

YOUTH JUSTICE

RECOMMENDATIONS

Prepared For:

Moore-Miller Unlocking Opportunity and Public Safety Policy Committees

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Prepared by:



**MARYLAND OFFICE OF THE
PUBLIC DEFENDER**



**THE
SENTENCING
PROJECT**



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2023

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Thank you for considering these recommendations. For more details related to these ideas please contact: Alice Wilkerson, alice@advancemaryland.org

INTRODUCTION

A coalition of Maryland stakeholders developed recommendations and action steps to help the Moore-Miller transition team develop recommendations for a youth justice system focused on rehabilitating rather than imprisoning our youth. The group focused its recommendations on the roles of the Governor's office and the Department of Juvenile Services in adopting and advancing a significant reform agenda to create a legal system in which kids and youth receive the love, support, and understanding that a fair, just, and rehabilitative system requires. The workgroup sessions were hosted in partnership with the Maryland Youth Justice Coalition, a group of individuals and organizations from across the state committed to preventing children and adolescents from becoming involved in the legal system and transforming our youth justice system for those who do.

KEY TAKEAWAYS

- *DJS must be guided by a commitment to positive youth development that demands high-quality, culturally competent programming that focuses on building youth assets and skills.*
- *DJS should shift its focus to be an agency that provides care to kids utilizing best practices, not just a referral system model, which is outdated, and doesn't result in the long term outcomes that benefit kids or public safety.*
- *Building a culturally competent continuum of care for court-involved youth will improve meaningful engagement with youth to help them understand what they need to be safe and successful. Positive youth development has been proven to reduce recidivism and improve long-term public safety outcomes.*
- *DJS is understaffed, under-resourced, and should focus on hiring highly-qualified, empathetic staff who can provide culturally competent, trauma-informed services directly to youth in their communities.*

- *DJS needs more community staff in addition to security staff; investments in community staffing will also improve safety in DJS facilities.*
- *Maryland must stop automatically sending children to adult court. All youth cases should start in juvenile court and all youth should be housed in DJS facilities, not adult jails or prisons.*
- *Systemic change requires a long term commitment, and investment. Changes can't happen overnight, or in a year, or even four years. The changes Maryland makes today for youth will show results in a decade when these children become young adults.*

REPORT GUIDE

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RECOMMENDATIONS

RECOMMENDATION #1: Implement a positive youth development vision grounded in high-quality, evidence-based, culturally competent and trauma-informed programming.

Context: Positive youth development isn't just best practice for young people, research has demonstrated that the best way to lower recidivism and improve long-term public safety is to provide court-involved youth with the tools they need to successfully transition into adulthood. In order to make that possible, ***all aspects of DJS - from staff training, to the design of facilities, to the structure of programming, to the agency's internal accountability metrics - must reflect the belief that youth can flourish when given the opportunity.*** Maryland must stop inflicting trauma on children who misbehave and instead provide them with the supportive, caring environment all children deserve.

Maryland must build a continuum of care for youth that provides the highest quality programming in a developmentally appropriate and culturally responsive manner. Communities treasure their young people, but are often provided the resources they need to help young people navigate an increasingly complex and difficult world. Children who fall through those gaps are often pushed into a juvenile justice system that is overly harsh and relies heavily on incarceration, which can often compound, rather than remedy, the challenges facing youth. Maryland must invest in developing a continuum of care in every corner of the state for court-involved youth that focuses on building youth assets and skills in their community of origin, rather than treating them as a risk and a problem to be shipped to the remotest regions of the state.

Black youth are disproportionately involved at every step of the juvenile criminal legal system. To address this problem, Maryland must build partnerships with community-based, culturally competent providers to ensure that every young person in Maryland, no matter their race, zip code, or financial situation, has easy access to positive youth development programming in their community. DJS staff must be trained in culturally competent service provision and every staff member that interacts with youth must have a working knowledge base of adolescent brain development. Research has proven that home-like, caring environments are crucial

to imparting pro-social skills in adolescents who have suffered trauma. By shifting DJS services to a culturally competent, trauma-informed approach based on proven therapeutic milieus (instead of the current focus on “behavior modification” that harkens back to command-and-control, scared-straight programming that has been proven to be ineffective) it will make DJS programming more effective by changing providers’ behaviors and interactions with youth. This will require continuous training of staff, thereby making them more culturally competent (as opposed to focusing solely on their knowledge or attitudes).

DJS current programming for youth is not measured for efficacy or effectiveness. Many youth spend most of their free time in DJS care playing video games or playing cards. Idleness and boredom often lead to conflict and behavioral challenges for bored and restless young people. For too long, youth rehabilitation has lagged behind the education system and child welfare in establishing accountability metrics to ensure quality service provision. DJS must provide concrete, measurable service to the young people in their care. Maryland must require the juvenile justice system, which too often fails the most vulnerable youth and families, to put the well-being of youth (not the well-being of the system) at the forefront.

Research has demonstrated that youth transitioning from the juvenile justice system are not as stable as their peers and struggle to find and maintain employment, education, and housing. Court-involved youth struggle with mental health and substance abuse problems, and are more likely to experience homelessness. This means that DJS should be required to develop baseline services it provides to youth and families, akin to [DHS’ Ready by 21](#) requirements for case managers. DJS must implement evidenced-based, culturally competent, and trauma-informed programming in both detention and committed facilities as well as reporting and evaluation measures.

Recommended Actions

First 100 Days • Ensure DJS leadership is committed to a positive youth development vision for the agency and to making *major* policy reforms that will make Maryland a leading voice for youth justice.

