

ARKANSAS YOUTH JUSTICE

The Architecture of Reform



By Pat Arthur and Christopher Hartney | February 2012

About the Authors

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STATE OF ARKANSAS
MIKE BEEBE
GOVERNOR

Message from Governor Beebe

Arkansas Youth Justice: The Architecture of Reform

One of my most important goals since becoming Governor of Arkansas has been to implement criminal- and juvenile-justice policies that provide safe and effective community-based alternatives to confinement. I am committed to reforming our juvenile-justice system by reducing our state's reliance on incarceration.

Other leaders of our State share this goal. We will help our youth best, and invest taxpayer dollars most wisely, by providing young people with opportunities in our communities that support their strengths and are effective in setting them on a positive course. Diversion programs for juveniles are a critical part of our effort to be smarter in dealing with crime. I am dedicated to building a strong continuum of care for youth and their families in all Arkansas communities, one that is coordinated across child-serving systems to be most effective and efficient.

I was raised by a single mom who worked long hours to put food on our table. I know firsthand the importance of caring adults in a child's life and the benefit of a place to go for recreation after school. My mother's strength and love was matched only by the goodwill of our neighbors, who always had a place for me at their tables. Youth in Arkansas deserve government systems that adopt the same simple values.

I will continue to demonstrate my commitment to developing strategies to reduce our state's over-reliance on confinement of young people by reinvesting the money saved through less incarceration into more effective community-based support systems and services for youth.

I am grateful to Ron Angel, Director of the Arkansas Division of Youth Services, and to all who have worked by his side, for their efforts to implement the Division's six-year plan to reform the state's juvenile-justice system. They are indeed building a better future for Arkansas's youth, families, and communities.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Beebe".

Mike Beebe

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Introduction

Many in Arkansas have been working together over the past several years to reform the state's juvenile justice system. Leaders in state government—in collaboration with judges, service providers, advocates, probation staff, youth justice experts, and community leaders—are successfully shepherding an antiquated youth justice system into the 21st century.

Much has been learned from research and practical experience about what works, and what does not, to help youth stay away from crime. For decades studies have shown, and experts have repeatedly advised, in Arkansas and around the nation, that placing youth in secure institutional confinement is not an effective way to change the behavior of youth who break the law.¹ Institutional care and secure confinement are, in fact, often harmful.²

In addition, the cost of secure confinement to taxpayers far exceeds what it costs to invest in community-based services proven to be more effective at preventing future criminal behavior.³

Recognizing these principles, and that youth who violate the law can be "more cheaply and effectively managed through programs that supervise and monitor them in the neighborhoods where they live,"⁴ Arkansas leaders, like their counterparts in other states, have embarked on a planned course to transform the state's juvenile justice system. They aim to ensure that youth are not inappropriately or unnecessarily held in costly secure confinement, and that taxpayer dollars are spent wisely on services that actually produce good outcomes for youth, families, and the community.

In just a short period of time, Arkansas has achieved significant

Arkansas leaders, like their counterparts in other states, have embarked on a planned course to transform the state's juvenile justice system.

positive results from reform efforts. From 2008 to 2011, commitments to state custody have been reduced by 20%, including those for low-level, non-dangerous youthful misbehaviors;⁵ the average length of stay in state residential treatment centers has been shortened by 19%; and the number of beds at the state's largest juvenile secure facility, the Arkansas Juvenile Assessment and Treatment Center, was reduced by 30%. The number of youth committed annually to the juvenile justice system who are also the responsibility of the state's child welfare system, the so-called "dual jurisdiction" kids, has been reduced by almost 75%.⁶

The state, moreover, has expanded its investment in new community-based services for youth and families, including new programs that were not available prior to the reform movement. Importantly, these new services are "evidence-based," meaning the program model has been tested by researchers and proven to achieve positive results.

In 2011, funding for the expansion of community services in Arkansas included dollars that were reinvested from savings earned from the decreased use of secure residential beds.

Reform has also resulted in better management of state services for youth. There is greater continuity in agency leadership, and state facilities used for secure confinement provide safer conditions for youth than existed in the past.

In the same period that these changes have occurred, youth crime in Arkansas has decreased, as indicated by declining youth arrest rates. This suggests reduced use of secure custody has not negatively impacted public safety.

Those who have diligently worked together to bring about these changes have much of which to be proud.

But the road to sustainable reform is long. As stakeholders in Arkansas would be the first to observe, there are many stones in the path ahead that remain to be firmly laid.

This report is offered to shine a light on the collective efforts underway in Arkansas to transform the state's juvenile justice system. It describes the work that has been done to build reform over the past four years under the steady and skilled stewardship of Ron Angel, Director of the Division of Youth Services (DYS). It also suggests additional changes in policy and practices that might further "revolutionize" youth services, as is called for in the division's strategic reform plan.⁷

The first section of the report discusses the state of juvenile justice in Arkansas prior to the start of reform efforts. The second section describes the building blocks of reform, including the architecture of the reform process and the essential elements of specific reform initiatives. The last section provides hypothetical scenarios that suggest some of the ways current practices could be changed in order to further DYS' efforts to safely reduce the number of youth held in secure custody. These scenarios are offered to aid the discussions among Arkansas policymakers and stakeholders about ways to further the goals of reform in the future.

The Past

Over the past several decades the Arkansas Division of Youth Services (DYS) was, like so many other youth service agencies around the country, awash in chaos and controversy. Throughout the last decade of the 20th century, and into the first part of the 21st, the best the state had to offer its troubled youth were overcrowded, understaffed, and dangerous juvenile prisons, with far too little rehabilitative programming.

An inadequate array of community-based supports and programs to address the problems underlying a child's delinquent behavior resulted, over time, in the excessive use of secure confinement and an overreliance on state commitments.

The conditions in the overcrowded state facilities became intolerable and unsafe, and remained so for decades. Youth were being physically and emotionally hurt by the trauma of being locked away, and few were getting the rehabilitative services they needed.

Juvenile prisons became overcrowded with youth who experts repeatedly concluded weren't really dangerous but needed more supports in the community, rather than confinement.

No laws, policies, or incentives existed to reserve costly state-funded secure beds for only the most serious and violent youthful offenders. As a result, juvenile prisons became overcrowded with youth who experts repeatedly concluded weren't really dangerous but needed more supports in the community, rather than confinement. As a headline in the *Arkansas*

Democrat-Gazette warned in 1991: "Stacked in centers, youth in trouble fall through the cracks."⁸

Just two years prior to that article's publication, a consultant hired by the state of Arkansas had recommended fewer commitments to state custody of low-risk offenders, especially those being committed for misdemeanor offenses. At the time, about one-third of the youth committed to DYS were being locked up for misdemeanors. As this consultant warned in 1989, "Too many youths who could better be served in community-based treatment" were being inappropriately and unnecessarily held in state confinement.⁹

Moving the clock forward about 10 years, little had improved. DYS continued to be wracked in turmoil and its secure facilities were still unsafe. A five-part series in the *Arkansas Democrat-Gazette* in 1998, entitled "Juvenile Justice: The War Within," chronicled the dangers youth still faced in DYS lock-up facilities. Staff responsible for the care of youth instead abused them. As one parent aptly observed, "If you gonna do violence on kids, how you gonna teach them not to do violence?"¹⁰

In 2001, at the Alexander Youth Services Center, the state's largest correctional facility,¹¹ two boys committed suicide in the same cell within six months of each other.¹²

By 2002, the Civil Rights Division of the United States Department of Justice had become involved. After an investigation, the federal agency found that conditions at Alexander violated the constitutional rights of youth incarcerated at the facility.¹³

In 2003, state officials entered into a settlement agreement with federal authorities promising to improve the treatment of youth in custody at Alexander.

Promises notwithstanding, in 2005, a 17-year-old girl suffering with blood clots in her lungs died at Alexander due to the lack of adequate medical care.¹⁴ Education and mental health services provided to youth in custody continued to be inadequate. Psychotropic drugs were excessively and dangerously used to control youth behavior in the institutions.¹⁵

Frustrated with the lack of progress the state was making to protect youth at Alexander, youth and their advocates threatened a federal lawsuit in 2007 to address the deteriorating and exceedingly dangerous conditions at the facility.



Youth Move Arkansas members visiting the Arkansas state capitol.

On the Road to Reform

Out of this dark past grew the political will to reform. Under the threat of being sued, the newly elected governor, Mike Beebe, responded to the advocates' planned lawsuit with a sincere commitment to change the state's youth justice system.

The Arkansas State Legislature joined the call to reform and the Eighty-Sixth Assembly enacted Senate Resolution 31 in 2007, calling for a study of ways to improve the state's juvenile justice system and a plan to "reduce reliance on large juvenile correctional facilities."¹⁶

To oversee the troubled Division of Youth Services, Governor Beebe appointed a new director, Ron Angel, who immediately began working with advocates to create solutions to the problems that had haunted the agency for decades.

The Importance of Leadership

Redirection of a sinking ship is no easy feat. Perhaps that's why the Arkansas DYS had gone through nine directors in a dozen years prior to Mr. Angel being given charge of the agency.¹⁷

Mr. Angel was surprisingly well-appointed for the seemingly insurmountable task of repairing the state's troubled juvenile justice agency, even though he had no prior direct experience in the field. Just before taking the reins at DYS, he had served a tour of duty in charge of his unit with the Arkansas National Guard in Iraq, and had also retired from a career at the U.S. Department of Veterans Affairs (VA).

His experience at the VA included working as an internal investigator charged with ferreting out fraud and corruption in that agency. He often worked undercover, on occasion posing as a detainee in locked institutions. There he saw firsthand the negative effects of incarceration on human behavior.

Mr. Angel's dedication to creating alternatives to confinement for troubled youth is profoundly informed by his personal experience. "I am a firm believer that institutionalization is not the answer for most kids," he said. "By institutionalizing people...you can teach [them] what you don't want to teach them."¹⁸

Mr. Angel takes seriously his responsibility as DYS director to provide all children, even those who do bad things, a meaningful

opportunity to achieve their true potential. He quickly embraced the expertise offered from outside of government to help build his vision for reform.¹⁹

Now at the agency for more than four years, he has provided the continuity and leadership needed to rebuild broken trust and to strengthen relationships among the agency's essential partners. Mr. Angel's skilled leadership and government officials' ongoing resolve to fix the system have been critical core components of reform efforts in Arkansas.

Mr. Angel's dedication to creating alternatives to confinement for troubled youth is profoundly informed by his personal experience.

Building the Vision

Under Ron Angel's leadership, DYS, experts, and systems stakeholders set out in 2008 to create a plan for reform—one that embraced best practices in juvenile justice. The reformers envisioned a system that expanded the use of non-residential, community-based supports and supervision programs for youth, and decreased the use of secure confinement.

The work of the group was premised on what research repeatedly shows: It is more effective and less costly to provide youth in trouble—who do not pose an immediate or significant threat to public safety—with quality community-based programs and supports, rather than taking them away from home and placing them in secure confinement.²⁰

Also underlying the vision was a recognition that incarceration is potentially harmful to youth²¹ and, as studies have shown, that institutionalized youth are more likely to reoffend than those placed in a community-based alternative.²² And, as further demonstrated by research, the frequency of reoffending decreases as teenagers mature, and the length of stay in an institutional setting does little to contribute to a reduction in the rate of re-offense.²³

Building the vision for reform and the plan to implement it in Arkansas took approximately one year. It involved many stakeholder discussions about how to best shape the future of youth services. Stakeholders examined not only what research shows, but also juvenile justice practices and experiences in Arkansas communities.

Philanthropic Partners Support Reform and Help Build Critical Collaborations

Philanthropic foundations quickly stepped up to support the commitment by government officials to work in collaboration with the system's strongest critics to reform youth services. The JEHT Foundation, Public Welfare Foundation, and The Atlantic Philanthropies have generously invested in the reform process, providing the financial support for the development of the collaborations necessary to bring the state's youth justice system into the 21st century. With funds from the JEHT Foundation, advocates, poised to sue the state, instead hired independent juvenile justice experts to examine the root causes of the persistent problems at Alexander and to make recommendations to government officials about how to address them.²⁴

Harkening back to the consultant's conclusions two decades earlier, these

experts found that the essential problem underlying the state's juvenile justice crisis was an excessive reliance on secure correctional confinement.²⁵

The experts further determined that many of the youth in secure confinement did not require such an expensive and restrictive level of custody, and

were being excessively incarcerated for minor and non-violent offenses.²⁶



A Strategic Planning Committee meeting at the Winthrop Rockefeller Institute.

