

**REDUCING JUVENILE INCARCERATION IN LOUISIANA**

**Prepared by the Casey Strategic Consulting Group for the  
Joint Legislative Juvenile Justice Commission**

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## **EXECUTIVE SUMMARY**

The Louisiana Children's Code places a priority on keeping delinquent youth in their own homes. When that is not possible, it is the duty of the court to seek a placement as similar as possible to home. Every effort must be made to prevent incarceration, the least home-like setting. Thus, incarceration of youth should be seen as an outcome failure. It is a failure of children to learn appropriate social behavior, parents to control their own children, and the juvenile justice system to provide effective treatment and rehabilitation services.

**The key to improving the Louisiana's juvenile justice system is to greatly expand the alternatives to incarceration.** Programs like the National Guard Youth Challenge and the American Marine Institute that combine education and counseling with supervision and discipline can be more effective than incarceration at far lower cost. Alternatives to incarceration are needed because:

- The vast majority (77 percent) of incarcerated youth are non-violent offenders.
- Most youth are low-level offenders. Simple battery and simple burglary are the most common offenses. 40 percent of youth in secure custody committed offenses less serious than simple burglary.
- The custody options for delinquent youth do not match the risks they pose to public safety. While most incarcerated youth are relatively low level offenders, the state offers few non-secure residential and day treatment resources to serve them.
- Judges have too few options when making disposition decisions. Dispositions are often a choice between probation and incarceration. There is no organized, graduated system of sanctions between the two.
- Probation services are inadequate. Probation officers lack resources to provide treatment and counseling services. Caseloads are too high and supervision of youth is too infrequent.

- Youth with behavioral, mental health, and substance abuse needs are incarcerated because treatment services are lacking in their communities. As a result, many low-level offenders who do not pose a public safety risk are placed in state custody.
- The use of incarceration varies too widely. Dispositions for similar offenses differ greatly between parishes and judges. Low-level offenders are incarcerated as long as serious violent offenders.

**One of the state’s four juvenile corrections facilities should be closed, in order to fund**

**significant new investment in alternatives to incarceration.** Eliminating one of

Louisiana’s four secure juvenile facilities would save \$16-17 million annually plus \$4

million in health and mental health services every year. Replacing secure custody with

alternative placements for 350 youth would cost between \$2 to \$10 million -- providing net

savings of \$10 to \$18 million.

- Incarceration is the most expensive of all options to address delinquent behavior. Louisiana spends \$157 per day to incarcerate a youth. In contrast, residential and day treatment programs cost \$85 and \$60 per day, respectively. Intensive “tracker” supervision costs just \$15 per day.
- Juvenile incarceration costs \$89 million in state general funds this fiscal year. The state spends more local tax dollars on secure custody of children than for mental health, child welfare, public health, and addictive disorders.
- Simple strategies can produce large reductions in the number of secure beds needed. Eliminating administrative delays for short-term offenders can save 50 beds. Reducing incarceration of misdemeanors would eliminate 110 beds. And shortening the length of stay for drug possession and other minor felonies could cut the need for over 200 beds.
- Savings from reducing the capacity of Louisiana’s juvenile facilities would be maximized if an entire facility were closed. A closure would eliminate fixed operating costs such as property maintenance and utilities and maximize the resources available to serve youth in the juvenile justice system.

The closure of a facility cannot occur overnight. A carefully crafted transition plan is needed to determine which youth could be safely released or moved to an alternative program and which need to remain in secure custody. Since the average length of incarceration is about 12 months, the number of incarcerated youth should fall naturally if alternatives are used appropriately and admissions are reduced.

**Racial disparities in incarceration must be addressed.** Black youth are more than four times as likely to be incarcerated than white youth in Louisiana. Though there is little racial difference in severity of offenses or prior offense histories, black youth receive longer dispositions and are incarcerated for greater time than whites. A systematic approach with an explicit focus on reducing racial disparities based on careful collection and analysis of data is needed.

Implementing these recommendations is realistic and achievable over the next year. Hundreds of troubled youth would be better served and millions of state tax dollars would be saved without risking public safety. In fact, public safety will likely improve if Louisiana's juvenile justice system adopts the most effective and cost-effective strategies to address delinquent behaviors. Inaction will perpetuate a pattern of over-incarceration, over-spending, and poor outcomes.

## **ACKNOWLEDGEMENTS**

This report is the product of a team from the Casey Strategic Consulting Group. The members of the team were: Kathleen Feely, Managing Director; Joseph Liu, Senior Associate; Clarice Bailey, Ph.D., Senior Associate; John Kim, Associate; and, Marta Pernas, Associate. Bart Lubow, Director of Annie E Casey Foundation's Program for High Risk Youth and Their Families, provided invaluable guidance and technical support for the engagement.

The study relied on the participation of dozens of interviewees in Caddo, Beauregard, East Baton Rouge, Jefferson, and Orleans Parishes. The time given by judges, court administrators, prosecutors, defense attorneys, probation officers, and detention officials was invaluable to understanding how Louisiana's juvenile justice system works.

Staff from the Department of Public Safety and Corrections headquarters provided a great deal of data to the Casey team and assistance in understanding Office of Youth Development policies and procedures. Wardens, administrators, caseworkers, and teachers at Louisiana's four juvenile corrections centers introduced us to their programs and facilities. And staff at Jetson and Bridge City Correctional Centers for Youth provided considerable time assisting our review of case files of incarcerated children.

The work of the Casey engagement team also would not have been possible without the guidance and assistance of the Juvenile Justice Commission's Planning Team.

## **BACKGROUND**

The Joint Legislative Juvenile Justice Commission (Commission) presents a special opportunity to reform Louisiana's juvenile justice system. Empowered to develop a comprehensive vision for the juvenile justice system, the Commission seeks strategies to strengthen the role of families and communities in reducing delinquency and develop alternatives to institutional confinement and out-of-home placements of children.

In his 2001 State of the Judiciary speech, Louisiana Chief Justice Paul Calogero said, "We do not have a real juvenile justice system. Instead, what we appear to have, at both the state and local levels, are the pieces of a system -- components that often function without coordinated policies, procedures, strategies, or even shared information." He called on the legislature to establish a legislative commission to "examine the mission and financing of our juvenile courts as well as the availability of effective secure detention facilities and services, the availability of effective alternative sanctions, and the availability of treatment services."

In response, the legislature created the Commission and the Ad Hoc Juvenile Justice Advisory Board. The Commission is charged to study and make recommendations on reforming and restructuring the state's juvenile justice system. The authorizing resolution specifically requests recommendations on the following issues:

- the operating and capital needs of the state's four juvenile courts and their sources of funding;
- the availability and quality of secure detention facilities and services;

- the availability and quality of prevention, assessment, early intervention, representation and advocacy services, and treatment services; and
- alternative sanctions available to the juvenile courts.

In early 2002, the Annie E. Casey Foundation received requests for assistance from the Chief Justice of the Louisiana Supreme Court and from members of the state legislature.

Originally, these requests were broadly framed, seeking assistance in reshaping multiple components of the Louisiana juvenile justice system. Through several meetings in Baton Rouge, and multiple phone conversations, the scope of work was narrowed considerably, especially because the Advisory Board was already focused on many other components of the state's juvenile justice system. The Casey Strategic Consulting Group submitted a proposal outlining the scope of work to the Commission. In June 2002, a letter of engagement to provide support free of charge was signed by the Commission Chair and Vice Chair.

This report focuses on the parts of the process that are most closely related to incarceration: disposition and release decisions. In addition, a discussion of racial disparities in the use of incarceration is included. A description of the entire juvenile justice process is contained in Appendix A along with a flowchart of the process in Appendix B. The summary slides of the final report presented to the Commission are attached in Appendix C.

## **STUDY METHODS**

This study focuses on reducing incarceration of children in Louisiana. We examined the processes and decisions related to children entering, currently in, and exiting the juvenile justice system. Our framework of analysis began with understanding how children are processed through Louisiana's juvenile justice system. An analysis of case processing shows how and by whom decisions are made about delinquency cases. We reviewed relevant statutes, regulations, and case law to identify the formal parameters of discretion granted to judges, police, corrections officials, and probation officers. Interviews of decision makers, case file reviews, and observations of the juvenile justice system shed light on the informal norms and mechanisms used. For each decision point in the juvenile justice system, we looked at existing alternatives to identify the gaps in the spectrum of choices available to juvenile justice decision makers. The process analysis was linked with data from the Department of Public Safety and Correction's Office of Youth Development (OYD) on every youth in the department's custody or supervision in 2001. The data offer a mechanism to examine actual decision patterns with the goals and intentions of the key participants.

As part of this study, 50 case files for youth incarcerated at Jetson and 20 case files for youth at Bridge City were examined. The case files were reviewed with OYD caseworkers and some youth were interviewed in person as well. The youth were selected by Dr. James Austin of George Washington University who was working on a separate study to forecast the future size of the incarcerated juvenile population for OYD and the U.S. Department of Justice. All youth selected were at minimum custody and fit a low risk profile.

The case file reviews were the primary data for our analysis of the decision making process that occurs after a child is committed to secure custody. A larger sample of youth selected randomly from each juvenile correctional center would have allowed a quantitative analysis of decisions related to release. Because of the small number of cases reviewed and the non-random method of selection, the findings concerning release decisions are qualitative in nature and reflect the perspectives provided by the caseworkers who reviewed the files with Casey staff.

The quantitative analysis on characteristics of the secure population, disposition decisions, and secure time served were produced from data provided by OYD. OYD extracted selected variables from its management information system for this study. The data extracted included key characteristics of every child under OYD custody or supervision at any time during 2001. In addition to age, race, and parish of origin of each youth, the data set contained information on current and previous petitions and transfers within the OYD system.

The disposition length and the number of prior offenses committed by each youth were calculated from the data provided by OYD. Analyses concerning disposition length included all youth in secure custody at any point during 2001. Calculations concerning time served in secure custody were based on data for youth exiting secure custody in 2001.

Using disposition length and time served as the dependent variables and offense severity, prior offenses and youth characteristics as independent variables, the relationship between

the variables was assessed. For youth adjudicated for more than one offense, the analysis was conducted using the most serious charge among the youth's active dispositions. The decision was made to focus on the most serious offense because it is a better indicator of public safety risk than the lesser charges. However, this approach skews the disposition length for youth given consecutive sentences.

As with any study, more complete data and more comprehensive analyses could shed further light on the issues discussed. Given the complexities of juvenile justice decision making, no data analysis can provide absolute certainty about the policies needed to improve Louisiana's juvenile justice system. Instead, this report is simply the Casey team's best judgment about what the evidence suggests.

