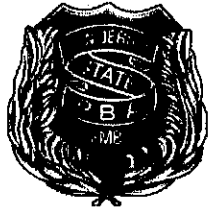


APPENDIX



New Jersey State Policemen's Benevolent Association

*Testimony of Peter Andreyev
New Jersey State PBA
June 13, 2024*

Thank you Chairman Stack and members of the Committee for this opportunity to speak to you today. My name is Peter Andreyev and I am the President of the 30,000 member New Jersey State PBA. I am joined today by my Executive Vice President Michael Freeman.

We are glad that you are having this hearing today because New Jersey can no longer ignore that we have an ongoing problem with juvenile crime, the use of juveniles by criminal gangs to do their dirty work and a growing mentality among minors that they are untouchable when they break the law.

Before I discuss some underlying problems related to juveniles, car thefts, burglaries and other problems I want to be very clear on our position. I believe there is great value, not only for public safety but morally as well, to do what we can to keep minors out of the criminal justice system. Some teens are forced into crime. Some find it through lack of options in life. And some simply make mistakes. None of us want to see someone spend a lifetime in jail starting at a young age if we can help it.

Deferring juveniles from prison is a worthy goal. But it should not be a policy that fails to address the risks posed by not considering a punishment equal to the crime. Unfortunately, the State of New Jersey has gone too far in one direction in its criminal justice policy over the past decade that we are seeing criminal organizations take great advantage of it.

Some serious crime like car theft and burglaries occur as a crime of opportunity. A car is left running or unlocked. A house left unsecured. Valuables left on a counter in a store unattended. These crimes happen every day.

But what we are seeing Statewide is a coordinated use of minors by criminal organizations and our criminal justice policies do little to aid law enforcement in fighting back.

The vast majority of car thefts that occur in NJ are committed by members of criminal organizations. These groups use juveniles for scouting neighborhoods and to steal the vehicles because there is virtually no chance of detention when they are caught by police, and everyone involved is keenly aware of this fact.

And this is where our State policy becomes an impediment to us. Without the threat of detention we can't effectively build a case against the ring leaders who are adults that pay

the juveniles for each car they steal. The juvenile may be caught but they are right back to the neighborhoods looking for more cars to steal.

And since juvenile crimes are not part of the bail reform scheme when that same individual is caught over 18 the entire process starts from scratch as if they had no criminal record.

And for those who doubt that our hands are tied in this fight I point you to Attorney General Directive 2020-12. This policy essentially mandates the issuance of a Complaint-Summons in Lieu of Complaint-Warrant before a juvenile is immediately released into the custody of a parent, guardian or custodian. Crimes like residential burglary, vehicle theft and eluding are not graded sufficiently for presumption of detention unless there is a firearm present or there is death or serious bodily injury.

The juvenile “employee” who is caught will therefore be released in a matter of hours to return to work causing very little disruption to the car theft business. The social ills that may produce the mindset that car theft is a viable job opportunity are beyond our scope, but criminal investigations often require cooperating witnesses who are interested in self-preservation by providing information about their accomplices to avoid or minimize the consequences they face.

It is universally known that there are no consequences for a juvenile taken into custody that would incentivize them to inform since they must be released within 6 hours in almost all cases under the AG Directive I referenced.

I also don't need to remind any of you that in the last few years we have seen an explosion of disruptions from pop-up parties to underage drinking to mass hysteria on our boardwalks and parks. This is also a direct result of changes

made to the adjudication of minors who are drinking or using cannabis.

As many of you know, we did not oppose the legalization of cannabis for adults. But since the enabling law was passed we have been told time and again that nothing stops a police officer from using their many “tools” to deal with drunk or rowdy minors. I must tell you honestly that whatever tools you think we have the law has simply tied our hands and the result is there for all to see.

For your information, I have been a police officer in Point Pleasant Beach for over 30 years. I was in charge of the Boardwalk for many of those. I have dealt with drunks, crowds, fights and instances of mob mentality. And I am telling you that what is happening now is not normal. What is happening now is a direct result of changes in the criminal justice policy of the State.

I will give you one direct example of what I mean. When cannabis was legalized the law established written warnings for minors in possession of it. Yet the law does not require a minor to show ID to an officer to write the warning. So how do we enforce the law when the same law says we can't enforce it? This is also confirmed by an Attorney General FAQ, updated on March 8, 2021, on the subject that says and I quote "simply refusing to provide identifying information" is not obstruction.

Since that same law says we can't search a minor, can't detain a minor and can't arrest a minor for public use of alcohol or cannabis what exactly are the tools cops are supposed to use to address this situation? Do you think a minor cares about getting a written warning their parents aren't required to see assuming, that is, they provide us ID to write the warning?

These organized groups of kids are not dumb. They know the law says we can't do anything to

them so they gather, drink, things get wild and then all hell breaks loose. The public deserves to not wait until after things have gotten out of control for the police to be able to make arrests or bring minors down to the station to call their parents.

Finally, we need to take a serious look at bail reform. You can pass any law you want after this but under the current bail reform rules none of them will matter. We hear constantly that bail reform is a success.

Well, if the measurement is releasing even dangerous people back to our communities then I guess you can call it a success. My limited time before you does not allow for me to detail many of the areas bail reform needs to be addressed. But I think there are two things to consider.

First, the Criminal Sentencing Commission needs to have representation from rank-and-file

8x

police officers recommended by the State PBA. Our members are the ones dealing with crimes before they ever get to a prosecutor, defender, lawyer or judge. And yet we are excluded from talking about the real-world impact of their recommendations without a seat at the table.

Second, you must seriously consider reviewing the process by which the AOC developed the algorithm that created the Public Safety Assessments used by judges during pretrial detention review. This algorithm was not developed by police, prosecutors or judges but was instead farmed out to the Arnold Foundation, a nonprofit whose anti-cop rhetoric can be found right on their website.

When their approach is centered on comments such as:

“police too often rely on punitive enforcement and unnecessary force”; and,

Jails are full because of “law enforcement agencies that arrest more people for minor offenses and over-police communities of color”

what do think their system to recommend detention or release is going to say? Justice should be blind. Those positions are hardly impartial and the process needs to change as a result.

I can assure you my members have sworn an oath to protect and serve and will continue to do so to the best of their ability. But we can't protect the public when the law and policy of the State is designed to keep us from doing it.

As you know well, the State PBA is first and foremost a resource for you and we will gladly engage in meaningful discussions and analysis to support you in your legislative efforts any time.

Thank you for allowing me to make these comments today.

PROSECUTOR MUSELLA - TALKING POINTS JUNE 13, 2024

Juvenile Justice Talking Points

1. Auto Thefts
 - a. In Bergen County, we have seen an increase in high-end auto theft across the county, but particularly in wealthier towns where expensive cars are more likely to be found
 - b. Regarding Juvenile Justice, there is a noticeable increase in youth either committing the thefts, or being stopped by police in the stolen car
 - i. This is affecting adult cases as well, wherein young adults (18-22 years old) are committing similar offenses – AP Findley has noted a significant increase in these types of offenses over the last 24-36 months, and as a result we have moved for detention in adult cases more often than during the pandemic in an attempt to deter
 - c. The majority of juveniles committing these offenses are from other counties; in Bergen we most often have youth from Essex Co. and Passaic Co. (Newark and Paterson, respectively); this is not to imply that these are the only cities from which we have juveniles, and resident youth are also offending, but the biggest spike are domiciled in those cities.
 - i. The working theory among many officers is that there is someone behind the scenes employing these youth as part of a larger ring, someone who is wise enough to distance themselves from the actual offense and stays “in the shadows;” nearly impossible to prove, but suspected
 - d. Also contributes to increase in 2nd Eluding offense, heightened risk of injury/death to civilians, and to the juveniles themselves
2. Burglary
 - a. Burglary covers a wide range of offense, some of which are stable, some of which are increasing
 - b. “Car door” burglaries
 - i. Entering car for loose change, etc.
 - ii. No significant change
 - c. Home burglaries
 - i. While not many, we are seeing more cases with juveniles entering home to take car keys in order to boost the cars
 - ii. Concern of increased dangerousness because of residential entry
3. What to do?
 - a. To some extent, there is not much to do; since AG Directive 2020-12, there is an intentional push to diversionary programs for youth, and an emphasis to avoid detention/JJC commitment
 - i. Additionally, the pandemic has significantly increased anti-social behavior, even after isolation ended
 1. Many youth who were isolated in 2020/2021 are now teens, and psychologists have confirmed that the pandemic has exacerbated risk-taking and anti-social behaviors that are already present in teen populations, which may be contributing to the rise in certain offense

- ii. Many are concerned that while the purpose of the 2020 reforms were well-intentioned, and do indeed create a net-positive effect on most youth (i.e. they are being diverted from “graduating” to the adult system, we just see the repeat offenders in our work), the population of pseudo professional youth offenders have learned that it takes several offenses and/or high-level offenses to face meaningful consequences
- b. We have to bear in mind that juvenile court, via the Family Division, is intended to be a rehabilitative court, with punitive measures as a last resort. As such, when asked about how to decrease incidents of theft and burglary, a more draconian system of “crime and punishment” via longer detention would not be feasible, as it is not the direction NJ or the country is going, and would shift us back about 20 years
 - i. E.g. NJ is very proud to be the first state to implement statewide Alternatives to Detention (ATD), implemented across the counties over the last two decades; we are a model state for JDAI (Juvenile Detention Alternatives Initiative) used by other states
- c. **Potential Legislative Change that could be useful**
 - i. Amend N.J.S.A. 2C:20-10d
 - 1. This is the “joyriding” statute that we often rely on to prosecute youth in stolen cars (non-drivers)
 - 2. The *mens rea* is “knowing that the motor vehicle has been taken”
 - 3. Adding “knowing that the motor vehicle has been taken, or that a reasonable person should know has been taken” would help in the prosecution of youth who likely were a part of the theft enterprise, but hide behind the veil that they were merely passengers
 - a. Unclear how likely that would be adopted, as this statute has been revised in the past, but might be worth suggesting
 - ii. More funding
 - 1. In Bergen we are blessed with robust county programing, and there are often additional grants we can seek; this is not true in all counties, and while money is often a sticking point with any legislation, the more funding for alternative programing that has supervision, the more change we have of successful diversions
 - iii. Allowing Police to Police
 - 1. The most common complaint in Bergen police departments is that the officers are paranoid to put hand on youth or to even interact; in an age with cell phone recordings, everything on BWC, while accountability is important, many officers fear losing their jobs because of mishandling a youth
 - a. The revision of the deprivation of civil rights to now require an officer to have acted with prejudicial intent was a step in the right direction, but officers are still concerned
 - b. Officers feel they need to be able to seize marijuana from youth, and enforce the prohibition better in public places

- c. Again, unclear what the best steps to do this would be in light of the recent legalization, but youth seem to feel impowered, and that they can no longer face significant consequences is having a trickle down effect for other cases (such as burglary and theft), empowering a sense of impunity

All of these are complicated issues that do not have a single solution. They are, however, trends and concerns that have been voiced in conversations with police over the last several months.

Kloczkowski, Krystyna

From: Musella, Mark
Subject: Juvenile Beds and stats

From: Seth Victor <SVictor@bcpo.net>
Sent: Wednesday, June 12, 2024 8:16 PM
To: Musella, Mark <MMusella@bcpo.net>; Suffin, Heather <HSuffin@BCPO.NET>
Subject: Re: Juvenile Beds and stats

Just FYI if you need Bergen numbers for tomorrow:

We have a 29 bed facility at Bergen JDC, currently licensed to hold 24. We have 11 detained, 13 open beds, but we are temporarily capped at 16 capacity due to staffing shortages.

We are contracted to hold Hudson youth as well, possibly one other county, but I'm not sure.

-Seth

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HUDSON COUNTY

Motor vehicle thefts and carjacking have increased in the past year. Some kids may be doing it based on social media challenges. We have a 13 year old charged with 14 separate incidents of breaking into cars and/or stealing them. Most of the time the cars are found around the same area so he appears to be taking them just for the heck of it.

Possession of weapons and shootings are still happening on a regular basis. But I have noticed that the juveniles do not care about the time of day or who else is around. On May 24, 2024 around 6:30 PM there was a shooting in Berry Lane Park in Jersey City. There were lots of people and kids present at the time of the shooting.

MERCER COUNTY

So if you only need some examples of car thefts these are some of our more egregious cases:

A.P. – 11/4/23 – in a stolen Hyundai, eluded police, smashed into the rear of an off-duty officers truck totaling the stolen car

D.N.M – 12/31/23 – in a stolen car, before police could turn on lights and sirens he sideswiped two cars and then crashed into another car before fleeing on foot (as a side note this kid has 4 additional open complaints for RSP/MV thefts)

N.M.B. – 1/22/24 – in a stolen Kia, before police could turn on lights and sirens car lost control and crashed into a church, patrol cars surrounded the stolen car and as an officer was getting out of the patrol car the juvenile reversed nearly striking him, the juvenile then drove forward striking another patrol vehicle before exiting the vehicle and fleeing on foot

T.M. – 2/19/24 – in a stolen SUV, eluded police at excessive speeds up Route 29, lost control of the vehicle at the circle and crashed into another vehicle causing injury to all 4 occupants of that vehicle

R.H. – 2/21/24 – in a stolen Hyundai, eluded police, ran through an intersection and t-boned another vehicle causing injury to the driver of that car as well as injuries to the three additional juveniles in the stolen car

We also have cases with B.B. and D.S. where they stole a car that was later used in a shooting and Z.C. stole a car that was later used in a homicide. We have also had 4 or 5 carjackings in the past couple of years.

ATLANTIC COUNTY

Atlantic County in crisis with serious and violent Juvenile offenders and a lack of beds to place them when charged and detained.

The Capacity of the local facility is 20 beds.

Presently, Atlantic County has 33 Juveniles detained:

16 detained in our local facility

10 detained in Essex

4 detained in Camden

2 detained in Ocean

Our office and the County met with JJC to expand or facility to address issues raised by having juveniles housed so far from home and the delay in court processing.

JJC resistant to building or adding to existing facility.

Of the 33 detained, 18 are waiver cases with 1st and or 2d degree charges.

Average detention is 209 days.

100% of these Juveniles detained are of color.

These are violent offenders charged with Murder, Attempted Murder, Aggravated assault and car jackings.

Few recent cases:

Murder on Atlantic Ave in AC on Friday night 16-year-old shot and killed a 14-year-old.

15 year old Atlantic County resident committed stabbing on Boardwalk in Ocean City.

In AC this past weekend, 4 juvenile females aged 12, 12, 13 and 14 assaulting police officers attempting to break up a fight.

With the news of all the current pop-up parties and mass gathering of juveniles shutting down community events, this is an issue that needs to be addressed. I would make it clear this isn't the juvenile cases of our youth with kids drinking alcohol or smoking weed. These are violent offenders with

real victims and we need to protect the public and the only way to do so is by detaining those who commit this violence.

JDAI

Juvenile Detention Alternatives Initiative

Atlantic County Council on Juvenile Justice System Improvement Case Processing Subcommittee

Prepared by: Gina S. Blevins MA/MPA
JDAI Research Data Supervisor
June 3, 2024

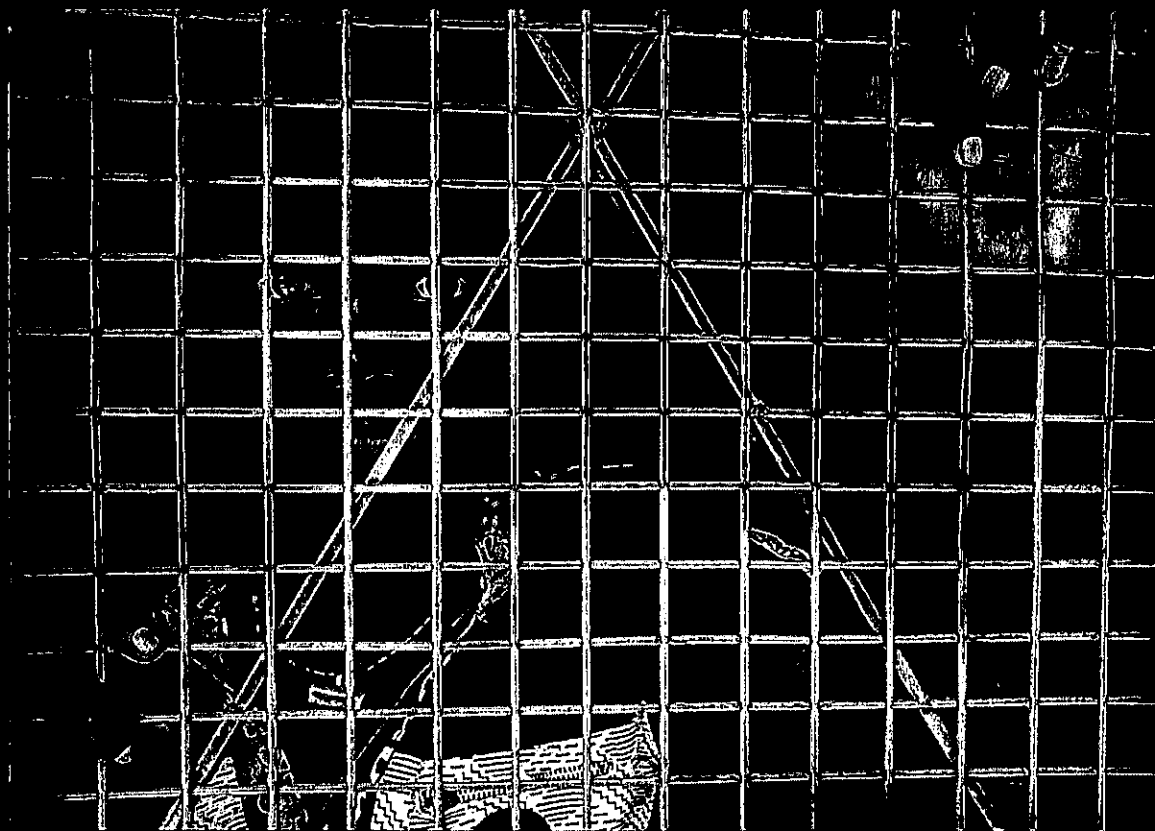
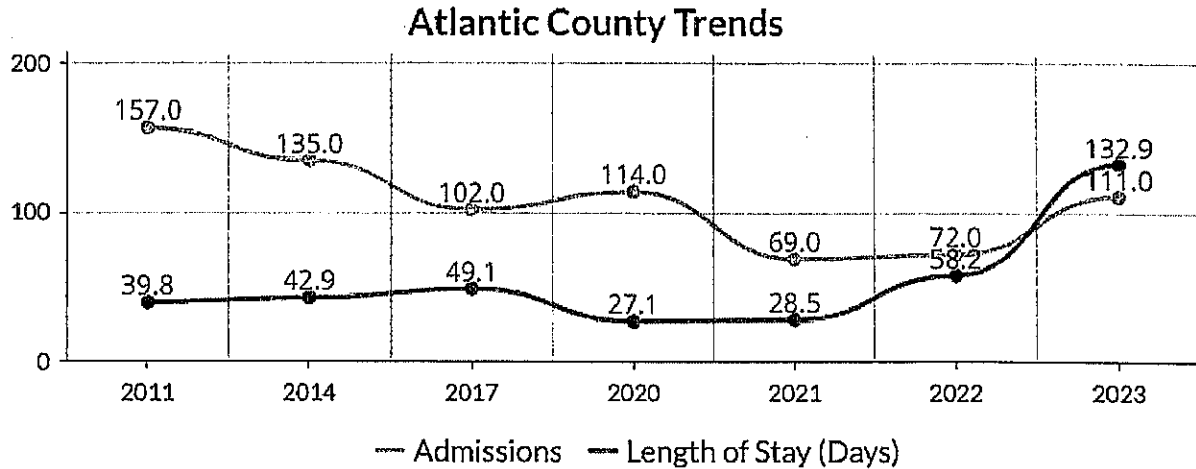


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It's commendable that Atlantic County has been dedicated to JDAI and juvenile justice reform for the past 20 years. The policies and practices implemented by Atlantic County Council stakeholders has made a substantial impact on the lives of many young people and families, and those accomplishments should be recognized and celebrated. As a collective, we also acknowledge that this work is never-ending and continuous improvement is necessary and vital in youth justice reform.

Lengthy stays, whether in detention or on an alternative program, can have significant negative impacts on young people's lives. Addressing delays in case processing is indeed a crucial step towards improving the system. To effectively address these delays, we must analyze the underlying reasons behind them. This may involve examining various aspects of the youth justice process, such as:

Case Management Practices: Evaluate how cases are managed from intake to disposition. Are there bottlenecks or inefficiencies in the process such as multiple delays due to lack of discovery, cases not ready for movement and lack of family appearance/support at court hearings. Are there opportunities to streamline procedures or work with families to ensure youth are supported at each hearing.

Resource Allocation: Assess whether there are adequate resources, including personnel and technology, to handle caseloads efficiently. Are there areas where additional resources are needed?

Collaboration and Communication: Improve coordination and communication among stakeholders involved in the youth justice system, including law enforcement, courts, social services, and community organizations. Enhancing collaboration can help expedite case processing.

Data Analysis: Utilize data analytics to identify trends and patterns in case processing times. This can help pinpoint areas for improvement and guide decision-making.

Community-Based Interventions: Invest in community-based interventions and diversion programs to address underlying issues contributing to delinquency and reduce the need for court involvement.

By taking a comprehensive approach to understanding and addressing delays in case processing, Atlantic County can make significant strides in reducing the length of stay for youth in the juvenile justice system. Continuous monitoring and evaluation of these efforts will be essential to ensure sustained improvement over time.

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Sample Methods

Detention population is a function of two factors - how many kids go into detention and how long they stay. Secure detention and detention alternatives are intended to be short-term placements for certain youth awaiting adjudication and disposition. As such, the primary factor that drives length of stay in detention is case processing time. Working in a data-driven manner to improve case processing efficiency by looking for and eliminating any unnecessary delays, while ensuring due process is a JDAI core strategy. Conducting a thorough analysis focused specifically on case processing delays can provide valuable insights into areas for improvement and develop targeted strategies to enhance the efficiency and effectiveness of the juvenile justice system.

Within Atlantic County, the earliest identified average length of stay for kids' remaining in detention is 28.9 days (Pre-JDAI*). Between 2003 and 2010 average length of stay in detention remained about 25 days (+/- 3 days). However, since 2011 this number has gradually increased with the highest reported length of stay at 58.2 days (2022).

2023 preliminary* data yielded the following:

Detention

- Length of stay through the first period (89.9 days) increased 31.7 days when compared to 2022 (58.2 days) and 61 days when compared to pre-JDAI data (28.9 days).
- 30.4% of youth released during the first period remained in detention through disposition, and release time occurred on average within 178 days. Furthermore, of those youth, 83.3% received a community-based disposition (Probation/JISP).
- 27.0% of youth had a length of stay of 60 or more days.

Detention Alternatives

- Length of stay through the first period (109.7) 8 days when compared to 2022 and increased 69.8 days when compared to the earliest reported detention alternative data (39.9 days / 2008).
- 65.2% of youth were released to an alternative during the first period 2023, and release time occurred on average within 11 days.
- 15.4% of youth had a length of stay in detention of 60 days or longer prior to release on an alternative.
- Of those youth, 83.3% (5 of the 6 youth) received a community-based outcome (Probation/JISP).

The cases illustrated in this analysis represent all youth that remained in detention through disposition and divided as follows for comparison purposes:

Group 1 - Youth that remained in detention through disposition less than 60 days and received a community-based outcome. (n=10 youth)

Group 2 - Youth that remained in detention through disposition longer than 60 days, and received a community-based outcome, in addition to a snapshot of youth that remained in detention longer than 60 days prior to release to an alternative, and subsequently received a community-based outcome at disposition. (detention youth n=8 /alternative youth n=4)

Goals & Objectives

In conducting this analysis, we are seeking to achieve the following as they may relate or contribute to case processing times/length of stay:

- Identify any key demographic similarities and/or differences between the group of youth identified in the analysis.
- Identify key case processing tasks and decision points.

It is anticipated that this analysis will help to show not only what juvenile case specific factors may contribute to overall case processing times/length of stay (such as severity of offense, offense history etc.); but also, the system-specific factors that may contribute to delays. By identifying these points of unnecessary delay, the subcommittee can then strategize on ways to make improvements in the overall process, and in turn improve overall case processing times and length of stay.

*2003 has been identified as Atlantic County's Pre-JDAI Year

** Preliminary data is obtained from the 2023 first period JDAI data report

Findings



Juvenile Specific Characteristics

Initial Demographic Comparison

Table 1. Gender

	LOS<60 Days (n=10)	LOS> 60 Days (n=12)
Male	90.0% (9)	91.6% (11)
Female	10.0% (1)	8.4%(1)

Table 2. Race/Ethnicity

	LOS<60 Days (n=10)	LOS> 60 Days (n=12)
Black	80.0% (8)	83.3% (10)
White	20.0% (2)	0.0%(0)
Hispanic	0.0%(0)	16.7%(2)

Tables 1 and 2 indicate that gender and race, do not show drastic differences in terms of their demographic characteristics. The youth with the longest lengths of stay are primarily male youth of color (91.6%) while female youth of color comprise the remaining 8.4%. On the other hand, the youth with lengths of stay shorter than 60 days vary slightly in terms of ethnicity and gender. While youth in the group are predominantly youth of color (80.0%) White youth comprise (20.0%) and female youth comprise (10.0%) of this population.

Table 3. Age

	LOS<60 Days (n=10)	LOS> 60 Days (n=12)
13-14 Years	10.0% (1)	33.3% (4)
15-16 Years	70.0% (7)	58.3%(7)
17-18 Years	20.0%(2)	8.3%(1)

Table 4. Township of Residence

	LOS<60 Days (n=10)	LOS> 60 Days (n=12)
Atlantic City	50.0% (5)	58.3% (7)
Egg Harbor	10.0% (1)	0.0% (0)
Galloway	0.0%(0))	8.3% (1)
Hammonton	0.0% (0)	8.3% (1)
Mays Landing	0.0% (0)	8.3% (1)
Pleasantville	20.0% (2)	8.3% (1)
Out of State	20.0% (2)	0.0%(0)
Williamstown	0.0%(0)	8.3% (1)

Tables 3 and 4 indicate that age and township of residence do not show drastic differences in terms of their characteristics, regardless of length of stay, the majority of youth are between 15 to 16 years of age (LOS<60 70.0% / LOS>60 58.3%) and reside in Atlantic City (LOS<60 50.0% / LOS>60 58.3%). Slight differences between the two populations of youth in terms of age and township of residence are as follows: For youth with lengths of stay shorter than 60 days, 10.0% of youth reside in Egg Harbor Township, 20% reside in Pleasantville, and 20% reside out of state. For youth with lengths of stay longer than 60 days, 8.3% respectively reside in either Galloway, Hammonton, Mays Landing, Pleasantville or Williamstown.



Juvenile Specific Characteristics

Current Offense/Offense History Comparison



Table 5. Most Serious Current Offense Degree

Degree	LOS<60 Days (n=10)		LOS>60 Days (n=12)	
	#	%	#	%
1st	1	10.0%	0	0.0%
2nd	4	40.0%	9	75.0%
3rd	1	10.0%	1	8.3%
ATD, VOP, FTA	4	40.0%	2	16.7%
TOTAL	10	100.0%	12	100.0%

Table 6. Most Serious Current Offense Type

Offense Type	LOS<60 Days (n=10)		LOS>60 Days (n=12)	
	#	%	#	%
Persons	4	40.0%	3	25.0%
Weapons	1	10.0%	2	16.7%
Property	1	10.0%	1	8.3%
CDS	0	0.0%	1	8.3%
Public Order	0	10.0%	3	25.0%
ATD,VOP,FTA	4	40.0%	2	16.7%
TOTAL	10	100.0%	12	100.0%

Tables 5 and 6 indicate that the youth with the longest lengths of stay are admitted for a second-or-third degree offense (83.3%), with a persons, weapon, public order or non-delinquency* most serious current offense type (83.4%), while youth with the shortest lengths of stay are admitted for either a second degree or non-delinquency related offense (80%), with a person or non-delinquency most serious current offense type (80.0%)

Table 7. Most Serious Prior Offense Degree

Degree	LOS<60 Days (n=4)		LOS>60 Days (n=2)	
	#	%	#	%
1st	0	0.0%	0	0.0%
2nd	1	25.0%	0	0.0%
3rd	0	0.0%	1	50.0%
ATD, VOP, FTA	0	0.0%	0	0.0%
No Prior Adj.	3	75.0%	1	50.0%
TOTAL	4	100.0%	2	100.0%

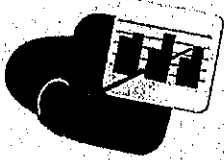
Table 8. Most Serious Prior Offense Type

Offense Type	LOS<60 Days (n=4)		LOS>60 Days (n=2)	
	#	%	#	%
Persons	1	25.0%	0	0.0%
Weapons	0	0.0%	1	50.0%
Property	0	0.0%	0	0.0%
CDS	0	0.0%	0	0.0%
Public Order	0	0.0%	0	0.0%
ATD,VOP,FTA	0	0.0%	0	0.0%
No Prior Adj.	3	75.0%	1	50.0%
TOTAL	4	100.0%	2	100.0%

Tables 7 and 8 examines the most serious prior offense degree and type for youth admitted to detention for a non-delinquency offense. the data indicates that for youth with shorter lengths of stay, 75.0% did not have any prior adjudications at the time of admission while youth with longer lengths of stay were split, 50.0% of youth (respectively), had either a 3rd degree weapons prior offense or no prior adjudication.

* Non-delinquency offenses consist of the following: alternative violation (ATD), violation of probation (VOP) and failure to appear (FTA)

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Juvenile Specific Characteristics

Case Outcomes & Length of Stay



Chart 1. Disposition Outcomes All Youth (2023)
(n=27)

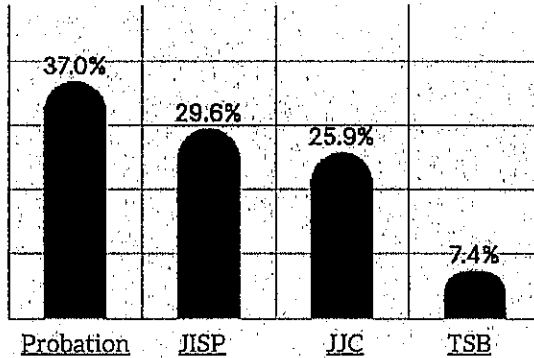


Table 9. Case Outcome for Community-Based Disposition Youth

Disposition	LOS < 60 Days (n=10)		LOS > 60 Days (n=12)	
	#	%	#	%
Probation	9	90.0%	1	8.3%
JISP	1	10.0%	7	91.7%
TOTAL	10	100.0%	12	100.0%

Chart 1 and Table 9 indicate that most youth who remained in detention through disposition received a community-based outcome of probation or JISP (66.7%) while the remaining youth received JJC placement (residential program 25.9% or training school 7.4%). A correlation between length of stay in detention/alternative and disposition type is shown. 90.0% of youth with shorter lengths of stay received probation as a disposition option whereas, 91.7% of youth with longer lengths of stay received JISP as a disposition option.

Table 10. Degree at Disposition

Youth #	LOS < 60 Days		LOS > 60 Days	
	Detained Degree	Dispo Degree	Detained Degree	Dispo Degree
1	1st	3rd	2nd	3rd
2	VDA (1st)	1st	2nd	3rd
3	2nd	2nd	2nd	2nd
4	2nd	3rd	2nd	2nd
5	2nd	3rd	2nd	2nd
6	2nd	DP/PDP	2nd	2nd
7	3rd	3rd	2nd	2nd
8	VDA (3rd)	3rd	VDA (2nd)	2nd
9	VDA (3rd)	3rd	3rd	3rd
10	FTA (3rd)	3rd	VOP	VOP

A potential relationship exists between length of stay, disposition outcome, and degree of offense at disposition. Based on the data, youth with a length of stay of less than 60 days were more likely to receive a term of probation and were disposed on a lesser degree offense than youth whose length of stay was 60 days or longer. Specifically:

Length of Stay less than 60 days:

40% of youth were disposed on a lesser degree offense

Length of Stay greater than 60 days:

20% of youth were disposed on a lesser degree offense

28X

Other Notable Case Study Observations

SUMMARY OF CASES VIGNETTES

Atlantic County's 2023 detention data indicated 8 youth were released from detention to dispositional placement, in addition to 4 youth released from detention to HEDS alternative program after remaining in secure detention for 60 or more days. These 12 youth represent the sample for the present analysis.

The following table provides a summary of case processing timeframes for this population of youth:

Table 10: Aggregate Data for Case Vignettes

	EVENTS	NUMBER OF DAYS		N
		AVG	RANGE	
1	Total Length of Stay in Detention	135.9	64-343	12
2	Total Length of Stay on an Alternative	60.8	28-127	6
3	First Hearing to Second Hearing	18.7	3-39	12
4	Total Case Processing Time	172.3	87-343	12
5	Average Number of Hearings Per Case	10.0	5-15	12

TABLE NOTES

- Row 3 - Reflects days between initial hearing and subsequent hearing date.
- Row 4 - Reflects total length of stay between docket and disposition date. Total case processing time includes length of stay, in detention, on an alternative or in the community with family (parent) prior to detention admission.

ADDITIONAL OBSERVATIONS TIED TO CASE PROCESSING DELAYS

- Discovery not ready/not received.
- Pending additional discovery.
- Waiting for DNA results.
- Attorney not available (1 case).
- Parents did not show up to court on several occasions - guardian ad litem appointed (1 case).
- Multiple requests for HEDS placement denied.