The report concluded that more effective, less harmful—and less costly—alternatives would better serve these youth without risk to public safety. In particular, the experts recommended that individualized community-based rehabilitative supports and supervision, instead of secure confinement, would better serve these youth, and ultimately the best interests of the state.²⁷

In May 2008, national experts, this time acting in collaboration with DYS, released a jointly prepared report entitled, *Juvenile Justice Reform in Arkansas: Building a Better Future for Youth, Their Families, and the Community*.²⁸ The report identified systemic problems, as well as operational ones, within the system that needed to be changed.

The report also identified specific factors that contributed to the state's overreliance on institutional custody.²⁹ These included: 1) system fragmentation and lack of coordination among DYS, service providers, and the courts; 2) inadequate risk and needs assessments; 3) too few community-based resources to provide individualized supports and interventions to prevent out-of-home placements; 4) lack of positive behavioral interventions in schools to reduce disciplinary referrals of minor offenses to juvenile courts; 5) use of the state juvenile justice system to address the mental health and substance abuse needs of non-dangerous youth, needs that could be more effectively managed and better met with non-custodial interventions and supports; 6) use of the delinquency system to serve the needs of "cross-over" youth, that is, those who have suffered abuse and neglect; and 7) lack of fiscal incentives that favor use of community-based services over state commitments.

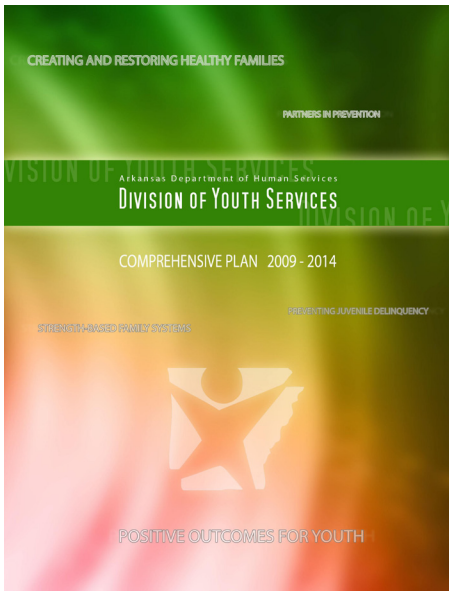
Most importantly, this collaborative report offered solutions to address these factors. It included specific recommendations about how to reform the system to make it more effective, less expensive, and better focused on providing services that actually work to redirect youth from criminal involvement.

The report provided action steps to accomplish systems reform in order to minimize or eliminate each of the factors identified as contributing to the overuse of state commitments and excessive confinement.

This report became a galvanizing guide for moving forward, providing the broad principles that would inform the goals of reform. It helped shape reform efforts around a common understanding of what was wrong with the system and what could be done to fix it.

The Strategic Plan

Using a facilitated process involving representatives of all system stakeholders, including judges, probation, advocates, service providers, prosecutors, parents, youth, education, and behavioral health services, government leaders earnestly set out to develop a plan for reform. The *Arkansas Division of Youth Services Comprehensive Reform Plan 2009–2014* was completed in June 2009 and approved by a 50-member task force appointed by the division.³⁰



The primary intention of the plan was to create a road map to “right-size” the state’s system, transforming it from one that relied excessively on harmful secure confinement and unnecessary state commitments to one that provided youth and families with effective community-based supports and services to prevent out-of-home placement. The plan also aimed to guide the way to a smarter use of state taxpayer dollars—reserving the state’s costly secure beds for only those youth who need to be securely confined because they truly present a danger to the community. Finally, it called for the reinvestment of money saved by the reduced use of secure confinement into community programs proven to be effective at addressing delinquent behavior in youth.

The strategic plan includes numerous goals and objectives to achieve its purpose:

- 1) Conduct a public information and community engagement campaign about the goals of reform.
- 2) Strengthen cooperative partnerships necessary to sustain reform.
- 3) Develop standardized risk and needs assessment tools to inform judicial decisions and DYS placements.
- 4) Develop regional DYS advisory councils.
- 5) Implement a system of graduated responses and an adequate array of alternatives to confinement statewide.
- 6) Increase traditional and nontraditional strength-based services for youth in their communities.
- 7) Expand substance abuse treatment programs.
- 8) Strengthen early intervention and prevention programs, especially in schools.
- 9) Improve data collection and analysis.
- 10) Increase the system’s capacity to provide services in a culturally relevant manner and to meet the needs of special populations.
- 11) Ensure facilities are safe, humane, and treatment-oriented.
- 12) Move toward use of smaller, therapeutic regional facilities when incarceration is necessary.
- 13) Reduce disproportionality in the numbers of youth of color committed and confined.
- 14) Develop a better system of outcome accountability.
- 15) Reinvest dollars saved from reduced secure confinement into community supports to prevent out-of-home placements.

Outcomes to be achieved are indicated in the plan and timeframes for the completion of specific tasks are set.

Independent Oversight

The strategic plan calls for ongoing oversight of its implementation by an independent body to ensure the vision of the plan is realized. An independent oversight committee was thus created in October 2009. It meets quarterly and consists of representatives from DYS, other child-serving state agencies, the Administrative Office of the Courts, service providers, and probation, as well as advocates, parents, judges, and prosecutors. It reviews the progress made toward achieving the goals and objectives of the plan and the timeliness of implementation.

Committee members also help with the actual implementation of the plan. For example, the committee is assisting with the development of a regional structure for DYS, including the establishment of five regional advisory committees. Members of the committee play a key role in engaging community leaders, families, business leaders, and local government officials in systems reform, and in developing outcome measures for service providers under contract with DYS to provide community-based treatment services.

The work of this committee is critical to ensure the sustainability of reform efforts moving forward and to advance initiatives that they identify will best serve reform goals.



Judge Wiley Branton, Jr.

Strengthening Core Partnerships

Communications and relationships within DYS and among its core partners were, not surprisingly, seriously damaged by the decades-long crisis in juvenile justice. Constant changes in agency leadership exacerbated the problem. Rebuilding good communications among core partners in the system—DYS, judges (and their probation staff), and service providers—is essential for implementing the vision laid out in the strategic plan.

Over the course of two years, with support from the Public Welfare Foundation, DYS held a series of six regional and statewide meetings to build better communication among the system's core partners and to strengthen these relationships. Dr. Angela Brenton, Dean of the College of Professional Studies at the University of Arkansas at Little Rock, facilitated the meetings with a focus on dismantling the distrust and discord within the system that threatened to derail reform efforts. DYS leadership

also conducted additional meetings with juvenile judges around the state.

Rebuilding good communications among core partners in the system—DYS, judges (and their probation staff), and service providers—is essential for implementing the vision laid out in the strategic plan.

Over time, these meetings had a productive effect in advancing reform by bringing together key stakeholders to work on the shared goal of creating better opportunities for youth in trouble in Arkansas.

Communications Strategy

As another critical step, Arkansas reformers developed a communications plan to help inform the public about the need for change and to involve the community in reform efforts.

As part of the communications strategy, reformers engaged in a process to develop public messages and other communications materials that reflected the goals and principles of reform. With the assistance of an Arkansas marketing firm, Mangan Holcomb Partners, DYS conducted statewide meetings of stakeholder groups to test and develop the messages of the reform. These efforts resulted in the launch of “The Truth of Youth” campaign, an initiative aiming to make Arkansans more aware of the need to reform the state’s juvenile justice system.

The communications toolkit developed as part of the Truth of Youth campaign is designed for use by individuals, organizations, and government partners to advance reform efforts. It includes posters with eight different reform messages to hang in public places, a PowerPoint presentation about the goals and purposes of reform, a brochure for distribution at public meetings and presentations, “elevator speeches” about the need for reform and reform goals, drop-in ads for community and local newspapers,

**Change is hard,
not impossible.**

TRUTH OF YOUTH The majority of kids who complete community-based programs become successful, contributing citizens.
A message from the Arkansas Division of Youth Services

**Community-based programs
work for kids...
and their communities.**

TRUTH OF YOUTH Kids who have participated in effective community programs are less likely to be arrested again.
A message from the Arkansas Division of Youth Services

**Good kids will
make bad choices.**

TRUTH OF YOUTH Teenagers sometimes make poor choices. That doesn't make them bad people.
A message from the Arkansas Division of Youth Services

**Kids learn
quickly.**

TRUTH OF YOUTH It's up to us to make the lesson positive.
A message from the Arkansas Division of Youth Services

Truth of Youth drop-in ads for community newspapers.

sample letters to public officials about the need for reform, and fact sheets about juvenile justice issues and reform goals.³¹

Since the messages are about youth, extra effort was taken to ensure that young people were involved in the development of these materials. Youth leaders from Youth Move Arkansas, a youth-led organization devoted to improving services and supports to children and youth of Arkansas, provided valuable input, as well as some of the photography used in the campaign, and in this report.³²

Building Community-based Service Capacity

As in so many states nationwide, youth in trouble in Arkansas are taken from their homes and communities and committed to state custody largely due to insufficient community-based service capacity. Judges who make the hard day-to-day decisions about how best to redirect youth who break the law say they are too often required to place youth in the secure custody of the state because there is not an adequate array of alternative community-based service and supervision options.³³ A key to reform and reducing reliance on commitments to state custody, therefore, has been the identification of service gaps and expansion of community-based service capacity.

In partnership with DYS, students at the University of Arkansas Clinton School of Public Service helped survey the gaps in community supports for youth and families in several key judicial districts in Arkansas. In addition, beginning in 2011, the state began to require, through its contracting process, that community-based providers collect and analyze data for each judicial district they

serve to determine the needs of the district's youth, and gaps in services along the continuum, in each community.

As part of the reform efforts, state leaders, service providers, judges, and legislators also visited community-based programs with proven track records of success in other states. Stakeholder delegations from Arkansas went to New York, Texas, Illinois, Missouri, Ohio, and Louisiana to see firsthand successful community-based program models, some of which were then emulated in Arkansas. For example, the Youth Advocacy Program (YAP) model, offering effective and cost-efficient alternatives to secure institutional placements,³⁴ is now being piloted by DYS in several communities in Arkansas.³⁵ Also, multisystemic therapy (MST)—an evidence-based program that provides intensive family and youth counseling and is proven to reduce recidivism³⁶—is now available in Arkansas as a result of the intentional effort to fill service gaps. Importantly, MST has also been proven to be cost-effective.³⁷

Nevertheless, huge gaps in community-based service alternatives still exist statewide, and some areas of the state are much more richly resourced with non-state funded community supports for youth.

Investment in What Works

Committed to building the infrastructure needed for sustainable reform, Governor Beebe included funding to expand community-based programming in his 2010 state budget. He also invested \$1.7 million of federal stimulus funds to create new community-based options through a fiscal incentives initiative that is part of the service provider contracting process. In 2011, DYS reinvested \$700,000 that it saved from the reduced reliance on residential beds into increasing community-based service capacity.³⁸



Governor Beebe speaking at a press conference about juvenile justice reform in Arkansas.

“Commitment Reduction” Service Provider Contracts

In Arkansas, state funding for most residential and community-based youth services flows through DYS. The state agency then contracts out the responsibility to provide services—for both committed youth and youth at risk of commitment—to a network of nonprofit service providers.³⁹ Historically, contracts for these services have not required any formal commitment goals or created disincentives for reducing state

commitments through the contracting process.

In 2010, however, DYS implemented an innovative initiative in its provider contracting process that has been very successful in reducing commitments to DYS. This “commitment reduction” contracting initiative is intended to “reduce dependency on secure confinement in Arkansas to address the needs of youth in trouble and their families.”⁴⁰

Beginning with contracts entered into on July 1, 2010, DYS has required each service provider to work in collaboration with the local juvenile court judges in their provider area, and other system stakeholders and child-serving systems, to more

Table 1. Offenses Excluded from Targeted Reductions

| OFFENSE DESCRIPTION |
|---|
| Homicide |
| Aggravated Assault |
| Forcible Rape |
| Arson |
| Battery, First Degree |
| Burglary |
| Kidnapping |
| Murder |
| Rape |
| Robbery (includes Aggravated Robbery and Robbery) |
| Attempted Aggravated Robbery |
| Attempted Capital Murder |
| Battery, Second Degree |
| Sexual Abuse |
| Sexual Assault, First Degree |
| Criminal Attempt |
| Conspiracy to Manufacture Controlled Substances |
| Delivery of Controlled Substance |
| Possession of a Weapon |

effectively coordinate and use available community-based services with the stated goal of reducing state commitments. The commitment reduction contracts specify an expected goal of at least a 10% annual reduction of state commitments. They also provide that if a 20% reduction in state commitments is achieved, service contractors may then apply for an award of new grant funds, otherwise unavailable, as an additional commitment reduction incentive.

