

INCARCERATION ISSUES COMMITTEE
Senator Ron Carlisle, Chair
January 26, 2016

North Dakota Department of Corrections and Rehabilitation
Division of Juvenile Services

Lisa Bjergaard, Director
Presented Testimony Concerning the Incarceration of Juveniles

For the record, I am Lisa Bjergaard, Director of the Division of Juvenile Services.

The invitation to appear today was prompted by the publication of an infographic that indicates North Dakota has a juvenile “commitment rate” that is growing, rather than falling as it is in 49 other states. Please see **Attachment A**. As you can see, the data is drawn from a federal survey that counts youth placed in residential settings, the Census of Juveniles in Residential Placement.

First, some definitions are essential. The Census asks facilities to count juveniles who are placed as “part of a court ordered disposition”. In North Dakota, every child who is placed outside of their home has a dispositional order from the court, so the Census captures children and youth placed by county social services as well as youth placed out of their homes through the juvenile justice system. Not every state would have child welfare youth and juvenile justice youth combined in their survey data, which is just one factor that complicates a large 50-state comparative graph. Other issues that complicate the data include how rates are calculated, and the years that are included in the calculation. **Attachment B** includes a graphic that has been calculated from the same Census of Juveniles in Residential Placement data set. Notice how differently North Dakota is represented in this data set, which is taken from a different time frame.

In order to assist you in a more meaningful examination of the issues that impact juvenile incarceration, I have drawn data from North Dakota's own data systems. A good place to start is with a snapshot of all youth who might someday find their way into the juvenile justice system. A very reliable source of data comes from our public schools, since they record their actual enrollment and report it at least annually.

Change in ND School Enrollment Over Last 5 Years

Grade	2009-10	2015-16	% Change
PK-K	9,834	12,673	29%
Grades 1-5	37,539	46,897	25%
Grades 6-8	23,213	25,435	10%
Grades 9-12	32,244	32,335	0%
Grand Total	102,830	115,103	12%

The school enrollment numbers compare to census data thus: The 2010 Decile Census number of youth under the age of 18 = 149,871. The number of youth between the ages of 10-17 was 65,200. In order to make data meaningful over a period of time, it is important to understand not just the actual number of youth in a given data set, but to have a mechanism for calculating a rate. As long as the rate is calculated using a consistent denominator like the Decile Census data, trends over time are relevant.

In considering how to best analyze trends in the juvenile justice system, these two data sources provide a useful foundation. First, the school enrollment data gives a rough idea of the possible universe of youth who might be expected to interact with the juvenile justice system. Second, the Decile Census data allows for the calculation of *rate* per 100,000 so that various sets of data can be compared over time.

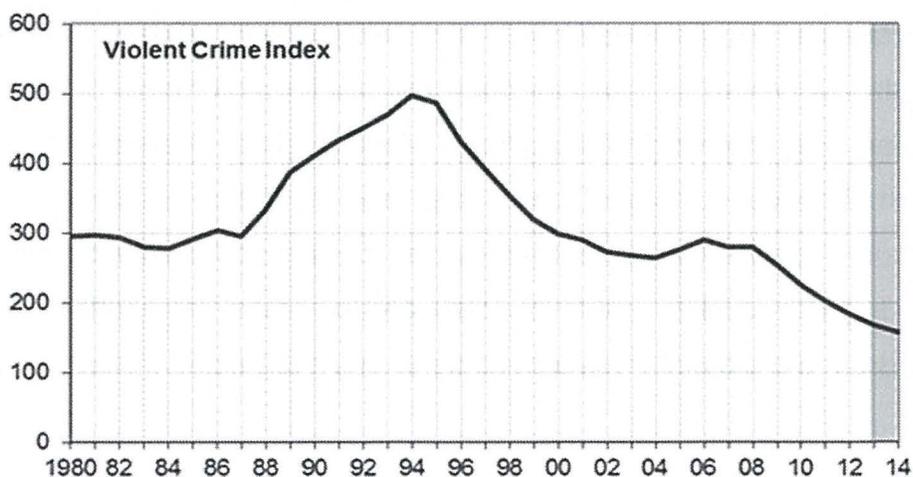
The Juvenile Justice System includes law enforcement at the local, county and state level, the juvenile courts which operate under the State District Courts, and state juvenile corrections. In 2014, almost 7000 youth made contact with North Dakota's juvenile justice system. Any analysis of the youth who are ultimately placed into the custody of youth corrections must include an examination of the various decision points across the system.

