

Youth Justice in the COVID-19 Pandemic
Lessons from Five Sites

February 2023

Acknowledgements

This publication was developed and produced collaboratively by the *Center for Children's Law and Policy*, *Justice for Families*, the *Justice Policy Institute*, and the *National Juvenile Justice Network* as part of an effort to identify, assess, and share with the youth justice field replicable policy and practice changes that led to a decrease in youth incarceration following the onset of COVID-19.

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Lessons from Five Sites

Executive Summary

The COVID-19 pandemic set in motion an unprecedented public health crisis impacting nearly every facet of American life, including the administration of youth justice across the country. As we approach the end of the third year of the pandemic, it is a critical time to 1) examine smart policy and practice changes that reduced reliance on incarceration and expanded community-based supports and services for youth, and 2) translate lessons learned into practical strategies to improve youth justice processes and promote public safety. An examination of five jurisdictions identified the following effective strategies.

STRATEGIES THAT WORKED

1. **Expand Diversion Eligibility and Programming.** Jurisdictions used a range of strategies to shrink the flow of young people into the juvenile justice system during COVID-19, including ending arrest and prosecution for minor offenses, creating new categories of cases eligible for diversion, and developing new programming to hold youths accountable outside of formal court involvement.
2. **Safely Expedite Release from Secure Settings.** Juvenile corrections agencies in study sites implemented a range of strategies to safely expedite release from detention and commitment placements, including conducting weekly individual case reviews, developing furlough options for young people serving sentences on serious charges, and creating case "expeditors" whose full-time job was to develop and implement plans to transition youths back to their homes as quickly as possible.
3. **Leverage Technology and Virtual Engagement Options.** Both courts and probation agencies in study sites quickly pivoted to develop remote hearing and visitation capabilities, create opportunities for socially distanced community visits and virtual meetings, and acquire and provide computers and internet access in various locations for justice-involved young people in the community, thereby ensuring continued engagement.
4. **Get Creative and Rethink Community Supports for Kids and Families.** Given the magnitude of the crisis and the increased needs of young people and their families, many agencies directed funds to community-based organizations to help meet basic needs, including hot meals, groceries, help with rent, technology to support remote education opportunities, and medical services. In several sites, virtual treatment options also broke through geographic barriers and expanded access to effective programming in hard-to-reach communities.

ONGOING CHALLENGES

Despite progress, even states and localities that pivoted away from youth incarceration in response to the pandemic struggled with similar challenges, including:

- [Keeping Young People in Congregate Care Safe, Supported, and Engaged](#). Jurisdictions must continually innovate to find ways to keep young people socially distanced in safe congregate settings while limiting isolation, maintaining in-person visitation, and guaranteeing uninterrupted access to education and employment resources.
- [Reducing Racial and Ethnic Disparities](#). While several study sites noted that racial and ethnic disparities in youth incarceration were not exacerbated by pandemic policies, all sites still disproportionately detain and commit youth of color compared to white youth and must identify effective strategies to reduce disparities.
- [Sustaining Decarceration Efforts](#). Although incarceration populations declined in all study sites early in the pandemic, detention and/or placement numbers have begun to creep back up in all locations. Jurisdictions should analyze what is driving those increases and develop targeted strategies to address them and build momentum for continued reduced reliance on congregate care options for youth. See this resource from the Annie E. Casey Foundation – [Answering These Questions Can Help Juvenile Justice Agencies Reduce Youth Detention](#) – for guidance on how to identify potential strategies to reduce reliance on youth detention.

Youth justice jurisdictions across the country quickly and effectively pivoted away from incarceration in the face of the COVID-19 health crisis, and now is the time to document what worked, so we can build on that foundation to transform the administration of justice for young people in the United States.

Lessons from Five Sites

BACKGROUND

The COVID-19 pandemic set in motion an unprecedented public health crisis impacting nearly every facet of American life, including the administration of youth justice. Because the health risk of the virus to young people incarcerated in corrections facilities – and the staff who worked with them – was extremely high, it forced states and localities to quickly reduce the number of young people held in congregate care facilities and implement strategies to prevent and contain the spread of the virus.

As we approach the end of the third year of the pandemic, it is important to pause, examine smart policy and practice changes that reduced reliance on incarceration and expanded community-based supports and services, and identify ways to leverage and build on that foundation to further improve youth justice processes and outcomes.