## **KEY DECISION POINT FINDINGS**

Numerous decisions by law enforcement, prosecutors, defense attorneys, judges, and corrections officials affect the flow of cases through the juvenile justice system. Many points in the juvenile justice process either channel youth towards or away from incarceration. Changes in the behaviors, policies, and procedures of every actor in the system can affect the number of children in secure custody. Like any complex system, choices made on the front-end of the process can have enormous consequences on the options available later and can have varying impacts on outcomes. It is possible to argue that reforming the system requires changing every point in the process.

However, if the immediate goal is to reduce the number of incarcerated children, then it is crucial to begin with those decisions with the greatest direct bearing on incarceration. The number of incarcerated youth is a simple mathematical function of the number youth sent to secure custody and how long those youth stay in custody. Thus, the two most central decision points in the juvenile justice system are disposition and release. A judge decides to commit a youth to secure custody and corrections officials decide when to recommend a modification of disposition to send a youth home.

The following section of this report takes a closer look at decisions related to disposition and release. Qualitative analyses of the decision makers, the information they use to make their decisions, and their options are accompanied by quantitative data on actual decision making patterns.

### **Dispositions: Inadequate Information and Too Few Options**

Once a child is adjudicated delinquent, the juvenile court must commit the youth to secure custody or choose an alternative disposition. Judges are responsible for weighing the severity of the offense committed and the prior offense history of the youth in choosing an appropriate disposition. And, they must balance the needs of delinquent youth with the available treatment and supervision options.

Article 901 of the Children's Code states, "The court shall not remove a child from the custody of his parents unless his welfare or the safety and protection of the public cannot, in the opinion of the court, be adequately safeguarded without such removal. The court should impose the least restrictive disposition authorized. . . consistent with the circumstances of the case, the needs of the child and the best interest of society." The statute lists the following circumstances where secure custody may be appropriate:

- There is undue risk that during the period of a suspended commitment or probation the child will commit another crime.
- The child is in need of correctional treatment or a custodial environment that can be provided most effectively by his commitment.
- A lesser disposition will deprecate the seriousness of the child's delinquent act.
- The delinquent act involved the illegal carrying, use, or possession of a firearm.

Disposition decisions in Louisiana do not appear to meet the guidelines set by the Children's Code. Judges do not consistently receive comprehensive assessments of youth needs and risks to inform their decisions. Recommendations by the Department of Public Safety and Corrections (DPSC) probation officers for secure custody are based on a flawed decision

tool. The options judges have available to them are too limited and often result in a choice between low-intensity probation and incarceration. In addition, judges do not have objective decision support tools to help them make difficult disposition decisions and they do not receive data on how their decisions compare to their colleagues. Consequently, there are wide variations in the use of incarceration across parishes and courts.

Judges do not always receive the information they need to evaluate youth needs and risks.

Courts depend on adjudication proceedings and predisposition investigations (PDI) written by probation officers for information about youth, their risk to public safety, and their needs. To a large degree, there is no consistent set of information presented to judges before they make their disposition decisions. In the large number of cases where youth admit to committing the delinquent act or lack defense counsel, the only available information comes from the delinquency petition. However, the petition is focused exclusively on the nature of the delinquent offense and provides no information about a youth's social history or needs. In a substantial number of cases, a complete predisposition investigation is not submitted. Instead, judges are provided with a brief social history that emphasizes prior offenses committed by the youth. Consequently, many judges make dispositions without consistent, comprehensive information on the services that would best address the needs of youth under their jurisdiction.

Even when complete predisposition investigations are conducted, judges are not presented with the full range of possible disposition options. Judges receive a more complete assessment of a youth's needs when a predisposition investigation is conducted. PDI content

and format are clearly spelled out under the Children's Code and Office of Youth Development (OYD) policies. But, the disposition recommendations made are almost always limited to programs and services available through OYD because of limited community resources. Since OYD funding is scarce for mental health and substance abuse treatment in the community, youth with obvious needs invariably are recommended for secure incarceration and out-of-home placement.

OYD probation officers rely on a flawed tool when forming disposition recommendations.

OYD probation officers complete a secure custody screening document for delinquent youth. The screening tool is flawed because it is scaled to recommend secure custody for most minor offenders with just a single prior adjudication. The secure custody screening document assigns points based on the following factors: severity of offense, number and seriousness of prior adjudications, history of probation or parole supervision, previous out-of-home placements, and prior escapes or runaways. Youth whose total score exceed a certain threshold are recommended for secure custody. Those on the lower end of the secure custody scoring rang are recommended for a short-term program. The tool does not incorporate any measure of youth needs and the treatment and services available in secure custody. It makes no distinction between non-secure residential programs, day treatment services, and probation.

Judges tend to vary in the weight they give predisposition investigation recommendations. But, most courts lack the resources to seek out and collect the information needed to determine youth needs and treatment options on their own. Many judges rely heavily on their

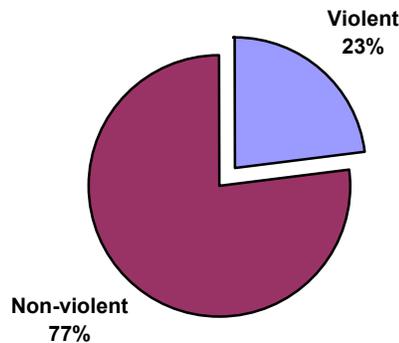
probation officers for custody and duration recommendations because they perceive OYD personnel to have a better understanding of available resources and services. Other judges may go to considerable lengths to push for treatment and services they feel are necessary, regardless of the recommendations they receive from OYD staff. The *ad hoc* nature of these efforts points to a need for a better system to support the difficult and complex choices facing judges in delinquency dispositions.

A frequent concern expressed by both prosecutors and judges across the state is the lack of disposition options. Many feel that their only choices are between probation and secure custody. Though DPSC has contracts for a variety of non-secure programs, specialized foster care, day treatment facilities, and tracker services, they are not routinely available for delinquent youth. When the range of disposition options are so limited, incarceration increases because youth needing greater supervision are channeled directly into secure custody rather than intermediate, less restrictive settings.

## **Characteristics of Youth In Secure Custody**

The vast majority of juvenile offenders sent to secure custody are adjudicated for non-violent offenses. Figure 1 shows that 77 percent of youth in secure custody during 2001 were non-violent offenders. While many non-violent offenses are serious crimes and many non-violent offenders have had multiple prior offenses, the fact that they did not harm other people indicates that they pose a limited risk to the public.

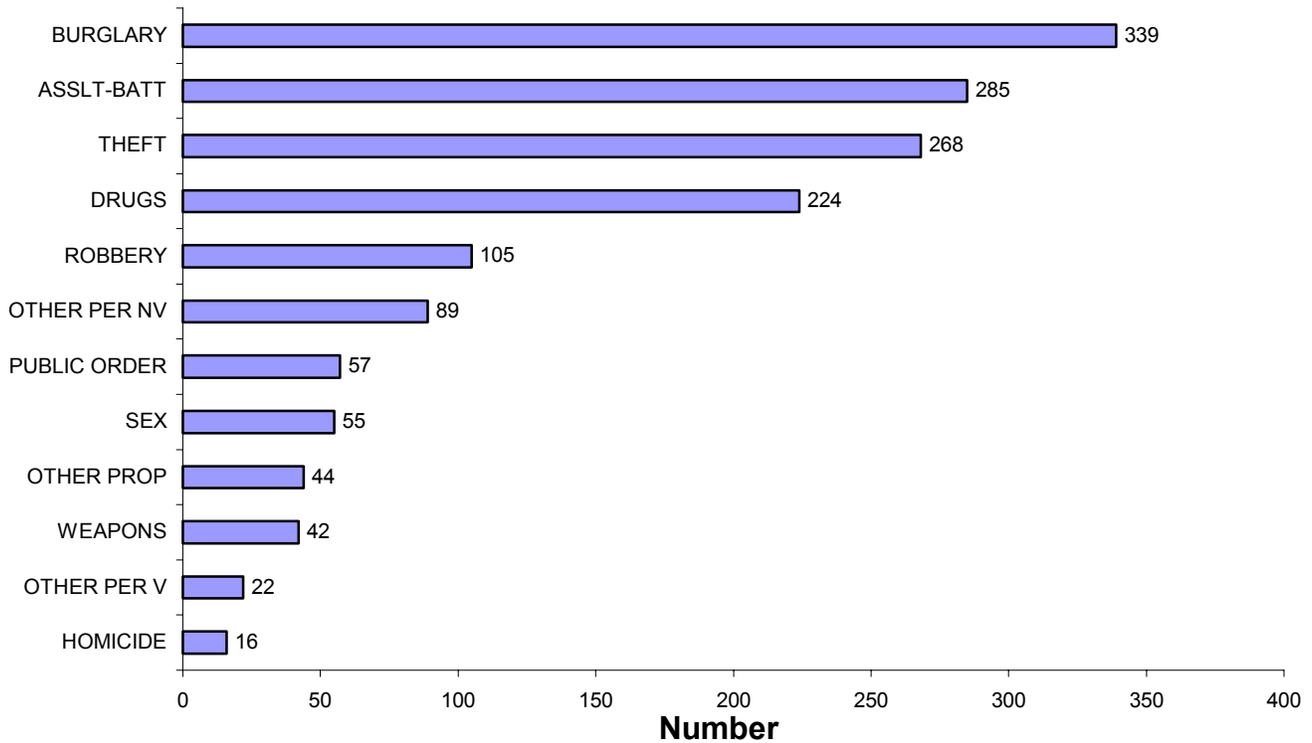
**Figure 1. Youth in Secure Custody by Violent and Non-violent Offense, 2001**



SOURCE: Louisiana Department of Public Safety and Corrections, Office of Youth Development

Most incarcerated juveniles are low-level offenders. Simple burglary is the most common offense for youth sent to secure custody. The second most common offense is simple assault, an offense that does not result in injury to another person. In many cases, simple assaults are committed against a parent and the root cause of the delinquency is a family problem that is not addressed by incarceration. Only a few dozen youth are incarcerated for extreme offenses such as homicide, sex crimes, or weapons charges.

