

More than “Just a Misdemeanor”: Why Diversion is Critical for Low Level Youth Offenders

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ABSTRACT

Over the past two decades, juvenile arrests have declined sharply nationwide. Yet, during this same period, policies and penalties governing youth have grown increasingly punitive. Many lawmakers continue to advance “tough on crime” legislation that subjects all youth in the juvenile justice system to the same level of sanction, regardless of the seriousness of their offense or prior legal history. This article argues that juvenile delinquency should be addressed through individualized assessments of both risk and needs, rather than through uniform punitive measures. Unnecessary or disproportionate court involvement, particularly for low-risk youth, can produce significant short- and long-term harms, disrupt developmental trajectories, and ultimately undermine public safety. The discussion highlights several systemic problems associated with placing low-risk youth on probation and reviews model state policies that have successfully reduced costs and recidivism rates. Adoption of similar reforms can strengthen the rehabilitative mission of juvenile courts, mitigate reoffending, and improve youth outcomes. By diverting misdemeanor-level and low-risk youth from probation, courts can conserve resources and focus supervision efforts where they are most effective, on higher-risk youth whose needs require more intensive intervention.

INTRODUCTION AND PURPOSE

Court-involved youth are in crisis. Local media sound alarms over an increase in carjackings and homicides in many cities among juvenile populations; however, on a national scale, violent crime among youth is actually decreasing.¹ In fact, over the last two decades, the Office of Juvenile

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¹ OFF. OF JUV. JUST. & DELINQ. PREVENTION, NCJ 305025, TRENDS IN YOUTH ARRESTS FOR VIOLENT CRIMES (2022).

Justice and Delinquency Prevention (OJJDP) finds that arrests of juveniles actually declined sharply nationwide, falling 84 percent between its peak in 1996 and 2020.² Despite these statistics, the public has expressed outrage and urged officials to impose harsher penalties for teens. In response, many lawmakers are proposing with “tough on crime” legislation for all youth that encounter the juvenile system, regardless of the level of their offense or past legal history. Although these frustrations and knee-jerk demands to “lock up” more youth are understandable, juveniles engaged in delinquent behavior should be individually assessed for both risk and needs. Unnecessary or disproportionate juvenile court involvement, especially for low-risk youth, may create significant short- and long-term negative consequences that can disrupt their life trajectory and ultimately decrease public safety.

This article will discuss several potential problems with placing low risk youth on probation:

1. Juvenile probation does not significantly impact reoffending.
2. Juvenile probation can increase the likelihood of reoffending.
3. Juvenile probation can increase collateral consequences for youth.

Often, individuals believe that probation will decrease future involvement in juvenile court, which places probation as the first-line strategy. However, failure to appropriately assess a youth’s individualized needs and implement alternatives before formal processing can have the opposite effect, actually increasing recidivism. Research has shown that low-level youth offenders who are diverted have better outcomes in education, employment, and are less likely to reoffend than those processed in the justice system.

This article also highlights how diversion is a viable alternative to traditional case processing, which can result in seven benefits for the court, youth, and the community:

1. Diversion can address a youth’s individual needs.
2. Diversion can decrease the stigmatization of court-involved youth.
3. Diversion can save the court system money, allowing limited funds to be used to better assist higher-risk youth.
4. Diversion can save the judiciary valuable court time.
5. Probation officers can have smaller caseloads that can be targeted toward high-risk youth.
6. Diversion can promote both racial and ethnic equity.

² OFF. OF JUV. JUST. & DELINQ. PREVENTION, ARRESTS OF YOUTH DECLINED THROUGH 2020 (2022).

7. Diversion can improve long-term outcomes for youth and reduce rates of recidivism.

The court's critical role in using its discretion to divert low-risk misdemeanor youth from probation can improve the future success of youth while at the same time protecting the community. As a developing national trend, many state jurisdictions have implemented policies to increase the use of juvenile diversion. In March 2024, the Sentencing Project highlighted reform efforts across the nation that created new state policies to divert youth out of the justice system, calling it "America's growing movement."³ The report reviewed state policies that either mandated or recommended the use of diversion. For example, in Clark County, Nevada, all misdemeanor offenders are diverted to an assessment center where youth and their families are connected to supportive services (e.g., mental health, substance abuse, trauma, food security). The center reported referring more than 1,000 delinquency cases in 2020 alone and that only 17% of youth referred to the program had delinquency cases subsequently filed in juvenile court within a three-year period.⁴ Two other jurisdictions were also noted for diverting most misdemeanor-level youth. In Utah, all youth charged with misdemeanors are automatically eligible for diversion unless they have had two prior adjudications or two failed attempts at diversion.⁵ Similarly, in San Francisco, all youth charged with misdemeanors are enrolled in a community-based diversion program and are provided with supportive programming (mental health, tutoring, employment, community service, and life skills).⁶

Additionally, the federal Office of Juvenile Justice and Delinquency Prevention recently partnered with the National District Attorneys Association to provide training and technical assistance to juvenile prosecutors and their staff, helping them to pursue diversion and other strategies to reduce offending and improve outcomes for youth and communities.⁷

This article reviews research and evidence in support of using diversion for youth charged with misdemeanors as a viable alternative to formal court processing and probation. Lastly, this article will illustrate how model policies have been implemented in Philadelphia and review the promising results of such policies, including cost savings and decreasing rearrest rates. Adoption of similar policies can support the court's reform efforts, mitigate the risk of reoffending in the future, and improve overall youth success. By diverting misdemeanor youth from probation, both the court and probation staff will have more time and resources to better target interventions with higher-risk, felony-level youth on probation. These efforts can free

³ Richard A. Mendel, *New Report: America's Growing Movement to Divert Youth Out of the Justice System*, THE SENT'G PROJECT (Mar. 20, 2024), <https://www.sentencingproject.org/press-releases/new-report-americas-growing-movement-to-divert-youth-out-of-the-justice-system/>.

⁴ *Id.* at 9.

⁵ *Id.* at 8.

⁶ *Id.* at 9.

⁷ OFF. OF JUV. JUST. & DELINQ. PREVENTION, NCJ 255169, SUPPORT FOR PROSECUTORS WHO WORK WITH YOUTH (2022).

additional resources that can be used to address community concerns related to violent crimes among youth.

