

COVID'S IMPACT ON THE JUVENILE JUSTICE SYSTEM

*Understanding the Challenges of the Juvenile
Detention and Placement Process in Philadelphia*

*A **Children First** Report on the
Juvenile Justice System in Philadelphia*

November 2022

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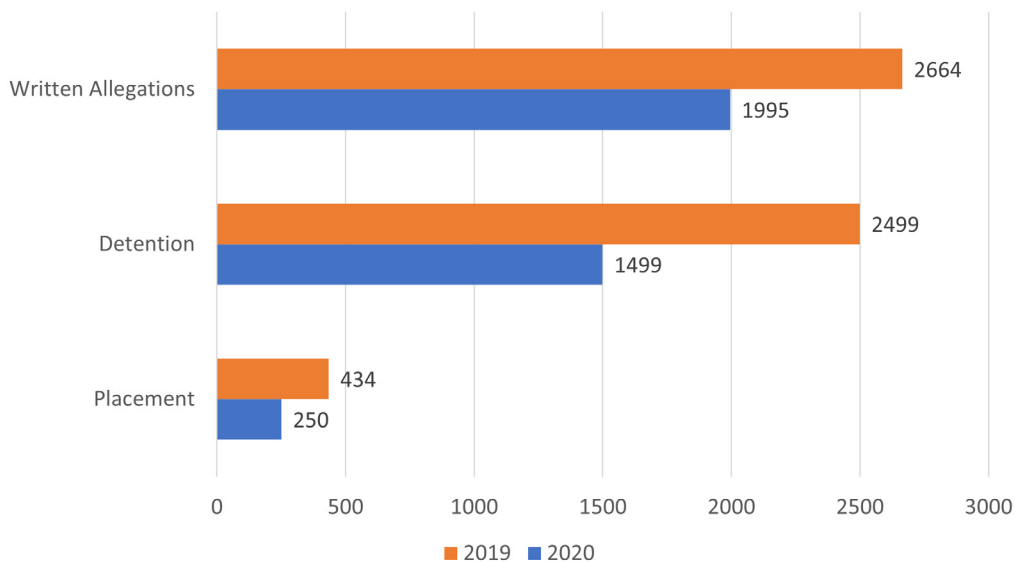
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Executive Summary

At the onset of the COVID pandemic, Philadelphia stakeholders in the juvenile justice system recognized the critical need to reduce the number of youth in secure detention¹ and post-adjudication placement in order to prevent the spread of the contagion.²

As a result of these strategies, significant progress was made in Philadelphia's juvenile justice system during the early days of the COVID pandemic with 40% fewer children and youth being removed from their homes and placed in secure detention before they were sentenced, and 42% fewer being sent to institutions after they were adjudicated delinquent.

**Chart 1: Juvenile Justice System Comparison
2019 - 2020³**



To accomplish the rapid reduction in the number of children detained in secure facilities either before sentencing or afterwards, key decision-makers undertook four key strategies:

- 1. Built Consensus** – Philadelphia juvenile justice stakeholders, including Family Court, Juvenile Probation, the Philadelphia Department of Human Services, the private bar, the District Attorney's Office, and the Defender Association, convened to find common ground on best ways to protect the health and safety of the youth who were in or may enter secure detention and placement.
- 2. Identified a Common Goal** – The stakeholders determined that reducing the number of youth in congregate settings was an imperative to provide for the health and safety of individual children and youth.
- 3. Established a Mitigating Risk Factor** – The stakeholders agreed that the health risk of the COVID virus would be a safety factor when assessing whether a child or youth was to be detained, placed, or released.

4. Developed a Protocol – The stakeholders established an emergency protocol for expedited review hearings to release youth in placement.

Since the end of the COVID emergency the number of justice system involved youth held in congregate has increased dramatically. Given the harm these facilities are known to inflict on children and youth, the safety of our communities is best served by continuing the COVID protocols developed by the Juvenile Justice stakeholders to reduce the number of justice system involved youth sent to institutions or other congregate care placements.

Background

The deleterious effects of juvenile detention were already known prior to COVID. Much of the research on the education, health, employment, and economic impacts of juvenile detention are neatly summarized in a Justice Policy Institute policy brief published in December 2007.⁴ Those effects include:

- **Worsened health issues** – Youth who were in secure detention are more likely to suffer mental health problems compared to youth who have not been detained.
- **Disrupted schooling** – Secure detention interrupts a youth's education, resulting in higher dropout rates.
- **Deeper system involvement** – Youth who have been detained are also more likely to be rearrested, adjudicated, or convicted of new offenses and subsequently committed to a facility than youth who remain at home awaiting court or pending placement.⁵

These effects were most recently found in the compelling Crossroads Study, which examined the consequences for youth who were formally processed in the delinquency system.⁶

The multi-site longitudinal study tracked more than 1,200 boys over five years who were arrested for common “moderate severity” offenses like assault and theft, and the impact of differing initial decisions in response to these common offenses. The study included male youth from Philadelphia who were between 13 and 17 years old when they committed low-level offenses (e.g., assault, petty theft, vandalism).

It found that “youth who were formally processed during adolescence were more likely to be re-arrested, more likely to be incarcerated, engaged in more violence, reported a greater affiliation with delinquent peers, reported lower school enrollment, were less likely to graduate high school within five years, reported less ability to suppress aggression, and had lower perceptions of opportunities than informally processed youth.”⁷

Data and decades of research consistently find similarly disturbing results and provide compelling evidence that reducing youth detention or placement in any part of the justice process makes sense. The Philadelphia juvenile justice reforms implemented during COVID offer another step toward embracing sound policies in this regard.

Over the last ten years, despite a downward trend in Pennsylvania and nationally, the number of children and youth who entered juvenile secure detention and residential placement still remained too high.

Understanding the Juvenile Detention and Placement Process in Philadelphia

Children and youth who enter the juvenile justice system can be placed into an institutional facility at several stages. Those who are arrested can be detained in a secure facility pending an informal detention hearing. At the detention hearing, they may be ordered by a judge or hearing officer to remain in placement. Following an adjudication of delinquency, whether or not they were in pre-trial detention, children and youth may be ordered to enter post-adjudication placement. Following an adjudication, at any review hearing for the case, youth may be ordered into placement.

In Philadelphia, the decision to formally detain or to adjudicate a youth delinquent can be decided at multiple steps in the process.

Step 1: Following an allegation of a delinquent act, the child or youth may be informally diverted during the early stages, never resulting in formal court intervention.

Step 2: If the youth is arrested, he/she/they may be released or detained pending the filing of a formal written allegation (the document that is completed by a law enforcement officer or other person that alleges the juvenile has committed an act of delinquency).