→ DJS should seek out service providers with local, culturally competent staff and programming.

- DJS needs to review policies to ensure they encourage positive engagement with youth in their families.
 - ◆ For example, currently children who are detained in Maryland are only entitled to two 10 minute phone calls to family members per week. Imagine being a child whose first time away from home is being incarcerated and you can only speak to your mother for 10 minutes twice a week.
- DJS should move away from a control, compliance, and surveillance model of probation to one that allows youth to develop decision-making abilities, work as part of a team, and help others.
 - ◆ Research has shown that approaches that focus on youth's strengths and assets and that help youth build resiliency are more effective than approaches that only address their deficits.
 - ◆ DJS current continuum of care relies too heavily on detention centers and secure placements and must be expanded to reflect more home-like environments that encourage, rather than stymie, young people's growth and development.

First 100 Days • **The Governor's office and DJS leadership must commit to building a continuum of care across the state to ensure all court-involved children have access to high quality, culturally responsive programming in their home community.** System reforms can take time to implement and prove successful, which may require additional resources for DJS or other agencies to make sure the reforms are successful.

First Term • **Develop and implement a plan for positive youth development.**

- DJS should work with service providers to align funding through the formula [grant funding from OJJDP](#) with positive youth development goals to ensure OJJDP's Formula Grants Program funds support the most urgent state and local delinquency prevention and intervention efforts and juvenile justice systems improvements.
- DJS should undergo a policy review to ensure that all policies reflect positive youth development priorities, including encouraging access to family, community, and positive programming for all youth in DJS committed and detention facilities.

- DJS should ensure all court-involved youth, in every area of the state, have community-based access to high-quality positive youth development that addresses all of the 6 core areas of youth development:
- **Work:** Work experience, apprenticeships, employment readiness, income and independence
 - **Education:** Literacy, credentials, learning skills, career planning
 - **Health:** Physical activity, diet and nutrition, mental and behavioral health, lifestyle
 - **Relationships:** Communication skills, conflict resolution, family systems, intimacy and support
 - **Community:** Civic engagement, community leadership, services, responsibility
 - **Creativity:** Personal expression, visual arts, performing arts, language arts

First Term • **Fully implement the Juvenile Justice Reform Council recommendations, including:**

- Recommendation #5 - “Establish a legislatively enacted workgroup consisting of a Maryland institute for public policy, a University of Maryland evidence-based and culturally competent practice institute, DJS, the Department of Human Services (DHS), and relevant stakeholders.”
- Recommendation #12 - “DJS should establish a plan to transition from the current slate of committed facilities to ensure every region has access to nonresidential and residential community-based services that employ evidence-based, culturally competent programming.”
- Recommendation #13 - “DJS should ensure access to comprehensive educational programming in all DJS facilities.”
- Recommendation #14 - “DJS should ensure that every DJS facility and contracted program offers access to Technical and Vocational Education and Training with highly qualified teachers and on-the-job training.”
- Recommendation #18 - “The Governor’s Office of Crime Prevention, Youth, and Victim Services should develop a model law enforcement diversion program, evaluate funding opportunities to support local diversion programs, and collect and evaluate data related to implementation of these diversion programs.”

First Term • DJS should study best practices and implement a plan for culturally responsive and trauma-informed programming.

- Establish standards for age-appropriate, developmentally baseline services DJS must provide to youth on probation and in committed facilities.
- DJS must provide high-quality appropriate training for all staff. Evidence needs to be grounded in [cultural competency](#).
- Identify communities with the highest needs based on data and qualitative measures and then develop a full continuum of care and services that target those identified needs.

Sources & Supporting Resources

- [Washington D.C. Department of Youth Rehabilitation Services Positive Youth Justice](#)
- [Positive Youth Justice: Framing Justice Interventions Using the Concepts of Positive Youth Development](#)
- [Juvenile Justice Reform Council](#) (Maryland Department of Juvenile Services)
- [JJRC Implementation Manual](#)
- Maryland Department of Juvenile Services Presentation 05/18/2022: [Training Materials to Implement JJRC](#)
- [Formula Grants Program](#) (OJJDP)
- [Juvenile Justice Reform Council \(JJRC\) 2020 Report](#) (MD Juvenile Justice Reform Council)
- [Maryland](#) (OJJDP)
- [SAG 2018-2020 - Three-Year Plan](#) (Maryland Governor's Office of Crime Prevention, Youth, and Victim Services)
- [Defining Cultural Competency](#) (Child Welfare Information Gateway)
- [What Works for Whom? Juvenile Court Assessment Tool and Program Eligibility](#) (Washington State Institute for Public Policy)
- [Effectiveness of Culturally Appropriate Adaptations to Juvenile Justice Services](#) (National Library of Medicine)

- [Treatment Programs](#) (Washington State Department of Children, Youth, and Families)
 - [Juvenile Justice & Youth Development Programs & Grants Juvenile Justice System Improvement](#) (State Of Connecticut - Office of Policy & Management)
 - [Juvenile Justice Reform In Connecticut: How Collaboration and Commitment Have Improved Public Safety and Outcomes for Youth](#)
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RECOMMENDATION #2: End the automatic charging of youth in adult court.