I. THE PROBLEMS WITH PLACING LOW-RISK YOUTH ON JUVENILE PROBATION.

A. Juvenile probation does not significantly reduce reoffending.

On average, 60% of delinquent youth in the U.S. are placed on formal probation.⁸ In 2015, the number of youth on juvenile probation reached a staggering 2.5 million.⁹ Historically, probation services were originally established by the juvenile courts in the 1920s solely for rehabilitative purposes. Dispositions originally focused on treatment until the youth was deemed to be “cured” or turned age 21 (considered the age of adulthood), whichever came first.¹⁰ In later years, public confidence in this treatment model waned and the focus turned instead to punishment, law, and order. The pendulum swung back and forth between these two polarities with the introduction of process protections, crackdowns on crime, and research on the adolescent brain.¹¹ To illustrate the difference between these approaches, Cunningham, et al. (2023) distinguishes between two models of probation. The first model is the “compliance-focused model,” which focuses on control, surveillance and punishment, while the second, the “social work model,” emphasizes treatment and rehabilitation.¹² Several studies have found that compliance-focused approaches are not effective because they do not control crime and may actually increase delinquent behavior.¹³ Research on juvenile probation has also found that interventions based on fear, deterrence and control can prove to be ineffective.¹⁴ A contemporary approach to probation incorporates an understanding of brain development in adolescents.¹⁵ Thus, a strict compliance approach to probation for juveniles often lacks a developmentally appropriate framework for effective intervention. Young people and their families often, understandably, view probation as punishment. Current probation reform efforts call for a developmentally informed model of juvenile probation that focuses on

⁸ OFF. OF JUV. JUST. & DELINQ. PREVENTION, NCJ 239081, DELINQUENCY CASES IN JUVENILE COURT, 2009 (2012).

⁹ OFF. OF JUV. JUST. & DELINQ. PREVENTION, EASY ACCESS TO JUVENILE COURT STATISTICS: 1985–2015.

¹⁰ Charles Puzanchara, Charles Hockenberry, & Melissa Sickmund, *Youth and the Juvenile System: 2022 National Report*, NAT’L CTR. FOR JUV. JUST. (2022), <https://ojjdp.ojp.gov/publications/2022-national-report.pdf>.

¹¹ *Id.*

¹² Kathryn Cunningham, Noah R. Gubner, Kristin Vick, Jerald R. Herting & Sarah C. Walker, *Redesigning Juvenile Probation to Align with Behavioral Health and Positive Development Principles: A Quasi-Experimental Study*, 50 CRIM. JUST. & BEHAV., 1, 6–21 (2023), <https://doi.org/10.1177/00938548221082997>.

¹³ See e.g., Anthony Petrosino, Carolyn Turpin-Petrosino & Sarah Guckenburg, *Formal System Processing of Juveniles: Effects on Delinquency*, 6 CAMPBELL SYSTEMIC REV., 1, 1–88 (2010), <https://doi.org/10.4073/csr.2010.1>.

¹⁴ SAMANTHA HARVELL, HANNA LOVE, ELIZABETH PELLETIER, CHLOE WARNBERG, JANEEN BUCK WILSON, & MARY K. WINKLER, BRIDGING RESEARCH AND PRACTICE IN JUVENILE PROBATION: RETHINKING STRATEGIES TO PROMOTE LONG-TERM CHANGE, (2018), https://www.urban.org/sites/default/files/publication/99223/bridging_research_and_practice_in_juvenile_probation_6.pdf.

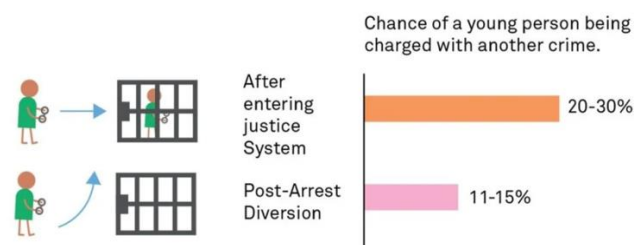
¹⁵ Cunningham, *supra* note 12.

rehabilitation rather than surveillance.¹⁶ These initiatives have been labeled “probation transformation,” with universities like Georgetown University offering training and certificate programs to assist jurisdictions in fundamentally transforming their approach to probation.¹⁷

B. Juvenile probation can increase the likelihood of reoffending.

Increasing reliance on the police and criminal justice system can make youth behavior worse, rather than better. For example, school reform efforts coined the term “the school-to-prison pipeline” which refers to punitive school practices and disciplinary policies that push youth out of school and into the criminal justice system.¹⁸ However, research has found that once an adolescent becomes justice-involved, their risk of recidivism and committing more serious offenses increases.¹⁹ The 2021 Crossroads study followed more than 1,200 youth for five years after their first arrest and found higher rates of recidivism among youth who were formally processed after their first arrest.²⁰ A Los Angeles County study found that a youth’s chances of being charged with another crime doubles after entering the juvenile justice system.²¹ (See Figure 3).²²

Figure 3.



Probation departments are struggling to provide effective intervention to youth, amid reduced budgets and growing caseloads.²³ For example, a

¹⁶ For a report that offers insights on how to trade juvenile incarceration for community-based prevention, see Taylor Walker, THE IMPRINT (April 2, 2019), <https://imprintnews.org/justice/juvenile-justice-2/report-offers-insights-on-how-to-trade-juvenile-incarceration-for-community-based-prevention/34397>.

¹⁷ Transforming Juvenile Probation, GEO. UNIV. Ctr. for Youth Just., <https://cjjr.georgetown.edu/certificate-programs/transforming-juvenile-probation/#:~:text=The%20Transforming%20Juvenile%20Probation%20Certificate,system%2Dwide%20approach%20to%20probation> (last visited February 28, 2026).

¹⁸ Abigail Novak & Abigail Fagan, *Expanding Research on the School-to-Prison Pipeline: Examining the Relationships Between Suspension, Expulsion, and Recidivism Among Justice-Involved Youth*, 68 CRIME & DELINQ. 3, 4 (2022), <https://doi.org/10.1177/0011128721999334>.

¹⁹ Edward P. Mulvey, *Highlights from Pathways to Desistance: A Longitudinal Study of Serious Adolescent Offenders*, U.S. Dep’t of Just. (Mar. 2011), <https://www.ojp.gov/ncjrs/virtual-library/abstracts/highlights-pathways-desistance-longitudinal-study-serious>.

²⁰ Elizabeth Cauffman, Jordan Beardslee, Adam Fine, Paul J. Frisk, & Laurence Steinberg, *Crossroads in Juvenile Justice: The Impact of Initial Processing Decision on Youth 5 Years After First Arrest*, 33 DEV. AND PSYCHOPATHOLOGY (Special Issue) 700, 706 (2021), <https://doi.org/10.1017/S095457942000200X>.

²¹ *How Los Angeles County Expanded Youth Diversion*, The Annie E. Casey Foundation (Aug. 15, 2022), <https://www.aecf.org/blog/how-los-angeles-county-expanded-youth-diversion>.