Step 3: Written allegations go to Juvenile Probation, which conducts an initial screening and pre-disposition investigation. Informal diversion is possible following intake or, in the alternative, a formal written petition. (The written petition is the formal document alleging delinquency drafted by an attorney to begin court proceedings.) At this stage, the youth may be released or remain detained at the Philadelphia Juvenile Justice Services Center (PJJSC) pending an informal detention hearing before a judge or a juvenile hearing officer.

Step 4: Following an informal detention hearing, the child or youth may either remain in detention or be released pending an adjudicatory hearing.

Step 5: Following an adjudicatory hearing, the case may be dismissed altogether or, if the youths are adjudicated delinquent, they may either be permitted to return home to a responsible caregiver or ordered into residential placement. If adjudicated delinquent and ordered to be placed, the youth may remain at the PJJSC until residential placement is identified and a bed becomes available.¹¹

The Juvenile Act of Pennsylvania defines delinquent behavior and establishes general principles for the adjudication, detention, and placement of children and youth.¹² The Juvenile Act also established the Juvenile Court Judges' Commission (JCJC) whose mission "is to provide the leadership, advice, training and support to enable Pennsylvania's juvenile justice system to achieve its goals related to community protection, offender accountability, restoration of crime victims, and youth competency development."¹³

JCJC, with contributions from county judges, produced the Pennsylvania Juvenile Delinquency Benchbook ("Benchbook")¹⁴ to guide juvenile court judges and hearing officers in making decisions regarding the detention of children and youth. While the judges and hearing officers are not bound by these guidelines, they serve as a standard for their decision-making.

The purpose of the Juvenile Act is to:

- preserve the unity of the family or provide a substitute alternative,
- provide for the care, protection, safety, and wholesome mental and physical development of the child,
- provide supervision, care, and rehabilitation with balanced attention to the child, the victim, and the community,
- separate the child from the child's parents only when necessary,
- employ evidence-based practices,
- use the least restrictive intervention,
- impose confinement only when necessary and for the minimum time, and
- ensure a fair hearing that protects constitutional and other legal rights.

Considering these directives and general public safety, judges may also consider the recommendations of the Juvenile Probation Officers who use the Pennsylvania Detention Risk Assessment Instrument (PaDRAI) as a tool to determine the level of risk to reoffend or failing to return for a court hearing.¹⁵

The assessment is a concise, structured, decision-making tool to assist juvenile probation officers in the decision of whether to securely detain a youth, release them to an alternative detention, or release them to the custody of a responsible adult while awaiting their juvenile court hearing.

The Benchbook frames the decisions that judges and probation officers should consider when subjecting a child to detention as follows:

I. The Administrative Judge of the Juvenile Court determines whether alternatives to secure detention are available in the county to meet the needs of children referred to the Court.

“Alternatives to secure detention include but are not limited to: release to parent(s), guardian(s), or other custodian(s); in-home detention status; placement with relatives; foster care; shelter care; other licensed facility; or a medical facility if a child is believed to suffer from a serious physical condition or illness which requires prompt treatment.”

II. In every situation where secure detention is to be considered, judges, masters, and juvenile probation officers must first consider and give preference to alternatives to secure detention even though it could substantially risk flight by the child and/or the risk of danger to the child, the victim or the community.

“Even though eligibility criteria may indicate that a particular child may be detained in secure detention, such detention is not mandatory. The least restrictive alternative available to meet the needs of the child should be used, with first consideration being given to an unconditional release to the parent(s) or guardian(s).”

III. Alternatives to secure detention must be used when a child alleged to be delinquent cannot be released solely because there is no parent, guardian, or custodian able to assume responsibility or adequately supervise the child.¹⁶

When a decision is made by Juvenile Probation to detain a youth, the case will come before a Judge or Hearing Officer within 72 hours for an informal detention hearing. If the youth is ordered to remain in secure detention following the informal hearing, a petition must be filed within 24 hours or the next business day, and an Adjudicatory Hearing held within 10 days.

At the Adjudicatory Hearing, there are four possible ways that the case may proceed:

1. The case may be dismissed with no further involvement in Juvenile Court.
2. An Informal Adjustment may occur, where a youth may return home, where he or she will be required to comply with Juvenile Probation for up to six months, following which, the case will be dismissed if the youth has been compliant.
3. Probation may recommend a Consent Decree where the case will remain court-involved, but with no action taken on the charges if the youth agrees to and complies with a probation plan. The District Attorney must agree with this resolution. The case will be dismissed following the agreed period of probation supervision.

4. A delinquent petition is filed and the case will proceed to an Adjudicatory Hearing before a judge.

Once a youth is adjudicated delinquent, during the disposition stage of the adjudicatory hearing and every review hearing thereafter, the judge may decide to order a youth into placement or to release the child from placement, as applicable.

Pennsylvania has been in the process of reforming its juvenile justice system for at least the last 15 years. The reforms included better coordination between the mental health and juvenile justice systems, quality improvement in the system of aftercare services and supports, and measures to reduce the disproportionate minority contact with the juvenile justice system. In addition, judges and juvenile probation departments adopted the use of the Pennsylvania Detention Risk Assessment Tool (PaDRAI) in 2015.¹⁷

This tool was designed to assess the risk of youths committing additional offenses while awaiting their juvenile court hearing and/or their failure to appear for their scheduled juvenile court hearing.¹⁸ As an Annie E. Casey Foundation Juvenile Detention Alternatives Initiative (JDAI) pilot site, Philadelphia juvenile probation officers started using the PaDRAI to inform their juvenile detention decision-making in 2013.¹⁹ JDAI is a network of stakeholders across the country working to build more equitable juvenile justice systems that promote data-driven problem-solving rooted in strategies that are explicit about racial equity and reducing the overrepresentation of children of color in the juvenile justice system while engaging the family in community-based alternatives to confinement.²⁰

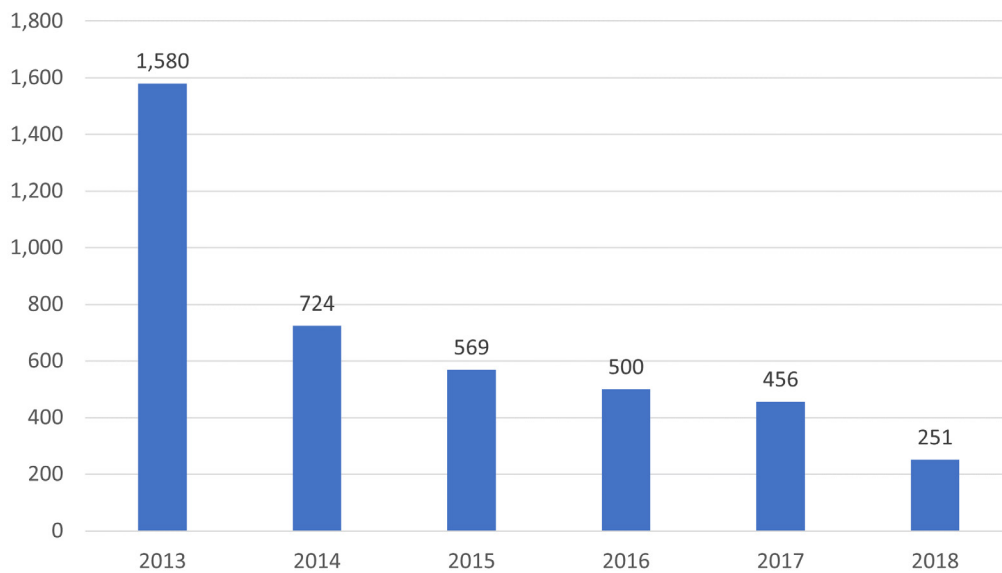
Philadelphia Juvenile Justice Reform Landscape