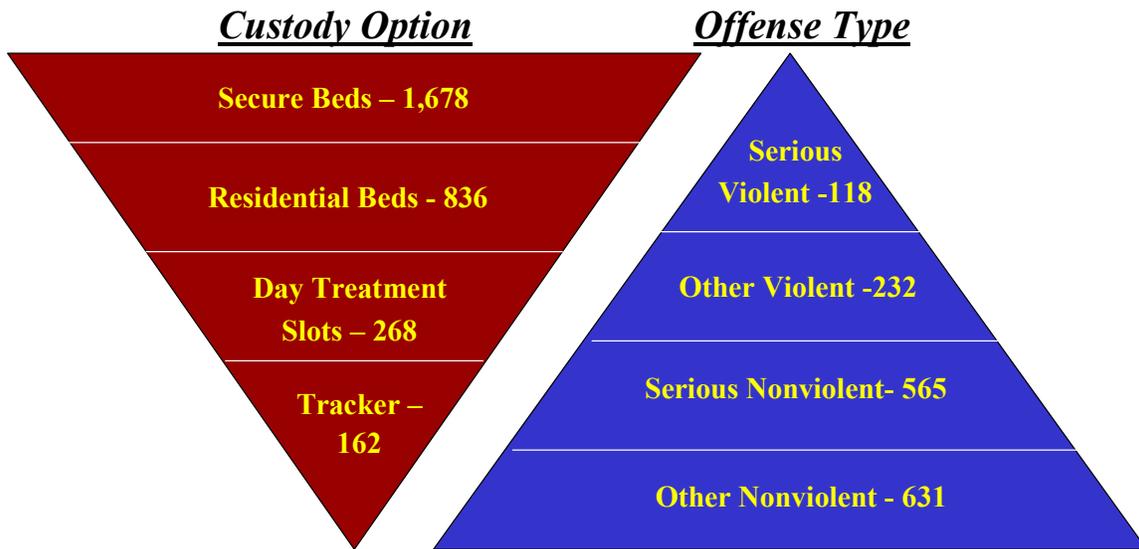
**Figure 2. Youth in Secure Custody by Offense Category, 2001**



SOURCE: Louisiana Department of Public Safety and Corrections, Office of Youth Development

Disposition options do not match the risk posed by the incarcerated population. Figure 3 shows how the placement options for juvenile offenders are skewed towards incarceration. Though most incarcerated delinquents commit low-level offenses, the bulk of Louisiana’s disposition options are devoted to secure custody. The shortage of less restrictive options pushes youth towards incarceration, even though they may not present a threat to public safety.

**Figure 3. Disposition Custody Options and Offense Type<sup>1</sup> of Incarcerated Population, 2001**



Even when the underlying offenses are relatively minor, youth are frequently sent to secure custody because of probation failures. Many judges expressed that probation was appropriate for first-time offenders, but they were unsatisfied with probation for youth with multiple prior offenses. This concern reflects the low level of services and supervision provided by OYD probation. Inadequate probation supervision and services wastes an opportunity to develop better patterns of behavior among delinquent youth. Youth and families do not get the tools and support needed to change. Inadequate supervision also diminishes the sanction value of probation to judges and prosecutors. Poor probation services also reduce the deterrent effect of adjudication on youth because it undermines the consequences youth experience for delinquent acts. Consequently, judges become more hesitant about keeping youth in their homes.

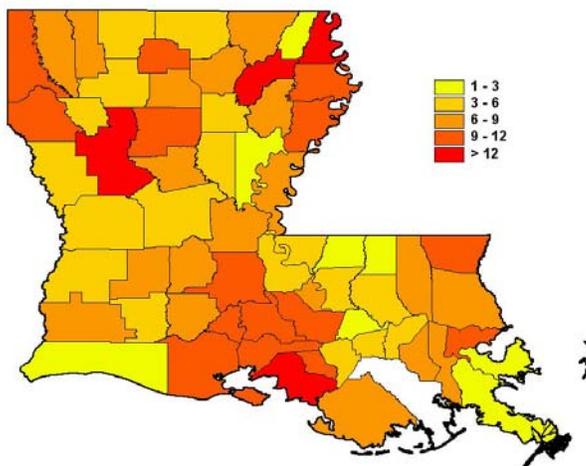
<sup>1</sup> Serious violent offense are defined as those ranging from murder to aggravated rape. Other violent offense include aggravated burglary to illegal use of weapons. Serious nonviolent offense range from indecent exposure to simple burglary. Other nonviolent offense include misdemeanors to simple battery.

Probation services are not organized to succeed. The problems in the probation system reflect a lack of resources and conflicting demands. Probation officers must serve courts and provide supervision. But since courts operate under strict timetables and tight dockets, their needs always take precedence over serving supervised youth. With caseload of nearly 40 youth, probation officers often do not have the time to work with youth beyond the minimum contact levels while working with courts on pleas, petitions, predisposition investigations, and case reviews. Furthermore, probation officers are not given resources to provide or arrange for services to address underlying youth needs. They lack a system of community-based supports to meet the needs of the youth they are supposed to serve. Thus, even the most obvious treatment needs go un-addressed by the probation system, contributing to a cycle of continued anti-social behavior.

Many judges reported using secure incarceration to provide mental health, substance abuse, and other services. It should not be surprising that many delinquent youth have severe behavioral, drug and alcohol, or mental health problems. Often times, these problems will not resolve themselves without intervention and treatment. If left in the community, these youth are not likely to get the help they need. Since judges are required to consider the best interests of youth in their jurisdiction, they feel compelled to order necessary care. Unfortunately, the only setting they can accomplish that is secure custody. As a result, youth end up in secure juvenile facilities because they have high needs, even if they do not pose a risk to public safety. The tragedy of this dynamic is that juvenile prisons are the least effective and most expensive settings to treat behavioral, substance abuse, and mental health problems.

The issues found in disposition decisions produce wide variations in the use of incarceration. Across the state, incarceration rates by parish range from 1.9 to 16.2 per 1,000 youth ages 10-17. (Figure 4) The utility of incarceration rates is limited to identifying the localities with the most serious incarceration problems. The over eight-fold difference in incarceration rates reflect many factors in addition to variation in disposition decisions. There may be great differences across parishes in delinquency behavior and related factors such as poverty, economic development, and education.

**Figure 4. Incarceration Rates per 1,000 Youth Ages 10-17, by Parish, 2001**

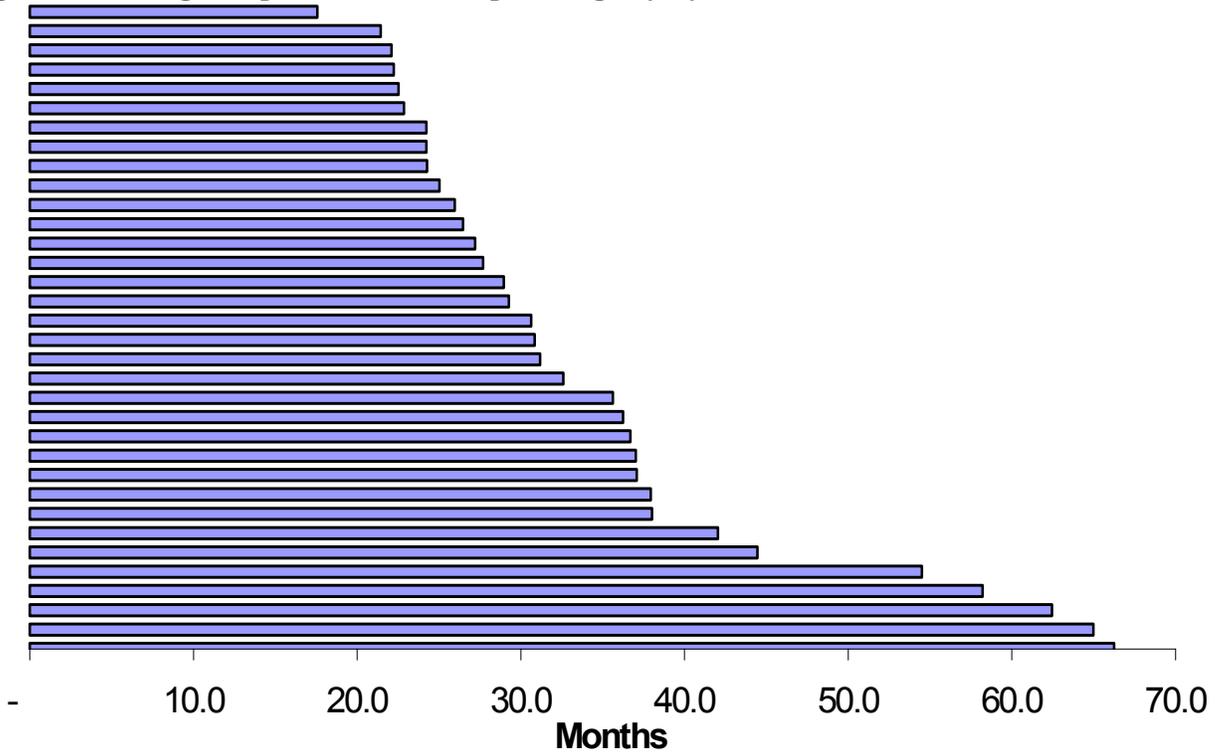


SOURCE: Louisiana Department of Public Safety and Corrections, Office of Youth Development, US Census Bureau SF-1, 2000.

Dispositions vary widely by parish. In order to control for parish differences in the delinquent offenses committed, Figure 5 shows the range of maximum dispositions for simple burglary across parishes. Data for counties with fewer than 20 cases of simple burglary were suppressed to exclude unstable rates. The average length of dispositions for the

same simple burglary offense went from a low of 17.6 months to a high of 66.2 months. The range indicates nearly a four-fold difference in the dispositions of youth across parishes.

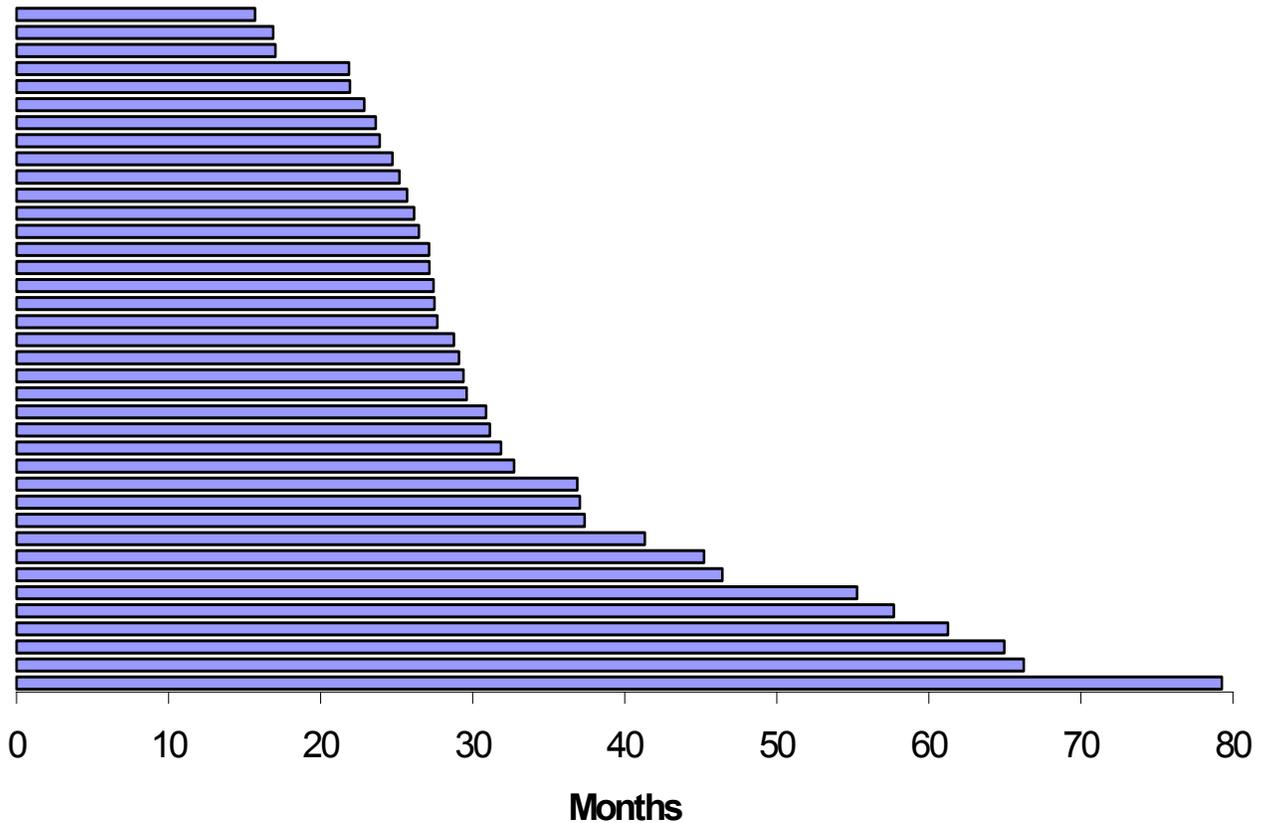
**Figure 5. Average Dispositions for Simple Burglary by Parish, 2001**