²² *Id.*

²³ Jennifer L. Skeem & Sarah Manchak, *Back to the Future: From Klockars’ Model of Effective Supervision to Evidence-Based Practice in Probation*, 47 J. OFFENDER REHAB. 220, 221 (2010), <https://doi.org/10.1080/10509670802134069>.

University of Cincinnati study examined the outcomes of officers and offenders from four Ohio probation and parole sites and found that traditional probation and parole were ineffective interventions.²⁴ In 1993, Ohio passed House Bill 152, which created the Reasoned and Equitable Community and Local Alternatives to the Incarceration of Minors (RECLAIM Ohio) Program to divert youth from incarceration. RECLAIM funding was allocated to create and implement local programs that target juvenile criminality and other antisocial behaviors. A reevaluation of the program, using data from more than 10,000 youth, found that low-risk youth referred to probation had a “3 percent greater likelihood of reoffending, compared to youth who participated in any other programs.”²⁵ Additionally, the study found that “low risk youth who were referred to a residential facility and/or substance abuse treatment have a greater likelihood of reoffending in the future compared to their counterparts, 17% and 25% respectively.”²⁶ Researchers also found that probation officers who received additional intervention training and implemented a risk/needs/responsivity approach beyond a compliance model had a greater impact on recidivism rates.²⁷ Furthermore, Hartsell, et.al (2022) compared re-arrest rates among diverted youth, youth on probation, and youth whose cases were dismissed and found that youth whose cases were dismissed were less likely to be rearrested than the other groups. Additionally, the study found that youth on probation were more likely to be rearrested than were teen court participants.²⁸

C. Juvenile probation can actually increase collateral consequences for youth.

Technical violations of youth on probation can increase out-of-home confinements. When youth are placed on probation, they become subject to technical violations for not following the court-approved plan, which can increase collateral consequences. Technical violations are not acquiring new offenses but engaging in nonviolent, noncriminal behavior that violates the terms of either their probation or a court order such as failing to attend school or drug/alcohol use. Approximately 23% of youth are detained solely for technical violations, rather than for committing a new offense.²⁹ The same report found that status offenses and technical violations resulted in the incarceration of more than 5,000 youth.³⁰ Technical violations have accounted for 11% of youth in long-term secure facilities.³¹ In a two-year

²⁴ EDWARD J. LATESSA, BRIAN LOVINS, & JENNIFER LUX, EVALUATION OF OHIO’S RECLAIM PROGRAMS 44 (University of Cincinnati School of Criminal Justice Center for Criminal Justice Research 2014), [https://www.uc.edu/content/dam/uc/ccjr/docs/reports/FINAL%20Evaluation%20of%20OHs%20RECLAIM%20Programs%20\(4-30-2014\)%20.pdf](https://www.uc.edu/content/dam/uc/ccjr/docs/reports/FINAL%20Evaluation%20of%20OHs%20RECLAIM%20Programs%20(4-30-2014)%20.pdf).

²⁵ *Id.* at 51.

²⁶ *Id.*

²⁷ *Id.*

²⁸ Elizabeth N. Hartsell & Abigail Novak, *A Comparison of Re-arrest Outcomes Between Youth in Juvenile Drug Court, Teen Court, Probation, and Dismissed Cases*, 68 CRIME & DELINQ. 1819 (2022).

²⁹ W. SAWYER, YOUTH CONFINEMENT: THE WHOLE PIE, (Prison Policy Initiative 2009), <https://www.prisonpolicy.org/reports/youth2019.html>.

³⁰ *Id.*

³¹ Puzzanchera, *supra* note 10, at 104.

study of youth on probation, approximately 52% of youth violated the terms of their probation by failing a drug test, skipping school, and garnering a new arrest: the three most common probation violations.³² Conditions related to drug and alcohol testing were associated with an increased likelihood of failure to comply with probation requirements.³³ The percentage of youth being held in residential settings for technical violations has increased.³⁴ Failing probation can also be a gateway to incarceration. In Philadelphia, 50% of all youth “failed to comply with the terms of their probations at least once, and about 48% of those youth were committed to a correctional facility after a probation revocation at least once during their time on probation.”³⁵

Youth often are given too many requirements to follow while they are on probation, making compliance a practical impossibility. One study found that some youth were subject to as many as nine separate probation requirements.³⁶ Youth assigned to extensive probation requirements violate those requirements more quickly.³⁷ Another study found that approximately 80% of youth fail to meet all the requirements of their probation.³⁸ One study followed more than 18,000 youth and found that 15% of them received a technical violation during their first probation, with Blacks being charged with technical violations more quickly than their White counterparts.³⁹ These statistics resulted in Philadelphia adopting a juvenile diversion policy that limits supervised youth to only three conditions of probation.⁴⁰

II. ADOLESCENT DEVELOPMENT AND DELINQUENCY

There is a consensus among researchers that adolescents typically “age out of delinquency.” This reference is to the age-crime curve, which holds that up to 60% of justice-involved youth stop offending by early adulthood due to factors such as brain maturation and developmental maturity.⁴¹ Even though delinquency rises and peaks during adolescence, many young people

³² Amanda NeMoyer, Naomi E. S. Goldstein, Rhonda L. McKitten, Ana Prelic, Jenna Ebbecke, Erika Foster & Casey Burkard, *Predictors of Juveniles' Noncompliance With Probation Requirements*, 38 L. & HUM. BEHAV., 580, 584 (2014).

³³ *Id.*

³⁴ MELISSA SICKMUND, SLADKY, T.J., KANG, W., AND CHARLES PUZZANCHERA. 2017. EASY ACCESS TO THE CENSUS OF JUVENILES IN RESIDENTIAL PLACEMENT. Retrieved April 18, 2024, from the web: <http://www.ojjdp.gov/ojstatbb/ezacjrp/>.

³⁵ *Id.*

³⁶ *Id.*

³⁷ Allyson L. Dir, Lauren A. Magee, Richelle L. Clifton, Fangqian Ouyang, Wanzhu Tu, Sarah E. Wiehe & Matthew C. Aalsma, *The Point of Diminishing Returns in Juvenile Probation: Probation Requirements and Risk of Technical Probation Violations Among First-Time Probation-Involved Youth*, 27 PSYCH. PUB. POL'Y & L., 283 (2021).

³⁸ Jyoti Nanda, *Set up to Fail: Youth Probation Conditions as a Driver of Incarceration*, LEWIS & CLARK L. REV., 677, 685, (2022).