The contracts specify that service providers will not be penalized for the commitment of serious, violent, and/or chronic youthful offenders to DYS. More explicitly, the contracts exempt from the 10% reduction goal any youth committed to DYS by a juvenile court for any one of the offenses listed in Table 1 (on page 11). (Appendix B lists the offenses that were targeted for the reductions in fiscal years 2010 and 2011.)

Judicial districts and service providers have been successful in meeting the goals set forth in these commitment reduction contracts since they were implemented beginning on July 1, 2010. Judicial districts did indeed achieve contract goals of reducing state commitments by 20% of targeted offenses during the contract period.

Participation in the System of Care and Interagency Coordination

The new DYS service provider contracts also imposed important new contractual requirements intended to enhance coordination of services among other child-serving agencies, and to improve the outcomes achieved for youth at risk of commitment to state custody.

In 2010, for the first time, DYS service providers were required to participate in the Department of Human

Services' System of Care, the state's coordinated network of children's services providing comprehensive, integrated, and individualized services to Arkansas' children and families. They were contractually required to use the System of Care information data tracking system and receive System of Care "wraparound" training.⁴¹

The new provider contracts thus recognized that providing more effective supports for youth depends on a community's more efficient use of behavioral health, substance abuse, education, vocational, recreational, child welfare, and health services coordinated through the System of Care.⁴²

The suspension, rather than termination, of a youth's eligibility for state Medicaid during the period of a youth's commitment to DYS was another initiative called for in the strategic plan designed to advance interagency cooperation. The state has now implemented this change in policy. Instead of terminating Medicaid eligibility upon commitment, the state now suspends it until release, which prevents excessive and harmful delays in the resumption of benefits as youth return to the community. While implementation of the new policy is not yet seamless, it has resulted in much greater continuity in the transfer of health care, including behavioral health care services, at reentry for youth.⁴³

Improving Data Capacity and Coordination

A primary goal of the state's reform plan is to ensure that policies and programs are data driven. The systematic collection and analysis of data to determine the needs of youth, and effectiveness of publicly funded services, are essential to ensure that state dollars are being spent wisely.

Using federal stimulus funds, DYS has been able to improve its statewide data management system called "Rite Track." Upgrades in the system improved its function and reporting capabilities. The DYS database system has also been integrated with the data system used by the state's child welfare agency.

DYS is committed to the important goal of integrating and analyzing state juvenile justice data at different key points of system contact (arrest, detention, juvenile court referrals, diversion, petitions filed, adjudication, probation, secure confinement, and transfer/waiver to adult courts).⁴⁴ This commitment to comprehensive collection and analysis of data now dispersed in several places throughout the system promises to significantly increase the state's capacity to make better data-driven policy decisions.

Risk and Needs Assessments

As part of reform, the Administrative Office of the Courts (AOC) and DYS developed and implemented more meaningful assessments to determine the individual needs of youth, as well as the risk they present to community safety, to better inform commitment and placement decisions.

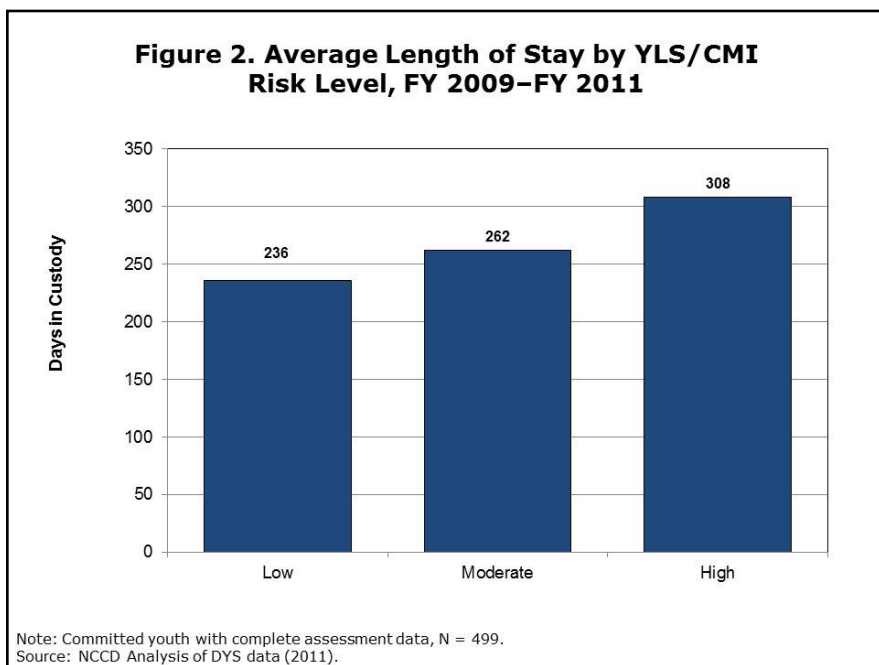
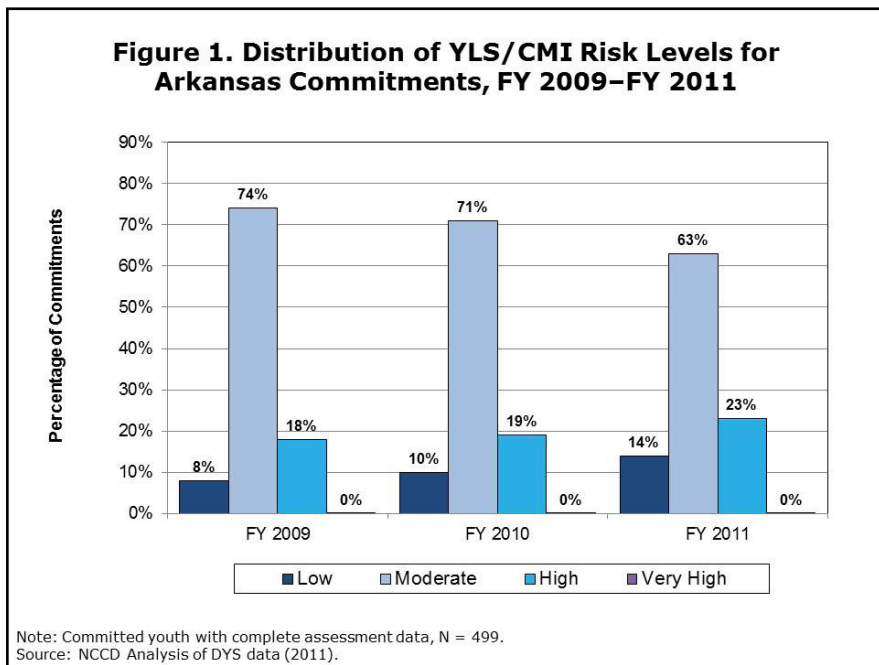
The AOC engaged in a process in 2009 involving juvenile court judges, prosecutors, public defenders, probation, and DYS representatives to devise an instrument to assess youths' risk and social history factors. The Circuit Court Risk Assessment, developed through this process, is administered by AOC⁴⁵ and used by juvenile judges as a resource in delinquency dispositions. The assessment is to be completed by a juvenile officer prior to delinquency disposition and probation or aftercare violation hearings if there is a recommendation made for DYS

commitment or a likelihood of a DYS commitment at disposition.

DYS also began using a risk and needs assessment on all youth committed by juvenile courts to state custody. The Youth Level Service/Case Management Inventory (YLS/CMI) tool was used by DYS beginning in 2008, but was not fully implemented for use with the entire population of committed youth until after implementation of the strategic plan in 2009.

Risk assessments in general have been proven to aid in a more accurate prediction of future offenses, and the YLS/CMI instrument in particular has been determined to be among the best of 28 tools studied, in terms of factors such as having a high predictive validity.^{46, 47}

Youth may be scored as being low, moderate, high, or very high risk. Figure 1 shows the distribution of YLS/CMI risk levels across all commitments (for those youth with completed assessments) for 2009 through 2011. During this timeframe, most youth were scored as moderate risk, and no youth were scored as very high risk. Figure 2 shows the average length of stay for 2009 through 2011 by YLS/CMI risk level, showing the higher the risk, the longer time served.



In addition, in order to inform placement decisions, DYS contracted with the University of Arkansas for Medical Sciences (UAMS) beginning in 2008 to conduct comprehensive social, medical, physical, and mental health evaluations on all committed youth, most of whom are held in juvenile detention facilities awaiting placement by DYS.

Length of Stay Matrix

As part of its intake process, DYS now calculates a presumptive length of stay (LOS) for every youth using a matrix that includes a youth’s prior offense history, including the severity of the prior offenses, as well as the committing offense and unique characteristics associated with it, such as whether aggravating or mitigating

factors were involved. The matrix also scores other risk and needs factors, such as the youth's substance abuse history, in order to develop a presumptive LOS in DYS custody (excluding aftercare).⁴⁸ This process produces a minimum and maximum number of months the youth should be held before being released or placed on an aftercare plan.

The presumed LOS calculated through this method becomes the release goal for DYS and its service providers who will be providing all the residential and community-based services to youth committed to DYS under contract with the agency. Meeting that goal is often challenging, as revealed by data showing the actual LOS of youth in provider placements and the presumed LOS as calculated by DYS at the point of commitment.

Successes So Far

The reforms underway in Arkansas have achieved good results in a relatively short period of time.

From 2008 through 2011, commitments to state custody are down by 20%. Commitments for misdemeanor-level offender behavior have been reduced 24% during the same time period.⁴⁹

For the same period, the average LOS in state treatment centers is shorter—it was 216 days in fiscal year 2008, and reduced to 175 days in fiscal year 2011. The number of beds at the state's largest juvenile secure facility, the Arkansas Juvenile Assessment and Treatment Center, has been reduced from 143 to 100. And the number of youth committed annually to the juvenile justice system who are also the responsibility of the state's child welfare system, the so-called

"dual jurisdiction" kids, has been significantly reduced—down from 62 such youth in fiscal year 2009 to only 16 in fiscal year 2011.⁵⁰

For the three-year period beginning in 2006, the rate at which youthful offenders in Arkansas committed a new offense was only 27.8%. DYS recommitments fell by 15% from 2009 through 2011.⁵¹

The reform initiatives underway in Arkansas are indeed showing great promise, and are beginning to prove that better outcomes can be achieved for Arkansas youth, families, and communities. More quantitative data are needed to establish the actual outcomes over time of specific programs on the lives of youth, but all indicators thus far are showing good results.⁵²

Youth and their families who have been provided access to the new community-based programs made available through reform efforts offer a testament to what can be achieved when resources are spent on the right supports for youth and their families, instead of on the cost of confinement.

Darlene and Duane, whose stories are told on the next page, are two representative examples of what has been achieved in Arkansas through the expansion of effective community-based services.⁵³

Darlene

Now age 18, Darlene attends the University of Arkansas at Pine Bluff and works part-time at a restaurant. But when she was 16, Darlene was on a far different course. Caring adults and community-based programming helped Darlene turn her life around.

When Darlene was 16, she went in a car with several adults to a store. She remained in the car while the adults robbed the establishment. They were caught, and Darlene was adjudicated a delinquent in juvenile court. She could have been charged as an adult for the crime.

Darlene was placed on probation by the juvenile judge instead. She completed 160 hours of court-ordered community service and was placed on electronic monitoring.

Darlene also had a drug use problem, and repeatedly violated the terms of her probation. She broke her curfew and on several occasions tested positive for drugs.

Instead of sending her to DYS, juvenile court staff and the service provider worked with Darlene to help her mature and break the pattern of her destructive behaviors.

Darlene received outpatient substance abuse treatment on probation and enrolled in a 10-week adolescent improvement class where she learned responsibility and how to make better choices. She developed life skills such as how to manage a bank account and apply for work opportunities.