Case Vignettes



Case Processing/System Specific Characteristics

Case Specific Breakdowns for Youth with a LOS Greater than 60 Days

CASE 1.	N.H.	Gender M	Race A	Docket Date	10/12/2022 MSCO	Alternative Violation U/L 2nd Agg. Asslt.	No Prior MSPA Adjudications
Date	Event	Action Taken/Comments				Days Since Last Hearing	
10/10/2022	Incident Date	New Charges - Placed on HEDS					
10/11/2022	Initial Detention Hearing	Completed: Continue on HEDS, Comply with CMO and the One Evolution Program				1	
10/13/2022	Screenings	Intake screening, Judges screening, Pros. Screening:				2	
11/10/2022	Couns Mand Plea	Completed: Remain on HEDS				28	
12/8/2022	Couns Mand Plea	Completed: Remain on HEDS, Comply with CMO, JISP to interview				28	
12/9/2022	HEDS Violation	Youth admitted to detention on HEDS violation				1	
12/13/2022	Couns Mand Plea Hearing	Completed: Youth remanded to detention				4	
1/5/2023	Couns Mand Dispo Hearing	Completed: Remain in detention - CMO Mental Health Evaluation Ordered				23	
1/24/2023	Couns Mand Dispo Hearing	Completed: Remain in detention - CMO to provide psychological evaluation / One Evolution to provide services				19	
2/14/2023	Couns Mand Plea Hearing	Completed: Remain in detention				21	
3/7/2023	Couns Mand Plea Hearing	Completed: Juvenile released from detention/ Disposition: JISP 12 months; cooperate with CMO				21	
Total Time from Incident to Docket Date						2	
Total Detention Time						89	
Total Alternative time						61	
Total Case Processing Time (From Docket to Disposition)						150	

31x

Case Processing/System Specific Characteristics

Case Specific Breakdowns for Youth with a LOS Greater than 60 Days

CASE 2.		Y.S.	Gender M	Race A	Docket Date	3/5/2023 MSCO 2nd Agg. Assault	MSPA	No Prior Adjudications
Date	Event	Action Taken/Comments					Days Since Last Hearing	
3/5/2023	Incident Date							
3/6/2023	New Charges	Youth admitted to detention						
3/7/2023	Initial Detention Hearing	Intake screening, Judges screening, Pros. Screening: Completed: youth to remain in detention						
3/8/2023	Probable Cause Hearing	Completed: Remain in detention						
3/30/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: Waiting on DNA results / request by counsel for HEDS release denied)					22	
4/25/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: Waiting on DNA results / request by counsel for HEDS release denied)					23	
6/1/2023	Couns Mand Plea Hearing	Rescheduled					37	
6/7/2023	Couns Mand Plea Hearing	Completed: Remain in detention					6	
7/13/2023	Couns Mand Plea Hearing	Completed: Remain in detention					36	
7/25/2023	Couns Mand Plea Hearing	Completed: Released to HEDS (Notes: State needs time to finalize offer)					12	
8/1/2023	Couns Mand Plea Hearing	Completed: Continue on HEDS (Notes: Family is complying w/ CMO, waiting on DNA)					7	
8/2/2023	Couns Mand Plea Hearing	Rescheduled					1	
8/29/2023	Couns Mand Plea Hearing	Completed: Continue on HEDS (Notes: waiting on DNA)					27	
9/12/2023	Couns Mand Plea Hearing	Completed: Continue on HEDS					14	
10/10/2023	Couns Mand Plea Hearing	Completed: Continue on HEDS (Notes: waiting on firearm evidence results / request made for HEDS removal due to good behavior denied)					28	
10/26/2023	Couns Mand Plea Hearing	Completed: Continue on HEDS; JISP to interview					16	
11/28/2023	Couns Mand Plea Hearing	Completed: Released from HEDS / Disposition JISP 9 months, Comply with CMO					33	
Total Time from Incident to Docket Date						1		
Total Detention Time						142		
Total Alternative time						127		
Total Case Processing Time (From Docket to Disposition)						269		

Case Processing/System Specific Characteristics

Case Specific Breakdowns for Youth with a LOS Greater than 60 Days

CASE 3.	J.H.	Gender M	Race A	Docket Date	7/2/2023 MSCO 2nd Eluding	MSPA	No Prior Adjudications
Date	Event	Action Taken/Comments				Days Since Last Hearing	
7/2/2023	Incident Date						
7/2/2023	New Charges	Placed on HEDS				0	
7/3/2023	Screenings	Completed: Intake screening, Judges screening, Pros. Screening				1	
7/3/2023	Det Review						
7/3/2023	Hearing	Completed - Continue on HEDS				0	
7/5/2023	Couns Mand Plea Hearing	Completed - Remanded to detention for HEDS Violation				2	
7/20/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: Discovery still needed, request to be released to HEDS denied)				15	
8/10/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: request for HEDS release denied, CMO is to put in-detention services in place, discovery shared)				21	
9/7/2023	Couns Mand Plea Hearing	Completed: Remain in detention				26	
9/28/2023	Couns Mand Plea Hearing	Completed: Released from detention / Disposition Probation 12 months to be converted to a deferred disposition upon completion				21	
Total Time from Incident to Docket Date						0	
Total Detention Time						86	
Total Alternative time						0	
Total Case Processing Time (From Docket to Disposition)						88	

Case Processing/System Specific Characteristics

Case Specific Breakdowns for Youth with a LOS Greater than 60 Days

Date	Event	Action Taken/Comments	Days Since Last Hearing
9/9/2022	Incident Date		
9/9/2022	New Charges	Youth admitted to detention	
9/10/2022	Initial Detention Hearing	Completed: Remain in detention, Out of control behavior causing risk to self	
9/12/2022	Screenings	Completed: Intake screening, Judges screening, Pros. Screening	
10/18/2022	Couns Mand Plea Hearing	Completed: Remain in detention	
11/15/2022	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: New charges filed, Discovery needs to be picked up)	
12/20/2022	Couns Mand Plea Hearing	Completed: Remain in detention	
1/12/2023	Couns Mand Plea Hearing	Completed: Remain in detention	
2/7/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: waiting on DNA)	
2/21/2023	Couns Mand Plea Hearing	Completed: Remain in detention	
3/7/2023	Couns Mand Plea Hearing	Completed: Remain in detention	
3/30/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: request by counsel for HEDS release denied, waiting on DNA ~ 4 weeks)	
4/25/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: waiting on DNA results, CMO unable to reach mom to begin services)	
5/23/2023	Det Rev. Hear-Pre	Rescheduled: Remain in detention (Notes: Attorney did not show - was in another trial)	
6/8/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: still waiting on DNA, counsel request for HEDS release denied)	
7/6/2023	Couns Mand Plea Hearing	Completed: Remain in detention	
7/18/2023	Couns Mand Plea Hearing	Completed: Remain in detention / JISP Referral	
8/17/2023	Couns Mand Plea Hearing	Completed: Released from Detention / JISP 18 months, Comply with CMO	
Total Time from Incident to Docket Date			0
Total Detention Time			343
Total Alternative time			0
Total Case Processing Time (From Docket to Disposition)			343

34x

Case Processing/System Specific Characteristics

Case Specific Breakdowns for Youth with a LOS Greater than 60 Days

Date	Event	Action Taken/Comments	Days Since Last Hearing
Docket Adjudications 5			
CASE 5. T.B. Gender F Race A Date 6/2/2023 MSCO 2nd Robbery MSPA open dockets @			
5/31/2023	Incident Date		
6/2/2023	New Charges	Youth admitted to detention	
6/3/2023	Initial Detention Hearing	Completed: Remain in detention, Out of control behavior causing risk to self	1
6/5/2023	Screenings	Completed: Intake screening, Judges screening, Pros. Screening	3
6/6/2023	Detention Review Hearing (Pre)	Rescheduled	4
6/13/2023	Detention Review Hearing (Pre)	Completed: Remain in detention (Notes: Attorney just assigned, discovery requested)	7
6/27/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: request for HEDS released denied due to charges)	14
7/11/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: request for HEDS released denied pending services being put in place, family member was willing to have youth stay with her, Global offer made)	14
7/25/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: CMO met w/ youth and family, investigation on one charge still pending, HEDS request denied)	14
8/8/2023	Couns Mand Plea Hearing	Completed: Released to HEDS (Notes: Plea (JISP) not accepted by court due to lack of plan for youths residence, CMO services are in place)	14
8/24/2023	Couns Mand Plea Hearing	Completed: Continue on HEDS	16
9/5/2023	Couns Mand Plea Hearing	Completed: Continue on HEDS / Charges on this docket dismissed all other dockets are active.	12
10/3/2023	Couns Mand Plea Hearing	Released from HEDS / Disposition on all dockets JISP 14 months, Comply with CMO	28
Total Time from Incident to Docket Date			2
Total Detention Time			68
Total Alternative time			56
Total Case Processing Time (From Docket to Disposition)			123

Case Processing/System Specific Characteristics

Case Specific Breakdowns for Youth with a LOS Greater than 60 Days

Date	Event	Action Taken/Comments	Days Since Last Hearing
<div style="display: flex; justify-content: space-between; font-size: small;"> CASE 6. W.M. Gender M Race A Docket Date 8/14/2023 MSCO VOP U/L 3rd POW MSPA Weap 3rd Poss of </div>			
8/11/2023	Incident Date		
8/14/2023	Screenings	Completed: Intake screening, Judges screening, Pros. Screening	3
8/23/2023	BW Issued		9
10/19/2023	BW Executed	VOP BW - Admitted to Detention	57
10/20/2023	Initial Detention Hearing	Completed: Remain in detention, Out of control behavior causing risk to self	1
11/9/2023	Couns Mand Plea Hearing	Rescheduled	20
11/30/2023	Couns Mand Plea Hearing	Completed: Remain in detention	21
12/5/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: HEDS request denied, pending JISP referral outcome)	5
12/21/2023	Couns Mand Plea Hearing	Completed: Released from Detention / Disposition JISP 1 year, comply with CMO	16
Total Time from Incident to Docket Date			3
Total Detention Time			64
Total Alternative time			0
Total Case Processing Time (From Docket to Disposition)			129

36x

Case Processing/System Specific Characteristics

Case Specific Breakdowns for Youth with a LOS Greater than 60 Days

CASE 7. K.J.			5 prior adjudications
		Docket	
Gender	Race	Date	MSPA
M	B	7/8/2023 MSCO 3rd CDS	2nd Consp
Date	Event	Action Taken/Comments	Days Since Last Hearing
7/8/2023	Incident Date		
7/11/2023	Screenings	Completed: Intake screening, Judges screening, Pros. Screening	3
7/18/2023	New Charges	Admitted to Detention	7
7/18/2023	Detention Review Hearing	Completed: Remain in detention, Out of control behavior causing risk to self (Notes: Youth non-compliant with JISP, issues with family compliance w/ CMO)	
8/1/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: Parents failed to appear to court)	
8/10/2023	Couns Mand Plea Hearing	Adjourned - Scheduling Conflict	
8/24/2023	Couns Mand Plea Hearing	Completed: Remain in detention	
9/5/2023	Couns Mand Plea Hearing	Completed: Remain in detention, mental health eval ordered, comply with CMO	
10/3/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: Parents failed to appear to court, guardian ad litem appeared, HEDS release request denied, DCPD referral ordered)	
10/17/2023	Couns Mand Plea Hearing	Completed: Disposition JISP to run concurrent with current term to be placed on JISP EM	
10/18/2023	Released	Released from Detention, Placed on JISP EM	
Total Time from Incident to Docket Date			0
Total Detention Time			93
Total Alternative time			0
Total Case Processing Time (From Docket to Disposition)			102

37x

Case Processing/System Specific Characteristics

Case Specific Breakdowns for Youth with a LOS Greater than 60 Days

CASE 8.	M.H.	Gender M B	Docket Date	4/3/2023 MSCO	2nd Poss of Weapon	MSPA	No Prior Adj
Date	Event	Action Taken/Comments				Days Since Last Hearing	
4/1/2023	Incident Date						
4/4/2023	New Charges	Admitted to Detention					
4/4/2023	Initial Detention Hearing	Completed: Intake screening, Judges screening, Pros. Screening / Remain in detention (Notes: HEDS release request denied / 14-day plan ordered)					
4/25/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: HEDS request denied due to father not having in-county housing / CMO will complete BPS)					
5/17/2023	Det Review Hearing	Completed: Remain in detention (Notes: Discovery has ben shared / HEDS release request denied)					
6/8/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: New charges received, discovery pending / CMO is providing services in detention / HEDS request denied)					
7/19/2023	Motion Hearing	Completed: Remain in detention					
8/3/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: DNA information shared / discovery needs to be reviewed and may still be outstanding lab discovery)					
8/17/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: Still outstanding discovery)					
9/12/2023	Motion Hearing	Completed: Remain in detention , JISP and JJC to interview, PDR Ordered					
10/12/2023	Couns Mand Plea Hearing	Completed: Released from Detention/ JISP 12 months, comply with CMO					
Total Time from Incident to Docket Date						2	
Total Detention Time						192	
Total Alternative time						0	
Total Case Processing Time (From Docket to Disposition)						192	

38X

Case Processing/System Specific Characteristics

Case Specific Breakdowns for Youth with a LOS Greater than 60 Days

				No priors at time of detention admit. 3 open dockets
		Docket		
CASE 9.	A.M.	Gender M Race H	Date	7/21/2023 MSCO 2nd Agg. Assault MSPA
Date	Event	Action Taken/Comments	Days Since Last Hearing	
7/20/2023	Incident Date			
7/24/2023	Screenings	Completed: Intake screening, Judges screening, Pros. Screening		
7/25/2023	Couns Mand Plea Hearing	Adjourned - FTA Bench Warrant Issued		1
7/29/2023	New Charges/FTA	Admitted to Detention		4
7/30/2023	Initial Detention Hearing	Completed: Remain in detention, Out of control behavior causing risk to self		
8/10/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: DCPD reopened / Waiting on discovery / HEDS release request denied)		
9/5/2023	Couns Mand Plea Hearing	Completed: Remain in detention		23
10/3/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: Still waiting on discovery / HEDS release request denied)		23
10/31/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: New attorney assigned / discovery completed & offer made)		23
11/30/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: Attorney still needs digital discovery / HEDS release request denied)		20
12/12/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: Digital discovery pending)		12
1/11/2024	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: Mom not present/ Attorney has not discussed offer with her)		10
1/25/2024	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: Discovery has been re-shared/ counter offer under discussion)		12
2/8/2024	Couns Mand Plea Hearing	Completed: Remain in detention		14
2/20/2024	Couns Mand Plea Hearing	Completed: Released to HEDS, JISP to interview		16
3/11/2024	Det Review Hearing	Completed: Continue on HEDS		20
3/26/2024	Couns Mand Dispo Hearing	Completed: JISP 6 months/Comply with CMO		15
Total Time from Incident to Docket Date				1
Total Detention Time				207
Total Alternative time				36
Total Case Processing Time (From Docket to Disposition)				249

Case Processing/System Specific Characteristics

Case Specific Breakdowns for Youth with a LOS Greater than 60 Days

CASE 10. L.O.		Docket			1 Prior Adj 3rd	
		Gender M	Race H	Date	9/1/2023 MSCO 3rd Burglary	MSPA Burglary (MSCO)
Date	Event	Action Taken/Comments			Days Since Last Hearing	
8/30/2023	Incident Date					
9/5/2023	Screenings	Completed: Intake screening, Judges screening, Pros. Screening			4	
9/7/2023	New Charges	Admitted to Detention			6	
9/7/2023	Initial Detention Hearing	Completed: Remain in detention			(b)	
9/28/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: Custody transferred to father / discovery pending)			(b)	
10/24/2023	Couns Mand Plea Hearing	Completed: Remain in detention			(b)	
11/14/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: HEDS release request denied / still waiting on discovery)			(b)	
12/12/2023	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: HEDS release request denied / still waiting on discovery)			(b)	
1/18/2024	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: HEDS release request denied / still waiting on discovery)			(b)	
2/1/2024	Couns Mand Plea Hearing	Completed: Remain in detention (Notes: HEDS release request denied / still waiting on discovery)			(b)	
2/7/2024	Couns Mand Plea Hearing	Completed: Remain in detention			(b)	
2/29/2024	Couns Mand Plea Hearing	Completed: Released to HEDS no contact with victims or co-defendants (Notes: Discovery still outstanding)			(b)	
3/7/2024	Couns Mand Plea Hearing	Completed: Continue on HEDS (Notes: Attorney still reviewing discovery)			(b)	
3/28/2024	Couns Mand Plea Hearing	Completed: Continue on HEDS			(b)	
4/4/2024	Couns Mand Plea Hearing	Completed: Continue on HEDS - JISP to Interview			(b)	
4/25/2024	Couns Mand Dispo Hearing	Completed: Disposition JISP 14 months/ community service 100 hours / comply with CMO			(b)	
Total Time from Incident to Docket Date					2	
Total Detention Time					176	
Total Alternative time					57	
Total Case Processing Time (From Docket to Disposition)					232	



40x

Case Processing/System Specific Characteristics

Case Specific Breakdowns for Youth with a LOS Greater than 60 Days

CASE 11.	F.G.	Gender M	Race A	Docket Date	9/1/2023 MSCO Violation	3rd Burglary& Alt	1 prior adj 3rd Burglary
Date	Event	Action Taken/Comments				Days Since Last Hearing	
8/31/2023	Incident Date						
9/1/2023	New Charges	Placed on HEDS					
9/5/2023	Screenings	Completed: Intake screening, Judges screening, Pros. Screening /Continue on HEDS				4	
9/12/2023	Couns Mand Plea Hearing	Completed: Continue on HEDS				7	
9/29/2023	Detention Admission	Violated HEDS - Incurred new charges 315-24/322-24/356-24 MSCO 3rd Burg				17	
10/2/2023	Couns Mand Plea Hearing	Completed: Remain in Detention				3	
10/12/2023	Couns Mand Plea Hearing	Rescheduled				10	
11/2/2023	Couns Mand Plea Hearing	Completed: Remain in Detention				21	
12/5/2023	Couns Mand Plea Hearing	Completed: Remain in Detention, JISP to interview				30	
12/21/2023	Couns Mand Plea Hearing	Completed: Released from detention/Disposition JISP 18 months, comply with CMO				46	
Total Time from Incident to Docket Date						1	
Total Detention Time						84	
Total Alternative time						28	
Total Case Processing Time (From Docket to Disposition)						112	

Case Processing/System Specific Characteristics

Case Specific Breakdowns for Youth with a LOS Greater than 60 Days

Date	Event	Action Taken/Comments	Days Since Last
7/11/2023	Incident Date		
7/11/2023	New Charge	Admitted to Detention	
7/12/2023	Initial Detention Hearing	Completed: Remain in detention, Out of control behavior causing risk to self	1
7/25/2023	Det Review Hearing	Completed: Remain in detention	13
8/18/2023	Screenings	Completed: Intake screening, Judges screening, Pros. Screening /Remain in detention	29
8/24/2023	Couns Mand Plea Hearing	Completed: Remain in detention	35
9/14/2023	Couns Mand Plea Hearing	Completed: Remain in detention, JISP to interview	41
10/5/2023	Couns Mand Plea Hearing	Completed: Released from detention/Disposition JISP 18 months, comply with CMO & YAP	49
Total Time from Incident to Docket Date			0
Total Detention Time			87
Total Alternative time			0
Total Case Processing Time (From Docket to Disposition)			87

42x



Atlantic Council on Juvenile Justice System Improvement

Case Processing Subcommittee

June 3, 2024

10:00am – 11:00am

Agenda

- | | | |
|----|--------------------------------------|------------|
| 1) | Welcome & Introductions | Dan/Edmund |
| 2) | Review of Daily Pop Sheet | Maria |
| 3) | Case Mapping & Length of Stay Report | Gina |
| 4) | Adjournment Tracking Update | Dan |
| 5) | Other Business | |
| 6) | Adjournment | |

2024 Meeting Dates

August 26, 2024

October 28, 2024

Atlantic County Council on Juvenile Justice System Improvement
Weekly Case Processing Stats Sheet (For Active Cases/Detained Youth)
 May 31, 2024

Information provided on this stat sheet are based upon the daily pop sheet & Detention Review Committee Data.

Table #1: Total Youth in Detention by Gender

Detention Center	Male	Female	Total
Harborfields JDC	16	0	16
Camden JDC	4	0	4
Essex JDC	10	1	11
Ocean JDC	2	0	2
Total Youth	32	1	33

100% of youth in detention are youth of color.

Table #2: Total Youth on an Alternative by Gender

Alternative Program	Male	Female	Total
HEDS Step Down	0	0	0
HEDS	9	1	10
Shelter	0	0	0
Total Youth	9	1	10

100% of youth on an alternative are youth of color.

Table #3: Case Processing Stats (Detention)

Current Average Length of Stay:	209.3 Days
Range in Length of Stay:	Min: 6 days / Max: 488 days
Waiver cases:	16

Table #4: Case Processing Stats (Alternatives)

Current Average Length of Stay:	22.7 Days
Range in Length of Stay:	Min: 9 days / Max: 45 days



OFFICE OF THE COUNTY PROSECUTOR
JENNIFER WEBB-MCRAE
CUMBERLAND COUNTY PROSECUTOR

Harold B. Shapiro
First Assistant Prosecutor

Darrin Pulman
Chief of Investigators

115 Vine Street
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June 5, 2024

Christina O. Boderick
Chief, Legal and Regulatory Affairs
New Jersey Juvenile Justice Commission
1001 Spruce Street, Suite 202
Trenton, NJ 08638
VIA Email Only at regulatory.affairs@ijc.nj.gov

Re: Public Comment – Notice of Proposed Readoption with Amendments to N.J.A.C. 13:92:
Proposes to readopt Manual of Standards for Juvenile Detention Facilities with various technical changes and substantive amendments.

Dear Ms. Broderick:

I am the Cumberland County Prosecutor. I have held this position since 2010. I also co-chair the local Juvenile Detention Alternatives Initiative (JDAI) Council for Cumberland County and serve on the statewide JDAI committee where I represent the County Prosecutor's Association of NJ. JDAI has worked to assure that only the right juveniles (those who present a risk to public safety) are detained. As a result of the work of my local council, in 2015, the juvenile detention center in Cumberland County (which at the time had a capacity for 45 juveniles but was on average only housing about 10) closed.

Since that time, we have housed our detained juveniles in a number of counties (including but not limited to Atlantic, Burlington, Camden, Essex and Ocean counties) under Shared Services Agreements. In the past year we have seen a spike in juvenile crime and currently have a count of 17 juveniles who are housed in three different counties. The overwhelming majority are there for 1st and 2nd degree crimes (including Murder, Conspiracy to Commit Murder, Robbery and Sexual Assault). The influx we are experiencing now is a spike. When it comes to crime, spikes should be anticipated. Notwithstanding, we need to maintain the course and assure that only the juveniles who threaten public safety get detained. I am confident we will do so.

I am told that there are only 7 counties who continue to maintain county Juvenile Detention Centers. Those of us who no longer have detention centers are continuously at the mercy of those who do. We enter into shared services agreements only to be advised that there are not enough beds and/or staffing to take our detainees or that they do not want to house our most difficult youth. Youth are often housed over 100 miles


away from home which certainly impacts family connection and detracts from their eventual reintegration back to the community.

With respect to shared services, I write to suggest that any regulations regarding the Standards for Juvenile Detention Facilities should begin to create rules by which those who continue to maintain detention facilities (receiving counties) interact with those who no longer maintain detention facilities (sending counties). There should be a rule which requires that if you have open beds you must take detainees and there should also be regulations which manage the price the receiving districts can charge. The receiving counties should only be able to charge a set percentage above what their actual cost to house a juvenile actually amounts to – i.e. 20% or \$120 for every \$100 they spend. No one should be in the business of housing juveniles to make money.

JDAI (working to reduce the juvenile detained population by assuring that only those who truly threaten public safety are detained) was promoted statewide by both the New Jersey State Court system and the Juvenile Justice Commission (JJC). Our success (the reduction of juvenile detainees) naturally precipitated the closing of juvenile detention centers and was to be anticipated. There should have been an implementation plan which considered regional facilities, bed availability, anticipation of spikes in population and cost. Now is the time to incorporate regulations to address these issues.

Thank you for your kind consideration of my thoughts and concerns.

Very truly yours,


JENNIFER WEBB-MCRAE
Cumberland County Prosecutor

c Lisa Macaluso, Deputy Executive Director - JJC



State of New Jersey
Office of the Attorney General
DEPARTMENT OF LAW AND PUBLIC SAFETY
Juvenile Justice Commission
P.O. Box 107
Trenton, New Jersey 08625-0107

Philip D. Murphy
Governor

Tahesha L. Way
Lt. Governor

Matthew J. Platkin
Attorney General

Jennifer LeBaron, Ph.D.
Executive Director

May 29, 2024

(Via email and regular mail)
 Jerome M. St. John
 Essex County Counsel
 Office of the County Counsel
 Hall of Records, Room 535
 Newark, NJ 07102

Dear Mr. St. John:

Thank you for your letter regarding Essex County's interest in "right sizing" its juvenile detention facility (JDF) to provide appropriate, high-quality services to its residents in a safe environment for both the residents and for the staff. Your letter describes changes to the shared use of the Essex County JDF, as described in N.J.A.C. 13:92-4.1. Specifically, the letter requests that Essex County be permitted to stop accepting residents from "any county other than Passaic and Union, and to gradually phase out residents from Hudson." The letter goes on to state that Essex County will give "notice to remove their residents from the JDF and to cease sending any additional residents." Given that Essex County has served youth from various counties over the course of several years, the request in the letter represents a significant change in the shared use of the Essex County JDF. Essex County, the counties Essex County no longer wishes to serve and the counties that currently run secure detention centers must develop a written implementation proposal, as described in N.J.A.C. 13:92-4.1, that minimally provides:

- i. A clear explanation of the need to be addressed by the proposed action;
- ii. A description of all policy options considered and rejected in favor of the proposed action, including why the proposed action best meets the need identified in (a)3i above;
- iii. The estimated costs;
- iv. A detailed projected timeline for implementation; and
- v. The review factors set forth in N.J.A.C. 13:92-4.1(a)5.

Furthermore, N.J.A.C. 13:92-4.1 requires that the plan be submitted to the Juvenile Justice Commission (JJC) for review and approved *prior to taking any action*.



REALIZING POTENTIAL & CHANGING FUTURES
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As to the letter's statement regarding "right sizing" the Essex County JDF population, the JJC interprets this assertion as a request to set a new rated capacity for the JDF. The JDF's current rated capacity in the county is 208 beds, with a double-bunking capacity of 242. Pursuant to N.J.A.C. 13:92-4.2, each JDF will be inspected by the JJC and, in consultation with the administrator of the JDF, assigned a maximum population capacity based on minimum standards established in the rule. The population capacity will also be based on the JJC's analysis of the JDF's staffing. The JJC's Youth Justice Facility Monitoring Unit will set a date that is amenable to both parties to begin the staffing analysis as required by the rule. In the meantime, the county remains subject to its current rated capacity.

The letter you sent also indicates that it is your understanding that "each of the counties are under a court order to accept custody and control of the residents from each respective home county." The court does not determine *where* a young person will reside awaiting their case process, it can only decide to remand a young person to secure detention. Counties have processes in place to determine the place of detention once the court has made the determination to remand.

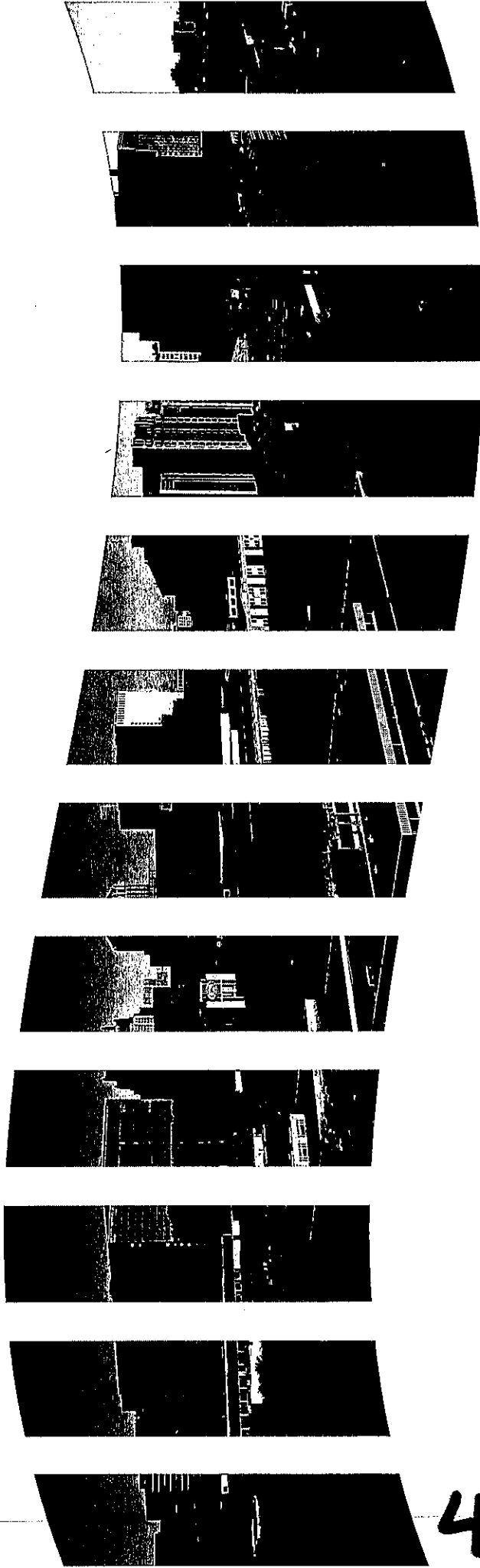
We appreciate your interest in seeking to reduce the Essex JDF population. As we have discussed, the statewide youth detention system has relied on Essex County, as the state's largest JDF, to serve youth from across the state. At the same time, there must be a plan in place between Essex County, the counties that Essex County no longer wishes to serve, and the counties that run secure detention facilities to safely make this shift.

Very Truly Yours,

Lisa Macaluso

Lisa Macaluso
Deputy Executive Director
Policy, Research and Planning

- c. Jennifer LeBaron, Executive Director
Christina Broderick, Chief, Legal and Regulatory Affairs
Jeffrey Jenei, Manager, Youth Justice Facility Monitoring Unit
Okesha Harrison, Supervisor, Youth Justice Facility Monitoring Unit



49x

The Newark Public Safety Collaborative (NPSC)

NJ Senate Judiciary Committee

Alejandro Gimenez Santana
Co-Executive Director & Asst. Professor

June 13th, 2024



NEWARK PUBLIC SAFETY COLLABORATIVE



RUTGERS-NEWARK

School of Criminal Justice

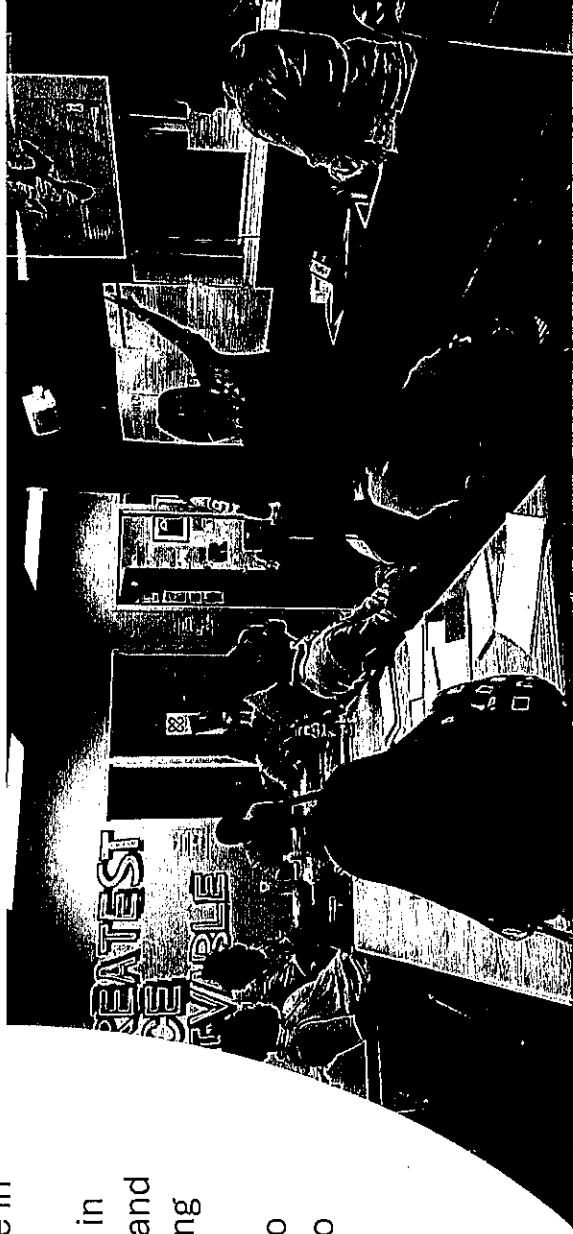
Reimagining Justice with Data-Informed Community Engagement

- The **Newark Public Safety Collaborative (NPSC)** was launched in 2018 to prioritize crime problems with guidance from its community partners. It is a Rutgers-Newark Anchor Initiative housed in the Rutgers School of Criminal Justice (SCJ) and convened by SCJ faculty.
- NPSC seeks to:
 - **Democratize** the use of data and analytics,
 - **Mobilize community resources** and expertise to problem-solve Newark's most pressing crime issues.
 - **Empower community organizations to become co-producers of public safety**, and levels the playing field by soliciting and valuing the input of those who understand the local context and have the resources to help create sustainable solutions.