SOURCE: Louisiana Department of Public Safety and Corrections, Office of Youth Development

Dispositions vary widely by judge. Parishes do not make disposition decisions, so an examination of differences across courts is necessary. Figure 6 displays the average disposition given for simple burglary for every judge with more than 10 such cases. It shows that dispositions across courts ranged from 15.7 months to 79.3 months for the same offense. The difference of over five years between the shortest and longest dispositions could not be greater because juvenile jurisdictions ends at age 21 and the typical delinquent is 15 years old.

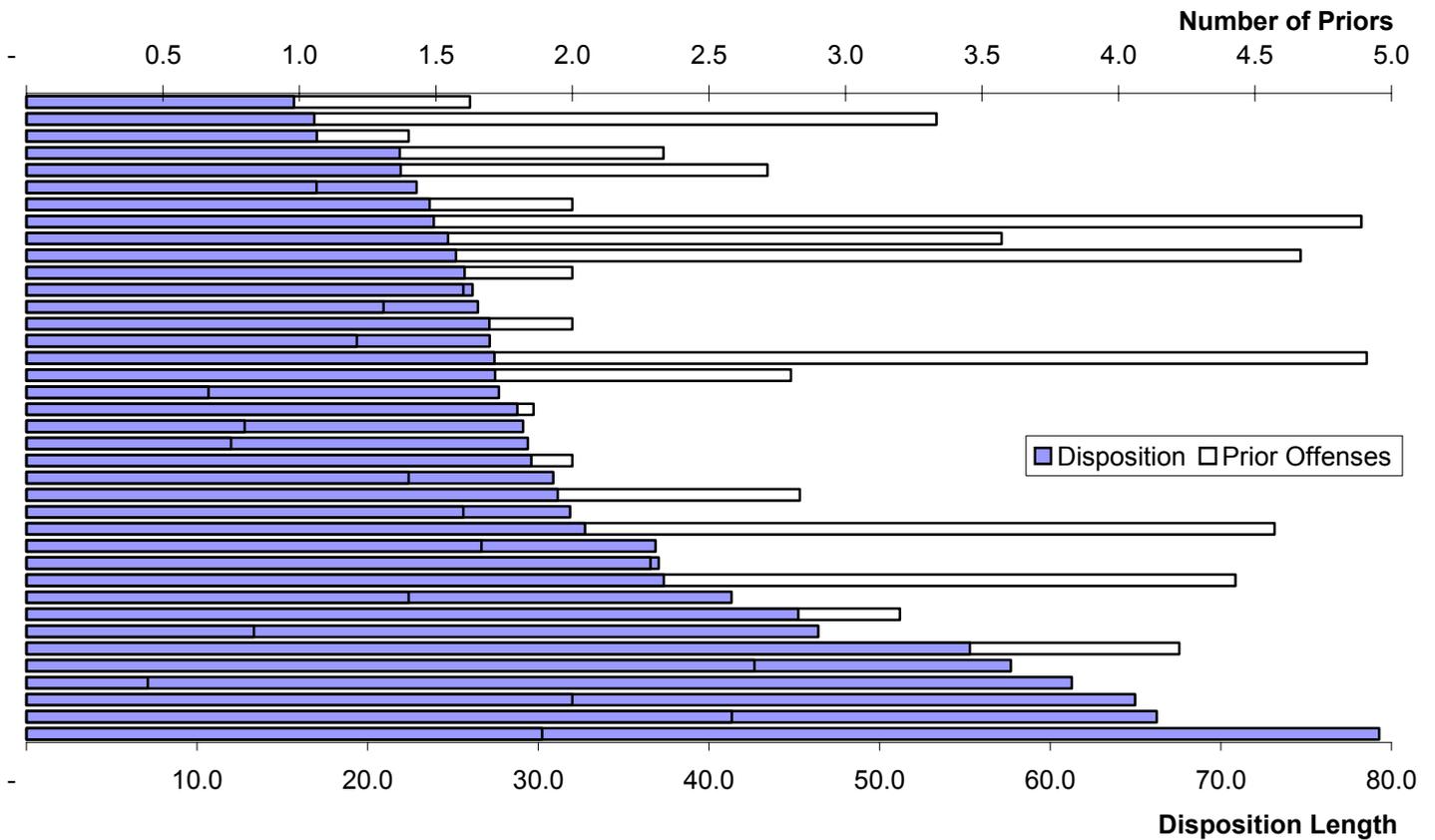
**Figure 6. Average Dispositions for Simple Burglary by Judge, 2001**



SOURCE: Louisiana Department of Public Safety and Corrections, Office of Youth Development

Variations in disposition are not explained by prior offense history. Differences in the number of prior offenses should affect the disposition length given to youth who commit the same offense. Youth with more prior offenses would be expected to receive longer dispositions. In Figure 7, the average number of prior offenses of youth is overlaid on the chart of average disposition length. Rather than conforming to the expected relationship, there is no correlation between the number of prior offenses and the length of disposition for simple burglary. In fact, some of the judges who gave the longest dispositions had juveniles with the fewest number of prior offenses and some of the shortest dispositions had the most previous adjudications.

**Figure 7. Average Disposition and Number of Prior Offenses by Judge, 2001**

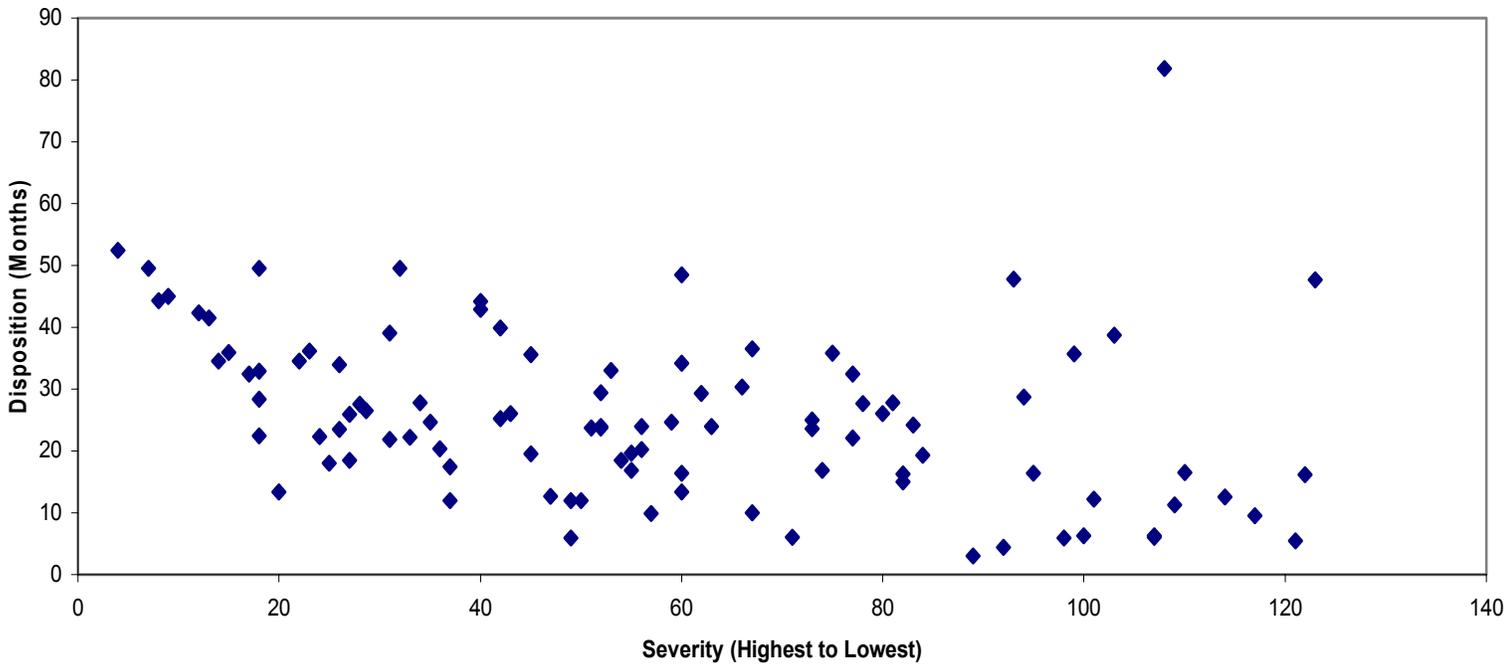


SOURCE: Louisiana Department of Public Safety and Corrections, Office of Youth Development

Disposition lengths are also not correlated to the severity of offenses committed. Figure 8 charts the average disposition by the severity of the underlying offense. The severity ranking used is the same as OYD’s ranking of delinquent offenses. The most severe offense, first degree homicide, is ranked as number one on the far left side of the x-axis. The lowest level offenses, misdemeanors are on the right side of the graph. If disposition lengths were proportionate to the severity of offenses, the plotted points would roughly line up from the top left corner of the graph to the lower right corner. Instead, the points are widely scattered

and display no regular pattern. Some of the longest dispositions were given for the least serious offenses.