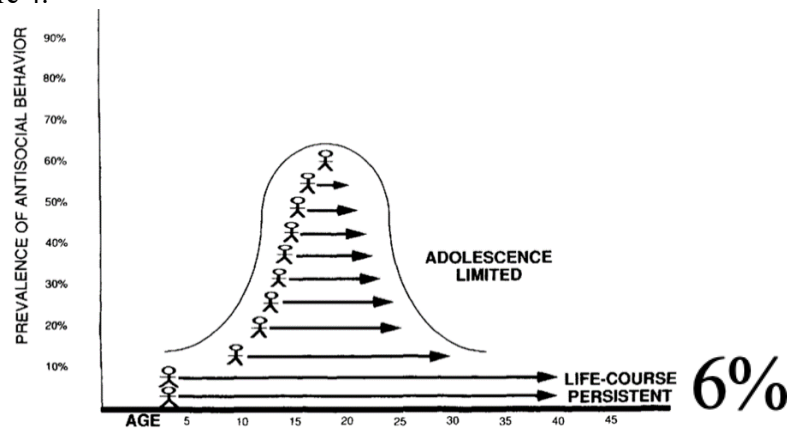
³⁹ Dir, et al., *supra* note 37.

⁴⁰ PHILA. DIST. ATT'Y.'S OFF., PHILADELPHIA DAO INTRODUCTION TO JUVENILE POLICIES (2019).

⁴¹ Duzbayeva Saltanat Bekbolatkyzy, Dzhansarayeva Rima Yerenatovna, Yergali Adlet Maratuly, Atakhanova Gulzagira Makhatovna & Kevin M. Beaver, *Aging out of adolescent delinquency: Results from a longitudinal sample of youth and young adults*, 60 J. OF CRIM. JUST., 108, 108–116 (2019).

who offend would desist naturally after a few years.⁴² This phenomenon results in two categories of adolescents: “persisters,” who exhibit delinquent behavior into adulthood; and “desisters,” who cease their delinquent behavior over time.⁴³ The “desisters” are considered your “typical teenagers.” These youth engage in rebellious behaviors as teenagers and eventually reduce their offending as they approach adulthood, while the “persisters” are a small group that usually begins offending at an earlier age and continues offending through adulthood.⁴⁴ (See Figure 4).⁴⁵

Figure 4.



Long-term studies of adolescent offenders support estimates that only a small amount of the juvenile population, around 6% (often called the “chronic six”) will offend across their life spans.⁴⁶ These individuals are often referred to as “career criminals” or “chronic offenders” and account for 50% of all offenses and 80% of serious violent offenses.⁴⁷ Schumacher and Kurz (1999) found similar results, finding that only 8% of these juveniles accounted for approximately 60% of criminal cases.⁴⁸ In a 2016 report, the U.S. Department of Justice cited research by Mulvey (2011) finding that a very small fraction of the individuals who commit crimes, about 2 to 5 percent, are responsible for 50 percent or more of crimes, and observed that: “Sending an individual convicted of a crime to prison is not a

⁴² ALEX R. PIQUERO, J. DAVID HAWKINS & LILA KAZEMIAN, CRIMINAL CAREER PATTERNS, IN FROM JUVENILE DELINQUENCY TO ADULT CRIME: CRIMINAL CAREERS, JUSTICE POLICY & PREVENTION 14–46 (Rolf Loeber & David P. Farrington eds., 2012).

⁴³ Amy L. Byrd, Rolf Loeber & David Pardini, *Understanding Desisting and Persisting Forms of Delinquency: The Unique Contributions of Disruptive Behavior Disorders and Interpersonal Callousness*. 53(4) J. OF CHILD PSYCH. AND PSYCHIATRY 373 (2012).

⁴⁴ Terrie E. Moffitt, *Adolescence-Limited and Life-Course-Persistent Antisocial Behavior: A Developmental Taxonomy*, 100(4) PSYCH. REV. 674-701 (1993).

⁴⁵ Reproduced from *id.* at 675.

⁴⁶ PAUL E. TRACY, MARVIN E. WOLFGANG & ROBERT M. FIGLIO, DELINQUENCY IN TWO BIRTH COHORTS, EXECUTIVE SUMMARY iii (U.S. Dep’t of Just. 1985).

⁴⁷ MARVIN E. WOLFGANG, ROBERT FIGLIO & THORSTON SELLIN, DELINQUENCY IN A BIRTH COHORT 88 (Univ. of Chi. Press 1972).

⁴⁸ MICHAEL SCHUMACHER & GWEN KURZ, THE 8% SOLUTION: PREVENTING SERIOUS, REPEAT JUVENILE CRIME 4 (Sage Publi’n, Inc., 1999).

very effective way to deter crime.”⁴⁹ Fairfax-Columbo, et. al. (2019) proposed approaches to juvenile risk assessments that aid in distinguishing “incorrigibility” from “transient immaturity.”⁵⁰ Other researchers argue that it is wrong to find any youth incorrigible, due to the developing adolescent brain.⁵¹

According to the United States Supreme Court, mandatory juvenile life without parole (JLWOP) sentences violate the Eighth Amendment and thus are unconstitutional.⁵² The Court cited scientific research that found that adolescent brains are still developing and opined that juveniles are therefore less culpable than adults for their acts.⁵³ The Court further held that only juveniles that are deemed “incorrigible” or whose crimes represent “irreparable corruption” may be sentenced to JLWOP, although this finding is not a requirement.⁵⁴ As of 2023, a majority of U.S. states have banned JLWOP.⁵⁵

III. THE BENEFITS OF DIVERSION

A. Diversion can address a youth’s individual needs.

Justice-involved youth have significantly greater needs than their non-justice involved adolescent counterparts. As many as 70% of justice involved youth have a diagnosable mental health problem.⁵⁶ Additionally, 79% of youths diagnosed with one mental health disorder also meet the criteria for two or more diagnoses.⁵⁷ Similarly, three-quarters of justice-involved youth also met the criteria for a substance abuse disorder.⁵⁸ Ninety-two percent of justice-involved youth reported at least one traumatic experience and 84% reported more than one.⁵⁹ The U.S. Department of Justice has outlined risk factors across multiple areas of a child’s life (individual, family, school, peer group, and community) that can increase a

⁴⁹ Mulvey, *supra* note 19.

⁵⁰ Jaymes Fairfax-Columbo, Sarah Fishel & David DeMatteo, *Distinguishing “Incorrigibility” from “Transient Immaturity”*: Risk Assessment in the Context of Sentencing/Resentencing Evaluations for Juvenile Homicide Offenders, 5(2) TRANSLATIONAL ISSUES IN PSYCH. SCI.132–142 (2019).

⁵¹ Ana Ionescu, *Incorrigibility is Inconsistent with Youth: The Supreme Court’s Missed Opportunity to Cure the Contradiction Implicit in Discretionary JLWOP Sentencing*, 76(2) UNIV. OF MIAMI L. REV. 612-652 (2022).

⁵² Miller v. Alabama, 567 U.S. 460, 465 (2012). Montgomery v. Louisiana, 577 U.S. 190, 206 (2016).