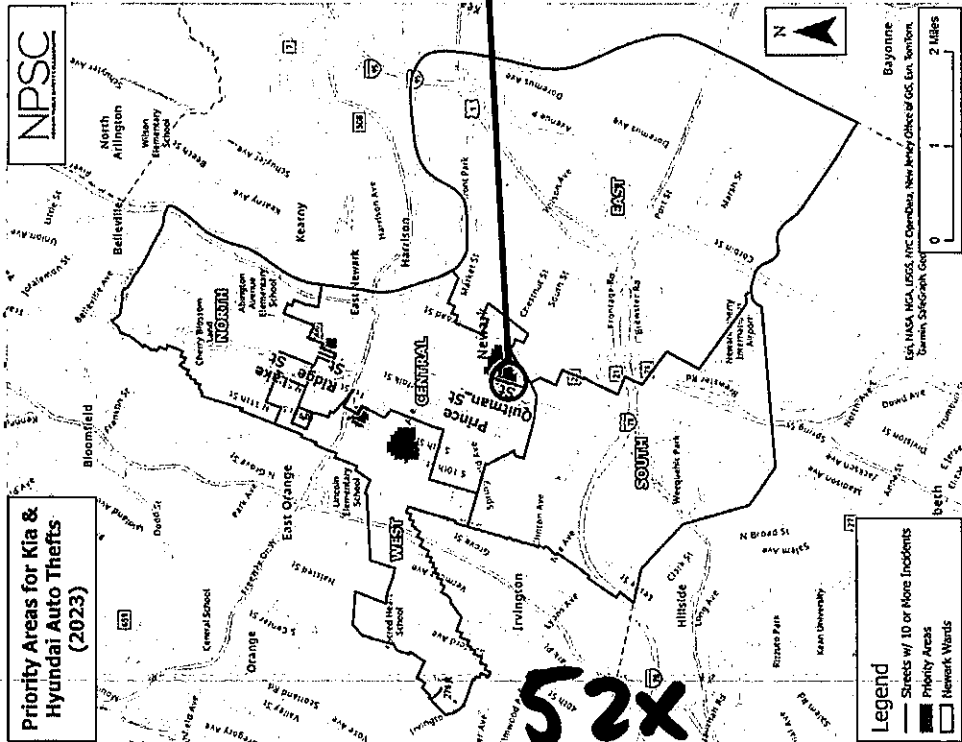
Empowering Youth to Become Co-producers of Community Safety

- LPCCD, MBK, and NOYN hosted various data-informed community engagement meetings to empower youth to participate in public safety discussions.
- In response to the increase in auto thefts in 2023, students identified **peer pressure** and a desire to **show off** as factors contributing to the problem.
- Other students linked the increase in auto thefts near Quitman St and Crawford St to **racing and joyriding**.



Kia/Hyundai Auto Thefts and Residential Areas

Kia & Hyundai Auto Theft Risk



Quitman St



Streets w/ concentration of incidents	# of Incidents	Ward
Quitman St	29	C
Crawford St	15	C
Mt Vernon Pl	12	W
Roseville Ave	12	C
Prince St	11	C
Ridge St	11	N
N 7th St	11	W

Residential areas were the most common target for Kia and Hyundai auto thefts.

KIA AND HYUNDAI OWNERS PROTECT YOURSELF

To reduce Kia and Hyundai auto thefts in Lincoln Park, the NPSC and LPCCD are launching an effort to inform the community. Take action to reduce your risk of becoming a victim.

- Contact Hyundai (toll-free at 800-633-5151) or Kia (toll-free at 800-333-4542) to obtain a FREE theft deterrent software update.
- Visit any Newark Police Precinct with proof of residency and your current vehicle registration to receive a free steering wheel lock.

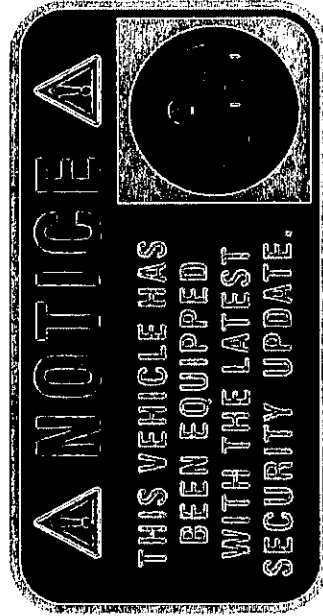
This Data-Informed Community Engagement effort aims to improve public safety and wellness for all Newarkers.



NPSC

Auto Theft Prevention Campaign

- The NPSC launched a data-informed community engagement campaign to reduce and prevent auto thefts.
- Informational flyers and maps were distributed to various community organizations to assist their efforts in engaging the community to increase public awareness.
- The Newark Police Division (NPD) designed a window sticker that was shared with residents.

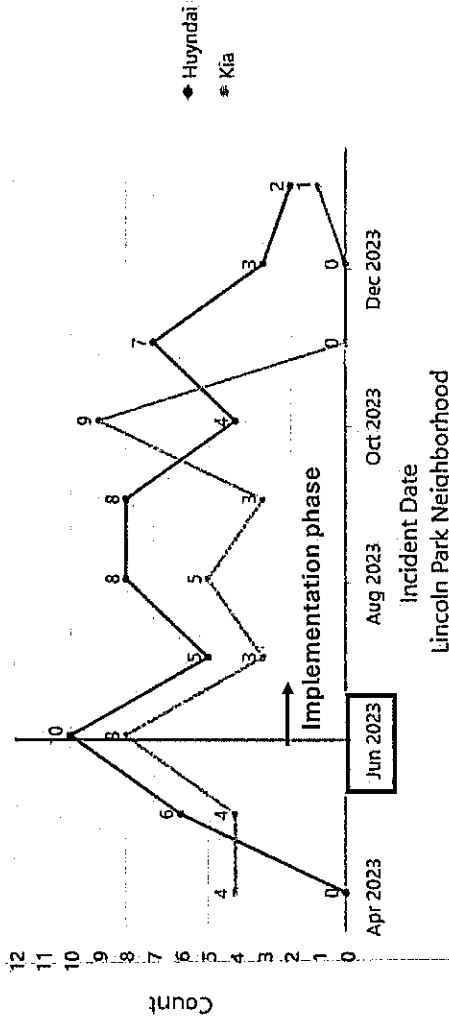


➤ This data-informed community engagement campaign had positive results in reducing auto thefts in various areas of Newark.

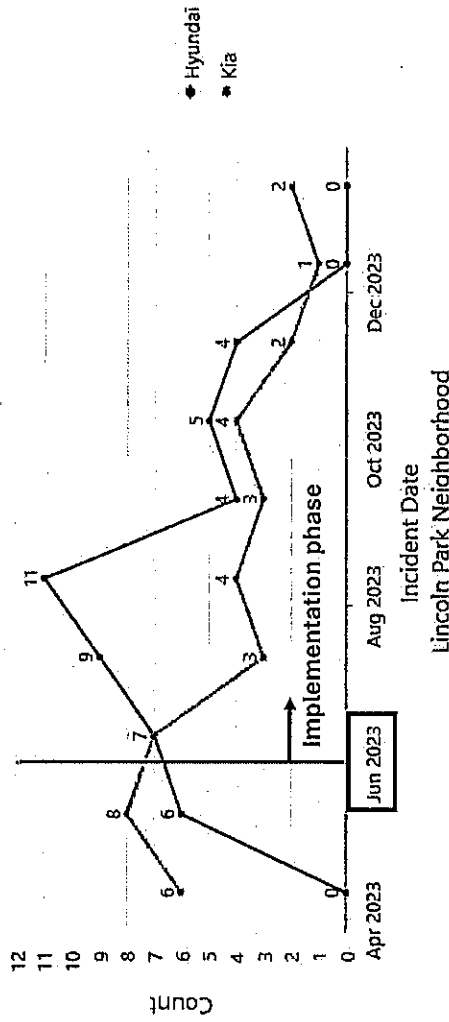
53x

Program Evaluation: Decrease in Auto Thefts

Successful Attempts of Auto Theft (Kia & Hyundai)



Failed Auto Thefts/Vehicle Damage (Kia & Hyundai)



In 2023, Lincoln Park was one of Newark's main hot spots for Kia and Hyundai auto thefts.

April 2023

• **Planning phase:** The LPCCD initiated efforts to inform residents about the thefts of Kias & Hyundais

June 2023

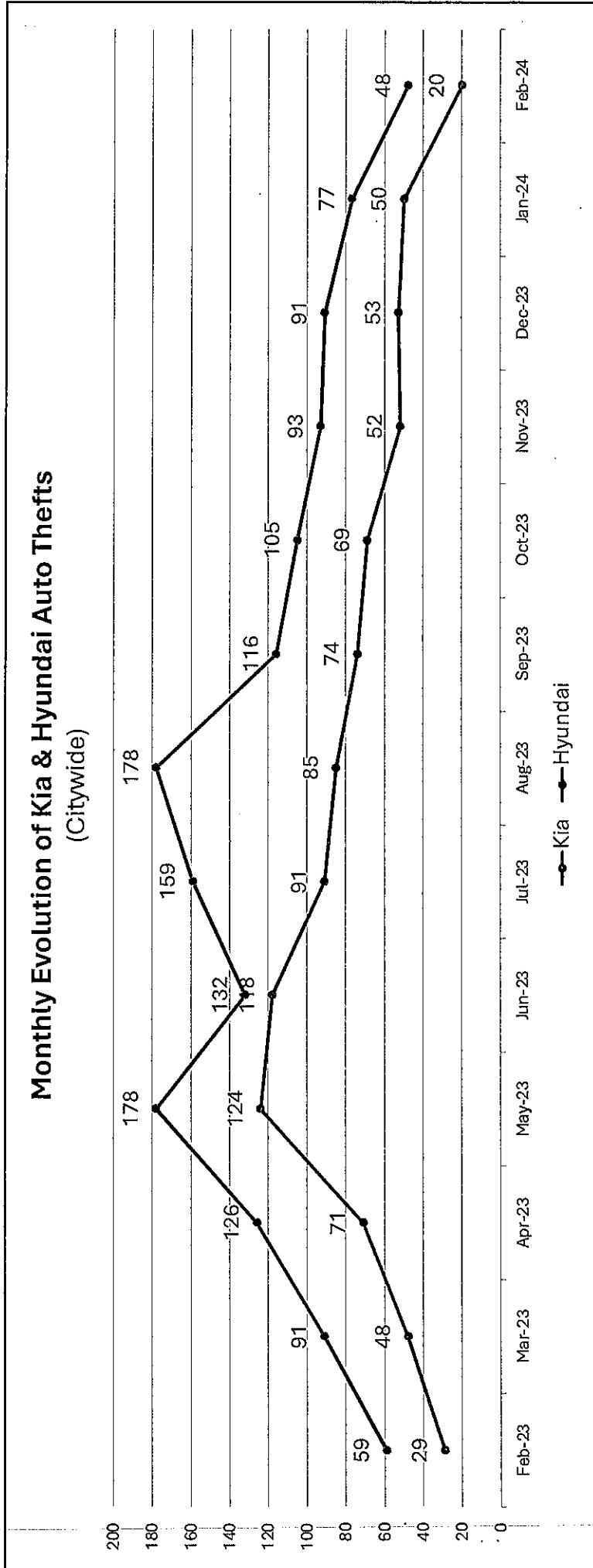
• **Implementation phase:** A flyer distribution campaign was launched to empower residents to take precautionary measures to reduce risks.

YTD 2024

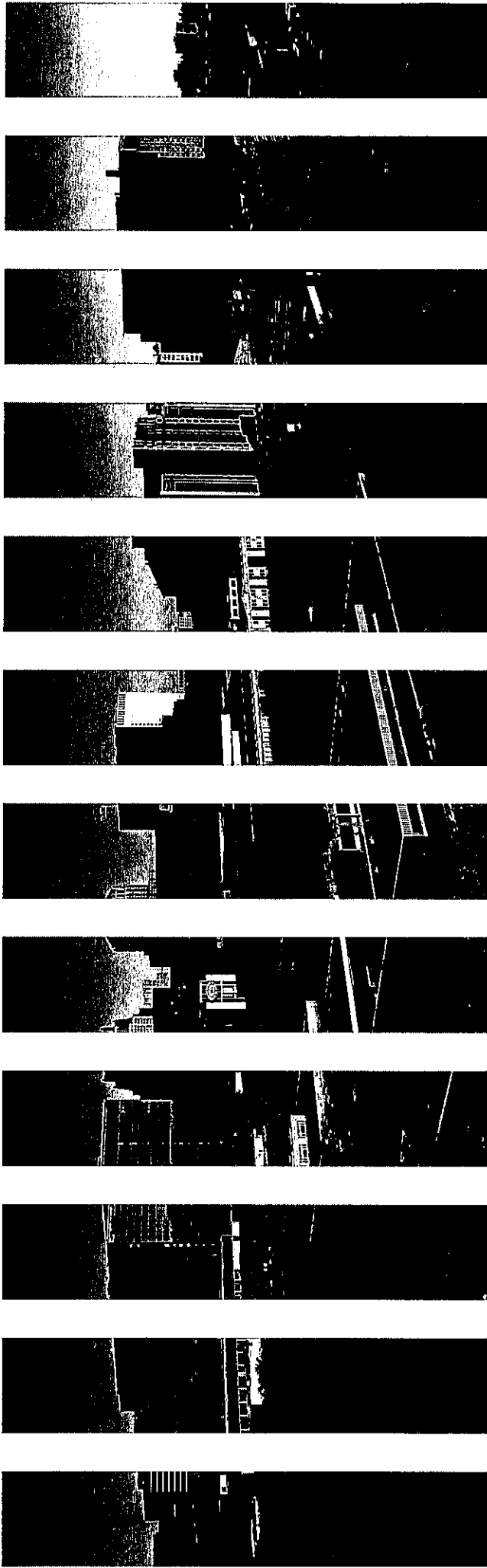
• A 90% reduction in reported auto thefts of Kias & Hyundais in the Lincoln Park area.

54x

Program Evaluation: Decrease in Auto Thefts



55x



More information: newarkcollaborative.org

Alejandro Giménez Santana, PhD
ag903@scj.rutgers.edu

56x

ADDITIONAL APPENDIX MATERIAL

SUBMITTED TO THE

SENATE JUDICIARY COMMITTEE

for the

June 13, 2024 Meeting

Submitted by

Alejandro Gimenez-Santana

Joe Barrett and Cameron McWhirter, "Tyre Nichols Case Prompts Questions About Police Tactics in Crime Hot Spots," Feb. 22, 2023, The Wall Street Journal, © 2023, Dow Jones & Company, Inc.

Reimagining Justice with Data- Informed Community Engagement

64x



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OJJDP

Office of Juvenile Justice
and Delinquency Prevention

NIJ National Institute
of Justice
STRENGTHEN SCIENCE. ADVANCE JUSTICE.



Office for Victims of Crime
OVC

BJA
BUREAU OF JUVENILE
JUSTICE

Reimagining Justice with Data-Informed Community Engagement

Moderator:

65x



BJA
BUREAU OF JUSTICE ASSISTANCE
U.S. DEPARTMENT OF JUSTICE

Michelle Garcia

Deputy Director, Programs Office, Bureau of Justice Assistance



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Reimagining Justice with Data-Informed Community Engagement

- Overview of the Reimagining Justice Program
 - Test new or innovative approaches to achieving community safety that are alternatives to a traditional enforcement model for communities experiencing a precipitous increase in less serious and lower-level crimes.
 - Supporting community-led responses that meets the needs and objectives of community leaders, residents, and other stakeholders through a community engagement process.
 - Current Reimagining Justice Grantees
 - The Rutgers University's Newark Public Safety Collaborative (Newark, NJ) - FY22
 - Urban Alchemy (Central East Austin, TX) - FY23
 - Multnomah County, Oregon (Cully Neighborhood) - FY23
 - WestEd (Nicholtown Neighborhood in Greenville, SC) - FY23

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Reimagining Justice with Data-Informed Community Engagement

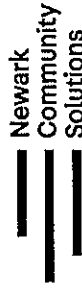
Panelists:



Alejandro Gimenez-Santana Ph.D., Co-Executive Director,
Newark Public Safety Collaborative / Rutgers-Newark



Christopher Keys, Director of Community Programming &
Relations / Unified Vailsburg Services Organization



Colleen Smith, Director of New Jersey Programs, Newark
Community Solutions

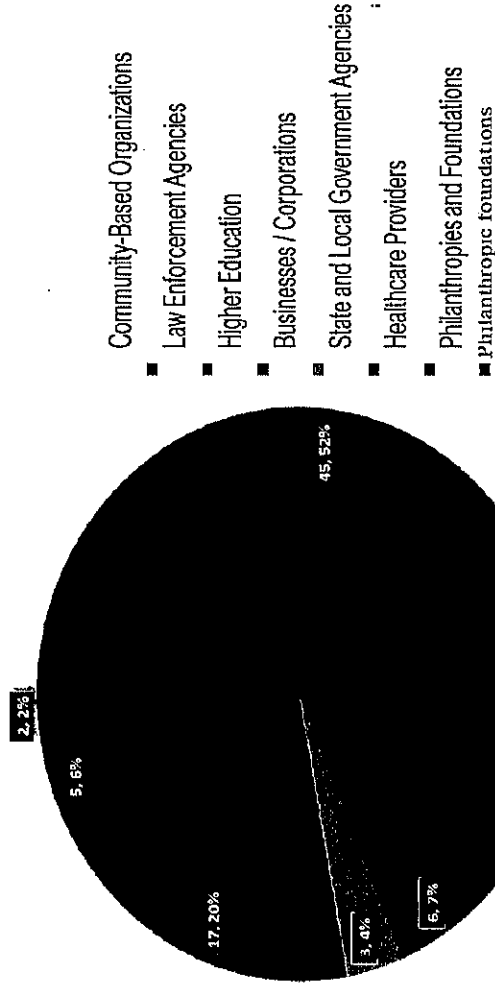


Warren Thompson, Community Organizer, Lincoln Park Coast
Cultural District



Reimagining Justice with Data-Informed Community Engagement

Newark Public Safety Collaborative Partners



- The Newark Public Safety Collaborative (NPSC) was launched in 2018 to prioritize crime problems with guidance from its community partners.
- It is housed in the Rutgers University - Newark School of Criminal Justice (SCJ) and convened by SCJ faculty.

68x



Reimagining Justice with Data-Informed Community Engagement

DATA-INFORMED COMMUNITY ENGAGEMENT

1. **Democratize** the use of data and analytics,
2. **Mobilize community resources** and expertise to problem-solve Newark's most pressing crime issues.
3. **Empower community organizations to become co-producers of public safety**, and levels the playing field by soliciting and valuing the input of those who understand the local context and have the resources to help create sustainable solutions.

69x



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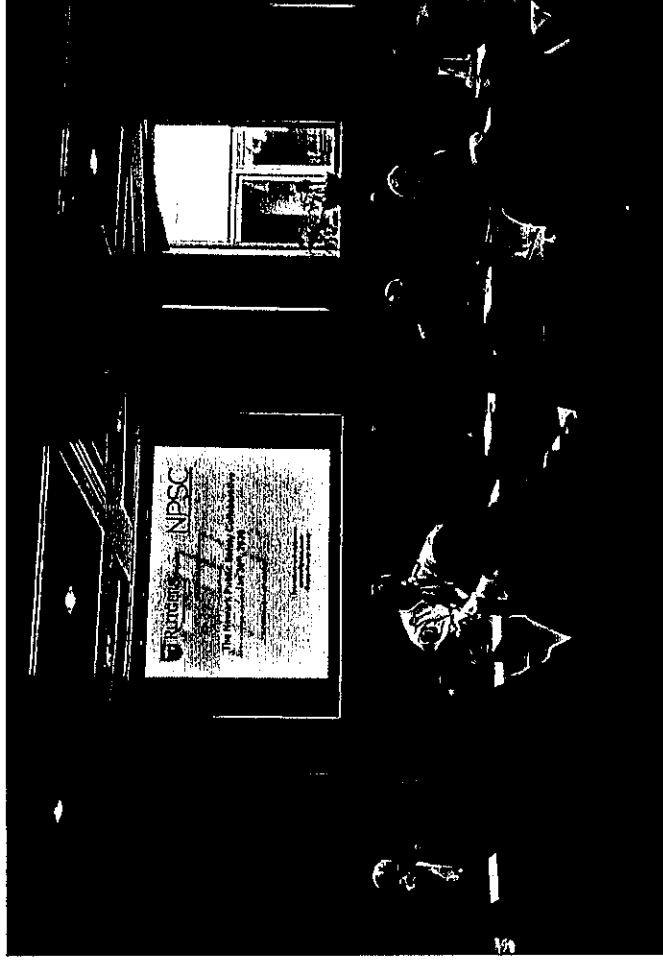
Reimagining Justice with Data-Informed Community Engagement

MOBILIZE COMMUNITY RESOURCES

- DICE meetings begin with a discussion on crime trends, changes in the spatiotemporal distribution of crime, and multiple **placed-based analyses or Risk Terrain Modeling (RTM)** analyses.

A data-informed discussion follows to:

- **Unveil narratives** (*WHY is crime concentrating near certain places?*)
- **Develop community-led strategies** (*HOW can we respond to this crime problem?*)
- **Co-produce community responses to crime problems.**



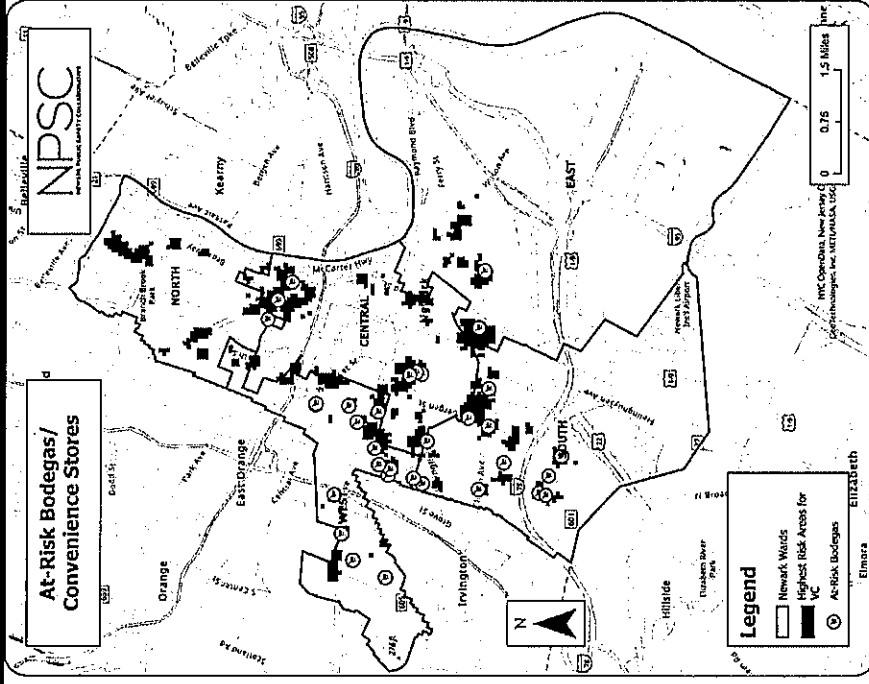
Community-Based Violence Intervention
and Prevention Initiative

Reimagining Justice with Data-Informed Community Engagement

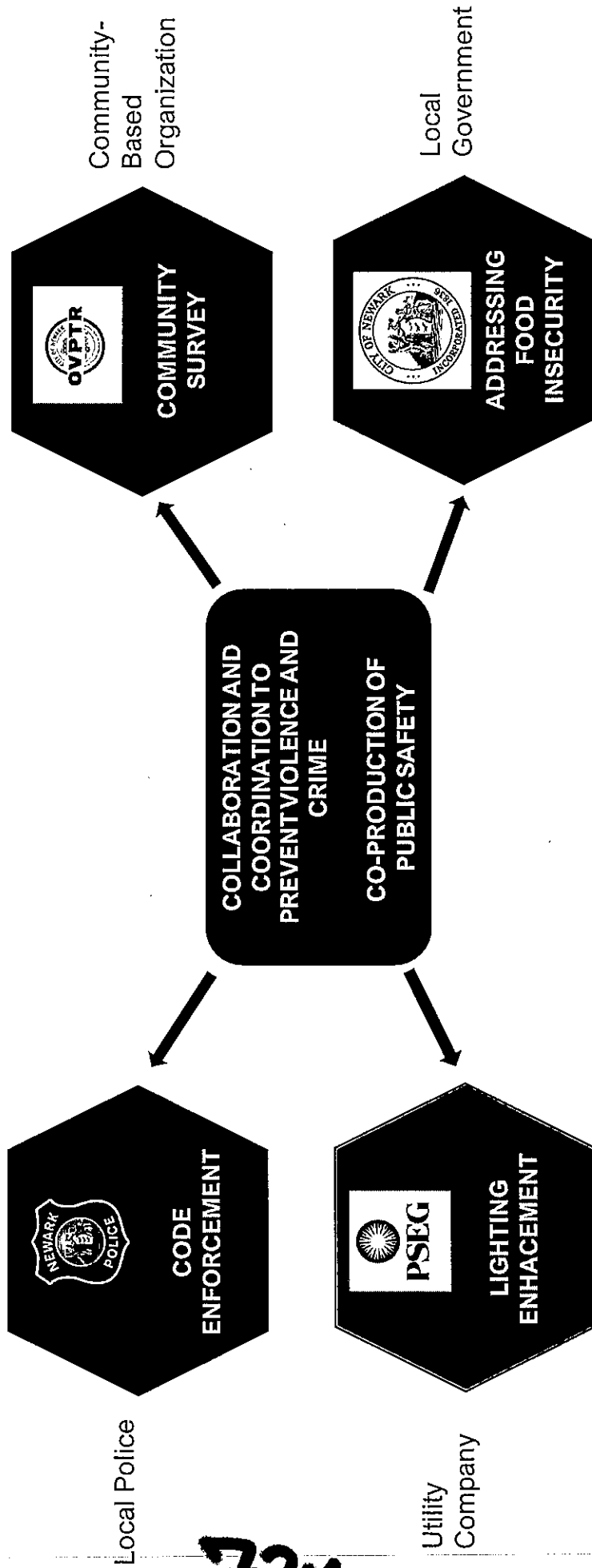
CONNECT PLACES WITH NARRATIVES TO INFORM ACTION

- The NPSC identified several bodegas/corner stores that experienced an increase in violence.
- These places are community hubs bringing people together to socialize and buy hot foods, but some of them also become a **magnet to fights and disputes**, as well as **other crime problems**.
- **Crime prevention strategies:** Organize community outreach activities, improve access to fresh produce, engage youth through dedicated programming activities, improve lighting conditions, among other strategies.

Fix

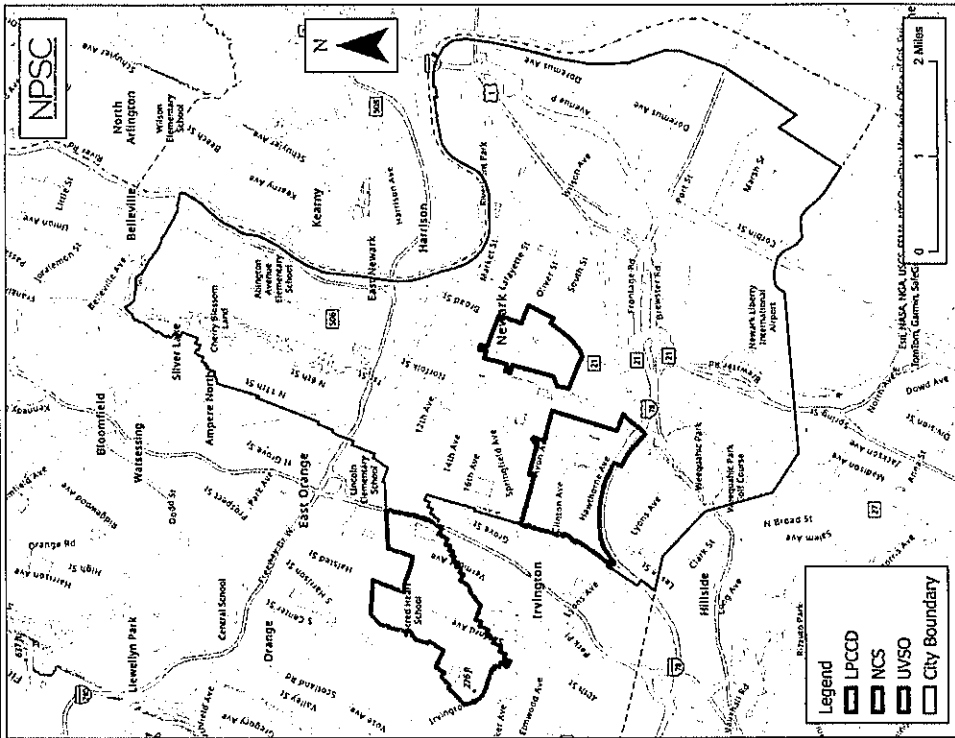


CO-PRODUCING COMMUNITY SAFETY



72x

Reimagining Justice with Data-Informed Community Engagement



NEWARK, NJ

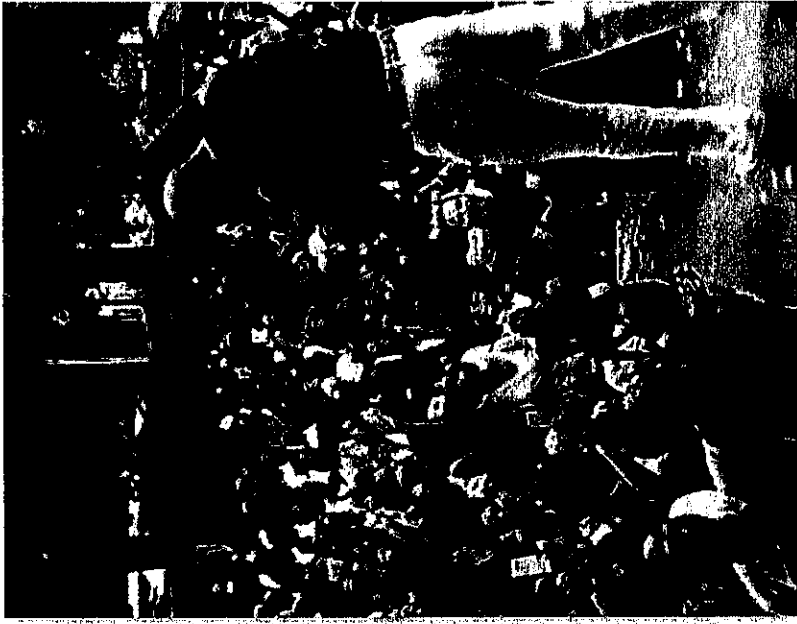
- **Lincoln Park**
 - LPCCD's community area encompasses the vibrant community surrounding Lincoln Park, renowned as Newark's thriving arts and cultural district in the city's Central Ward.
- **Clinton Hill**
 - NCS' community area encompasses the Upper and Lower Clinton Hill neighborhoods of Newark, nestled in the city's South Ward and bordered by Irvington.
- **Vailsburg**
 - UVSO community areas serves the dynamic neighborhood of Vailsburg located within Newark's West Ward, adjacent to the neighboring towns of Maplewood, East Orange, and South Orange.



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73x

Lincoln Park Coast Cultural District (LPCCD)



- Lincoln Park Coast Cultural District (LPCCD) is a nonprofit organization that fosters and maintains the vibrancy of the Lincoln Park neighborhood located in the City of Newark, NJ.
- LPCCD facilitates the integration of arts and culture to advance local economic development, housing and neighborhood stability to support healthier, safer, and more vibrant neighborhood.

744




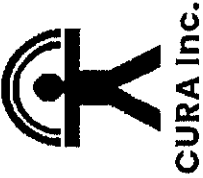




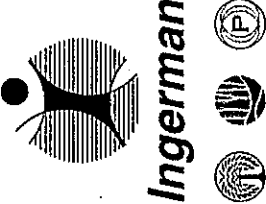





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Lincoln Park Coast Cultural District (LPCCD)

LPCCD is co-producing community safety with the following local organizations:

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75x

Lincoln Park, Newark

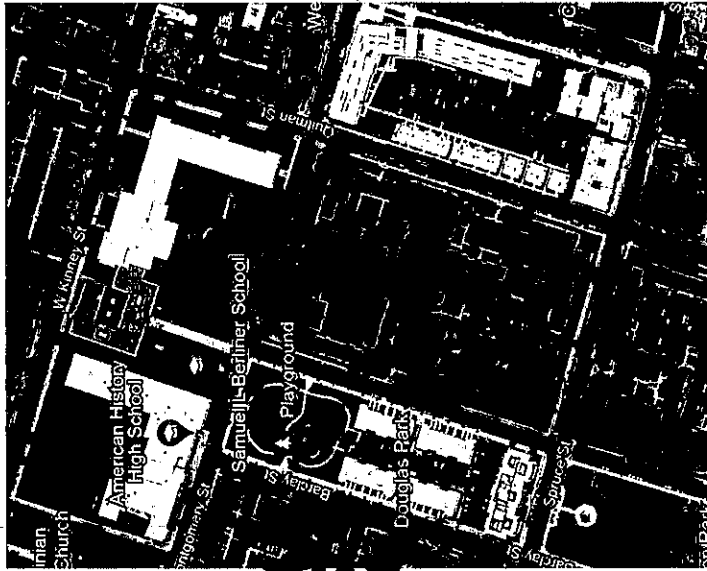
Crawford St



Astor St & Sherman Ave



Quitman St



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Reimagining Justice with Data-Informed Community Engagement

EMPOWERING YOUTH TO BECOME CO-PRODUCERS OF COMMUNITY SAFETY

LPCCD is engaging students at Newark's Great Oaks school in **Data-Informed Community Engagement** meetings.

The LPCCD has facilitated two sessions to engage students, provide information on current crime trends, and, more importantly, learn from their lived experiences.



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Newark Community Solutions (NCS)



- A project of the Center for Justice Innovation, NCS provides community justice programming in the criminal justice, housing, and youth service sectors.
- For more than a decade, NCS has conducted assessments, developed individualized service plans, and delivered social services for court-involved individuals with an understanding that people's needs are complex and require a holistic response.