Context: *Maryland law currently requires the automatic charging of youth as young as 14 years old in adult court for 33 crimes, including misdemeanors,* which is far out of line with the rest of the country. Maryland has historically over-charged youth in comparison to other states, and despite the fact that data and research shows that the kids sent into the adult system are overwhelmingly Black, and that sending children into the adult criminal legal system leads to higher rates of recidivism, leading to worse public safety outcomes. Research has also established that adolescent brains do not have the same cognitive function and self-regulation as fully developed adults. (More information: [JJRC Final Report p. 38](#))

Automatically charging youth in adult court, sometimes referred to as ‘direct file,’ is costly, wasteful, and a dangerous practice. Nearly 87% of children charged automatically in adult court do not end up with an adult criminal conviction. That’s because the vast majority have their cases moved down to juvenile court, dismissed, or are given probation before judgment. Simply starting all cases in juvenile court, and allowing a judge to decide which cases should be moved to adult court, would eliminate the vast majority of the trauma, delay, and cost associated with automatic charging. Starting kids in adult court does not allow for judicial discretion upon intake, and can carry serious ramifications for kids who are tried and convicted as adults, including requiring them to be charged as an adult for any future allegations and rendering them ineligible for juvenile jurisdiction in the future. As noted in the [JJRC Final Report](#):

The juvenile justice system, given its established responsibility to promote the best interests of children while helping them to adjust their behavior, is better suited to adjudicate youth cases than adult criminal courts. Evidence shows that youth and public safety outcomes suffer when children are charged in the adult criminal legal system.

Ending the practice of automatic charging does not prohibit cases from being “waived up” to the adult system nor does it stop accountability. Instead, all kids will start in DJS and juvenile court, and a judge can determine, based on the specific facts of the case, the youth’s involvement in the events, and relevant facts about their background, if a case should be moved up to the adult system.

The bipartisan Maryland Juvenile Justice Reform Council [voted](#) in favor of ending automatic adult jurisdiction in 2021 and included it as a recommendation in the [JJRC 2021 Supplemental Report](#).

Based on the testimony and data received by the council on the subject of juveniles charged with adult criminal offenses, the council recommends that the State end the automatic charging of juveniles as adults and instead require that all court proceedings against juveniles be initiated in the juvenile court system.

Continuing the practice of automatic charging results in youth held in adult correctional facilities, putting Maryland in violation of federal law and **at risk of losing federal funding**. The failure to ensure the separation of youth from adults in correctional facilities has meant that Maryland is non-compliant with the federal Juvenile Justice Delinquency Prevention Act (JJDP) as renewed by Congress in 2018.

Lastly, education services (apart from Baltimore City), are limited or not provided at all for students held in county adult jails. Compulsory school age youth who are held in adult county jails are being denied the right to an education under the Maryland Constitution. And for students with disabilities who have an IEP, their right to a "free and appropriate education" is likewise compromised by the inability to provide meaningful educational services to students held in local jails.

Recommended Actions

First 100 Days • The Governor's office should support legislation to end the automatic charging of youth as adults when introduced during the 2023 legislative session.

- **Legislative Support:** The Governor has the opportunity to lead and enact the biggest youth justice reform in Maryland history in the first 100 days of his administration by supporting the passage of legislation to end the automatic charging of youth as adults. Legislation is expected to be re-introduced by Senator Carter and Delegate Crutchfield when the Maryland General Assembly (MGA) convenes in January of 2023. The **Governor or his designee** should testify in support of legislation to end the automatic charging of youth as if they were adults, ensure that Department of Juvenile Services leadership continues to support this policy change, as well as provide any technical assistance the MGA may require.
- **Public Messaging Support:** As a leader for the passage of this legislation, the Administration should be an outspoken advocate for passage and help make the case to the public that youth justice reforms are an important public safety component.

First Term • **Following successful passage of legislation, DJS and the administration will need to ensure that DJS has the resources, staffing and program support needed to properly implement the legislation** including attesting that DJS has capacity to have more kids in DJS care, move kids who are currently in the adult system to the DJS system, and identify a plan for retroactivity.

- **Implementation:** DJS and Governor's office should educate and encourage outreach to kids who are under 21, both being held pretrial, post-sentencing and every stage in between to speak to their legal counsel about the opportunity presented under the new law to ensure they are apprised of their rights, with legislation anticipated for the following year (year 1-2 recommendation).
- **Housing:** Several categories of young people will need to be moved from adult to more appropriate DJS facilities. First, youth serving shorter sentences in adult jails, specifically in Howard and Charles County local facilities which don't have separate juvenile facilities, will need to be transferred to DJS. Second, kids who have pending transfer hearings to move their cases over to the juvenile system will require transfers from adult jail or DPSCS prison to

DJS, as will youth who have lost their transfer hearings. Third, kids who have been convicted and are serving will also need to be transferred. Finally, kids who are convicted but still are awaiting sentencing may still be in adult DPSCS facilities as well. DPSCS and county detention/correctional facilities will need to collect data on the total number of kids who require transfer.

→ **Electronic Monitoring:** DPSCS should consider transferring the authority over electronic monitoring from the adult system to DJS, as DJS has capacity to manage this.

First Term • **Support legislation to place limits on parole for youth charged as adults.**

Additional Information

Youth who are charged in adult court who are ineligible or denied transfer to juvenile court can be held in adult jails while pending trial. Although there is no statutory bar to housing these youth in juvenile detention facilities, DJS routinely opposes the exercise of judicial discretion in ordering these youth to be held at age-appropriate DJS-operated detention facilities.