In 2014, an ambitious reform took hold locally. Participants in the juvenile justice system executed a Memorandum of Understanding regarding the establishment of the Philadelphia Police School Diversion Program.²² The program is a collaboration between the Philadelphia School District, Police Department, Department of Human Services, Court of Common Pleas – Family Court Division, Department of Behavioral Health and Intellectual disAbility Services, and Defender Association.

The Philadelphia Police School Diversion Program is an ambitious and shared vision among system partners to:

1. Substantially reduce the number of youth arrested in Philadelphia schools and referred to the justice system,
2. Improve school attendance and success by reducing the use of exclusionary discipline practices,
3. Eliminate racial and ethnic disparities in school-based arrests and exclusionary school discipline practices, and
4. Provide students with access to services to address underlying needs and promote long-term well-being.²⁴

Compared to 2013, the year immediately preceding the city-wide rollout, through 2019, there was a remarkable 84% decline in school-based arrests.

Chart 2: Philadelphia School-Based Arrests Pre-COVID

Philadelphia – Pre-COVID Trends

In sum, pre-COVID reforms had promising results. First, the number of delinquent allegations dropped by 10% from 2015 to 2019.²⁵ Nearly 300 fewer youth were coming into contact with the juvenile justice system. Once COVID struck, allegations dropped by another 25%, saving an additional 670 youth from ever encountering the system.

It's noteworthy that the Philadelphia School District was already in a years-long reform of its school-based discipline processes and the results of those efforts have likely contributed to the decline in the total allegations for Philadelphia in the last five years.

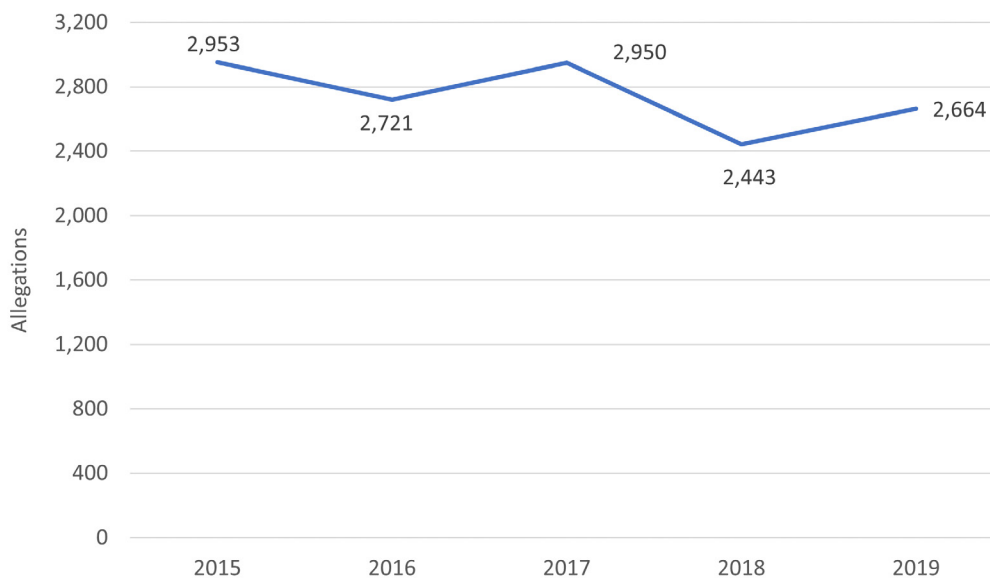
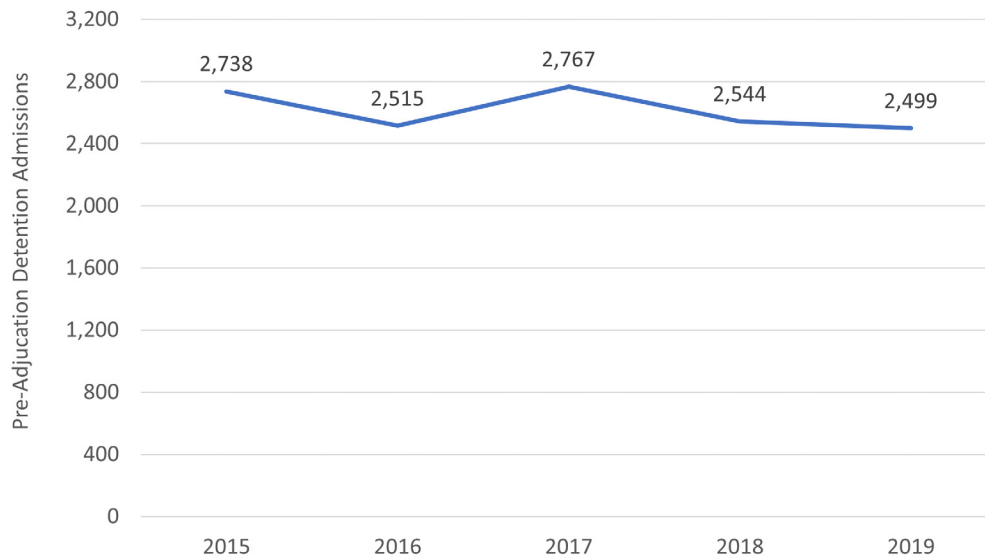
Chart 3: Written Allegations Pre-COVID