Law Enforcement

Law enforcement officers interact with youth every day as they perform their duties in our communities, schools, and as a part of traffic safety enforcement. Law enforcement may divert youth from formal processes by warning, counselling, or making a referral for services. Youth who are suspected of being deprived, neglected or abused may be taken into custody by law enforcement. Youth who are accused of committing a delinquent or unruly act can also be cited or taken into custody (arrested).

Because it can be a critical entry point for the juvenile justice system, it is important to understand arrest data. Nationally, there has been a significant drop in juvenile arrest rates in recent years. This was the one of the points the PEW infographic was trying to make. The National violent crime arrest rates of juveniles between 2001 and 2012 fell 42%. The overall national violent index crime arrest for juvenile rate is lower that it was in the 1970's.

Arrests per 100,000 juveniles ages 10-17, 1980-2014



Juvenile Arrest Rates for Selected Offenses Per 100,000 Youth, Ages 10-17		
Offense Category	ND 2014	US 2014
Violent Crime Index	0.55	157.8
<i>Property Crime Index</i>	<i>991.1</i>	<i>693.0</i>
Weapon Violations	30.4	60.0
Vandalism	215.6	131.1
<i>Drug Use Violations</i>	<i>571.5</i>	<i>332.4</i>
<i>Disorderly Conduct</i>	<i>757.6</i>	<i>236.7</i>
<i>Liquor Law Violations</i>	<i>847.5</i>	<i>156.6</i>
Total Arrests	5291.0	3008.1

