
Appropriate Housing for Youth in State Custody

FOLLOW UP PRESENTATION TO THE LEGISLATIVE COMMITTEE ON
CHILD WELFARE AND JUVENILE JUSTICE'S TASK FORCE TO STUDY
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Re-Cap

of ACLU presentation at March 27, 2014 Task Force Meeting

Concerns with Collocation Concept

Where “collocation” = NDOC building on Red Rock property with youthful offenders housed and supervised by NDOC, separate from juvenile offenders supervised by R.O.P.

- Extreme decrease (from 50 to 14) in youthful offenders since 2008 does not warrant (\$15 million) investment.
- Youth under 18 are developmentally the same, regardless of crime – should be individually assessed.
- Differing philosophies for detention between adult corrections and juvenile rehabilitation. (Rehabilitation v. penal institution.)
- Lack of current data to inform decision making on how big to build (see Annie Casey Baltimore bed space forecast, provided at previous Task Force meeting).

Preference for Transfer Concept

Where transfer = “commingling” of juvenile and youthful offenders in the current Red Rock facility, without building a separate NDOC property (female youthful offenders could be transferred to Caliente, for example; “commingle” does not necessarily mean “co-ed.”)



- Immediate compliance with PREA by transferring youth in NDOC custody to existing juvenile facilities.
- Investment money could be spent on programming, staff training, and staffing (Missouri model) instead of infrastructure and facilities.
- If our goal is limit system involvement of youth, we should not build additional facilities and create more bed space.

Examples of States with Transfer Provisions

Oregon requires transport of all adult offenders 18 and under directly to Oregon Youth Authority for intake, by statute. If the OYA deems that the youth can benefit from their services and have no behavioral issues, they can remain with the OYA until the end of their sentence. DOC policies outline the transfer provisions and outline if and when youth are returned to custody. These provisions have developed over nearly 20 years.

Washington, for ten years, has had two facilities housing both juvenile offenders and youthful offenders, with no sight or sound separation between populations. An “Interagency Agreement” (MOU) outlines the shared transfer provisions, while separate Juvenile Rehabilitation Administration (JRA) and DOC policies and regulations outline relevant internal procedures.





Updates and Follow Up

to ACLU presentation at March 27, 2014 Task Force Meeting

Commingling is OK

In February of 2008, the DOJ Office of Juvenile Justice and Delinquency Prevention (OJJDP) released a memo (provided to Task Force today), stating:

- 1) “Adult inmate” means an individual who has reached the age of full criminal responsibility under state law and has been arrested and in custody for or awaiting trial on a criminal charge or has been convicted of a criminal offense.
- 2) Youth who are transferred, certified or waived to the adult criminal justice system may be held in a juvenile facility until the they reach the maximum age of extended juvenile jurisdiction (age 21 in Nevada).
- 3) Youth with adult criminal charges or convictions may be held with youth with juvenile court adjudications without sight and sound separation.

Model: Washington

Conversation in April with administrators from WA JRA (who are open to speaking with NV legislators and administrators):

- From 300-370 youth in juvenile facilities at one time
- Integrated youthful offenders (from 20-40 youth) from beginning; only difference is that they are on a roster known only to staff
- Generally, youthful offenders are first time commitments, and typically are better behaved than juvenile offenders; initially more transfers back to DOC, but has steadily decreased
- Infraction/disciplinary hearings held at the juvenile facilities
- If youthful offender will transition to adult facility (at age 21), 6 month transition period to prepare
- Funding for juvenile facility from adult corrections is based on caseload (usually an annual forecast), and DOC pays for enhancements like additional security guards, extra legal issues, and extraordinary medical costs

Model: Oregon



All Youth Who Spent Any Time on TROY				
	Average Age at Start	#	% of Total	% of Disposition
DOC	19.7	71	45.5%	
African American	19.5	25		35.2%
Asian	19.2	1		1.4%
Hispanic	19.5	22		31.0%
Native American	19.4	3		4.2%
Other/Unknown	25.0	1		1.4%
White	19.8	19		26.8%
YCF	18.0	85	54.5%	
African American	18.2	14		16.5%
Asian	15.7	1		1.2%
Hispanic	17.7	30		35.3%
Native American	19.0	5		5.9%
White	18.2	35		41.2%
Grand Total	18.8	156		

The Assistant Director of the Oregon Youth Authority, Phillip Cox, provided us with this recent data. He states, “Given that our facility population is about 50% DOC and 50% juvenile, the data shows that DOC youth actually had fewer disciplinary placements in TROY [higher security unit] than juvenile offenders.”

