First, by using rate per 100,000 youth, states with large and small juvenile populations are leveled, proportionally. Second, the ranking is not intended to put states into 'good' or 'bad' categories, rather, the ranking are designed to continue an important discussion. Ranking improvement allows us to examine potentially effective strategies and areas for improvement.

Context: As this report will show, there are many reasons why a state's juvenile confinement population has or has not fallen between two points in time. We have placed the data in the context of

each state's unique reform history. For all states, local juvenile justice experts were consulted to help make sense of the numbers and trends.

Depth: Reporting on five states' experiences requires a balance of broad strokes and accompanying detail to produce a reader-friendly document of reasonable length. Any of the indicators we discuss in this report can be explored further and in much more detail; such analysis is encouraged.

PART 3:
THE NATIONAL PERSPECTIVE ON CONFINEMENT, 2001 - 2010

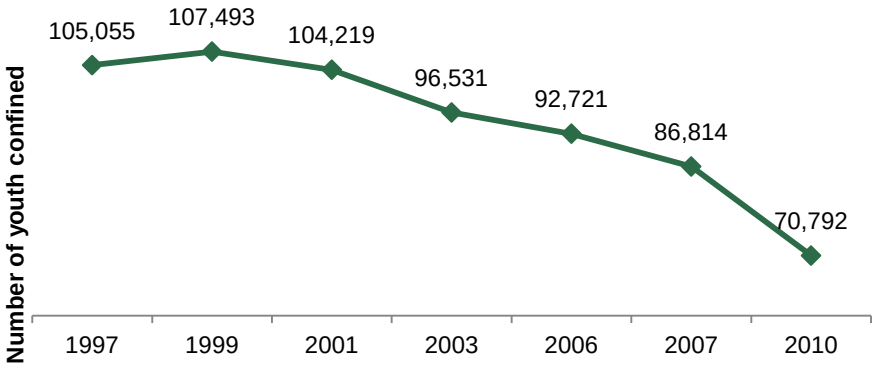
In 2001, 21 states had juvenile incarceration rates greater than the national average of 335, with the highest in Wyoming, where 526 out of every 100,000 youth were held in secure confinement.

Almost a decade later in 2010, 24 states were above the much-lower average of 225, with South Dakota at the top end with 575 youth in secure confinement per 100,000. Although many states made great strides in reducing the rate at which they incarcerate young people, 17 out of the 21 above average states in 2001 remained above average in 2010.

For all states and the District of Columbia, the number of youth in residential placement dropped steadily from its high of 107,493 in 1999 to 70,792 in 2010.

The confinement data used for the analysis in this report provide a breakdown between those youth who were committed, detained or diverted. The data show that the number of youth in detention decreased by almost 7,000 from 2001 to 2010. However, because the percentage decrease in detention didn't keep pace with that of commitments, their proportion increased relatively, from 26.3 percent to 29.1 percent of all confined youth.

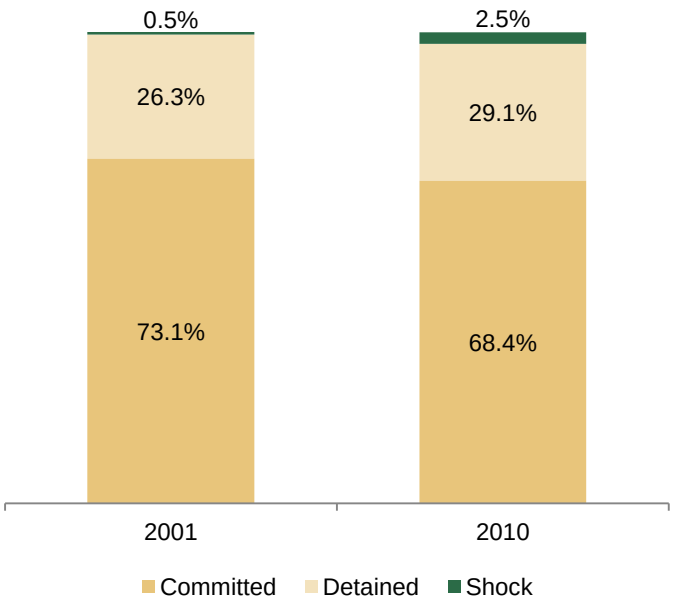
The total number of youth in secure confinement in the U.S. has dropped dramatically in the past 15 years.



Source: Easy Access to the Census of Juveniles in Residential Placement, http://www.ojjdp.gov/ojstatbb/ezacjrp/.

Juvenile justice experts and practitioners typically agree on a few standards regarding the imprisonment of children. The first is that confinement, if used at all, should be reserved for cases where a young person is a threat to their community. In keeping with this, youth adjudicated delinquent for non-violent offenses and even youth with records of delinquent behavior who aren't a public safety risk generally can and should be supervised in the community, preferably at home. Reforms over the past decade, as reflected in national data on youth confinement, have shown some improvement in terms of a decreased percentage of youth in confinement for non-violent delinquent behavior.

The proportion of detentions to commitments increased from 2001 to 2010.

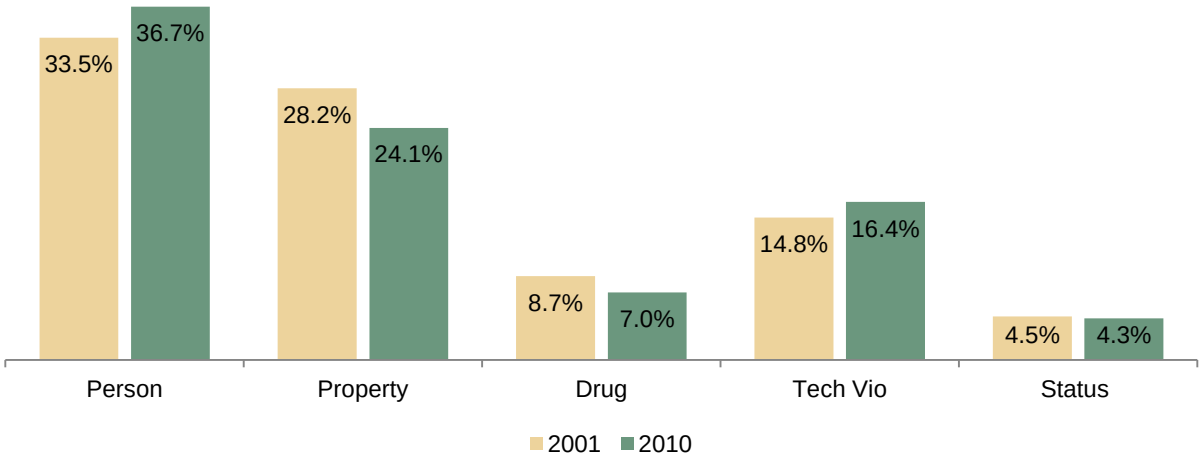


FEWER YOUTH ARE BEING HELD FOR LESS SERIOUS OFFENSES.

In looking at the offenses for which youth were confined, the proportion of youth held for offenses against a person increased from 33.5 percent in 2001 to 36.7 percent in 2010. Confinement for property offenses decreased from 28.2 percent to 24.1 percent during the period. These changes are in line with the ideals of reform in that they suggest that confinement is more often being used to respond to violent behavior, such as assault, and less in response to property offenses, such as theft or vandalism.

Likewise, there was a shift away from holding youth for drug offenses, moving from 8.7 percent of all confined youth in 2001 to 7.0 percent in 2010. Youth accused or adjudicated for drug offenses–of which 73.2 percent and 79.3 percent were possession charges in 2001 and 2010, respectively–

Fewer youth are being confined for property and drug offenses.



are better served through treatment or diversion programs, not by confinement in institutions where access to services is secondary to punishment and security.

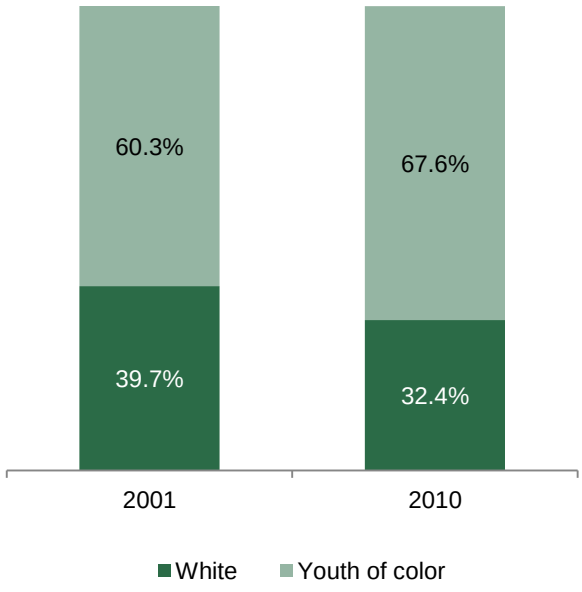
However, other offense categories for which confinement should rarely, if ever, be used showed proportional increases or stagnation nationally. Offenses against the public order, a wide category that includes minor infractions along with potentially dangerous activities, increased from 10.4 percent of the total to 11.5 percent. Public order offenses range from disorderly conduct to bringing a weapon to school. However, on whole, these offenses are skewed toward being non-violent in nature and those for which confinement should not be a response.

The proportion of youth confined for technical violations also increased from 14.8 percent to 16.4 percent. These are cases in which a youth under the supervision of the juvenile justice system, such as those on probation, has been accused of breaking the conditions of that supervision. The use of incarceration as a response to technical violations has plagued the adult correctional system and a body of evidence exists showing that a graduated response of increased supervision and non-restrictive interventions can be more effective than incarceration; the same applies to juvenile justice.[6]

Finally, the percentage of confinement totals comprised of status offenses–that is, offenses which are not considered criminal and are only a violation due to a juvenile's age, such as truancy and running away–barely fell. The U.S. Juvenile Justice and Delinquency Prevention Act (JJDPA) "prohibits the use of secure detention or confinement for status offenders and nonoffenders."[7] The Act calls for the "deinstitutionalization of status offenders" and carries negative funding consequences for noncompliance. Nationally, the proportion of confined youth whose most serious offense was a status offense only changed from 4.5 percent in 2001 to 4.3 percent in 2010. This small percentage still represents over 3,000 young people held in confinement in 2010 for behavior that would not be considered an offense if they were adults.

Relative increases in confinement for technical violations may actually mask the continued practice of incarcerating youth for status offenses. Following the JJDPA prohibition of the detention or commitment of youth for status offense violations, many youth receive terms of probation for such offenses.[8] If that youth fails to comply with the conditions of probation, they may be charged with a technical violation. In some jurisdictions, certain technical violations, such as contempt of court, are classified as serious offenses for which a child may be incarcerated.

