

TEN STRATEGIES TO REDUCE JUVENILE LENGTH OF STAY

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Background

Despite a significant national trend away from juvenile incarceration, the United States still places more young people in secure confinement than any other country in the world.ⁱ Such confinement disconnects youth from family and community, and puts them at risk of trauma, academic failure, and increased rates of adult incarceration. Moreover, it's expensive - some studies suggest that our nation spends an average of \$401 per day, or \$146,302 annually, for every youth in a juvenile facility.ⁱⁱ By comparison, we spend only a small percentage of that - 7% or \$10,608, per student per year for a public school education.ⁱⁱⁱ State stakeholders and advocates are currently addressing this problem both by closing juvenile facilities and by reducing institutional populations. This document focuses on reductions in current institutional populations as one important strategy in de-incarceration.

There are two ways to reduce populations in existing juvenile facilities: 1) reduce admissions; 2) reduce length of stay. While significant reform efforts have succeeded in reducing admissions rates in juvenile facilities, there has been too little focus on length of stay. This publication is an attempt to start a wider, more thorough, and more systematic conversation about how to reduce length of stay in juvenile facilities without jeopardizing public safety. This approach is not intended to replace efforts to reduce unnecessary placement of youth in the first instance, but instead to address the needs of thousands of youth who continue to be placed in institutions around the country.

In 2011, national snapshot data showed over 40,000 youth held in secure placement. Approximately one third had been confined for longer than six months.^{iv} Moreover, approximately half of the youth held past six months were placed for property offenses, drug offenses, technical probation violations and status offenses, and *not* for offenses against another person.^v Over 2,000 youth had been in placement longer than a year.^{vi} Moreover, youth of color are disproportionately placed in juvenile facilities - even when white youth have higher offending rates.^{vii}

The research is clear: regardless of the type of offense, placement in a juvenile facility beyond six months is largely ineffective at reducing recidivism, and may often be harmful to youth.^{viii} Notably, the research, including a recent report of the National Academy of Science, also shows that juvenile offenders desist from crime as they mature,^{ix} and that unnecessary placement may interrupt a developmental pathway and increase recidivism.^x Moreover, almost all evidence-based and evidence-informed services can be provided without lengthy institutional stays.^{xi} Indeed, many of the most effective practices *must* take place in the home or community to build on a young person's systems of support.^{xii} While many such community-based practices are typically used to prevent placement, they can also be used as a component of reentry that reduces length of stay.^{xiii}

Despite the research on the harms of extended placement, only one state has legislation to prevent stays that exceed six months.^{xiv} In fact, to the extent that state policy sets forth any clear time limit, the most common limit is two years, far longer

than the research suggests is necessary or appropriate.^{xv} Most states allow a young person to be confined until the age of majority or until age 21.^{xvi}

Research Approach

With the support of the Public Welfare Foundation, Juvenile Law Center hosted a meeting of researchers and conducted a series of interviews with key stakeholders around the country to explore how length of stay could better align with research. We also looked at existing disposition statutes and guidelines regarding length of stay. Most recommendations set forth in this paper could be adopted either through state statutory reform or through policy and practice reform within a state department of juvenile justice.^{xvii}

There is a dearth of data on how best to reduce length of stay; research is still needed to confirm which strategies work best. Our recommendations have different levels of empirical support. For a few of the recommendations below, researchers associate a decrease in length of stay with implementation of the recommended policies and practices.^{xviii} Many of the recommendations reflect the best thinking of experts in the field, but have not been tested. Some recommendations are based on promising policies that are codified but may not be fully or effectively implemented. When examples exist of research or policies we have provided details in the endnotes.

States allocate decision-making about length of stay and release from placement in a variety of ways. In some states, the judge sets the designated length of stay. In other states, that decision is left to the department of juvenile justice. Still other states have juvenile parole boards tasked with determining youth release dates, and others have hybrid policies, with various decision-makers authorized to make length of stay determinations under different circumstances. Because of these variations, this document sets forth broad principles, but leaves it to states to experiment with how best to put the ideas into practice in keeping with the jurisdiction's allocation of authority.

Because data is scarce, and the conversation about how to reduce length of stay is in its early stages, we strongly encourage jurisdictions not only to adopt reforms, but also to track data on their interventions and share results with the field. This will set the stage for model policies and practices that can be replicated around the country and enhance the conversation going forward.