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Newark Community Solutions (NCS)

Principals of Community Justice

In 2022, The Center for Justice Innovation, with support from the Bureau of Justice Assistance, updated the principles of community justice to:

- Build upon its foundational principles
- Preserve the model's operational flexibility
- Infuse new ideas and practices
- Broaden the concept to include both court and non-court applications

Co-Create
Justice

Advance Equity

Put People First

Prioritize
Community-
Based Solutions

Promote
Accountability

Model
Innovation

Box

Newark Community Solutions (NCS)

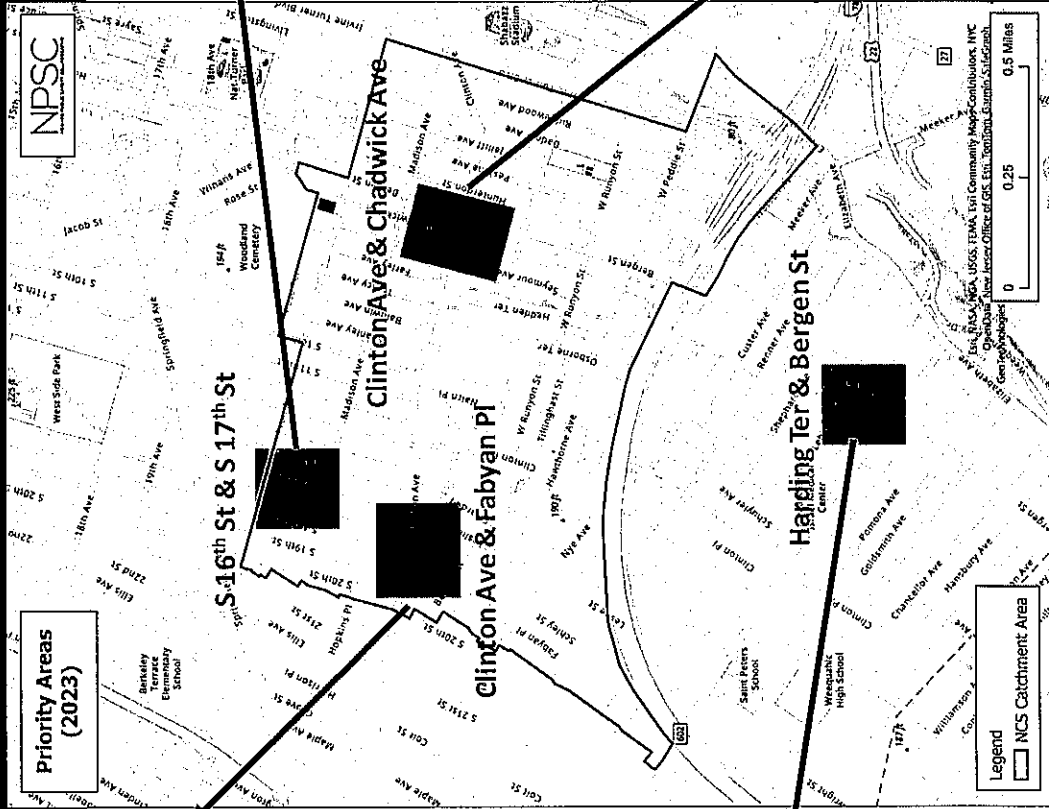
NCS is co-producing community safety with the following local organizations:

The image displays a collection of logos for partner organizations. On the left, the Newark Police badge is shown. Next to it is the University Hospital Newark, NJ logo, featuring a stylized 'UH' and the text 'University HOSPITAL Newark, NJ'. Below these are the logos for 'I LEADERS FOR LIFE INC.' (text on a black background) and 'CLINTON HILL COMMUNITY A.C.T.I.O.N.' (text with a graphic of people). In the center is the 'NCS' logo, which includes a city skyline graphic and the text 'NEWARK COMMUNITY STREET TEAM'. To the right is the 'NPSC' logo, with 'NEWARK PUBLIC SAFETY COLLABORATIVE' written below it. On the far right is the 'SOUTH WARD PROMISE NEIGHBORHOOD' logo, featuring a silhouette of a person and a tree.

81x



Newark Community Solutions (NCS)



Clinton Ave & Fabyan Pl



Harding Ter & Bergen St



S 16th St & S 17th St

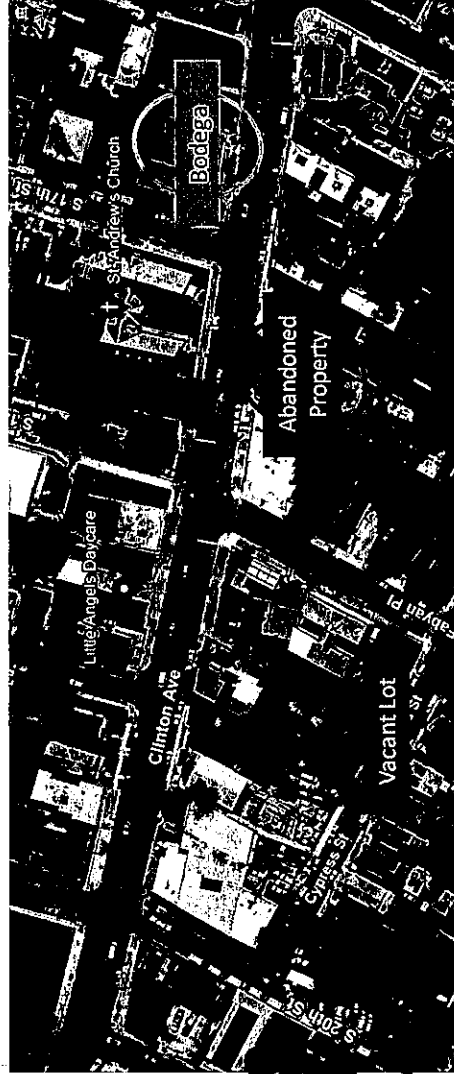
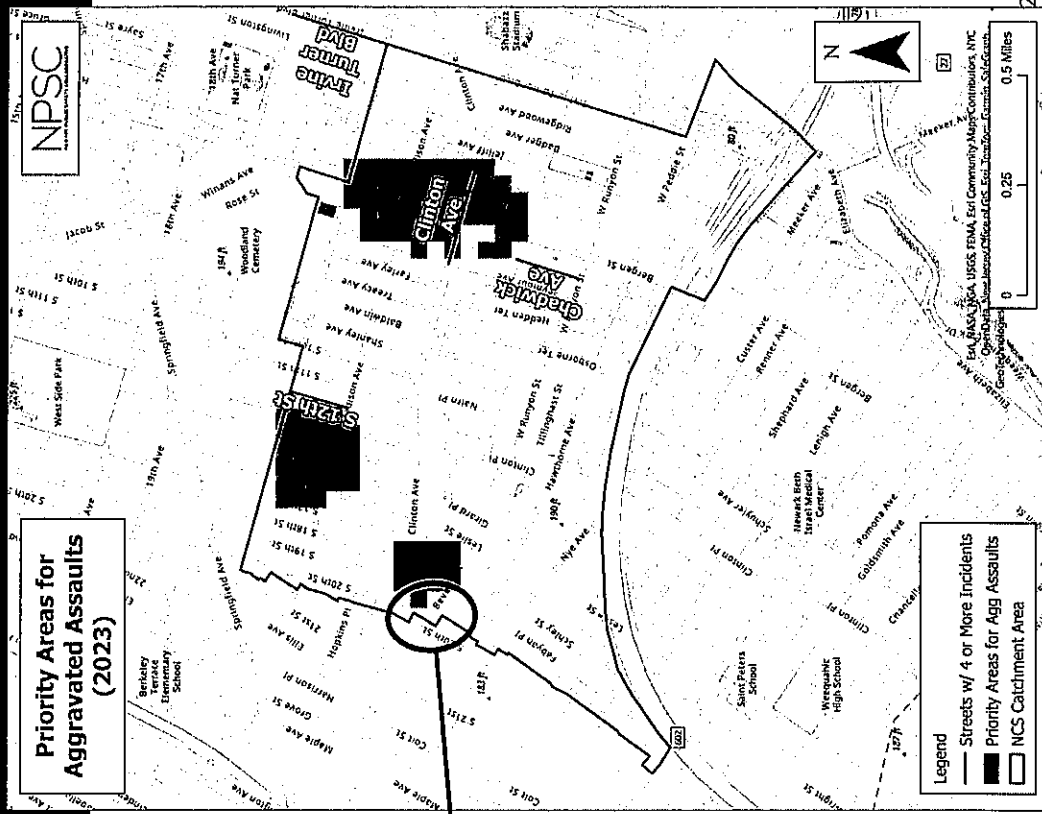


Clinton Ave & Chadwick Ave



Newark Community Solutions (NCS)

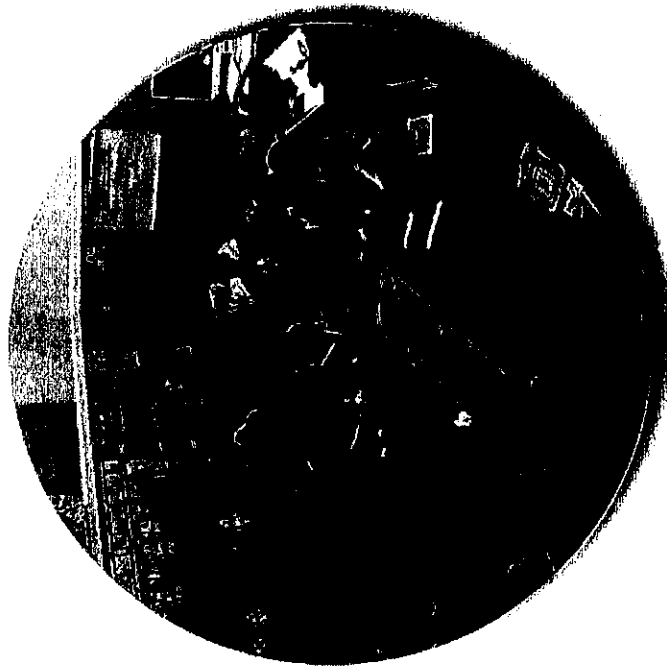
Priority Areas for Aggravated Assaults (2023)



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and Prevention Initiative



Unified Vailsburg Services Organization (UVSO)



- Unified Vailsburg Services Organization (UVSO) was founded in 1972 by forward-thinking civic leaders and residents aiming to foster a resilient and empathetic community in the Vailsburg neighborhood.
- To achieve this mission, the UVSO provides services to children, teenagers, and families, along with initiatives promoting community engagement through neighborhood improvement and housing development.

84x



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Unified Vailsburg Services Organization (UVSO)

UVSO is co-producing community safety with the following local organizations:



Newark People's Assembly



"Make Your Voice Heard!"



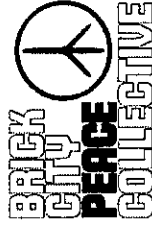
PARTNERSHIP
WEST, INC.
Business Improvement District



TREE HOUSE ENT
CULTURAL ARTS
MOVEMENT



TREE HOUSE
CARES

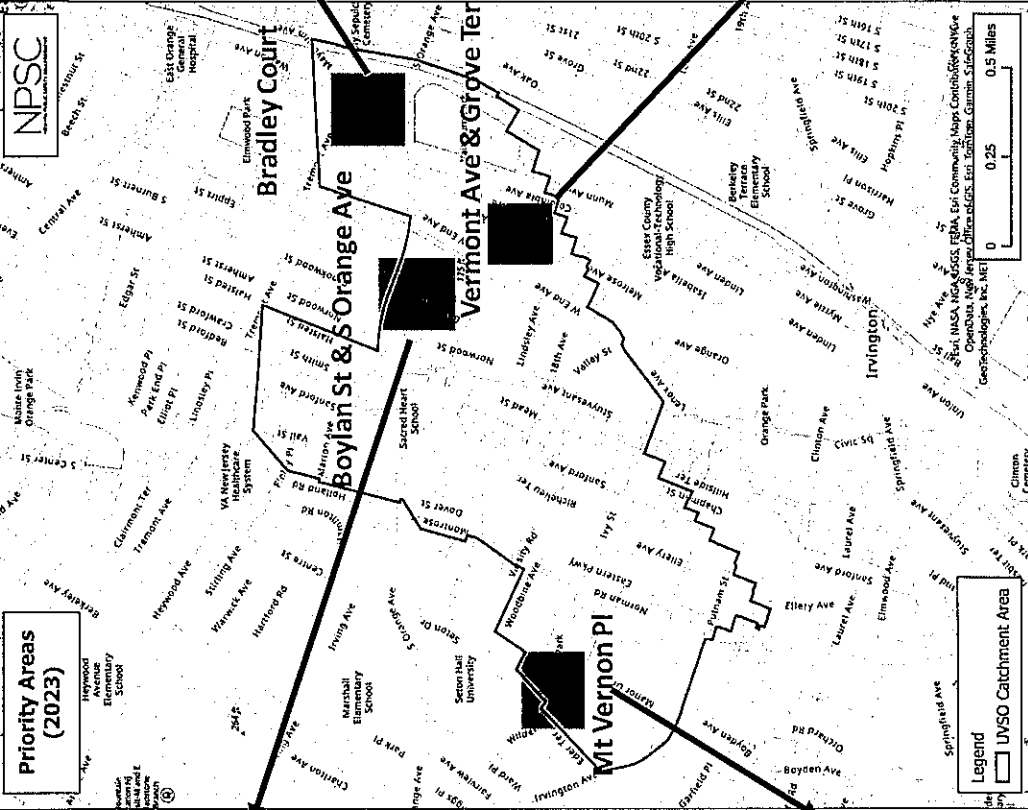


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and Prevention Initiative

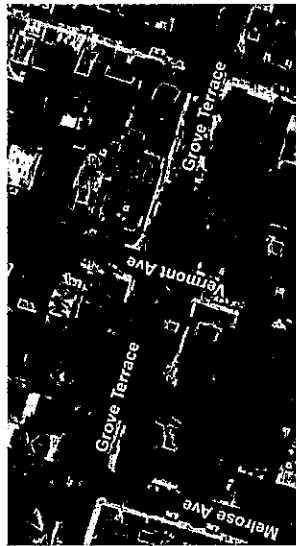
85x

Vailsburg, Newark

Priority Areas
(2023)



Bradley Court



Vermont Ave & Grove Ter



Boylan St & S Orange Ave

Mt Vernon PI



Contact Information

- Alejandro Gimenez-Santana: ag903@scj.rutgers.edu
- Colleen Smith: smithc@innovatingjustice.org
- Warren Thompson: warren@lpccd.org
- Christopher Keys: ckey@uvso.org

88x

Resources





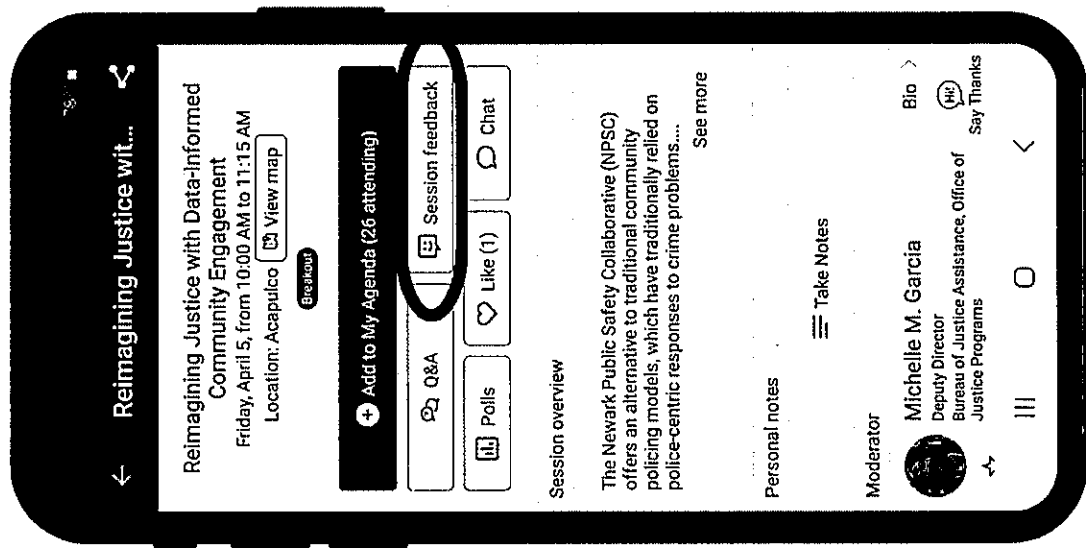
Q & A

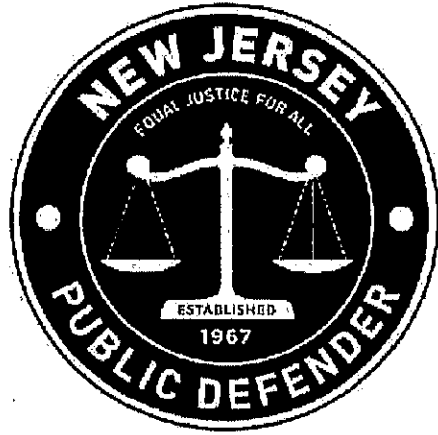
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90x





SENATE JUDICIARY COMMITTEE HEARING
ON YOUTH INVOLVEMENT IN CERTAIN CRIMES

JUNE 13, 2024

WRITTEN TESTIMONY OF PUBLIC DEFENDER JENNIFER SELLITTI AND
STATEWIDE DIRECTOR OF YOUTH DEFENSE, MICHELLE CALLARI,
OF THE NEW JERSEY OFFICE OF THE PUBLIC DEFENDER

91x

SENATE JUDICIARY COMMITTEE HEARING
ON YOUTH INVOLVEMENT IN CERTAIN CRIMES

JUNE 13, 2024

WRITTEN TESTIMONY OF PUBLIC DEFENDER JENNIFER SELLITTI AND
STATEWIDE DIRECTOR OF YOUTH DEFENSE, MICHELLE CALLARI,
OF THE NEW JERSEY OFFICE OF THE PUBLIC DEFENDER

REALITIES

Children Are Different

"Children are different." Fourteen years ago, the United States Supreme Court decided the landmark case, *Miller v. Alabama*, 567 U.S. 460 (2012) and concluded, "children are different." Those three words set off a national awakening about how we punish conduct committed by children. The awakening was rooted in science, data, and fundamental truths about children's brain development and the circumstances that set them apart from adults.

The case paved the way for sentencing reviews for adults sentenced to life in prison for crimes committed as children and set forth a five-part analysis that is relevant to any discussion about behavior engaged in by youth. The *Miller* factors are:

1. "[Chronological age and its hallmark features – among them, immaturity, impetuosity, and failure to appreciate risks and consequence.]"
2. "[T]he family and home environment that surrounds [the juvenile offender] – and from which he cannot usually extricate himself – no matter how brutal or dysfunctional."
3. "The circumstances of the offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him."
4. "[T]hat he might have been charged and convicted of a lesser offense if not for incompetencies associated with youth – for example, his inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys."
5. [T]he possibility of rehabilitation.

New Jersey has embraced the *Miller* factors as valid science and the basis for both Supreme Court decisions and legislative action. The New Supreme Court case *State v. Comer* provided an opportunity for those sentenced to life in prison for crimes committed as juveniles to have the opportunity for resentencing. The New Jersey Legislature also recently changed the mitigating factors to include the age of the person who committed the offense. It is helpful to understand these factors as jumping off point for any discussion about offenses committed by youth and punishment that both protects the public and fosters the stated goal of our juvenile justice system, rehabilitation.

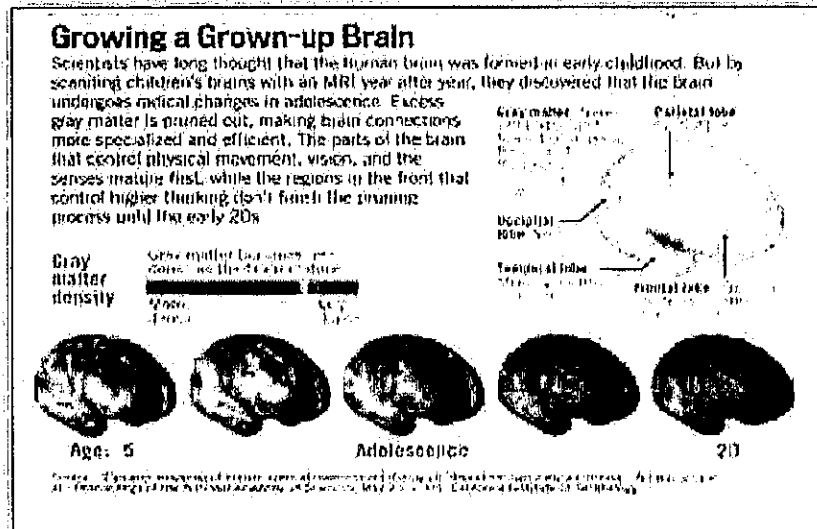
The Adolescent Brain

From the Brief for the American Medical Association and the Academy of Child and Adolescent Psychiatry as Amici Curie in Support of Neither Party in *Miller v. Alabama* (Exhibit A):

"The adolescent's mind works differently from ours. Parents know it. This Court has said it. Legislatures all over the world have presumed it for decades or more. And scientific evidence has continued to shed more light on how and why adolescent behavior differs from adult behavior.

The differences in behavior have been documented by scientists along several dimensions. Scientists have found that adolescents as a group, even at later stages of adolescence, are more likely than adults to engage in risky, impulsive, and sensation-seeking behavior. This is, in part, because they overvalue short-term benefits and rewards, and are less capable of controlling their impulses making them susceptible to acting in a reflexive rather than a planned voluntary manner. Adolescents are also more emotionally volatile and susceptible to stress and peer influences. In short, the average adolescent cannot be expected to act with the same control or foresight as a mature adult.

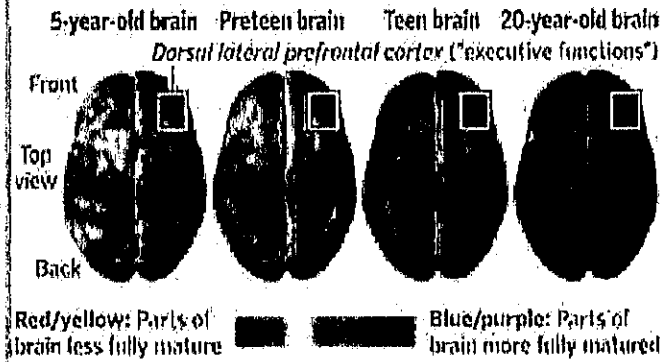
Behavioral scientists have observed these differences for some time, but only recently have studies provided an understanding of the neurobiological underpinnings for why adolescents act the way they do. For example, brain imaging studies reveal that adolescents generally exhibit greater neural reactivity than adults or children in areas of the brain that promote risky and reward-based behavior. These studies also demonstrate that the brain continues to mature, both structurally and functionally, throughout adolescence in regions of the brain responsible for controlling thoughts, actions, and emotions. Together, these studies indicate that the adolescent period poses vulnerabilities to risk taking behavior but, importantly, that this is a temporary stage."



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Judgment last to develop

The area of the brain that controls "executive functions" — including weighing long-term consequences and controlling impulses — is among the last to fully mature. Brain development from childhood to adulthood:



Sources: National Institute of Mental Health
Paul Thompson, Ph.D., UCLA Laboratory of Neuro Imaging

Thomas McKay | The Denver Post

Neuroscience tells us that the parts of the brain that regulate risk and reward are not fully developed until age 25, after which lawbreaking drops off. Because of this, children and emerging adults lack future orientation and the ability to appreciate long-term consequences of their choices or actions. Even when they do, they are inclined to assign less weight to future consequences than to immediate risks and benefits. Between mid-adolescence and early adulthood, individuals become more future oriented.

Teens and adults also differ in their ability to control impulsive behavior. Research shows that teens are subject to more rapid and extreme mood swings than adults. The extreme levels of emotional arousal, either anger or euphoria, are associated with difficulties in self-control. This is because the frontal lobes undergo important structural change during the adolescent and teen years, especially in the prefrontal cortex. This region is central to what psychologists call "executive function"—advanced thinking processes used in planning ahead, regulating emotions, controlling impulses, and weighing the costs and benefits of decisions before acting. See Exhibit B.

The growing teen brain

During the teenage years, the part of the brain that drives certain decisions (such as the part that controls impulses) develops faster than the part that controls impulses. This allows for the social, emotional, and cognitive changes as well as taking on new responsibilities from childhood to adulthood.



Age 10-18



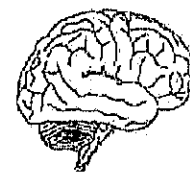
Limbic system (drives emotions) intensifies during puberty along with hormones



Rapid cognitive, emotional, social and physical growth from childhood to adulthood



Greater risk-taking behaviors



Age 18-25



Prefrontal cortex (controls impulses) fastest to develop and matures in early 20s



Greater control over impulsive actions

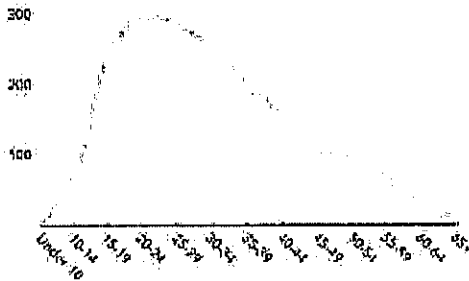


Less risk-taking behaviors, more sound judgement

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Arrest rates for violent offenses spike before age 24 and then decline

Number of arrests for violent offenses in 2018 per 100,000 people in each age group

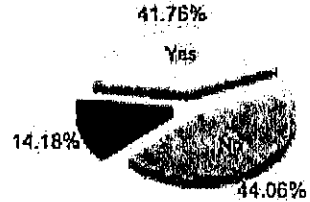


Source: FBI, *Crime in the United States 2018* Table 9.8 and U.S. Census Bureau, *Annual Estimates of the Resident Population by Single Year of Age and Sex for July 1, 2018*

Adolescent brain development is the reason why we see what researchers refer to as the “age-crime” curve. Arrest rates, particularly for violent offenses, spike between the ages of 15 and 24 and then rapidly decline. In the aggregate, crime is most likely to occur between 15-25 (Sampson & Laub). “Chronic offenders” stop committing crimes after age 40. For the eight serious crimes tracked by FBI – murder, rape, robbery, aggravated assault, burglary, larceny-theft, arson, and car theft – “active periods” typically last no more than 5-10 years.

Factors present in our juvenile justice population can further slow pre-frontal cortex development, including mental health disorders, substance and alcohol use, emotional and physical abuse, head trauma, malnutrition, and other factors. The Office of the Attorney General website reports that 41.76% of committed children are already classified as requiring special education services, while 14.18% are going through the special education evaluation process for services. Therefore, more than half of the committed children are in special education.

Special Education



Family and Home Environment

One major difference between adults and children noted by the *Miller* factors is that children are “unable to extricate themselves” from their home environment. Unlike adults, children cannot decide to move out, access medical or mental health care, or otherwise change where they live and the services they receive. The lines between children as victims and children as individuals who cause harm can and are often blurred.

In January of 2023, the National Center for Victims of Crime came out with a report regarding youth in the criminal legal system. See Exhibit C. The results were staggering:

- More than 90% of youth entering the criminal legal system have experience abuse and neglect;
- Children of incarcerated parents are six times more likely to become incarcerated themselves; and
- Youth who were victims of a violent offense were three times more likely to commit a violent offense in the next twelve months.

Peer Influence (not Pressure). Prefrontal cortex development also dramatically impacts an adolescent's susceptibility to peer influence. This is one of the reasons that children are more likely to engage in criminal behavior and make poor decisions when they are in groups. Studies demonstrate that it is the presence of the peer and not the form of the encouragement that causes an adolescent to engage in risk-taking behavior that they otherwise know is dangerous.¹

"The presence of peers increases risk taking among adolescents but not adults. We posited that the presence of peers may promote adolescent risk taking by sensitizing brain regions associated with the anticipation of potential rewards. Using fMRI, we measured brain activity in adolescents, young adults, and adults as they made decisions in a simulated driving task. Participants completed one task block while alone, and one block while their performance was observed by peers in an adjacent room. During peer observation blocks, adolescents selectively demonstrated greater activation in reward-related brain regions, including the ventral striatum and orbitofrontal cortex, and activity in these regions predicted subsequent risk taking. Brain areas associated with cognitive control were less strongly recruited by adolescents than adults, but activity in the cognitive control system did not vary with social context. Results suggest that the presence of peers increases adolescent risk taking by heightening sensitivity to the potential reward value of risky decisions." *Id.*³²

Chien's study, which has been repeated in other contexts, illustrates this point using a driving scenario and an fMRI to measure whether the adolescent will stop or speed through a series of yellow traffic lights or oncoming traffic to get to his or her destination. The adolescents in the study then speak to their friends on the telephone while navigating the same driving scenario after being told their peers are observing them. Not surprisingly, adolescents take more risks – run more yellow lights, come close to more collisions, and have more accidents – when they are engaged by peers.²

It is important to emphasize the difference between peer pressure and peer influence. Peer influence simply means that an adolescent is with or speaking to someone of his/her peer group. This is what the Chien study measures. Peer pressure is when the peer actively encourages another to engage in specific, risky behavior, e.g., if the peers in the Chien study encouraged the drivers to speed or run the lights. The findings are the same either situation, meaning fMRI results show greater striatal activity, even when adolescents are engaged outside the context of

¹ Jason Chien, Peers Increase Adolescent Risk Taking by Enhancing Activity in The Brain's Reward Circuitry, et al., *Dev. Science*, 2011 Mar; 14 (2): F1–F10.

² The PBS Series Brain's on Trial with Alan Alda, demonstrates the Chien study and the findings in action. Brains on Trial with Alan Alda, Produced for PBS by the Chedd-Angler Production Company, written and directed by Graham Chedd; Mr. Chedd, executive producer; David Berenson, editor; Alexandra McHale, associate producer. The following link is to a short, four-minute video clip featuring Dr. Laurence Steinberg and an adolescent participating in the study. Available at: <https://www.youtube.com/watch?v=rt9MvNo65eI>

the peers actively encouraging risk-taking.³ Another study clarified that it is the peer influence and not just driver age that results in riskier behavior.⁴ When the same set of conditions were repeated but peers were replaced by the adolescent drivers' mothers, risk-taking tapered off.

Racial Disparities

It is well-reported that New Jersey has the highest racial disparities in the country when it comes to adult prison sentences. New Jersey's youth sentences reflect this trend. Nationally, between 2011 and 2021, juvenile placements fell 59%. During this same period, racial disparities grew more than 10% in 19 states and decreased by at least 10% in 23 states and the District of Columbia. As of 2021, in Connecticut, New Jersey, Wisconsin, Massachusetts, and Illinois, Black youth were at least 10 times as likely to be held in placement as white youth. Between 2011 and 2021, Illinois, Connecticut and New Jersey saw their racial disparity at least double. See Sentencing Project Report Summary, Exhibit D.

EXISTING PROPOSALS

None of the realities above excuse criminal behavior. What they tell us as part of a discussion about what to do about youth crime is that: 1) traditional responses to crime such as enhanced penalties, mandatory minimums, increasing the degree of a crime – solutions that focus on the future consequences of a child's conduct – simply will not deter a child; and 2) with age, time, and proper guidance, children can age out of crime. Below, we discuss some general approaches/proposals to youth crime and their potential efficacy.

Diversions

Diversions is an effective tool to hold youth accountable for their actions without dragging them into the delinquency system. According to the Anne E. Casey Foundation, at least 60% of juvenile cases and likely a larger percentage could be safely diverted if formal probation was limited to only youth with serious offenses or those otherwise assessed to be a risk to public safety. In addition, studies show that when low-risk youth are diverted, they are 45% less likely to reoffend.⁵ Other studies shows that counseling, skill building, and restorative justice reduced re-offending more than formal probation.⁶ A recent study by the National Center for Victims of Crime found that participation in supportive, restorative justice programs were 23% less likely to be adjudicated delinquent for another offense.⁷

³ Smith, A.R., et. al. Age Differences in the Impact of Peers on Adolescents' and Adults' Neural Response to Reward, *Dev. Cog. Neuroscience Journal*, 2015 Feb; 11:75-82.

⁴ Telzer E.H., Ichien N.T., Qu Y., Mother Knows Best: Redirecting Adolescent-Reward Sensitivity Toward Safe Behavior During Risk Taking, *Social Cognitive and Affective Neuroscience*, 2015 Oct; 10 (10):1383-91.

⁵ The Effect of Youth Diversion Programs on Recidivism: A Meta-Analytic Review - Holly A. Wilson, Robert D. Hoge, 2013 (sagepub.com)

⁶ The Effect of Youth Diversion Programs on Recidivism: A Meta-Analytic Review - Holly A. Wilson, Robert D. Hoge, 2013 (sagepub.com).

⁷ Justice Policy Institute, Smart, Safe, & Fair: Strategies to Prevent Youth Violence, Heal Victims of Crime, and Reduce Racial Inequality; Smart Safe and Fair 9 5 18.pdf (justicepolicy.org).

Each county has its own type of diversionary program, but all have Intake Service Conference (ISC) Since the closure of many diversionary programs due to the pandemic, many counties have not re-vitalized pre-pandemic diversionary options. For example, pre-pandemic Essex County had the Juvenile Auto Theft Prevention Program (JATPP) which was a multi-day education class on the dangers and consequences of stolen cars as well as the detriment to the community. Programs like this could be created statewide to address the current needs of youth involved in car-related thefts. In addition, Essex County also had the Consequences of Crime Program (COCP) which was an educational program held at the detention center for youth to explore the consequences of offending as well as hear from credible messengers. Expanding diversionary options across the state would keep low-risk youth out of the justice system and keep communities safe.

By contrast, detention poses serious harm to children and puts them on a trajectory that makes them less likely to succeed later in life. Sixty percent of children who are detained drop out of school within five months of release. One in three detained youth are diagnosed with depression. Detained youth are two times more likely to reoffend than non-detained youth. See Exhibit E.