In the 1960s, Maryland was one of just three states (Mississippi and Pennsylvania were the other two) to automatically charge youth (14 and older) as if they were adults on murder charges. By 1986, Maryland was one of just 14 states that automatically charged youth as if they were adults based on the offense, typically murder. Maryland, on the other hand, added armed robbery as a so-called adult charge in 1973; as of 1986, only six other states did the same.** Throughout the 1980s and 1990s, Maryland repeatedly added offenses to that list. As of today, Maryland automatically transfers youth charged with 33 separate offenses into adult criminal courts. Per capita, the available data show only Alabama automatically sends more of its young people into adult courts based on the charge, and Alabama's most recent numbers are so old that Maryland may actually rank last, not second-to-last, in this shameful statistic.

* Feld, B. (1987). The Juvenile Court Meets the Principle of the Offense: Legislative Changes to Juvenile Waiver Statutes, *Journal of Criminal Law and Criminology* 78(3): 471-533 at 512-513.

([LINK](#))

Sources & Supporting Resources

- [JJRC Final Report](#) (Maryland Juvenile Justice Reform Council)
 - [Reform Council Recommends Ending Policy of Automatically Charging Some Youth as Adults](#) (Maryland Matters)
 - [JJRC 2021 Supplemental Report](#)
 - Juvenile Justice Reform ([SB0691](#))
 - [Youth Justice Reform - Omnibus Reform Package](#) (MD Youth Justice Coalition)
 - [Governor's Office of Crime Prevention, Youth, and Victim Services Data Presentation 07/01/2021: Juveniles Charged As Adults](#)
 - DLS Presentation 12/03/2020: [Youth Charged As Adults](#)
 - [The Juvenile Court Meets the Principle of the Offense: Legislative Changes in Juvenile Waiver Statutes](#) (Journal of Criminal Law and Criminology)
 - [Juvenile Justice and Delinquency Prevention Act \(JDDPA\)](#)
 - (SB 0165) Juvenile Court - Jurisdiction 2022 - [Witness Testimony](#)
 - [Maryland Needs to Keep Up the Momentum on Juvenile Justice Reforms](#) (R Street, Op-Ed)
-

RECOMMENDATION #3: Implement the Child Interrogation Protection Act

Context: The Child Interrogation Protection Act ([SB 53/HB 269](#)) was passed by the General Assembly in 2022. This new law ensures that children who are subject to interrogation by law enforcement are properly afforded their constitutional right to counsel, requires parental notification that the child will be interrogated, and read their Miranda rights are provided in a manner commensurate with their developmental age. The [Baltimore City policy](#) can serve as a framework for statewide implementation.

According to the [National Juvenile Justice Network](#):

In addition to this more limited understanding, young people are far more vulnerable to falsely confessing because developmental differences mean

they have less impulse control, are more prone to risky decision-making, are more susceptible to the promise of immediate rewards, and are more likely to comply with authority. According to the National Registry of Exonerations, 36 percent of all exonerees were younger than 18 years old at the time of the alleged offense. In a study of youth who self-reported confessing, 35% reported falsely confessing. By allowing a process to continue that leads to so many false confessions, we are not only severely harming our young people but are causing significant detriment to public safety by not holding accountable the person who actually committed the offense.

Recommended Actions

First 100 Days • The Governor’s Office should consult with the Office of the Public Defender (OPD) to ensure OPD has the resources it needs to provide counsel to kids involved in the legal system in a timely manner.

First Year • The Governor’s Office should identify a responsible agency (potentially GOCPYVS) to work in conjunction with OPD to:

- Develop a public education program to ensure children and their families understand their right to legal counsel prior to *Miranda*.
- Create a system for tracking the program including the number of times, and in which jurisdictions, law enforcement conducts an interrogation of a child without legal consultation because law enforcement believes it is “necessary to protect against a threat to public safety.”

Sources & Supporting Resources

- Child Interrogation Protection Act ([SB053/HB269](#)), [Witness List](#)
- [Youth Interrogations](#) (Baltimore Police Department)
- [National Juvenile Justice Network Testimony - Juvenile Law – Juvenile Interrogation Protection Act \(SB 53\)](#)
- [Reforming Juvenile Justice: A Developmental Approach, Chapter 7](#)
- [Child Interrogation Fact Sheet](#) (ACLU MD)
- [Opinion: Lawmakers Are Finally Moving to End Child Interrogation. Let’s Not Stop There](#) (Maryland Matters)

RECOMMENDATION #4: Budget Priorities, Staffing and Departmental Resources

Context: DJS workforce of about 2,200 regular positions is one of the largest agencies of the Executive Branch, but the overwhelming majority of the workforce is security personnel based in youth detention and secure programs. According to the Attorney General’s Juvenile Justice Monitoring Unit (JJMU):

The Maryland Department of Juvenile Services (DJS) has made tremendous strides in reducing unnecessary incarceration of youth during the past few years, but there are still far too many (mostly African American/Black and Hispanic/Latinx) young people in Maryland who are stuck in maximum security detention facilities or sent out-of-home to an alien environment in remote areas far from their homes, their families and their communities. Maryland’s continued overreliance on incarceration for young people is both expensive and ineffective. Numerous studies have demonstrated that community-based alternatives to confinement cost less, reduce recidivism, and produce better youth outcomes.

The [JJMU has documented that throughout the COVID-19 pandemic](#), DJS has struggled to provide quality programming and education to children behind the walls, despite the average daily population of less than 300 youth for the last 2 years. Despite dramatic declines in youth population, DJS still does not provide comprehensive mental health, individual counseling, or even close collaboration between direct-care staff and clinicians to help reduce youth anxiety and the resulting misbehavior in detention facilities. Programming in committed facilities remains limited and only this year did DJS begin to implement cognitive behavioral techniques into its facility staff training.

RECOMMENDED ACTIONS

First 100 Days • The Governor’s Office should ask DJS for a report on current staffing levels, as well as a needs assessment and gap analysis.