Chart 4: Philadelphia Pre-Adjudication Detention Admissions Pre-COVID

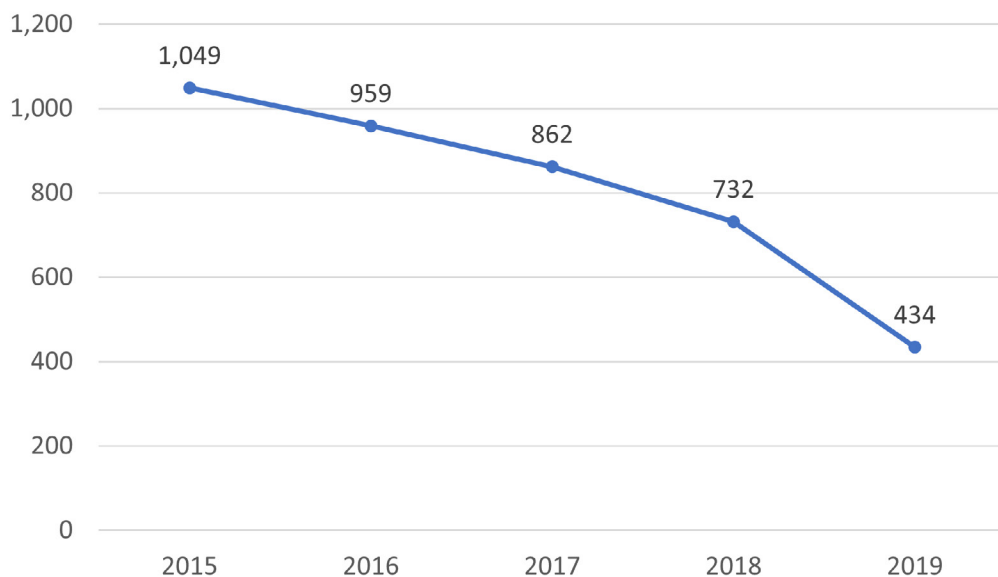


Nevertheless, more than 2,700 children were detained in 2015 while they waited for their charges to be adjudicated. By 2019, that number dropped 9%.²⁶ Despite the decline, however, the disproportionate representation of Black and Hispanic youth actually rose from 92% to 94% during the same period.

Post-Adjudication Placement – Philadelphia

Between 2015 and 2019, Philadelphia further reduced the number of youth committed to placement following an adjudication of delinquency by 59%, resulting in 615 fewer youth placed post-adjudication in 2019 than in 2015. In that same period, Black and Hispanic youth continued to be overrepresented, with disproportionality decreasing minimally from 86% to 83%.²⁷

Chart 5: Post-Adjudication Placement - Philadelphia Pre-COVID



The state and local reforms were having a positive impact and were continuing on an incremental decline. However, as COVID emerged, it became evident that a far more aggressive change was urgently needed. Necessity became the mother of invention.

The Pandemic

When the COVID pandemic began in the end of 2019, no one knew how drastically so many areas of our lives would be impacted. Few could foresee the mask mandates, closures of schools and businesses, and the loss of life. In the arena of juvenile justice, things continued much as they had. Almost 3,000 children and youth entered congregate care and community placements 95% of those from Philadelphia who were detained and placed in 2019 were Black or Hispanic in 2019.²⁸

By March 6, 2020, the Pennsylvania Department of Health confirmed that COVID reached Pennsylvania.²⁹ Rapidly thereafter, President Joe Biden issued a National Emergency and Governor Wolf announced that all Pennsylvania schools would be closed for ten days beginning March 16, 2020.³⁰ More stringent actions were taken when, on March 23, 2020, Governor Wolf issued an order for “Individuals to Stay at Home”³¹ accompanied by a similar order from Dr. Rachel Levine, the Secretary for the Pennsylvania Department of Health.³² In March 2020, the School District of Philadelphia announced that schools would transition to virtual attendance for the remainder of the 2019-2020 school year.

Also that month, the Pennsylvania Supreme Court declared a general statewide judicial emergency.³³ The Court deemed “it necessary for the Pennsylvania Judiciary to consider – on a district-by-district basis – the appropriate measures to be taken to safeguard the health and safety of court personnel, court users, and members of the public.”³⁴ President Judges were authorized to declare judicial emergencies in their districts through April 14, 2020, or for as long as they deemed necessary during that time period. Among other items, President Judges were authorized to use additional advanced communication technology to conduct court proceedings, subject to constitutional restrictions.³⁵

On April 1st, on behalf of all Pennsylvania youth currently held in juvenile detention centers, county jails, or longer-term correctional or residential placements, the Juvenile Law Center filed a King’s Bench petition³⁶ with the Pennsylvania Supreme Court to immediately order “the release of all youth who do not pose an immediate, specific and articulable risk of physical harm to others” and to prevent “the detention of specific other youth for: technical probation violations, failure or inability to pay fines, fees, or bail, or failure to appear.”³⁷

Although the petition was denied, the Pennsylvania Supreme Court directed local President Judges to establish strategies to limit detention and release more youth from confinement.³⁸

The COVID Impact

As COVID spread, it became clear that individuals living in congregate care faced far greater risks from the spread of the disease.

Congregate care settings put children at great risk of COVID. Per the Sentencing Project, as of March 31, 2022, 3,936 young people in juvenile facilities and even more staff had been diagnosed with COVID across 41 states, the District of Columbia, and Puerto Rico.³⁹ It was becoming clear that congregate living increased the likelihood of being infected by COVID.

Because of heightened COVID concerns, among other hardships, youth in residential facilities faced immediate restrictions including quarantining, the loss of in-person family contact, and limited recreation activities.⁴⁰

In April 2020, in response to COVID safety concerns, the Bureau of Juvenile Justice Services (BJJS), under the Pennsylvania Department of Human Services (DHS), encouraged all providers and counties to “scrutinize” who was being considered for placement at the state-run Youth Development Centers and Youth Forestry Camps, and to place only those youth who presented such a “significant risk to themselves and/or the community that no other option exists.”⁴¹ The BJJS also encouraged the counties to review those youth who were currently in placement and to release all youth who could “reasonably and safely be released.”⁴²

Philadelphia’s Juvenile Justice Response to the Pandemic – The Process

Just as it was becoming apparent that COVID would affect all aspects of the juvenile justice system, Philadelphia took steps that would lead to the dramatic reduction in the number of children and youth who were in delinquent institutional settings. Four action points were instrumental in making this reduction possible.

1. The Philadelphia Juvenile Justice Stakeholders convened to find common ground on how best to protect the health and safety of the youth who were in or may enter secure detention and placement.

Before the Pennsylvania Supreme Court’s declaration of a judicial emergency, the stakeholders in the Philadelphia juvenile justice system met to develop a course of action to address the immediate safety of children and youth who were currently committed to institutional facilities and to reduce the flow into those institutions. In early March 2020, the Administrative and Supervising Judges of Philadelphia Family Court convened stakeholders, including the Family Court Administration, Juvenile Probation, the Philadelphia District Attorney’s Office, the Philadelphia Defender Association, the Department of Human Services, the Community Behavioral Health (CBH) division of the Department of Behavioral Health and Intellectual disAbility Services, the Philadelphia Law Department, and a representative of the private attorneys representing youth in delinquent court.

On the heels of Philadelphia’s decision to convene its juvenile justice stakeholders, the Pennsylvania Supreme Court declared the judicial emergency.