Venue Considerations for Delinquency Proceedings

Some have suggested that venue for youth offenses be transferred to the county in which the crime occurred rather than the county of the child's residence. This would have devastating impacts on children. The legal and stated purpose of the juvenile court is rehabilitation. To accomplish this, children entering the delinquency system are routinely referred to services. Most high-needs children in the system are referred to services through New Jersey's System of Care. Since New Jersey's Children's System of Care (CSOC) is based on a Medicaid platform, Federal Medicaid requires a third-party independent assessor, Perform Care, to authorize services and a care management entity to coordinate these services. Community system partners are aligned with the vicinages to assure coordination of care for system involved youth. Each CMO is an independent, county-based organization that serves children and families domiciled within the county. CMO cannot provide services to children who do not live in the county for which it serves. Services are planned through a family team meeting and Care Managers work with youth to create individualized treatment plans that are community based. Community treatment is the priority, but out of home treatment is available to youth who have needs that cannot be met in the community. Each CMO has its own court liaison that updates the court on the child's progress and works with defenders to ensure that children's needs are met through wrap around services. Once a child connects with CMO services, families are given access to county-based Family Support Organizations, (FSO) which provide free support groups to parents who have children involved in the NJ Children's System of Care. Moreover, many vicinages have funded a FSO partner to have a location in the courthouse so system involved families have easier access to the supports FSO can provide.

NJ Court R. 5:19-1(a) states that juvenile delinquency complaints are filed in the county where the incident giving rise to the complaint allegedly occurred. However, when the juvenile charged lives in a county other than the county of the alleged occurrence, the case is prosecuted in the

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child's home county unless there is good cause for venue to be retained in the county where the incident occurred. The driving force behind the difference in venue for adult versus juvenile cases is that children are better be able to access services to assist in their rehabilitation in their home county. Since New Jersey's Children's System of Care is structured to service children through county partnerships, having children's matters heard outside of the county would create serious logistical problems since services, providers, and supports are county-based and not statewide.

In addition, all juvenile detention alternatives are county-based programs. In 2004, New Jersey partnered with the Annie E. Casey Foundation to pilot the Juvenile Detention Alternative (JDAI). JDAI works to reduce the use of works to reduce the number of children in secure detention, while ensuring the traditional aims of pre-adjudication release: maintaining public safety and ensuring youth appear for scheduled court dates. JDAI also works to redirect resources toward successful reform strategies and to improve conditions of confinement in detention facilities for those youth who require this most secure level of supervision. JDAI is in 300 jurisdictions across the country (39 states and D.C.) with New Jersey being the only statewide model. The JDAI model allows each county to provide its own detention alternative programs tailored to meet the needs of the specific county. All sites have the option for GPS monitoring, although the vendors for each site vary. Each county has additional detention alternatives that are available for the court to consider to further ensure that youth involved in the delinquency system are provided with strong support while in the community predisposition. These are county contracts that vary from site to site and supervision in the program is usually limited to those children living within the confines of the county. It is important for those supervising detention alternatives to be close in proximity to children they supervise because they routinely have face to face contact with the youth. In addition to troubleshooting equipment issues, these individuals can provide additional mentorship to the youth they supervise. If detention alternative personnel were to supervise youth in other counties, the distance would impair their ability to properly supervise youth in the community.

In recent years, the Essex County Youth Detention Center has begun to increase the number of counties that they serve since the implementation of JDAI lowered its detention population. At the peak, Essex County Youth Detention Center was serving nine counties including Salem, Atlantic and Cumberland. In the past three months, the detention center has moved away from servicing so many of these counties for a variety of reasons, but one of the driving factors is the distance from the detention center to the counties they service. Studies show youth need to be close to home in order to succeed. Youth are routinely being transported in shackles for two hours to make an in-person court appearance. In addition, conditions of confinement have deteriorated at the Essex County Youth Detention Center with Disability Rights New Jersey filing several suits on behalf of children from Essex County who were not receiving an education while detained.

It is not uncommon for a court to hear a matter that did not occur in the vicinage. Judges, prosecutors, and defenders take these matters seriously and make no distinction in priority for

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offenses that take place within the county's confines. In fact, children regularly are found guilty or plead guilty to out-of-county offenses because prosecutors work together to provide discovery and share information that allow for the matter to be resolved in the child's county of residence.

The benefit for the child is that the child can be supported predisposition closer to home and the court can implement county specific programming to assist the child in ceasing the delinquent behaviors. For example, in the recent high-profile carjacking case out of Edison, Middlesex County prosecutors are arguing the case in Union County, where the children live. This enables Middlesex to prosecute the case as they see fit while ensuring the children involved have access to local services.

Juvenile Waiver

The idea that youth charged with serious crimes in New Jersey are not held accountable for their actions is dead wrong. If a child is fifteen years or older at the time he is alleged to have committed an offense listed under N.J.S.A. 2A:4A-26.1, the child can be transferred to adult court and face serious penalties, which sometimes amount to longer than they have been alive. The reflexive reaction to dealing with the increase in car related thefts is to increase penalties for youth, however, this contradicts the accepted and well-established research surrounding adolescent brain development, which acknowledges that "the same characteristics that render juveniles less culpable than adults—their immaturity, recklessness, and impetuosity—make them less likely to consider potential punishment." Since *Miller*, states around the country have built upon knowledge and evidence-based research to improve how systems deal with delinquency. Keeping the community safe, holding youth accountable and engaging in restorative practices are not mutually exclusive goals.

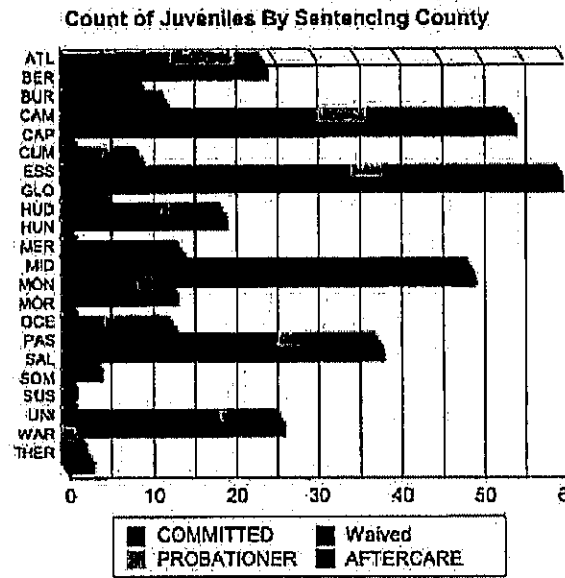
Across the state, the practice of prosecutors moving for children to be transferred to adult court is occurring on a regular basis. In fact, there has been an increase in waivers filed in some counties, such as Atlantic. In calendar year 2023, thirty-one total waivers filed in Atlantic County which is up from six waivers in calendar year 2022. Currently there are eighteen filed in the calendar year 2024.

Recently, there has been an increase in prosecutors offering children resolutions in adult court in exchange for the child voluntarily waiving themselves to adult court when a waiver is filed. Although OPD opposes this policy, we note it because it increases the number of waivers to adult court and is a routine practice in many counties across the state. There are no "slaps on the wrist" for a serious offense, never mind an offense that qualifies for waiver. This is true across the state. All serious offenses, especially those eligible for waiver, are scrutinized by prosecutors to ensure public safety and rehabilitation is at the forefront of resolution.

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Youth Population at the Juvenile Justice Commission

New Jersey Attorney General's Office data from June 7, 2024 (below-right), shows supervision by the Juvenile Justice Commission (JJC), meaning youth who are serving a sentence at the JJC, have been waived to adult court and are starting to serve their adult sentence first at the JJC because of their age, have been placed on probation and must complete a JJC Community Program as a condition of probation, or involved in the aftercare process from a disposition with



a JJC requirement. Essex County has the most juveniles under JJC supervision. Camden County was a close second and Middlesex trailed behind in third. Considering the number of pending waivers in Atlantic County, it is likely that in the coming months more youth from Atlantic County will be involved with the JJC and more youth will be committed or waived, but these matters have not been formally adjudicated. The data shows that Essex County with New Jersey's largest city and largest youth population is sending the most youth to the JJC, which makes sense. The idea that youth from Essex are getting "slaps on the wrist" is a myth the data does not support.

In 2022, New Jersey had 277 youth in custody. As of June 7, 2024, there are 359 children in JJC custody. The length of stay is also on the rise. For example, in Atlantic County, the length of a custodial sentence for a juvenile has increased by 359% since the inception of JDAI in 2004. In addition, even if youth are not committed to the JJC, the average length of stay for youth detained in Atlantic County was 28.5 days in 2021 and is currently 209.3 days, a 646% increase between 2021 and 2024. OPD is bracing for a 25-30% increase in youth defense caseloads in the next fiscal year.

OPD APPROACH

OPD's Focus on Youth Defense

In prioritizing youth defense, OPD has developed a three-step approach: 1) statewide coordination of youth defense; 2) establishment of the Juvenile Post-Disposition Defense Unit; and 3) the creation of a pilot project aimed at preventing recidivism for high-risk youth.

Statewide Coordination of Youth Defense

Through 2024, OPD had dedicated juvenile attorneys in each office but no statewide coordination of youth defense delivery services. This resulted in small pockets of juvenile defenders working together in larger counties and lone attorneys defending children in small

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counties without coordinated support and guidance. In March of 2024, OPD created the position of Statewide Director of Youth Defense and appointed veteran youth defender, Michelle Callari, to the post. It is her role to improve the quality of juvenile defense throughout the state, institute best practices, and to ensure that all our lawyers have the training and support to provide first-class defense to children in juvenile proceedings.

Post-Disposition Unit

OPD proposes to create Youth Post-Disposition Unit dedicated to the representation of children who are serving sentences in state facilities and on supervised release and an increase in the number of attorneys devoted to youth defense. The unit would be comprised of a manager, five post-dispositional staff attorneys and three additional staff attorneys to reduce youth defense caseloads in our highest rate of commitment regions.⁸ In short, these attorneys would be devoted to fill the void left by an unfunded 2020 mandate that required our office to represent more than 350 children across the state who have been committed to youth detention, treatment centers, and parole supervision. The number is roughly 450 if children who are in the process of completing a CMO are counted. At a time when there is widespread concern about youth crime on the rise, it is more important than ever that our office be able to fulfill our statutory mandate of representing children and, in particular, children who post the greatest risk of "graduating" to adult crime.

Children committed to state facilities have committed offenses so serious or have presented with substance abuse and mental health issues so severe that the only alternative available to the courts was to remove them from their homes and put them into custody. As the name implies, post-disposition refers to children who have been adjudicated delinquent and are now serving sentences in state custody, on parole, and in state mental health and substance abuse treatment facilities. Pursuant to S48, which the New Jersey Legislature passed in 2020, children in these custodial settings are evaluated every three months to ensure that they are receiving appropriate services, making positive progress on treatment, and that only the least restrictive means of behavior modification are being imposed. As mentioned earlier, 350 children fall under the purview of S48. These children are housed in state facilities across all twenty-one counties. S48 mandated that our office represent these children, many of whom are on the cusp of reentering society as adults, yet we received no funding to do this critical work. OPD is currently staffing these cases by "volunteers" who willingly accept post dispositional cases on top of their existing caseloads. It is a practice that is unfair to our clients and unsustainable moving forward.

Caseloads are too high to distribute this work amongst existing youth defenders. National standards dictate that the best practice is 40 cases per year and that the maximum caseload for a youth defender should be under 200.⁹ Essex County leads the state in delinquency filings. Under

⁸ This would include a post-dispositional unit comprised of one manager and five staff attorneys and three attorneys to provide caseload relief and post-dispositional support in our three highest-volume counties: Atlantic, Essex, and Camden.

⁹ According to *The American Council of Chief Defenders Statement on Caseloads and Workloads*, the maximum caseload for attorneys representing juveniles in delinquency cases of average complexity is 200 per year. This standard endorses the 1973 National Advisory Commission Standard and Goals organized by the federal

current staffing, the Essex Juvenile Division will handle 1,955 cases this year with a staff of only six attorneys.¹⁰ Atlantic County is a distant second at 900 cases for just two youth defenders. In addition to a caseload of more than double the maximum national standard, Atlantic's youth detainees are now mostly housed in the Essex Detention Center, which is more than 2.5 hours away from our Atlantic County office. To make matters worse, one of our Atlantic-based youth attorneys is handling the bulk of our state's post-disposition cases on top of his annual caseload of 450 cases. In Camden County, for the fiscal year 2023 there were a total of 910 complaints filed. Camden is staffed by four attorneys.¹¹ Again, any post-disposition defense these attorneys are doing is not included in the case counts above. Caseloads are too high to distribute this work to adult attorneys. A recent study put OPD at 3.2 national best practices for adult criminal defense caseloads.¹²

Youth post-disposition cases remain open for years. Unlike traditional cases, that are "closed" when a resolution is reached. Post-disposition cases remain open for the entire life of the child, which could be years. They require constant monitoring, quarterly evaluation reviews, and continuous advocacy in court and in parole revocation proceedings. Beyond just knowing the child's case, post-disposition reviews require by statute that the attorney to examine psychological reports, school records, medical records and drug tests, conditions of confinement, risk assessments, program counselors, family ties and history, placements, and more.¹³

The number one reason for parole revocation for juvenile parolees is a new adult charge. OPD is transitioning to a holistic model, whereby attorneys represent clients not only on their cases but work to ensure they get the services they need to prevent recidivism. Post-dispositional attorneys are critical to ensure children successfully complete parole and do not commit crimes as adults. Many children who become adults while serving their custodial sentence are paroled

government to set standards for indigent defense. However, in 2016 in *The Juvenile Addendum: Guidelines for Indigent Defense Caseloads, A Report to the Texas Indigent Defense Commission* modified the recommendation for Texas youth defenders, to a maximum of 168 cases per year. Moreover, standards set for juvenile defense in 2014 by *The Missouri Project: A Study of the Missouri Public Defender System and Attorney Workload Standards*, set forth 19.5 hours of work to properly prepare for one juvenile case. With this benchmark, each attorney's yearly caseload would not exceed 100 cases. Lastly, in 2017 *The Rhode Island Project: A Study of Rhode Island's Public Defender System and Attorney Workload Standards* set delinquency representation at 46.1 hours per case, which would cap caseloads at 40 per year. It is clear from comparative county and national data that Essex Juvenile requires additional attorneys to properly represent charged youth.

¹⁰ In fiscal year 2023 there were 1,760 complaints filed against youth in Essex. As of November 28th there were 848 complaints already filed, with a projected total filing of 1,955 by the fiscal year's end.

¹¹ We are not asking for an additional attorney for Camden County because, by eliminating the need for Camden attorneys to do post-disposition work on top of existing caseloads, we can bring their caseloads into a normal range.

¹² Pace, Nicolas, et. al., National Public Defender Workload Study, Rand Corporation, July 27, 2023.

https://www.rand.org/pubs/research_reports/RRA2559-1.html; https://www.stltoday.com/news/nation-world/crime-courts/public-defenders-attorneys-dangerously-overworked/article_5a63628b-63d0-56dc-bc91-ce908820ac75.html; This was a study of adult criminal caseloads. It did not include juvenile delinquencies. It is, however, important to note that juveniles cases would be considered a complex case type using the weighting system outlined by this study based on the amount of client contact and motion practice required.

¹³ S48/A5586.

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and not given enough support for the new journey, not only as a parolee, but as an adult. The number one reason for parole revocation for juvenile parolees is a new adult charge. If youth serving custodial sentences were allowed to continue with a coordinated team, which includes the lawyers who represented them during the adjudication phase and post-dispositional attorneys, they would be returning to not only their family, but a familiar team of professionals ready to assist as they start their journey as a productive member of the community they once were removed from. For this reason, our program includes a proposal for three socials – one north, one central, and one south – to assist attorneys in creating, monitoring, and evaluating clients' plans.

OPD Impact Project

OPD is committed to holistic representation that not only produces positive results for youth but also for the communities in which the youth resides. OPD is proposing that an additional youth defender and a system-experienced advocate be placed in three New Jersey counties as part of what we are calling the Impact Project to provide intensive guidance and support from case inception through post disposition in effort to prevent subsequent re-offenses in children.¹⁴

Project attorneys would have small caseloads of less than 40 children throughout the pre- and post- dispositional timeline. This program would adopt the caseload maximum to provide the best representation for the best results.

The National Juvenile Justice Network *Pathways to Desistance* study followed 1,300 youth (ages 14-18 at the time of offense) and followed them for seven years after their adjudications. See Exhibit F. All youth in the study were "serious offenders," meaning they had crimes like murder, robbery, sexual assault, etc. The findings underscored the important point that programs based on a child's presenting offense are not an effective means of identifying risk and addressing recidivism.

As part of the Impact Project, highly skilled defenders with small caseloads would intensely support youth throughout and beyond the court process by in-home visits, attending Family Team Meetings for those youth involved in CMO, connect youth to employment opportunities, as well as support youth in and throughout their disposition to make sure that all conditions are met to ensure youth successfully completes the court's order. The attorneys will work alongside an advocate, who has been impacted by the juvenile or adult criminal legal system. This advocate will connect the child to pre-trial services, monitor progress, and serve as mentor. The feedback loop will ensure that the children are getting the services they need and not just those that seem relevant based on committing offense.

¹⁴ Atlantic, Camden, Cumberland, Essex, Middlesex and Monmouth counties have all been identified as pilot-site candidates.

Placing youth in institutions has no effect on their rate of rearrest.¹⁵ An intensive partnership between an attorney, an advocate, and a child should. This program specifically addresses youth who have re-offended after a diversion or initial adjudication *and*:

- had poor school involvement;
- are currently experiencing homelessness; and/or
- were identified by a stakeholder as high risk for other reasons.

The attorney/advocate team will ensure that the child receives services to nurture their social and emotional health and help the child re-engage in the community. In addition, employment, education, and training opportunities will be explored and integrated into the long-term plan for the child to better ensure success. Cases will be tracked to show that intensive holistic representation through post disposition shows a positive impact on youth and their outcomes.

The *Pathways* study found that youth who are provided with positive institutional experiences like these have better outcomes – far better than detention-based outcomes. Creating better outcomes for youth not only changes the lives of the young people but creates safer communities for everyone.

¹⁵ E. Mulvey, et al., "Service Use After Court Involvement in a Sample of Serious Adolescent Offenders," *Children and Youth Services Review*, 29(4), (2007): 518-544 and C.A. Schubert, et al., "Perceptions of Institutional Experience and Community Outcomes for Serious Adolescent Offenders," *Criminal Justice & Behavior*, 39(1), (2012): 71-93.

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- Exhibit B:** Diagrams of the Adolescent Brain, Various Sources
- Exhibit C:** Fact Sheet: Second Chances for Children in the Criminal Legal System, National Center for Victims of Crime
- Exhibit D:** Black Disparities in Youth Incarceration, The Sentencing Project
- Exhibit E:** The Harms of Juvenile Detention, National Juvenile Defender Center
- Exhibit F:** Fact Sheet: Emerging Findings and Policy Implications from the *Pathways to Desistance* Study, National Juvenile Justice Network
- Exhibit G:** Findings on New Jersey youth crime rates, The Council of State Governments

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Nos. 10-9646, 10-9647

Supreme Court of the United States

January 13, 2012

BRIEF FOR THE AMERICAN MEDICAL ASSOCIATION AND THE AMERICAN ACADEMY OF CHILD AND
ADOLESCENT PSYCHIATRY AS AMICI CURIAE IN SUPPORT OF NEITHER PARTY

Reporter

2012 U.S. S. Ct. Briefs LEXIS 128 *

EVAN MILLER, Petitioner, v. STATE OF ALABAMA, Respondent. KUNTRELL
JACKSON, Petitioner, v. RAY HOBBS, DIRECTOR, ARKANSAS DEPARTMENT OF
CORRECTION, Respondent.

Type: Amicus Brief

Prior History: On Writ of Certiorari to the Alabama Court of Criminal
Appeals. On Writ of Certiorari to the Supreme Court of Arkansas.

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Title

BRIEF FOR THE AMERICAN MEDICAL ASSOCIATION AND THE AMERICAN ACADEMY OF CHILD AND ADOLESCENT PSYCHIATRY AS AMICI CURIAE IN SUPPORT OF NEITHER PARTY

Text

QUESTION PRESENTED

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Whether the Eighth Amendment's ban on cruel and unusual punishment prohibits the imprisonment of a juvenile for life without the possibility of parole as punishment for the juvenile's commission of a homicide offense.

INTERESTS OF AMICI CURIAE n*

The American Medical Association. The American Medical Association (AMA) is the largest professional association of physicians, residents and medical students in the United States. Additionally, through state and specialty medical societies and other physician groups seated in its House of Delegates, substantially all U.S. physicians, residents and medical students are represented in the AMA's policy making process. Founded in 1847, the objects of the AMA are to promote the science and art of medicine and the betterment of public health.

The American Academy of Child and Adolescent Psychiatry. Founded in 1953, the American Academy of Child and Adolescent Psychiatry (AACAP) is comprised of over 7,500 child and adolescent psychiatrists and other interested physicians. Consistent with the focus of the juvenile court system on rehabilitation rather than retribution and multiple international treaties, including the UN Convention of Rights of the Child, the AACAP has adopted a policy statement strongly opposing the imposition of a sentence of life without the possibility of parole for crimes committed as juveniles. AACAP Policy Statement, June 2009, available at http://www.aacap.org/cs/root/policy_statements/life_without_parole_for_juvenile_offenders.

Each of the above-referenced amici is committed to the advancement of science. While not taking a formal position on whether sentencing a juvenile to a term of imprisonment of life without the possibility of parole violates the protections provided by the Eighth Amendment of the U.S. Constitution, amici submit this brief to describe the scientific findings of medical, psychiatric, and psychological research relevant to this issue.

SUMMARY OF ARGUMENT

*The parties have consented to the filing of this brief. Pursuant to Rule 37.3(a), letters consenting to the filing of this brief are on file with the Clerk of the Court. No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than amici curiae, their members, or their counsel made a monetary contribution to its preparation or submission.

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The adolescent's mind works differently from ours. Parents know it. This Court has said it. Legislatures all over the world have presumed it for decades or more. And scientific evidence has continued to shed more light on how and why adolescent behavior differs from adult behavior.

The differences in behavior have been documented by scientists along several dimensions. Scientists have found that adolescents as a group, even at later stages of adolescence, are more likely than adults to engage in risky, impulsive, and sensation-seeking behavior. This is, in part, because they overvalue short-term benefits and rewards, and are less capable of controlling their impulses making them susceptible to acting in a reflexive rather than a planned voluntary manner. Adolescents are also more emotionally volatile and susceptible to stress and peer influences. [*16] In short, the average adolescent cannot be expected to act with the same control or foresight as a mature adult.

Behavioral scientists have observed these differences for some time, but only recently have studies provided an understanding of the neurobiological underpinnings for why adolescents act the way they do. For example, brain imaging studies reveal that adolescents generally exhibit greater neural reactivity than adults or children in areas of the brain that promote risky and reward-based behavior. These studies also demonstrate that the brain continues to mature, both structurally and functionally, throughout adolescence in regions of the brain responsible for controlling thoughts, actions, and emotions. Together, these studies indicate that the adolescent period poses vulnerabilities to risk taking behavior but, importantly, that this is a temporary stage.

While science cannot gauge moral culpability, scientists can shed light on some of the measurable attributes that the law has long treated as highly relevant to culpability and the appropriateness of punishment. This brief focuses on what science can tell us about the neurological, physiological, psychological, emotional, [*17] and behavioral development of adolescents from the perspective of researchers and medical professionals.

ARGUMENT

THE STRUCTURAL AND FUNCTIONAL IMMATURITIES OF THE ADOLESCENT BRAIN PROVIDE A BIOLOGICAL BASIS FOR THE BEHAVIORAL IMMATURITIES EXHIBITED BY ADOLESCENTS.

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Although adolescents¹ can, and on occasion do, exhibit adult levels of judgment and control, their ability to do so is limited and unreliable compared to that of adults. Adolescents, as a group, value risks and rewards differently from adults, which, coupled with limitations in controlling their impulses and recognizing and regulating emotional responses, makes them vulnerable to impulsive acts. See Point A, *infra*.

Moreover, recent advances [*18] in brain-imaging technology confirm that the very regions of the brain that are associated with voluntary behavior control and regulation of emotional response and impulsivity are structurally immature during adolescence. Studies have also revealed that these structural immaturities are consistent with age-related differences in both brain function and behavior. See Point B, *infra*.

These findings have led to an "explosion of scientific papers and popular articles" about the immaturities of the adolescent brain and how these immaturities explain the risky and impulsive behavior exhibited by teens.²

A. Adolescents Are Less Able Than Adults to Voluntarily Control Their Behavior.

Numerous studies of adolescent behavior over the last two decades confirm the stereotype that adolescents, as a group, are prone to making impulsive or reactive judgments. "Relative to individuals at other ages, . . . adolescents [*19] . . . exhibit a disproportionate amount of reckless behavior, sensation seeking and risk taking."³ Sensation-seeking peaks during adolescence across cultures and species, and is believed to be an adaptive and normal part of development that promotes learning and independence.⁴ Nevertheless, sensation-seeking

¹ There is a continuum of differences in brain maturation and cognitive abilities between the youngest and oldest of adolescents. All of the scientific conclusions recounted in this brief, however, are applicable to adolescents as a class--ranging from ages 12 to 17.

² David Dobbs, *Beautiful Brains*, 220:4 NAT'L GEOGRAPHIC 36, 48 (Oct. 2011).

³ Linda Patia Spear, *The Adolescent Brain and Age-Related Behavioral Manifestations*, 24 NEUROSCI. & BIOBEHAV. REVS. 417, 421 n. 1 (2000); see also Lawrence Steinberg et al., *Age Differences in Sensation Seeking and Impulsivity as Indexed by Behavior and Self-Report: Evidence of a Dual Systems Model*, 44:6 DEVELOPMENTAL PSYCHOL. 1774 (2008); B.J. Casey et al., *The Adolescent Brain*, 28 DEVELOPMENTAL REV. 62, 62-77 (2008); see generally Sarah Durston & B.J. Casey, *What Have We Learned About Cognitive Development from Neuroimaging?*, 44 NEUROPSYCHOLOGIA 2149 (2006); Luciana Hooper et al., *Adolescents' Performance on the Iowa Gambling Task: Implications for the Development of Decision-Making and Ventromedial Prefrontal Cortex*, 40:6 DEVELOPMENTAL PSYCHOL. 1148 (2004).

⁴ Beatriz Luna, *The Maturation of Cognitive Control and the Adolescent Brain*, in FROM ATTENTION TO GOAL-DIRECTED BEHAVIOR 250 (Francisco Abaitiz and Diego Cosmelli eds., Springer Berlin

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behavior can result in actions that compromise survival (referred to as "risk-taking" behaviors) and involve sub-optimal decision-making. Risk-taking of all sorts -- whether drunk driving, unprotected sex, experimentation with drugs, or even criminal activity -- is so pervasive that "it is statistically aberrant to refrain from such [risk-taking] behavior during adolescence."⁵ The difference between adolescent and adult behavior, however, is not a function of adolescents' inability to distinguish right from wrong or in their intellectual abilities per se, but rather from psychosocial limitations in their ability to consistently and reliably control their behavior.⁶

[*20]

Specifically, adolescents are less able, on average, than adults to self-regulate, or "cognitively" control, their behavior.⁷ Cognitive control refers to the [*21] ability to voluntarily exert goal-directed behavior while controlling compelling but goal-inappropriate responses.⁸ Scientists have identified various interrelated immaturities in adolescents' self-regulatory abilities that contribute to their limitation in controlling their impulses and their greater tendency to engage in risky or reckless behavior. To name just a few, adolescents (1) tend to be more strongly motivated by the possibility of reward than adults; (2) have greater difficulty controlling their impulses; and (3) have greater difficulty recognizing and regulating emotional responses. We take a closer look at each of these factors below.

[*22]

Reward Sensitivity. One of the main reasons adolescents are more likely to engage in risky behavior than adults is that adolescents tend to

Heidelberg 2009) (explaining that "these behaviors may be necessary to develop the social skills needed to gain independence in adulthood").

⁵ Spear (2000), *supra* note 3, at 421; see also Casey (2008), *supra* note 3, at 65 ["[R]isk-taking appears to increase during adolescence relative to childhood and adulthood"]

⁶ Elizabeth Cauffman & Lawrence Steinberg, *(Im)Maturity of Judgment in Adolescence: Why Adolescents May Be Less Culpable Than Adults*, 18 BEHAV. SCI. & L. 741, 742 (2000); see also William Gardner, *A Life-Span Rational-Choice Theory of Risk Taking*, in ADOLESCENT AND ADULT RISK TAKING: THE EIGHTH TEXAS TECH SYMPOSIUM ON INTERFACES IN PSYCHOLOGY 66, 67 (N. Bell & R. Bell eds., 1993).

⁷ See Deborah Yurgelun-Todd, *Emotional and Cognitive Changes During Adolescence*, 17 CURRENT OPINION IN NEUROBIOLOGY 251, 253 (2007); see also R. K. Lenroot & Jay N. Giedd, *Brain Development in Children and Adolescents: Insights from Anatomical Magnetic Resonance Imaging*, 30 NEUROSCI. & BEHAV. REVS. 718, 723 (2006); Luna (2009), *supra* note 4, at 249, 51; see also Lawrence Steinberg et al., *Age Differences in Future Orientation and Delay Discounting*, 80 CHILD DEV. 28, 40-41 (2009) [hereinafter Steinberg, *Future Orientation*] ("[C]hanges in impulse control and planning are mediated by a 'cognitive control' network . . . which matures more gradually and over a longer period of time, into early adulthood.")

⁸ See Luna (2009), *supra* note 4, at 251.

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experience heightened levels of sensitivity to rewards, especially to immediate rewards.⁹ Placing a higher value on the potential reward leads to lower risk-reward ratios for adolescents, relative to adults, and thus a higher likelihood of engaging in the risky behavior.¹⁰ In other words, adolescent behavioral research suggests that adolescents take more risks because they overvalue the potential reward, not because they are less able to appreciate the risks, as was once believed.¹¹ "[A]dolescents' greater involvement in risk taking, compared to adults', does not appear to stem from youthful ignorance, irrationality, delusions of invulnerability, or misperceptions of risk."¹² Rather, it appears that adolescents and adults perceive risks similarly¹³, but they evaluate potential rewards differently, especially when the risky behavior is weighed against the cost.¹⁴

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Furthermore, [*24] studies have shown that adolescents are more likely to take risks when they are in the presence of peers. "[O]ne of the hallmarks of adolescent risk taking is that it is much more likely than that of adults to occur in the presence of peers, as evidenced in studies of reckless driving, substance abuse, and crime."¹⁵ More recent studies have also shown that this increased risk taking in the presence of peers is associated with greater neural activity in the

⁹ See Laurence Steinberg, *Adolescent Development and Juvenile Justice*, 16:3 ANN. REV. CLINICAL PSYCHOL. 47, 57 (2009) [hereinafter Steinberg, *Adolescent Development*]; see also C.F. Geier, et al., *Immaturities in Reward Processing and Its Influence on Inhibitory Control in Adolescence*, 20:7 CEREBRAL CORTEX 1613, 1624-26 (2010).

¹⁰ See Steinberg, *Adolescent Development*, *supra* note 9, at 57-58.

¹¹ *Id.* at 58.

¹² Elizabeth Cauffman & Elizabeth Shulman, *Age Differences in Affective Decision Making as Indexed by Performance on the Iowa Gambling Task*, 46:1 DEVELOPMENTAL PSYCHOL. 193, 194 (2010); see also Steinberg, *Adolescent Development*, *supra* note 9, at 57.

¹³ Valerie Reyna & Charles Brainerd, *Dual Processes in Decision Making and Developmental Neuroscience: A Fuzzy-Trace Model*, 31 DEVELOPMENTAL REV. 180, 193 (2011).

¹⁴ See Susan L. Andersen, *Trajectories of Brain Development—Point of Vulnerability or Window of Opportunity?* 27 NEUROSCI. AND BIOBEHAV. REVS 3, 3-18 (2003); Fulton Crews, Jun He & Clyde Hodge, *Adolescent Cortical Development: A Critical Period of Vulnerability for Addiction*, 86 PHARMACOLOGY BIOCHEMISTRY AND BEHAV. 189 (2007); Spear (2000), *supra* note 3; Cauffman & Shulman, *supra* note 12, at 206; Steinberg (2008), *supra* note 3, at 1776 (linking lack of impulse control to sensation seeking behaviors).

¹⁵ Albert Chain, et al., *Peers Increase Adolescent Risk Taking by Enhancing Activity in the Brain's Reward Circuitry*, 14:2 DEVELOPMENTAL SCI. F1, F1 (2011) (internal citations omitted); Linda Patia Spear, *Rewards, Aversions and Affect in Adolescence: Emerging Convergences Across Laboratory Animal and Human Data*, 1 DEVELOPMENTAL COGNITIVE NEUROSCI. 390, 400 (2011).

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areas of the brain associated with reward processing.¹⁶ In fact, adolescents appear to place unique reward value on the presence of peers. With adolescents, "awareness of peers selectively amplifies activity in the [] brain's incentive processing system, which in turn influences subsequent decisions about risk."¹⁷ Adults, on the other hand, "showed no differences in the activation of these regions as a function of social context."¹⁸

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Impulse Control. "A cornerstone of cognitive development is the ability to suppress inappropriate thoughts and actions in favor of goal-directed ones, especially in the presence of compelling incentives."¹⁹ Impulse control means allowing a goal-directed response to override a more compelling/reflexive, yet goal-inappropriate response.²⁰ The ability to control one's impulsive reactions to an event or problem is necessary to achieve adult levels of problem solving ability, logical reasoning, and the consistent exercise of good judgment.²¹

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Adolescents have observable limitations in their ability to control their impulses. The relative inability of adolescents to control impulsive behavior is well-documented by studies on developmental changes in impulsivity and self-management over the course of adolescence.²² "A number of classic developmental studies have shown that this ability develops throughout childhood and adolescence."²³ Capacity for self-direction has been shown to increase gradually throughout adolescence and into young adulthood.²⁴ Likewise,

¹⁶ See Chein, *supra* note 15, at F7. These areas include the ventral striatum and orbitofrontal cortex. *Id.* at F1, F7 ("Specifically, relative to adults, adolescents demonstrated significantly greater activation of VS and OFC as they rendered decisions about risk, but only when they were aware that friends were watching them.").