This paper addresses the narrow question of length of stay. Any project to address length-of-stay should simultaneously work to eliminate unnecessary confinement in the first instance.^{xix} That said, a focus on length of stay is vital for the thousands of young people placed in residential facilities who have not benefitted from initiatives to reduce confinement.

Recommendations

I. Gather data to guide policy and practice

Youth may get “stuck” in placement for long periods of time because of the type of offense, because of their particular needs, because of a lack of community resources, or for other reasons. Practitioners across the country identified populations most likely to be held for long periods -- youth with mental health problems, girls, youth adjudicated for sex-related offenses, and youth in private for-profit facilities. Other factors triggering longer stays may be unique to individual jurisdictions. Moreover, given the clear evidence that race and ethnicity has a significant impact at almost every decision point in the juvenile justice system^{xx}, attention to possible racial disparities in length of stay are vital.

Efforts should be made to gather data that can help identify causes of extended placement, and set the stage for targeted solutions. Data can be gathered retrospectively and analyzed to assess length of stay trends. Ideally, however, data should be gathered and analyzed at the beginning of a jurisdiction’s efforts to reduce length of stay, and at regular intervals thereafter for continued troubleshooting. As jurisdictions move forward to gather data, relevant data elements may include, but are not limited to:

- Average length of stay for all youth
- Month of arrival and month of departure
- Breakdown in length of stay data by:
 - race and ethnicity
 - biological sex
 - gender identity and gender expression^{xxi}
 - sexual orientation
 - age
 - type of facility (including whether it is public or private, capacity, secure or non-secure, etc.)
 - type of treatments or interventions provided
 - type of offense
- Stated reasons for length of stay by the court or juvenile justice decision-maker (at initial disposition or disposition review)^{xxii}
- Services available in the community, particularly those services available for youth most likely to face extended placement

Individuals gathering data should be trained to ensure youth confidentiality, to respond sensitively to youth, and to allow youth to make voluntary determinations about whether to disclose information about gender identity, gender expression, and sexual orientation.^{xxiii} Protocols should also ensure that information is used and shared only to assist youth directly or help improve systems, and that use of information complies with state and federal confidentiality and privacy laws.

II. Adopt Time Limits or Presumptions to Reduce Length of Stay

Although research suggests that stays of longer than six months will not reduce recidivism,^{xxiv} policies almost uniformly allow youth to be held longer. States can remedy this by adopting time limits or presumptions to guide length of stay decisions. A policy could establish, for example, that youth may not remain in secure care longer than six months except under designated, limited circumstances. Timelines could be set even shorter for younger youth or for less serious offenses. This approach is currently codified in Idaho law.^{xxv}

In a jurisdiction that establishes a presumption rather than a set maximum length of stay, there should be guidelines for decision makers, in keeping with current risk assessment research, regarding when a youth may stay past a designated maximum, and a procedure for review of the decision.

In some jurisdictions, indeterminate sentencing means that youth receive longer dispositions than the maximum adult sentence for the same offense. States should ensure that this is not happening by setting policy that a youth may not be held in placement longer than an adult would be for the equivalent offense.^{xxvi}

III. Prohibit Inappropriate Justifications for Extending Length of Stay

Experts around the country noted that certain characteristics or situations tended to result in excessive length of stay. These included youth with mental health problems who “failed to adjust” to the institutional setting, youth adjudicated for sex-related offenses, and youth in private for-profit facilities.

To address the problem of youth who fail to adjust to the institutional setting, states should clarify that time may not be added to a juvenile disposition as a result of institutional behavior that does not result in an additional offense. This approach is codified in California law.^{xxvii} Alternatively, states could clarify in policy that youth with mental health problems may not be held longer because of behavior that is a manifestation of the young person’s disability if they can be safely placed in the community.^{xxviii}

Additionally, states should consider establishing procedural protections to prevent youth from being held excessively for particular offenses. For example, youth are often held much longer than research suggests for sexual offending.^{xxix} Policy could require additional review from a judge or juvenile justice department decision-maker in such cases with the presumption that the child must be released unless there are clear findings that continued placement is necessary and that he or she is receiving effective treatment tailored to his or her needs.^{xxx}

Finally, if, after tracking data, jurisdictions determine that youth are remaining longer in for-profit private facilities than their peers in public facilities, they should enact policies to address the problem. Jurisdictions could strengthen standards and oversight for private facilities, or place youth only in facilities that keep length of stay within designated guidelines.