Model: Oregon

All Male DOC Youth Who Were Committed to OYA and Released from OYA or DOC to Community from 1/1/2005 through 12/31/2008						
		#	Expected Recidivism Rate (Average ORRA Scores)	Actual 36 Month Recidivism Rate	% Difference	
DOC Male Youth Returned to DOC for Problems and Released from DOC	Top 25% (Highest Risk)	33	56.0%	51.5%	-8.0%	
	Remaining 75% (Lower Risk)	35	18.3%	37.1%	102.7%	***
	Total	68	36.6%	44.1%	20.5%	*
DOC Male Youth Released from OYA Close Custody	Top 25% (Highest Risk)	44	51.7%	36.4%	-29.6%	**
	Remaining 75% (Lower Risk)	197	15.8%	15.7%	-0.6%	
	Total	241	22.3%	19.5%	-12.6%	**
* p < .05; ** p < .01; *** p < .001						

Higher Risk DOC youth who returned to DOC for problems recidivated 8% less than expected.
Higher Risk DOC youth who stayed at OYA recidivated 30% less than expected.

Lower Risk DOC youth who returned to DOC for problems recidivated 103% more than expected.
Lower Risk DOC youth who stayed at OYA recidivated at the expected rate.

Overall, DOC youth who returned to DOC for problems recidivated 21% more than expected.
Overall, DOC youth who stayed at OYA recidivated 13% less than expected.

Model: Oregon

OYA utilizes a two-tiered “Recidivism Risk Assessment” to determine where youth are placed within their facilities, which treatment to engage, and what levels of supervision to provide. Two Research Briefs outlining these assessments have been provided to the Task Force. (There is also a full 26 page study which can be provided to the Task Force upon request.)



OYA does not classify and house youth according to their conviction; rather, they utilize these assessments as a tool to reduce recidivism, increase public safety, and properly place the youth.

Research Brief

OYA Recidivism Risk Assessment

As the state's juvenile corrections agency, the Oregon Youth Authority (OYA) is responsible for youth who cannot safely live in the community and provides supervision and treatment opportunities to youth offenders throughout Oregon. Recidivism—relapsing into criminal behavior—is the key measure of the extent to which OYA services have been able to protect the public.

The ORRA Model

The OYA Recidivism Risk Assessment (ORRA) predicts the likelihood a youth will recidivate with a felony conviction or adjudication within 36 months of commitment to probation or release from OYA close custody.

A mathematical equation that relies solely on data collected as part of standard practice on all youth with records in Oregon's statewide Juvenile Justice Information System (JJIS), ORRA quantifies the relationship of those factors that were found to be most closely associated with recidivism. Of the 12 predictor variables included in the ORRA model, the only factor that reduced the likelihood of recidivating was a current sex offense disposition. The presence of all other factors increased the ORRA score.

The ORRA equation, which has been programmed into JJIS, produces a numeric score between 0 and 100. An ORRA score near zero indicates the youth is very unlikely to recidivate, while a number near 100 identifies the youth as highly likely to recidivate.

Developed on a large dataset of youth records from JJIS, the ORRA model is tuned specifically to predicting recidivism risk among Oregon's youth offenders. ORRA recidivism risk scores can be generated automatically for youth in any of the following population groups:

ORRA MODEL: RECIDIVISM PREDICTOR VARIABLES	
Prior felony drug or alcohol referral	
Prior weapon offense referral	
Age at start tracking (This is the age at the youth's release from close custody or the start of probation)	
Prior criminal mischief referral	
Total prior misdemeanor referrals	
Total prior theft referrals	
Prior delinquency adjudication	
Total prior drug or alcohol referrals	
Current sex offense disposition	
Total prior runaway referrals	
Total prior felony referrals	
Male	

Model: Oregon

“Housing youthful inmates in juvenile facilities can be achieved without disruption. Since youth convicted of adult crimes have been housed in Oregon’s juvenile detention facilities, the number of fights has decreased, not increased, as some staff had feared.” National PREA Resource Center webinar.



Fights and Assaults Since the 2008 Multnomah County Resolution

Year	# Fights/Assaults
2008	53
2009	39
2010	49
2011	34
2012	24

Source: Department of Community Justice, Multnomah County (2013)

Model: Indiana

- “Similarly, in Indiana, although the process has been in place for only a short time [3 months at time of this quote], youth who have been transferred to the juvenile system fit in with the other juveniles at the facility, and are yet to be involved in any serious incidents.” National PREA Resource Center “Youthful Inmate” webinar, June 2013.
- HB 1108 provides judges discretion to suspend an adult sentence imposed on a youthful offender and order instead that the youth be placed in a juvenile facility. (A copy of the bill has been provided.)
- When the youth reaches 18, court holds a review hearing regarding continued placement, discharge from sentence, execution of remainder of sentence in adult facility, home detention, community corrections, probation, or other appropriate alternative sentencing. (Section 5.)

Model: Idaho

Conversation in June with administrator from an ID juvenile detention center (who is open to speaking with NV legislators and administrators):

- Default under ID law is prosecution as a juvenile with waiver provisions permitting adult prosecution (ID Statute 20-508), except for enumerated crimes (20-509)
- If prosecuted as adult, may be held as an adult or, “juveniles being treated as adult offenders...may be housed in a juvenile detention center if so ordered by the court. Such juveniles may be housed in the general juvenile population without sight and sound separation....” (ID Statute 20-518)
- In practice, most judges send all youth to juvenile facilities without formal order or motion
- In 21 years, only 2 cases where juvenile administrator did not want to integrate youthful offender: one deaf/mute youth and one with extreme mental illness (he noted that handling mental illness is a much bigger problem than integration)

Model: Missouri

Information taken from “The Missouri Model: Reinventing the Practice of Rehabilitating Youthful Offenders,” The Annie E. Casey Foundation, 2010.