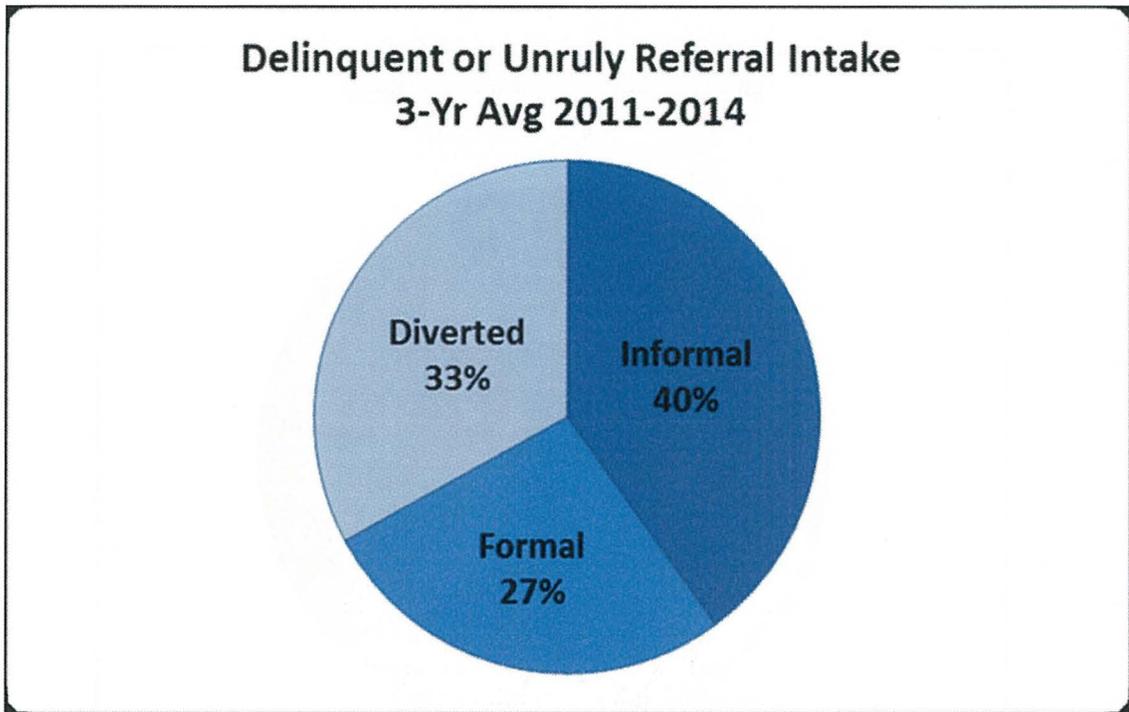
Juvenile Court

When a citation or a formal action of law enforcement occurs, the juvenile court is notified. The juvenile court officer can take a variety of actions, depending on the nature of the law enforcement referral. The matter does not necessarily proceed to a judge. The juvenile court director is empowered to resolve the action informally. In fact, the entire juvenile justice system is admonished to always assure that all reasonable efforts have been exhausted prior to proceeding to take a case deeper into the juvenile justice system.

The court director may divert the youth to a service or program, may place the youth on informal probation and assign a probation officer, or may determine the case warrants a formal appearance in front of a judge or referee. The judge or referee also can divert, or they can place the youth under formal probation supervision. It is also within the authority of the judge or referee to remove the youth from the legal custody of their parent, and place that legal responsibility with a county social services representative. County social services has the authority to place children into foster care, group homes, residential treatment centers, drug and alcohol treatment centers, and psychiatric treatment facilities.

In a case where serious delinquent behavior has jeopardized the safety of the public, a judge or referee can place legal custody with the Division of Juvenile Services (DJS). Once under state custody, youth are placed in consideration of their best interests and the safety of themselves and the public. DJS, like the county, has the authority to place youth into any of the settings (mentioned above) that can be used for treatment purposes by county social services. In addition, if the safety of the public warrants the confinement of the youth, DJS may place youth at the North Dakota Youth Correctional Center.

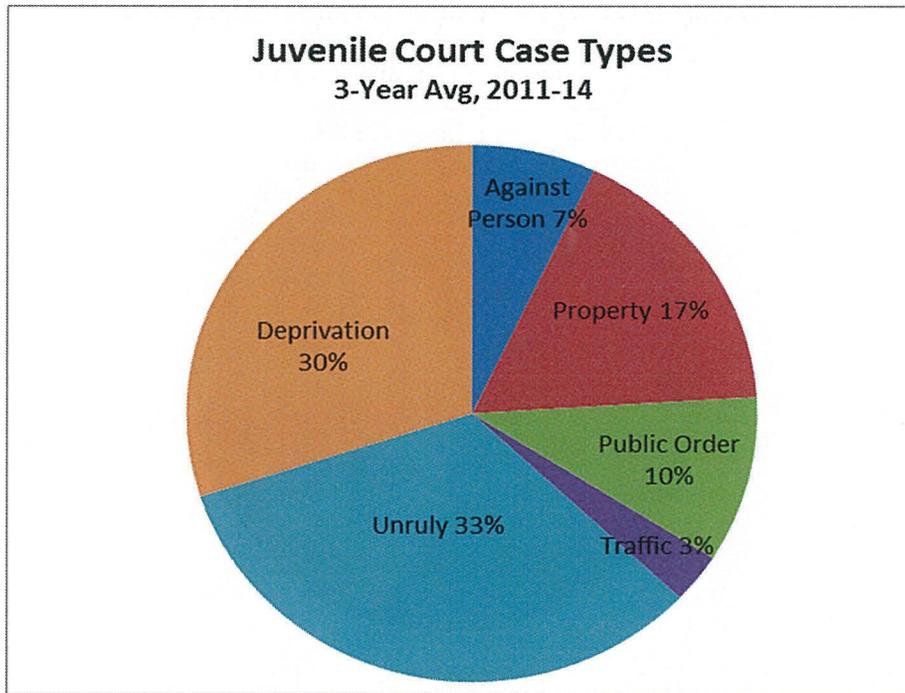
All citations issued upon arrest are referred to the Juvenile Court. In addition, referrals to Juvenile Court are made by schools and parents. As discussed above, cases that are referred are processed in one of three ways: 1) diversion; 2) informal adjustment; and 3) formal adjudication. Below is the latest three-year average of juvenile court dispositions.