In its decision, the Supreme Court acknowledged the efforts of JCJC to “eliminate the threat of COVID-19 within Pennsylvania’s juvenile residential placement” and “that the public health authorities, including the Centers for Disease Control and Prevention and the Pennsylvania Department of Health, continue to issue guidance on best practices for institutions where individuals are detained specifically and congregate settings generally to employ preventative measures, including social distancing to control the spread of the disease.”⁴³



As Philadelphia had already commenced, the Supreme Court directed President Judges, or their designees, “to engage with all relevant county stakeholders to review immediately the current capabilities of residential placements within their counties where judges have placed juveniles to address the spread of COVID-19.” The Supreme Court also directed President Judges to “consult with relevant county stakeholders to identify juveniles and/or classes of juveniles for potential release from placement to reduce the current and future populations of the institutions during this public health crisis with careful regard for the individual circumstances of juveniles in placement as well as their safety and the public’s safety with awareness of any statutory rights of victims.”⁴⁴

The Supreme Court also directed county courts “to undertake efforts to limit the introduction of new juveniles into the juvenile detention system during the COVID-19 pandemic.”⁴⁵

The Philadelphia stakeholders held their initial meeting during the week of March 16, 2020, and, as guided by the Supreme Court, continued ongoing communications regarding the process and individual cases.

2. The stakeholders determined that reducing the number of youth in congregate settings was imperative for the health and safety of individual children and youth.

As it became clear that COVID infections were moving beyond isolated locations and a pandemic was looming, congregate living arrangements and gatherings presented a real safety problem. As a part of their guidance on COVID, the CDC clearly stated the problem in their guide for “People Living in Prisons and Jails,”⁴⁶ indicating that living in prisons and jails were at higher risk for getting COVID because:

- there may not be enough space to keep people with COVID away from others,
- there is a risk of sharing space with someone who has the virus and does not know it, because they do not show symptoms, and
- staff or visitors may have the virus and not know it.⁴⁷

New COVID safety protocols implemented at facilities exacerbated the already known trauma and harms associated with youth being removed from their homes and placed in detention and placement facilities. Between 98% to 99% of all Philadelphia youth who were ordered into detention or placement facilities were in some form of congregate setting, facilities that house four or more children and youth.⁴⁸ Over 70% of those youth are placed into the system of Pennsylvania BJJS-run Youth Development Centers and Youth Forestry Camps.⁴⁹ At the start of the pandemic, the BJJS announced a quarantine protocol that all youth entering the system would be housed in two newly created intake units, one for girls located at the North Central Secure Treatment Unit and another for boys at the South Mountain Secure Treatment Unit. Isolating restrictions were put in place:

- Youth would be required to stay on the quarantine unit for 14 days until they were cleared for their designated programs.
- Any youth who tested positive for COVID during the initial 14 days would be required to enter isolation and re-start their 14-day quarantine.
- While on the unit, youth would be allowed time out for physical activities, but with enforced social distancing.
- “Normal daily behavior” such as watching television would have to be done from the confines of their rooms.
- Contact with families was limited to telephone calls, videoconferencing, and letters.⁵⁰

The Philadelphia juvenile justice stakeholders came together with a shared understanding that COVID presented a health threat to children and youth. When they convened, the stakeholders agreed that congregate care settings exacerbated the threat of COVID and that ensuring the physical safety of the children and youth was an imperative in the process. The stakeholders agreed that reducing the number of youth entering juvenile facilities and reducing the number of children and youth in those facilities was vital to reducing the risk of spreading COVID.

3. The stakeholders agreed that the health risk of the COVID virus would be a safety factor in making the assessment of whether a child or youth was to be detained, placed, or released.

From the initial meeting, it was determined that all stakeholders would identify and assess juveniles being held in PJJSC, the county-run facility housing children and youth pre-adjudication or while awaiting placement. The immediate focus would be on those children and youth in detention who, because of prior health conditions, would be considered vulnerable to the COVID virus. Youth who were already close to an anticipated discharge or those who had less egregious charges were also considered for release with alternatives to detention.

Keeping within the guidelines for detention decisions established by JCJC in the Standards Governing the Use of Alternatives to Secure Detention section of the Detention Handbook developed for Juvenile Probation, Judges, and Hearing Officers, Philadelphia Juvenile Probation adapted its use of the PaDRAI to consider the threat of COVID in determining whether to detain or release a youth.⁵¹

In the Detention Handbook, JCJC advises that:

“In every situation in which the use of secure detention is to be considered, judges, masters, and juvenile probation officers must first consider and give preference to alternatives to secure detention which could substantially reduce the risk of flight by the child and/or reduce the risk of danger to the child, the victim or the community.”⁵²

Furthermore, the guidelines state that:

“Even though eligibility criteria may indicate that a particular child may be detained in secure detention, such detention is not mandatory. The least restrictive alternative available to meet the needs of the child should be used, with first consideration being given to an unconditional release to the parent(s) or guardian(s).”⁵³

In light of the COVID threat in congregate living, Juvenile Probation made another change to the PaDRAI tool. For counties like Philadelphia using mandatory detention guidelines, the change allowed them to adjust their use of the PaDRAI for certain allegations that require mandatory detention.

Juvenile Probation wisely revisited the list and removed several offenses from the list of acts that required mandatory detention, “allowing the PaDRAI tool to do its job,” as the Chief of Juvenile Probation, Faustino Castro-Jimenez, described it. As a result, Juvenile Probation Officers using the PaDRAI tool to determine detention could consider additional information and mitigating factors in their decision-making, resulting in additional youth being assessed as low-risk and allowing them to stay in or return to their homes.

As cases entered the system, Juvenile Probation would review them with these adaptations, while considering youth needs and community safety. While in ongoing communication and coordination with the charging unit of the Philadelphia District Attorney’s Office, Juvenile Probation released those youth who, at the time of arrest, were assessed to not pose a serious threat to the community or to themselves, and where there was a reliable discharge resource who may bring them to their next court hearing.

Moreover, youth on warrant status due to violating conditions of Global Positioning Systems (GPS) monitoring were not held in secure custody if there were no underlying safety issues with releasing them back to a parent or guardian. During the early days of Governor Wolf’s Stay At Home Order, warrant procedures were suspended.

As a part of the expedited review process, Juvenile Probation also assessed every youth who was currently in detention and placement. Initially prioritizing those youth with pre-existing conditions that may make them more vulnerable to the deleterious impacts of the COVID virus, Juvenile Probation requested and received from the PJJSC a list of youth with underlying medical conditions, such as asthma and diabetes.

To assess youth for release, Juvenile Probation considered these among other factors:

1. each youth's charges (allegations of delinquency),
2. mitigating factors such as additional information surrounding the allegations of delinquency and family circumstances,
3. supports available to the youth and family,
4. medical conditions and behavioral health concerns, and
5. the current status of the youth's treatment and rehabilitation.