¹⁷ *Id.* at F8.

¹⁸ *Id.* at F7.

¹⁹ See Casey (2008), *supra* note 3, at 64.

²⁰ See Luna, *supra* note 4, at 251.

²¹ See *id.*

²² See Steinberg, *Adolescent Development*, *supra* note 9, at 58; see also Laurence Steinberg & Kathryn C. Monahan, *Age Differences in Resistance to Peer Influence*, 43 *DEVELOPMENTAL PSYCHOL.* 1531, 1538 (2007); Steinberg (2008), *supra* note 3, at 1772-74.

²³ See Casey (2008), *supra* note 3, at 64.

²⁴ See Steinberg, *Future Orientation*, *supra* note 7, at 28-29, 38-40.

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impulsivity tends to decline linearly from childhood to adulthood.²⁵ These findings indicate that adolescents have not yet attained adult levels of impulse control. In other words, adolescents are less able than adults to consistently reflect before they act.

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Emotional Regulation. All individuals regulate their emotional responses to events. They increase or decrease their emotional reactions to stimuli in accordance with their behavioral goals.²⁶ The ability to regulate one's emotions efficiently is crucial for mental and physical health as well as for appropriate social interactions, and impairment of this capability is associated with affective disorders and a variety of other maladaptive psychological conditions.²⁷ This ability, however, continues to develop through adolescence into adulthood.²⁸ As a result, similar to their ability to control impulses, adolescents have less ability to regulate their emotional responses to stimuli than adults.²⁹

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This relative limitation is important for understanding adolescents' ability to voluntarily control their behavior. Indeed, many situations, particularly those involving social interactions, arouse adolescents' emotional system and impact their ability to make informed decisions about their actions. Peer pressure, for example, can arouse emotions of fear, rejection, or desire to impress friends that can undermine the reliability of adolescent behavioral [*29] control systems and result

²⁵ Steinberg (2008), *supra* note 3, at 1776; see Steinberg, *Adolescent Development*, *supra* note 9, at 57.

²⁶ See Sang Hee Kim & Stephan Hamann, *Neural Correlates of Positive and Negative Emotion Regulation*, 19:5 J. COGNITIVE NEUROSCI. 776 (2007); Kelly Anne Barnes et al., *Developmental Differences in Cognitive Control of Socio-Affective Processing*, 32:3 DEVELOPMENTAL NEUROPSYCHOL. 787 (2007).

²⁷ *Id.*, at 776.

²⁸ See Casey (2008), *supra* note 3, at 65.

²⁹ Isabelle M. Rosso et al., *Cognitive and Emotional Components of Frontal Lobe Functioning in Childhood and Adolescence*, 1021 ANNALS N.Y. ACAD. SCI. 355, 360-61 (2004); see also, e.g., Todd A. Hare et al., *Biological Substrates of Emotional Reactivity and Regulation in Adolescence During an Emotional Go-Nogo Task*, 63:10 BIOLOGICAL PSYCHIATRY 927 (2008) (adolescents show exaggerated responses in subcortical brain regions involved in emotional behaviors, which is associated with risk taking and heightened emotional responses to empty threats).

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in actions taken without full consideration or appreciation of the consequences.³⁰

Each of these attributes continues to develop throughout adolescence and early adulthood, and is critical to the ability to effectively and consistently control one's behavior.³¹ The developmental immaturities that adolescents exhibit with respect to each of these attributes compound to make them particularly prone to engage in risky and sensation-seeking behavior.

Researchers have also found that these limitations are especially pronounced when other factors -- such as [*30] stress, emotions, and peer pressure -- enter the equation. These factors affect everyone's cognitive functioning, but they operate on the adolescent mind differently and with special force.

The interplay among stress, emotion, cognition, and voluntary behavior control in teenagers is particularly complex -- and different from adults. Stress affects the ability to effectively regulate behavior as well as the ability to weigh costs and benefits and override impulses with rational thought.³² Adolescents are more susceptible to stress from daily events than adults, which translates into a further distortion of their already skewed cost-benefit analysis.³³

Emotion, like stress, also plays an important role in the ability to voluntarily [*31] control behavior, influencing decision-making and risk-taking behavior.³⁴ Because of their greater stress, greater influx of gonadal hormones, and their relative inability to consistently regulate their emotional responses, adolescents are more emotionally volatile than adults -- and children, for that matter.³⁵ As a result, adolescents tend to experience emotional states that are more extreme and more variable than those experienced by adults.³⁶

³⁰ See Steinberg (2007), *supra* note 22, at 1536-38 (explaining that "resistance to peer influence increases linearly over the course of adolescence, especially between ages 14 and 18").

³¹ See Casey (2008), *supra* note 3, at 66.

³² See Spear (2000), *supra* note 3, at 423; Lita Furby & Ruth Beyth-Marom, *Risk Taking in Adolescence: A Decision-Making Perspective*, 12 DEVELOPMENTAL REV. 1, 22 (1992).

³³ See Spear (2000), *supra* note 3, at 423; Furby, *supra* note 32, at 22.

³⁴ See Laurence Steinberg & Elizabeth S. Scott, *Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty*, 58 AM. PSYCHOL. 1009, 1011-13 (2003).

³⁵ See Spear (2000), *supra* note 3, at 429.

³⁶ See *id.*; Cauffman (2000), *supra* note 6, at 743-45, 756-57, 59.

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In sum, the conclusion of the scientific research is that, for a variety of interrelated reasons, adolescents, as a group, cannot be expected to behave or make decisions in the same way as adults. [*32]

B. Recent Studies of the Brain Have Established a Biological Basis for the Observed Immaturities in Adolescent Behavior.

Modern brain research technologies have developed a body of data from the late 1990s to the present that provides a compelling picture of the inner workings of the adolescent brain.³⁷ Indeed, brain imaging data provides convergent evidence for the ways in which adolescents are still immature.³⁸ Developmental neuroscience has now gathered extensive evidence that both the structure of the adolescent brain, and the way it functions, are immature compared to the adult brain.

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This insight emerges from sophisticated and non-invasive brain imaging techniques performed by high-resolution structural and functional magnetic resonance imaging ("MRI") methods.³⁹ These imaging techniques are a quantum leap beyond previous methods for assessing brain development. Before the rise of neuroimaging, the understanding of brain development was gleaned largely from post-mortem examinations.⁴⁰ Modern imaging techniques, however, have begun to shed light on how a live brain operates, and how a particular brain develops over time.

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³⁷ See Sarah Durston et al., *Anatomical MRI of the Developing Human Brain: What Have We Learned?* 40 J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 1012, 1012 (2001) (reviewing results of MRI studies of brain development in childhood and adolescence); Michael S. Gazzaniga et al., *COGNITIVE NEUROSCIENCE: THE BIOLOGY OF THE MIND* 20-21, 138 (2d ed. 2002).

³⁸ See Nitin Gogtay et al., *Dynamic Mapping of Human Cortical Development During Childhood Through Early Adulthood*, 101 PROC. NAT'L ACAD. SCI. 8174, 8177 (2004).

³⁹ "MRI measures the response of atoms in different tissues when they are pulsed with radio waves that are under the influence of magnetic fields thousands of times the strength of the Earth's. Each type of tissue responds differently, emitting characteristic signals from the nuclei of its cells. The signals are fed into a computer, the position of those atoms is recorded, and a composite picture of the body area being examined is generated and studied in depth." Florence Antoine, *Cooperative Group Evaluating Diagnostic Imaging Techniques*, 81 J. NAT'L CANCER INST. 1347, 1348 (1989); see also Yurgelun-Todd, *supra* note 7, at 251-52 (explaining that "structural MRI and functional MRI (fMRI), have become important modalities for research on brain development as they have been able to provide a more detailed picture of how the brain changes. The application of these methods to the study of children and adolescents provides an extraordinary opportunity to advance our understanding of neurobiological changes and functional abilities associated with the brain.")

⁴⁰ See Gazzaniga, *supra* note 37, at 63.

⁴¹ See generally Elizabeth R. Sowell et al., *Development of Cortical and Subcortical Brain Structures in Childhood and Adolescence: A Structural MRI Study*, 44 DEVELOPMENTAL MED. & CHILD NEUROLOGY 4 (2002); Elizabeth R. Sowell et al., *Mapping Continued Brain Growth and Gray Matter*

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Technological breakthroughs have not only enabled scientists to confirm some of what was previously known or believed, but have also provided new evidence that has changed the way scientists understand the development of the human brain as it progresses from childhood through adolescence and into adulthood. ⁴² "[B]rain imaging studies in normal children and adolescents have been helpful in relating the dramatic maturation of cognitive, emotional, and social functions with the brain structures that ultimately underlie them." ⁴³

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In this regard, two complementary observations have been especially revealing. First, the parts of the brain that work together to support the control of behavior, including the prefrontal cortex (which comprises roughly the front third of the human brain), continue to mature even through late adolescence.⁴⁴ Second, in making behavioral choices, adolescents rely more heavily than adults on systems and areas of the brain that promote risk-taking and sensation-seeking behavior.

1. Adolescent Brains Are Structurally Immature in Areas of the Brain Associated with Enhanced Abilities of Executive Behavior Control.

When it comes to "response inhibition, emotional regulation, planning and [*36] organization," the so-called executive functions, a crucial part of the brain is the prefrontal cortex. ⁴⁵ The prefrontal cortex is a core region that through its ability to integrate information across the brain supports planning of voluntary goal-directed responses and can exert control over more impulsive brain systems. As such, it is

Density Reduction in Dorsal Frontal Cortex: Inverse Relationships During Postadolescent Brain Maturation, 21 J. NEUROSCI. 8819 (2001).

⁴² See Elizabeth R. Sowell et al., *In Vivo Evidence for Post-Adolescent Brain Maturation in Frontal and Striatal Regions*, 2 NATURE NEUROSCI. 859 (1999); see also Jay N. Giedd et al., *Brain Development During Childhood and Adolescence: A Longitudinal MRI Study*, 2 NATURE NEUROSCI. 861 (1999).

⁴³ Elizabeth R. Sowell et al., *Mapping Cortical Change Across the Human Life Span*, 6 NATURE NEUROSCI. 309 (2003); see also Gogtay, *supra* note 38, at 8177.

⁴⁴ See Casey (2008), *supra* note 3, at 68.

⁴⁵ Sowell (1999), *supra* note 42, at 860; see Eveline A. Crone et al., *Neurocognitive Development of Relational Reasoning*, 12:1 DEVELOPMENTAL SCI. 55, 56 (2009) (explaining that "[n]europsychological and neuroimaging studies have shown that prefrontal cortex is strongly implicated in relational reasoning."); see also Gazzaniga, *supra* note 37, at 75; Rosso, *supra* note 29, at 360-61 (finding a correlation between frontal lobe development in adolescents, response inhibition and social anxiety levels); see generally, Silvia A. Bunge et al., *Immature Frontal Lobe Contributions to Cognitive Control in Children: Evidence from fMRI*, 33 NEURON 301 (2002).

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associated with a variety of cognitive abilities, ⁴⁶ including those associated with voluntary behavior control and inhibition ⁴⁷ such as risk assessment, ⁴⁸ evaluation of reward and punishment, ⁴⁹ and impulse control. ⁵⁰ More generally, other functions associated with the prefrontal cortex include decision-making, ⁵¹ the ability to judge and evaluate future consequences, ⁵² recognizing deception, ⁵³ responses to positive and negative feedback, ⁵⁴ working memory, ⁵⁵ and making moral judgments. ⁵⁶

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The brain's frontal lobes are still structurally immature well into late adolescence, ⁵⁷ and the prefrontal cortex is "one of the last

⁴⁶ See B.J. Casey et al., *Structural and Functional Brain Development and Its Relation to Cognitive Development*, 54 *BIOLOGICAL PSYCHOL.* 241, 244 (2000).

⁴⁷ See R. Dias et al., *Dissociable Forms of Inhibitory Control Within Prefrontal Cortex with an Analog of the Wisconsin Card Sort Test: Restriction to Novel Situations and Independence from "On-Line" Processing*, 17 *J. NEUROSCI.* 9285 (1997); Durston, *supra* note 37, at 1016; see also Yurgelun-Todd, *supra* note 7, at 253.

⁴⁸ See Facundo Manes et al., *Decision-Making Processes Following Damage to the Prefrontal Cortex*, 125 *BRAIN* 624 (2002).

⁴⁹ See J. O'Doherty et al., *Abstract Reward and Punishment Representations in the Human Orbitofrontal Cortex*, 4 *NATURE NEUROSCI.* 95 (2001); Robert D. Rogers et al., *Choosing Between Small, Likely Rewards and Large, Unlikely Rewards Activates Inferior and Orbital Prefrontal Cortex*, 20 *J. NEUROSCI.* 9029 (1999).

⁵⁰ See Antoine Bechara et al., *Characterization of the Decision-Making Deficit of Patients with Ventromedial Prefrontal Cortex Lesions*, 123 *BRAIN* 2189, 2198-99 (2000).

⁵¹ See Samantha B. Wright et al., *Neural Correlates of Fluid Reasoning in Children and Adults*, 1:8 *FRONTIERS HUMAN NEUROSCI.* 7 (2008) (finding that important changes in the prefrontal cortex during adolescence lead to the development of logical reasoning abilities); see also Antoine Bechara et al., *Dissociation of Working Memory from Decision Making Within the Human Prefrontal Cortex*, 18 *J. NEUROSCI.* 428 (1998).

⁵² See Bechara (2000), *supra* note 50.

⁵³ See D. D. Langleben et al., *Brain Activity During Simulated Deception; An Event-Related Functional Magnetic Resonance Study*, 15 *NEUROIMAGE* 727 (2002).

⁵⁴ See R. Elliott et al., *Differential Neural Response to Positive and Negative Feedback in Planning and Guessing Tasks*, 35 *NEUROPSYCHOLOGIA* 1395 (1997).

⁵⁵ See Luna, *supra* note 4, at 264.

⁵⁶ See Jorge Moll et al., *Frontopolar and Anterior Temporal Cortex Activation in a Moral Judgment Task: Preliminary Functional MRI Results in Normal Subjects*, 59 *ARC NEUROPSYCHIATR* 657 (2001); Steve W. Anderson et al., *Impairment of Social and Moral Behavior Related to Early Damage in Human Prefrontal Cortex*, 2 *NATURE NEUROSCI.* 1032 (1999).

⁵⁷ See Gogtay, *supra* note 38, at 8174 (subjects of study aged 4 to 21 years); Giedd (1999), *supra* note 42, at 861 (subjects of study aged 4.2 to 21.6 years); Swell (1999), *supra* note

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brain regions to mature." ⁵⁸ This, in turn, means that "response inhibition, emotional regulation, planning and organization . . . continue to develop between [*39] adolescence and young adulthood." ⁵⁹

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The adolescent brain, in particular the frontal lobes and specifically the prefrontal cortex, is immature in at least two distinct ways that directly affect an adolescent's ability to cognitively control behavior. First, the gray matter where neuronal brain cells reside continues to mature, supporting complex neural processing needed for generating cognitive plans. Second, the integrity of white matter neuronal connections, which supports the fast connectivity needed to executively control impulsive responses, is still improving. Maturation of processes in the gray and white matter of the brain support the complex information processing that underlies executive voluntary control of behavior, which underlies decreased risk taking in adulthood. When fully mature, the ability to effectively process complex information and quickly affect behavior supports the adult's ability to make better-informed executive decisions. ⁶⁰

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Pruning. The gray matter of the brain is where brain cell "neurons" reside and includes the top layer of the brain and also the nuclei within the brain. ⁶¹ As the brain matures, gray matter thins ⁶² through processes called synaptic pruning, which is the programmed elimination

⁴², at 860-61 (subjects of study aged 12 to 16 and 23 to 30 years); see also Sowell (2001), *supra* note 41, at 8826 (noting pronounced brain maturational processes continuing into post-adolescence; subjects of study aged 7 to 30 years); Sowell (2003), *supra* note 43, at 309 (subjects of study aged 7 to 87 years).

⁵⁸ Casey (2000), *supra* note 46, at 243; see also Gogtay, *supra* note 38, at 8175.

⁵⁹ Sowell (1999), *supra* note 42, at 860; see also Kenneth E. Towbin & John E. Schowalter, *Adolescent Development*, in *PSYCHIATRY* 145, 151-52 (Allan Tasman ed., 2d ed. 2003).

This paper recognizes the link between "improvement during adolescence in specific cognitive skills such as organizing information, conceptualization, perspective taking, and social perception, to structural changes in frontal cortical and subcortical structures." *Id.* at 152.

⁶⁰ See Steven Petersen et al., *Functional Brain Networks Develop from a "Local to Distributed" Organization*, 5:5 PLOS COMPUTATIONAL BIOLOGY 1, 8 (2009) (increased connectivity "promote[s] interactions between brain regions . . . allowing for a more effective 'solution' to any particular set of processing demands").

⁶¹ See Gazzaniga, *supra* note 37, at 64-65; see Eric R. Kandel et al., *PRINCIPLES OF NEURAL SCIENCE* 9 (James H. Schwartz & Thomas M. Jessel, eds., McGraw-Hill 2000).

⁶² See Durston, *supra* note 37, at 1014; Jay N. Giedd et al., *Anatomical Brain Magnetic Resonance Imaging of Typically Developing Children and Adolescents*, 48:5 J. AM. ACAD. CHILD ADOLESCENT PSYCHIATRY 465, 469 (2009); Gogtay, *supra* note 38, at 8174 (10 year study of gray matter loss showed continued gray matter loss until adulthood).

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of unused and cumbersome neuronal connections believed to support the ability for the brain to adapt to its environment. Just as the pruning of a rose bush strengthens the remaining branches, the pruning of excess connections leads to greater efficiency and strengthening of the ability for complex information processing that support consistent exercise of good judgment. ⁶³ Maturational improvements in the gray matter continue to take place through adolescence and into adulthood. ⁶⁴ Thus, changes in gray matter, including pruning, enhance the ability to process complex information quickly allowing the brain to make executive plans supporting voluntary control of behavior.

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Scientists have known about pruning for decades, ⁶⁵ but modern brain imaging technology has provided important insights into the process. ⁶⁶ Until [*43] MRI technology emerged, the common wisdom was that the volume of gray matter spurted only once, shortly after birth, and then declined gradually over time. Brain scans have revealed a more complicated reality: In particular regions of the brain, gray matter blossoms once again later in childhood. ⁶⁷ Gray matter volumes peak during the ages from 10-20 years, ⁶⁸ and the prefrontal cortex is one of the places where gray matter increases -- before adolescence -- and then gets pruned over time, beyond adolescence. ⁶⁹ The prefrontal

⁶³ See Robert F. McGivern et al., *Cognitive Efficiency on a Match to Sample Task Decreases at the Onset of Puberty in Children*, 50 *BRAIN & COGNITION* 73 (2002) (subjects of study aged 10 to 22 years); Casey, *supra* note 46, at 241 ("findings are consistent with the view that increasing cognitive capacity during childhood coincides with a gradual loss rather than formation of new synapses . . ."); see also Daniel J. Siegel, *THE DEVELOPING MIND: TOWARD A NEUROBIOLOGY OF INTERPERSONAL EXPERIENCE* 13-14 (Guilford Press 1999).

⁶⁴ See Gogtay, *supra* note 38, at 8175.

⁶⁵ See generally Peter R. Huttenlocher, *Synaptic Density in Human Frontal Cortex: Developmental Changes and Effects of Aging*, 163 *BRAIN RES.* 195 (1979).

⁶⁶ See, e.g., Sowell (2002), *supra* note 41, at 4.

⁶⁷ See McGivern, *supra* note 63, at 85; see also David N. Kennedy et al., *Basic Principles of MRI and Morphometry Studies of Human Brain Development*, 5 *DEVELOPMENTAL SCI.* 268, 274 (2002).

Studies showed . . . nonlinear changes in cortical gray matter, summarized as a preadolescent increase followed by a postadolescent decrease. Further localization of these changes indicated that the frontal and parietal lobe peaked at about age 12, the temporal lobe at about age 16, and the occipital lobe continued its increase through age 20, although the confidence intervals on these observations are large.

Giedd (1999), *supra* note 42, at 861.

⁶⁸ See Giedd (1999), *supra* note 42, at 861; McGivern, *supra* note 63, at 85; Yurgelun-Todd, *supra* note 7, at 252, 55.

⁶⁹ See Jay N. Giedd, *The Teen Brain: Insights from Neuroimaging*, 42 *J. ADOLESCENT HEALTH* 335, 339 (2008).

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cortex is also one of the last regions where pruning is complete and this region continues to thin past adolescence.⁷⁰ This means that one of the last areas of the brain to reach full maturity, as measured by pruning, is the region most closely associated with risk assessment, impulse control, emotional regulation, decision-making, and planning -- in other words, the ability to reliably and voluntarily control behavior.⁷¹

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Myelination. Another important measure of brain maturity is myelination.⁷² Myelination is the process by which the brain's axonal connections become progressively insulated with a fatty white matter called myelin. Myelin surrounds the axons, which are neural fibers that use electrical impulses to carry information across long distances, and insulates the pathway, speeding the neural signal along the pathway.⁷³ "The presence of myelin makes communication between different parts of the brain faster and more reliable."⁷⁴ Myelination of "white matter"⁷⁵ continues through adolescence and into adulthood.⁷⁶

⁷⁰ A study by the National Academy of Sciences measured gray matter density in individuals longitudinally from childhood to early adulthood and concluded that "the [gray matter] maturation ultimately involves the dorsolateral prefrontal cortex, which loses [gray matter] only at the end of adolescence." Gogtay, *supra* note 38, at 8175.

⁷¹ See *id.* at 8177 (explaining that "[l]ater to mature were areas involved in executive function"); see also Michael C. Stevens et al., *Functional Neural Networks Underlying Response Inhibition in Adolescents and Adults*, 181 BEHAV. BRAIN RESEARCH 12 (2007).

⁷² See Elkhonon Goldberg, *THE EXECUTIVE BRAIN: FRONTAL LOBES & THE CIVILIZED MIND* 144 (Oxford Univ. Press, 2001); see also Sowell (2001), *supra* note 41, at 8819; Sowell (2003), *supra* note 43, at 311; Yurgelun-Todd, *supra* note 7, at 253.

⁷³ See Zoltan Nagy, Helena Westerberg & Torkel Klingberg, *Maturation of White Matter is Associated with the Development of Cognitive Functions During Childhood*, 16:7 J. COGNITIVE NEUROSCI. 1227, 1231-32 (2004) (explaining that "the physiological effects of increases in axon thickness and myelination are similar in that they both increase conduction speed."); Gazzaniga, *supra* note 36, at 31, 48-49.

⁷⁴ Goldberg, *supra* note 72, at 144.

⁷⁵ White matter is the tissue that composes the pathways between brain regions and that permits communication and interaction within the brain and between the brain and the body. See Gazzaniga, *supra* note 37, at 70, 72. For example, the corpus callosum, a critical white matter structure, bridges the two halves of the frontal lobes, permitting and regulating communication between the two halves of the brain. See Tomas Paus et al., *Structural Maturation of Neural Pathways in Children and Adolescents: In Vivo Study*, 283 SCIENCE 1908 (1999).

⁷⁶ M. R. Asato et al., *White Matter Development in Adolescence: A DTI Study*, 20:9 CEREBRAL CORTEX 2122, 2125 (2010) ("In agreement with other studies, we found evidence for continuing maturation of white matter throughout distributed brain regions from childhood into adulthood.") (internal citations omitted); see Nagy, Westerberg & Klingberg, *supra* note 73, at 1231-32; Durston, *supra* note 37, at 1014; Sowell (1999), *supra* note 42, at 860; Adolf

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The integrity of the white matter, including myelination, matures at different rates across the brain.⁷⁷ Brain imaging data, supported by data gathered through the original histological (autopsy) techniques,⁷⁸ provides credible evidence that the connections from the prefrontal cortex are still developing well into adolescence and beyond, and are among the last pathways of the brain to mature.⁷⁹ In other words, maturation of prefrontal connectivity associated with voluntary behavior control (i.e., risk assessment, impulse control, and emotional regulation) is not complete until late adolescence or beyond. Myelination also increases the efficiency of information processing and supports the integration of the widely distributed circuitry needed for complex behavior.⁸⁰ These structural changes are believed to underlie the functional integration (discussed below) of frontal regions with the rest of the brain.⁸¹ The functional improvement of the connections between the various regions of the brain is believed to result from myelination that occurs during adolescence and is necessary for improved abilities of reliable self-control and better decision-making. [*48]⁸² Efficient connectivity is needed for cognitive regions to interact with regions processing emotion, rewards, and social information in a timely and effective manner in order to control responses for optimal decision making. For example, recent research on the neural underpinnings of resistance to peer influence in adolescence indicates that improvements in this capacity may be linked to the development of greater connectivity between brain regions, and likely

Pfefferbaum et al., *A Quantitative Magnetic Resonance Imaging Study of Changes in Brain Morphology from Infancy to Late Adulthood*, 51 ARCHIVES OF NEUROLOGY 874, 885 (1994) (after age 20 white matter volume did not fluctuate until about age 70; subjects of study aged 3 months to 70 years).

⁷⁷ See Sowell (2003), *supra* note 43, at 311; Sowell (2002), *supra* note 41, at 4; Towbin & Schowalter, *supra* note 59, at 151.

⁷⁸ See Paus, *supra* note 75, at 1908.

⁷⁹ See Gogtay, *supra* note 38 at 8177 (noting that different parts of the brain undergo myelination and pruning at different rates, and finding that the higher-order cortices mature later than lower-order cortices.); see also Sowell (1999), *supra* note 42, at 859; K. Rubia et al., *Functional Frontalisation with Age: Mapping Neurodevelopmental Trajectories with fMRI*, 24 NEUROSCI. & BIOBEHAV. REVS. 13 (2000) (subjects of study aged 12 to 19 and 22 to 40 years).

⁸⁰ See Luna (2009), *supra* note 4, at 257.

⁸¹ See *id.*; see also Giedd (2009), *supra* note 62, at 467.

⁸² See Steinberg, *Adolescent Development*, *supra* note 9, at 55; Beatriz Luna & John A. Sweeney, *The Emergence of Collaborative Brain Function: fMRI Studies of the Development of Response Inhibition*, 1021 ANNALS N.Y. ACAD. SCI. 296, 296-309 (2004); Damien A. Fair et al., *Development of Distinct Control Networks Through Segregation and Integration*, 104 PROC. NAT'L ACAD. SCI. U.S. 13507 (2007).

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facilitates the better coordination of affect and cognition.⁸³ More generally, however, the development of improved self-regulatory abilities during and after adolescence is positively correlated with white matter maturation.⁸⁴

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Top-Down Connectivity. Recent studies have shown that "development of top-down effective connectivity from cognitive control regions is critical in supporting active inhibitory control."⁸⁵ Top-down connectivity refers to the ability for executive regions, such as in the prefrontal cortex, to exert executive control on response regions.⁸⁶ fMRI has shown that the strength and number [*50] of top down functional connections continues to increase into adulthood. In addition, the organization of functional brain connections forming networks continues to optimize into adulthood.⁸⁷ These results are supported by studies measuring the integrity of structural white matter pathways, which show protracted development of the connections between the prefrontal cortex and subcortical regions of the brain areas that support cognitive control.⁸⁸ The protracted development of top-down connectivity therefore "may reflect a period of particular vulnerability to both the peak in risk-taking behavior during adolescence and the emergence and exacerbation of psychopathology, which is associated with abnormalities in reward processing and cognitive control."⁸⁹

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2. Adolescent Brains Tend to Be More Active Than Adult Brains in Regions Associated With Risky, Impulsive, and Sensation-Seeking Behavior and Less Active in Regions Associated with the Ability to Voluntarily Control Behavior.

⁸³ See Steinberg, *Adolescent Development*, supra note 9, at 56.

⁸⁴ See Nagy, Westerberg & Klingberg, supra note 73, at 1231-32.

⁸⁵ Kai Hwang et al., *Strengthening of Top-Down Frontal Cognitive Control Networks Underlying the Development of Inhibitory Control: A Functional Magnetic Resonance Imaging Effective Connectivity Study*, 30:46 J. NEUROSCI. 15535, 15543 (2010).

⁸⁶ *Id.* at 15542.

⁸⁷ *Id.*; Nico Dosenbach et al., *Prediction of Individual Brain Maturity Using fMRI*, 329 SCIENCE 1358, 1360-61 (2010) (brain continues to mature until 22 years of age, with region of brain most highly correlated to brain maturity was pre-frontal cortex).

⁸⁸ Asato, supra note 75 at 2128; Petersen, supra note 50, at 8.

⁸⁹ Asato, supra note 76, at 2128; see Spear (2011), supra note 15, at 391 (top-down control gradually gains a "competitive edge" over "bottom-up" systems that express exaggerated reactivity to motivational stimuli).

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The brain is a complex network of interrelated parts. Each part is associated with different functions and works in conjunction with other parts to form systems. In general, the two neurobiological systems that inform our understanding of adolescent behavior, as discussed above in Point A, are (1) the motivational system, which includes the limbic and paralimbic regions of the brain; and (2) the cognitive control system, which is primarily comprised of the prefrontal cortex and its connections to the rest of the brain.⁹⁰ The differences between adolescent [*52] and adult behavior correlate with their respective and disparate reliance on each of these systems and their related brain structures.⁹¹

The structural immaturities of the adolescent brain discussed above represent only one dimension of the immaturity of the adolescent brain. Developmental neuroimaging studies demonstrate that the regions of the brain associated with voluntary behavior control mature structurally at the same time as specific changes in how the brain functions.⁹² These findings reveal that adolescents and adults exhibit different patterns of brain activity during decision-making tasks and provide insight [*53] into the neural underpinnings of the risky, impulsive, and sensation-seeking behavior of adolescents.⁹³

Studies show that the motivational system, which underlies risky and reward-based behavior, develops earlier than the cognitive [*54] control system, which regulates such behavior. Furthermore, during adolescence, the motivational system continues to develop more quickly than the cognitive control system.⁹⁴ The result is that adolescents experience increasing motivation for risky and reward-seeking behavior

⁹⁰ See Steinberg, *Adolescent Development*, supra note 9, at 54.

⁹¹ Stephanie Burnett et al., *Development During Adolescence of the Neural Processing of Social Emotion*, 21:9 J. COGNITIVE NEUROSCI. 173 (2009); S. J. Blakemore, *Adolescent Development of the Neural Circuitry for Thinking About Intentions*, 21:2 SOC. COGNITIVE & AFFECTIVE NEUROSCI. 130 (2007).

⁹² Amy L. Krain et al., *An fMRI Examination of Developmental Differences in the Neural Correlates of Uncertainty and Decision Making*, 47:10 J. CHILD PSYCHOL. & PSYCHIATRY 1023, 1024 (2006); see also Liston C. Watts et al., *Frontostriatal Microstructure Predicts Individual Differences in Cognitive Control*, 16:4 CEREBRAL CORTEX 553 (2006); B.J. Casey et al., *Contribution of Frontostriatal Fiber Tracts to Cognitive Control in Parent-Child Dyads with ADHD*, 164:11 AM. J. PSYCHIATRY 1729 (2007).

⁹³ Krain, supra note 92; see also Adriana Galvan et al., *Earlier Development of the Accumbens Relative to Orbitofrontal Cortex Might Underlie Risk-Taking Behavior in Adolescents*, 26:25 J. NEUROSCI. 6885 (2006); see Hare, supra note 29.

⁹⁴ See Steinberg, *Adolescent Development*, supra note 9, at 54; see also Monique Ernst et al., *Neurobiology of the Development of Motivated Behaviors in Adolescence: A Window into a Neural Systems Model*, 93 PHARMACOLOGY, BIOCHEMISTRY & BEHAV. 199 (2009).

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without a corresponding increase in the ability to self-regulate behavior.

The earlier development of the motivational system is evident in a number of areas of the brain. Among these are the amygdala and the nucleus accumbens which, in conjunction with specific neurochemical imbalances in the adolescent brain (see below), contribute to the relative dominance of the adolescent motivational system.

Amygdala. The amygdala is associated with aggressive [*55] and impulsive behavior. ⁹⁵ The amygdala is "a neural system that evolved to detect danger and produce rapid protective responses without conscious participation." ⁹⁶ It dictates instinctive gut reactions, including fight or flight responses. ⁹⁷ The amygdala is also a key component of circuitry involved in assessing salience, or the importance of environmental stimuli to survival, and is generally associated with processing emotional responses to a perceived danger.

⁹⁸

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The prefrontal cortex -- the primary region associated with self-regulation and the cognitive control system -- modulates function in the amygdala ⁹⁹ to which it is strongly connected. ¹⁰⁰ A still-maturing

⁹⁵ See generally Jan Glascher & Ralph Adolphs, *Processing of the Arousal of Subliminal and Supraliminal Emotional Stimuli by the Human Amygdala*, 23 J. NEUROSCI. 10274 (2003); Ralph Adolphs, *Neural Systems for Recognizing Emotion*, 12 CURRENT OPINION IN NEUROBIO. 169 (2002); Gazzaniga, *supra* note 37, at 553-72; K. Loan Phan et al., *Functional Neuroanatomy of Emotion: A Meta-Analysis of Emotion Activation Studies in PET and fMRI*, 16 NEUROIMAGE 331, 336 (2002); Goldberg, *supra* note 72, at 31; Kevin S. LaBar et al., *Human Amygdala Activation During Conditioned Fear Acquisition and Extinction: A Mixed-Trial fMRI Study*, 20 NEURON 937 (1998); Richard D. Lane et al., *Neuroanatomical Correlates of Pleasant and Unpleasant Emotion*, 35 NEUROPSYCHOLOGIA 1437, 1441 (1997); Hans C. Breiter et al., *Response and Habituation of the Human Amygdala During Visual Processing of Facial Expression*, 17 NEURON 875 (1996); Steinberg, *Future Orientation*, *supra* note 7, at 40.