IV. Use Structured Decision-Making to Guide Length of Stay

Structured decision-making can help to guide length of stay. Mississippi, for example, has developed a structured decision-making policy that limits length of stay for most youth to under eight months.^{xxxii} Given the importance of individualized decision-making, structured decision-making approaches should allow for decision-makers (either judges or department of juvenile justice administration) to override the recommendation if they provide a written explanation and are subject to prompt review. Data on overrides and length of stay should be tracked carefully to ensure that there are no racial disparities, and the guidelines are applied fairly.

V. Use Case Planning and Re-entry Services to Reduce Length of Stay

Thoughtful case management, re-entry planning, and transition coordinating can help youth move quickly out of placement and back into the community.^{xxxiii} Case planning requirements can be codified in agency policy, as in Mississippi,^{xxxiii} or in statute, as in Minnesota.^{xxxiv}

Authorizing independent case managers to assess readiness for release can help to ensure that the decision is not tied to the needs of a facility, and that the focus remains on returning youth to community-based services. Case managers can be most effective when they work closely with youth and families to develop specific and concrete goals, and when they are required to ensure that youth are served in the community absent a specific need for continued placement. If there is such a specific need, the case manager should be required to specify the estimated length of treatment time required in the facility and the specific high quality services that will be provided. Missouri and Michigan are currently using such innovative approaches to case management, and researchers link these approaches with reductions in length of stay.^{xxxv} The primary focus in case planning, from the moment the youth enters, must be on the youth's re-entry plan.^{xxxvi} Moreover, transition coordinators or case expeditors can be charged with ensuring that young people are promptly connected with appropriate community services.

VI. Rely on Family Engagement to Reduce Length of Stay

Family involvement can be critical to reducing length of stay. Research consistently shows that youth have better outcomes when their families are involved in the youth's progress and trained in how best to support them as they re-enter. For example, in Missouri, the justice system maintains strong links to family and community to support seamless transition and post-release services. This approach has been shown to reduce recidivism rates; it is logical that assisting families in supporting young people would also reduce length of stay.^{xxxvii} Families should also be involved in system reform. Families will often be in the best position to notice when - and why - young people are held for longer than necessary, and how jurisdictions can address these problems. States can support families' roles in reducing length of stay by: providing and researching the effectiveness of programs that connect youth and families during incarceration, providing resources, training and other support to

families to assist with re-entry, providing training for juvenile justice and probation staff on strength-based programming with youth and families, and supporting family participation in system reform.

VII. Use Treatment-Matching to Reduce Length of Stay

A common length-of-stay problem arises when youth release is tied to treatment progress, but the facility fails to provide needed or appropriate services, or the youth is not in need of treatment.^{xxxviii} These issues can and should be addressed through disposition and disposition-review, as described below. They can also be addressed by improving the approach to matching youth with appropriately designed treatment.

One strategy to improve treatment-matching is for facilities to use evidence-based assessments to match youth to needed services, and require regular reviews that focus on specific treatment needs and services provided. Agency administrators in Michigan attribute a significant reduction in length of stay in part to a treatment and assessment process that relies on evidence-based risk assessments and evaluations of treatment benchmarks tied to a youth's specific developmental and mental health needs.^{xxxix} Researchers in Oregon anticipate that the Oregon Youth Authority's evidence-based approach to matching youth with appropriate services for their specific needs and backgrounds will similarly reduce length of stay.^{xl}

For such treatment-matching approaches to be most successful, they should be paired with frequent reviews of services. In Michigan, for example, treatment-matching occurs every three months. Data should always be gathered on the provision of treatment and the extent to which treatment-matching approaches, and specific types of treatment, are associated with length of stay. This approach will address a common problem: youth too often are blamed for "failing to adjust" to treatment, when the problem is the program's failure to provide proper treatment.

VIII. Use Disposition and Disposition Review to Reduce Length of Stay

Both disposition and disposition review procedures can be used to reduce length of stay. Both disposition and disposition review procedures can be used to reduce length of stay. In our definition of disposition review, we include reviews conducted by judges, juvenile justice agencies, or parole boards – i.e., any entity with authority to review progress and release the juvenile.

The presumption at disposition review, as at disposition, should always be that youth are returned to the community unless there is a specific reason on the record for continued placement.^{xli} Moreover, reviews should take place at least every three months, and ideally more frequently; the longer young people wait for a review, the longer they are likely to remain in placement. Allowing young people to seek post-disposition review at any point may similarly assist in reducing length of stay.