⁵³ *Id.*

⁵⁴ Jones v. Mississippi, 593 U.S. 98, 138 (2021).

⁵⁵ ANNE TEIGEN, *Juvenile Life Without Parole* (Nat’l Conference of State Legislators 2024), <https://www.ncsl.org/civil-and-criminal-justice/juvenile-life-without-parole>.

⁵⁶ Gina M. Vincent, Thomas Grisso, Anna Terry & Steven Banks, *Sex and Race Differences in Mental Health Symptoms in Juvenile Justice: The MAYSI-2 National Meta-Analysis*, 47(3) J. AM. ACAD. CHILD ADOLESCENT PSYCHIATRY 282–90 (2008).

⁵⁷ JENNIE L. SHUFELT & JOSEPH J. COCOZZA, YOUTH WITH MENTAL HEALTH DISORDERS IN THE JUVENILE JUSTICE SYSTEM: RESULTS FROM A MULTISTATE PREVALENCE STUDY (Nat’l Ctr. for Mental Health and Juv. Just. 2006).

⁵⁸ Linda A. Teplin, Karen M. Abram, Gary M. McClelland, Mina K. Dulcan & Amy A. Mericle, *Psychiatric Disorders in Youth in Juvenile Detention*, 59(12) ARCHIVES OF GEN. PSYCHIATRY 1133–43 (2002).

⁵⁹ KAREN M. ABRAM, LINDA A. TEPLIN, DEVON C. KING, SANDRA L. LONGWORTH, KRISTIN M. EMANUEL, ERIN G. ROMERO, GARY M. MCCLELLAND, MINA K. DULCAN, JASON J. WASHBURN, LEAH J. WELTY & NICOLE D. OLSON, PTSD, TRAUMA, AND COMORBID PSYCHIATRIC DISORDERS IN DETAINED YOUTH (Off. of Juv. Just. and Delinq. Prevention 2013).

youth’s chances of offending⁶⁰ For example, exposure to poverty is linked with juvenile delinquency.⁶¹ Another example is the “foster care-to-prison” pipeline. This phenomenon refers to the disproportionate number of youths entering the legal system from foster care. By age 17, over 50% of foster children will be arrested, convicted, and detained.⁶² Additionally, 90% of children who have been moved to five or more foster care placements will enter the criminal legal system.⁶³ Furthermore, youth that are placed in group homes are two and a half times more likely to engage in delinquent behavior.⁶⁴

Diversion can address a youth’s unique individual needs, which is a more appropriate response to those needs than is confinement. As discussed in the previous section, the developing adolescent brain makes youth more prone to be impulsive, emotional, and to engage in high-risk behaviors. On the other hand, because their brains are still developing, they are more malleable and capable of change and rehabilitation. Therefore, rehabilitation-focused interventions, such as providing additional services to the family may negate the adverse influences of risk factors. For example, poverty is often seen as a risk factor, but the presence of supportive and involved parents may mediate the negative influence of poverty and reduce a youth’s chance of becoming delinquent.⁶⁵ In February 2024, the Office of Juvenile Justice and Delinquency Prevention identified diversion programs as a top priority and identified a best practice as providing age-appropriate, tailored interventions and services to youth and their families in the community.⁶⁶ The Urban Institute proposed that local jurisdictions “repurpose juvenile facilities” and redirect the resulting savings to create a “continuum of care” for youth and families in their own community.⁶⁷ (See Figure 1).⁶⁸

Figure 1.

⁶⁰ MICHAEL SHADER, RISK FACTORS FOR DELINQUENCY; AN OVERVIEW (Off. of Juv. Just. and Delinq. Prevention 2003).

⁶¹ J. DAVID HAWKINS, TODD L. HERRENKOHL, DAVID P. FARRINGTON, DEVON BREWER, RICHARD F. CATALANO & TRACEY W. HARACHI, *A Review of Predictors of Youth Violence*, in SERIOUS AND VIOLENT JUVENILE OFFENDERS: RISK FACTORS AND SUCCESSFUL INTERVENTIONS (R. Loeber & D.P. Farrington eds., 1998).

⁶² MARK E. COURTNEY, J. HOOK, A. BROWN, C. CARY, K. LOVE, V. VORHIES, J. LEE, M. RAAP, GRETCHEN CUSICK, T. KELLER, JUDY HAVLICEK, ALFRED PEREZ, S. TERAQ, & N. BOST, MIDWEST EVALUATION OF THE ADULT FUNCTIONING OF FORMER FOSTER YOUTH: CONDITIONS OF YOUTH PREPARING TO LEAVE STATE CARE (Chapin Hall Ctr. for Child. 2004).

⁶³ Joseph P. Ryan and Mark F. Testa. *Child Maltreatment and Juvenile Delinquency: Investigating the Role of Placement and Placement Instability*, 27(3) CHILD AND YOUTH SERV. REV. 227, 249 (2005).

⁶⁴ Joseph P. Ryan, Jane M. Marshall, Denise Herz, and Pedro M. Hernandez, *Juvenile delinquency in child welfare: Investigating group home effects*, 30(9) CHILD. AND YOUTH SERVS. REV. 1088, 1094 (2008).

⁶⁵ Shader, *supra* note 60.

⁶⁶ OFF. OF JUV. JUST. AND DELINQ. PREVENTION, DIVERSION PROGRAMS OFFER TREATMENT WHILE KEEPING YOUTH OUT OF THE JUSTICE SYSTEM (2024).

⁶⁷ SAMANTHA HARVELL, CHLOE WARNBERG, LEAH SAKALA & CONSTANCE HULL, PROMOTING A NEW DIRECTION FOR YOUTH JUSTICE: STRATEGIES TO FUND A COMMUNITY-BASED CONTINUUM OF CARE AND OPPORTUNITY 13, 18 (Urb. Inst. 2019).

⁶⁸ Figure 1, in *id.*, following p. 6.



For example, as part of juvenile justice efforts in Michigan, the governor increased access to food assistance for youth and their families. The director of the Michigan Department of Health and Human Services commented, “We can best serve our youth and our communities by reforming the juvenile justice system to provide preventive and intervention services in local communities whenever possible and relying on congregate care facilities only when young people need more intensive care.”⁶⁹

B. Diversion can decrease stigmatization of court involved youth.

Court-involved youth who are labeled and stigmatized as delinquents may become a self-fulfilling prophecy. Formal punishment has negative effects on a youth’s self-perception and behaviors. One study found that contact with the justice system can promote delinquency through labeling theory.⁷⁰ Tannenbaum (1938) developed the theory of labeling and described it as “a process of tagging, defining, identifying, segregating, describing, emphasizing, making conscious and self-conscious; it becomes a way of stimulating, suggesting, emphasizing, and evoking the very traits that are complained of.”⁷¹ Motz, et al. (2020) explored the lives of twins who were genetically identical, finding that when one had contact with the justice system, delinquency increased.⁷² Labeling theory holds that when a youth is

⁶⁹ Bob Wheaton, *Michigan to Continue Juvenile Justice Reform Momentum Thanks to Federal Funding Boost*, MICH. HEALTH AND HUM. SERVS. (Mar. 1, 2024), <https://www.michigan.gov/mdhhs/inside-mdhhs/newsroom/2024/03/01/juvenile-grant>.