First 100 Days • The Governor’s office should request a briefing on the July 1, 2022 move of Juvenile Services Education Program (JSEP) to DJS as required by legislation passed by the General Assembly during the 2021 session ([HB 71/SB 497](#)).

First Year • **DJS leadership must expedite hiring of qualified, trained staff.** As mentioned in the DLS analysis, hiring qualified candidates and staff turnover is a significant issue for DJS. While this is a serious issue in any agency, it is of particular concern for DJS because children need consistency and to build relationships with DJS staff in order to be successful.

First Year • **DJS leadership should develop a 5-year plan for moving away from remote, rural high-security committed facilities and establish how Maryland will ensure non-residential and residential services are available to court-involved youth across the state.**

First Year • **DJS should establish an Office of Community Partnerships to develop training, technical assistance, and public education programs to ensure high-quality services are available.** DJS must ensure their programming provides youth with the opportunity to successfully transition into adulthood by marshaling and refocusing its own financial and human resources to actively engage stakeholders from both the public and private sectors.

Sources & Supporting Resources

- [Juvenile Justice Reform Council Final Report 2021](#)
- [Children’s Center for Law & Policy, Close to Home Implementation Report](#)
- [Department of Legislative Services: Analysis of the FY 2023 Maryland Executive Budget, 2022](#)
- Juvenile Services Education Board and Program – Establishment, Powers, and Duties ([SB497/HB71](#))
- [2021 Office of Legislative Audits: Office of Public Defender](#)
- [DJS Gap Analysis, 2013](#), (Most Recent gap analysis)

RECOMMENDATION #5: End the use of solitary confinement, restraints, and strip searches

Context: Solitary confinement is incredibly harmful to young people and does not improve safety in correctional facilities. Instead, it causes irreversible trauma in young people whose brains are still developing, and exacerbates mental health and behavioral challenges. Just 15 days of solitary confinement is considered torture by the United Nations. In juvenile facilities, even shorter periods of time can be detrimental and even fatal - approximately one half of all suicides in juvenile correctional facilities occur when youth are in solitary confinement.

In 2012, the American Academy of Child and Adolescent Psychiatry issued a statement opposing the use of solitary confinement in juvenile facilities, noting that youth are especially vulnerable to the adverse effects of solitary confinement, including trauma, psychosis, depression, anxiety, and increased risk of suicide and self-harm. The American Psychological Association, National Council of Juvenile and Family Court Judges, American Academy of Child and Adolescent Psychiatry, and the Council of Juvenile Justice Administrators have all issued statements against using solitary for youth, and emphasized that if it is ever used it must be limited to situations where there is an immediate risk of physical harm and not for any other purpose, such as behavioral modification or to manage staffing shortages.

For all these reasons, there has been a movement to significantly restrict or even abolish the practice, particularly for children. Both Presidents Obama and Trump took action to prohibit solitary confinement of youth in federal facilities, and 16 states have passed legislation in the past 2 years limiting solitary. Most recently, the state of Louisiana passed legislation prohibiting the use of solitary for any reason other than an immediate threat of physical harm, and limiting confinement to no more than 24 hours - with approval from a mental health practitioner required to extend beyond eight hours.

In 2019, Maryland passed legislation limiting solitary confinement for youth. The law narrowly defines solitary as when an “inmate is placed in a locked room or cell for approximately 22 hours or more out of a 24-hour period.” During the pandemic, DJS skirted these regulations by simply not locking cell doors but requiring children

to remain in their cells for more than 22 hours a day. In addition, the legislation includes a loophole that allows facility managers to place youth in solitary if they find them to be an immediate risk to themselves, others, or the security of the facility. Too often youth are placed in solitary confinement because they post a risk to the “order” rather than a true and genuine security risk. DJS should update its internal policy to narrowly define what constitutes a risk. DJS can and should seek assistance from national experts to identify and implement facility reform strategies which will reduce the likelihood that solitary is ever used in Maryland’s youth facilities.

Recommended Actions

First 100 Days • All data currently collected by DJS on the use of solitary confinement and restraints should be made publicly available on the Department’s website and published quarterly.

First Year • Issue an Executive Order to put an immediate end to the use of solitary confinement, restraints, and strip searches. This order should follow recommended best practice from national experts, which prohibits the use of solitary for any reason other than when there is an immediate threat of physical harm, and mandates that the child must be removed from solitary as soon as the immediate threat has abated.

First Year • DJS should develop new written policies, through a collaborative and transparent process involving Center for Children’s Law & Policy (CCLP).

Sources & Supporting Resources

→ [Stop Solitary for Kids](#)

RECOMMENDATION #6: Expand “youth” in Maryland to cover older individuals as emerging adults (up to age 25)

Context: Several states are working to keep more young people 18 years and older out of the adult criminal court. Vermont recently became the first state to set its juvenile justice age threshold above 18. By 2022, with some exceptions for violent offenses, 19-year-olds will be treated as juveniles. Recent proposals in California

and Massachusetts suggest the states are working to follow suit. If passed, the California bill will extend the age of original juvenile court jurisdiction to 19 years and would allow jurisdiction to extend to a person's 21st birthday. The Massachusetts bill created the Task Force on Emerging Adults in the Criminal Justice System to consider the advisability, feasibility, and impact of raising the cutoff age of juvenile court jurisdiction from 18 years to 20 years. [JJRC Final Report, p.40](#)

Recommended Actions

First Term • Create a task force similar to the JJRC to develop a statewide framework of policies to invest in strategies to increase public safety and reduce recidivism of young adults in the criminal justice system.