Darlene also participated for six months in the Youth Advocacy Program (YAP), one of the new community-based services that DYS is expanding with savings recouped from reduced residential costs. In this program, Darlene was given a caring advocate who met with her weekly and provided a sorely needed "listening ear," "without prejudice."⁵⁴ Also as part of YAP, Darlene helped paint over graffiti in the city, and completed a summer program called "PEACE" (Police Engaging Adolescent Character and Excellence).

Darlene was never committed to DYS or held in a DYS secure facility. Due to the supports she was given in the community, and her personal growth, she is now on the road to success.

Duane

Duane is 16 years old. He and his family have successfully completed the multisystemic therapy (MST) program offered to them through their community-based service provider. The program has helped the family resolve the issues that were underlying Duane's problem behavior.

Prior to participating in the community-based MST program, Duane had a two-year history of getting into trouble in two states. His "delinquent" background included stealing, truancy, and defiance at home and school. Duane also had a problem with substance abuse. Duane was referred to the MST program by his probation officer.

Over the course of five months, MST therapists provided multiple weekly intensive in-home therapy sessions to Duane and his family. At first, Duane's parents didn't think the program was necessary. They felt that their problems with Duane were hopeless. But the in-home therapy sessions turned the situation around.

The therapy helped teach Duane's parents how aspects of their parenting contributed to the difficulties in the home. It gave them new parenting skills that helped them to create an effective behavior plan with Duane and the confidence to enforce it.

The conflict in the home decreased. Duane now attends school every day, has above-average grades, and has stopped using drugs or alcohol. He is no longer angry or defiant at school. And these successes were achieved without a secure residential placement.



Plaque at the Pulaski County Courthouse.

The Road Ahead

In these final sections, the authors present six hypothetical scenarios to provide some examples of changes in policies or practices that might further reduce the use of secure confinement. The scenarios presented here are not intended to be prescriptive or exclusive. Rather they are offered to aid conversations in Arkansas as reform efforts move forward, and to give estimates of the potential reductions in custody populations if changes such as these were pursued.

The authors intend for the scenarios to serve as a tool for stakeholders and policymakers in Arkansas. The scenarios are presented to provide estimates, based on the available data, of how many youth might be safely diverted from commitment in the future were these or similar scenarios pursued, thereby allowing stakeholders to consider resources they may have to redirect toward alternative, community-based programming.

Following a discussion of various trends in demographic and system data, we provide estimates of the effect that certain proposed changes would have on the secure residential bed need in DYS and the funds that would potentially become available for other uses as less is spent on secure custody.

Trends Relevant to Future DYS Bed Space Needs

The following trends are reported in order to provide a backdrop to the reform scenarios described below. As can be seen here, statistics regarding population, reported crime, arrests, and commitments are relatively flat in Arkansas and, in most cases, have dropped consistently in recent years. There is no indication that a significant

change up or down is expected in the next several years.

Population and Reported Crime Trends

The state population grew 9.1% and the youth population (under age 18) just 4.6% between the 2000 and 2010 U.S. Censuses. This represents an average annual rise of just 0.5%. The overall Arkansas growth rate was almost identical to the national growth in this period (9.1% vs. 9.7%, respectively), while the growth rate of the youth population in Arkansas was higher than the national change (4.6% vs. 2.6%, respectively).

As shown in Table 2, between 2000 and 2010, 51 Arkansas counties lost youth population while 24 counties gained it.

Table 2. Population Under 18 by Arkansas County, 2000 and 2010

| County | Judicial District | 2000 | 2010 | Percent Change | County | Judicial District | 2000 | 2010 | Percent Change |
|--------------|-------------------|--------|--------|----------------|--------------|-------------------|--------|--------|----------------|
| Arkansas | 11E | 5,150 | 4,425 | -14.1% | Lee | 1 | 3,277 | 2,160 | -34.1% |
| Ashley | 10 | 6,491 | 5,330 | -17.9% | Lincoln | 11W | 3,215 | 2,743 | -14.7% |
| Baxter | 14 | 7,281 | 7,506 | 3.1% | Little River | 9W | 3,430 | 3,137 | -8.5% |
| Benton | 19W | 40,821 | 61,848 | 51.5% | Logan | 15 | 5,824 | 5,491 | -5.7% |
| Boone | 14 | 8,123 | 8,585 | 5.7% | Lonoke | 23 | 15,188 | 18,831 | 24.0% |
| Bradley | 10 | 2,968 | 2,681 | -9.7% | Madison | 4 | 3,817 | 3,801 | -0.4% |
| Calhoun | 13 | 1,415 | 1,102 | -22.1% | Marion | 14 | 3,571 | 2,983 | -16.5% |
| Carroll | 19E | 6,080 | 6,183 | 1.7% | Miller | 8S | 10,734 | 10,549 | -1.7% |
| Chicot | 10 | 3,876 | 2,724 | -29.7% | Mississippi | 2 | 15,407 | 13,104 | -14.9% |
| Clark | 9E | 5,104 | 4,480 | -12.2% | Monroe | 1 | 2,862 | 1,840 | -35.7% |
| Clay | 2 | 4,068 | 3,590 | -11.8% | Montgomery | 18W | 2,174 | 1,998 | -8.1% |
| Cleburne | 16 | 5,122 | 5,162 | 0.8% | Nevada | 8N | 2,509 | 2,131 | -15.1% |
| Cleveland | 13 | 2,242 | 2,151 | -4.1% | Newton | 14 | 2,142 | 1,736 | -19.0% |
| Columbia | 13 | 6,420 | 5,594 | -12.9% | Ouachita | 13 | 7,453 | 6,145 | -17.5% |
| Conway | 15 | 5,169 | 5,145 | -0.5% | Perry | 6 | 2,586 | 2,402 | -7.1% |
| Craighead | 2 | 19,809 | 24,141 | 21.9% | Phillips | 1 | 8,513 | 6,113 | -28.2% |
| Crawford | 21 | 15,032 | 16,350 | 8.8% | Pike | 9W | 2,816 | 2,787 | -1.0% |
| Crittenden | 2 | 15,834 | 14,809 | -6.5% | Poinsett | 2 | 6,684 | 5,959 | -10.8% |
| Cross | 1 | 5,435 | 4,494 | -17.3% | Polk | 18W | 5,174 | 4,921 | -4.9% |
| Dallas | 13 | 2,410 | 1,913 | -20.6% | Pope | 5 | 13,900 | 14,241 | 2.5% |
| Desha | 10 | 4,428 | 3,377 | -23.7% | Prairie | 17 | 2,284 | 1,878 | -17.8% |
| Drew | 10 | 4,832 | 4,361 | -9.7% | Pulaski | 6 | 91,210 | 92,185 | 1.1% |
| Faulkner | 20 | 22,006 | 27,742 | 26.1% | Randolph | 3 | 4,479 | 4,171 | -6.9% |
| Franklin | 5 | 4,591 | 4,431 | -3.5% | Saline | 22 | 21,276 | 26,139 | 22.9% |
| Fulton | 16 | 2,650 | 2,598 | -2.0% | Scott | 15 | 2,919 | 2,883 | -1.2% |
| Garland | 18E | 18,759 | 20,093 | 7.1% | Searcy | 20 | 1,873 | 1,675 | -10.6% |
| Grant | 7 | 4,268 | 4,315 | 1.1% | Sebastian | 12 | 29,937 | 31,882 | 6.5% |
| Greene | 2 | 9,411 | 10,590 | 12.5% | Sevier | 9W | 4,446 | 5,040 | 13.4% |
| Hempstead | 8N | 6,446 | 5,878 | -8.8% | Sharp | 3 | 3,747 | 3,717 | -0.8% |
| Hot Spring | 7 | 7,608 | 7,686 | 1.0% | St. Francis | 1 | 8,193 | 6,677 | -18.5% |
| Howard | 9W | 3,840 | 3,623 | -5.7% | Stone | 16 | 2,557 | 2,555 | -0.1% |
| Independence | 16 | 8,396 | 8,792 | 4.7% | Union | 13 | 11,832 | 10,061 | -15.0% |
| Izard | 16 | 2,768 | 2,625 | -5.2% | Van Buren | 20 | 3,487 | 3,537 | 1.4% |
| Jackson | 3 | 4,081 | 3,734 | -8.5% | Washington | 4 | 39,492 | 51,484 | 30.4% |
| Jefferson | 11W | 22,161 | 18,428 | -16.8% | White | 17 | 16,376 | 18,433 | 12.6% |
| Johnson | 5 | 5,733 | 6,329 | 10.4% | Woodruff | 1 | 2,274 | 1,672 | -26.5% |
| Lafayette | 8S | 2,174 | 1,776 | -18.3% | Yell | 15 | 5,451 | 5,831 | 7.0% |
| Lawrence | 3 | 4,258 | 3,992 | -6.2% | | | | | |

Figure 3 shows that the overall population of youth under age 18 has grown in the past decade, mainly due to an increase in Hispanics and in Asian and other races. Both the White and African American youth populations are dropping.

Figure 4 shows that in 2010 overall reported crime in Arkansas was at its lowest level in the past decade and has dropped each year since 2005. Property crime fell 12% from 2005 to 2010, while violent crime fell 9% from 2006 to 2010, despite a small rise in 2008–2009.

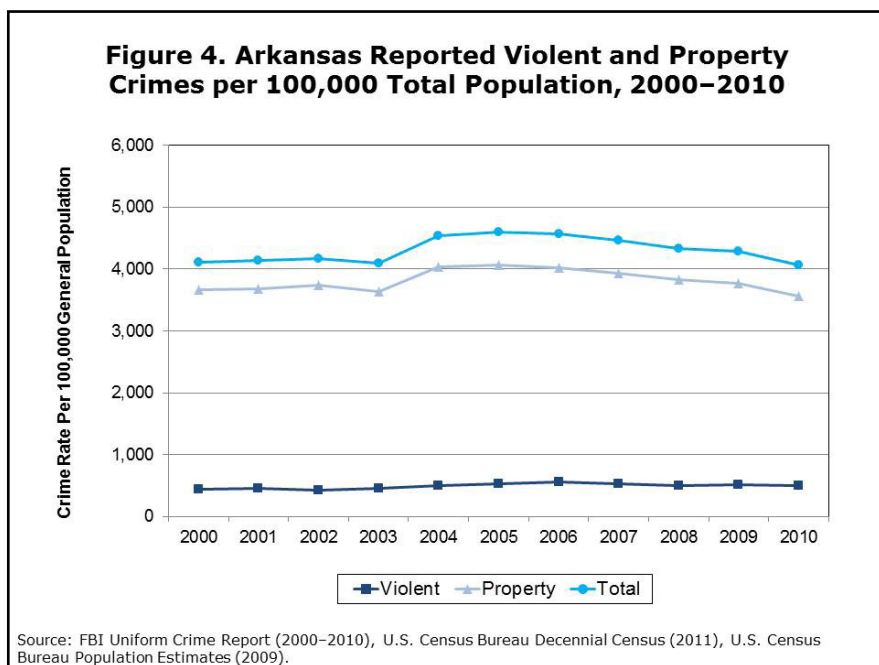
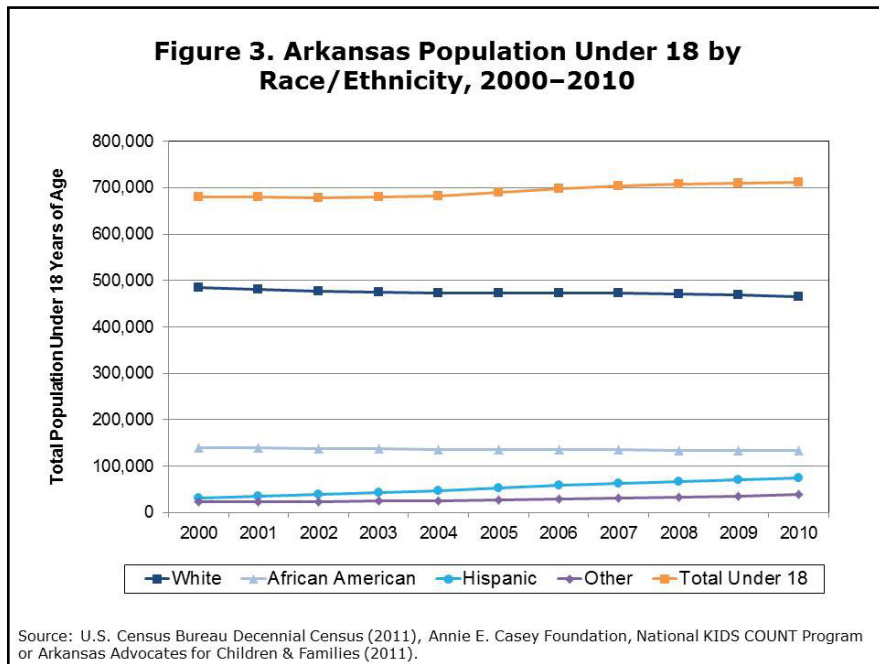
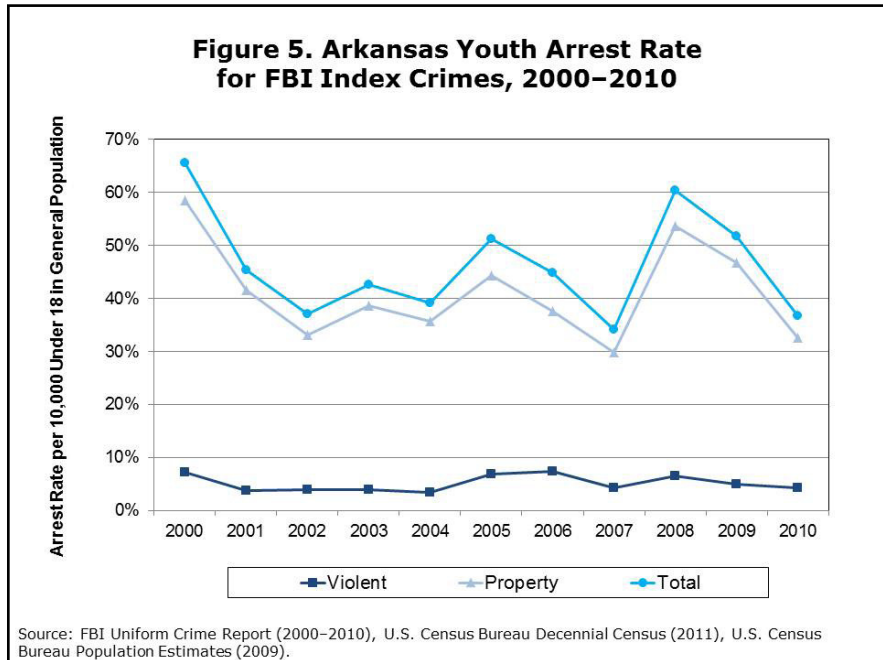