⁷⁰ Ryan T. Motz, J.C. Barnes, Avshalom Caspi, Louise Arseneault, Francis T. Cullen, Renate Houts, Jasmin Wertz & Terrie E. Moffitt, *Does contact with the justice system deter or promote future delinquency? Results from a longitudinal study of British adolescent twins*, 58(2) CRIMINOLOGY, 307, 309 (2020).

⁷¹ Frank Tannenbaum, *The Dramatization of Evil*, in 4 CLASSICS OF CRIMINOLOGY 349 (Joseph E. Jacoby, Theresa A. Severance & Alan S. Bruce eds., 1979).

⁷² Motz et al., *supra* note 70, at 320.

labeled adopts the self-identity of that label. For example, youth who are labeled “deviant” will adopt a deviant self-identity and engage in corresponding actions, as opposed to a youth who was not labeled.⁷³ Labeling can also impact how society views the youth, which can in turn pigeonhole the youth in a particular social role.⁷⁴ Therefore, a label of “delinquent” or “juvenile offender” can greatly impact how a youth defines themselves and thus influence their future behaviors. Processing a youth through the justice system can also stigmatize and ostracize them for relatively minor acts that could have been handled in a different and more effective way.⁷⁵

C. Diversion can save the court money, allowing funding to be diverted to higher-risk youth.

A 2021 Crossroads research study discussed the financial savings for courts by diverting youth. The researchers wrote, “these results have important implications for juvenile justice policy by indicating that formally processing youth not only is costly, but it can reduce public safety and reduce the adolescent's later potential contributions to society.”⁷⁶ The costs of formally processing youths through the system, including monitoring and housing them, often greatly exceed the cost of many diversion programs.⁷⁷ For example, Ohio’s Behavioral Health Juvenile Justice (BHJJ) Initiative, a community diversion program for juvenile justice-involved youth ages 10-18 with mental health or substance abuse issues, costs \$5,200 per youth. This is substantially lower than the formal alternative, committing the youth to the Ohio Department of Youth Services (ODYS), the state’s youth prison system, which costs \$196,000.⁷⁸

D. Diversion can save the Judiciary valuable court time.

Diverting misdemeanor cases can save the court and judiciary valuable time. The American Bar Association (ABA) recommends case processing time from referral to disposition be no longer than 30 days for detained youth and no more than 60 days for youth on pretrial release.⁷⁹ Despite this recommendation, Butts (1997) found that nearly half of juvenile delinquency cases take more than 90 days to process.⁸⁰ Longer processing times (greater than 60 days) had higher rates of rearrest than youth with

⁷³ RONALD L. AKERS, *CRIMINOLOGICAL THEORIES AND EVALUATION*, 123 (Roxbury Publ’g Co. 3d. ed. 2000).

⁷⁴ Andrew J. Dick, Dan J. Pence, Randall M. Jones, H. Reed Geertsens, *The Need for Theory in Assessing Peer Courts*, 47(11) AM. BEHAV. SCI., 1448, 1451 (2004).

⁷⁵ RICHARD J. LUNDMAN, *PREVENTION AND CONTROL OF JUVENILE DELINQUENCY* 18 (Oxford Univ. Press 2d ed. 1993).

⁷⁶ Cauffman, et al., *supra* note 20.

⁷⁷ Petrosino, et al., *supra* note 13.

⁷⁸ FREDRICK BUTCHER, JEFF KRETSCHMAR, LIUHONG YANG, DAVID RINDERLE & MARGARID TURNAMIAN, *AN EVALUATION OF THE BEHAVIORAL HEALTH/JUVENILE JUSTICE (BHJJ) INITIATIVE: EXECUTIVE SUMMARY* (BEGUN CTR. FOR VIOLENCE PREVENTION RSCH. & EDUC. 2020).

⁷⁹ JEFFREY BUTTS, *DELAYS IN JUVENILE COURT PROCESSING OF DELINQUENCY CASES* (OFF. OF JUV. JUST. & DELINQ. PREVENTION 1997), <https://ojjdp.ojp.gov/library/publications/delays-juvenilecourt-processing-delinquency-cases>.

⁸⁰ *Id.*

shorter processing times.⁸¹ A typical hearing takes one to two hours.⁸² This average is similar to the results of a study by the National Center for State Courts in Cook County Juvenile Court, which found that juvenile delinquency hearings averaged between 111 and 140 minutes.⁸³ When cases were weighted to include all events required for the case (initiation, adjudication, disposition, and review time) from start to finish, the estimate rose to 180 minutes (or 3 hours) of judicial time to handle a typical juvenile case from initiation through closure. The Cook County study also cited an assumed normal estimate of 6.5 hours of “bench time.”⁸⁴

E. Probation officers can have smaller caseloads targeted more toward high-risk youth.

Diverting low-risk youth from probation will allow probation officers to have smaller caseloads and offer higher-risk youth more targeted and effective interventions. The National Council of Juvenile and Family Court Judges have endorsed the traditional 50-case standard, as well as its successor, the 35-case standard.⁸⁵ Recent reform efforts call for a reduction of probation officer caseloads using a needs-based approach that moves from measuring the number of cases to measuring the units of work required for each case. In this approach, workload management is measured using a weighted formula related to the level of need.⁸⁶ By diverting youth with misdemeanor offenses, probation officers can better target youth in their caseloads with greater needs.

F. Diversion can promote racial and ethnic equity.

Court-involved youth of color are overrepresented at every point in the juvenile justice system (more likely to be arrested, to be formally processed, detained, to be placed on probation, and to be incarcerated).⁸⁷ Racial disparities that occur in diversion can greatly impact a youth of color’s life trajectory. Nationally, 48% of cases against white youth are handled informally, compared to only 37% of cases against Black youth.⁸⁸ Beardslee, et. al (2019) found that those who received the most lenient dispositions (i.e., sanction or dismissal) decreased self-reported violent offending, as opposed to those who received more punitive dispositions(i.e., adjudication).⁸⁹

⁸¹Novak, et. al., *supra* note 18.