In the Missouri model, youthful offenders (those who have been charged with adult crimes) remain in the custody of Missouri Division of Youth Services.



population overview

1,250+ youth committed to DYS custody each year; over 2,800 served

- 82% male; 18% female
- 45% 16 and over
- 66% from metro areas
- Age of young people served ranges from 10–21
- 75% from single-parent (57%) or step-parent families (18%)

Committing offenses

- 51% felonies*
- 38% misdemeanors
- 11% juvenile offenses

Educational disability and mental health conditions

- 34% educational disability
- 49% prior mental health condition; 38% with an active diagnosis

*As detailed in the sidebar on p. 8, many DYS youth whose committing offense is a misdemeanor or juvenile offense have previously been adjudicated for felony offenses. Overall, 64 percent of DYS youth have a history of felony offending.

Model: Missouri

Whereas most youth confined in state juvenile correctional facilities nationwide are housed in institutions with more than 150 beds, the largest of Missouri's 32 residential youth corrections programs has only 50 beds.



Rejects “correctional coercion” in favor of increased staffing (“double coverage” to address needs of secure care facilities) and enhanced staff training. (See excerpt from this 60 page report, relevant to this issue, provided to the Task Force today.)



Clarification: Maryland

Waxter Detention Center in Laurel, MD

Collocated three units, with different levels of offenders segregated into each unit, operated on same site, but with attempt to keep separate rules and policies. Problems:

- Confusion for staff and youth resulting from challenge of keeping different rules and missions straight
- Staffing shortages solved by moving staff between programs without juvenile-appropriate training to adult corrections staff
- Less secure units became heavily influenced with rules of most secure unit

Transferring youth OUT of Baltimore County Detention Center

Fall 2013 proposal to build a new facility for youthful offenders prompted the move of youth FROM this adult jail TO juvenile detention. Concerns about upticks in violence were not warranted; the transferred youth (through consent motion in court) are some of best behaved in the juvenile facility. Casey Foundation prepared a bed report, based on local evidence, so that the facility, if built, would be right-sized.

Illustrative Example: Colorado

Colorado has a program called Youth Offender System that is a medium security prison built in 1994 for 14-17 year olds who have been tried as adults. A 2009 law expanded the YOS to admit young people who were 18 or 19 at the time of the crime and under 21 at the time of sentencing. This legislation was re-enacted in 2013.



The Colorado Juvenile Defender Coalition did a report on YOS and found, among other things, that the facility was offering deficient mental health treatment, lacked evidence-based programming, lacked gender specific programming and lacked stringent recidivism measures.

Data: Bed Space Forecast

As mentioned, Maryland engaged the Annie E. Casey Foundation to prepare a report entitled “Bed Space Forecast for Baltimore Youth Detention Facility.” This 2011 report was provided to the Task Force at the March 27 meeting, but the following points from that report are worth noting:

- The State had conducted a 2007 forecast that was not as inclusive of all data as it should have been; this earlier forecast was found to overestimate the number of beds needed in a new facility.
- This report demonstrates that its own forecast of 117 beds could be reduced by well over 50%, to as low as 44 beds, were reforms were put into place.
- If more than one of these types of reforms were put into place, the size of the new facility could be reduced still further, all while maintaining public safety, reducing costs, and improving outcomes for arrested youth.

Data: Cost Benefit Analysis

A 2014 Vera report, “Advancing the Quality of Cost-Benefit Analysis for Justice Programs,”* concludes with these recommendations, among others:

- Include taxpayer and victim perspectives, at minimum, in an analysis.
- Assess impacts beyond those to the criminal justice system.
- Use appropriate cost figures, being careful to use marginal costs rather than average costs for policies.
- Apply sensitivity analysis; the study should present a range of possible scenarios and explain the likely outcomes.
- Document thoroughly the assumptions, decisions, sources, data, methods, and calculations that went into conducting the study.

* The Task Force has been provided with an excerpt of the 50 page study. Full study is available at the National Juvenile Justice Network web site.

Recommendations

- Engage in thorough and inclusive cost-benefit analysis, considering all current juvenile detention facilities within the state as options, potentially with a technical assistance provider, in tandem with potential reforms.
- Talk with administrators and visit facilities in other states to gain an understanding of policies in application.
- Pursue drafting of a MOU between NDOC and juvenile facilities to allow transfer of youthful offenders out of the custody of the adult corrections system immediately.
- Draft legislation that meets the goal of treating kids like kids and offers more alternatives to detention, lessening our commitment population and impacting our need for future bed space.
- Invest in programming and staff training at a higher rate than infrastructure.