In 2010 youth of color comprised a greater proportion of all youth confined than they did in 2001



DISPROPORTIONATE CONFINEMENT OF YOUTH OF COLOR INCREASED FROM 2001 TO 2010.

Despite representing only about 13 percent and 16 percent of the U.S. population,[9] respectively, African American and Latino youth are confined at disproportionately high rates, a trend that has gotten worse since 2001.

Reducing this disparity has become a reform movement of its own and is often woven into deinstitutionalization policies and laws. However, the problem persists in many states, as reflected in the national averages. Disproportionality in the juvenile justice system permeates every stage of the process: from who and where we police, to the sentencing stage of adjudication, to community supervision policies and practices. Scant research has been done on why these disparities are deepening. A renewed focus not just on the juvenile justice system, but the failings of the other youth serving social systems, will be needed to truly drive down the over-incarceration of African American and Latino youth.

PART 4: COMMON ELEMENTS AMONG STATES THAT WERE THE 'TOP PERFORMERS'

A number of factors were common to states with the greatest declines in the youth they confined.

The following commonalities were the most frequent:

- The state was the target of class action litigation concerning conditions of confinement or other legal or administrative scrutiny;
- Juvenile corrections split from the adult system and/or partnered with child welfare;
- There was improved inter-agency collaboration and communication, often through the formation of a high-level task force or commission ; and
- State leaders recommitted their systems to a holistic juvenile justice ideal that acknowledges that youthful behavior is inherently different than adult behavior and that it requires different interventions and services.

Despite dramatic reductions in confinement, the juvenile justice systems in these states have areas that are of needed improvement. Each state continues to experience disproportionately high numbers of youth of color at every level of its juvenile justice system and to detain low-risk youth prior to adjudication. There are instances where these states improved some of these factors but, on the whole, they continue to wrestle with these issues.

Finally, all states would benefit from improved data collection and public accessibility. In addition to collecting data on the number of youth arrested, adjudicated and treated, states should document systemic developments and changes to provide a historical context for understanding the changes, or lack thereof, in the system. Two states provided such a timeline that proved useful in tracking developments.

LITIGATION

According to the OJJDP, litigation-based reforms "are the most divisive and protracted means of achieving systems change" and may involve "years of expensive investigation and negotiation to reach a settlement." However, they also "may be the only way to achieve systemic reforms."[10]

As documented in *No Place for Kids*: *The Case for Reducing Juvenile Incarceration*, state-run juvenile facilities are frequently overcrowded, outdated, and dangerous. Too often, they lack sufficient numbers of properly-trained personnel or adequate health care, education or other rehabilitative programming. These and other negative conditions place states at risk of lawsuits. In fact, sometimes the threat of litigation is enough to kick start reform in a state. State leaders and stakeholders understand that successful lawsuits may result in costly settlements and other sanctions if remedies are not met. Savvy community leaders also recognize that negative media attention on a state's treatment of young people–adjudicated delinquent or not–influences public opinion about their government.

Whether litigation or the threat of litigation opens a state's eyes to problems previously overlooked or it motivates a state through the threat of sanctions or funding cuts, several of the top performing states began confinement reform in earnest following litigation. Of the five states examined in this report, four were the target of litigation following claims of mistreatment of youth in confinement.

Lawsuits played a part in several states' confinement reform activities.[11]

State	Year of litigation/action	Year of decline	Claim	Suit initiator
Connecticut	*Emily J. v. Rowland* complaint: 1993 settlements: 1997, 2002, 2005	By 2001*	Harsh detention used for status offenses in lieu of treatment or therapeutic placement.	Connecticut Civil Liberties Union
Tennessee†	*Brian A. v. Haslam* complaint: 2000 settlement: 2001	By 2003	Dysfunctional child welfare system with poor management and oversight. Child welfare was coupled to juvenile corrections as DCS in 1996.	Children's Rights
Louisiana	*United States v. Louisiana* complaint: 1998 settlement: 2000	By 2001	Unconstitutional conditions in state's facilities	Juvenile Justice Project of Louisiana and DOJ
Arizona	*United States v. Arizona* complaint: 2004 settlement: 2004	By 2006	Widespread physical and sexual abuse in facilities	DOJ

* Because confinement data are only available at 2 to 3 year intervals, the years shown are those following the highest rates of confinement..
**Civil Rights of Institutionalized Persons Act. † The suit in Tennessee was brought against the child welfare system in the state, which shares a department with juvenile corrections. This report assumes some collateral changes as a result of that settlement.
Sources: Dick Mendel, *Juvenile Justice Reform in Connecticut: How Collaboration and Commitment Have Improved Public Safety and Outcomes for Youth* (Washington, DC: Justice Policy Institute, 2013); Children's Rights, "Tennessee (Brian A. v. Haslam): Overview," February 2013. http://www.childrensrights.org/reform-campaigns/legal-cases/tennessee/; State of Louisiana, Office of Juvenile Justice, "History of Juvenile Justice in La.," February 2013. http://ojj.la.gov/index.php?page=sub&id=229; Arizona Department of Juvenile Corrections, "A History of the Arizona Department of Juvenile Corrections," February 2013. http://www.azdjc.gov/FactsNews/ADJCHistory/ADJCHistory.asp

The table demonstrates three important points relevant to juvenile confinement reform. First, measurable decreases in each of the four states' confinement rates appeared soon after litigation was initiated.

Second, despite the hundreds of employees in a state's juvenile facilities, outside service contractors and counselors who visit and work in those facilities and the thousands of children and their families who experienced confinement in the facilities, in many instances legal action was initiated when heinous conditions were exposed by a tragic event such as a suicide or abuse of residents by staff.

Finally, the process has been initiated and pushed by non-profit advocacy groups. The Civil Rights Division of the U.S. The Department of Justice (DOJ) joined the suit in Louisiana and spearheaded the action in Arizona, but for the states profiled here, it has been the tireless efforts of the juvenile justice and child welfare advocacy communities that have forced change.

THE CASES

Arizona: The state had been the target of lawsuits related to poor conditions in youth confinement since the late 1980s, but had only achieved minimal success in improving the system. In 2004, a Department of Justice CRIPA (Civil Rights of Institutionalized Persons Act) investigation found "widespread physical and sexual abuse of youth by staff, ... excessive and inappropriate use of disciplinary isolation, as well as failure to protect youth from attacks by other youth" in three of Arizona's juvenile correctional facilities. By 2006, the next year for which there are data, the state's juvenile confinement numbers had begun to decline, falling by over seven percent from the 2003 level.

According to Beth Rosenberg of the Children's Action Alliance (CAA), an Arizona-based youth advocacy organization, "judges certainly reduced the number of kids sent to ADJC [Arizona Department of Juvenile Corrections] when the DOJ said the facilities conditions were unconstitutional."[12]

Connecticut: A lawsuit brought against the state of Connecticut is another example of litigation-based reform. It is also a lesson on the sometimes-delayed nature of that reform. The case, known as the "Emily J. suit," named after one of the plaintiffs in the case, was originally filed in 1993. However, settlements weren't reached until 1997, 2002 and 2005. The state now finds itself held up as a model for juvenile justice reform, 20 years after this "crucial first step in Connecticut's juvenile justice reform movement."[13]

Louisiana: In 1998, Louisiana was sued by the DOJ and the Juvenile Justice Project of Louisiana, a juvenile justice advocacy non-profit organization. The suit alleged abuse and mistreatment of the roughly 1,600 youth the state held in secure confinement. The original complaint was filed following a 1995 Human Rights Watch investigation that reported "that substantial numbers of children in the state training institutions are regularly physically abused by guards, are kept in isolation for long periods of time, and are improperly restrained by handcuffs."[14] In 2000, the state entered into a settlement agreement with the DOJ and other plaintiffs. Among other things, the settlement mandated immediate and sweeping improvements to juvenile incarceration in Louisiana.

Louisiana is a prime example of how litigation can help a state begin its journey to a safer, more fair and more effective juvenile justice system. Since the suit was brought against the state rather than

against a town or parish, the response took the form of top-down, state-level reform. Rather than address each of the agreement's conditions piecemeal, Louisiana formed a Juvenile Justice Commission (JJC) to investigate and advise on the best way forward (more on advisory committees later in this report). When the JJC released its recommendations in 2001, the focus shifted from cleaning up the state's secure facilities to restructuring and rethinking the juvenile justice system as a whole. Rather than merely "hire 220 additional staff to work with the juveniles" or "develop substance abuse treatment programs throughout the facilities"–both conditions of the settlement agreement–the state embarked on a holistic reform program that addressed issues from improved prevention efforts to re-entry services for youth released from secure confinement.

Tennessee: Tennessee provides an opportunity to bridge the notion of litigation-based reform with another characteristic of the five 'top performers': attention to the appropriate placement of youth corrections within the state's bureaucracy. In 1996, Tennessee restructured some of its youth services, combining juvenile justice with child welfare into a Department of Children's Services (DCS). The new department struggled to find its identity between the therapeutic ideals of child welfare and the harsher approach of juvenile justice. In 2000, the child welfare side of DCS was hit with a civil rights lawsuit that forced them to undergo major reform, much of which had already begun. The suit's settlement agreement held DCS to implementing changes that "actually spurred much of the department's progress."[15]

MOVING AWAY FROM ADULT CORRECTIONS AND TOWARD CHILD WELFARE INTEGRATION

There was a time in our nation's history when young people found guilty and sentenced for breaking the law were treated like adults: they were tried in adult courts, sentenced as adults and, as prison was used less frequently at the time, youth were sent to adult correctional facilities. More recently, overwhelming research–much of it produced through the MacArthur Research Network on Adolescent Development and Juvenile Justice–has shown that young people are fundamentally different in their perceptions of risk and harm, their ability to control their behavior, amenability to change and, perhaps most importantly, they respond to punishment differently than adults.[16] Decades of juvenile justice

Four of the five top performing states uncoupled juvenile and adult corrections and/or integrated juvenile corrections with child welfare services.

State	Department	Last year changed
Connecticut	Dept. of Children and Families (juvenile corrections and child welfare)	1976, coupled with child welfare
Tennessee	Dept. of Children's Services (juvenile corrections and child welfare)	1996, coupled with child welfare
Louisiana	Office of Juvenile Justice (placement and support of adjudicated youth)	2004, split from Dept. of Public Safety and Corrections
Arizona	Dept. of Juvenile Corrections	1990, split from Dept. of Corrections; 2006 Child Welfare/Juvenile Justice Integration Initiative formed

Connecticut Department of Children & Families, "About DCF," February 2013. http://www.ct.gov/dcf/cwp/view.asp?a=2565&Q=314326; Child Welfare League of America, "Six to One: The Evolution of Children's Services in Tennessee," February 2013. http://www.cwla.org/articles/cv0211cstn.htm; Gregg Halemba, Gene Siegel, Charles Puzzanchera and Patrick Griffin, *Louisiana Models for Change Initiative Background Summary* (Pittsburgh: National Center for Juvenile Justice, 2006); Arizona Department of Juvenile Corrections, "A History of the Arizona Department of Juvenile Corrections," February 2013. http://www.azdjc.gov/FactsNews/ADJCHistory/ADJCHistory.asp

practice and brain research has led to contemporary theories that hold young people apart from adults and promote the use of the least-restrictive response to unwanted behavior as a more effective strategy for public safety and better outcomes for the youth themselves.