In 2020, four national research and advocacy organizations – the Center for Children’s Law and Policy, Justice for Families, the Justice Policy Institute, and the National Juvenile Justice Network – came together to study state and local policy and practice changes in the administration of youth justice in the United States during the COVID-19 pandemic. The project had three main goals:

- Identify lessons learned from changes to juvenile justice policies and practices (particularly with respect to the placement of youth in secure detention and commitment) during the coronavirus pandemic and the impact of these changes on youths, families, and communities, with an emphasis on impact on young people and families of color;
- Provide useful materials to system stakeholders, families, community leaders, and other advocates, to encourage reforms being sustained, expanded upon or implemented, in both the context of COVID-19 and broader reform efforts, including calls to divert funds from police; and
- Develop evidence-informed recommendations for future juvenile justice reform efforts to promote decarceration of youth.

The project team initially selected six sites (three states and three local jurisdictions) that demonstrated success in reducing youth incarceration in the first year of the COVID-19 pandemic. In selecting sites, the team prioritized states and localities that sustained reductions in youth incarceration in the year following the onset of the pandemic and demonstrated equitable reductions for youths of color relative to white youths.

The team also aimed to capture a geographically diverse group of sites that utilized a range of policy levers to reduce reliance on incarceration and had existing partnerships with project partners.

The six sites originally selected were:

- Harris County, Texas
- New York City
- Pierce County, Washington
- Maine¹
- Maryland
- Utah

In each site, project partners collected and analyzed quantitative data on key metrics including court referrals and detention and placement admissions, standing populations, and lengths of stay. The team also collected and reviewed qualitative data from a wide range of sources including:

- Publicly available documents on policy and practice change and impacts;
- Interviews with youth justice system practitioners;
- Focus groups with youth justice advocates in each study site; and
- Two virtual roundtables with parents of system-involved youth and justice system practitioners.

This report summarizes key findings from the project across five final project sites, with a focus on the strategies that were most effective and the challenges jurisdictions currently face. It also offers recommendations for advancing youth justice policy and practice changes to improve outcomes for young people and their families. Separate publications provide a deeper dive into data trends and youth decarceration drivers in each site and summarize findings and recommendations from each of the two virtual roundtable discussions. All project publications *are available online*.

THE CRITICAL IMPORTANCE OF DATA-DRIVEN DECISION-MAKING

One common factor the sites highlighted in this brief shared is a data-driven approach to policy and practice change. Each of the study sites regularly collects information on key metrics, reviews those data to understand trends and identify concerns, and uses that information to inform decisions.

During times of turbulent change like the COVID-19 pandemic, it is critically important to collect accurate data in a timely way, analyze and share key findings with policymakers and partners frequently, and use that information to drive responses. These sites were able to respond effectively to rapidly changing circumstances because they had data to tell them what was happening and used it to make decisions about how to respond.

¹ The project team was not able to obtain data from the state of Maine to assess key metrics. In addition, despite declines in the number of incarcerated youths in Maine, troubling information released during the project with respect to the treatment and placement of young people who were in juvenile custody during the pandemic further complicated the assessment of Maine's practices. As a result, a decision was made to exclude Maine as a primary project site. See "CCLP Report on Causes of Recent Disturbances at Long Creek Youth Development Center" from November 2021 for more here: <https://irp.cdn-website.com/de726780/files/uploaded/cclp-report-on-incidents-at-long-creek-final%20Deember%202021.pdf>.

STRATEGIES THAT WORKED

While each jurisdiction implemented a unique set of policy and practice changes in response to the onset of COVID-19, we noted several commonalities among selected sites and a few core strategies that seemed to accelerate decarceration.

1. Expand Diversion Eligibility and Programming.

Jurisdictions used a range of strategies to shrink the flow of young people into the justice system and detention during COVID-19, including ending arrest and prosecution for minor offenses, creating new categories of cases eligible for diversion, and developing new programming to hold youths accountable outside of formal court involvement. For example:

- In **Harris County, Texas**, the District Attorney's Office worked with community partners to develop targeted diversion strategies for young people in need of mental health services, youths referred for marijuana charges, youths referred by schools, and dually involved youths (those involved in both the juvenile legal and child welfare systems). Justice system stakeholders expressed optimism that there has been a real culture shift in school law enforcement that will outlive the pandemic.
- The **New York City** Department of Probation and the Law Department partnered with the New York Police Department to develop a new protocol for processing arrested youths. Prior to COVID-19, all young people were sent to a central processing hub on Centre Street in Manhattan and then either detained or released from that location. When things went virtual, probation officers made themselves available to conduct a quick virtual screening to assess whether a young person was appropriate for release, and NYPD developed a plan for releasing those who could be returned to the community directly from the police station. As a result, only young people who need to be detained or have an upcoming hearing move forward to the Center Street hub, while all others return home much more quickly. This process was still in place as of spring 2022.
- The Department of Juvenile Services in **Maryland** intensified detention diversion efforts during the pandemic, with a particular focus on Black youths referred for less serious, misdemeanor charges. The agency also implemented changes to the Detention Risk Assessment Instrument and significantly reduced the number of automatic detention categories.
- In addition, in **Baltimore, Maryland**, the State's Attorney's Office stopped prosecuting minor juvenile offenses like drug possession and sex work, and the Baltimore Police Department advised officers to use discretion in arrest decisions for these offenses. The two agencies also partnered with Baltimore Crisis Response, Inc. to connect young people with mental health, housing, and substance use services in lieu of arrest.

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2. **Safely Expedite Release from Secure Settings.** Juvenile corrections agencies in study sites implemented a range of strategies to safely expedite release from detention and commitment placements, including conducting weekly individual case reviews, developing furlough options for youths serving sentences on serious charges, and creating new release “expeditors” whose full-time job was to develop and implement plans to transition youths to their homes. Notably, all five of the selected sites established weekly detention review meetings to identify youths appropriate for release and develop plans to address any barriers to expedited release. In addition:

- The **Harris County** Juvenile Probation Department created a new staff position focused specifically on expediting release for detained youths. The “facility population manager” examines individual cases and develops strategies to expedite release, with a particular focus on youths who have been in detention for a long period of time. She also helps ensure that young people moving to a post-disposition facility are transferred as quickly as possible so they can begin to access treatment and services in those facilities. The Harris County Juvenile Probation Department also worked with the court to develop furlough options for youths serving sentences for serious charges and expedite their return to their homes and communities.
- Early in the pandemic, the **Utah** Division of Juvenile Justice Services worked with the Youth Parole Authority to identify all youths who had been in secure care for at least three months and had met the prescribed dosage of indicated treatment, then developed a transitional housing plan and plans for expediting their release.

3. **Leverage Technology and Virtual Engagement Options.** Both courts and probation agencies in study sites quickly pivoted to develop remote hearing and visitation capabilities, create opportunities for socially distanced community visits and virtual meetings, and acquire and provide technology for justice-involved young people in the community, all to ensure their continued engagement. Every site noted that they were forced to quickly expand virtual hearings and visitation options, which reduced barriers to court appearances and increased service accessibility in more rural areas. Many noted that these options will continue beyond the pandemic. In several sites, virtual treatment options also broke through geographic challenges and expanded access to effective programming in hard-to-reach communities though the increased reliance on virtual engagement also underscored the need to ensure access for all. For example:

- **Utah** stakeholders highlighted the positive impact that COVID-19 had on services because it brought new ways of thinking in terms of technology. One stakeholder noted that **comprehensive reforms** legislated and implemented prior to the pandemic significantly shrunk the population and supported investment in critical infrastructure that allowed the state to shift away from incarceration to community supports and services.² The public health crisis then brought new ways of thinking in terms of technology and virtual engagement, and federal American Rescue Plan Act of 2021 dollars are now supporting long-term services and remote learning opportunities. For example, the Utah Division of Juvenile Justice Services has partnered with Utah Tech University to provide statewide,

² See also <https://justice.utah.gov/juvenile-justice/juvenile-justice-oversight-committee/>.

real-time college courses available to young people incarcerated in state facilities.

- In addition, the **Utah** Courts have installed kiosks and computers to support video meetings throughout one rural district, which can be found on reservations, in libraries, and in other community locations. Residents can use the private kiosks to join virtual court hearings, file documents, or meet with probation officers. Stakeholders report that early feedback is positive, and they expect the state will continue to build virtual capacity in other areas over time.
- Several sites noted that the shift to virtual service delivery expanded access to high-quality services that were not available to young people in some places prior to COVID-19. For example, during the pandemic, practitioners in **New York City** had an opportunity to refer young people to services across borough lines, and the Department of Juvenile Services in **Maryland** implemented virtual options to reach more remote areas, including the Eastern Shore and western parts of the state.