Figure 5 shows that while the arrest rate for Arkansas youth has fluctuated over the past decade, it has dropped over the past three years (2008 to 2010) and as of 2010 is at nearly its lowest point in 10 years—only 2007

had lower arrest rates than 2010, which is the last year for which data is reported. The 2010 rates overall, and for both property and violent crimes, were over a third less than the 2008 rates.



DYS Commitment Trends

The number of DYS commitments fell over 25% since fiscal year 2009, including overall and for felonies and misdemeanors. The overall number of commitments in fiscal year 2011, and in particular the number of commitments for misdemeanors, were the lowest of the past decade. Commitments for misdemeanors

are almost half what they were in 2001. Also, misdemeanors now make up about a third of commitments, whereas 10 years ago they represented more than half, as shown in Figure 6a.

Figure 6b shows felonies made up almost two-thirds and misdemeanors over one-third of fiscal year 2011 commitments.

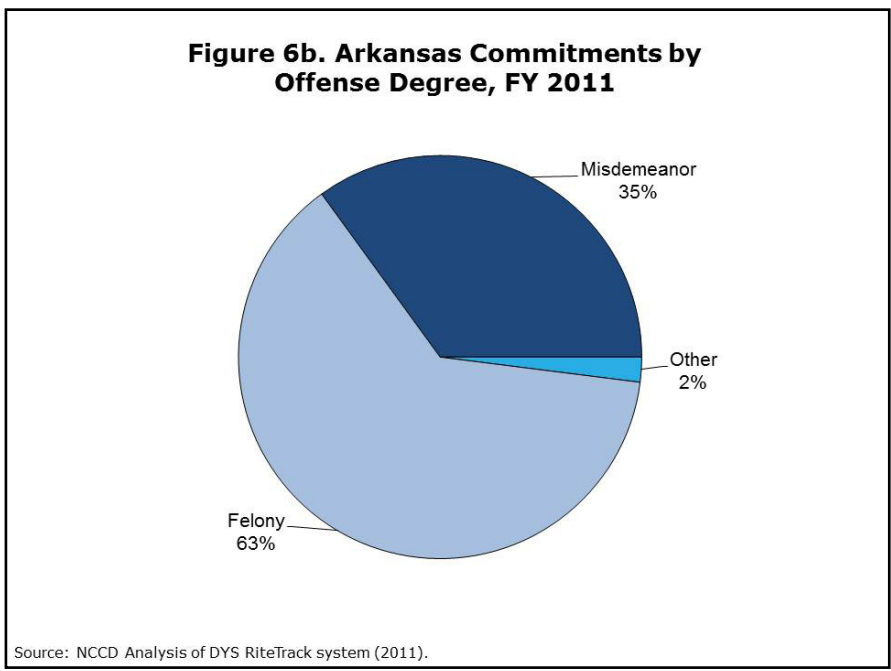
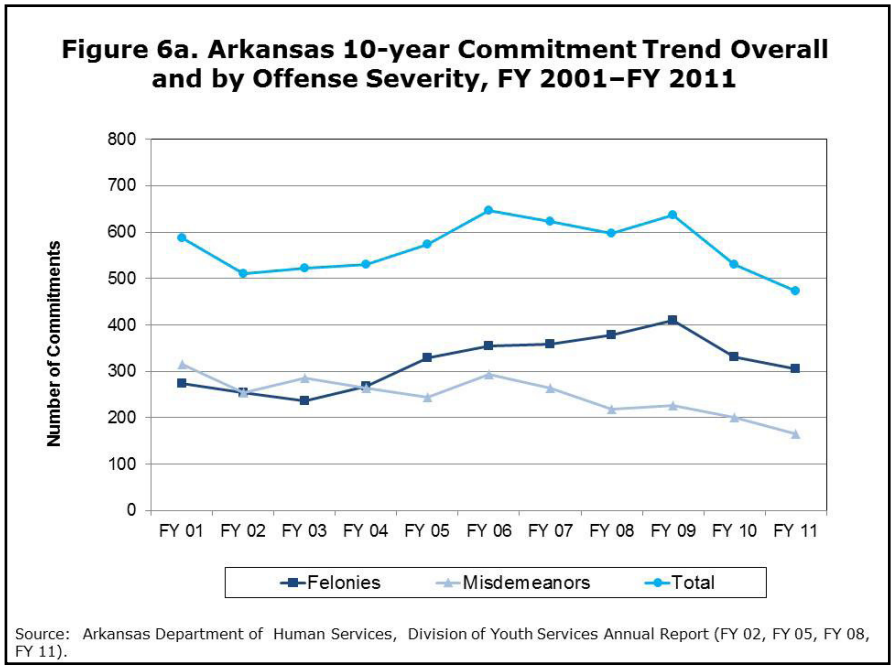
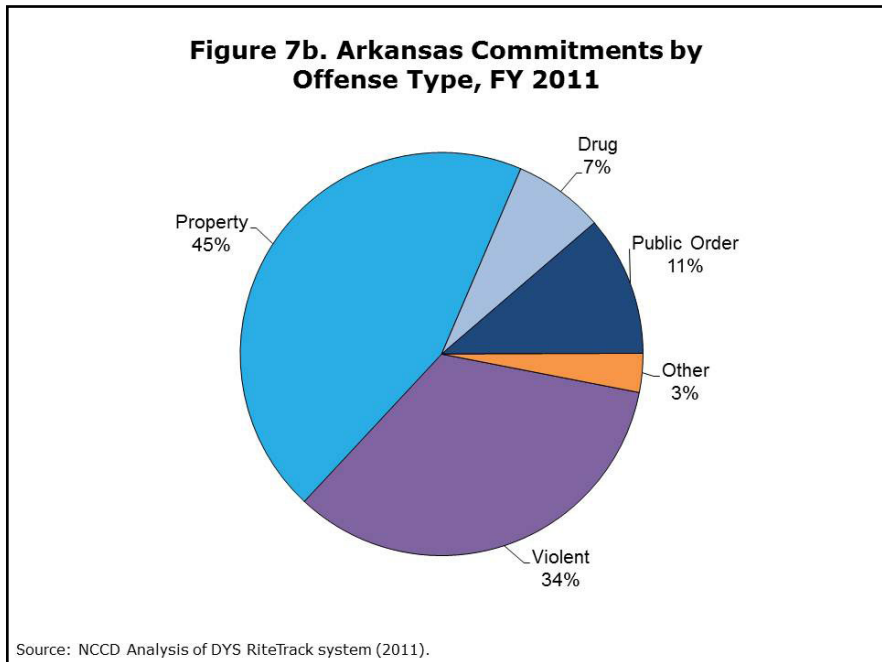
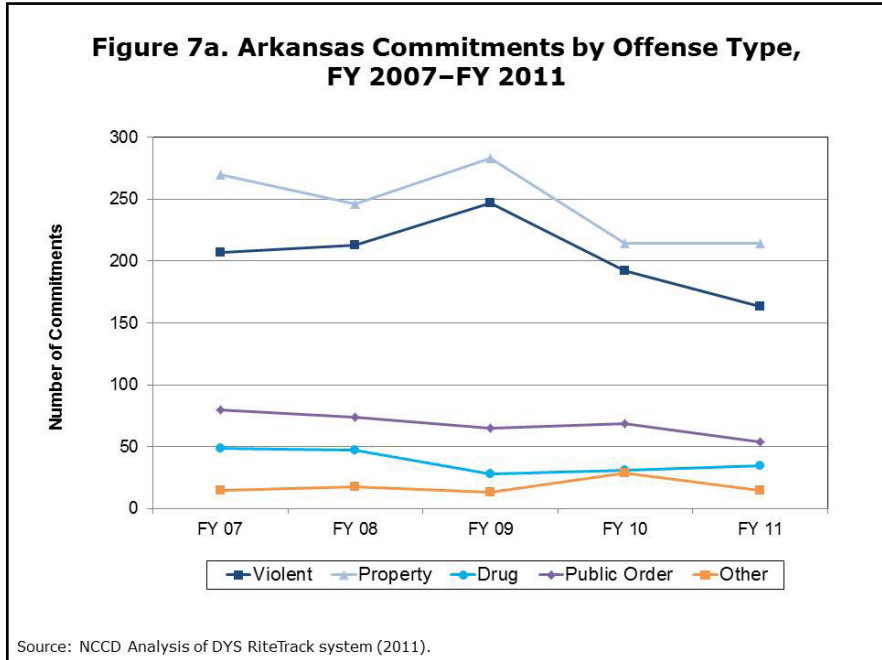
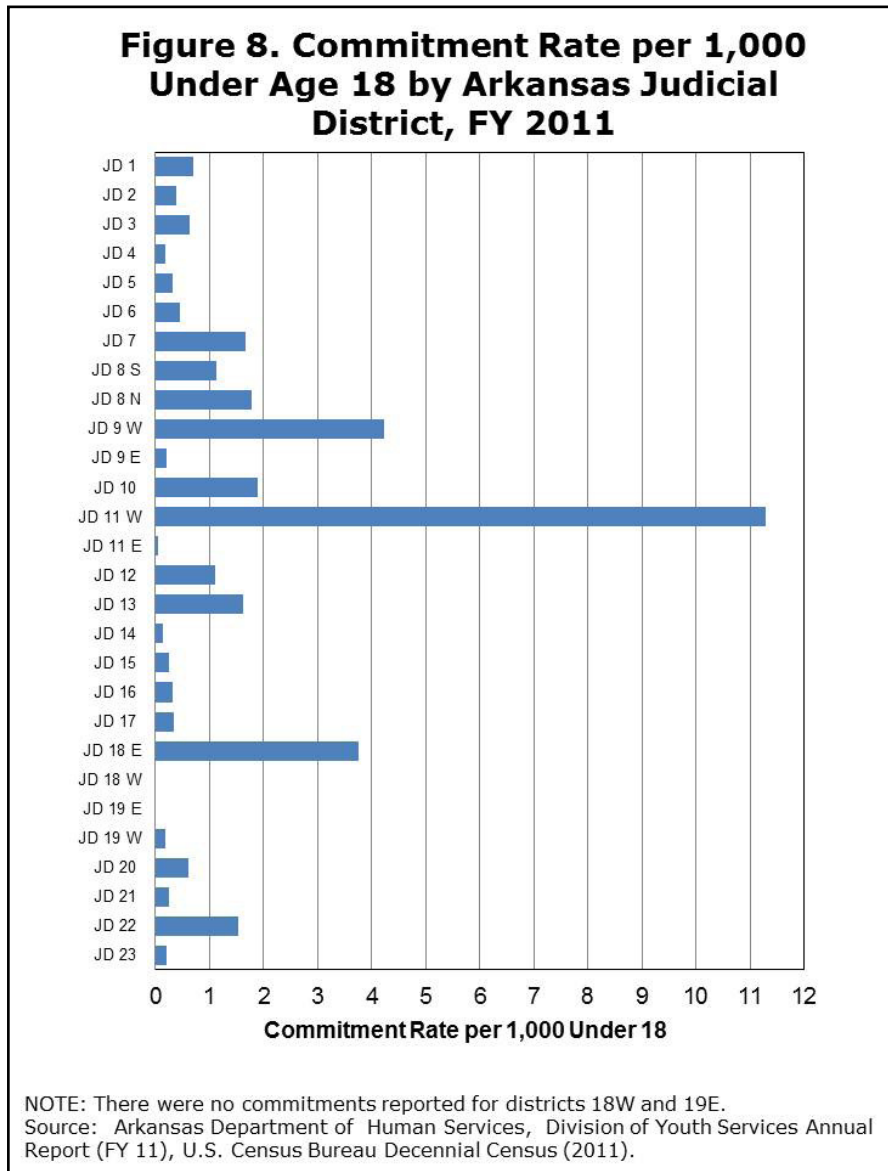