Throughout the 20th century, the ideals and methods of juvenile justice drifted away from those of the adult systems, bringing laws and policies that formalized the inherent differences between the two groups. High youth crime rates in the 1980s and 1990s began a trend of "get tough" policies for youth as well as "adult time for adult crime" approaches to violations committed by young people,[17] but those changes have already begun to erode.

Some states split their juvenile corrections agencies, philosophically and bureaucratically, from adult corrections decades ago–in fact, of the 'top performers,' Minnesota is the only state that continues to operate a combined system and is one of only about a dozen states to do so–but some have done so more recently as part of reform efforts.

For example, in Louisiana, prior to 2004, juvenile corrections was housed within the Department of Public Safety and Corrections. Several years into its recent reform movement, justice services for youth split off into the Office of Youth Development, renamed Office of Juvenile Justice (OJJ) in 2008. The new department, given cabinet-level status, allowed for more focused attention to the reforms underway at the time and, according to the OJJ, "provided the framework for reform."[18]

In addition to different correctional systems for youth and adults, the 'top performers,' including Minnesota, have some integration between their juvenile justice and child welfare systems. Recent research has overwhelmingly shown a clear connection between a child's needs that might put them in contact with the child welfare system, such as abuse, neglect or exposure to trauma, and behaviors that can lead to justice involvement.[19] The same research has found that obstacles exist that impede collaboration between the two systems, often as a "structural barrier, such as a clear statement of understanding concerning the sharing of information, assessment processes, and joint case management."[20]

The importance of the connection between these two systems has recently been recognized at the national level in the 2003 amended version of the Child Abuse Prevention and Treatment Act (CAPTA). The Act lists as one of its purposes, "Supporting and enhancing interagency collaboration between the child protection system and the juvenile justice system for improved delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems."[21]

Two states in our purview, Connecticut and Tennessee, have bridged this service gap by combining their juvenile justice and corrections departments with the state child welfare agencies.

Tennessee's merging of departments is the most recent–changing the Department of Youth Services to Department of Children's Services (DCS) in 1996–and very likely a valuable precursor to that state's subsequent improvement in juvenile confinement indicators. Initially, the move bred fear that the punitive nature of juvenile justice would taint the healing approach of child welfare, however the opposite seems to have occurred. Thanks in part to the mandated reforms following the *Brian A. v. Haslam* case,[22] the juvenile justice side of the department has benefitted from the improved connection of youth to appropriate services that child welfare provides and a recognition of the benefits of early positive intervention. Coupling post-adjudication services with child welfare services allows a state to better

provide 'wrap-around' care–that which encompasses health, social and family, as well as justice-related, factors–and to access a wider range of alternatives to confinement.

The creation of Connecticut's Department of Children and Families (DCF) in 1976 cannot be directly linked to that state's recent drop in youth confinement, but it likely helped contemporary changes take hold more easily, accelerating reform. Many components go into the kind of systemic change that can cut a state's youth confinement rate in half in ten years or less, such as visionary leadership, public sentiment, growing awareness that a problem exists and organizational structure. Although Connecticut's child welfare and juvenile justice services have shared a department since 1976, other conditions did not exist to take full advantage of such a design. The DCF makes full acknowledgement of the benefits of its structure on its website, stating, "This comprehensive approach enables DCF to offer quality services regardless of how a child's problems arise. Whether children are abused and/or neglected, are involved in the juvenile justice system, or have emotional, mental health or substance abuse issues, the Department can respond to these children in a way that draws upon community and state resources to help."[23]

The Arizona Department of Juvenile Corrections (ADJC) was created in 1990 as a cabinet-level agency, splitting juvenile services from the larger Department of Corrections as a result of class action lawsuit involving the State's treatment of juveniles in confinement.[24] While Arizona has not made the structural changes seen in Connecticut and Tennessee, former Governor Janet Napolitano "recognized the need to address the link between child welfare and juvenile justice" as early as 2003. After several years of research and planning, the state produced a blueprint to direct "better coordinated responses to, and improved outcomes for, youth who are dually involved or at risk of dual involvement in the child welfare and juvenile justice systems."[25]

Louisiana's experience has been similar to that of Arizona. When the state split adult and youth corrections in 2004, it kept its child welfare department separate. However, the Governor's Louisiana Children's Cabinet has been coordinating policy between the five state departments that provide services for young people since 1992. Most recently, in 2011, the Children's Cabinet has partnered with another Governor's office project, Coordinated Systems of Care (CSoC) that seeks to do just what its title implies: coordinate care between systems that service youth. The Children's Cabinet, with its state-level and legislative connections, is able to smooth legal and policy roadblocks that hamper such coordination.

Crossover and dually-involved youth

Children who experience the child welfare system and the juvenile justice system can be described by two main terms: crossover youth and dually-involved youth. Crossover youth are those who move from one system to the other, typically from child welfare to juvenile justice. Dually-involved youth are those who experience both systems at once, e.g., a foster child who is arrested for runaway. Regardless of the category, determining the numbers of these youth has proved frustrating for researchers and practitioners alike.

Depending on one's starting point, figures may be as high as a 79 percent delinquency rate for child welfare-involved youth or 83 percent of justice-involved youth reporting a history of maltreatment.[26] The reason that exact numbers of youth within these systems are difficult to come by is a lack of coordination and shared information, not to mention competing organizational cultures. Combining juvenile justice and child welfare responsibilities into one agency or directing cabinet-level bodies to provide such coordination

are ways that some of the top performing states have sought to bridge this service gap.

Collaboration commission or coordinating body

Because of the complex needs of many juvenile justice involved youth, juvenile correctional systems cannot function in a vacuum. They must coordinate with a myriad of other service agencies ranging from court support to mental health and substance abuse counseling in order to provide a full spectrum of supervision and services to justice system involved youth. Coordination between agencies and service providers is important in the adult criminal justice system, but perhaps more so in the juvenile system, where the urgency and delicacy of serving troubled youth is heightened.

States that have been successful in reducing youth confinement have created coordinating bodies that appear to have had a marked influence on confinement practices. Each state has a State Advisory Group (SAG) to carry out work associated with and in compliance with the Juvenile Justice and Delinquency Prevention Program (JJDP), but the groups discussed here go beyond that role.[27] They focus on nurturing collaboration and maintaining focus on reform ideals. All of the top performing states have some form of juvenile justice oversight body. Arizona and Louisiana are examples of states that have formed such groups as part of recent reforms with great success.

In 2004, Arizona reached a settlement agreement with the DOJ to address the findings of a CRIPA investigation. To facilitate resolution efforts, Governor Napolitano created a Task Force on Juvenile Corrections Reform. The Task Force is composed of experts and professionals in the areas of juvenile justice, behavioral health, education, and medicine. Its mandated functions fill the basic requirements of such a committee: it exists to provide oversight and to advise. More importantly, as a state-level body, the Task Force has been able to help coordinate the various parts of the system while promoting the overall vision of a smaller, safer and more equitable juvenile justice system in Arizona.[28]

The Juvenile Justice Commission of Louisiana was formed in 2001 in order to facilitate changes required from the settlement of federal investigations reached one year earlier. The body has since morphed into the Juvenile Justice Implementation Commission (JJIC). A state website states the group's "main purpose is to oversee the reform of the state's juvenile justice system by implementation of the recommendations contained

State Commissions and Task Forces		
State	**Coordinating body**	**Year formed**
Arizona	Task Force on Juvenile Corrections Reform	2004
Connecticut	Connecticut Juvenile Justice Strategic Plan Task Forces	~2006
Louisiana	Juvenile Justice Commission, replaced by Juvenile Justice Implementation Commission	2001, 2003
Minnesota	Minnesota Juvenile Justice Task Force	1999
Tennessee	Tennessee Commission on Children and Youth	1955, statutory update in 1988

Source: Connecticut Office of Policy and Management, "Juvenile Justice & Youth Development," February 2013. http://www.ct.gov/opm/cwp/view.asp?a=2974&q=383614; State of Louisiana Juvenile Justice Initiative, "Juvenile Justice Implementation Commission," February 2013. http://www.louisianajuvenilejustice.la.gov/index.cfm?md=misc&tmp=aboutCommiss; Minnesota Office of the Revisor of Statutes, "2012 Minnesota Statutes," February 2013. https://www.revisor.mn.gov/statutes/?id=299c.65.

in the Juvenile Justice Reform Act and House Concurrent Resolution 56, both of Regular Session 2003," which seek to reform the state's system beyond the demands of the settlement agreement. However, the site also describes the group's role as to oversee, evaluate, make recommendations, advocate, scrutinize, and study alternatives.[29] Perhaps most importantly, the JJIC "listen(s) to testimony from stakeholders and hold(s) accountable those responsible in the system."[30]

Another benefit to collaborative groups is their ability to coordinate 'stream of offender' decisions and resources. So, if a decision is made to divert a particular group of justice-involved youth, the collaborative group can recognize that these youth will need other services and make funding and policy decisions accordingly.[31]

Enlist the technical expertise of national initiatives

States need not recreate the wheel when forming a coordinating body to help steer reform. The technical expertise of national, foundation-supported initiatives is available; groups for whom increased collaboration and communication is a key part of their strategy.

For example, in Louisiana the Models for Change initiative, a project funded by the John D. and Catherine T. MacArthur Foundation, assisted in promoting collaboration at the state and parish levels to explore alternatives to formal processing and secure confinement as well as in the areas of Drug Courts, family welfare and juvenile indigent defense.[32] The Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI) is another program that may bring technical assistance to the reform process. Four of the five top performing states have some level of JDAI involvement, though it is difficult to attribute reductions in overall confinement to that program, given the limited scope of JDAI rollout and the timing. As a means to achieve its mission of reducing the detention of pre-adjudicated youth, the initiative promotes improved collaboration among agencies. Also, the Center for Juvenile Justice Reform at Georgetown University seeks to enable agencies in participating jurisdictions to "create a seamless process from case opening to case closing that improves outcomes" for youth.[33]

RECOMMITMENT TO THE DEVELOPMENTALLY APPROPRIATE TREATMENT OF YOUTH

Distinguishing the impact of various actions–such as separating juvenile corrections from the adult system or forming a juvenile reform advisory committee–in the analysis of confinement reform is a difficult, if not impossible, task; the system reforms are interconnected. However, many of the changes presented here can be described by one overriding theme: the developmentally appropriate treatment of youth or what Barry Krisberg calls, the "American juvenile justice ideal."[34]

Krisberg tells of a group of foreign judges who described to him the American model of justice that their own juvenile systems have been built upon. Such a model emphasizes "compassionate and enlightened care for vulnerable children" and seeks "to substitute treatment and care in lieu of a stark regimen of punishment for wayward youths." They then expressed surprise at America's abandonment of those philosophies for the heavy-handed approaches of mass incarceration and transfer to adult courts.