As indicated, the majority of cases are diverted, either through direct referral diversion to programs or through the informal process in which no formal petition is filed. Three-fourths of all youth referred never enter the formal courtroom and one-third never entered the courthouse at all because they were diverted to appropriate community programs.

A breakdown of the ND Juvenile Court Caseload by offense type for the latest three-year period shows that a good portion of the juvenile court cases were for status offenses and child neglect/deprivation, while a much smaller number are for person or property offenses.

This significant proportion of status offenses explains the high reliance on diversionary programs and procedures. Possession or consumption of alcohol by a minor continues to be the most common reason for referral to juvenile court.



Youth Corrections (Division of Juvenile Services)

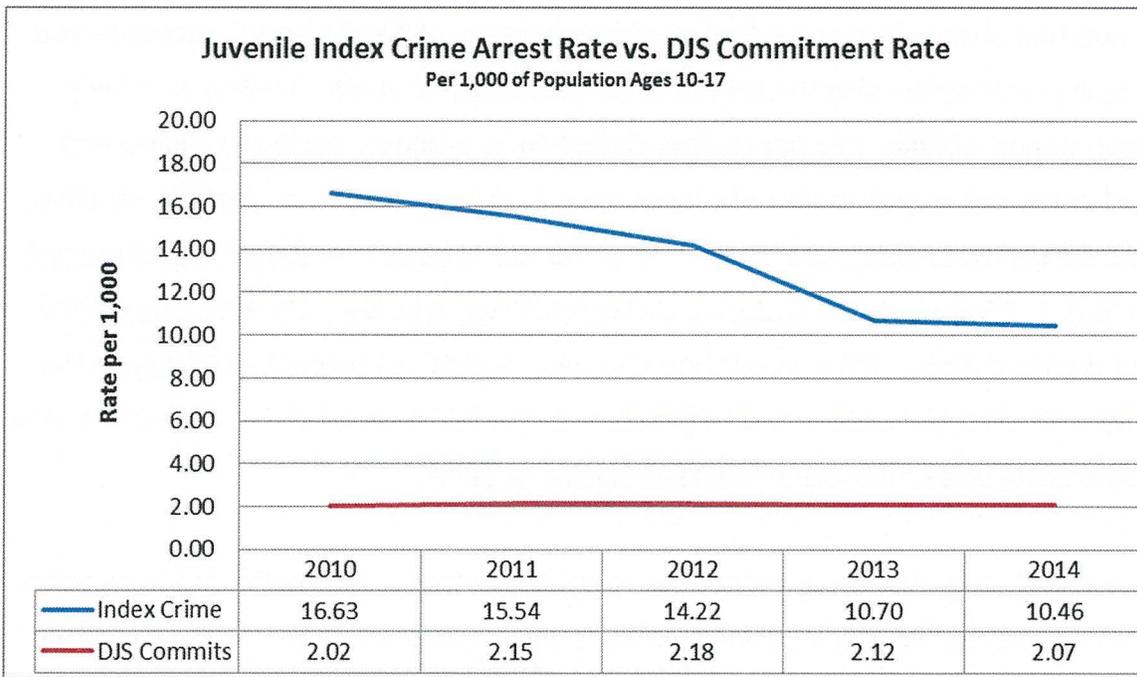
The Division of Juvenile Services sits at the end of the juvenile justice system continuum. After all of the opportunities for prevention, diversion, and early intervention have been exhausted, a youth has the final safety net of juvenile corrections as the last “back stop”.