- The taskforce should study research data-driven, best practices for the treatment of young adults in the criminal and juvenile justice systems, and identify and make recommendations, including how to limit or otherwise mitigate risk factors that contribute to contact with the criminal and juvenile justice systems.

Sources & Supporting Resources

- [JJRC Final Report](#)
- [Emerging Adult State/City Models](#)
- [Emerging Adults: A distinct population that calls for an age-appropriate approach by the justice system](#). Selen Siringil Perker and Lael Chester, 2017.
- Harvard Kennedy School Program in Criminal Justice Policy & Management / National Institute of Justice, [Community-Based Responses to Justice Involved Young Adults](#)
- National Institute of Justice / Office of Juvenile Justice and Delinquency Prevention, [What Happens and What Should Happen](#)
- National Institute of Justice: [Environmental Scan of Developmentally Appropriate Criminal Justice Responses to Justice-Involved Young Adults](#)
- MassINC: [Viewing Justice Reinvestment Through a Developmental Lens](#)
- Roca: [Pioneers in Young Adult Justice](#)

ADDITIONAL RECOMMENDATIONS

Context: In addition to the major priorities identified above, the following recommendations should be pursued throughout the first term.

- **Create more service and placement options for underserved populations including:**
 - Trans youth
 - LGBTQIA youth
 - Youth experiencing homelessness
 - Youth in foster care/group homes
 - Young women, especially Black women
 - Rural Black youth

- **Provide Community Resource Guides** - DJS should provide better communication to parents/guardians that includes an explanation of what their child's experience will be if they enter DJS custody. This should be provided upon determination of the child being detained (prior to court), at intake.

- **Make youth records expungement automatic:** Under current law, a person has to file a motion to unseal their record then apply for expungement, and expungement of juvenile records is always discretionary. The category of youth who qualify for expungement is extremely limited, which makes youth expungement more difficult than the adult system. The administration should identify a process for making youth expungements automatic and expand expungement eligibility to ensure youthful mistakes do not ruin a child's future.

- **Provide funding for re-entry and alternative treatment:** DJS should ensure kids don't fall through the cracks as they transition in and out of detention/supervision by writing standards and policies to ensure action and accountability.
 - ◆ Facility staff should communicate with community case managers, youth, and their families to ensure that the community release plan as required by [Courts and Judicial Proceedings 3-8a-15](#) addresses the

youth's needs, and that services are in place for the youth to successfully re-enter the community.

- ◆ Community release plans should address barriers youth experience when transitioning home from either detention or placement, including school systems not accepting credits, the application of the reportable offense statute which serves to bar students from returning to school, and the general bias against students involved in the juvenile justice system

→ **Improve interagency data sharing and coordination:** Properly implement [recent legislation](#) which worked to comprehensively seal all juvenile records, including police records and court records.

Sources & Supporting Resources

- [MD. Courts and Judicial Proceedings Code Ann. § 3-8A-15 \(2020\)](#)
- Juveniles Charged as Adults - Confidentiality of Records ([SB0314](#))

Past Recommendations (O'Malley, 2007)

The workgroup reviewed the past recommendations from the 2007 O'Malley [Juvenile Services Transition Workgroup](#) to help understand the types of recommendations previous transitions have provided. During that review, it was clear that many of the past recommendations are still relevant today and should be repeated and/or updated. Each point below quotes the 2007 recommendation followed by comments from the 2022 workgroup.

→ **“Develop staff retention and recruiting plan.** This should include investigating the causes of poor retention and a salary study comparing DJS salaries to those of similar neighboring states and local jurisdictions.”

◆ **2022 Workgroup Recommendation: Still important, high priority**

→ **“Improve interagency coordination and data sharing at all levels.** This may include gaining access to other agencies' data systems, incorporating information from other agencies into the intake and assessment process, and

creating joint treatment plans for youth served by multiple agencies. Particularly important partners include police, healthcare providers, DHMH, DHR, and local schools.”

◆ **2022 Workgroup Recommendation: Still important, high priority**

→ **“Adopt reforms to enhance intra-agency collaboration and coordination.** This will facilitate and improve the planning process for administration and operations.”

◆ **2022 Workgroup Recommendation: Still important, high priority**

→ **“Ensure that the Detention Risk Assessment Instruments incorporate public safety and other local concerns.** In particular, it should be adjusted at the local level to take into account offenses that pose a high risk in the local community (drug dealing, car theft, etc.) and the danger posed by youth arrested repeatedly in a short period of time.”

◆ **2022 Workgroup Recommendation: Fix/Update**

- This is still needed, but all metrics, tools and criteria used for “risk assessments” must be independently developed and peer-reviewed; DJS currently uses assessments that are not peer reviewed.
- Add racial inequities and discriminatory policing.

→ **“Expand diversion partnerships with local service providers.** Examples include the JOINS program in Baltimore County.”

◆ **Workgroup Recommendation: Modify**

- ◆ Diversion partnerships with “service providers” is preferred to discourage youth interactions with law enforcement. Diversion should be seen as ways to avoid the legal system, and services should be provided by culturally-appropriate service providers who are familiar with the communities they serve.
- ◆ Ensure diversion partnerships meet best practices, DJS should have metrics for determining success and an evaluation process.