4. **Get Creative and Rethink Community Supports for Kids and Families.** Given the magnitude of the crisis and the increased needs of young people and their families, many agencies directed funds to community-based organizations to help meet basic needs, including hot meals, groceries, help with rent, technology to support remote education opportunities, and medical services.

- To support young people returning home in **Harris County** and build support for the plan with the judiciary, Harris County Juvenile Probation Department directed funds to several community-based organizations to provide hot meals, groceries, help with rent, technology to support remote education opportunities, and medical services, including remote counseling sessions with the facility therapist. These services provided critical supports early in the pandemic for the roughly 100 youths who quickly transitioned home in March and April of 2020.
- Advocacy groups in **Harris County** also leveraged the critical importance of these support services to help secure \$4 million for a Community Reinvestment Fund. Planning is currently underway for the fund, which is being done in partnership with community and is centering the experiences of youths and families directly impacted by the justice system. In April 2022, Change Happens – a Black-founded and -led, community-based social service organization with deep roots in neighborhoods in Houston disproportionately impacted by the youth justice system – was awarded a contract to serve as the intermediary for the fund. The organization is building capacity and developing an inclusive selection process for awarding subgrants to a range of local providers.
- **Pierce County, Washington's** prior outreach and family and community engagement helped build critical infrastructure that supported connection with young people at home. Later in the pandemic, the probation division also created evidence-based virtual

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programming to support positive youth development, dropped off supplies at youths' homes, and overhauled the resource list on the agency website to support better connection.

- Existing detention alternative programs in **New York City** stepped up services to maintain support in the community for youths processed through family court who would have been detained prior to COVID. New resources were added, including at least one alternative placement option for youths involved in family conflicts who could not return home. In addition, Legal Aid developed individualized community-based plans for monitoring and supervision for youths who were eligible for detention in some cases.

ONGOING CHALLENGES

Despite progress, even states and localities that successfully pivoted away from youth incarceration in response to the pandemic continue to struggle with similar challenges, including:

- [Keeping Young People Safe, Supported, and Engaged While in Congregate Care](#). Though we are now in year three of the pandemic, the virus is still a significant threat, particularly for unvaccinated young people in congregate care. At the same time, strategies to mitigate the harm of the virus (e.g., suspending family visits, isolation, etc.) can also be harmful and inflict trauma on young people. Staffing shortages have also left many facilities short-staffed, which poses additional safety concerns. Jurisdictions must continually innovate to find ways to keep young people socially distanced in safe congregate settings while limiting isolation, maintaining in-person visitation, and guaranteeing uninterrupted access to education and employment resources.

COLLABORATION AND CULTURE CHANGE SUPPORTED DECARCERATION

The demands of the COVID-19 crisis prompted unprecedented information sharing, collaboration, and innovation, which resulted in permanent shifts in culture and/or practice that stakeholders in some sites expect will continue moving forward.

Several jurisdictions noted that the way practitioners thought about the risks and benefits of incarceration shifted. This was most clearly specified in Maryland, where the Chief Judge required that judges consider the health risk of incarceration and access to rehabilitation services in detention and placement decisions, and in Pierce County, Washington, where a state-level change ended use of detention for failure to appear in court or alleged violations of a court order.

But others indicated that their jurisdictions shifted to a presumption of release/no incarceration for young people from a default position of holding youths unless certain criteria were met. In addition, several sites noted that they were either formally or informally examining what mechanisms and strategies were most effective and figuring out how to codify and sustain them going forward.

Although they are difficult to quantify, these culture shifts were significant and may be the most enduring juvenile justice changes that emerged from the pandemic. Institutionalizing a new "way of doing business" is a transformational shift that, hopefully, will outlive the public health crisis.