Figure 7a shows that commitments for all types of offenses except drug offenses are at five-year lows. There has been a particular drop in commitments for violent and property offenses since fiscal year 2009. As

shown in Figure 7b for fiscal year 2011, commitments for property offenses are the most common (45%), followed by violent (34%), and public order offenses (11%).

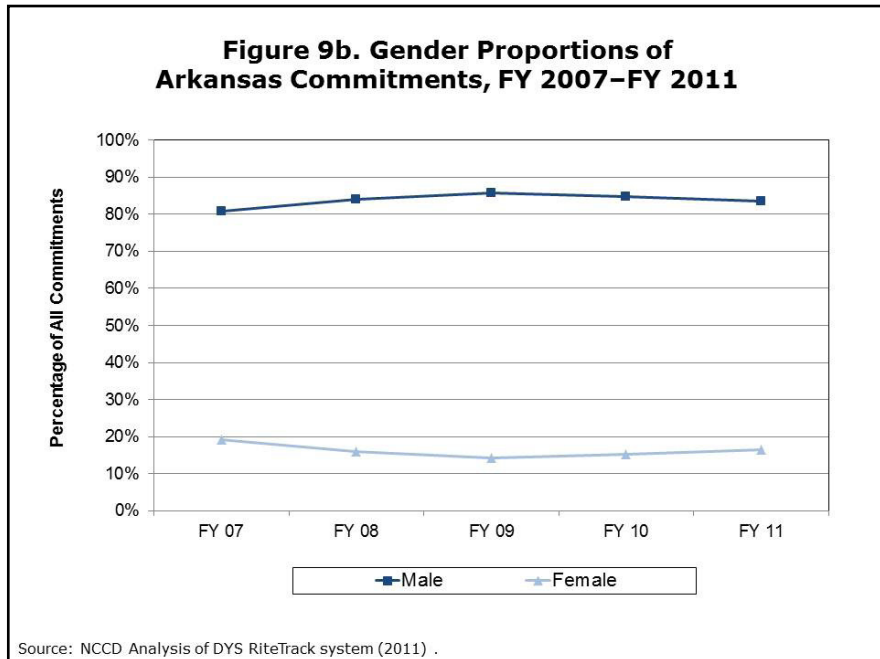
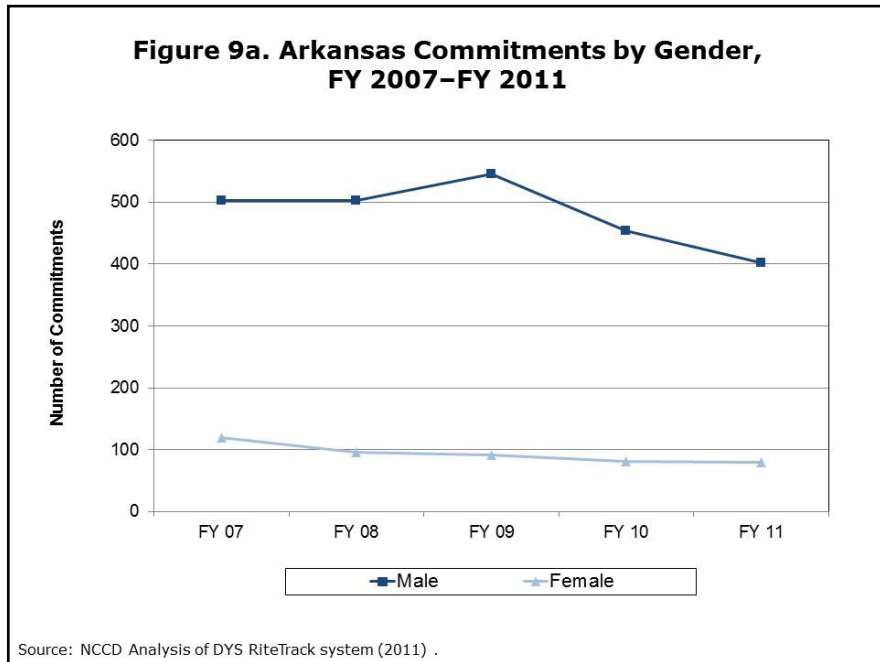


Fiscal year 2011 commitment rates by Arkansas judicial district are shown in Figure 8.⁵⁵



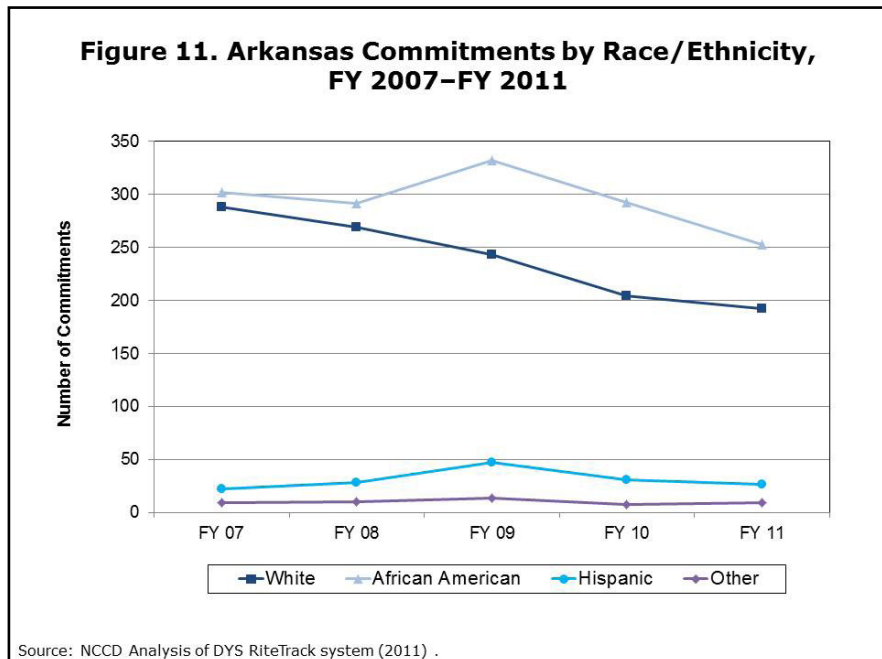
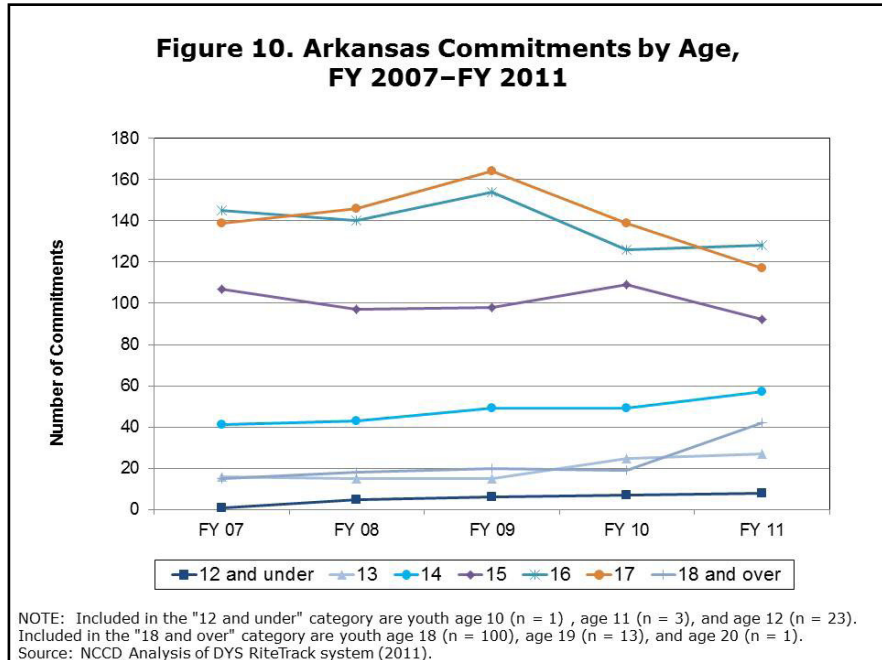
Figures 9a and 9b show that the numbers of both girls and boys are dropping among commitments, and that the proportion of girls has

risen the past two years after falling fiscal year 2007 through fiscal year 2009. Girls accounted for 16% of commitments in fiscal year 2011.



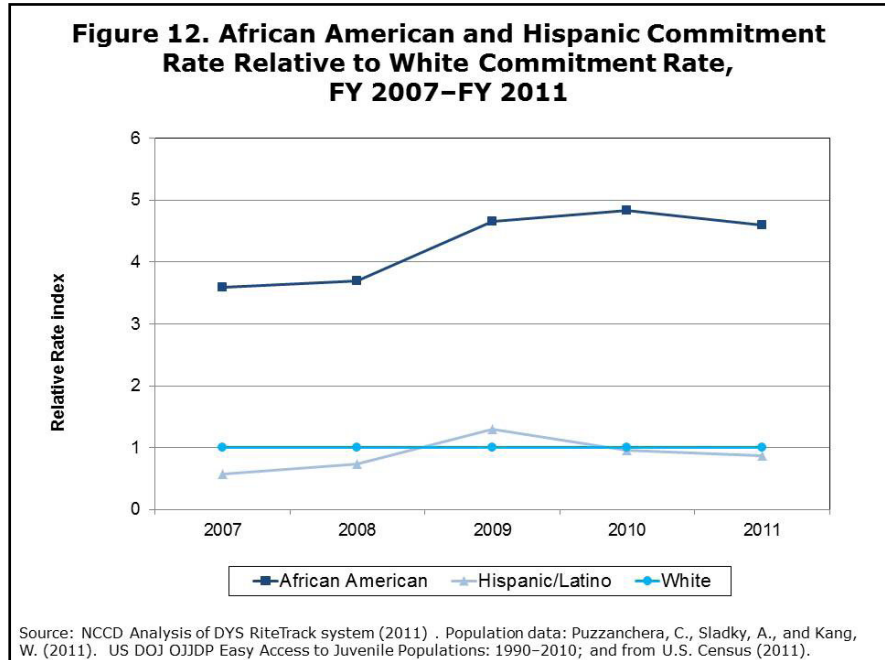
The average age at commitment has remained approximately 15.5 years since 2007. Figure 10 shows that ages at commitment have not changed substantially, although there is a slight downward trend for 15- through 17-year-olds and an upward trend for the younger ages as well as for ages 18 and over.