Frequently, disposition review includes an assessment of the youth's progress, but no real consideration of the services a youth has received or the relationship between the two. To address this issue, it is important that youth receive high-quality legal

representation at disposition review hearings, and that youth perceptions of services, conditions, and treatment are presented to the reviewer. Families should be involved to help keep the focus on how the youth, and the system, can best build on home and community resources. Moreover, youth should not be held longer in the system because appropriate services were not provided, or because of other factors outside the control of the youth. This approach should ultimately change practice so that appropriate services are promptly provided.^{xlii}

State law may also specify that a court must review the type of services a youth will receive and the estimated time to complete treatment. It may also establish that a judge or other decision-maker has the right to modify or recall a commitment when a young person is not receiving appropriate services. California has codified both of these approaches in law.^{xliii}

IX. Ensure that Appropriate Step-Down Programming is Available in the Community

The availability of effective community alternatives is often vital to ensuring that youth “step down” from placement promptly. To address this problem, systems should assess needs and ensure available resources. When assessing needs, jurisdictions should pay particular attention to common problem areas. Community services are often unavailable for, or available services do not competently serve, girls, LGBTQ youth, and youth adjudicated for sex-related offenses. Jurisdictions should also ensure the availability of targeted community-based interventions, including substance abuse and drug treatment.

Many youth end up in placement, or stay longer in placement, because they don’t have a stable home to return to. States should ensure that community-based options are available for youth in the child welfare system or who otherwise lack a stable home, and that the juvenile justice system coordinates appropriately with the child welfare system to ensure that the justice system is not holding a youth simply because of his or her family problems.

As described below, identifying needed federal and state funding sources can help ensure that community-based placements are available, and are prioritized.

X. Use Innovative Financing to Reduce Length of Stay

Financial incentives and thoughtful financing of programs can help to reduce length of stay. Currently, private facilities have an incentive to keep youth for longer periods, as they are paid for full beds. State contracts could instead reward shorter lengths of stay, with guidance about when exceptions are warranted. Similarly, providing counties with higher rates of reimbursement from the state for community alternatives than secure placement, as Pennsylvania has done, may help shift the balance away from longer lengths of stay.^{xliv}

States can also ensure needed services through innovative funding, using Title IV-E of the Social Security Act, and especially relying on the waiver option to serve youth in

their homes and communities. Title IV-E of the Social Security Act provides federal funds that can support services for youth not in secure care. The Act provides matching funds to pay for foster care placements, including placements for eligible youth in the juvenile justice system. States can apply for waivers to use IV-E dollars for community-based services, including services for youth living at home. Under the IV-E Waiver program, money for states is capped – it is tied to a multi-year funding formula – but can provide a significant source of funding for community-based services.^{xlv} Many states, including Pennsylvania, use the funds for these purposes.

States can also maximize resources by using Medicaid for medically necessary evidence-informed programs for eligible youth, including those on probation. California and Pennsylvania have used this approach.^{xlvi} Some counties in California have also engaged probation staff in enrolling youth in Medicaid, further increasing counties' capacity to rely on Medicaid dollars for these services.^{xlvii} Because youth in secure placement post-adjudication cannot receive Medicaid services, policies can clarify that Medicaid is suspended but not terminated during that time, as California has done.^{xlviii} This allows for a greater continuity of care and smoother transitions when a youth is ready for a step-down placement.

States can also establish by statute a juvenile reentry fund to cover local program needs for youth stepping down from secure placement, or can ensure that funds are allocated to wrap-around services for justice-involved youth. This approach is also used in California.^{xlix}

Conclusion

We encourage jurisdictions to experiment with the recommendations here, to learn from existing research and practice, and to develop new approaches to addressing length of stay. We also encourage jurisdictions to move the conversation forward by sharing information about their efforts, tracking data, and reporting about results. We hope these efforts will reduce reliance on unnecessarily long juvenile placements, and ultimately return more youth to their families and communities.

ⁱ The Annie E. Casey Foundation, *Reducing Youth Incarceration in the United States* (2013), available at <http://www.aecf.org/m/resourcedoc/AECF-DataSnapshotYouthIncarceration-2013.pdf>.

ⁱⁱ Justice Policy Institute, *Sticker Shock: Calculating the Full Price Tag for Youth Incarceration* (2014), available at <http://www.justicepolicy.org/research/8477>.

ⁱⁱⁱ See United States Census Bureau, *Measuring America: Spending on Education 2012*, available at http://www.census.gov/library/infographics/educ_2014.html. (last accessed March 11, 2015).