The history of juvenile justice and corrections is often portrayed as a pendulum: swinging from one extreme to another, from punitive and harsh to forgiving and therapeutic. The reform work of the last decade or so to correct the extreme policies of the "get tough" era of juvenile justice represents

systems seeking equilibrium. States are now coming to understand that adult-style punishment for young people is more harmful than helpful. As these states ratchet down the use of incarceration, they are looking to more developmentally appropriate models and trying to create systems that simultaneously acknowledge the physiological and behavioral differences of young people, while holding them accountable for delinquent actions.

The juvenile justice ideal aligns neatly with what many practitioners and researchers consider to be elements of best practices. Across the nation, a rediscovery is taking place that the methods of juvenile justice that work best are those based on philosophies that shaped the founding of the juvenile justice system in the U.S.

In addition to commonalities among the 'top performers' already mentioned, these states have enacted or implemented other changes that adhere to the developmentally appropriate treatment of youth.

Diversionary and restorative interventions

Rather than funnel all youth accused of violating the law into the justice system, many jurisdictions have created or enhanced programs that steer them out of the system and toward services such as family, mental health or substance counseling. Utilizing diversionary responses demonstrates the recognition that juvenile behavior is often driven, not by bad intent or 'bad kids,' but as a reaction to other influences in a child's life.

Many states' juvenile justice systems began to enhance or create diversion programs in the 1990s as a part of the national trend toward alternative sanctions. Unfortunately, some of these included Scared Straight programs or harsh interventions such as boot camps.[35] Those ineffective and harmful practices have begun to wane in recent years, allowing states, the 'top performers' included, to focus on more developmentally appropriate diversion programs.

Minnesota, for example, has a long history of programs that divert youth from the more formal aspects of the justice system. The state, recognizing the importance of such an approach in 1995, required for counties to have at least one juvenile diversion program in place.[36]

Another example of a diversion policy is the program in Louisiana's 16th Judicial District. Established in 2006, the program seeks to divert youth accused of status offenses or other minor offenses from formal processing. Participants in the Prosecutor's Early Intervention Programs must take part in a family meeting where a team decides on a schedule of services and expectations. Once program requirements are met, the youth is released from obligation with no formal charges on his or her record. This kind of program enables the state to address unwanted behavior and demand accountability without saddling youth with the negative collateral consequences of justice system involvement.

Other diversionary programs do not steer youth away from formal processing but rather direct adjudicated youth away from out-of-home placement. Allowing youth to stay at home while being sanctioned and treated has numerous benefits, not the least of which is immense savings when compared to the costs of confinement. It also enables the youth's family to take part in services, the child to continue to attend his home school. This approach also enables interventions and their benefits to continue over a longer period of time.[37] Obviously, if the youth's home environment is harmful or not conducive to providing services, the child may be placed out-of-home, but the trend nationally, and in the top performing states, is to keep the child at home when possible.

Tennessee, for example, recently clarified its rules on the processing of "unruly" children, stating that a juvenile-family crisis intervention program must first determine there is "no other less drastic measure than court intervention" before committing a child to state custody.[38]

Another approach, often a part of diversionary programs, is the use of balanced and restorative justice (BARJ). BARJ programs seek to treat not only accused or adjudicated youth but also crime victims through involving victims in some decision-making aspects of the justice process and by more directly linking punishment to the harm caused. Some restorative justice sentences give victims a chance to address adjudicated youth and some require youth to perform services that benefit their community. The end goal is the same: to heal the harm caused by an offense and restore the sense of community and trust among community members.[39]

Four of the five 'top performers' (excluding Tennessee) are among a minority of states that articulate ideals of BARJ or some variation in their juvenile justice legislation, according to a 2008 survey. For example, Connecticut incorporates the balanced approach with the goal of the juvenile justice system to: "provide individualized supervision, care, accountability and treatment in a manner consistent with public safety to those juveniles who violate the law." Minnesota also specifies victim-offender mediation in statute.[40]

The age of juvenile justice jurisdiction and adult transfers

Through the perceived youth crime scare of the 1980s and 1990s, several states either lowered the upper age limit of juvenile court jurisdiction or increased the number and type of crimes for which a young person could be tried as an adult. The movement increased the numbers of teens who received sentences of imprisonment and complicated the placement of these youth. The Juvenile Justice and Delinquency Prevention Act of 1974 declared that youth, even when convicted and sentenced as adults, must be held separately, using the sight and sound rule (meaning, there can be no visual or auditory contact between adults and young people who are imprisoned).[41]

Many states, including the 'top performers,' have begun to reverse the laws that encouraged courts to treat more youth as adults, some going as far as to increase the age limit of juvenile jurisdiction in their states.

Connecticut is perhaps the poster child of the 'raise the age' movement. In 2012, after a seven-year struggle, juvenile justice advocates successfully managed to change state law so that 16 and 17 year-olds were no longer automatically under adult court jurisdiction.[42] Prior to that, Connecticut had one of the nation's lowest juvenile jurisdiction limits at age 15. Critics worried that shifting 16 and 17 year-olds, the ages with the highest arrest and adjudication rates, would overwhelm the system. However, because advocates were correct in acknowledging that these youth would respond better to services and treatment rather than imprisonment, the system has improved rather than collapsed.

Of the five 'top performers,' only Louisiana has an upper age limit below 17, at age 16, youth in that state are considered adults in the eyes of the courts. The other four states treat all youth under the age of 18 as juveniles, with limited exceptions for statutorily defined serious or repeat offenses.

Statutory allowances for a transfer of a young person to the adult criminal justice system may also have an impact on juvenile confinement rates, not to mention crime and recidivism in general as the practice has been shown to garner worse outcomes than keeping youth within the juvenile system.[43] Despite recent reforms that have limited when a

transfer can occur, according to the Department of Justice, "The surge in youth violence that peaked in 1994 helped shape current transfer laws."[44] In many cases, these laws stipulate a mandatory transfer to adult court if certain conditions are met, thwarting the discretion of courts that embrace a more developmentally appropriate response.

Arizona, Connecticut, Louisiana and Tennessee have all made changes in recent years regarding which youth may be treated as an adult in criminal court. Some, like Connecticut's, have been sweeping; while others, such as in Tennessee, merely allow more judicial discretion in the matter.[45] They all are part of a national trend to restrict the numbers of youth tried in the adult system and to care for those youth in more developmentally appropriate ways.

In the context of the current analysis, an important question is whether the top performing states have fewer youth in confinement because they send more young people to adult prisons. The notion has merit, it seems, as the top performing states do have, on average, higher numbers of youth held in adult facilities. Unfortunately, there are critical information gaps in what we know about the numbers of youth who are sent to adult correctional institutions, what services they receive and what becomes of them upon release and we are once again at the mercy of very shallow data provided by the United States Department of Justice in their *Prisoners* series.[46]

In comparing the 10 states that reduced their youth confinement the most between 2001 and 2010 with the 10 states that showed the smallest reductions or increases (see table on page 23) we find a difference in the average rate of youth held in adult facilities, 5.6 versus 1.4, respectively. As rates, these figures should allow comparison between states with differences in population. It is beyond the scope of this report to examine this issue in the detail it requires. The figures illuminate an area of future research.

States with reductions in youth confinement have a higher average rate of youth held in adult facilities.

State	Confinement change in juvenile facilities, 2001-2010	Number of youth held in adult facilities, 2010	Rate of youth held in adult facilities, 2010, per 100,000
Connecticut	-57.2%	217	26.6
Tennessee	-55.0%	29	1.9
Louisiana	-52.7%	22	2.0
Minnesota	-50.6%	32	2.5
Arizona	-50.2%	131	8.0
Massachusetts	-47.2%	3	0.2
Mississippi	-46.7%	25	3.3
Texas	-44.4%	150	2.2
New Jersey	-44.3%	18	0.9
North Carolina	-42.3%	184	8.1
Average:			**5.6**
Alaska	-11.9%	7	3.7
Missouri	-10.5%	22	1.5
Maine	-7.8%	0	0.0
Pennsylvania	+7.1%	58	2.1
North Dakota	+9.3%	0	0.0
Nebraska	+10.2%	23	5.0
Arkansas	+10.6%	9	1.3
South Dakota	+11.9%	1	0.5
Hawaii	+16.9%	0	0.0
West Virginia	+24.4%	0	0.0
Average:			**1.4**

Source: U.S. Department of Justice, *Prisoners in 2010*, (Washington, DC: Bureau of Justice Statistics, 2011). Easy Access to the Census of Juveniles in Residential Placement, "US & State Profiles," February 2013. http://www.ojjdp.gov/ojstatbb/ezacjrp/ .

Evidence-based practices

The most effective interventions for justice-involved young people are those supported by evidence of achievement. Peter Greenwood's recent study of evidence-based practices, or EBPs, defines them as practice that "involves the use of scientific principles to assess the available evidence on program effectiveness and develop principles for best practice in any particular field."[47] Evidence-based programs and this way of assessing them–through outcome-related evidence–has been a growing trend in the fields of juvenile justice prevention and intervention for at least the past decade.

In these fields, Greenwood assesses states on their "number of "therapist teams" from "proven programs" divided by the total population" and produces his own 'top five' list. These programs included Multidimensional Treatment Foster Care (MTFC), Functional Family Therapy (FFT) and Multisystemic Therapy (MST). Greenwood's top five group includes two of this report's top five confinement reducers, Connecticut and Louisiana, which have 10 or more family therapy teams per million people. In fact, all 'top performers' but Tennessee show up on the author's list of states utilizing significant numbers of EBPs.

Arizona has recently taken part in a study to score and track EBPs in the state using a tool called the Standardized Program Evaluation Protocol (SPEP) to enable a more uniform cataloging and measurement of effective programs. Use of such a protocol not only helps a state maximize its use of EBPs but also helps to find and fill gaps in the data collection processes that enable evaluation of the EBPs' effectiveness.