Over time, the numbers of these youth and their characteristics of this select group has changed in ways that worth discussing. **Attachment C** provides you with a profile of the characteristics of DJS committed youth. Over a relatively short period of time, this population shifted from a largely seriously delinquent and antisocial profile to one of predominantly mental health, substance abusing, and behaviorally disturbed youth. In youth corrections, the population changed so fast that the system needed to retool itself very quickly. By the end of 2010, the characteristics of the youth had changed enough to prompt a change in the way DJS reported data to the Legislature in the 2011 session. Coincidentally, the adolescent unit of the State Hospital closed in 2010.

Since that time, the youth corrections population has continued to move towards the more complex, traumatized and mentally ill group of youth. As an example, the percent of youth with a mental health diagnosis who further met the criteria for a “serious emotional disturbance” was 45%. In 2015, when the numbers were recalculated for the report to the most recent legislative assembly, that percentage rose to 75%.

At a time when juvenile crime rates were falling, here in North Dakota and nationally, commitment rates to youth corrections in North Dakota were not. This is because seriously mentally ill and addicted youth marched steadily through the front door of juvenile corrections. Often, these youth brought with them multiple prescriptions for psychotropic medications, need for psychiatric oversight, complicated Individualized Educational Plans, and other complex needs the likes of which a correctional center is ill-equipped to manage.

There is a distinction here that is important to understand. The actual **numbers** of youth committed did decline because the number of youth in the appropriate age range declined. But the **rate** at which youth were committed to juvenile corrections fell very little. The declining number of youth in the typical at-risk adolescent age range of 10-17 masking what might have an earlier call to examine what has happened within the North Dakota juvenile justice system.



Like any state, North Dakota’s juvenile justice system is complex and unique both in its strengths and challenges. The strengths of this juvenile justice system are many, but of course, no close examination of the issues is complete without a plan to address shortcomings.

Recently, key stakeholders representing the North Dakota juvenile justice system have been afforded the opportunity to apply for significant technical assistance dollars that offer the opportunity to more clearly define the issues and identify which strategies might be the most advantageous to the state, both in terms of capitalizing on strengths and reforming deficits. The team includes

representatives from the Supreme Court, the District Court bench, the juvenile court, juvenile corrections, and the state juvenile justice specialist.

This group has identified areas that are possible starting points in order to create a data-driven system for policy and practice. Better assessment on the front end is needed to appropriately divert youth from the juvenile justice system or in cases when youth must enter, to apply interventions based on a demonstrated need. The juvenile court needs a mechanism that would allow for measuring recidivism and effectively matching youth's risks and needs to programming. Additionally, more community-based mental health and substance abuse services, as well as timely access to those services, are needed to prevent youth from coming into or further penetrating the juvenile justice system. This would also allow - for those youth already in the system – for services to be provided in their home community and not in costly group residential placement, which the research has shown can do more harm than good.

Summary

We are compelled to convene a meaningful and goal oriented conversation about North Dakota's juvenile justice system. **A window of opportunity exists at the present time**, but it is finite. When the current group of elementary aged children enters the high risk period of adolescence, their volume will quickly outstrip existing resources across the juvenile justice system. Then, this conversation will be reactionary, rather than proactive.