**Figure 8. Average Disposition Length by Offense Severity, 2001**



SOURCE: Louisiana Department of Public Safety and Corrections, Office of Youth Development

The very long dispositions set by judges may reflect a wish to gain “leverage” over youth behavior. Judges may be routinely sentencing youth to the maximum dispositions allowed under law and relying on OYD to determine when youth are ready to return to the community. The lack of transparency in judicial disposition decisions and OYD release recommendations leads to courts and OYD personnel trying to guess the intentions of the other.

It is important to note that this analysis is limited to differences in judicial decision making across courts. No attempt was made in this study to assess the quality of judicial decisions in Louisiana. Nor does the study examine the consistency of decisions across cases in the same court. It is possible for these wide disparities between judges to exist even if every judge in the state is making perfectly consistent and equitable decisions within his or her court.

Inconsistencies in the information used to make disposition decisions, poor screening and assessment instruments, the inadequacy of probation, and the lack of treatment services outside of secure custody produce serious issues in disposition decisions. These problems are evidenced by the high number of non-violent, low-level offenders in Louisiana's juvenile prisons. And they make the use of incarceration seem arbitrary with little relationship to prior offense histories or severity of offenses. Disparities in dispositions across parishes and between courts appear to make place of residence and court of jurisdiction key determinates of incarceration.

## **Release Decisions Are Slow, Inconsistent and Often Arbitrary**

While disposition decisions rest squarely with juvenile court judges, OYD shares significant control over how long youth stay incarcerated. Judges set the maximum duration of dispositions, but most youth are paroled from secure custody and return home before the full term of their disposition. Typically, dispositions are modified by judges on recommendation of OYD. Thus, OYD's guidelines for modification and its patterns of practice in the secure institutions are key to the length of stay in secure custody.

The guidelines for institutional recommendation for modification are clearly outlined in OYD policies and procedures (see Appendix A). Youth must be at minimum custody for at least two consecutive quarters and they must complete their case plan treatment protocol. The guidelines also require active participation in educational programs and completion of an aftercare plan.

Release recommendations are driven by disciplinary tickets. OYD uses a system of tickets to sanction disciplinary violations. The tickets are the key factor in establishing a child's custody level. The reliance on the ticket system is a core characteristic of Louisiana's juvenile prisons. All control in the institutions revolves around identifying and punishing youth for disciplinary infractions. Because the tickets directly affect a child's custody level, they have an immediate bearing on release recommendations and length of stay. The use of a ticket system to determine release recommendations is especially problematic since it is not closely correlated with public safety risk

The issuance of disciplinary tickets is arbitrary and excessive. Disciplinary tickets serve to document and sanction youth for any misbehavior or disobedience. The case review found many instances of tickets issued for littering, not getting in line quickly enough, and the use of profanity. Nearly any action that annoys or angers corrections officials can result in the issuance of a disciplinary ticket. In one egregious example, a youth was sanctioned for sexual misconduct after winking at a teacher. Caseworkers indicated that many tickets are written for infractions that might be overlooked or addressed informally by other personnel.

Corrections officials use informal mechanisms to discount disciplinary tickets. When asked about the use of disciplinary tickets, a number of OYD caseworkers expressed concerns about their reliability as a measure of youth behavior. In the course of the case reviews, it appeared that caseworkers used informal mechanisms to compensate for the excessive use of disciplinary tickets by guards. When youth had tickets for especially petty rule violations, caseworkers often rated the youth very high on program participation during quarterly assessments. High program participation scores served to offset minor infractions in the custody level determination process. Such informal compensation, while understandable, leads to inconsistent decisions and weakens formal policies regarding modifications.

Case plan treatment tracking is mostly perfunctory. OYD produces individualized treatment plans for every youth in its custody and completion of the protocol is a core requirement for release recommendations. Progress on these plans is tracked quarterly and included in each child's case files. In our review, nearly every progress report stated that the child was still

working on the issues identified in the case treatment protocol. There were few instances of youth completing all the components of a case plan treatment protocol. It appeared that each form was checked off in nearly identical fashion for every child at every reassessment.

Completion of case plan treatment protocols has no practical bearing on release

recommendations. There appeared to be no differences in the progress made on case plan treatment protocols between youth recommended for release and those that were denied recommendations. The pattern of decision making by OYD personnel on release recommendations seemed to lack objective information, consistency, or reliable measures of risk. Caseworkers appear to rely heavily on informal information, personal impressions, and their own opinions about how long various judges wanted juveniles to be incarcerated. In such an irregular system, caseworkers suggested that youth with likeable demeanors may receive lenient consideration while less personable youth may languish in custody.

Release recommendations delayed or rejected without documentation in case files. Once a youth clears the hurdle of OYD recommendation for modification, the presiding judge must approve the motion for recommendation. We found several instances where youth recommended for release experienced delays of several months before they were sent home. Nothing in the case files explained the delay and it was impossible to determine if the time lag was due to court inaction or slow processing by OYD. In addition, several instances of denial of modification were found with no accompanying explanation. Judges may have explained their reasoning in court and articulated their expectation to the youth. But when

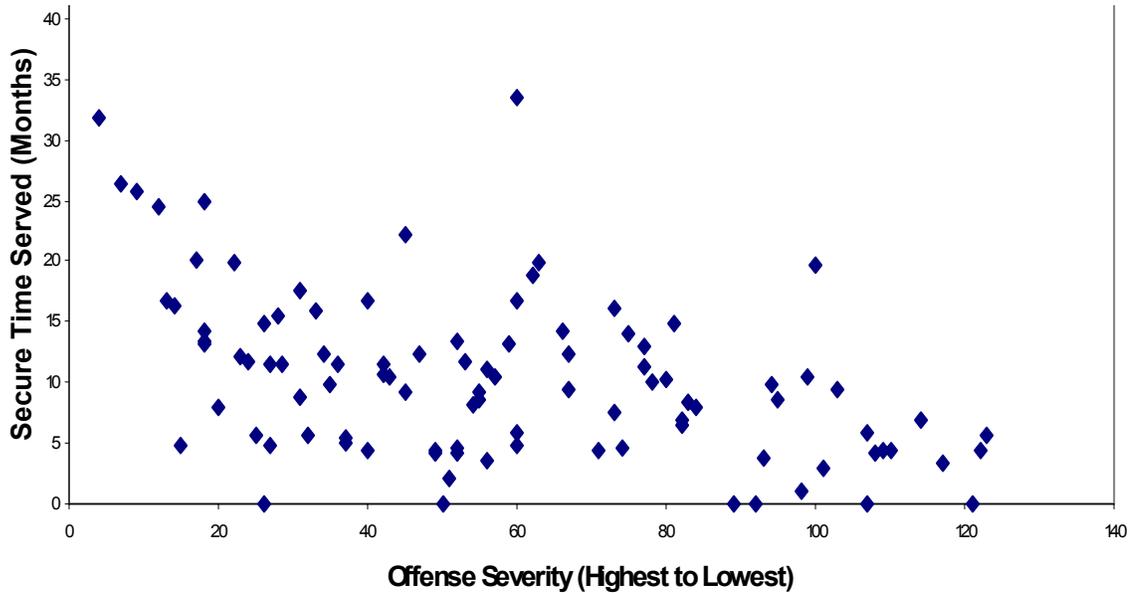
those issues are not documented in the case file, it is impossible for staff in the institutions to assist youth in achieving those expectations.

Few judges regularly review the cases of youth in secure custody. A number of juvenile judges regularly review the cases of youth in secure custody. The youth and their case worker appear in person in the juvenile court and the judges asks questions about the youth's behavior and progress. These reviews serve to provide judges with first-hand information to determine when modification of disposition is appropriate. They allow the courts to make an independent judgment about the need for continued incarceration. In most courts, these reviews are not routine. Instead, the courts rely on summaries of quarterly reviews, often a very brief computer printout, from OYD. The limited information provided by OYD updates is insufficient for independent judgment and leaves courts dependent on OYD modification recommendation process.

Time served in secure custody unrelated to severity of offense. As a result of the many problems in the release decision process, the duration of incarceration bears little relationship to the severity of offense committed. Figure 9 displays the average length of time served for youth exiting secure facilities in 2001 by the severity of their offense. Like Figure 8, the severity ranking used is the same as OYD's ranking of delinquent offenses. The most severe offense, first degree homicide, is ranked as number one on the far left side of the x-axis. The lowest level offenses, misdemeanors are on the right side of the graph. Since many judges use long maximum dispositions as "leverage" and expect OYD to recommend earlier modification, there would be a clear relationship between incarceration lengths and severity

of offenses, if the process worked effectively. Instead, Figure 9 shows only a slightly better correlation between offense severity and incarceration than Figure 8.

**Figure 9. Secure Time Served by Severity of Offense, 2001**



SOURCE: Department of Public Safety and Corrections, Office of Youth Development

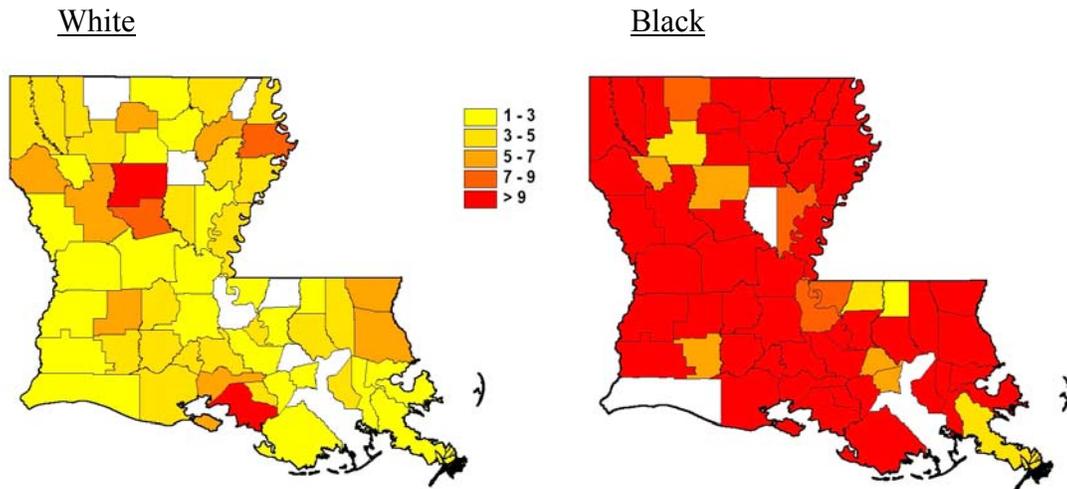
At the core of the release decision process is an approach to juvenile corrections based on physical control rather than accurate assessments of public safety risk and provision of effective behavioral treatment and counseling services. The perfunctory tracking of progress on case treatment protocols results in an over reliance on the disciplinary ticket system to determine length of incarceration. Under this approach, success in the juvenile facilities is conformity to the norms of secure custody rather than achievement of the skills needed to succeed in the community.