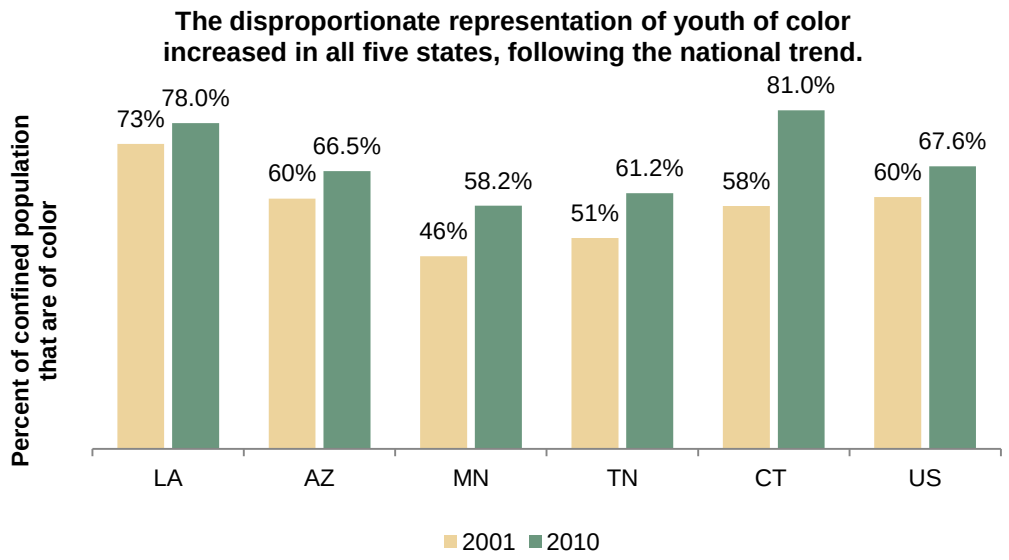
Evidence-based practices are not limited to the therapeutic programs discussed in Greenwood's work. An EBP can be any type of program leading to a desired and positive outcome that has been proven effective through evidence. Many times, programs for youth are implemented and continued because they seem intuitive or strike a chord with politicians or the public. For example, the Drug Abuse Resistance Education (D.A.R.E.) program was repeatedly found to have "a limited to essentially non-existent effect" on drug use in young people.[48] Despite this, the program, the most expensive anti-drug program in the United States at the time, was refunded for many years because of its political and public support.

AREAS OF CONTINUED NEED

The confinement of minority youth

A 50 percent reduction in the rate of juvenile confinement in a state over a ten-year period is remarkable and deserves high praise. However, it is only one aspect of the state's justice system. It is equally important to critically examine other aspects of confinement practices in the top performing states that need improvement.

One area where most states, the 'top performers' included, have not made much progress is in addressing the disproportionate confinement of youth of color. In these states, youth of color continue to be confined at rates from two to four times higher than their percentage in the population. For example, in Arizona where youth of color comprise about 17 percent of the juvenile population, they were 66.5 percent of all confined youth. This disproportionality increased from 2001 when youth of color made up 59.9 percent of the confined population in the state.



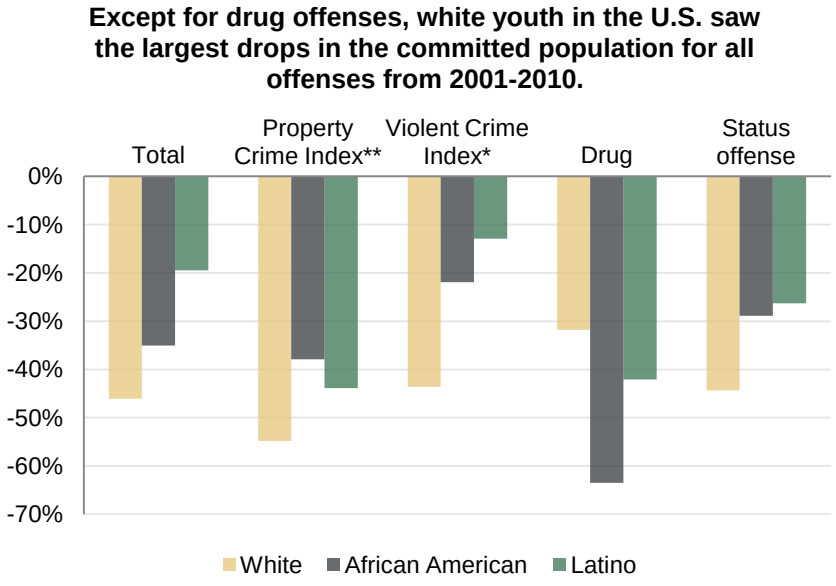
The movement to reduce the disparity of minority youth in the juvenile justice system is a national one embraced by OJJDP and the Models for Change initiative, among others. However, as the data show, even among states leading in the reduction of juvenile confinement, the problem remains.

Nationally, the decrease in youth confinement has not been borne evenly among racial groups. In fact, across most offense categories white youth saw the greatest reduction in commitments, compared to African American and Latino youth. Only within the drug offense category did the reduction in commitments of youth of color outpace that of white youth.

Detention

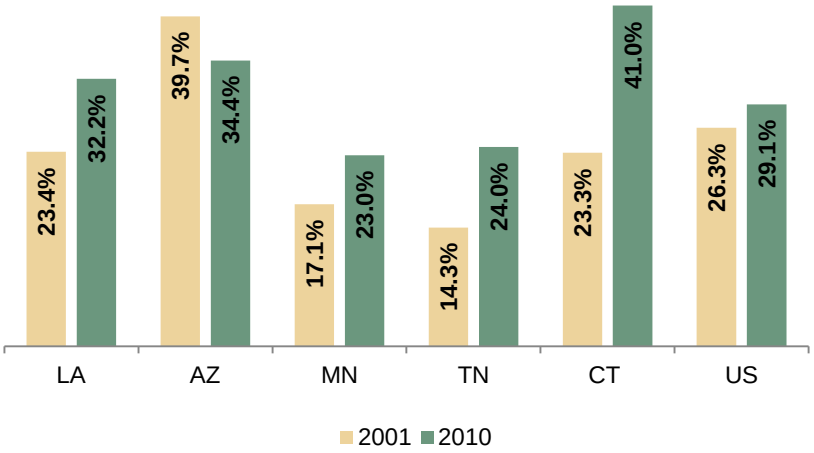
As confinement rates have declined, the rates of detained and committed youth have not fallen equally. Looking at the percent of confined youth who were classified as "detention"–that is, held securely prior to a court appearance–four of the five states increased the proportion of detained youth to the whole. For example, in Louisiana in 2001, detained youth accounted for 23.4 percent of all juveniles confined. In 2010, this had increased to 32.2 percent. Arizona's detention proportion did fall from 39.7 percent in 2001 to 34.4 percent in 2010, but that figure is still relatively high compared to the national average of 29.1 percent.

The national average increased as well, from 26.3 percent in 2001. However, with the exception of Arizona, the top performers saw a larger increase in their ratio of committed youth to detained youth. What do these figures indicate? It is difficult to say with authority, however they do seem to point to a greater focus on commitment reduction over detention reduction in these states and the nation as a whole.



In all the states in question, the number of youth being held in detention *did go down*; however, for reasons beyond the scope or our analysis, the rate of decrease of detentions did not match the decrease in post-adjudication commitments.

In the U.S. and 4 of the 5 top performers the ratio of detained youth increased.

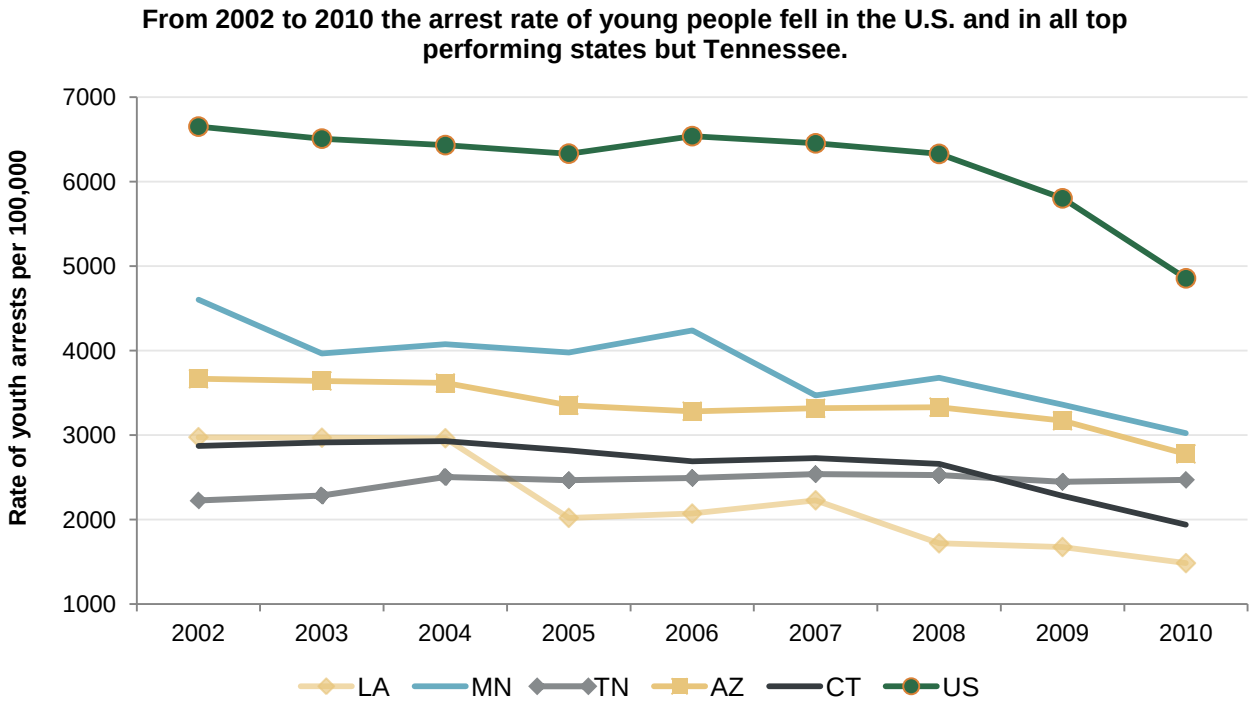


A NOTE ABOUT ARREST RATES

During the period under analysis, the youth arrest rate fell by 27 percent in the United States. Three of the five top performing states saw their youth arrest rates drop greater than the national average: Connecticut by 32.4 percent, Minnesota by 34.3 percent and Louisiana by 50.1 percent. Arizona's rate dropped just less than the national rate, falling by 24.2 percent. Tennessee was the only top performing state with an increase in its juvenile arrest rate, increasing 11 percent to a rate of 2,472 youth arrested per 100,000 in the population.