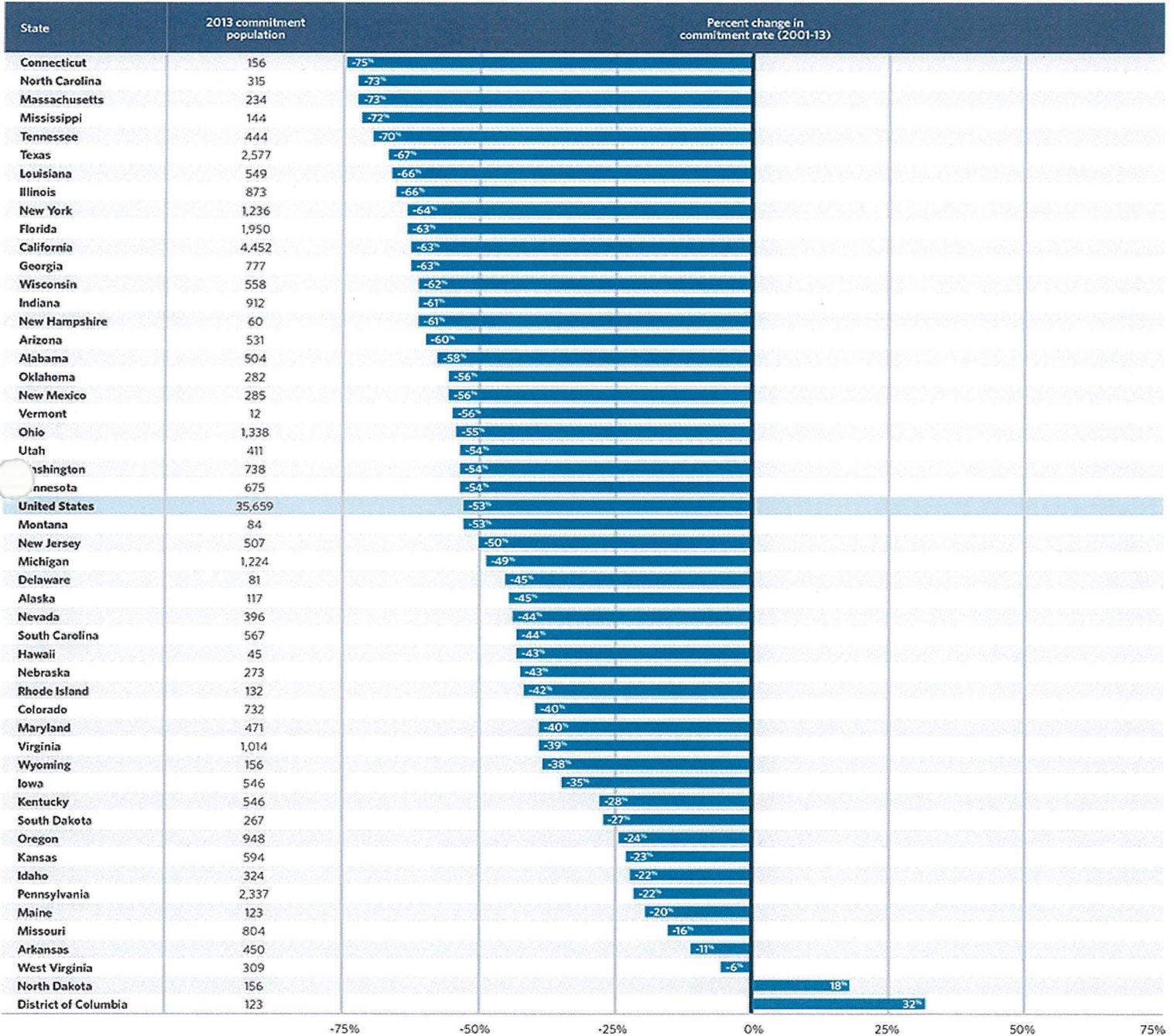
We have available good data, and the benefit of considerable research. We know, when we examine arrest data, where the opportunities to make an impact exist. **Violent youth crime in North Dakota is very low.** This gives us the opportunity to examine more closely what is occurring in over represented categories of crime, particularly those that are discretionary. We can work with law enforcement to understand what drives the high rates of arrest for drug

offenses and disorderly conduct, and develop strategies that might positively impact those rates.

We can support our juvenile courts, the prevention, early intervention, and remediation experts. Juvenile courts are a critical line of defense in producing better outcomes for kids and families, and in diverting youth from the very expensive deep end of the system. **The good news is that we now can access evidence based approaches, practices and policies that we can expect to have positive effects.** We now can do the right things, at the right time, in the right way, and stop growth in the deep end of the system.