The immediate impact of this adapted review process was that fewer youth were detained at the intake stage. For those youth who entered or were already in detention and placement, Juvenile Probation began to review every case.

Each youth designated for discharge left with plans that addressed orders of the court, reasons for detention/placement, behavioral health, housing, family support, and supervision concerns.

Every day, Juvenile Probation continued to review lists of approximately fifteen children and youth considered appropriate for release with a plan for supervision. The review process became a 24-hour operation with almost constant communication between all of the stakeholders. The list was sent to the stakeholders for their own review, assessment, and suggestions. In particular, CBH reviewed each case to identify any therapeutic service needs or supports; the District Attorney's Office would review the nature of the charges and whether appropriate supervision and support was available; the Defender Association and privately appointed counsel reviewed every case that they represented.

As Robert Listenbee of the District Attorney's Office described it at the Reducing Youth Detention and Placement Symposium in April 2022, "There was a lot of work done to ensure that youth could be reintegrated into their communities and families and to support them in having effective transitions".

After review of release eligibility, the next step was an emergency stepdown hearing to request judicial approval. On behalf of Philadelphia Family Court, Juvenile Probation led the effort to coordinate and list cases.

4. The stakeholders established an emergency protocol for expedited review hearings to release youth in placement.

Establishing a schedule of emergency hearings was a pivotal decision in the process of releasing youth from detention and placement.

Emergency hearings were scheduled every Monday, Wednesday, and Friday, and one judge was assigned to hear those cases, the Honorable Jonathan Q. Irvine. As the Chief of Juvenile Probation, Castro-Jimenez observed, “It helped to have one judge making decisions resulting in consistent results for the youth.” The decision was also made to have one person from juvenile probation – Bennie Price, the Deputy Chief of Philadelphia Juvenile Probation – present for every emergency hearing.



Per the emergency order of the Supreme Court, during the judicial emergency, President Judges in the districts were mandated to continue essential services where the failure to do so would cause a threat of irreparable harm. Under this provision, Philadelphia continued to hold emergency hearings every Monday, Wednesday, and Friday to hear the agreed-upon early release cases as well as contested matters.⁵⁴

The Court also continued to hold detention hearings. The hearings were conducted at Philadelphia Family Court in accordance with the CDC guidelines and using, when necessary, advanced communications technology allowed under the Pennsylvania Supreme Court’s order declaring a statewide judicial emergency.⁵⁵

For those youth who entered or remained in residential care and at the PJJSC, Juvenile Probation continuously reviewed behavioral health evaluation recommendations, medical status and treatment goals, discharge plans, and progress notes. Parents and guardians were also contacted to ascertain whether youth could safely return to their homes in a caring environment. Juvenile probation officers also reviewed homes for their physical safety. As cases were deemed appropriate, they were recommended for the expedited court review process.

Challenging factors that impacted child safety and success meant the work did not end once youth were released. In the early stages, home supervision had to adapt for COVID safety concerns. Many of the supporting systems, services, and programs – such as public and charter schools, Evening Reporting Centers (ERC’s), mental health therapists, and drug and alcohol counselors – halted their services in the very early days of COVID.

Juvenile Probation and all of the service providers had to quickly pivot and find ways to provide supports and supervision of youth in their homes and communities.

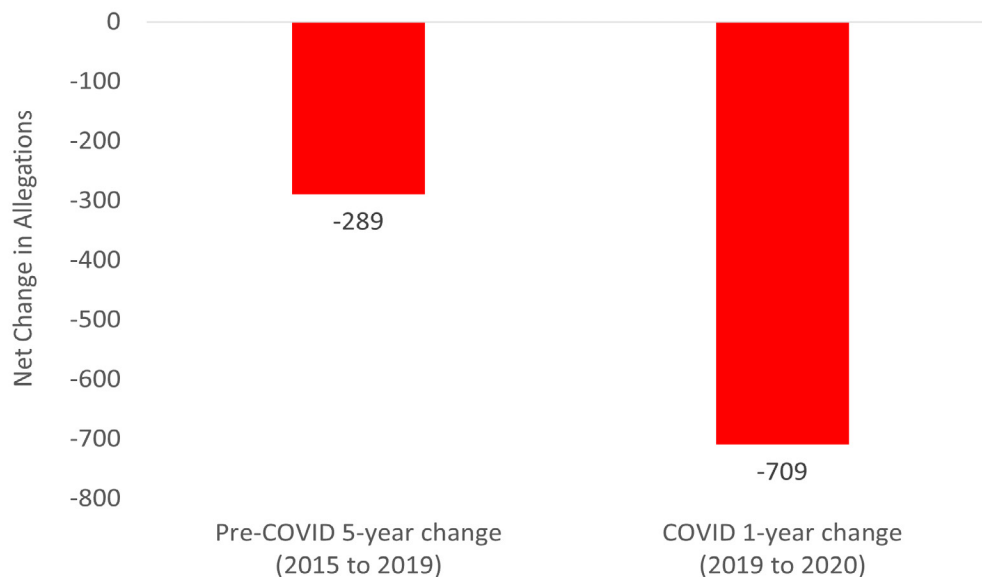
In keeping with COVID safety guidelines, Philadelphia Juvenile Probation established a protocol for conducting “curbside” safety visits where youth were observed on their porches, “stoops,” and on the sidewalk, as each case necessitated. Telephone contact and virtual visits allowed probation to have “eyes and ears on” youth. Service providers also established protocols that allowed them to continue providing services for youth.

Although in-depth research and examination of cause and effect remain to be done, the numbers show how COVID emergency protocols reduced the number of youth who were formally entering the delinquent system and remaining in placement.