Fewer arrests allow a state's juvenile justice system more "breathing room" within which to make changes. However, the unclear pattern between arrest rates and confinement rates in the top performing states and the increase in Tennessee demonstrate that a decline in youth arrests may be a helpful, but not prerequisite, part of confinement reform. Indeed, West Virginia decreased its youth arrests by 28.3 percent, greater than the national average, but its confinement rate actually increased by 24.4 percent.

Reformers in states with stagnating arrest rates who may be waiting for a "break in the action" during which to push for change should take note: arrest rates do not necessarily need to decrease in order to reduce the number of young people sent to confinement. In fact, changes that limit the number of youth who are committed or detained may force changes upstream, prompting police and courts to divert or counsel and release more youth.

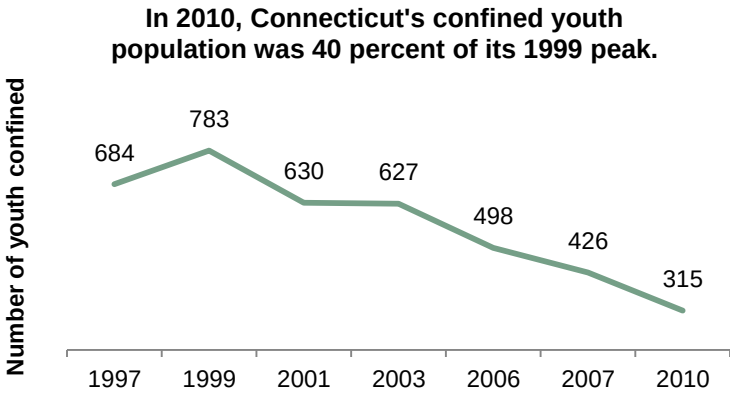


Sources: Federal Bureau of Investigation, "Uniform Crime Reports," February 2013. http://www.fbi.gov/about-us/cjis/ucr Uniform Crime Reports: Publications & Queriable Statistics, "State of Connecticut Department of Public Safety," February 2013. http://www.dpsdata.ct.gov/dps/ucr/ucr.aspx ; Tennessee Bureau of Investigation, "Tennessee Crime Statistics," February 2013. http://www.tbi.tn.gov/tn_crime_stats/stats_analys.shtml

PART 5: BRIEF DATA ANALYSIS OF 'TOP PERFORMERS'

CONNECTICUT

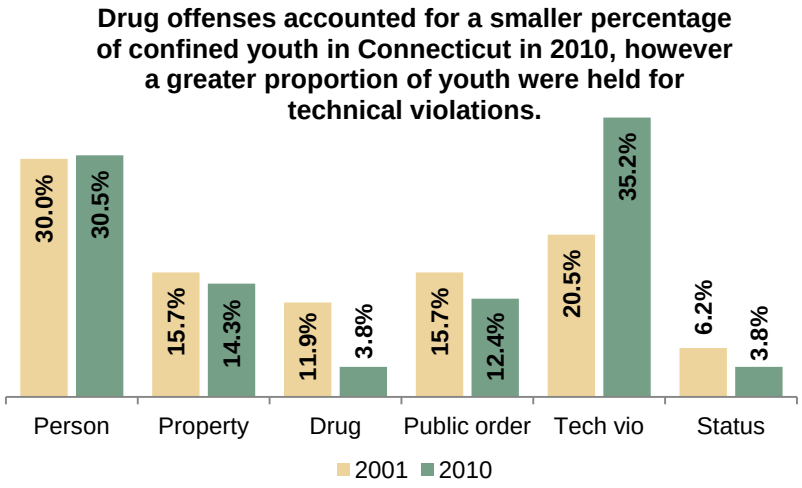
The number of young people confined in Connecticut in 2010 was about 40 percent of what it was in 1999. Those numbers dropped by 20 percent–from the high of 783 in 1999 to 680 in 2001–then leveled off for a few years. Between 2003 and 2010 the number of youth confined decreased by half to 315.



Connecticut's significant decreases can mostly be attributed to a concerted statewide effort to change the culture of juvenile justice in the state, sparked by a 1999 civil rights lawsuit and subsequent settlement. Following that, Connecticut formed high-level collaborative commissions and task forces to ensure compliance with the reform agenda and facilitate communication between agencies and partners. The state was also able to take advantage of the existing organizational structure of a juvenile justice system partnered with child welfare services to enhance wraparound care services and to refocus its programs on evidence-based models such as multisystemic therapy (MST) and restorative justice interventions.

The numbers of committed and detained youth both fell during the period, however the proportion of detained youth within all those confined

CT	Total	Commitment	Detention	Shock
2001	630	**483**	**147**	**0**
	Percent of total	76.7%	23.3%	0.0%
2010	315	**183**	**129**	**3**
	Percent of total	58.1%	41.0%	1.0%



increased from 23.3 percent of confined youth in 2001 to 41 percent in 2010.

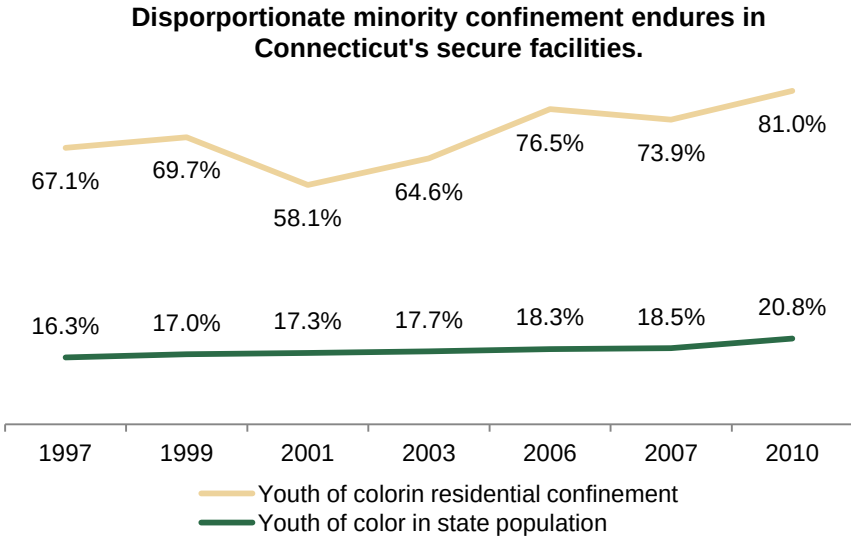
Connecticut's confinement reduction applied fairly evenly to the 'person' and property' offense categories, maintaining a similar distribution in 2010 as in 2001. However, there was an increase in the percent of youth confined for technical violations–breaking a court-ordered condition such as probation–and, in 2010, more than a third of all confined youth in Connecticut were held for such a charge.

Despite laudable progress in reducing overall confinement in the state, Connecticut's youth of color are confined at a higher rate than in previous years. As of 2010, 81 percent of the confined youth population was of color, while representing only about 20 percent of the state's youth population.

The number of young people arrested in Connecticut fell by 32.4 percent between 2001 and 2010, outpacing the national decline of 27 percent. This decrease, a reflection of progressive, systemic reforms in how the state treats young people in contact with the justice system, allowed reformers to capitalize on a less-burdened system to achieve greater gains.

TENNESSEE

During the time period covered in this report, Tennessee decreased its youth confinement by 55 percent. However, if we examine the trend in confinement beginning in 1997, the state has reduced confinement by nearly 63 percent, dropping from 2,118 youth confined in 1997 to 789 in 2010. As with the other 'top performers,' such an astounding shift can be attributed to a convergence of factors in the state's juvenile justice system.



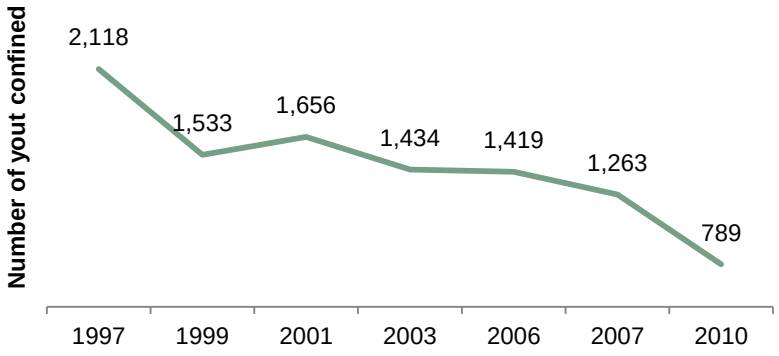
Source: OJJDP, "Easy Access to Juvenile Populations: 1990-2011," February 2013. http://ojjdp.gov/ojstatbb/ezapop/.

First, a restructuring in 1996 coupled Tennessee's juvenile corrections department with child welfare services, enabling better access to health and treatment services for court-involved youth. Then, in 2000, a civil rights lawsuit against the state's child welfare system brought sweeping changes. As conjoined agencies, it is very likely that the procedural and cultural reforms brought on by the suit had a collateral impact on the correctional half of the agency. In fact, a Deputy Commissioner in the department stated that, about ten years ago (circa 2002) "there was a clear message that there was going to be a change in culture."[49] The department then began to forge and strengthen relationships with community-based service providers and increase the resources that would allow youth to be served at or close-to-home. Also at that time a state forecast recognized that a plan to build more secure facilities for young people was neither necessary nor advisable. That plan was replaced with one that promoted community-based care over state commitment.

TN	Total	Commitment	Detention	Shock
2001	1,656	**1,410**	**237**	**9**
	Percent of total	85.1%	14.3%	0.5%
2010	789	**594**	**189**	**6**
	Percent of total	75.3%	24.0%	0.8%

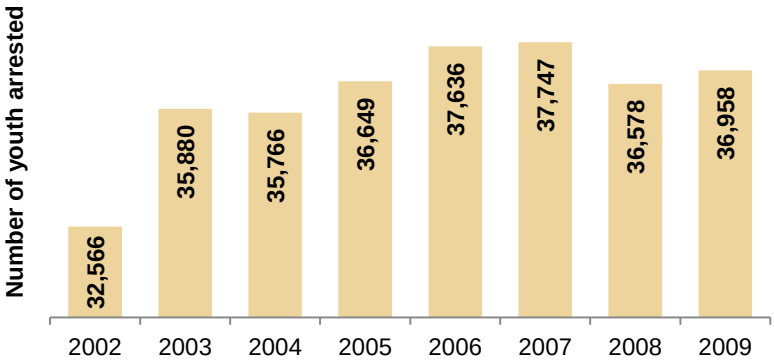
The state is another that continues to see disproportionate numbers of youth of color in its juvenile justice system. Despite comprising only 21.8 percent of the population, African-American youth in Tennessee made up over half (54.4 percent) of confined youth in 2010, an increase from 47.5 percent in 2001.

Apart from a bump in 2001, youth confinement inTennessee has steadily decreased since 1997.