⁸² Edward Gates, *How Long Do Hearings Last? The Judicial Process*, AM. JUD. SYS. (May 9, 2022), <https://www.ajs.org/how-long-do-court-hearings-last/#:~:text=Notably%2C%20hearings%20are%20shorter%20than,of%20evidence%20and%20available%20evidence>.

⁸³ HUNTER HURST III, WORKLOAD MEASURES FOR JUVENILE JUSTICE SYSTEM PERSONNEL: PRACTICES AND NEEDS (OFF. OF JUV. JUST. & DELINQ. PREVENTION 1999), <https://ojjdp.ojp.gov/library/publications/workload-measurement-juvenile-justice-system-personnel-practices-and-needs>.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ Puzzanchera, Hockenberry, and Sickmund, *supra* note 10.

⁸⁸ Office of Juvenile Justice and Delinquency Prevention, *Manner of Handling by Race*, in STATISTICAL BRIEFING BOOK (2017) (ebook) <https://ojjdp.ojp.gov/statistical-briefing-book>.

⁸⁹ Jordan Beardslee, Sarah Miltimore, Adam Fine, Paul J. Frick, Laurence Steinberg, & Elizabeth Cauffman, *Under the Radar or Under Arrest: How is Adolescent Boys' First Contact With the Juvenile Justice System Related to Future Offending and Arrests?* 43 L. & HUM. BEHAV. 342 (2019).

Bernburg and Krohn (2006) found that youth who were formally processed had higher rates of reoffending behaviors in adulthood than those who were not.⁹⁰ By implementing a policy of diversion, evidence suggests that reoffending rates would decrease and that, in turn, would impact racial discrepancies in incarceration rates.

G. Diversion can improve both long-term outcomes for youth and rates of recidivism.

Diversion study research has shown several positive effects for youth that are informally processed. One study found that official intervention decreases a youth’s chances of graduating high school (educational attainment), which in turn negatively impacts employment, causing a long-term effect on adult crime.⁹¹ In the Crossroads study of over 1,200 youth, youth who were informally processed in the juvenile system were less likely to be re-arrested, less likely to be incarcerated, self-reported less violent behavior, had increased school enrollment, increased employment, decreased affiliations with delinquent peers, were more likely to graduate high school within 5 years, reported more ability to suppress aggression, and had higher perceptions of opportunities than informally processed youth.⁹²

IV. ASSESSING YOUTH RISK AND NEEDS: THE YOUTH LEVEL OF SERVICE/CASE MANAGEMENT INVENTORY TOOL (YLS/CMI)

The Youth Level of Service/Case Management Inventory (YLS/CMI) is a well-validated measure assessing eight criminogenic areas related to risk and need and used to facilitate effective intervention and rehabilitation of youth.⁹³ Administering the YLS to all youth eligible for diversion can aid in providing targeted, individualized services to youth and their families. As part of Philadelphia’s diversion efforts, the district attorney’s office incorporated the YLS into its juvenile justice policies and created a corresponding case plan bench card.⁹⁴ To avoid the requirement of formal court oversight of recommendations of the YLS, alternatives to administration by the probation department, such as a social worker in the Public Defender’s Office or a local mental health agency, can administer the YLS assessment and assist the youth and family in connecting to services.

V. POLICY APPLICATION EXAMPLE AND RESULTS: THE SUCCESS OF PHILADELPHIA’S DIVERSION EFFORTS

The diversion policy proposed in this article is modeled after a juvenile justice policy implemented by the Philadelphia District Attorney’s

⁹⁰ Jon Gunnar Bernburg & Marvin D. Krohn, *Labeling, Life Chances, and Adult Crime: The Direct and Indirect Effects of Official Intervention in Adolescence on Crime in Early Adulthood*, 41 CRIMINOLOGY 1287 (2003).

⁹¹ *Id.*

⁹² *Id.*

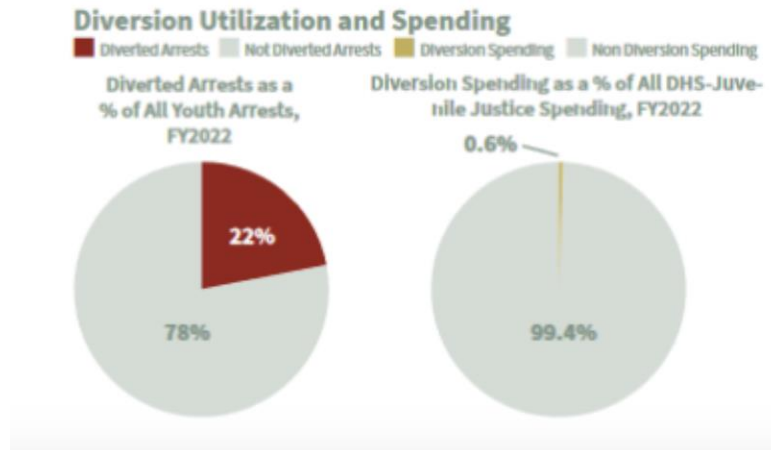
⁹³ ROBERT D. HOGE & DAVID A. ANDREWS, YOUTH LEVEL OF SERVICE/CASE MANAGEMENT INVENTORY 2.0 (YLS/CMI 2.0): USER’S MANUAL (2011).

⁹⁴ PHILA. DIST. ATT’Y.’S. OFF., *supra* note 40.

Office in 2019.⁹⁵ A socio-economic report that examined the state of Philadelphia’s juvenile justice system and the subsequent effect of these policies during fiscal years 2017 to 2021 found reduced youth contact with the system and reduced spending after 2019 (total spending declined by 26% while the number of youth served decreased by 46%).⁹⁶ Other findings of the study noted increased costs for school districts and for system-involved youth, particularly for residential placements.⁹⁷

The authors’ analysis found that diversion used only 0.6% of the juvenile justice budget, yet yielded significant benefits.⁹⁸ For example, in FY2019, just 27% of youth were rearrested after completing diversion, compared to 53% of those who were not diverted.⁹⁹ The report concluded: “There is cause for optimism regarding the use of diversion for lower-level juvenile offenses . . . The cost benefit analysis of this alternative to the court for lower-level offenses is clearly evident.”¹⁰⁰ The following figure shows that in FY2022, diversion funding accounted for less than 1% of spending on juvenile justice interventions and that arrests of diverted youth (22%) paled in comparison to arrests of youths who were not diverted (78%).¹⁰¹ (See Figure 1).¹⁰²

Figure 1.



⁹⁵ *Id.*

⁹⁶ Dustin Slaughter, *New Report Details Declining Youth Contact with Juvenile Justice System, but Rising Costs and Inefficiency*, PHILADELPHIA DIST. ATT’Y’S OFF. (May 22, 2023), <https://phillyda.org/news/new-report-details-declining-youth-contact-with-juvenile-justice-system-but-rising-costs-and-inefficiency/>.