## **INCARCERATION CHARACTERIZED BY RACIAL DISPARITIES**

Racial disparities are apparent in nearly every juvenile justice system. Minorities account for about one-third of the total youth population, but they make up nearly two-thirds of youth in custody. The reasons for the disparities are myriad and complex. Given the extreme sensitivity surrounding the issue of racial disparities, many find it difficult to discuss. Some hope that generalized strategies to reduce incarceration will address the problem, and others choose to deny the relevancy of race in the juvenile justice process. However, continuing wide differences in incarceration between minority and white youth create a widespread perception of bias in the system. Thus, public trust in the juvenile justice system requires racial disparities to be addressed frankly and openly.

In Louisiana, black youth are four times more likely to be incarcerated than whites. In 2001, the white incarceration rate was 3.4 per 1000 youth ages 10-17. In contrast, the black rate was 14.4 per 1000, a four-fold difference. At the parish level, the black incarceration rate was up to 12.7 times as great as for whites. (Figure 10) The overall incarceration rate is indicative of the size and scale of racial disparities in incarceration. It does not provide insight into causality.

**Figure 10. Incarceration Rates per 1,000 Youth Ages 10-17 by Race, 2001**



SOURCE: Louisiana Department of Public Safety and Corrections, Office of Youth Development, US Census Bureau SF-1, 2000.

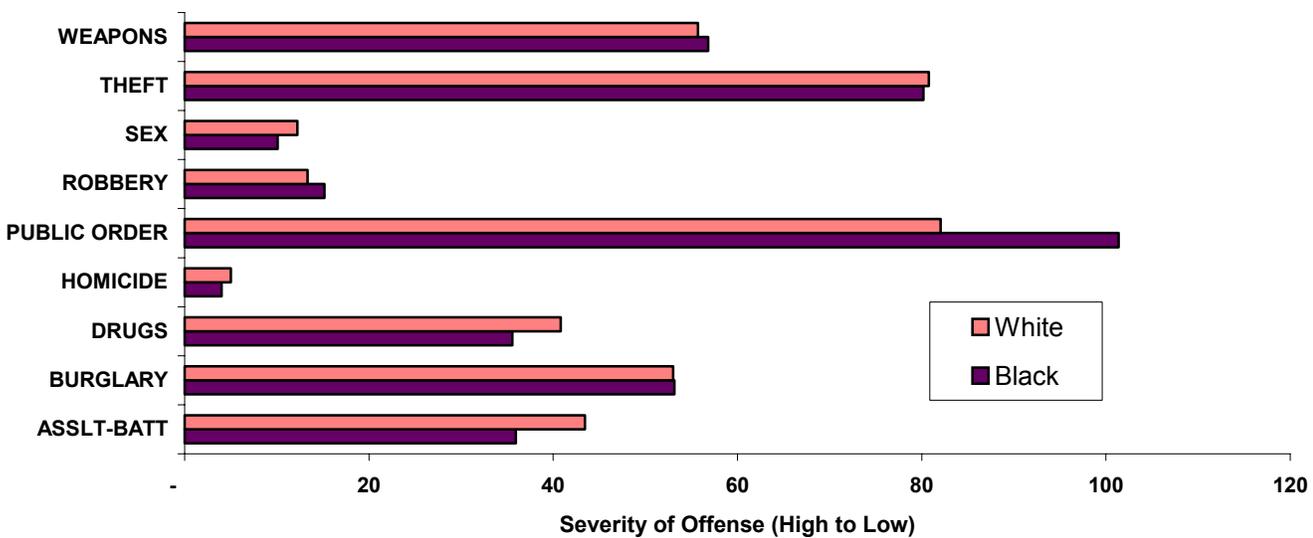
Black youth account for 76.8 percent of Louisiana’s secure custody population. According to OYD, 932 of the 1,214 youth in secure custody on December 24, 2002, were black. In contrast, blacks make up just 32.9 percent of Louisiana’s population. Black youth were more likely than whites to be assigned secure custody rather than non-secure placement. Only 33 percent of blacks in OYD custody were in non-secure facilities. In contrast, 43 percent of whites were placed in group homes and residential treatment facilities.

In order to better understand some of the factors related to racial disparities in incarceration, an analysis was conducted of differences in dispositions and time served by race. To control for the differences in delinquent offenses, the analysis was also broken down by category of offense type (weapons, theft, sex, robbery, public order, homicide, drugs, burglary, assault/battery). Differences in the severity of offenses and prior offense histories were also calculated.

There is little difference in the severity of offenses committed by black and white youth.

Figure 11 shows average offense severity by offense type for all youth in secure custody in 2001. Since offense severity ranks first-degree homicide as number one, lower severity rankings indicate more severe crimes. For most types of offenses, there is little difference in the severity of the acts committed by black and white youth. White youth commit more serious robbery and public order offenses and black youth are charged with more serious drug and assault offenses.

**Figure 11. Average Severity of Offense by Offense Type and Race, 2001**

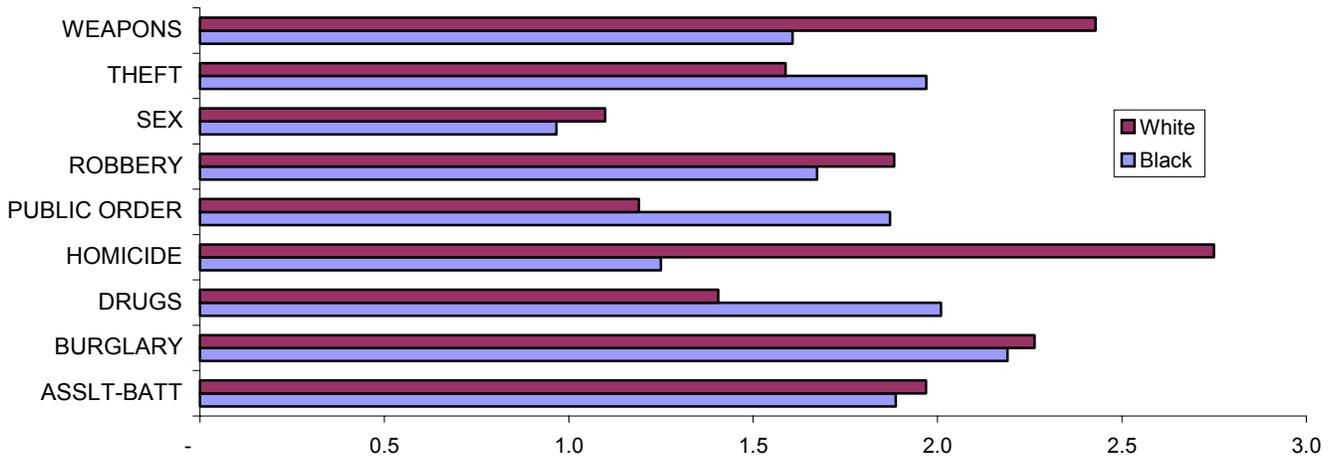


SOURCE: Louisiana Department of Public Safety and Corrections, Office of Youth Development

Nor is there much difference in prior offense histories between black and white youth.

Figure 12 compares the average number of prior offenses committed by black and white incarcerated youth. In every offense category except drugs, theft, and public order, white youth in secure custody had a greater number of prior delinquent adjudications. But, overall, the delinquency histories of black and white youth are roughly similar.

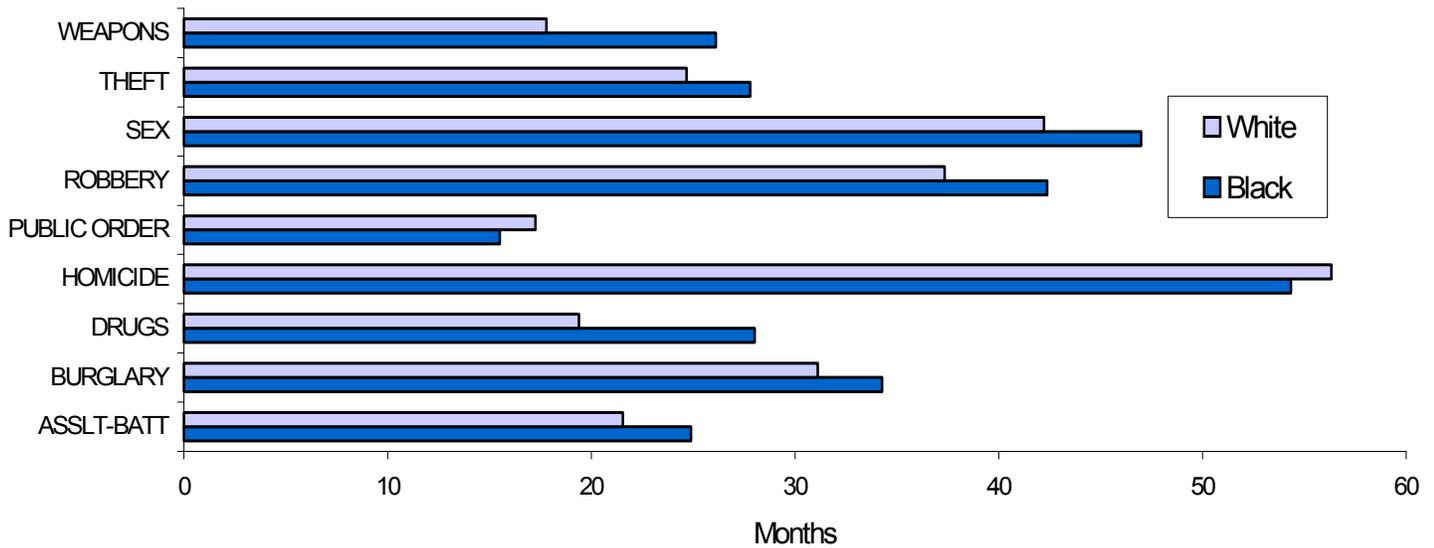
**Figure 12. Average Number of Prior Offenses by Offense Type, Race, 2001**



SOURCE: Louisiana Department of Public Safety and Corrections, Office of Youth Development

Yet, black youth receive longer dispositions than white youth. Figure 13 displays the average disposition length for black and white youth by type of offense. In nearly every category, black youth receive longer dispositions. For example, white youth in secure custody in 2001 who committed weapons offense received dispositions averaging 18 months. In contrast, black youth had average dispositions lengths of 26 months, even though blacks averaged just 1.6 prior offenses compared to 2.4 among whites. Similarly, dispositions for burglary were 3 months longer for blacks than whites despite negligible differences in prior offenses and offense severity.