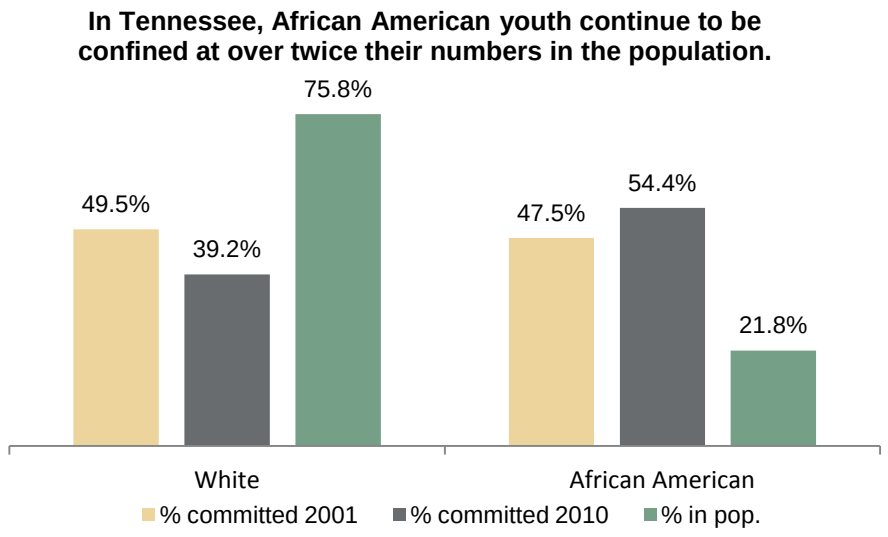


Other states have been able to capitalize on a decrease in youth arrests in realizing systemic reforms, but Tennessee has not experienced the same reduction. In fact, between 2002 and 2009 (the years for which quality data was available), the number of young people arrested increased. Tennessee's experience is a good example of how lower arrest rates may be helpful in achieving reform, but are not essential.

In contrast to other states, Tennessee's juvenile arrests have increased in recent past.



Tennessee Bureau of Investigation, "Tennessee Crime Statistics," February 2013. http://www.tbi.tn.gov/tn_crime_stats/stats_analys.shtml

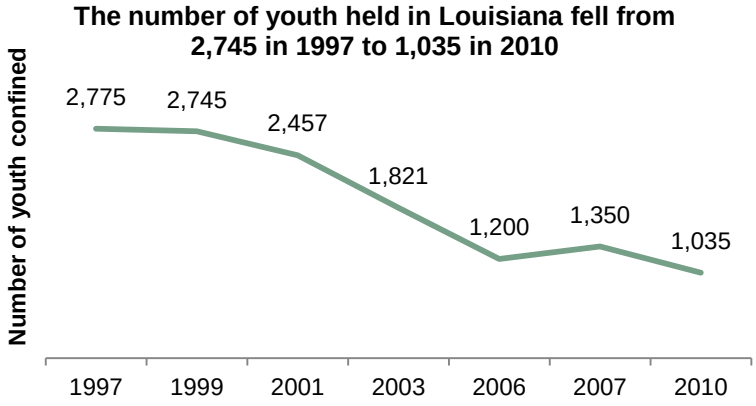


The offense types for which youth were held in confinement did not significantly change, apart from drug offenses. In Louisiana, the percent of youth held for drug offenses decreased from 10.9 percent in 2001 to 5.5 percent in 2010. These decreases also resemble the national-level changes.

Despite a significant decrease in youth confinement between 2001 and 2010, the disproportionate representation of minorities–in Louisiana, particularly African American youth–increased during the period. The ratio of white youth to African American youth in the general population remained mostly the same over the decade, with white youth making up roughly 60 percent of the youth population and African-American youth counting for around 40 percent. However, in 2001, African American youth made

LOUISIANA

In 2001, Louisiana had the third highest juvenile confinement rate in the nation at 505 youth per 100,000. With such a high baseline rate, it seemed likely that Louisiana would show a reduction by 2010. The state was able to lower its rate to 239 in 2010, making it only the nineteenth highest for that year and representing a 52.7 percent decrease in its rate of confinement.



Within the 52.7 percent drop, the bulk can be attributed to a decrease in post-adjudicated, committed youth. There was a much smaller drop, a -34.7 percent change, in detained youth. In fact, the percent of detention cases with all confined youth increased from 23.4 percent to 32.2 percent. This mirrors the national experience.

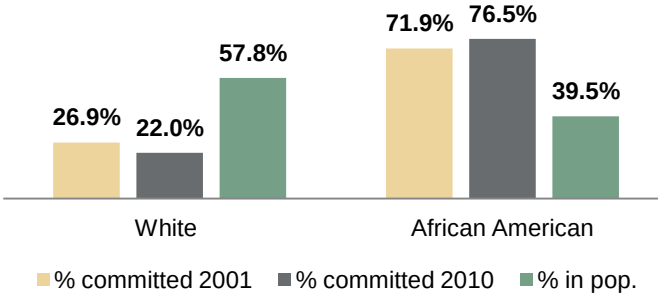
LA	Total	Commitment	Detention	Shock
2001	2,457	1,857	576	241
	Percent of total	75.6%	23.4%	1.0%
2010	1,035	687	333	15
	Percent of total	66.4%	32.2%	1.4%

From 2001-2010, confinement fell for drug offenses but remained mostly unchanged for person and property offenses in Louisiana.

up 71.9 percent of all confined youth, compared to 26.9 percent for whites. By 2010, the African American share of confined youth had risen to 76.5 percent, and white confinement dropped to 22 percent of the total.

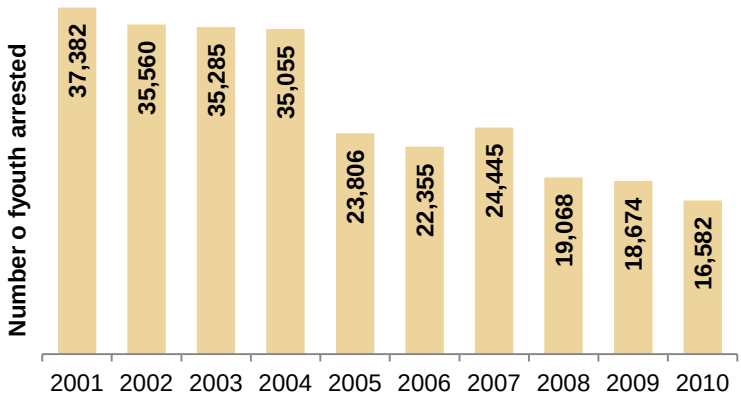
During the period, arrests of young people fell by 55.6 percent, a change greater even than the 52.7 percent change in juvenile confinement. However, Louisiana's success in reforming juvenile confinement was not the static result of fewer cases at the front end of the juvenile justice system. Rather, it represents the commitment and collaboration of many key players and departments as well as a sense of urgency driven by deplorable conditions within the state's institutions.

In Louisiana, the proportion of committed African American youths increased between 2001 and 2010.



Because of Louisiana's involvement in the Models for Change initiative, the state's methods and successes have been tracked and documented thoroughly. The following timeline is a simplified description of activities that played a role in helping Louisiana reduce its population of confined youth.

Juvenile arrests in Lousiana fell by more than 50 percent, from 2001 to 2010.



Source: OJJDP Juvenile Arrests Series. http://ojjdp.gov/ojstatbb/crime/jar.asp

Timeline:

1995 Human Rights Watch report critical of confinement conditions

1998 DOJ and JJPL lawsuit charging Office of Youth Development (OYD) with "chronically abusing and mistreating its incarcerated juvenile population"[50]

> A court-appointed expert, after a 1999 inspection, wrote of Tallulah's teen inmates: "If we can't control them and make some difference in their lives now, God help us when we meet them on the street."
>
> Source: "Louisiana shuts down youth prison -- Move comes after decade of abuse allegations," CNN, May 27, 2004. http://www.nospank.net/n-m20r.htm

2000 Suit settlement agreement, subsequently amended in 2003 and 2004

2001 State legislature created the Louisiana Juvenile Justice Commission (JJC)

2003 Legislation passed intended to, among other things: close one of the state's most notoriously abusive facilities, restructure the juvenile justice system to develop community-based interventions, better fund juvenile indigent defense and create a juvenile justice planning and coordination board[51]

2004 Separation of Youth Services from Correctional Services; creation of Children and Youth Planning Boards in each judicial district

2005 OYD released strategic plan, emphasizing contemporary evidence-based best practices

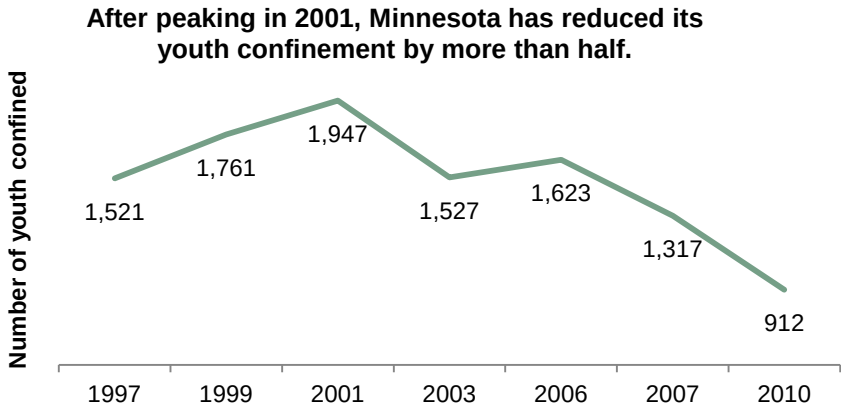
2006 State joined JDAI project

2007 MacArthur Foundation funded survey showed broad public support for juvenile justice reform

2009 Introduction of a therapeutic model at the Jetson Center for Youth in 2009[52]

MINNESOTA

Minnesota's decline in youth confinement, more than half since 2001, is all the more interesting because the state experienced no obvious catalyst to drive such change. There was no lawsuit forcing the reform of over-crowded or poorly run facilities and no major changes to state's juvenile justice organizational structure.



According to juvenile justice professionals and advocates in the state, the reduction was likely the result of two factors: decreasing youth arrests and significant changes to Minnesota's juvenile statutes as part of the state's 1999 crime bill.