Juvenile Commitment Rate Drops 53%

From 2001 to 2013, the U.S. juvenile commitment rate declined 53 percent, according to data recently released by the Department of Justice's Office of Juvenile Justice and Delinquency Prevention.¹ Rates fell in 49 states during this period, including decreases of over 50 percent in more than half of the states. The nationwide reduction reflects a 42 percent drop in juvenile violent-crime arrest rates from 2001 to 2012 and comes as a growing number of states are adopting policies that prioritize costly space in residential facilities for higher-risk youth adjudicated for serious crimes.²



Source: Office of Juvenile Justice and Delinquency Prevention

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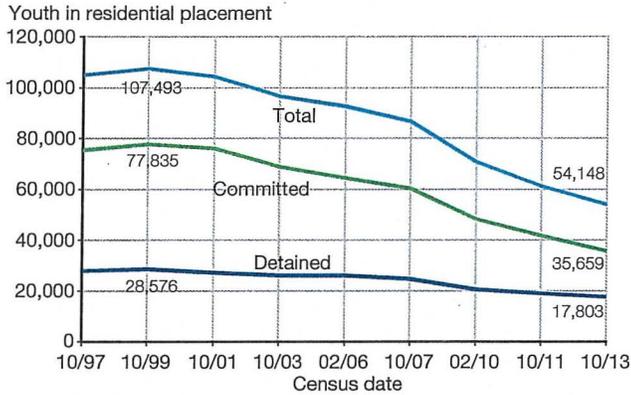
Endnotes

- 1 Data come from the Census of Juveniles in Residential Placement, <http://www.ojjdp.gov/ojstatbb/ezacjrp/>. The census was first administered in 1997, and the most recently published results are from 2013. Pew's analysis includes only youth committed to a facility as part of a court-ordered disposition. The commitment rate is the number of committed juvenile offenders in residential placement per 100,000 youth in the population (ages 10 through the upper age of original juvenile court jurisdiction in each state).
- 2 Charles Puzanhera, "Juvenile Arrests 2012" (2014), Office of Juvenile Justice and Delinquency Prevention, <http://www.ojjdp.gov/pubs/248513.pdf>; Howard N. Snyder, "Juvenile Arrests 2001" (2003), Office of Juvenile Justice and Delinquency Prevention, <https://www.ncjrs.gov/pdffiles1/ojjdp/201370.pdf>.

The Number of Juveniles in Residential Placement Continued to Decline in 2013

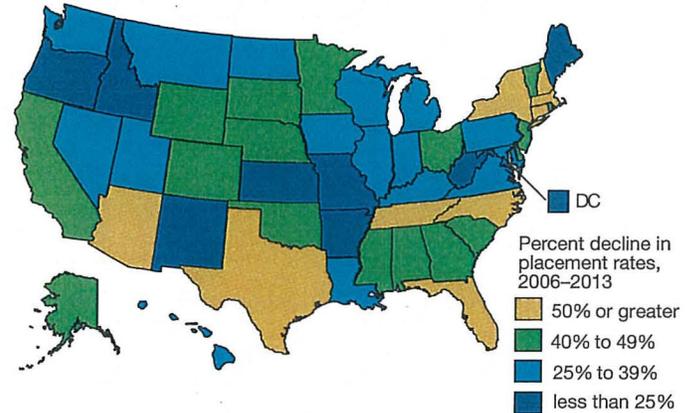
Challenges remain to reduce racial and ethnic disparities and confinement of youth who commit less serious offenses

The number of juveniles in residential placement fell 50% between 1999 and 2013

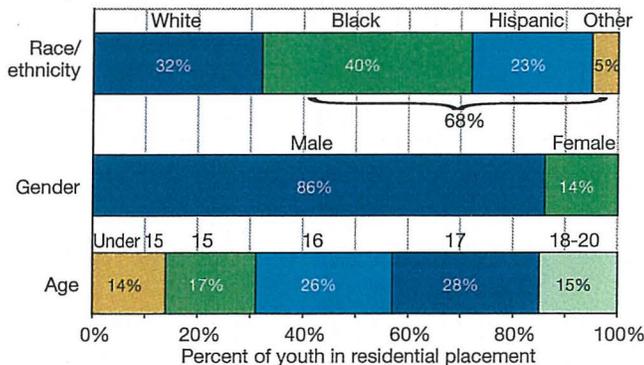


Note: Total includes detained youth, committed youth, and a small number of youth in placement as part of a diversion agreement.