**Figure 13. Average Disposition Length by Offense Type and Race, 2001**

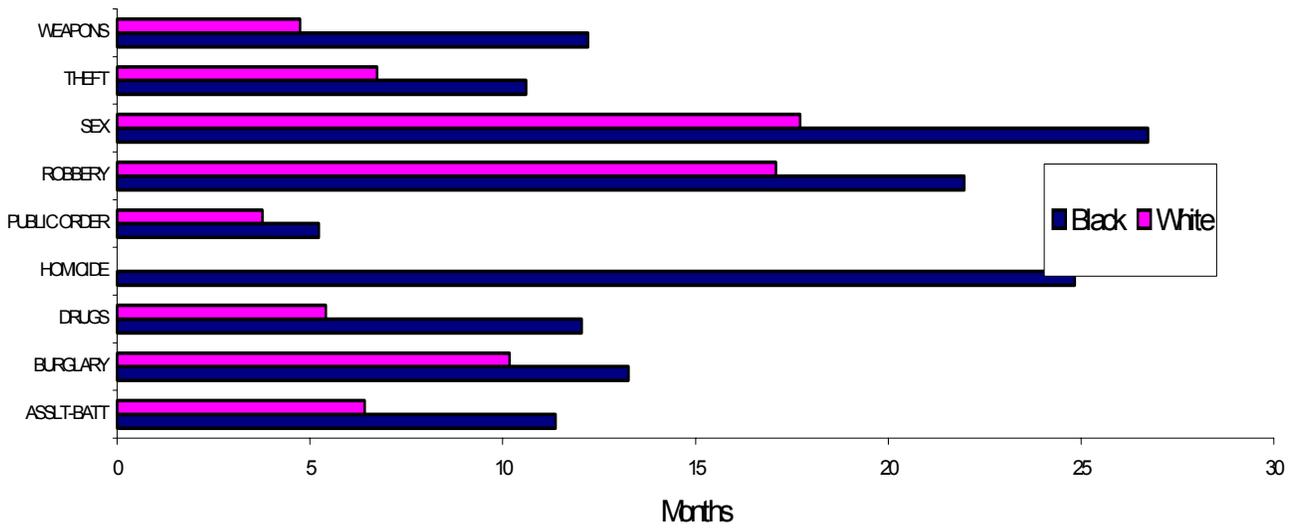


SOURCE: Louisiana Department of Public Safety and Corrections, Office of Youth Development

Racial disparities are even wider for actual time youth are incarcerated. As described earlier, disposition lengths set by judges are maximum terms and most youth are released earlier based on recommendations from OYD. Figure 14 displays the average time served by black and white youth by offense type for all youth exiting secure custody in 2001. In nearly every category of offense, black youth spent much longer than white youth in secure custody. Blacks were incarcerated an average of 12 months for weapons charges compared to 5 months for whites. For drug offenses, blacks served an average of 7 months longer than the 5 months that white youth were incarcerated.

This analysis demonstrates that differences in incarceration of black and white youth cannot be easily explained by differences in the nature of offenses or prior offense histories. The significant variation in dispositions and even greater gap in secure time served point to

**Figure 14. Secure Time Served by Offense Type, Race, 2001**



SOURCE: Louisiana Department of Public Safety and Corrections, Office of Youth Development

a need for even closer examination of the juvenile justice process. New and more comprehensive data is needed to uncover explanations for racial disparities in Louisiana's juvenile justice system. Only with that data can policy makers begin a genuine effort to eliminate those disparities.

## **CONCLUSIONS AND RECOMMENDATIONS**

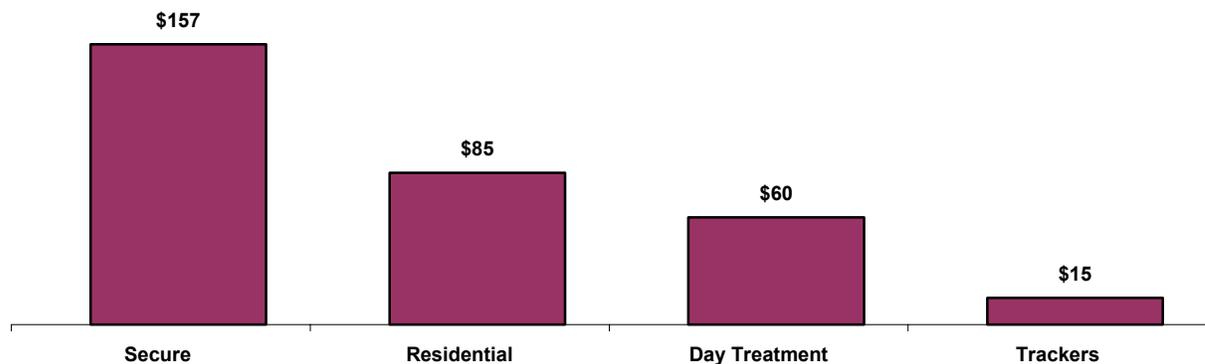
Louisiana's juvenile justice system needs significant reform. Too many youth are incarcerated because judges and prosecutors lack meaningful alternatives to incarceration. Probation officers are overwhelmed by large caseloads and do not have the resources to provide treatment and rehabilitation services in the community. Youth with behavioral, mental health, and substance abuse needs are incarcerated because treatment services are lacking in their communities. As a result, many low-level offenders who do not pose a public safety risk are placed in state custody.

Once committed to DPSC, flawed assessment tools channel too many youth into secure custody for extended lengths of stay. An emphasis on physical control in Louisiana's juvenile correctional facilities teaches incarcerated youth few skills to succeed in the community. Counseling and treatment services are largely perfunctory and release decisions are based on informal impressions about incarcerated youth.

These problems lead to wide variation in the use of incarceration by parish, court, and race. In many ways, a youth's parish of residence, the judge who hears the case, and the color of the youth's skin may be more important in the use of incarceration than the delinquent offense or prior delinquent history. While these variations may not indicate bias or discrimination in the juvenile justice system, they fuel perceptions of inequity and undermine public confidence in the system.

The shortcomings of the juvenile justice system lead to over incarceration and a drain on state resources. Incarceration is the most expensive setting to address delinquent behavior. The cost of addressing a youth’s behavioral problems in a residential treatment program is about half the cost of secure incarceration (Figure 15). Intensive day treatment programs that link counseling with education services are nearly \$100 per day less than incarceration. Providing an adult to assure that a child attends school, returns home by curfew, and avoids risky situations can be accomplished by a “tracker” program for just \$15 per day.

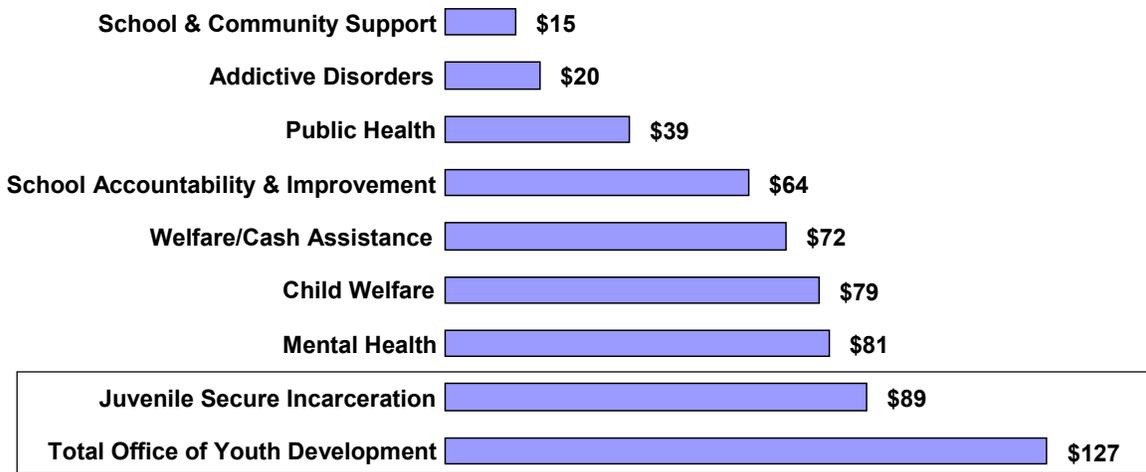
**Figure 15. Cost Per Day for Incarceration and Non-Secure Alternatives**



The high cost of incarceration creates a cycle of system failure. Because incarceration consumes so many resources, there is never enough room in the budget to build and expand alternatives to incarceration. But without those alternatives, it becomes difficult to reduce the size of the secure custody population. Without appropriate non-secure options, more and more low-level offenders end up behind bars.

Figure 16 shows the impact of juvenile secure incarceration on state fiscal policy. Because the federal government provides very limited assistance for juvenile justice, the state bears nearly all of the costs of juvenile incarceration. In this fiscal year budget, juvenile incarceration will consume \$89 million in state general funds. That total exceeds the amount of state tax dollars devoted to nearly every other social service program in the state.

**Figure 16. State General Fund Expenditures (\$Millions), FY2002-3**



In order to begin the process of reform, the Juvenile Justice Commission should recommend the following actions be enacted this year:

Greatly expand alternatives to incarceration. By creating more disposition options and expanding alternatives to secure custody, the number of low-level juvenile offenders in secure custody can be reduced dramatically. The alternatives should include more state-funded intensive probation supervision and tracker programs plus non-residential treatment and counseling services. A portion of the funds is needed to provide every delinquent youth

with effective legal representation to protect their interests and secure the least restrictive placements.

To assure the proper use of these alternatives, a new secure custody screening tool should be developed by judges, prosecutors, and advocates. Currently, almost all youth committed to DPSC are deemed appropriate for incarceration by the secure custody screening document. A revised tool would shift youth with low-level offenses and few prior adjudications to these new community-based alternatives. Judges, prosecutors, defense counsel, and probation officers would need to be informed and trained about the services offered by alternative programs and how to identify appropriate youth.

Close a juvenile facility. As the number of youth committed to DPSC is reduced by the greater availability of alternatives to incarceration, the need for secure beds will decrease. Relatively simple changes in secure custody admissions and lengths of stay could reduce the need for secure capacity by over 350 beds. Figure 17 provides some illustrative examples of changes that can dramatically reduce juvenile prison demand.

**Figure 17. Secure Capacity Reduction Produced by Illustrative Reforms**

<b>Illustrative Example</b>	<b>Capacity Reduction</b>
Eliminate 30 Day Needs Assessment for 90 Day STOP and LITE Programs	50 Beds
Reduce Incarceration for Misdemeanors	110 Beds
Reduce Incarceration and Length of Stay for Minor Felonies	160+ Beds
Reduce Incarceration and Length of Stay for Drug Offenses	40+ Beds

Savings from reducing the capacity of Louisiana's juvenile facilities would be maximized if an entire facility were closed rather than distributing the reductions across the four existing institutions. A closure would eliminate fixed operating costs such as property maintenance and utilities and maximize the resources available to serve youth in the juvenile justice system.