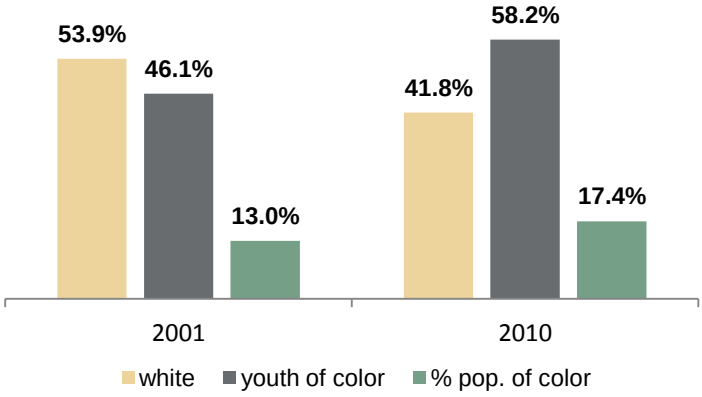
MN	Total	Commitment	Detention	Shock
2001	1,944	**1,557**	**333**	**54**
	Percent of total	80.1%	17.1%	2.8%
2010	912	**681**	**210**	**21**
	Percent of total	74.7%	23.0%	2.3%

Overall, the number of young people arrested in Minnesota fell by 35 percent from 2002 to 2010, a change slightly greater than the national average. Minnesota's declining arrests may also have been lowered through a change in how young people were processed for certain offenses, following an update to the state's statutes in 1999.

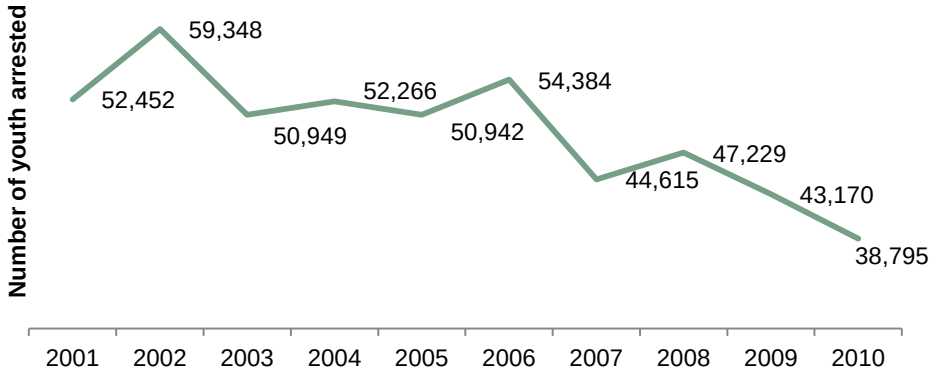
Those changes effectively decreased the pool of arrested youth who would be eligible for detention or commitment by expanding the list of offenses considered 'petty misdemeanors.' The new list included many charges that would be considered misdemeanors if the accused were an adult. Since youth charged with petty misdemeanors cannot be detained or committed according to Minnesota law, confinement rates dropped as a result of the revised statutes.[53]

Minnesota lowered youth confinement fairly evenly compared to other states, showing only a slight increase in the percent of confined youth who were awaiting adjudication, up from 17.1 percent in 2001 to 23 percent in 2010. Like other states profiled in this report, minority youth continued to be confined at a disproportionate rates as the overall rate of juvenile confinement fell.

Youth of color continue to be confined disproportionately in Minnesota in 2010.



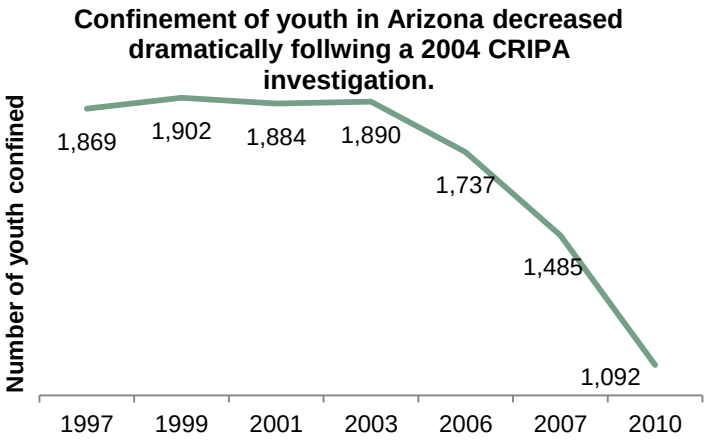
In Minnesota, juvenile arrests fell 35 percent from their peak in 2002.



Source: Federal Bureau of Investigation, "Uniform Crime Reports," February 2013. http://www.fbi.gov/about-us/cjis/ucr

ARIZONA

The graph shows a steady decline in the confinement rate in Arizona following a 2004 CRIPA investigation that found unconstitutional and abusive conditions in some of Arizona's youth facilities.



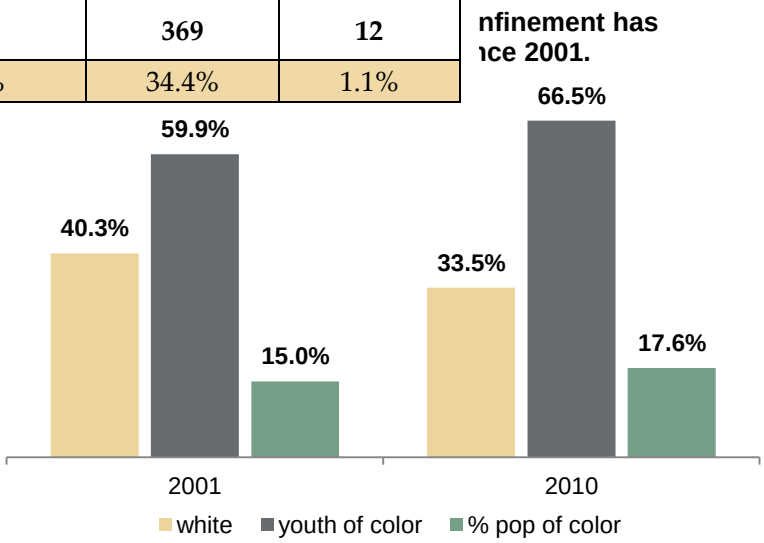
According to state advocates, after the investigation, judges were reluctant to send youth to the facilities because of the recognition that they were substandard or even dangerous. Add to this sentiment a concerted effort by the governor and the Department of Juvenile Corrections to improve community-based services and access to care and the stage was set for a drop in confinement.

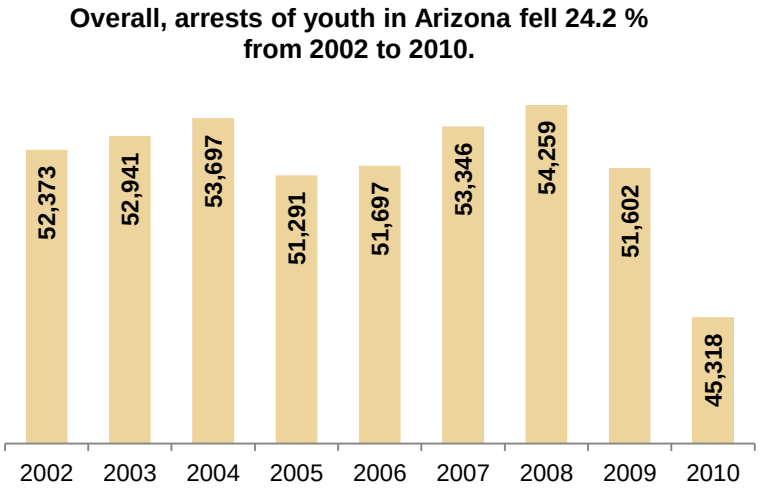
AZ	Total	Commitment	Detention	Shock
2001	1,881	**1,128**	**747**	**6**
	Percent of total	60.0%	39.7%	0.3%
2010	1,074	**693**	**369**	**12**
	Percent of total	64.5%	34.4%	1.1%

The Governor's Task Force on Juvenile Corrections Reform was instrumental in coordinating the changes necessary for shifting from a reliance on confinement to a focus on local services and evidence-based practices. All these factors were likely enhanced by a 25 percent drop in youth arrests during the period, slightly lower than the national average.

Of the five states examined in this report, Arizona is the only one that reduced the proportion of detentions within all confined youth during the period. With detained youth accounting for 34.4 percent of all youth confined in 2010 however, the state is still above the national average of 29.1 percent.

As seen in other states, decreases in youth confinement have not been borne evenly across racial groups. In Arizona, despite comprising only 17.6 percent of the youth population, young people of color are confined at nearly four times that rate, accounting for two-thirds of all securely held youth. This disparity increased from 2001.





The Federal Bureau of Investigation, "Uniform Crime Reports," February 2013. http://www.fbi.gov/about-us/cjis/ucr

PART 6: RECOMMENDATIONS

The national trend to confine fewer youth for the suspicion of or adjudication for breaking the law is good news for young people and for juvenile justice systems across the country. The experiences of five states that have reduced juvenile confinement in recent years provide lessons for other jurisdictions seeking the same result. The Justice Policy Institute recommends the following:

1. **Consider the legal route**. Many of the most effective reform movements have begun through the process of settling litigation. If a case can be made against poor conditions or unconstitutional treatment, advocacy organizations have it in their power to kick start reform by litigating changes in practice.
2. **Create or re-energize existing juvenile justice commissions or cabinet-level task forces** that will promote collaboration and communication amongst stakeholders.
3. **Utilize experts for technical assistance**. Initiatives such as the John D. and Catherine T. MacArthur Foundation's Models for Change and the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative are designed to help states coordinate reform and tailor it to their unique situation.
4. **Promote the American juvenile justice ideal of treating young people differently than adults.** States need to use developmentally appropriate, therapeutic interventions rather than harsh punishment.
5. **Recognize opportunities to push change**. The top performing states were able to capitalize on litigation-driven reforms and falling arrest rates to shift their systems from confinement-heavy to ones that favor treatment and the least restrictive sanctions.
6. **Address issues that may be collateral to confinement reduction.** The problems of pre-adjudication detention and the disproportionate confinement of youth of color should not be neglected in a state's reform strategy.
7. **Utilize the experience and lessons learned from states that have reduced youth confinement**. The methods of reform are many: fiscal architecture reform, statutory changes, organizational restructuring or a combination of all of the above and more. Through research and collaboration, states can craft a unique reform strategy that is relevant to their circumstances.
8. **Establish a richer data repository**. The data used for this report came from the OJJDP EZACJRP data set. These data suffer from major limitations of scope and accuracy. The OJJDP should improve the data for better tracking and analysis of youth incarceration and out-of-home placement.

Note: Unless otherwise noted the source for all graphs and tables is: Easy Access to the Census of Juveniles in Residential Placement, http://www.ojjdp.gov/ojstatbb/ezacjrp/.

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Spike has also worked at the Department of the Attorney General of Hawai`i evaluate a variety of criminal and juvenile justice initiatives and oversee the collection of data for the Uniform Crime Reports. Spike holds a Master of Education from Bowling Green State University and a Master of Arts from the University of Hawai`i.

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