^{iv} Sickmund, M., Sladky, T.J., Kang, W., and Puzzanchera, C. (2013) "Easy Access to the Census of Juveniles in Residential Placement," available at <http://www.ojjdp.gov/ojstatbb/ezacjrp/>.

^v *Id.*

^{vi} *Id.*

^{vii} See, e.g., Anne E. Casey Found., Race Matters: Unequal Opportunities for Juvenile Justice 11, available at <http://www.aecf.org/m/resourcedoc/aecf-RACEMATTERSjuvenilejustice-2006.pdf> (2006) (last visited March 16, 2015) (explaining that “[w]hen compared to White youth committing comparable offenses, African American Latino/a, and Native American youth experience more punitive treatment in terms of arrests, referral to juvenile court, detention, formal processing, waiver to adult court, incarceration in juvenile facilities, and incarceration in adult facilities. Further, while White youth engage in unlawful behaviors more than their African American and Latino/a counterparts, such as fighting, weapons possession crimes, and using and selling drugs, data show that White youth are more than twice as likely not to be arrested...Even when White, African American, and Latino/a youth with no prior admissions are charged with the same offense, African American youth are six times more likely and Latino/a youth three times more likely than White youth to be incarcerated. In 26 states, Native American youth are disproportionately placed in secure confinement. In every offense category, the average length of confinement was longer for Latino/a youth than for any other group”)

^{viii} Loughran, Mulvey, Schubert et al, *Estimating a Dose-Response Relationship between Length of Stay and Future Recidivism in Serious Juvenile Offenders*, *Criminology* vol. 47, no. 3 699 - 740, 726 (2009); See also National Academy of Sciences, *Reforming Juvenile Justice: A Developmental Perspective*, 178 (2013).

^{ix} See Monahan, Steinberg, Cauffman et al, *Trajectories of Antisocial Behavior and Psychosocial Maturity from Adolescence to Young Adulthood*, *Dev. Psychology* 45 (6) 1654 - 1668, page 15 (2009).

^x See also National Academy of Sciences, *Reforming Juvenile Justice: A Developmental Perspective*, 42 (2013).

^{xi} Research Meeting on Juvenile Length of Stay, Juvenile Law Center, April 25, 2014.

^{xii} See *id.* See also Thomas Grisso, *Adolescent Offenders with Mental Disorders*, 18 *The Future of Children*, 153 (2008) (discussing the provision of community-based mental health services to juveniles.)

^{xiii} This approach was taken in Lycoming County, Pennsylvania, using Multi-Systemic Therapy to assist in aftercare efforts. For more information, see http://www.macfound.org/media/article_pdfs/MODELS_FOR_CHANGE_REPORT_DECEMBER2006.PDF.

^{xiv} See Idaho Code Ann. § 20-520.

^{xv} See, e.g., Alaska, Alaska Stat. Ann. § 47.12.120(b) (1); Colorado, Colo. Rev. Stat. Ann. § 19-2-909(1)(a); Georgia, Ga. Code Ann. § 15-11-607; and New Mexico, N.M. Stat. Ann. § 32A-2-19(B).

^{xvi} See, e.g. Idaho, Idaho Code Ann. § 20-520 (1)(r); Iowa, Iowa Code Ann. § 232.53(1); Missouri, Mo. Ann. Stat. § 211.231(1); Mo. Ann. Stat. § 219.021 (l); Illinois, 705 Ill. Comp. Stat.

Ann. 405/5-750(3); New Mexico, N.M. Stat. Ann. §§ 32A-2-19(B)(1)(c)-(d); Virginia, Va. Code Ann. §§ 16.1-285.1(C).

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^{xviii} In Michigan, administrators attribute a decrease in length of stay in part to their efforts around assessment and case management. The current average length of stay is nine months for secure placement and 4.5 months for non-secure placement. Historically, it was more than two years for secure and one year for non-secure. See Kacey Mordecai's interview with Dan Cheney from Michigan, 7/24/2014. In Oregon, researchers project a similar decrease in length of stay tied to their work on service-matching. See Jessica Feierman, Interview with Fariborz Pakseresht and Shannon Myrick, May 29, 2014.