Figure 11 shows that the number of White youth committed has dropped consistently for five years. African American and Hispanic commitments rose into fiscal year 2009 but have dropped since then. African Americans accounted for over half (53%), Whites 40%, and Hispanics 6% of commitments in fiscal year 2011.



African American youth are committed at far greater rates than other races or ethnicities. The relative rates of commitments for fiscal year 2007 through fiscal year 2011, shown in Figure 12, indicate that African American youth were over four times more likely to be committed than White youth in each of the past

three years.⁵⁶ Hispanic youth were represented at about the same rate as White youth. (Asian/Pacific Islander youth, Native American, and youth in "Other" ethnic groups represent less than 2% of the committed youth and are generally underrepresented relative to their numbers in the general population.)



Hypothetical Future Reform Scenarios

The scenario calculations presented here represent an effort to estimate how the DYS secure custody population size would be reduced if certain reforms were put into practice.

- The first scenario analyzes the effect on DYS population size if commitments for some misdemeanor offenses are reduced.
- The second scenario is a projection that illustrates the potential for reduction of the DYS population if commitment reduction contracts are continued and incentives for reduced commitments are met.
- The third scenario explores the potential for reducing commitments of youth based on risk levels. Specifically, it examines the potential effect on future DYS population size of limiting commitments to youth who are assessed to be medium- or high-level risk offenders.
- The fourth scenario makes projections based on a reduction in the time spent by youth awaiting DYS placement.
- The fifth scenario projects the future average daily population assuming a reduction in the length of stay (LOS) of youth serving time beyond the presumptive term established by the DYS LOS matrix.
- The sixth and final scenario projects the effect that reducing commitments of low-functioning youth unable to meaningfully participate in DYS programming might have on DYS population size.

Summary of Scenario Methodology

The authors received extensive data from several data sources provided by DYS to conduct our data analysis and projections.⁵⁷ The authors also had extensive communication with DYS personnel regarding data definitions and interpretation.

Scenario calculations estimate or project the DYS committed population in the next year based on data from fiscal years 2010 and 2011 (or, when necessary, extrapolations of the data from a shorter time period). When historic data trends indicate the unlikelihood of significant changes in population, arrests, commitment rates, or length of stay, as is shown in the discussion of trends above, it is reasonable to use averages from data from a number of recent years as a basis for forecasting future populations.

All of the scenarios estimate the annual average daily population (ADP) of committed youth in Arkansas, or the percentage change in the ADP that can be expected in the coming years, if the specified changes are made in policy or practice.

The comparative or baseline ADP used in the scenarios is the actual ADP over the past two fiscal years, which was 452 youth. The average number of commitments in this period was 508 per year.

The average length of stay in the past two fiscal years was 325 days, which includes the entire time the youth was in custody of the state, from the date of commitment to release to the community.

For each scenario, estimates are provided of the dollars that could be used for alternatives to secure custody should the hypothetical reforms be implemented. Cost calculations are based on figures provided by DYS for fiscal year 2010.⁵⁸ The calculations assume the average cost of holding a youth in a juvenile detention center (JDC) awaiting placement is \$33,398, in a residential treatment center is \$78,271, and in a specialized residential program is \$40,962. The scenario cost calculations account for the fact that some placements are more expensive and others less by applying the same distribution of youth across these three types of settings as in fiscal year 2010, during which, on any given day, 16% of the committed population was in a JDC, 66% in a treatment center, and 18% in a specialized program.

Please see Appendix A for a more detailed discussion of the methodology used to produce these scenario calculations.

Scenario One: Restructure Commitment Criteria for Certain Misdemeanor Offenses

Several states have examined the advisability of restricting the criteria upon which youth may be committed. Some states, such as Texas and Ohio, have even instituted statutory restrictions for juvenile commitments to state facilities to offenses that would be a felony under the penal law.⁵⁹ In Texas, where funding was also appropriated to handle misdemeanants in the community who otherwise would have been committed to state custody, juvenile adjudications and revocations substantially declined since this restriction on commitments was initiated.⁶⁰

While a blanket exclusion of misdemeanants from commitment is one possible option for consideration

in Arkansas, some stakeholders feel that this would represent a “one-size-fits-all” approach, which would not sufficiently account for other factors that should be considered. Considerations regarding the exclusion of misdemeanants from commitment need to take into account factors that might otherwise justify commitment, such as multiple committing charges, the youth’s arrest and commitment history, or the youth’s needs and circumstances.

In acknowledgment of these concerns and recognition of the role of the juvenile court to make decisions that represent the best interest of each individual youth, the scenario presented here takes into account some of these factors. Specifically, this scenario would bar misdemeanants from commitment as long as they did not have prior commitments for felony offenses or more than three prior commitments (for any offense), and their current commitment was not due to a revocation of probation following release from a felony commitment. Misdemeanors coupled with any of these factors would qualify the youth for commitment.

If such a restriction on certain misdemeanor commitments was put in place, the authors estimate that there would be 140 fewer commitments each year and that the ADP would drop 31% to 312, as shown in Table 3. This reduction in ADP would free approximately \$9 million for community-based alternatives for diverted youth and other programming.

| Table 3. Scenario One Findings | | | |
|--|---------------------------|--------------------|----------------------|
| | Annual Commitments | Average LOS | Estimated ADP |
| Baseline | 508 | 325 | 452 |
| Eligible for Commitment | 337 | 337 | 312 |
| <i>Misdemeanors with additional factors*</i> | 18 | 330 | 16 |
| <i>Felonies</i> | 319 | 338 | 295 |
| Eligible for an Alternative to Commitment | 171 | 299 | 140 |
| <i>Misdemeanors without additional factors*</i> | | | |
| Estimated ADP (percentage change from Baseline): 312 (-31%) | | | |

*Additional factors include a prior felony commitment or four or more prior commitments (for any offense).

Note: Due to rounding, these numbers may be one more or less than the actual number of youth.

Scenario Two: Extend Commitment Goals of Commitment Reduction Contracts

As described earlier in this report, in 2010 DYS launched an initiative that contractually provides a fiscal incentive to reduce the commitments of youth unless the most serious offense for which they are adjudicated delinquent is one of 19 serious offenses excluded from the targeted reductions.

Specifically, a fiscal incentive was provided for reducing commitments by up to 20% of offenses other than those listed in Table 1 on page 11. Table 4a below indicates that of the 508 annual commitments, 179 commitments were for offenses excluded from the commitment reduction contracts and 329 were for eligible offenses; the fiscal incentive thus applied to reductions in commitments for the type of offenses associated with 329 commitments.

| Table 4a. Committing Offenses Targeted and Not Targeted by Commitment Reduction Contracts, FY 2010 and FY 2011 | | | |
|---|-----------------------------------|--------------------|----------------------|
| | Average Annual Commitments | Average LOS | Estimated ADP |
| Total Commitments | 508 | 325 | 452 |
| Targeted for 20% Reduction | 329 | 319 | 288 |
| Not Targeted | 179 | 335 | 164 |

If this structure were kept in place for the next five years, with the goal of reducing the commitment of youth for offenses not listed by 20% each year, the ADP could be reduced to 259 by fiscal year 2016, as shown in

Table 4b. This reduction in ADP would represent a progressively increasing surplus of \$3.6 million in fiscal year 2012 and \$12.4 million in fiscal year 2016.

| | Estimated ADP | Percent Reduction from Baseline |
|----------------------|----------------------|--|
| Baseline (FY10–FY11) | 452 | -- |
| FY 2012 | 395 | -13% |
| FY 2013 | 349 | -23% |
| FY 2014 | 312 | -31% |
| FY 2015 | 283 | -37% |
| FY 2016 | 259 | -43% |

Scenario Three: Limit Commitments to Moderate- or High-Risk Offenders based on the YLS/CMI Risk Assessment

A key component of reform has been increased reliance on objective risk and needs assessments to inform commitment, placement, and treatment decisions. The YLS/CMI is now being administered to youth

entering the system and identifies each youth’s level of risk to public safety.

If those youth identified as low risk by the YLS/CMI were not committed, it is estimated that the baseline ADP could be reduced by 44 youth or 12% as shown in Table 5. This reduction in ADP would disencumber approximately \$3 million.

| | Annual Commitments | Average LOS | Estimated ADP |
|--|---------------------------|--------------------|----------------------|
| Baseline | 499 | 278 | 379 |
| Eligible for Commitment | 433 | 283 | 335 |
| <i>Moderate Risk Level*</i> | 323 | 274 | 242 |
| <i>High Risk Level*</i> | 110 | 307 | 93 |
| Not Eligible for Commitment | 66 | 241 | 44 |
| <i>Low Risk Level*</i> | | | |
| Estimated ADP (percentage change from Baseline): 335 (-12%) | | | |

*Assessment data was not available for all committed youth; projected total based on 499 youth assessed during fiscal years 2010 and 2011.

Note: Due to rounding, these numbers may be one more or less than the actual value.

Scenario Four: Reduce Delays in Assessing Youth While Awaiting DYS Placement

Each day spent awaiting placement into a treatment setting increases a youth's exposure to the harmful consequences of secure confinement and postpones the start of services. Avoidable delay in placement is, therefore, not a wise use of taxpayer dollars. In Arkansas, most youth being assessed and awaiting placement by DYS are currently detained in a county juvenile detention center (JDC) using beds paid for by the state.

This scenario projects the effect on the overall DYS custody population of reducing the time youth spend awaiting placement.

The average number of days awaiting placement was estimated from the number of days each youth spent in JDCs leading up to their first placement or in between placements. Seven youth experienced particularly long lengths of stay awaiting placement (greater than 100 days), likely due to circumstances not described in the data, such as disruptive behavior while awaiting placement. These youth did not represent the typical juvenile awaiting placement and were removed from the scenario calculations. The following findings are from the remaining 810 youth committed in fiscal years 2010 and 2011:

- The average stay awaiting placement was 41 days, with a range of zero to 99 days. This represents a baseline ADP of 45 youth awaiting placement.
- If DYS was able to reduce this 41-day LOS awaiting placement to 10 days, the ADP would drop by over 75%, to 11 youth awaiting placement. Even if only 80% of cases were processed this

quickly, the ADP of youth awaiting placement would fall to 18.

- A reduction to 11 youth awaiting placement in JDCs would reduce costs for secure custody by approximately \$1.1 million annually while a reduction to 18 youth would free approximately \$900,000.

Scenario Five: Reduce Presumptive Length of Stay as Determined by the DYS Matrix

As described earlier, as part of its multidisciplinary risk and needs assessment performed at the start of each youth's commitment, DYS determines the youth's "matrix length of stay" or presumptive LOS. The presumptive LOS is DYS' determination of the minimum and maximum lengths of time the youth should spend in residential placement, usually in a secure program prior to release to aftercare.

The presumptive LOS refers to the number of days from the start of placement to the release to aftercare assuming no obstacles arise slowing the youth's progress. (Unlike the overall LOS used in most of the other scenarios in this report, the presumptive LOS does not begin at the commitment date but rather begins after the intake assessment period.)

The authors reviewed all cases released to aftercare for a five-month period, from mid-July through mid-December 2011. During this period, the 102 youth who were released to aftercare had been confined an average of six days longer than their presumptive LOS. Many youth had been released prior to their maximum release date, while others were released after, for a range of 182 days early to 744 days late.

In all, 43 of the 102 youth released in this period were held beyond their

maximum presumptive LOS. Of these 43, eight had notations in their records indicating their stay may have been extended by a revocation or new offense and therefore were not included in the scenario analysis; the remaining 35, or one-third of youth released during this period, were included.⁶¹

On average, these 35 youth were held 67 days past their maximum presumptive LOS.

Extrapolating these figures to annualized averages, these extended stays represent roughly 84 youth and add 15 youth to the ADP that could otherwise be avoided. Releasing these 15 youth within their presumptive length of stay would free approximately \$1 million to be used for other purposes.

Scenario Six: Reduce Commitments of Youth with an IQ under 70

There is consensus among mental health clinical professionals conducting the mobile assessments of DYS youth that youth with a composite IQ below 70 are unable to participate in cognitively based interventions, which represents the programming offered at DYS.⁶² Such commitments to DYS secure custody arise, no doubt, out of frustration with the lack of other more appropriate alternatives.