Philadelphia’s Juvenile Justice Response to the Pandemic – The Numbers

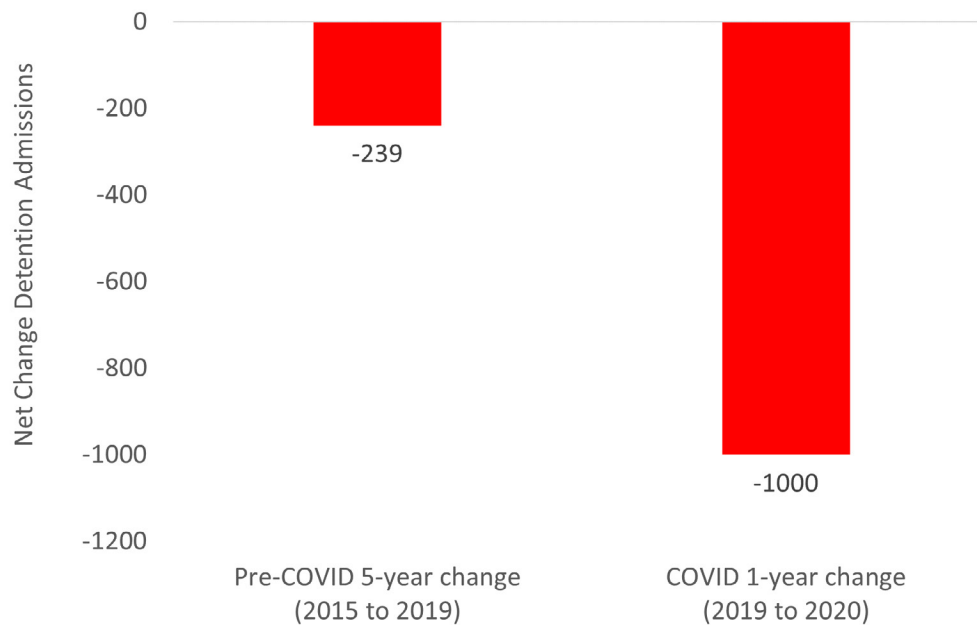
In 2020, the number of allegations dropped by over 700 (an overall decline of 25%), far greater than the annual number of allegations filed in the years between 2015 and 2019 (equaling just 10% for the five-year period).⁵⁶

Chart 6: Allegations Decrease Sharply with COVID in 2020

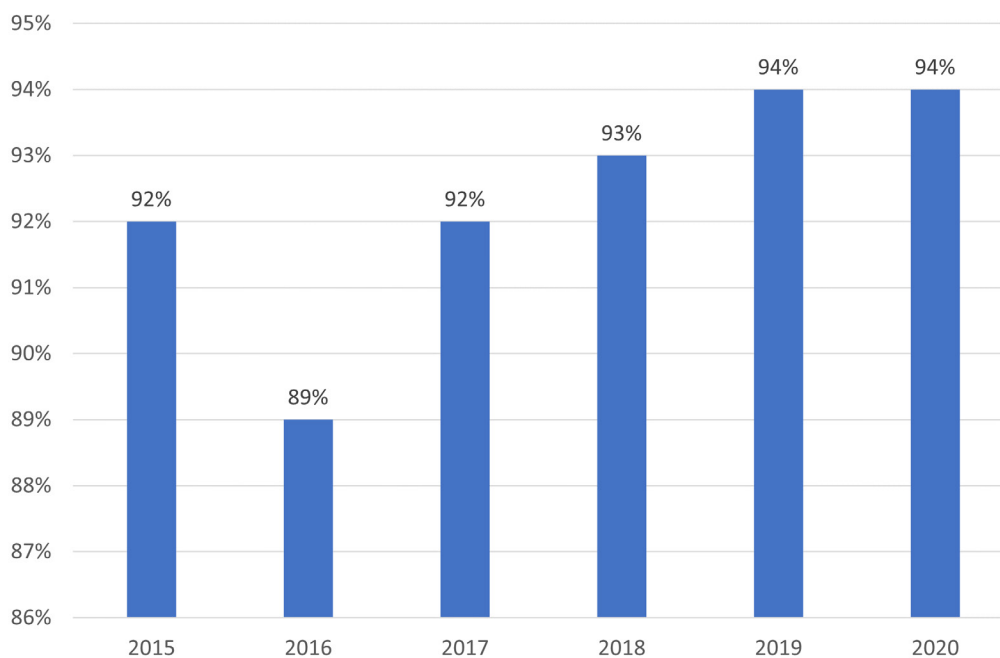


Post-COVID – Pre-Adjudication Detention⁵⁷

During 2020, there were similarly dramatic decreases throughout the entire juvenile delinquency pipeline. While it took five years (2015 through 2019) to achieve a 9% decline in the number of youth sent to the Juvenile Justice Center for detention before sentencing declined by 1,000 youth in 2020, accounting for a 40% drop in just one year.

Chart 7: Detention Admissions Decrease Sharply with COVID in 2020**Demographics: Percentage of Black and Hispanic Youth Detention Admissions⁵⁸**

From 2015 to 2020, the demographics of those who entered detention changed very little. Despite a 3% drop in 2016, Black and Hispanic youth in detention admissions rose 2% overall from 2015 through 2019. As of 2020, Black and Hispanic youth were 94% of those who were detained in the delinquent system.

Chart 8: Over 90% of Philadelphia Youth Entering Detention are Black or Hispanic⁵⁹

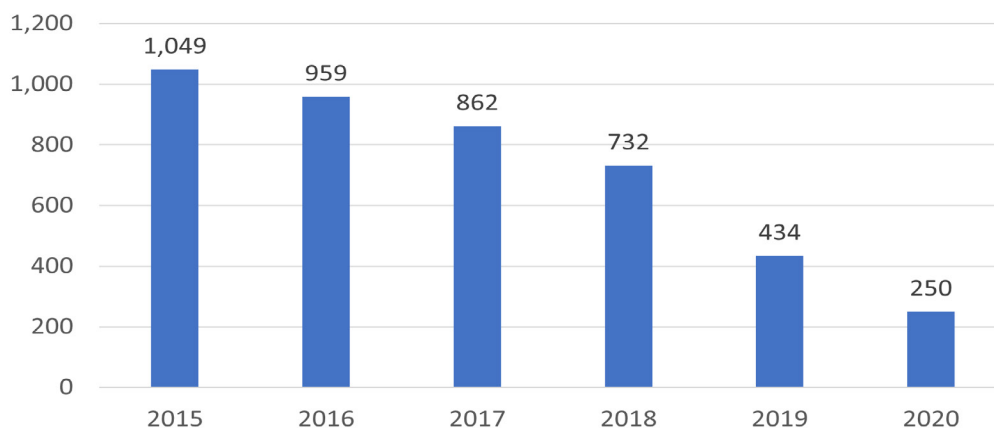
There are deeply embedded and very troubling reasons for the disproportionate representation of Black and Hispanic youth in the juvenile justice system. Although there have been significant decreases in the overall number of youth who enter the juvenile justice system, the measures that achieved those decreases have not rectified the disproportionality in detention admissions.

Post-COVID – Delinquent Placements⁶⁰

COVID-related reforms accelerated the pace of reducing youth placement post-adjudication as well. Prior to COVID, the number of youth placed dropped by 30% from 2015 through 2019. In 2020, the COVID policy changes resulted in an additional 42% decrease, with only 250 youth placed post-adjudication during 2020.

The number of youth in placement declined in 2020, yet children of color accounted for 95% of the youth who were committed to a facility post-adjudication.