^{xix} For youth in detention, Juvenile Detention Alternatives Initiative (JDAI) provides good models for reducing unnecessary detention and reducing racial disparities. JDAI is also beginning to work more intensively post-adjudication. For more information on JDAI, see <http://www.aecf.org/work/juvenile-justice/jdai/>. In addition, the Georgetown Center for Juvenile Justice Reform provides helpful research and strategies that can assist jurisdictions eliminate unnecessary placement. Their work on the Juvenile Justice System Improvement Project (JJSIP) may be particularly helpful on this issue. For more information on JJSIP, see <http://cjjr.georgetown.edu/jjsip/jjsip.html>.

^{xx} See James Bell and Laura John Ridolfi, "Adoration of the Question: Reflections on the Failure to Reduce Racial & Ethnic Disparities in the Juvenile Justice System," ed. Shadi Rahimi, vol. 1 (San Francisco, CA: W. Haywood Burns Institute, Dec. 2008)

^{xxi} For more information and definitions relating to gender identity and expression as well as sexual orientation, see Wilber, S. (2013). *Guidelines for Managing Information Related to the Sexual Orientation and Gender Identity and Expression of Children in Child Welfare Systems, Putting Pride Into Practice Project, Family Builders by Adoption, Oakland, CA.*

^{xxii} Note that this element sets the stage for comparing stated reasons for length of stay with other causes that may be at issue.

^{xxiii} For more information about approaches to gathering information on gender identity and expression and sexual orientation, see Wilber, S. (2013). *Guidelines for Managing Information Related to the Sexual Orientation and Gender Identity and Expression of Children in Child Welfare Systems, Putting Pride Into Practice Project, Family Builders by Adoption, Oakland, CA.*

^{xxiv} See Loughran, Mulvey, Schubert et al, *Estimating a Dose-Response Relationship between Length of Stay and Future Recidivism in Serious Juvenile Offenders*, *Criminology* vol. 47, no. 3 699 - 740, 726 (2009)

^{xxv} See Idaho Code Ann. § 20-520. Idaho law limits length of stay to either 30-day, 60-day or 180-day periods depending on the type of offense underlying the adjudication. The law would be even more effective if it required concurrent dispositions for multiple offenses.

^{xxvi} See, e.g. Pennsylvania, 42 Pa. Cons. Stat. Ann. § 6353(a); Indiana, Ind. Code Ann. §§ 31-37-19-10(a), (b); California, California. Cal. Welf. & Inst. Code § 731(c); West Virginia. W. Va. Code Ann. § 49-5-13(b)(5); New Hampshire for youth age 16 and older, N.H. Rev. Stat. Ann. § 169-B:19(III); Louisiana, La. Child. Code Ann. art. 898(A) and La. Child. Code Ann. art. 900(A); Iowa, Iowa Code Ann. § 232.53(1); Michigan. Mich. Comp. Laws Ann. § 712A.18g (2).

^{xxvii} See Cal. Welf. & Inst. Code § 1719, which prohibits the juvenile justice department from extending the length of time for consideration of parole and authorizes regulations to establish a process to grant youth who have successfully responded to disciplinary sanctions a reduction in any time they have acquired as a disciplinary sanction.

^{xxviii} While we did not see any examples of this in the context of juvenile placement, this principle is a tenet of school discipline for youth with disabilities and could be easily and effectively applied here. See, e.g. *U.S. Department of Education, Q and A: Questions and Answers on Discipline Procedures*, available at: <http://idea.ed.gov/explore/view/p/,root,dynamic,QaCorner,7>.

^{xxix} Office of Juvenile Justice and Delinquency Prevention, *Juvenile Offenders and Victims: 2006 National Report*, Chapter 7, available at: <http://www.ojjdp.gov/ojstatbb/nr2006/> (citing youth who committed sexual offenses as having the second highest median length of stay behind those who committed homicide.)

^{xxx} For youth placed for sex-related offenses, and for girls, a significant concern also exists that they remain in placement longer because of a lack of adequate resources in the community, or adequate targeted services in placement. For more on these issues, see recommendations VII and IX.