- **“Create and implement an agency wide plan for behavioral and physical health services for youth** The plan should cover services for youth under community supervision. It should incorporate services provided by existing systems of care in the public and private sector (Medicaid, etc.) and create protocols for information sharing and collaboration between and among these systems.”
- ◆ ***Workgroup Recommendation: Still important, high priority***
 - ◆ Ensure that youth have access to the same high quality behavioral health services whether they access them through DJS, DHS or MDH. The availability of services should be dictated by a youth's needs not the referring agency.
- **“Create more service and placement options for females.”**
- ◆ ***Workgroup Recommendation: Still important, high priority***
- **“Enhance staff training in behavioral health, youth development, and family services.”**
- ◆ ***Workgroup Recommendation: Still important, high priority***
- **“Increase the number of bilingual staff.”**
- ◆ ***Workgroup Recommendation: Still important, high priority, but focus should be on multilingual staff, not only bilingual english-spanish***
- **“Ensure that services are delivered in a culturally competent manner.”**
- ◆ ***Workgroup Recommendation: Still important, high priority, see recommendation #1***
- **“Ensure delivery of comprehensive services in all residential placements, including detention.”**
- ◆ ***Workgroup Recommendation: Still important, modify***
 - Need to understand what the definition is of “comprehensive services and services should be comprehensive for each child.
 - DJS does not currently, but should have a plan that provides the minimum services and minimum number of service hours each

child will receive while in DJS care, e.g. individual, family, and group therapy; pro-social activities; substance abuse treatment; and appropriate educational services.

→ **“Work with the Local Coordinating Councils to expedite referrals and ensure DJS understanding of and compliance with the LCC process.”**

◆ **Workgroup Recommendation: Still important, high priority**

- Local Care Teams should receive referrals for complicated cases so they can help coordinate care.
- Not all counties have LCCs, and where LCCs do exist, they are inconsistent between counties. The LCC system needs more resources across the board.

OTHER KEY TAKEAWAYS

Data and Metrics

Data not currently collected or made available:

- DJS does not report out the number of service provision hours provided to youth in its care, or provide clear, detailed, information about level, type, and quality of programming provided to its youth. DJS should be required to report in-depth data on service provision broken down by type of service provided, number of youth served, and number of service hours provided per youth.
- Effectiveness of programming for court-involved youth.
- Gaps in service provision by region of the state.
- Data related to charging children in adult court, including analysis of overcharging, case dispositions, difference across jurisdictions, cross-tabulated data, and long-term outcomes.
- Education provided in adult jails and prisons.
- Solitary confinement of juveniles in adult jails.
- Solitary confinement of juveniles in adult jails.
- Disaggregation by race including RRI (relative rate index) and cross tabulated for race, gender, and ethnicity.

- DJS does not make its raw data readily available and instead publishes % and aggregations.
- Tracking short and long-term outcomes for system-involved youth in both juvenile justice and the adult system.
- Quality of programming & interventions provided to youth including clear information on program allocation or number of hours of treatment provided to youth.
- Number of youth charged in adult court and case/sentence outcomes
- The number of youth who are involved with the Maryland Social Services Administration.
- Number of children who are deemed incompetent.
- Number of children that have a diagnosed mental illness.
- Number of children that have literacy issues.
- Basic demographic and diagnostic information of DJS population.
- Clear and comprehensive data on recidivism in youth versus adult facilities.
- Data on DJS budget and allocation of money.

Data & Metrics - Improvements:

- DJS currently collects demographic data in ways that fail to properly reflect the impact of policies on communities of color by using outdated and limited racial demographic categories. The use of “Black/White/Other” fails to capture the impact of policy on Latinx, Asian, Indigenous, and other communities of color in Maryland.
- Engage in a data-driven process that targets the drivers of the court-involved youth population and costs rather than simply measuring recidivism by reconviction and reincarceration. In order to do so, Maryland must (1) use multiple measures of success; (2) develop protocols to ensure data are consistent, accurate, and timely, (3) account for the underlying composition of the population; and (4) package the findings in reliable and consistent manner to maximize impact and get the results into the hands of decision makers.
- Types of programming and available programming within the Department of Corrections including the service delivery type and metrics for measuring success.
- During the pretrial process people, including youth, who are put on home detention are not recorded. You can see numbers for Held without Bond, Released on Recognizance, etc., but if home detention is ordered it will look

- like the person was ROR'd. This is a problem because we can't track how the pretrial landscape is changing in Maryland and it makes it harder to advocate.
- More alignment in reporting about juveniles charged as adults between the Governor's Office of Crime Control & Prevention and DJS.
 - Maryland also is legally bound to report data to the FBI. This data is NOT in the DJS reports but is important and more specific.
 - How many children are detained for how long in cages due to lack of shelter, foster care, or mental health beds.
 - How many children are committed to DJS per year, and how many of those kids are ejected/rejected from programs. Currently, DJS counts commitments but not children.
 - Clear numbers of referrals, acceptances, and denials for every contracted program
 - Contracts & budget allocations for each contracted program
 - Surveys, investigations, and all data related to the licensing and monitoring of contracted and state-run facilities.
 - All details of all programming and policy - both in facilities, pre-court, and probation supervision.
 - Clear data on use of incentives and how they vary across the state/by region
 - Independently validate and peer review all DJS screening tools for use on teenagers and children.
 - The Detention Risk Assessment Instrument and the MAST staffing tools need outside, independent verification. They also need a race equity approach and analysis applied.

States & Cities with Good Youth Policy Models

NATIONWIDE

- [Project NIA](#)
- [Human Rights for Kids State Ratings Report](#)
 - ◆ Maryland has improved since the 2020 HRFK report when Maryland was ranked as one of the worst states for kids' rights.
 - ◆ To improve even further in HRFK's ratings, Maryland should end the practice of automatically charging certain juveniles in adult court, end the felony murder rule for juveniles, end solitary confinement for juveniles, and stop incarcerating children in adult facilities.