⁹⁶ Abigail A. Baird et al., *Functional Magnetic Resonance Imaging of Facial Affect Recognition in Children and Adolescents*, 38 J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 1, 1 (1999) (study found that adolescents 12-17 years old showed significant amygdala activation in response to a task that required the judgment of fearful facial affect); see also William D.S. Killgore & Deborah Yurgelun-Todd, *Activation of the Amygdala and Anterior Cingulate During Nonconscious Processing of Sad Versus Happy Faces*, 21 NEUROIMAGE 1215 (2004); Phan, *supra* note 95, at 336.

⁹⁷ See Goldberg, *supra* note 76, at 31; Phan, *supra* note 95, at 336.

⁹⁸ See Giedd (2008), *supra* note 69, at 338.

⁹⁹ See Mario Beauregard et al., *Neural Correlates of Conscious Self-Regulation of Emotion*, 21 J. NEUROSCI. 1658C (2001); Ahmad Hariri et al., *Modulating Emotional Responses: Effects of a Neocortical Network on the Limbic System*, 11 NEUROREPORT 43 (2000).

¹⁰⁰ Ralph Adolphs, *The Human Amygdala and Emotion*, 5 NEUROSCIENTIST 125, 125-26 (1999); see also Joseph LeDoux, *THE EMOTIONAL BRAIN: THE MYSTERIOUS UNDERPINNINGS OF EMOTIONAL LIFE* 303 (1996).

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prefrontal cortex exerts less control over the amygdala and has less influence over behavior and emotions than a fully mature prefrontal cortex. ¹⁰¹

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Nucleus Accumbens. The nucleus accumbens, a brain region rich in dopamine, [*58] is associated with reward processing. Its primary function is to process responses to a potential reward. ¹⁰² Studies show that when making decisions, "relative to children and adults, adolescents show exaggerated activation of the accumbens, in concert with less mature recruitment of top-down prefrontal control." ¹⁰³ This exaggerated activity is consistent with the tendency of adolescents to overvalue rewards in risk-reward assessment and provides a neurobiological basis for the "increased impulsive and risky behaviors observed during [adolescence]." ¹⁰⁴

The nucleus accumbens, which is found in the ventral striatum, is a "critical node" in the reward related neurocircuitry of the brain, contributing to directing behavior toward appropriate goals by consolidating contextual and goal directed information from other areas of the brain. ¹⁰⁵ Developmental studies [*59] have shown hyperactivity in the ventral striatum during anticipation of rewards in adolescents, as compared to adults. ¹⁰⁶ In parallel with increased reward reactivity in the ventral striatum, these studies have found increased engagement of the regions that support the behavior that leads to the reward. Increased reactivity to rewards paired with increased engagement of

¹⁰¹ See Nir Eshel et al., *Neural Substrates of Choice in Adults and Adolescents: Development of the Ventrolateral Prefrontal and Anterior Cingulate Cortices*, 45 *NEUROPSYCHOLOGIA* 1270, 1270-71 (2007) (reporting prefrontal brain areas associated with higher-order cognition, emotional regulation, reward values, and behavior control are some of the last to mature and that this lag in maturation may explain why adolescents demonstrate poor decision-making); see also Gargi Talukder, *Decision-Making Is Still a Work in Progress for Teenagers*, Report Dated July 2000 at <http://www.brainconnection.com>; see also Spear (2000); *supra* note 3, at 440 (reporting Dr. Yurgelun-Todd's research); see also Ralph Adolphs et al., *Fear and the Human Amygdala*, 15 *J. NEUROSCI.* 5879, 5889 (1995).

¹⁰² Galvan, *supra* note 93, at 6890.

¹⁰³ See Casey, *supra* note 3, at 69.

¹⁰⁴ See *id.* at 69-70.

¹⁰⁵ Spear (2011), *supra* note 15, at 392; see Chein, *supra* note 15, at F1 (the ventral striatum is part of the "incentive processing system in the brain").

¹⁰⁶ See Geier, *supra* note 9, at 1625; Aarthi Padmanabhan et al., *Developmental Changes in Brain Function Underlying the Influence of Reward Processing on Inhibitory Control*, 1 *DEVELOPMENTAL COGNITIVE NEUROSCIENCE* 517, 526 (2011); Spear (2011); *supra* note 15, at 394 (adolescents have been reported by a number of groups to show heightened activation of the ventral striatum during receipt of rewards relative to younger and/or older individuals").

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response regions can lead to an impulsive reaction in the presence of rewards in adolescence. ¹⁰⁷ Such increased reactivity, coupled with other aspects of the developing brain, is thought to potentially contribute to the high rate of risk taking in adolescence. ¹⁰⁸

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Dopamine and Serotonin. Dopamine is a neurotransmitter that underlies pleasure and motivation. ¹⁰⁹ Around the time of puberty, adolescents experience "a rapid and dramatic increase in dopaminergic activity within the motivational system." ¹¹⁰ Because dopamine plays a critical role in the brain's reward circuitry this increase in activity is likely to promote reward-seeking behavior. ¹¹¹ At the same time, adolescents have correspondingly lower levels of serotonin, a neurotransmitter known to support inhibitory control. ¹¹² This imbalance between lower levels of serotonin and higher levels of dopamine during adolescence is believed to underlie risky and impulsive decision making by adolescents. [*61]

In addition to motivation, dopamine also plays a crucial role in reinforcement learning. Thus, the adolescent period does not only include heightened [*62] motivation but also a greater capacity for learning ¹¹³ having implications for enhanced amenability for rehabilitation in the adolescent period compared to adulthood.

In sum, adolescent behavior is characterized by a hyperactive reward-driven system (involving the nucleus accumbens and increased dopamine), a limited harm-avoidant system (involving the amygdala), and an

¹⁰⁷ Geier, *supra* note 9, at 1626; Padmanabhan, *supra* note 106, at 523.

¹⁰⁸ Padmanabhan, *supra* note 106, at 527; Chein, *supra* note 15, at F1 ("Many research groups . . . have posited that adolescents' relatively greater propensity toward risky behavior" is based in part on the "incentive processing system involving the ventral striatum") (emphasis in original).

¹⁰⁹ See Andersen, *supra* note 14, at 3-18; Crews, He & Hodge, *supra* note 14, at 189-99; Spear (2000), *supra* note 3, at 417-63.

¹¹⁰ Steinberg, *Adolescent Development*, *supra* note 9, at 54.

¹¹¹ *Id.*, at 258; see Luna, *supra* note 4, at 258. Moreover, "[t]here is evidence that changes in the density and distribution of receptors for dopamine . . . within regions critical to incentive processing take place around the time of puberty, and that these changes coincide with a dramatic elevation in the salience of peer interactions." Chein *supra* note 15, at F8.

¹¹² See Luna, *supra* note 4, at 258; R. Andrew Chambers, Jane R. Taylor & Marc N. Potenza, *Developmental Neurocircuitry of Motivation in Adolescence: A Critical Period of Addiction Vulnerability*, 160 AM. J. PSYCHIATRY 1041 (2003).

¹¹³ Dustin Wahlstrom et al., *Neurobehavioral Evidence for Changes in Dopamine System Activity During Adolescence*, 34 NEUROSCIENCE BIOBEHAVIORAL REV. 631, 643 (2010).

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immature cognitive control system (involving the prefrontal cortex and decreased serotonin). ¹¹⁴ As a result, adolescent behavior is more likely to be impulsive and motivated by the possibility of reward, with less self-regulation and effective risk assessment. In other words, the adolescent brain is biologically biased to engage in exploring new environments and experiences which can involve taking risks.

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Adolescence is a time of great physiological and psychological development. It is also a time marked by impulsive, risky, and sensation-seeking behavior. Scientific research has shed light on the biological mechanisms that help to explain this behavior. And each time this Court has examined the constitutional limitations of imposing severe penalties on juvenile offenders, the scientific research on the development of the adolescent brain has grown. This research establishes that "the brain systems that are crucial for exerting cognitive control over behavior and processing rewards are still immature during adolescence." ¹¹⁵ "These immaturities result in a system that is able to exert cognitive control, but in an inconsistent manner with limited flexibility and motivational control." ¹¹⁶ In other words, "the basic elements are established, but refinements are needed to support the necessary efficiency in circuit processing to establish reliable executive control." ¹¹⁷ As one researcher put it, the process of adolescent development is akin to "starting the engines without a skilled driver behind the wheel." ¹¹⁸

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CONCLUSION

While not formally supporting either party in these cases, the amici hope that the Court will consider the scientific evidence presented here in its deliberations about whether, in the present case, the

¹¹⁴ Monique Ernst et al., *Triadic Model of the Neurobiology of Motivated Behavior in Adolescence*, 36 PSYCHOL. MED. 299, 300-302 (2006).

¹¹⁵ See Luna, *supra* note 4, at 258; see also Ryan L. Muetzel et al., *The Development of Corpus Callosum Microstructure and Associations with Bimanual Task Performance in Healthy Adolescents*, 39:4 NEUROIMAGE 1918 (2008); Elizabeth A. Olson, *White Matter Integrity Predicts Delay Discounting Behavior in Adolescents: A Diffusion Tensor Imaging Study*, 21:7 J. COGNITIVE NEUROSCI. 1406 (2008); Elizabeth A. Olson, *Delay and Probability Discounting Behavior in Healthy Adolescents: Associations with Age, Personality Style, and Other Measures of Executive Function*, 43:7 PERSONALITY AND INDIVIDUAL DIFFERENCES 1886 (2007).

¹¹⁶ See Luna, *supra* note 4, at 258.

¹¹⁷ *Id.*

¹¹⁸ Steinberg, *Adolescent Development*, *supra* note 9, at 56.

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Eighth Amendment (1) requires that these defendants be held to a different standard of culpability from that which applies to adults and (2) prohibits the imposition of a sentence of life without the possibility of parole on an adolescent offender.

Respectfully submitted,

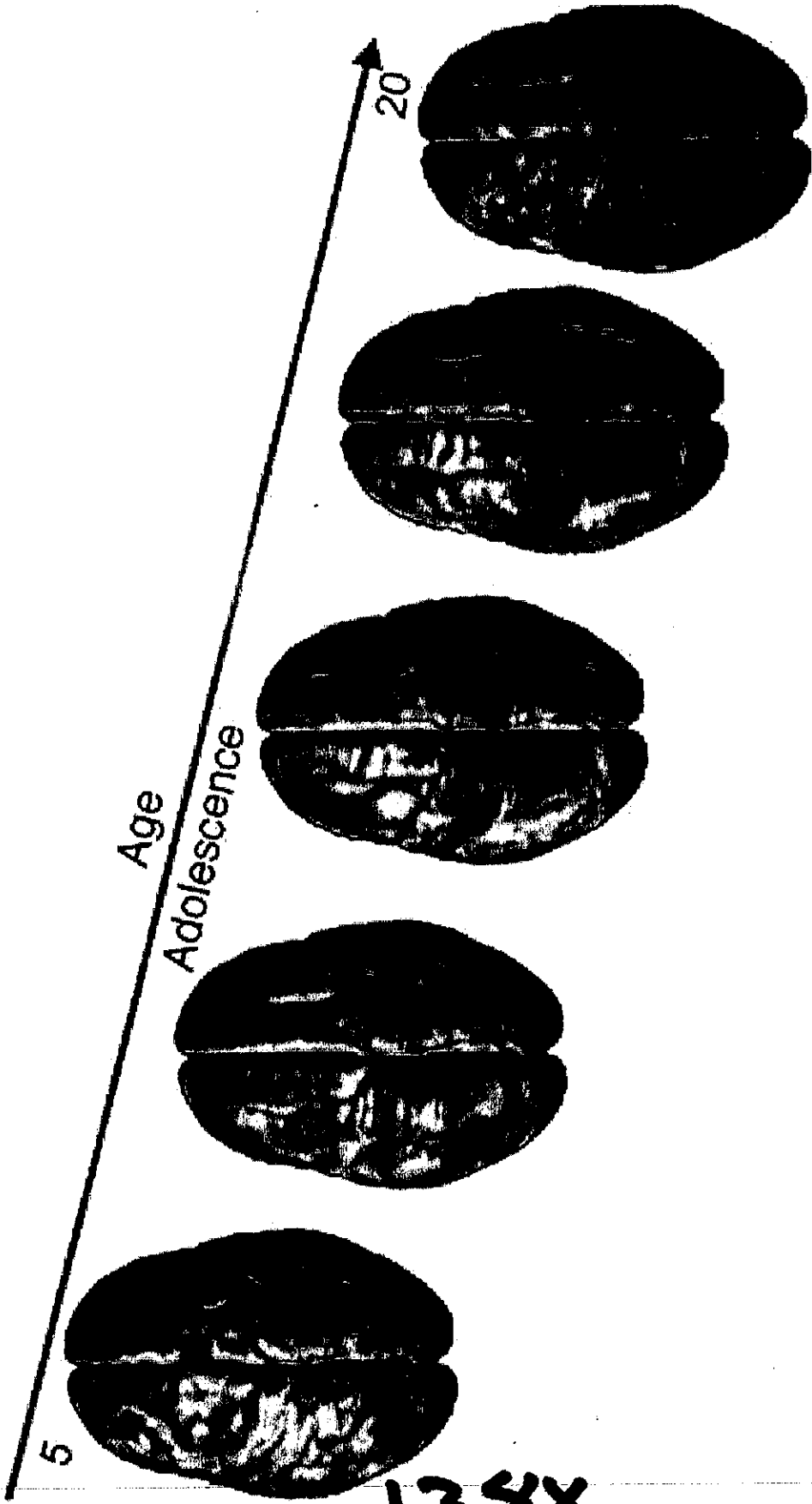
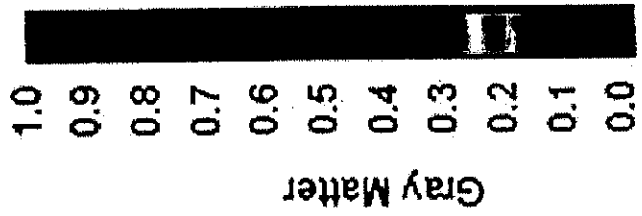
E. Joshua Rosenkranz, *Counsel of Record*, ORRICK, HERRINGTON & SUTCLIFFE LLP, 51 West 52nd Street, New York, NY 10019-6142, (212) 506-5000

Khai LeQuang, Elliott S. Henry, ORRICK, HERRINGTON & SUTCLIFFE LLP, 777 South Figueroa Street, Suite 3200, Los Angeles, CA 90017-5855, 213-629-2020

Counsel for Amici Curiae

January 13, 2012

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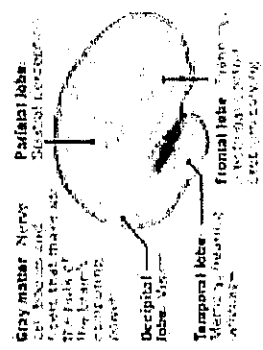
Growing a Grown-up Brain

Scientists have long thought that the human brain was formed in early childhood. But by scanning children's brains with an MRI year after year, they discovered that the brain undergoes radical changes in adolescence. Excess gray matter is pruned out, making brain connections more specialized and efficient. The parts of the brain that control physical movement, vision, and the senses mature first, while the regions in the front that control higher thinking don't finish the pruning process until the early 20s.

Gray matter becomes less dense as the brain matures.
 More dense
 Less dense



Age: 5 Adolescence 20

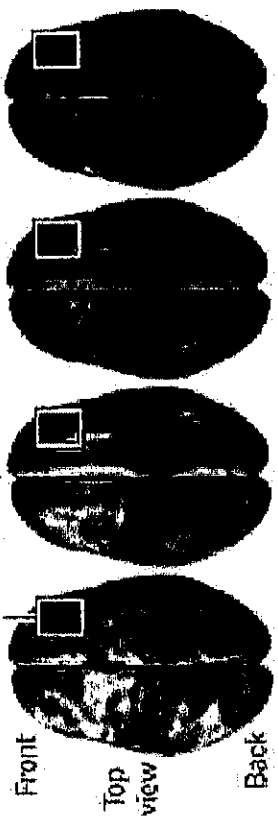


Source: "Developmental Trajectories of Individual Differences in Brain Structure: A Life Course Perspective," *Journal of Neuroscience*, May 5, 2004. Courtesy: Institute of Technology.

Judgment last to develop

The area of the brain that controls "executive functions" — including weighing long-term consequences and controlling impulses — is among the last to fully mature. Brain development from childhood to adulthood:

5-year-old brain Preteen brain Teen brain 20-year-old brain
 Dorsal lateral prefrontal cortex ("executive functions")



Red/yellow: Parts of brain less fully mature

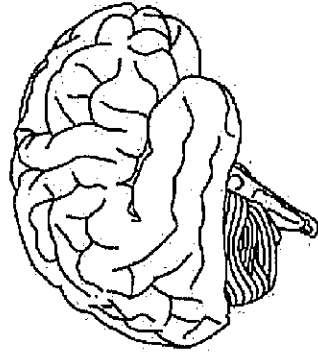
Blue/purple: Parts of brain more fully matured

Sources: *National Institute of Mental Health*; *Paul Thompson, Ph.D., UCLA Laboratory of Neuro Imaging*

Thomas McKay | The Denver Post

The growing teen brain

During the teenage years, the part of the brain that drives emotion develops faster than the part that controls impulses. This allows for the social, emotional and cognitive changes as well as taking on new responsibilities from childhood to adulthood.



Age 10-18



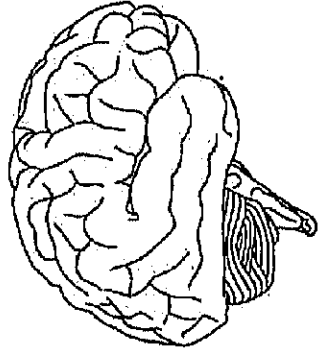
Limbic system (drives emotions) intensifies during puberty along with hormones



Rapid cognitive, emotional, social and rational growth from childhood to adulthood



Greater risk-taking behaviours



Age 18-25



Prefrontal cortex (controls impulses) further develops and matures in early 20s



Greater control over impulsive actions

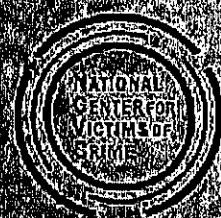


Less risk-taking behaviours, more sound judgement

January 2023



FACT SHEET: Second Chances for Children in the Criminal Legal System



The **Campaign for the Fair Sentencing of Youth** and the **National Center for Victims of Crime** are committed to educating the public about the experiences of children who have been sentenced to a life or life-equivalent sentence for a crime committed as a youth. This population has disproportionately experienced trauma and violence, and we believe that the provision of trauma-informed services for child survivors of crime can promote well-being and healing and prevent future harm.

Many children who commit acts of violence have experienced abuse or neglect within their homes

- Over 90 percent of youth entering the criminal legal system have experienced abuse or neglect.¹
- In a sample of children sentenced to life without parole:²
 - 79 percent witnessed violence in the home, and nearly half experienced physical abuse.
 - More than half witnessed weekly violence in their neighborhoods.
 - Among women sentenced to life without parole as children, 77 percent reported being sexually abused.
- The incarceration of a parent is an adverse childhood experience (ACE) that poses threats to a child's emotional, physical, educational, and financial well-being.
 - Some studies suggest that children of incarcerated parents are up to six times more likely to become incarcerated themselves.³

>90% of youth entering the criminal legal system have experienced abuse or neglect

79% of children sentenced to LWOP witnessed violence in the home

"I didn't have a violent nature, I had a violent environment. I had a violent home life. I went to violent schools. I had violence surrounding me, but deep down, as a child, I didn't want those things." -Xavier McElrath-Bey, Co-Executive Director, Campaign for the Fair Sentencing of Youth

Children who commit acts of violence are frequently victims of violent crime themselves

- In one study, youth who were the victims of a violent offense were three times more likely to commit a violent offense in the next twelve months than those who were not victims.⁴
- According to findings from the National Longitudinal Study of Adolescent Health, victims of violence are significantly more likely than nonvictims to commit acts of violence.⁵

Children are developmentally different from adults

- Decades of research shows that adolescents are biologically less capable of controlling emotions and impulsive behavior in stressful situations and at weighing potential consequences of actions than adults.⁶ Developmentally, adolescents lack maturity and have an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and risk-taking as compared to adults.⁷
- A review of neurobiological evidence shows that teenagers are particularly receptive to rehabilitation and early intervention.⁸
- Adolescence is a period of heightened neuroplasticity, meaning that the brain has a heightened capacity for positive change. Although adolescents are predisposed to engage in the risky behavior and immature decision-making that can result in crime, risk-taking behavior and crime both follow an inverted U-shaped curve that increases from childhood to adolescence, peaks in mid-late adolescence, and then declines.⁹

6x

Some studies suggest that children of incarcerated parents are up to **six times** more likely to become incarcerated themselves

3x

In one study, youth who were the victims of a violent offense were **three times** more likely to commit a violent offense in the next twelve months

142x

"My experience has taught me that children are not miniature adults. We can be every bit as impressionable and reckless as children tend to be, but we can also mature into the most extraordinary humans you'll ever meet." - Abd'Allah Lateef, Co-Deputy Director, Campaign for the Fair Sentencing of Youth

Victims of crimes frequently support restorative approaches to accountability, and research shows they can be effective public safety measures

- In the National Survey of Victims' Views, 61 percent of crime victims support shorter prison sentences and more spending on prevention and rehabilitation as compared to long prison sentences.¹⁰
- In one survey, 77 percent of violent crime victims preferred that prosecutors focus on solving neighborhood problems and stopping repeat crimes through rehabilitation, even if it means fewer convictions and prison sentences.¹¹
- In a study comparing victim satisfaction with the accountability process, 93 percent reported that they were satisfied with a restorative justice process compared to 74 percent who went through the traditional justice system.¹²
- One study showed a 23 percent decrease in the reconviction rate for youth who underwent a restorative justice approach compared to the reconviction rate for youth following traditional criminal justice approaches.¹³

People serving long sentences safely return to their communities

- In a study of people sentenced to life without parole for harm committed as children who were resentenced and released in Philadelphia, just 1 percent had new convictions following release.¹⁴

61% of crime victims support shorter prison sentences and more spending on prevention and rehabilitation as compared to long prison sentences

1%

In a study of people sentenced to LWOP as children who were resentenced and released, just 1 percent had new convictions

143x

Racial disparities exist at all levels of the criminal legal system, including the sentencing of children to life sentences

- People incorrectly view Black children as older and more culpable.¹⁵
- Compared to White teenagers, Black teenagers are twice as likely to have a substantiated report of child maltreatment and are five times more likely to be killed by a gun.¹⁶
- Of the approximately 2,800 children sentenced to life without parole prior to the Supreme Court's decision in *Miller v. Alabama*, more than 73 percent are children of color.¹⁷
- While Black youth made up 61 percent of the pre-Miller population of people sentenced to life without parole as children, they make up 70 percent of new cases since 2012.¹⁸

Of the approximately 2,800 children sentenced to life without parole prior to the Supreme Court's decision in *Miller v. Alabama*, more than 73% are children of color

Note on data: Since 2016, the Campaign for the Fair Sentencing of Youth has collected individual-level data for every person in the United States convicted of life without parole for a crime committed under the age of 18. This data is collected and updated using information from state partner organizations, state departments of correction, dockets and legal filings, and outreach from those serving these sentences and their families.

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12. https://justicepolicy.org/wp-content/uploads/2021/06/Smart_Safe_and_Fair_9_5_18.pdf, at 37.
13. <https://orca.cardiff.ac.uk/id/eprint/44867/>
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18. <https://cfsy.org/wp-content/uploads/Tipping-Point.pdf>

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Black Disparities in Youth Incarceration

Black Youth Almost Five Times As Likely To Be Incarcerated As White Peers

For a decade, incarceration disparities between Black and white youth have remained stubbornly high. As of 2021, Black youth were 4.7 times as likely to be placed (i.e., detained or committed) in juvenile facilities as their white peers, according to nationwide data collected in October 2021 and recently released. This disparity has hardly changed over the past decade.¹

Juvenile facilities, including 1,323 detention centers, residential treatment centers, group homes, and youth prisons² held 24,894 youths as of October 2021. (These data do not include the 291 people under 18 in adult prisons at year-end 2021³ or the estimated 2,000 people under 18 in adult jails at midyear 2021.)⁴

Nationally, the youth placement rate was 74 per 100,000 in 2021. The Black youth placement rate was 228 per 100,000, compared to the white youth placement rate of 49 per 100,000.

Forty-two percent of youths in placement are Black, even though Black Americans comprise only 15% of all youth across the United States.⁵ Among all states with a population of at least 8,000 Black youth, (between 10 and 17), a cutoff that allows for meaningful comparisons, Black youth are more likely to be in custody than white youth. Black and white youth have similar juvenile placement rates in the District of Columbia.

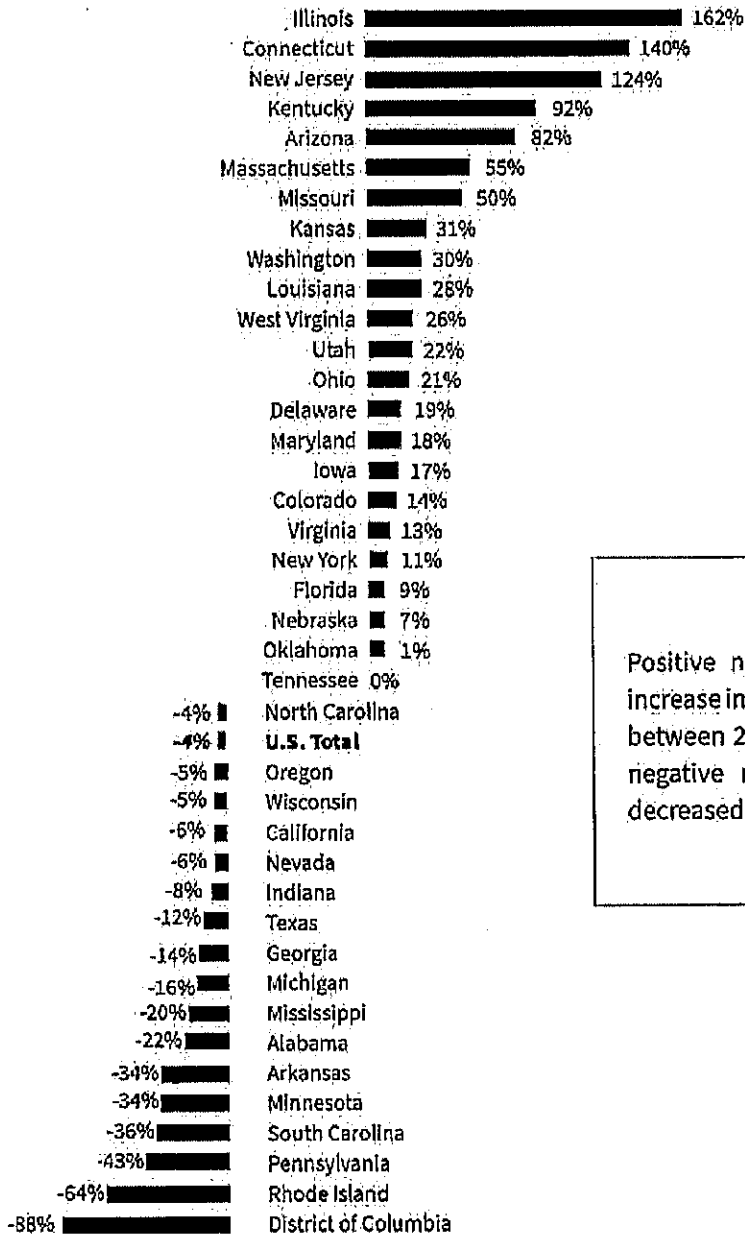
Between 2011 and 2021, juvenile placements fell 59%. During this same period, racial disparities grew more than 10% in 19 states and decreased by at least 10% in 23 states and the District of Columbia.

- As of 2021, in Connecticut, New Jersey, Wisconsin, Massachusetts, and Illinois, African American youth were at least 10 times as likely to be held in placement as white youth.
- Between 2011 and 2021, Illinois, Connecticut and New Jersey saw their racial disparity at least double.
- During these same years, Minnesota, Arkansas, South Carolina, Pennsylvania, Rhode Island, and the District of Columbia decreased their racial disparities by at least one-third.

The table to the right and the figure on page 2 are limited to the 39 states and the District of Columbia with at least 8,000 Black residents between 10- and 17-years old. Numbers in the third column reveal the extent to which Black youth are incarcerated relative to white youth. For example, in Alabama, Black youth are 2.4 times as likely to be held in a juvenile facility as their white peers.

Black/White Youth Placement Rates per 100,000; 2021			
	Black Rate	White Rate	B/W Disparity
Alabama	229	97	2.4
Arizona	252	41	6.1
Arkansas	179	56	2.7
California	242	32	7.6
Colorado	457	49	9.3
Connecticut	94	3	31.3
Delaware	433	52	8.3
District of Columbia	183	204	0.9
Florida	189	52	3.6
Georgia	151	33	4.6
Illinois	178	14	12.7
Indiana	278	93	3.0
Iowa	448	51	8.8
Kansas	535	63	8.5
Kentucky	325	33	9.8
Louisiana	305	55	5.5
Maryland	79	9	8.8
Massachusetts	137	10	13.7
Michigan	253	50	5.1
Minnesota	243	33	7.4
Mississippi	102	24	4.3
Missouri	358	71	5.0
Nebraska	483	51	9.5
Nevada	326	76	4.3
New Jersey	200	7	28.6
New York	151	18	8.4
North Carolina	102	16	6.4
Ohio	442	63	7.0
Oklahoma	325	46	7.1
Oregon	676	127	5.3
Pennsylvania	272	49	5.6
Rhode Island	243	63	3.9
South Carolina	131	54	2.4
Tennessee	129	24	5.4
Texas	262	60	4.4
Utah	212	23	9.2
Virginia	198	30	6.6
Washington	245	35	7.0
West Virginia	847	177	4.8
Wisconsin	497	34	14.6
U.S. Total	228	49	4.7

Change in Black/White Placement Disparity; 2011 vs. 2021



Positive numbers reveal an increase in the racial disparity between 2011 and 2021, and negative numbers reveal a decreased racial disparity.

Endnotes

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² Puzanchera, C., Hockenberry, S., Sladky, T.J., and Kang, W. (2022). "Juvenile Residential Facility Census Databook." Available: <https://www.ojjdp.gov/ojstatbb/jrfcdb/>

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Published December 2023.

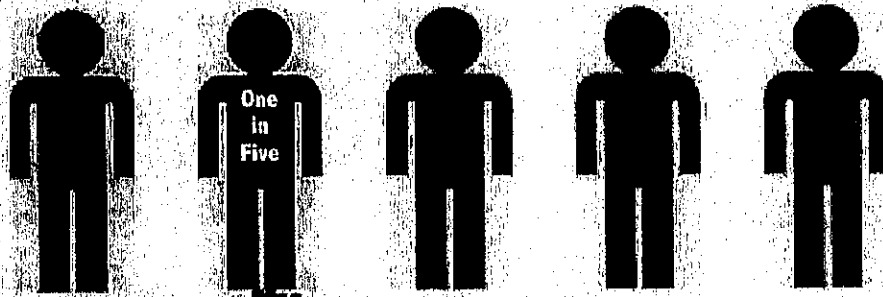
The Sentencing Project advocates for effective and humane responses to crime that minimize imprisonment and criminalization of youth and adults by promoting racial, ethnic, economic, and gender justice.

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The Harms of Juvenile Detention

Youth in detention are removed from settings that matter: their homes, schools, and communities. Without those supports, children develop higher rates of depression, anxiety, and other mental health conditions, and they lose access to educational opportunities. Once released, youth who spent time behind bars are more likely to disengage from school and become system-involved in the future.

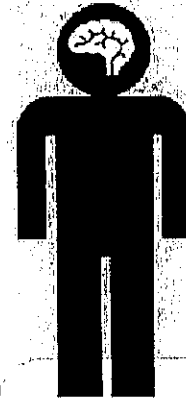
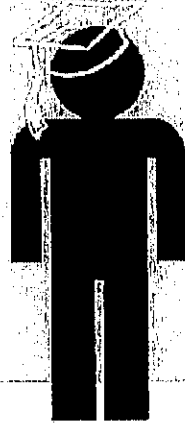
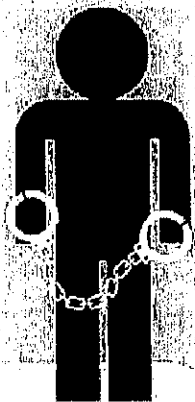
More than 1 in 5 children awaiting adjudication spend time in pre-trial detention.¹



Increased involvement in the justice system

Lack of access to education

Poor mental health outcomes



8.5% more likely to be found guilty²

2x more likely to reoffend than non-detained youth³

60% do not return to school or drop out within five months⁴

Less special education services
Fewer hours of instruction⁵

1 in 3

detained youth who are diagnosed with depression developed the condition after placement in detention⁶



Parents are often charged with detention fees, which can total over \$600 in some states⁷

DAYS
22

Average length of stay in pre-trial detention⁸

1.5x

Youth of color are detained 1.5 times more than white youth⁹

148x

Sources

- ¹ MELISSA SICKMUND, ANTHONY SLADKY, AND WEI KANG, NATIONAL CENTER FOR JUVENILE JUSTICE, EASY ACCESS TO JUVENILE COURT STATISTICS: 1985-2013 (2015), <http://www.ojjdp.gov/ojstatbb/ezajcs/> (census data from 2010 – 2013 shows 20.5% of children were detained when awaiting disposition).
- ² THE ANNIE E. CASEY FOUND., JUVENILE DETENTION ALTERNATIVES INITIATIVE, 2014 PROGRESS REPORT 5, <http://cms.aecf.org/m/resourcedoc/aecf-2014JDAIProgressReport-2014.pdf>.
- ³ JUSTICE POLICY INSTITUTE, THE DANGERS OF DETENTION 6 (2006), http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf.
- ⁴ *Id.* at 9.
- ⁵ KAREEM L. JORDAN, U.S. DEP'T OF JUSTICE, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PROGRAM, PREVENTIVE DETENTION AND OUT-OF-HOME PLACEMENT: A PROPENSITY SCORE MATCHING AND MULTILEVEL MODELING APPROACH (Fall 2012).
- ⁶ JUSTICE POLICY INST., *supra* note 3, at 8.
- ⁷ See, e.g., BERKELEY LAW POLICY ADVOCACY CLINIC, HIGH PAIN, NO GAIN: HOW JUVENILE ADMINISTRATIVE FEES HARM LOW-INCOME FAMILIES IN ALAMEDA COUNTY, CALIFORNIA (March 2016) (in California, the average total cost families pay for detention is \$607).
- ⁸ U.S. DEP'T OF JUSTICE, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PROGRAM, STATISTICAL BRIEFING BOOK (2013), <http://www.ojjdp.gov/ojstatbb/corrections/qa08405asp?qaDate=2013>.
- ⁹ Julie Griggs, *The Effect of Race on Pretrial Detention in the Juvenile Justice System: A Meta-Analysis*, DOCTORAL DISSERTATIONS, PAPER 401 (May 21, 2014).