Juvenile placement rates declined in every state from 2006 to 2013; 9 states cut their rates by half or more

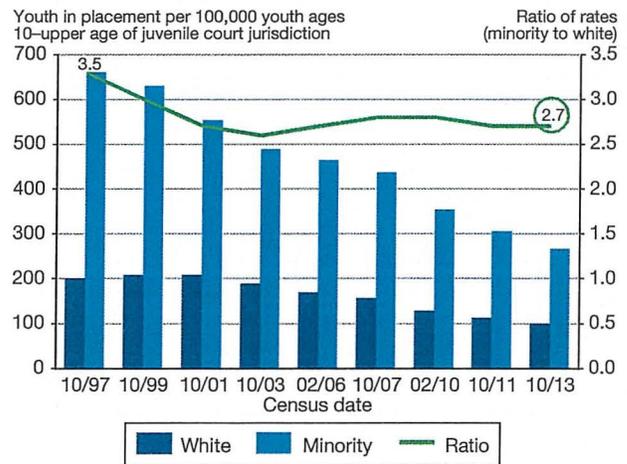


Minority youth accounted for 68% of youth in residential placement in 2013

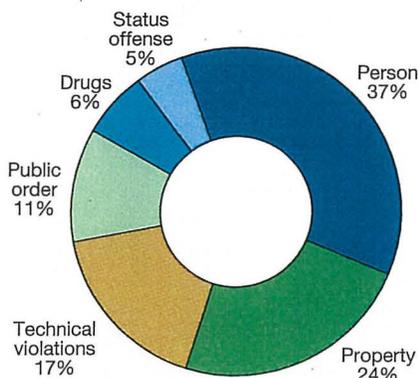


Note: Other race includes American Indian/Alaskan Natives, Asian/Pacific Islanders, and youth of unknown race.

Despite declines, the placement rate for minority youth was 2.7 times that of white youth in 2013



Less than 40% of juveniles in placement in 2013 were held for a person offense



Statistical Briefing Book ojdp.gov/ojstatbb

Access more information on juveniles in placement

- Review FAQs about juveniles in corrections
- Analyze data with Easy Access to the Census of Juveniles in Residential Placement
- View the glossary of terms, methods, and data collection questionnaires

Data source: Office of Juvenile Justice and Delinquency Prevention. *Census of Juveniles in Residential Placement* [machine-readable data files]. Washington, DC: U.S. Census Bureau (producer).

Division of Juvenile Services

March 2015

Profile of Juvenile Corrections Youth

89% have issues with
mental health

- 75% of youth have a serious emotional disorder
- 56% of the youth that have a mental health issue require a medication managed by psychiatry

74% have issues with
substance abuse

- 65% used alcohol before age 15
- 67% have family w/criminality or substance abuse
- 50% used marijuana on a weekly basis

71% have
family instability

- 60% have a family that struggles economically
- 51% have had multiple caretakers
- 50% witnessed parental conflict and/or violence

66% have
academic problems

- 60% have failed 3 or more classes
- 43% have usual grades that are a "D" or "F"
- 36% have had to repeat a grade

99% have
criminogenic risk factors

- 91% are impulsive and take risks
- 87% have opportunity for criminal activities
- 89% have been rebellious over past two years
- 85% associate w/criminal friends or other delinquents

91% have issues with
cognitive reasoning

- 82% appear manipulative and dominate others
- 79% easily lie and get away with it
- 66% blame others or situation
- 63% demonstrate a lack of remorse or guilt

80% lack adequate
social skills

- 59% exhibit negative social perceptions
- 45% do not engage in pro-social activities
- 30% are isolated and lacking social support