- **Sustaining Decarceration Efforts.** Although incarceration populations declined in all study sites early in the pandemic, detention and/or placement numbers have begun to creep back up in all locations often as a result of slower release rates and increasing length of stay. This trend is not limited to study sites as the *Annie E. Casey Foundation's longitudinal youth detention survey* has documented similar trends in jurisdictions across the country. Their findings showed that after a spike in activity shortly after March 2020, release rates, in particular, slowed down and never recovered. If sites had kept up their March 2020 pace, the youth detention population today would be almost 40 percent lower. Jurisdictions should analyze what is driving those increases, develop targeted strategies to address them, and build momentum for continued reduced reliance on congregate care options for youth. This will need to include strategies to expand placement options for youths and families in conflict or in need of services and develop alternatives to detention for youths arrested on serious and violent offenses. See this resource from Casey – *Answering These Questions Can Help Juvenile Justice Agencies Reduce Youth Detention* – for guidance on how to identify potential strategies to reduce reliance on youth detention.
- **Reducing Racial and Ethnic Disparities.** While several study sites noted that racial and ethnic disparities in youth incarceration were not exacerbated by pandemic policies,³ all sites still disproportionately detain and commit youth of color compared to white youth. Further, *Casey's Monthly Youth Detention Survey* showed that the slowdown in release rates noted above fell much harder on Black and Latinx young people than white youths, which explains much of the worsening disparities we've seen across the country since the onset of the pandemic. Every jurisdiction must continue to take a hard look at racial and ethnic disparities and identify effective strategies to reduce them.

CONCLUSION

As we near the end of the third year of the COVID-19 health crisis, cities, counties and states across the country are continuing to deal with the pandemic. Even though many youth justice jurisdictions quickly and effectively pivoted away from incarceration in the face of the COVID-19 health crisis, detention and placement populations are creeping back up in many places.

The latest data from The Annie E. Casey Foundation shows that similarly situated jurisdictions are moving in very different directions.⁴ While some communities have sustained reductions in youth incarceration, others have seen youth detention and placement populations rise and even eclipse pre-pandemic levels. These divergent trends show that it is critical to document what worked and build on that foundation in order to transform the administration of justice for young people in the United States. After all, studies consistently show that if we reduce detention and incarceration of youth, we all benefit.⁵

³ See individual case studies

⁴ "The Number of Youth in Secure Detention Returns to Pre-Pandemic Levels," The Annie E. Casey Foundation, Aug. 16, 2022, <https://www.aecf.org/work/juvenile-justice/jdai/youth-detention-survey-during-covid-19>

⁵ Barry Holman and Jason Zeidenberg, "The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities," 2006, https://justicepolicy.org/wp-content/uploads/justicepolicy/documents/dangers_of_detention.pdf; Leah Sakala and Janine M. Zweig, "How Jurisdictions Can Keep Youth Out of the Deep End of Local Juvenile Justice Systems," Urban Institute, Jan. 5, 2021, <https://www.urban.org/urban-wire/how-jurisdictions-can-keep-youth-out-deep-end-local-juvenile-justice-systems>.

FAMILY RECOMMENDATIONS TO BETTER SUPPORT JUSTICE-INVOLVED YOUNG PEOPLE AND THEIR FAMILIES

In September 2021, a diverse group of parents came together from across the United States to discuss the impact of the COVID-19 pandemic on their justice-involved children. Their insights and recommendations were captured in a separate brief, *Youth Incarceration During the COVID-19 Pandemic: Insights from Impacted Families*, but an abbreviated list of their specific suggestions is included here for quick reference, given the central importance of their ideas for improved policy and practice:

- Strengthen services, supports, and connection for young people in congregate care facilities. Families recommended that facility administrators create a family liaison position, prioritize in-person visitation, increase medical personnel, and strengthen oversight and accountability to ensure that young people's needs are met and to better support connection with caregivers, siblings, and other support people.
- Maximize opportunities for, and expedite release from, facilities. Given the added public health risk to people in congregate settings during this pandemic as well as other less widespread crises, parents unanimously called on agencies to explore all opportunities to promote and expedite release, with individualized and robust support, of young people from facilities, particularly those who have not yet been adjudicated and proven to have committed a crime.
- Expand community-based mental health, trauma, and healing supports for youth and families. Families noted that the COVID-19 pandemic exacerbated existing issues and increased the need for mental health, trauma, and healing supports for justice-involved young people and their families. They recommended multisensory and culturally responsive approaches to trauma healing, resilience and well-being for all family members to ensure that everyone's needs are met, and caregivers are best positioned to support their young people who might be struggling.

In 2020, four national research and advocacy organizations — the *Center for Children's Law and Policy*, *Justice for Families*, the *Justice Policy Institute*, and the *National Juvenile Justice Network* — came together to study state and local policy and practice changes that effectively reduced reliance on youth incarceration during the COVID-19 pandemic. The collaborative released a series of publications illustrating how agencies across the country can safely reduce reliance on youth incarceration and invest in more effective community-based strategies to support justice-involved youth and families.

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