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The National Juvenile Defender Center (NJDC) is a non-profit, non-partisan organization dedicated to promoting justice for all children by ensuring excellence in juvenile defense. NJDC provides support to public defenders, appointed counsel, law school clinical programs, and non-profit law centers to ensure quality representation in urban, suburban, rural, and tribal areas. NJDC also offers a wide range of integrated services to juvenile defenders, including training, technical assistance, advocacy, networking, collaboration, capacity building, and coordination. To learn more about NJDC, please visit www.njdc.info.

This project was supported by Grant # 2013-MU-FX-K004 awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this graphic are those of the author(s) and do not necessarily reflect those of the Department of Justice.

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NATIONAL JUVENILE JUSTICE NETWORK

Fact Sheet

EMERGING FINDINGS AND POLICY IMPLICATIONS FROM THE *PATHWAYS TO DESISTANCE* STUDY

SEPTEMBER 2012

The *Pathways to Desistance* study is a large, multi-site, collaborative project that follows over 1,300 youth ages 14-18 for seven years after their convictions. All youth who participated in the study were considered "serious offenders"; many had multiple prior court cases and had just received a conviction for a serious charge—almost exclusively felonies—including murder, robbery, aggravated assault, and sex offenses in either the juvenile or adult system.¹ This fact sheet provides recent findings and policy implications stemming from the research.

Finding: Youth in trouble with the law vary considerably. Their future development or illegal behavior cannot be predicted based on their presenting offense.²

- Youth who commit serious offenses vary considerably in patterns of offending, risk factors, and life situations.³
- Whether a youth gradually stops committing crimes, remains stable, or increases his or her level of offending is not directly related to his or her presenting offense.⁴

Policy Implication:

Policies about placement or program eligibility that are based on criteria related to a youth's presenting offense are not an effective means of identifying risk, addressing recidivism, or encouraging positive youth development.⁵

Finding: Substance abuse issues can significantly increase the risk of future arrests for youth; treatment reduces recidivism.⁶

- A higher level of substance abuse increases youth offending significantly.⁷

- Substance abuse treatment, if it is of sufficient duration, has a significant positive effect for youth in trouble with the law, particularly if families are involved.⁸
- Substance abuse treatment services are not provided to most youth with a diagnosed need for them—especially in the community, where only 14 percent of youth with a diagnosis receive treatment, and receive an average of only one session every 50 days.⁹

Policy Implication:

Community service providers and juvenile systems should increase substance abuse services—in the community and within institutions—for youth who commit serious offenses. Services should be of adequate intensity and should involve family members.¹⁰

Finding: Placing youth in an institution has no effect on their rate of re-arrest.¹¹

- If anything, placement in an institution may actually increase the rate of re-arrest.¹²
- There is no decrease in recidivism for youth placed in institutions for longer lengths of stay (three to thirteen months).¹³
- For youth who are maintaining low levels of antisocial behavior, institutional placement increases their level of antisocial activity.¹⁴

Policy Implication:

Juvenile justice systems should place youth who commit serious offenses in institutional settings less often—and for shorter durations. Such youth should instead receive an increased level of community-based services.¹⁵

Finding: Youth who are provided with a more positive institutional experience have better outcomes.¹⁶

- A higher level of institutional services (e.g., mental health, substance abuse treatment) and reentry planning significantly reduce the chance of a youth being involved in the justice system in the future.¹⁷
- Youth emerging from institutions that treat youth less harshly report participating in less antisocial activity.¹⁸
- What youth think of the environment of institutions in which they are placed is related to their anti-social behavior in the community after release, even after controlling for individual-level factors related to offending.¹⁹

Policy Implication:

States should promote procedures, policies, and assessment tools that regularly review whether justice-involved youth are receiving services in institutions that are matched to their needs. In addition, states should conduct periodic assessments of institutional environments from the perspective of youth placed in such institutions.²⁰

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¹ The research incorporates data collection of significant life events and extensive interviews with the youth, family members and friends at specific time points. Nearly 20 percent of the youth in the study were tried as adults. The research is funded by the John D. and Catherine T. MacArthur Foundation, U.S. Office of Juvenile Justice and Delinquency Prevention, National Institute of Justice, Robert Wood Johnson Foundation, William Penn Foundation, William T. Grant Foundation, Pennsylvania Commission on Crime and Delinquency, Arizona Governor's Justice Commission, and National Institute on Drug Abuse. The study grew out of the efforts of the MacArthur Research Network on Adolescent Development and Juvenile Justice. For more information visit www.modelsforchange.net and search for Pathways to Desistance or see details of the study provided at www.pathwaystudy.pitt.edu.

² K.C. Monahan, et al., "Trajectories of Antisocial Behavior and Psychosocial Maturity from Adolescence to Young Adulthood," *Developmental Psychology*, 45(6), (2009): 1654-1668; E.P. Mulvey, et al., "Trajectories of Desistance and Continuity in Antisocial Behavior Following Court Adjudication Among Serious Adolescent Offenders," *Development and Psychopathology*, 22, (2010): 453-475.

³ K.C. Monahan, et al., "Trajectories of Antisocial Behavior" and E.P. Mulvey, et al., "Trajectories of Desistance."

⁴ E.P. Mulvey, et al., "Trajectories of Desistance" and K. Monahan, et al., "Does Time Matter?"

⁵ E.P. Mulvey, "The Pathways to Desistance Study: Selected Findings and Policy Implications," Presentation to the National Juvenile Justice Network, (July 25, 2012): 23. The policy implications included in this publication are based on those contained in Dr. Mulvey's presentation to the National Juvenile Justice Network on July 25, 2012. Interpretation of the conclusions is the responsibility of the National Juvenile Justice Network.

⁶ E.P. Mulvey, et al., "Substance Use and Offending in Serious Adolescent Offenders," *Office of Juvenile Justice and Delinquency Prevention* (December 2010) and L. Chassin, et al., "Substance Use Treatment Outcomes in a Sample of Serious Juvenile Offenders," *Journal of Substance Abuse Treatment*, 36(2), (2009): 183-194.

⁷ E.P. Mulvey, et al., "Substance Use and Offending in Serious Adolescent Offenders," C.A. Schubert, et al., "The Influence of Mental Health and Substance Use Problems and Criminogenic Risk on Outcomes in Serious Juvenile Offenders," *The Journal of the American Academy of Child and Adolescent Psychiatry*, 50(9), (2011): 925-937, and L. Chassin, et al., "Substance Use Treatment Outcomes."

⁸ L. Chassin, et al., "Substance Use Treatment Outcomes." Substance abuse programs should meet National Institute for Drug Abuse standards for enrollment time (www.drugabuse.gov).

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¹⁷ C.A. Schubert, et al., "Perceptions of Institutional Experience."

¹⁸ C.A. Schubert, et al., "Perceptions of Institutional Experience."

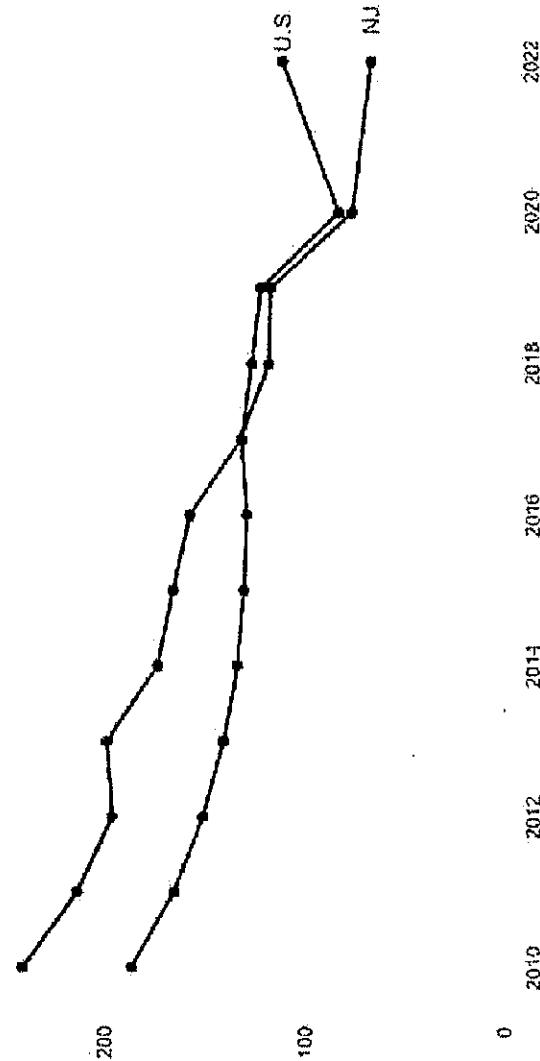
¹⁹ C.A. Schubert, et al., "Perceptions of Institutional Experience."

²⁰ E.P. Mulvey, "The Pathways to Desistance Study," 50.

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The youth arrest rate for violent crimes in New Jersey in 2022 was 73 percent lower than the arrest rate in 2010.

Youth arrests for violent index crimes per 100k residents



In 2022 in New Jersey, 612 youth were arrested for violent index crimes, a rate of 66 per 100,000 youth.

The New Jersey violent index arrest rate was 40 percent lower than the national average of 110 arrests per 100,000.

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FBI Uniform Crime Reporting Program Summary Reporting System; Arrests by Age, Sex, and Race data set. Aggregated to the state-level from Jacob Kaplan's Concatenated Files: [libby/5caLocal10_3858EE102263V15](#)
 FBI National Incident Based Reporting System Estimation Files, Indicator Table 5a



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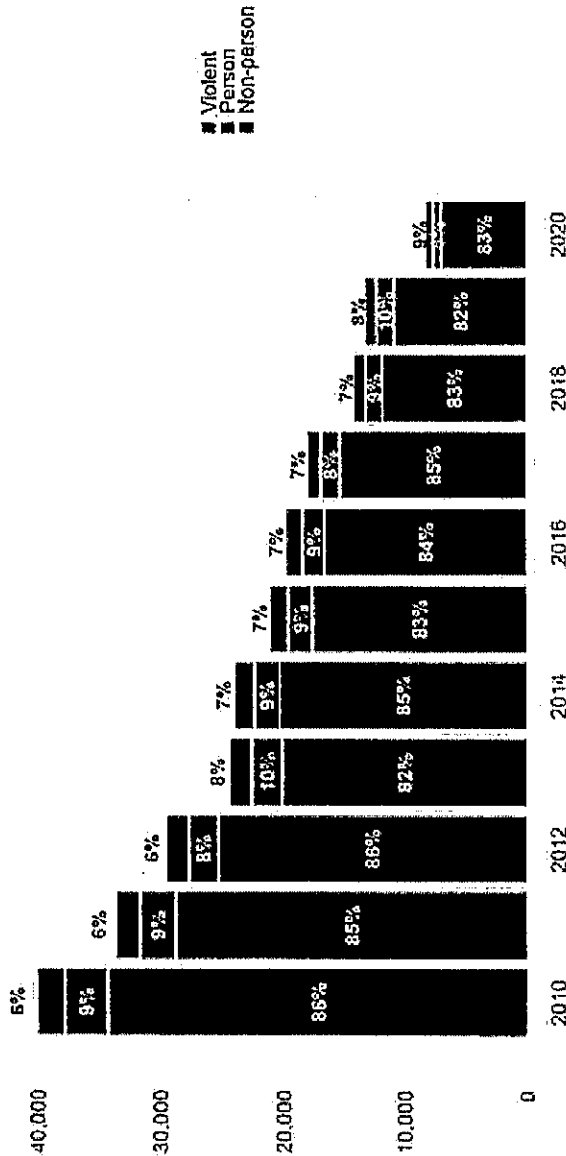


In 2020, 83 percent of youth arrests in New Jersey were for non-person offenses.

In 2020, nationally, 74% of all youth arrests were for non-person offense.

In 2020 in New Jersey, 1,256 youth were arrested for all violent index offenses, weapons, and motor vehicle thefts combined. 1,150 youth were arrested for vandalism, liquor law and curfew violations, and disorderly conduct.

Youth arrests per 100k residents by category, New Jersey



FBI Uniform Crime Reporting Program Summary Reporting System: Arrests by Age, Sex, and Race data set. Aggregated to the state-level from Jacob Kaplan's Concatenated Files: <https://doi.org/10.3006/E102263V15>



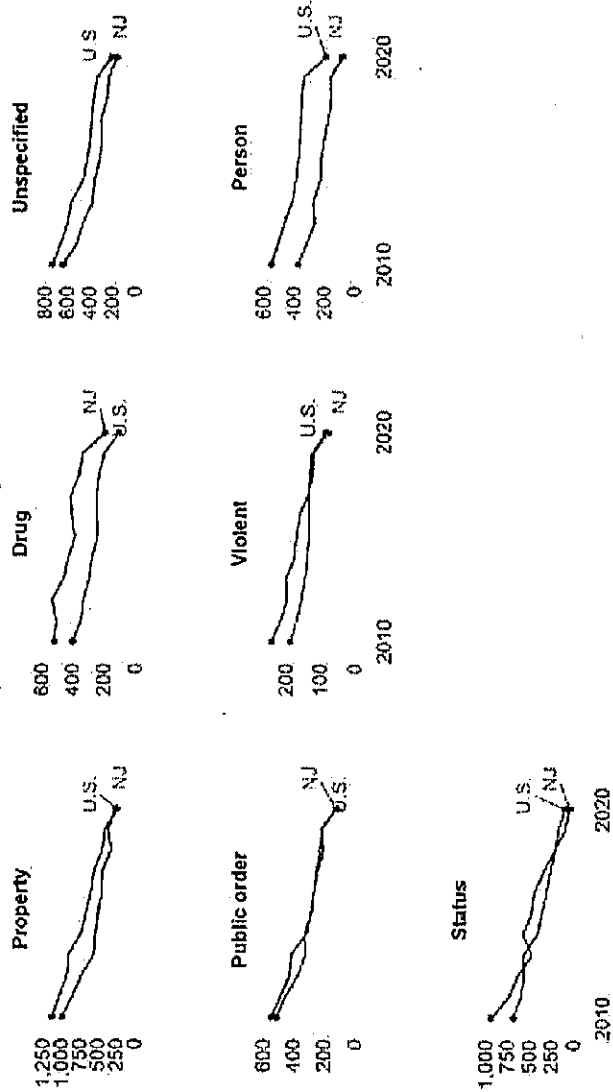
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155x

The largest difference in arrest rates in 2020 between New Jersey and the national average was in drug offenses.

Youth arrests per 100k residents by offense category



The youth arrest rate for drug and public order offenses was higher in New Jersey than the national average in 2020. The youth arrest rate for violent, person, property, status, and unspecified offenses was lower in New Jersey than the national average in 2020.

FBI Uniform Crime Reporting Program Summary Reporting System: Arrests by Age, Sex, and Race data set. Aggregated to the state-level from Jacob Kaplan's Concatenated Files: <https://doi.org/10.3886/E102263V15>

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"Social justice should be the underlying goal of all humanity."
-Alan V. Lowenstein, Institute Founder

TESTIMONY OF YANNICK WOOD
NEW JERSEY INSTITUTE FOR SOCIAL JUSTICE
NEW JERSEY SENATE JUDICIARY COMMITTEE
HEARING ON YOUTH JUSTICE
JUNE 13, 2024



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do social justice.

Good afternoon, Chair Stack and Vice-Chair Pou and members of the Senate Judiciary Committee. Thank you for the opportunity to present this testimony regarding youth justice issues in our state and our recommendations.

My name is Yannick Wood, I am the director of the Criminal Justice Reform program at the New Jersey Institute for Social Justice (the "Institute"). The Institute's advocacy empowers people of color by building reparative systems that create wealth, transform justice and harness democratic power – from the ground up – in New Jersey. Our youth justice work specifically seeks to transform youth justice in New Jersey by addressing its stark racial disparities, closing New Jersey's youth prisons, establishing community-based systems of care, and empowering communities to develop alternatives to incarceration. I would like to thank my colleagues Ashanti Jones and Emily Schwartz for their assistance in preparing this testimony.

Introduction

There has been a spate of noncontextualized recent news stories featuring young people accused of misbehavior and, in some cases, criminal activity in shorefront communities.¹ Media attention to a small number of incidents is not new.² What is concerning is that lawmakers are considering regressive policy changes based off of these headlines without regard to actual data. Policy changes to increase penalties and youth detention are particularly concerning given New Jersey's stark racial disparities. In the Garden State, Black youth are 28.6 times more likely to be incarcerated than their white counterparts – the worst racial disparity in the United States.³ This disparity occurs even though both Black and white youth commit most offenses at similar rates.⁴ New Jersey must not resort to policies that will criminalize youth for the following reasons.

- 1. Crime rates have been falling under current policies and New Jersey's top officials have not been calling for tougher policies.*

According to a recent article, New Jersey has ranked as the fifth safest state in the country.⁵ New Jersey has successfully overcome a COVID-era surge in car theft. Last year Attorney General Matthew Platkin noted that "over the past six months, auto thefts have been driven below their five-year average."⁶ New Jersey State Police credited the creation of a state task force working in conjunction with local police departments in reducing the amount of auto theft.⁷

Recently, there has been coverage of incidents involving youth in shore communities. Despite calls for a reversal of youth laws related to marijuana and alcohol, after an incident in Wildwood, Attorney General Platkin instead stated that more police officers

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should have been on patrol.⁸ Of the same incident, Governor Murphy stated (despite reporting to the contrary) that “the shore did not have a chaotic weekend.”⁹ The reality is that New Jersey’s top officials are not actively calling for tougher policies, and correspondingly, the legislature should not advance tough on crime responses for youth.

II. Increasing penalties for youth will not result in crime reduction and will disproportionately harm youth of color.

Harsher penalties do not conclusively deter crime.¹⁰ In fact, New Jersey’s highest court recognizes the limits of deterrence with youth.¹¹ Instead, these penalties damage our children by putting them behind bars, without recognizing the reasons why they become entangled within the criminal justice system. Studies show that longer sentences and increases in prison populations may cause crime to increase.¹² The creation of a three-strike provision in California had only a minimal deterrent effect.¹³ And while the deterrent effect was minimal, it led to higher incarceration rates.¹⁴

Mandating harsher penalties harms our youth by exposing them to incarceration and introduces them into the most racially disparate system of youth incarceration in the country. Incarceration subjects our young people to abuse.¹⁵ As explained in our report, *600k to Damage Our Youth Forever*, incarceration negatively impacts their mental health, leads to recidivism and causes them to miss opportunities that could positively impact their futures.¹⁶ Incarceration removes youth who may already have mental health concerns, places them in prisons where these problems fester and releases them worse for wear. Nationally, between 50-70% of incarcerated youth have a mental health diagnosis.¹⁷ In prisons, youth are isolated from their families and have barriers to accessing necessary mental health treatment¹⁸ which only exacerbates these concerns.¹⁹ Putting our youth behind bars may lead to increases in suicide attempts and substance usage.²⁰ Incarcerating our youth disrupts their education; it is less likely that they will complete high school.²¹

Even levying fines on youth could have harmful consequences. Research shows that youth fines and fees perpetuate cycles of poverty and undermine the financial and emotional well-being of youth and their families.²² They disproportionately harm Black, Indigenous, Latinx and low-income families.²³ Fortunately, this legislature functionally eliminated fines and fees for youth.²⁴ We encourage the legislature to continue in this commitment by not passing any new fines and fees for youth.

III. Law enforcement already have the tools necessary to address youth misconduct.

The Institute does not advise that law enforcement be the first response to allegations of youth misconduct. However, New Jersey law enforcement is already empowered by the law to address these incidents. In 2020, then Attorney General Grewal issued Directive 2020-12 which highlights options for officers and prosecutors including curbside warnings,²⁵ stationhouse adjustments²⁶ and policies that prioritize keeping youth at liberty rather than detaining them.²⁷

Furthermore, in December 2023, this legislature passed a law allowing for law enforcement to issue warnings,²⁸ notify parents,²⁹ confiscate alcohol³⁰ and provide access to social services³¹ when underaged people were found to have possessed or consumed alcohol. To be clear, the Institute along with the ACLU-NJ and other partner organizations opposed this legislation.³² Notwithstanding, law enforcement is more than equipped to address youth misconduct without the passage of regressive laws.

IV. Instead, New Jersey should look to proactively establish policies that will protect and not criminalize youth.

Firstly, New Jersey must treat youth in an age-appropriate fashion. Research in brain science has confirmed what is common knowledge – that young people often have challenges in impulse control and the ability to appreciate long-term consequences.³³ As a result, we should be mindful not to automatically characterize misbehavior as crime.

In this vein, the Institute is proud to support S1319, a bill that establishes a minimum age for juvenile delinquency of 14 years old. This bill will reduce the number of youth entering into New Jersey's racially disparate youth incarceration system, it accords with cognitive science that recognizes that youth are more likely to engage in harmful behavior prior to full brain development, it will make New Jersey a leader among states and it aligns with international standards³⁴ for juvenile delinquency.

Secondly, New Jersey must end youth waiver or the practice of prosecuting young people as adults. As stated earlier, cognitive science demonstrates how the brains of young people are biologically immature, often resulting in youth engaging in harmful conduct.³⁵ In the exceptional event when the state finds it necessary to prosecute a youth, we strongly urge prosecutors to use the juvenile justice system. While imperfect, it is better suited for youth than the adult system.

Third, our state must increase sustained investment in community-based youth programs. These programs include prevention and diversion programs. Prevention programs are programs that connect youth to services outside of their school and home. Prevention programs include afterschool programs like the Boys and Girls Club and the YMCA. Access to these services increase the likelihood that youth remain free from harmful behaviors.³⁶

Diversion programs exist for justice-involved youth and help youth avoid arrest and prosecution by providing alternatives. Youth who have been diverted have a far lower likelihood of subsequent arrests, are less likely to be incarcerated,³⁷ have higher rates of school completion and college enrollment, and earn higher incomes in adulthood.³⁸ New Jersey must also develop strong diversionary programs to curtail the drastic racial disparities in our criminal justice system.

Lastly, the legislature must consistently commission racial and ethnic impact assessments for any proposed criminal justice related bill, as required by law.³⁹ These statements are absolutely necessary to prevent future bills, particularly those involving youth, from exacerbating New Jersey's stark racial disparities.

Conclusion

For these reasons, we strongly urge you to not increase penalties for young people and to instead advance policies that protect young people. Thank you for considering this testimony.

¹ Wayne Parry, *New Jersey attorney general blames shore town for having too few police on boardwalk during melee*, AP (May 31, 2024, 3:52 PM EDT), <https://apnews.com/article/new-jersey-boardwalks-teens-wildwood-ocean-city-stabbing-e87b5d2b2eb9e36fecb241d8ec8be1d0>.

² Wayne Parry, *Jersey Shore towns say state's marijuana law handcuffs police and emboldens rowdy teens* (June 30, 2023, 12:03 AM EDT), <https://apnews.com/article/jersey-shore-rowdy-teens-marijuana-drinking-police-3febd99c052eaad884c3e7d50ad8fa19>.

³ Easy Access to the Census of Juveniles in Residential Placement: 1997-2021, Race/Ethnicity by State 2021 (Rate per 100,000 Juveniles), OJJDP (July 19, 2021), https://www.ojjdp.gov/ojstatbb/ezacjrp/asp/State_Race.asp?state=58&topic=State_Race&year=2019&percent=rate&maps=no.

⁴ Joshua Rovner, RACIAL DISPARITIES IN YOUTH COMMITMENTS AND ARRESTS, SENTENCING PROJECT 6 (2016) <https://www.sentencingproject.org/app/uploads/2022/08/Racial-Disparities-in-Youth-Commitments-and-Arrests.pdf>.

⁵ Amanda Wallace, *New Jersey is one of the safest states in the country, study says*, NORTHJERSEY.COM (APR. 4, 2024, 5:46 PM ET), <https://www.northjersey.com/story/news/new-jersey/2024/04/03/new-jersey-is-one-of-the-safest-states-in-the-country-study/73176956007/>.

⁶ Matthew J. Platkin, AG: Facts don't lie. Crime is Down In New Jersey, NJ.COM, (Mar. 12, 2023), <https://www.nj.com/opinion/2023/03/ag-facts-dont-lie-crime-is-down-in-new-jersey-opinion.html>.

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⁸ Parry, *supra* note 1.

⁹ Wayne Parry, *New Jersey police union calls for 'real consequences' for drunk, rowdy teens after boardwalk unrest*, AP (May 29, 2024, 5:07 PM EDT), <https://apnews.com/article/boardwalks-teen-disturbances-wildwood-ocean-city-stabbing-9799359b56ce7be391c1f915347da64c>.

¹⁰ James P. Lynch and William J. Sabol, *Did Getting Tough on Crime Pay?*, URBAN INST. (Aug. 1, 1997), <https://www.urban.org/sites/default/files/publication/70411/307337-Did-Getting-Tough-on-Crime-Pay-.pdf> "There is mixed evidence that these reforms, as implemented, have led to reductions in crime"; Don Stemen, *The Prison Paradox: More Incarceration will Not Make Us Safer*, VERA INST. (July 2017), <https://www.vera.org/publications/for-the-record-prison-paradox-incarceration-not-safer>; Office of Justice Programs, U.S. Dept. of Justice, *National Institute of Justice: Five Things About Deterrence*, (May 2016), <https://www.ojp.gov/pdffiles1/nij/247350.pdf> ("Sending an individual convicted of a crime to prison isn't a very effective way to deter crime.").

¹¹ *State v. Comer*, 249 N.J. 359, 399 (2022) ("[T]he threat of a lengthy jail sentence is less of a deterrent for juveniles than adults.").

¹² Dr. Oliver Roeder, Lauren-Brooke Eisen and Julia Bowling, *What Caused the Crime Decline*, BRENNAN CENTER FOR JUSTICE (Feb. 12, 2015), <https://www.brennancenter.org/our-work/research-reports/what-caused-crime-decline>; LAUREN-BROOKE EISEN, *NEW JERSEY FACT SHEET: WHAT CAUSED THE CRIME DECLINE*, BRENNAN CENTER FOR JUSTICE (Feb. 12, 2015), <https://www.brennancenter.org/our-work/research-reports/new-jersey-fact-sheet-what-caused-crime-decline> (report included specified findings for New Jersey noting: "This report finds that this 'one-size fits all' use of imprisonment to punish crime has passed the point of diminishing returns."); *Weighing Imprisonment and Crime: 9 experts explore the relationship between prisons and crime rates*, THE PEW CHARITABLE TRUSTS (Feb. 2015) <https://www.pewtrusts.org/en/research-and-analysis/articles/2014/09/weighing-imprisonment-and-crime> ("In the context of the American criminal justice system, there is very little evidence that increasing already lengthy prison sentences has much of a deterrent effect. And there is a growing body of evidence that it scars prisoners, their families, and their communities."); Alison Siegler, *End Mandatory Minimums*, BRENNAN CENTER FOR JUSTICE (Oct. 18, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/end-mandatory-minimums>; Francis T. Cullen,

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¹⁴ *Id.* at 70.

¹⁵ N.J. DEP'T OF CORRECTIONS, N.J. JUV. JUST. COMM'N PRISON RAPE ELIMINATION ACT (PREA) ANNUAL REPORT (2019), https://www.nj.gov/oag/jjc/pdf/2019_PREA-Annual-Report.pdf; Press Release, DEP'T OF L. & PUB. SAFETY, *Inactive Correctional Police Officer Pleads Guilty to Aggravated Assault Charge for Breaking Wrist of Resident in Juvenile Justice Commission Facility* (Feb. 23, 2022), <https://www.njoag.gov/inactive-correctional-police-officer-pleads-guilty-to-aggravated-assault-charge-for-breaking-wrist-of-resident-in-juvenile-justice-commission-facility/>.

¹⁶ N.J. INST. FOR SOC. JUST., \$600K TO DAMAGE OUR KIDS FOREVER: A YOUTH INCARCERATION DISASTER (June 2022) https://assets.nationbuilder.com/njisj/pages/691/attachments/original/1654722003/600K_To_Damage_Our_Kids_Forever_Final_WEB.pdf?1654722003.

¹⁷ OFF. OF JUV. JUST. & DELINQ. PREVENTION, BEHAVIORAL HEALTH PROBLEMS, TREATMENT, AND OUTCOMES IN SERIOUS YOUTHFUL OFFENDERS 3 (2014), <https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/pubs/242440.pdf>.

¹⁸ OFF. OF JUV. JUST. & DELINQ. PREVENTION, INTERSECTION BETWEEN MENTAL HEALTH AND JUVENILE JUSTICE SYSTEM (2017), https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/intsection_between_mental_health_and_the_juvenile_justice_system.pdf.

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²² MAKING FAMILIES PAY, BERKELEY L. POL. ADVOC. CLINIC. 23 (Mar. 2017) <https://www.law.berkeley.edu/wpcontent/uploads/2015/12/Making-Families-Pay.pdf>.

²³ LINDSEY E. SMITH ET. AL, REIMAGINING RESTITUTION, JUV. JUST. CTR. 13 (2022) <https://debtorsprison.jlc.org/documents/JLC-Reimagining-Restitution.pdf>.

²⁴ Press Release, Office of the Governor, Governor Murphy Signs Legislation to Eliminate Certain Juvenile Justice Fines, Fees, and Costs (Jan. 10, 2022), <https://www.nj.gov/governor/news/news/562022/20220110e.shtml>.

²⁵ ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE No. 2020-12 2 (2020), https://www.nj.gov/oag/dci/agguide/directives/ag-Directive-2020-12_Juvenile-Justice-Reform.pdf (Curbside warnings are short “conversations” where police advise youth to stop any harmful conduct).

²⁶ *Id.* (stationhouse adjustments involve the youth and or parents entering into a “contract” with police where the youth will address the harm they allegedly caused instead of the police moving forward with an arrest of the youth).

²⁷ Id (including using complaint-summons instead of complaint warrants, the presumption against youth detention and the possibility of prosecutors using diversion after charges).

²⁸ Asm. B. No. 5610, 220th Leg. (N.J. 2023), https://pub.njleg.state.nj.us/Bills/2022/AL23/335_.PDF.

²⁹ Id.

³⁰ Id.

³¹ Id.

³² N.J. INST. FOR SOC. JUST., TESTIMONY OF ASHANTI JONES IN OPPOSITION TO A5610/S3954 (Dec. 14, 2023), https://njisj.org/wp-content/uploads/2023/12/NJISJ-Testimony-to-Sen.-Budget-and-Appropriations-in-Opposition-to-A5610_S3954.pdf.

³³ A. MADDUX, QUESTIONS FOR PSYCHOLOGISTS REGARDING THE CLOSURE OF YOUTH PRISONS: A LITERATURE REVIEW 5 (2021), https://d3n8a8pro7vhmx.cloudfront.net/njisj/pages/691/attachments/original/1621953821/Maddux_Final_LitRev.pdf?1621953821.

³⁴ U.N. High Commission on Human Rights, General comment No. 24 (2019) on children’s rights in the child justice system, (September 18, 2019), <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsqlkirKQZLK2M58RF%2F5F0vEnG3QGKUxFivhToQfjGxYjV05tUAlgpOwHQJsFPdJXCiixFSrDRwow8HeKLLh8cgOw1SN6vJ%2Bf0RPR9UMtGkA4>.

³⁵ Maddux *supra* note 33 at 5.

³⁶ N.J. INST. FOR SOC. JUST., WHAT COMES AFTER YOUTH PRISONS 3 (2019), https://d3n8a8pro7vhmx.cloudfront.net/njisj/pages/691/attachments/original/1621953821/Maddux_Final_LitRev.pdf?1621953821.

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³⁸ Richard Mendel, THE SENTENCING PROJECT, DIVERSION: A HIDDEN KEY TO COMBATING RACIAL AND ETHNIC DISPARITIES IN JUVENILE JUSTICE 2 (2022), <https://www.sentencingproject.org/app/uploads/2022/10/Diversion-A-Hidden-Key-to-Combating-Racial-and-Ethnic-Disparities-in-Juvenile-Justice.pdf>.

³⁹ N.J. Stat. Ann. § 52:11-57.1 (West, 2018).

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From: ols-committee-aide@web.njleg.org
Sent: Wednesday, June 12, 2024 8:53 AM
To: OLSaideSJU
Subject: kids stealing cars and robbing

**throw the book at them. its gotten way way too far. civilization cannot sustain with this vandalism
venerated y kids. stop them. put more of them behind bars imo.**

Sent from: jeanpublic1@gmail.com

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