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ Dustin Slaughter, *New Report Details Declining Youth Contact with Juvenile Justice System, but Rising Costs and Inefficiency*, PHILADELPHIA DIST. ATT’Y OFF. (May 22, 2023), <https://phillyda.org/news/new-report-details-declining-youth-contact-with-juvenile-justice-system-but-rising-costs-and-inefficiency/>.

¹⁰² *Id.*

The report concluded that diversion is an “... economically efficient strategy for serving justice-involved youth ... Increased investment and utilization may likely yield even greater benefits.”¹⁰³ The report closed with evidence-informed recommendations for using taxpayer money more efficiently and improving outcomes for system-involved youth. Three of the recommendations included: reallocating money for initial point of contact of youth to decrease recidivism; increasing investment in diversion for youth charged with lower-level crimes; and for the office to continue to explore safe, high-impact opportunities for diversion expansion for lower-level offenses.¹⁰⁴

VI. THE POTENTIAL HARMS OF DIVERSION

Farrell, Betsinger & Hammond (2018) identified two potential harms of expanding diversion programming: increased recidivism and inequitable access and use. Youth may not view diversion as a negative consequence of their delinquency and may feel free to continue to engage in delinquent behaviors.¹⁰⁵ However, Wilson and Hoge (2013) examined results of 45 studies published between 1972 and 2010 and found that the average recidivism rate of diverted youth was significantly lower than youth who were formally processed by the justice system.¹⁰⁶ Several studies have also found that race and gender can negatively impact diversion opportunities.¹⁰⁷ For example, a 2019 national study found that 52% of delinquency cases involving white youth were diverted but only 40% of black youth were diverted.¹⁰⁸ Oftentimes, strategies can create “unintended disparities for youth of color.”¹⁰⁹ A number of jurisdictions have outlined strategies to prevent implicit bias in decision-making processes for youth in the juvenile justice system.¹¹⁰ Data collection and analysis can be used to guide intervention strategies more effectively to target these disparities. Many jurisdictions are following suit and collecting data to better understand the factors that are driving the disparities and implementing strategies to reduce them.¹¹¹ For example, Fairfax County, Virginia, addressed racial inequity in the juvenile diversion process by redesigning their juvenile system using a

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ JILL FARRELL, AARON BETSINGER & PAIGE HAMMOND, BEST PRACTICES IN YOUTH DIVERSION: LITERATURE REVIEW FOR THE BALTIMORE CITY YOUTH DIVERSION COMMITTEE (The Inst. for Innovation and Implementation 2018).

¹⁰⁶ Holly A. Wilson & Richard D. Hoge, *The Effect on Youth Diversion Programs on Recidivism: A Meta-Analytic Review*, 40 CRIM. JUST. & BEHAV. 497 (2013).

¹⁰⁷ See Joshua C. Cochran & Daniel P. Mears, *Race, Ethnic, and Gender Divides in Juvenile Court Sanctioning and Rehabilitative Intervention*, 52 J. OFF. RSCH. IN CRIME & DELINQ. 181, 212 (2015); Christine Alder, *Gender Bias in Juvenile Diversion*, 30 CRIME & DELINQ. 400 (1984).

¹⁰⁸ Richard A. Mendel, *Diversion: A Hidden Key to Combatting Racial and Ethnic Disparities in Juvenile Justice*, THE SENT’G PROJECT (Aug. 2022), <https://www.sentencingproject.org/reports/diversion-a-hidden-key-to-combating-racial-and-ethnic-disparities-in-juvenile-justice/>.

¹⁰⁹ SUBCOMMITTEE ON JUVENILE JUSTICE OF THE SUPREME COURT OF OHIO ADVISORY COMMITTEE ON CHILDREN & FAMILIES, JUVENILE DIVERSION: TOOLKIT FOR JUDICIAL USE (May 2021).

¹¹⁰ NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, STATE JUSTICE INSTITUTE & NATIONAL JUVENILE DEFENDER CENTER, ADDRESSING BIAS IN DELINQUENCY AND CHILD WELFARE SYSTEMS (2021), <https://www.ncjfcj.org/bench-cards/addressing-bias-in-delinquency-and-child-welfare-systems/>.

¹¹¹ Mendel, *supra* note 3, at 11.

data-driven approach and incorporating a structured decision-making framework. Preliminary results are encouraging, with an increase in the number of minority youth being diverted. In 2013, about 19 percent of the African American and Hispanic/Latino youth in Fairfax County were placed on diversion, compared to 44 percent of white youth. In 2017, the percentage rose to 26 and 27 percent for African American and Latino/Hispanic youth respectively, compared to 37 percent for white youth.¹¹²

CONCLUSION

By creating statewide standards and policies for diversion, courts acknowledge the urgency of employing diversion opportunities for youth and avoiding formal processing when appropriate. Furthermore, misdemeanor-level youth and nonviolent offenders are often target populations for diversion.¹¹³ Diversion efforts can prevent reentry of low-risk offenders into the juvenile justice system, which can have long-term detrimental consequences to society, such as harmful effects on youth development, greater recidivism rates, and increases in court expenses. The courts' goals are exemplified by a quote from Kim Foxx, former State Attorney for Cook County, Illinois: "Safety means no empty porches. It's the ability to feel like you can go out on your porch and have a glass of lemonade and not be concerned."¹¹⁴ Ultimately, we want to feel safe in our communities and to allow all people to live in their neighborhoods without fear. As discussed throughout this article, research finds that long-term public safety needs are not being met by having low-risk youth formally enter the juvenile justice system, which can inadvertently increase recidivism rates. Additionally, valuable and limited court resources are being ineffectively spent on these youth, instead of investing in additional interventions to address the needs of higher-level youth. Although formal processing is necessary in some instances, both the court and the community are urged to find creative ways to hold low-risk youth accountable without resorting to legal sanctions. By implementing policies to offer informal alternatives to court processing for youths charged with misdemeanor offenses, we can steer all of our youth towards success while providing greater protection to the public for generations to come.

¹¹² AMBER FARN, IMPROVING OUTCOMES FOR JUSTICE-INVOLVED YOUTH THROUGH STRUCTURED DECISION-MAKING AND DIVERSION (Georgetown Univ. McCourt Sch. of Pub. Pol'y Ctr. for Juv. Just. Reform 2018), <https://towoyouth.newhaven.edu/wp-content/uploads/2020/09/Improving-Youth-Outcomes-at-Referral.pdf>.

¹¹³ *Id.* at 4.

¹¹⁴ MIRIAM ARONI KRINSKY, CHANGES FROM WITHIN: REIMAGINING THE 21ST-CENTURY PROSECUTOR vii (2022).