A previous survey of 345 youth committed to DYS in fiscal year 2006 revealed that almost 10% had an IQ of less than 70.⁶³ In the first part of fiscal year 2010, 8% of the DYS population on a snapshot day had an IQ below 70, and 20% were borderline impaired with an IQ between 70 and 79.⁶⁴

Based on the 8% rate, if a minimum level of cognitive functioning of an IQ of 70 or above was a precondition of commitment, it is estimated that

the number of commitments could be reduced by 9% to 411, as shown in Table 6. This reduction in ADP would free \$2.9 million, potentially for use toward community-based care for these youth. More important than a reduction in commitments, the needs of these youth could be better met in a more appropriate treatment setting.

In addition, professionals at UAMS indicate that youth with an IQ between 70 and 79 who also have a severe language impairment in one of the two critical thinking and language assessments DYS uses—Test of Problem Solving (TOPS) or the Supralinguistic Index (from the Comprehensive Assessment of Spoken Language)—are also unable to meaningfully participate in DYS programming.⁶⁵

Presumably, a significant number of the 20% of youth whose IQ falls within the 70–79 range will also have language impairments in the range that would make them incapable of benefitting from traditional programming in DYS and appropriate candidates for alternative placements. If half of youth with an IQ of 70–79 also score below 70 on the language assessments, and if these youth were provided alternatives to DYS commitment along with those youth with an IQ under 70, it is estimated that the ADP would drop 19% to approximately 365. This would represent a combined cost reduction of approximately \$6.1 million.

| Table 6. Scenario Six Findings | | | |
|---|---------------------------|--------------------|----------------------|
| | Annual Commitments | Average LOS | Estimated ADP |
| Baseline | 508 | 325 | 452 |
| Eligible for Commitment Not Impaired | 467 | 320 | 411 |
| Eligible for an Alternative to Commitment Impaired (IQ less than 70) | 41 | 377 | 42 |
| Estimated ADP (percentage change from Baseline): 411 (-9%) | | | |

Note: Due to rounding, these numbers may be one more or less than the actual number of youth.



Davon Donn, Youth Move Board of Directors (far right), on a visit to the state capitol.

Conclusion and Recommendations

Everyone working to improve the opportunities offered to youth in trouble in Arkansas has made great strides since the concerted effort to reform the juvenile justice system began. This important work is ongoing and will, no doubt, continue to bear positive results for Arkansas youth, their families, and communities.

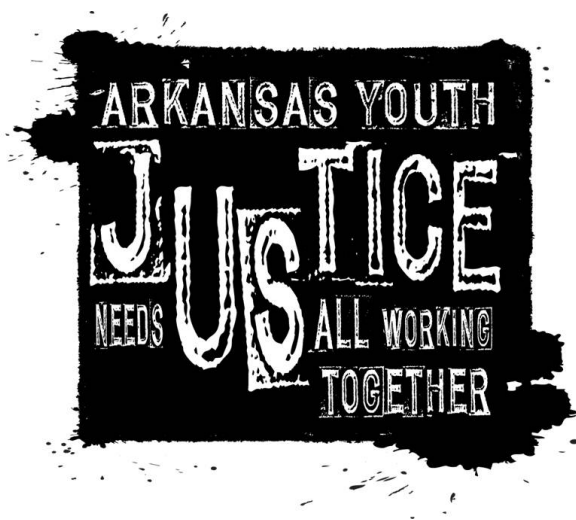
To further reduce the potentially harmful and costly use of secure confinement, the authors urge stakeholders and policymakers in Arkansas to review the hypothetical scenarios in this report to determine if implementation of policy and practices consistent with them will help better serve families and youth. As demonstrated by the data, changing practices in a manner consistent with these scenarios can result in measurable savings in the human and fiscal price of incarceration in furtherance of the goals of Arkansas' juvenile justice reform plan.

These hypothetical scenarios, of course, do not represent the only potential changes in practice and

policy that will further reduce the use of secure confinement.

Dollars saved from the reduced use of secure confinement must continue to be reinvested into effective community-based alternatives to sustain reform over time. The enactment of new policy measures that support greater flexibility and local input into the expenditure of state funding for youth services might also help further expand community-based capacity, thereby reducing local reliance on more costly state custody.

Together, leaders in Arkansas have built a solid foundation and structure for reform. The changes they set out to achieve are firmly underway. The authors hope this report fairly represents the hard and impressive work of the Arkansas reformers and provides a vehicle to advance reform efforts in the future.



Appendix A

Scenario Projection Methodology

This appendix describes the methodology used in the scenario calculations, as well as related issues.

Each scenario describes how the population of DYS committed youth held in secure custody might be reduced if a specific change was made regarding which youth are committed, how long they are held, or how their cases are handled during their stay.

Youth targeted by each scenario are identified based on the characteristics of youth committed over the past two fiscal years, for example, the number of youth committed for misdemeanors (and related data) over the past two years are used to estimate the number of youth considered in Scenario One.

The result of the calculations for each scenario can be considered an estimate of the committed population in fiscal year 2012, or as an estimate of how the past year's commitment data would be different had the hypothetical scenarios been implemented.

The decision to place a youth in secure custody requires a careful review of many factors, only a few of which could be culled from available data and included in these scenario calculations. In order to maximize their usefulness despite this challenge, the scenario calculations sometimes include a range of factors that are likely to influence the commitment decisions, such as a youth's prior history with DYS, or the calculations may simply assume that not all, but just 80% of youth eligible, will actually be impacted by the reform. These considerations of the factors impacting the decision to commit are meant to acknowledge that DYS system personnel and stakeholders, and DYS policies and practices, will continue to take into account individual differences among

youth and among cases. In other words, a blanket or "cookie cutter" approach to commitment exclusions is not realistic and is not recommended here. Further, in calculating the impact of the hypothetical reform scenarios, it is not possible to fully account for the complexities of each individual case and, indeed, that is not the intention of this report. Rather, the authors attempted to use the best available data to disaggregate youth into reasonable clusters of youth likely to be eligible and not eligible for each scenario.

Average Daily Population

The number of youth who are held in a system on any given day of the year is called the average daily population (ADP). ADP is a function of two main factors: the number of youth entering or committed to the system and the total number of days they are in custody or length of stay (LOS). Estimates of future custody populations or bed space needs, therefore, are typically based on estimates of how many youth will be admitted ("commitments") and how long they will stay ("LOS").

In this report, each scenario begins with the baseline or status quo ADP based on the rate of commitment and average LOS from the last two complete fiscal years, 2010 and 2011. This baseline ADP of 452 approximates the ADP that would be expected over at least the next year if no changes in policy or practice are put into place. (As discussed in the data trends section, no significant shifts in system statistics are expected in the near term.)

The formula applied for the baseline ADP and for each of the scenarios is as follows: ADP equals Number of Commitments multiplied by LOS divided by 365 days. In the case of the baseline ADP: $(508 \times 325) / 365 = 452$.

Length of Stay

The average LOS for those youth who would still be committed after excluding certain types of youth from commitment is estimated based on, again, youth with similar characteristics released in the past two fiscal years.

Future LOS is particularly difficult to estimate, as it is a function of many factors that are not predictable at the time of commitment. Still, just as the latest trends in commitments are the best predictors of future commitments, the latest LOS trends are the best predictors of future LOS. LOS calculations are based on releases in a given time period rather than commitments, since many youth committed during fiscal year 2011 have not yet been released, so their LOS cannot yet be measured. LOS in this report does not include pre-trial detention. For Scenarios One and Two, the full LOS from commitment to release to the community is used. For Scenarios Three, Five, and Six, the LOS from placement to release to community is used; the time from commitment to placement (also known as time awaiting placement or intake assessment, usually served in a JDC) is not included because the scenario requires that the youth is first assessed before a custody decision is made. For Scenario Four, only time awaiting placement is considered.

LOS reported here may not exactly correspond to LOS reported elsewhere. This could be due to several factors, including but not limited to the specific period under study, the specific cohort of youth under analysis, and the source and completeness of the data. Also, length of stay can be measured in many smaller increments, such as the time in each placement or program setting, or the time in placement minus the time spent in such short-term settings as acute psychiatric care or a hold awaiting new placement.

Many factors influence each youth's actual LOS, of course, including the type and seriousness of the committing offense, the history of the youth's involvement with the system, decisions as to the appropriate sentence length, the youth's responsiveness to the services offered and other behavior while in custody, the efficacy of the service provision, and the efficacy with which the youth is processed through the various stages of the system. For the purposes of these scenarios, some of these factors are an explicit part of the calculations, but others are indirectly addressed by identifying LOS for youth grouped according to common characteristics.

Costs associated with the scenarios are based on annualized costs in each type of placement provided by DYS⁶⁶ and reported in the scenario section above. Basing the JDC and placement costs on the ADP provides, in effect, an average across the various lengths of stay, allowing the authors to estimate the dollars potentially freed through each scenario by simply multiplying the difference between the baseline ADP and the reduced ADP (were the scenario implemented) by the average cost per youth. Calculations only consider the type(s) of placement impacted by each scenario. Therefore, calculations for Scenarios One and Two include all three settings according to the 2010 proportions. For Scenarios Three, Five, and Six, the JDC cost was not included in the discount, since there may still be costs associated with caring for youth until they are assessed and their risk level or IQ determined. Treatment center and specialty program costs are again split according to their proportions among all youth in residential care in FY 2010 (79% JTC, 21% specialty). Scenario Four addresses time awaiting placement and thus considers only JDC costs.

Appendix B

| Offenses Eligible for Incentives in Commitment Reduction Contracts, FY 2010–FY 2011 | |
|--|------------|
| Offense Description | n |
| Theft of Property | 133 |
| Battering—3rd Degree (includes Domestic) | 75 |
| Terroristic Threatening—1st or 2nd Degree | 60 |
| Possession Controlled Substance or Paraphernalia | 44 |
| Criminal Mischief—1st or 2nd Degree | 44 |
| Disorderly Conduct/Public Intoxication | 43 |
| Sexual Assault—2nd, 3rd, or 4th Degree | 38 |
| Breaking or Entering / Criminal Trespass | 37 |
| Theft by Receiving | 32 |
| Absconding or Escape—1st, 2nd, 3rd Degree | 24 |
| Aftercare Violation | 20 |
| Resisting Arrest or Fleeing | 19 |
| Assault—2nd or 3rd Degree | 17 |
| Harassment / Harassing Communications | 8 |
| Obstructing Governmental Operations | 7 |
| Unauthorized Use Of A Vehicle | 6 |
| Assault Family or Household Member—1st, 2nd, 3rd Degree | 5 |
| Public Sexual Indecency / Indecent Exposure | 4 |
| Criminal Contempt | 4 |
| Shoplifting | 4 |
| Terroristic Act | 3 |
| Furnishing Prohibited Articles | 3 |
| Forgery—1st or 2nd Degree | 3 |
| Failure To Appear | 3 |
| Revocation of Probation | 3 |
| Other | 19 |
| Total | 658 |

Note: "Other" includes two each for False Imprisonment—2nd degree, Carrying Certain Prohibited Weapons, Interfering with Law Enforcement Officer, Communicating False Alarm, Vandalism; one each for Child Sex Offender Fail to Register, Endangering Welfare Of Minor—2nd Degree, Sell or Possession of Obscene Film, Stalking Second Degree, Attempt to Influence Public Servant, Criminal Impersonation, Failure to Stop After Accident With Injured or Dead, Fraudulent Use of a Credit Card, Littering 1st Offense.

Endnotes

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⁵⁷ The authors received data from RiteTrack; YLS-CMI assessment data, 2007–2011; placement dates and program data, 2007–2011; Average Daily Population, 2007–2010; Administrative Office of the Courts court processing and arrests data, 1996–2010; University of Arkansas for Medical Sciences assessment data, 2010–2011 and partial 2008–2009; two additional spreadsheets of recent matrix length of stay and discharge processing data, partial 2011, prepared by DYS staff. Publicly available data reviewed also included data from U.S. Department of Justice FBI Uniform Crime Reporting Program, reported crime and arrests, 2000–2010; U.S. Census Bureau, Decennial Census, 2000 and 2010, and American Community Survey, 2005–2010.

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