ARKANSAS

- [Arkansas Advocates for Children and Families](#)
- [Division of Youth Services](#)

CALIFORNIA

- [California Is Becoming a Model of Juvenile Justice Reform](#), Thanks to Progressive Legislation, Juvenile Justice Information Exchange
- [Progress on Juvenile Justice Reform in California](#), CATO Institute
- [California Reforms a Model for Overhauling Youth Justice: Paper](#), The Crime Report
 - ◆ [Transforming the Culture of Youth Justice in the Wake of Youth Prison Closures](#), 26 Lewis & Clark L. Rev. 1 (2022), San Diego Legal Studies Paper 21-017

COLORADO

- [Emerging Adult Justice Project](#) - Columbia Justice Lab
 - ◆ [Colorado Youth Offender System: Program Manual](#)
 - ◆ [Youthful Offender System](#)

CONNECTICUT

- Juvenile system overview:
 - ◆ "Superior Court for Juvenile Matters has exclusive original jurisdiction over juveniles accused of delinquent acts."

- ◆ As of 2017, no child may be placed in detention unless judge of Superior Court determines that
 - There is probable cause to believe child has committed acts alleged
 - There is no less restrictive alternative available, and
 - There is
 - Probable cause to believe child would pose risk to public safety if released prior to hearing/disposition
 - Need to hold child in order to ensure appearance before court as demonstrated by previous failure to respond to court
 - Or need to hold child for another jurisdiction
 - ◆ Court processing
 - Non-judicial cases: minor offenses, dealt with by juvenile probation officers rather than judges.
 - Judicial cases: more serious offenses, cases involving juveniles with prior history w court, cases where juvenile denies charges, cases where probation officer believes judicial intervention warranted.
 - ◆ Department of Children And Families
 - Convicted delinquents in need of out-of-home placement
 - Agency is responsible for public/private residential placement of juvenile offenders, and parole services
- [Juvenile Justice Advisory Committee \(JJAC\)](#)

KANSAS

- Best model for transferring juveniles to adult court. [Statute](#)
- ◆ All juveniles begin in juvenile court, without statutory carve-outs for certain offenses. Juveniles may be transferred to adult court after the consideration of certain factors outlined in statute.

KING COUNTY, WA

- [Juvenile Justice in King County, WA](#)
- ◆ [Zero Youth Detention](#)
 - [Road Map to Zero Youth Detention](#)

- New Children and Family Justice Center
- Uniting for Youth - state and local youth-serving agencies examine and improve coordination and collab of services for youth in justice and child welfare systems and who may have mental health/educational needs

LONG BEACH, CA

- [Promising Adults, Tomorrow's Home \(PATH\)](#)

MAINE

- [Maine Youth Justice](#)
- [Maine Juvenile Justice System Assessment & Reinvestment Task Force](#)
- [Juvenile Justice Advisory Group \(JJAG\)](#)
 - [2021-2024 3-year plan](#)
 - [2021 Annual Report](#)
 - [Maine Juvenile Justice System Assessment](#)

NORTH DAKOTA

- [North Dakota Modernizes Juvenile Justice System](#) (changes to current law)
 - ◆ Create distinct categories for juvenile delinquency, deprivation, child welfare
 - Delineate between populations and reduce confusion.
 - ◆ Replace designation of “unruly child” with “child in need of services” and allow youth to access social services through [human service zones](#) without formal involvement in the justice system.
 - ◆ Ensure all youth are provided the right to counsel in proceedings by presuming they are indigent rather than basing access to counsel on parents’ ability to pay.
 - ◆ Required use of validated risk and needs assessment tools to support decisions abt diversion and placement, and restricting out-of-home placement solely to meet treatment needs.

OREGON

- [Oregon Youth Authority](#)
- Approach: [Positive Human Development](#), DEI, [Youth Reformation System](#)

OHIO

- [Department of Youth Services](#)
 - ◆ [RECLAIM Ohio](#)

PHILADELPHIA, PA

- Emerging Adult Unit (EAU)
 - ◆ [DA Krasner Announces Launch of Specialized Unit to Improve Justice Outcomes for Young Adults, Increase Public Safety](#) (Philadelphia District Attorney's Office)
 - ◆ [Based on science of adolescent brain](#)

SAN FRANCISCO, CA

- [Young Adult Court \(YAC\)](#)
 - ◆ [Policies & Procedures Manual](#)
 - ◆ [An Evaluation of San Francisco's YAC, 2017](#)
 - ◆ [Young Adult Court Fact Sheet - Results from March 2021](#)

SANTA CLARA, CA

- [Juvenile Justice Systems Collaborative \(JJSC\)](#)
- [Office of Youth & Community Restoration \(OYCR\)](#)
 - ◆ Created by [SB 823](#)
- [Opinion: Santa Clara County is now a national model for juvenile detention reform](#)

UTAH

- [Division of Juvenile Justice and Youth Services](#)
- [Voices for Utah Children](#) - Juvenile Justice

VERMONT

- [Balanced and Restorative Justice \(BARJ\)](#)
- "Raise the Age" Law
 - ◆ [Act 201 Implementation](#)

- ◆ [Why Vermont Raised Its Juvenile Court Age Above 18 – And Why Mass. Might, Too](#) (WBUR)

WEST VIRGINIA

- Crime & Justice Institute - [Implementing Juvenile Justice System Change in West Virginia](#) (Community Resources for Justice)