^{xxxi} In Mississippi state-run facilities, agency policy provides clear guidance on length of stay, and clear responsibilities on the agency to provide appropriate care. The maximum stay is eight months, with guidelines for many youth falling in much shorter ranges. A youth's disposition range is initially determined based on youth risk factors, aggravating factors, and mitigating factors. The youth is then given a tentative release date using the midpoint of the range. Youth behavior while in a training school may lead to the disposition being lengthened or shortened, but the general rule requires the final disposition to remain within the initial range. The guidelines are designed to ensure equity of stay, so that, in general, a youth entering custody on a minor offense will not stay longer than a youth entering on a more serious offense. The length of stay indicated by the guidelines is also subject to override. If a judge recommends in writing to lengthen or shorten the stay, the Division of Youth Services considers the recommendation, and may accept, partially accept, or reject it in writing. The division of Youth Services also has the authority to override under special circumstances. See Mississippi Department of Human Services, *Division of Youth Services Juvenile Institutions, Counseling, Programs and Progress Notes*, Revised October 2008, available at <http://www.mdhs.state.ms.us/media/217482/XIII11-Counseling-Programs-Progress-Notes.pdf>.

^{xxxii} Pat Torbet, with support from the MacArthur Foundation and Pennsylvania's State Advisory Group, insightfully addressed this challenge in *Case Management Essentials*, addressing the connections among case management, youths' needs, institutional programming, reentry and length of stay. Pat Torbet, National Center for Juvenile Justice, *Building Pennsylvania's Comprehensive Aftercare Model: Probation Case Management Essentials for Youth in Placement*, available at: <http://www.pccd.pa.gov/Juvenile-Justice/Documents/Probation%20Case%20Management%20Essentials.pdf>.

^{xxxiii} Mississippi policy requires that each youth be given a “detailed written plan addressing the goals, objectives, timelines, and staff assignments which are measured to promote a rehabilitative program, which addresses areas of high risk/need, and establishes pro-social behavior. Furthermore, it is a holistic and comprehensive document that addresses the recreational, educational, vocational, medical, mental health, and transitional period needs, as well as the family history.” See Mississippi Department of Human Services, Division of Youth Services Juvenile Institutions, Counseling, Programs and Progress Notes, Revised October 2008, available at <http://www.mdhs.state.ms.us/media/217482/XIII11-Counseling-Programs-Progress-Notes.pdf>.

^{xxxiv} Minnesota requires a comprehensive case plan for all dispositions over 30 days. The case plan must be developed along with the youth’s parents or guardian and must include the services to be provided to the child. See Minn. Stat. Ann. § 260B.198.

^{xxxv} Missouri has shortened the period of time between disposition review from six months to 90 days, they have independent case managers make the determination, and they require the decision to be based on multiple sources of information, including youth and family input. They specifically train case managers to recognize that youth should not be required to remain longer in placement simply because they have failed to adjust to an institutional setting. Jessica Feierman interview with Tim Decker, May 28, 2014. Michigan has implemented a comprehensive case management system that has significantly reduced length of stay. At disposition, the court sets a minimum and maximum length of stay for an out-of-home placement and maintains jurisdiction of the case. However, the agency has a memorandum of understanding with the court that allows its case managers to determine the services a youth receives and how much time within that range the youth should spend within a juvenile facility. The court’s initial order is that the “juvenile is to receive service as determined by service agency.” There is a disposition review every three months during which the case manager updates the court on the youth’s progress with his or her treatment goals and recommendations for length of stay within the initial range. The case manager may recommend a reduction in the youth’s length of stay at this disposition review or, if there is sufficient progress between reviews, may make a special request to be heard before the court to revise the youth’s plan. Stakeholders have found this system to be particularly beneficial because case managers have significant, frequent interaction with the youth via telephone and in-person meetings and are also able to meet with the youth’s family and involve them in case planning. This level of attention allows for a more individualized treatment and service plan that can respond to the youth’s unique needs and quickly adapt to any changes that need to be made. Anecdotal reports suggest that the court will accept the recommendations of the youth’s case planning team for length of stay in 95% of cases because of the level of collaboration between the team and the youth. See Kacey Mordecai’s interview with Dan Cheney from Michigan, 7/24/2014.

^{xxxvi} Pat Torbet, National Center for Juvenile Justice, *Building Pennsylvania’s Comprehensive Aftercare Model: Probation Case Management Essentials for Youth in Placement*, available at: <http://www.pccd.pa.gov/Juvenile-Justice/Documents/Probation%20Case%20Management%20Essentials.pdf>, supra note xxi.

^{xxxvii} For more on the importance of family engagement in the juvenile justice system, see Office of Juvenile Justice and Delinquency Prevention, *Family Listening Sessions Executive Summary* (2013) available at <http://www.ojjdp.gov/pubs/241379.pdf>.

^{xxxviii} A number of length-of-stay problems arise in the context of indeterminate dispositions.