Chart 9: Philadelphia Delinquent Placements Post-COVID



In Conclusion

At the onset of the COVID pandemic, the decision of the stakeholders in the Philadelphia juvenile justice system to come together to identify solutions and develop a plan to mitigate the safety concerns facing youth in congregate settings set the groundwork to achieve remarkable reductions in the number of youth in juvenile detention and placement. Their results are overwhelmingly positive, and the practices warrant continuation, such as:

1. Eliminate mandatory detention for certain charges. Use the PaDRAI as a tool to assist the probation officer in determining risk.
2. Review cases frequently to assess for a youth's readiness to return home, always focused on addressing barriers to a youth's safe return to their home and community.

3. Relist cases as soon as the child or youth is considered ready to return home, rather than waiting for the next scheduled court date.
4. Continue to identify, develop, and engage youth in community or home-based services rather than using placement to provide a service to a youth.

Because of the communication, coordination, and agreement on a common goal by the stakeholders, in 2020, 40% fewer children and youth were removed from their homes and placed in secure detention before they were sentenced, and 42% fewer were sent to institutions after they were adjudicated delinquent.

Post-COVID Opportunities

The COVID risks for children residing in congregate care motivated juvenile justice stakeholders to reduce the number of youth in secure detention and placement, but it is unclear if any of those measures will continue as COVID infection rates lessen.

The Philadelphia juvenile justice system and its stakeholders have the opportunity and means to continue every one of the steps taken to reduce the number of youth who enter detention and placement and to reduce their lengths of commitment to institutional facilities.

The success of those measures at the onset of COVID set a roadmap for continuing the dramatic reductions.



1. Increase the use of diversion options.

Diversion programs hold youth accountable without the threat of confinement or legal sanctions for their actions while also providing supports and services they need to remain in their homes and communities. Research indicates that diversion is more effective in reducing recidivism than conventional judicial interventions.⁶¹ The typical goal of diversion programs is to address delinquent behavior informally in the community in an effort to prevent subsequent offending. Each program may be structured differently and offer different services, however, some typical services offered are:⁶²

- Screening and assessment
- Education and tutorial services
- Victim awareness classes and activities
- Service-learning programs

- Substance use education and counseling
- Job skills training
- Mental health treatment
- Crisis intervention
- Family counseling
- Parenting skill development
- Supports for rebuilding family relationships
- Quality recreation and organized sports programs

There are several diversion options in Philadelphia:

I. Youth Aid Panels (YAP)

This program operates out of the Philadelphia District Attorney's Office and is an alternative for first-time, low-level juvenile offenders. Instead of facing a juvenile judge and entering the system, eligible youth face a panel of trained community volunteers, youth and adults, and often their family members. Panel deliberations focus on accountability and rehabilitation during and after the program.

The collaborative discussions are used to create a contract that is set for 60 to 90 days, and usually identifies a lead monitor and includes some form of counseling and community service. Once the youth successfully completes the contract, his/her/their case is discharged.

II. Intensive Supervision Programs (ISP)

Youth who are court-ordered into this program have daily face-to-face contact with a counselor. These check-ins keep track of youth and help them reach the goals outlined in their service plans. The counselor also ensures that youth attend their court hearings, attend school regularly, and don't get arrested.

III. Community Evening Reporting Centers (CERC)

This after-school program is a community-based alternative to placement for youth between the ages of 14 to 18. Youth generally come to the CERC weekdays between 4 p.m. and 8 p.m. for six months and must wear GPS ankle bracelets. In this program, youth have structured activities and workshops including:

- cognitive behavioral life skills,
- music and arts education, and
- supervised community service experience.

Philadelphia stakeholders should continue to identify evidence-based programs that divert youth from juvenile justice system involvement as well as from secure detention and placement once written allegations of delinquency are submitted.

To this end, Philadelphia has recently executed a MOU between DHS, Juvenile Probation, and Family Court to collect and analyze data across departments to be used to modify interventions and match youth to appropriate programs.

The diversion options need to meet a youth's unique needs including trauma, family instability, or homelessness.

2. Allow the PaDRAI to do its job. Eliminate the requirement that certain offenses result in mandatory detention. The PaDRAI “is designed to assess the risk of a youth to:

1. commit additional offenses while awaiting his/her juvenile court hearing; and/or
2. fail to appear for his/her scheduled juvenile court hearing.”⁶³ As has been demonstrated during COVID, eliminating mandatory detention allows juvenile probation staff to use PaDRAI to assess the crime, detention alternatives, and mitigating factors.

Mandatory detentions are established by local judicial policy but according to the PaDRAI Handbook, their use should be limited, and consideration should be given to whether the PaDRAI scoring would achieve the same outcome.⁶⁷ The ability to eliminate mandatory detentions is within local control regardless of an emergency situation. As Philadelphia demonstrated, stakeholder will is all it takes to make this change.

3. Only place youth in secure detention when it is evaluated to be absolutely necessary to protect the safety of the community. Philadelphia has a number of alternatives, such as in-home or community detention, including:⁶⁴

I. In-Home Detention

This is a court-ordered service that requires youth to stay at their home address unless expressly authorized by the judge. A caseworker will mentor the youth and provide intensive home-based case management services. A youth may have GPS monitoring while serving in-home detention, but it is not required.

II. GPS - Global Positioning System

Youth may be ordered to have a GPS bracelet placed on their leg. This allows for real-time monitoring of their location by the Courts to ensure they are not in areas restricted to them.

These community options should not be used as a modified detention when the PaDRAI does not identify a safety threat. Fear rather than facts can often drive the placement decision, particularly as the media reports increasing gun violence.

However, as Philadelphia Chief Defender Keisha Hudson said during the Reducing Youth Detention and Placement Symposium in April 2022, “Don’t use the narrative of gun violence to rely on responses that do not work.” As gun violence increases in Philadelphia, the fear factor leads to more calls for incarceration, but the majority of actions for which youth are forced into placement are non-violent.

4. Allocate resources to continue the frequent review of cases. Juvenile Probation and all parties should continue to frequently assess youth for preparedness to return home. Resources or additional staff should be allocated to continue the more frequent or heightened review of individual cases.

5. Continue expedited hearings and relist cases as youth are ready to return home. Despite being a key element to the reduction in the number of youth in placement, the calendar of dedicated expedited review hearings has stopped. The stakeholders should continue their on-going communication on the status of individual cases and seek agreements for the release of youth from placement. Once youths have met their rehabilitation and treatment goals, the parties should not wait for the next scheduled hearing date. Re-establish a dedicated day and process to schedule and hold expedited hearings for youth as they are ready to be discharged.

The stakeholders in Philadelphia demonstrated that they can make a dramatic reduction in the number of youth who are processed through the juvenile justice system and end up in secure detention and placement. Continuing and expanding on the measures that they have already taken are a clear path to future success.

Endnotes

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Children First, formerly known as Public Citizens for Children and Youth (PCCY), serves as the leading child advocacy organization working to improve the lives and life chances of children in southeastern Pennsylvania.

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Children First
990 Spring Garden Street
Suite 200
Philadelphia, PA 19123
215-563-5848