As a preliminary matter, most youth offending drops off as young people grow and mature -

thus the fact that a youth has committed a juvenile offense does not necessarily mean that he or she is in need of treatment. At the same time, significant racial disparities in juvenile justice systems mean that youth of color are more likely to be placed in confinement for actions that are treated as normative adolescent behavior for white youth. As a result, the focus on treatment should always be approached carefully, and with particular attention to racial equity.

^{xxxix} See Kacey Mordecai's interview with Dan Cheney from Michigan, 7/24/2014.

^{xl} For more on Oregon's approach to risk assessment and service matching, see <http://www.oregon.gov/oia/pages/research/jjisriskoverview.aspx>.

^{xli} See N.Y. Fam. Ct. Act § 352.2, which makes clear that the least restrictive placement should be used for non-felony acts. "In determining an appropriate order the court shall consider the needs and best interests of the respondent as well as the need for protection of the community. [...] [In all cases other than felony act cases] the court shall order the least restrictive available alternative [...] which is consistent with the needs and best interests of the respondent and the need for protection of the community/" For felony acts in New York State, the court must consider similar factors to determine whether a restrictive placement is required. See N.Y. Fam. Ct. Act § 353.5.

^{xlii} This approach has worked effectively with pre-trial detention statutes that require release from detention of youth whose adjudicatory hearings aren't held within statutory time frames. This is a common policy approach. In Pennsylvania, this approach has led to the system ensuring that adjudicatory hearings were timely; and providing community-based risk management services.

^{xliii} Courts in California have the authority to change, modify or set aside an order of commitment upon a showing of good cause that the agency is unable to or failing to provide adequate treatment. Cal. Welf. & Inst. Code § 779. California law also ensures court review of a youth's individualized treatment plan and the estimated timeframe for the youth's completion of the treatment programs or services, Cal. Welf. & Inst. Code § 1720

^{xliv} See 55 Pa. Code § 3140.22, which prioritizes non-secure placement by providing a higher rate of reimbursement to counties for the use of non-secure alternatives as opposed to secure placement. Similarly, realignment of juvenile justice resources to the counties, as has been done in Illinois, Ohio, and California, can play a role in reducing length of stay. For more on how changing reimbursement schemes can reduce length of stay, see generally Justice Policy Institute, *Why Good Juvenile Justice Policies Make Good Fiscal Sense* (2009), available at http://www.justicepolicy.org/images/upload/09_05_rep_costsofconfinement_jj_ps.pdf (discussing, among other states, Illinois, Ohio and California.)

^{xlv} For more information, see NJJN, *Title IV-E for Youth in the Juvenile Justice System*, available at http://www.njjn.org/uploads/digital-library/resource_425.pdf.

^{xlvi} See, e.g., The California Endowment Healthy Returns Initiative, Funding and Resources (2010), available at http://www.healthyreturnsinitiative.org/pdf/HRI_Funding.pdf, pg. 2 (explaining that probation departments can claim costs for services in the community, and how this has been implemented in Ventura, Los Angeles, and Santa Cruz counties.) For more information on the use of Medicaid in juvenile justice funding, see http://www.nashp.org/sites/default/files/Multi_Agency_NASHP.pdf.

^{xlvii} See The California Endowment Healthy Returns Initiative, Funding and Resources, *supra* note xxxv at 2.

^{xlviii} See Cal. Welf. & Inst. Code § 14029.5; see also Department of Health Care Services, Letter No. 10-06, Suspension of Medi-Cal benefits for Incarcerated Juveniles.

^{xlix} See Cal. Welf. & Inst. Code § 1981, *Juvenile Reentry Fund* which provides for “evidence-based supervision and detention practices and rehabilitative services to persons who are subject to the jurisdiction of the juvenile court who were committed to and discharged from the Department of Corrections and Rehabilitation, Division of Juvenile Facilities. “Evidence-based” refers to supervision and detention policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals on probation or under postrelease supervision.” California’s reallocation of funds to wrap-around services rather than institutional placements for children and youth is codified at Cal. Welf. & Inst. Code §§ 18250 - 18258. For more information on California’s experiences, the barriers faced, and the solutions identified, see Sue Burrell and Alice Bussiere, *“Difficult to Place”: Youth with Mental Health Needs in California Juvenile Justice*, Youth Law Center, (2005), available at <http://www.ylc.org/wp/wp-content/uploads/difficulttoplaceAug2005.pdf>. The insights from this publication and their work has been instrumental in our development of this recommendation.