Eliminating one of Louisiana's four secure juvenile facilities would save \$16-17 million annually. In addition, a reduction in the number of youth committed to secure institutions would reduce health and mental health services provided under contract by Louisiana State University Health Science Center (LSUHSC). A proportionate reduction in LSUHSC's contract with OYD would save about \$4 million annually.

Closing a facility will not eliminate the need to serve adjudicated youth. While many currently incarcerated offenders may be safely served in the community with little or no supervision, many need more intensive services. A conservative estimate of the fiscal impact of a secure facility closure would assume that an equal number of non-secure program slots would be needed. Figure 18 shows the range of savings that could be generated assuming various levels of alternative placement. Assuming all the youth moved from a closed facility required residential treatment services, it would cost the state \$10 million and produce a net savings of \$6-10 million. If 350 youth could be identified and moved into tracker programs at a cost of \$2 million, the state would achieve \$14-18 million in annual savings for community-based alternatives.

**Figure 18. Illustrative Fiscal Impact of Facility Closure**

<b>Replacement Strategy</b>	<b>Cost of Replacement</b>	<b>Savings for Community-based Alternatives</b>
Increase Residential Bed Capacity by 350	\$10 Million	\$6-10 Million
Expand Day Treatment Capacity by 350 Slots	\$6 Million	\$10-14 Million
Extend Tracker Programs by 350 Slots	\$2 Million	\$14-18 Million

The closure of a facility cannot occur overnight. A carefully crafted transition plan is needed to determine which youth could be safely released or moved to an alternative program and which need to remain in secure custody. The transition plan would include a short-term population reduction program to decrease the number of youth in secure custody over a 6 to 12 month timeframe. Since the average length of incarceration is about 12 months, the number of incarcerated youth should fall naturally if alternatives are used appropriately and admissions are reduced. To assure that alternatives to incarceration do not become alternatives to probation, entry criteria are needed to prevent out-of-home placements. And, savings from the facility closure must be reinvested in community-based alternatives to prevent the need for more secure facilities in the future.

Address racial disparities. The overwhelming disproportionate use of incarceration of minorities must be addressed directly with leadership and data. The high numbers of black youth in secure custody must be recognized as an urgent problem requiring long-term commitment and attention. The complexity and sensitivity of the issue should not be barriers to action.

A serious ongoing effort to reduce racial disparities should use the following principles.

- A commitment to reducing incarceration of all youth is essential. The steps necessary to reduce reliance on incarceration will also decrease the numbers of black youth in secure custody. Prevention, diversion, and alternative programs tailored to the most at-risk youth will undoubtedly have a direct impact of minority confinement.
- An explicit focus on reducing racial disparities is necessary. Challenging every participant in the juvenile justice system to examine their own practices and decision making from the perspective of racial disparities is crucial to prompting action. Approaches that do not deal with race directly will not produce significant improvements.
- Define the problem in terms that can be changed. The juvenile justice system cannot compensate for racial and ethnic differences in poverty, family structure, early education opportunities, and access to health care. But using more objective criteria in decision making and reducing variation in discretionary judgments can positively impact disparities.
- Data must be collected and analyzed. Careful collection and analysis of data is vital to avoid resorting to anecdotes and emotionally charged debates over bias. For example, providing judges with data on their disposition decisions by race allows them to assess themselves and identify barriers to fair treatment.

To begin this process, the Louisiana Supreme Court should create a process to provide data on juvenile court decision-making patterns by race to each judge in the state. Every quarter, judges would receive a report on their use of detention, incarceration, residential placements, and probation by the race and ethnicity of juveniles under their jurisdiction. Since any data collected on the courts would not be able to discern the unique circumstances of each case, the purpose of the report would be to prompt judges to review their own decisions. This process might help individual judges better understand how race-neutral criteria and standards in their thinking may impact racial disparities.

A similar process needs to be developed within OYD for key decisions under its authority. A regular report on disciplinary actions and release recommendations would cast light on why black youth spend more time in secure custody than whites. Greater understanding and awareness of the issue throughout OYD can lead to changes by guards, caseworkers, probation officers, supervisors, and wardens. Potential responses could include developing treatment and counseling services that more effectively address the needs of black youth.

**Figure 19. Additional Recommendations Concerning Disposition and Release Decisions**

<b>Disposition Decision Reforms</b>	<b>Release Decision Reforms</b>
Include Child Welfare, Mental Health, Substance Abuse and Other Providers in Disposition Options	Grant OYD Authority to Assign Youth to Less Secure Settings Without Court Order
Improve Quality of Probation Services	Judges Should Conduct Regular Judicial Reviews of Incarcerated Youth
Develop Objective Disposition Decision Supports	OYD Should Develop Positive Behavior Management System to Replace the Disciplinary Ticket System
Improve Representation of Youth at Disposition	Assessments of STOP/LITE Youth Should be Conducted in the Community or as Part of the 90 Day Program
Free Residential Beds by Transferring Families in Need of Services Program to Child Welfare	OYD Should Simplify Its Release Guidelines to Focus on Public Safety Risk
Fund DAs and Courts for Informally Adjustment and Deferred Disposition Programs	

In the long run, Louisiana’s juvenile justice system should shift from a focus on physical control of delinquent youth to a treatment and socialization approach. Instead of spending enormous resources on uniformed guards, security fences, and razor wire, appropriate social behavior and self-regulation can be taught by trained counselors and youth specialists. Like Missouri, Louisiana can move towards a regionalized system of small facilities with 20 to 30

beds in the communities that youth live. Regionalized systems close to home help involve parents in their children's rehabilitation and support stronger family ties. A smaller, more humane, and more effective juvenile corrections system needs to be supported by a broad array of non-residential services to change youth behaviors in their own homes and communities. As the juvenile justice system becomes more effective, it can strive to become a resource for families and communities to help parents address behavioral problems and developmental difficulties without resorting to out-of-home care.

## **Appendix A**

### **Louisiana Juvenile Justice Process**

## LOUISIANA'S JUVENILE JUSTICE PROCESS

The purpose of this Title is to accord due process to each child who is accused of having committed a delinquent act and, except as provided for in Article 897.1, to insure that he shall receive, *preferably in his own home*, the care, guidance, and control that will be conducive to his welfare and the best interests of the state and that in those instances when he is removed from the control of his parents, the court shall secure for him care as *nearly as possible equivalent to that which the parents should have given him*.

Louisiana Children's Code Article 801

Unlike the adult justice system, the Louisiana Children's Code places a priority on keeping delinquent youth in their own homes. When that is not possible, it is the duty of the court to seek a placement as similar as possible to home. The special duties and priorities the Children's Code establishes for delinquent youth requires that every effort be made to prevent incarceration, the least home-like setting. Thus, incarceration of youth should be seen as an outcome failure. It is a failure of children to learn appropriate social behavior, parents to control their own children, and the juvenile justice system to provide effective treatment and rehabilitation services.

In order to understand the missed opportunities to avoid incarceration of children, an examination of the juvenile delinquency process is necessary. A process examination highlights the critical decision points in the system that lead to incarceration. It spotlights the choices and resources available to decision makers and helps identify strategies to strengthen the work of prosecutors, judges, and corrections officials.

Appendix B provides a flowchart of Louisiana's juvenile justice system for delinquents. Children enter the juvenile justice system when they are accused of committing a crime and arrested or referred by police to a juvenile court. Only children ages 10 to 16 are dealt with as delinquents. Children under 10 are addressed through the Families in Need of Services (FINS) program, a parallel system for children who have committed status offenses. Youth who have reached their 17<sup>th</sup> birthday are tried as adults.

Local law enforcement personnel decide whether to warn, counsel and release youth to their parents, or place them in detention. If a child is placed in detention, a court must hold a continued custody hearing within three days to determine whether there is probable cause that the child committed a delinquent offense and the appropriate bail amount. Under the Children's Code youth have a right to bail and the main purpose of bail is to assure a child's appearance for adjudication. Continued detention should be used only if a family cannot post bail.

Detention should not have a direct bearing on whether a child is eventually placed in secure custody, since detention precedes any finding of delinquency and it is primarily a reflection of a family's financial ability to post bail. However, numerous studies have shown that detention increases the likelihood of eventual incarceration. This pattern occurs, in part, because detention prevents a child from demonstrating improved behaviors such as school attendance, curfew compliance, and entering substance abuse or behavioral treatment. Without such evidence of positive change, judges are more likely to recommend incarceration rather than probation or non-secure custody after adjudication. Detention may

also create a presumption of guilt among juvenile justice system decision makers. Thus, reducing the use of detention by local courts and law enforcement agencies could reduce the overall incarceration rate.

When District Attorneys receive a referral from local law enforcement, they must decide whether or not to formally petition the case. Prosecutors may choose not to petition a case because of insufficient evidence or other factors within their jurisdiction. The Children's Code also allows the District Attorney or the court with the prosecutor's consent to enter into an informal adjustment agreement rather than proceeding with filing a petition. An informal adjustment agreement usually requires a child to participate in community service, restitution, or treatment and comply with certain behavioral requirements such as school attendance. If the agreement is successfully completed, the case is dismissed. If a child violates the terms of the informal adjustment agreement, the prosecutor files a delinquency petition and restarts legal action.

After a child has formally entered the juvenile justice system, informal adjustment agreements, also known as diversion programs, are the first opportunity to prevent incarceration. However, Louisiana provides local courts and District Attorneys with only limited resources to develop and supervise informal adjustment agreements. Without sufficient resources, most courts and prosecutors lack the staff to manage informal adjustments and cannot afford to provide therapies and treatments to change youth behaviors. Some District Attorneys have blanket policies against informal adjustments and prosecute every case with sufficient evidence to adjudicate.

As a result, informal adjustments are underutilized. In the Caddo, East Baton Rouge, Jefferson, and Orleans Parishes, 46 percent of juvenile court referrals were adjusted informally<sup>2</sup>. In contrast, Missouri, which has a similar population and number of delinquency referrals, adjusts 81 percent of its cases informally. The small number of informal adjustments suggests that they are primarily used to address youth with no prior record who have committed the most minor offenses and have strong family supports to change behavior.

Once a delinquency petition is filed, the case moves towards adjudication. Prosecutors may directly file charges in criminal court rather than juvenile court for serious offenders over the age of 14, but they must hold a transfer hearing for 14 year olds. At the continued custody or pretrial hearing, children are offered counsel and answer the charges presented in the delinquency hearing. In many instances, a child's family waives counsel and the child pleads responsible to the charges before adjudication. Some parents acknowledge their children's delinquent behavior and want the juvenile justice system's assistance to impose control. Some may be seeking more favorable dispositions through plea agreements. And others may be intimidated by the process and are uncomfortable disagreeing with law enforcement and the juvenile justice system.

Effective advocacy and legal representation of youth at every step in the juvenile justice process is crucial. The legal system relies on juvenile defenders to protect their client's best interests. An American Bar Association assessment of access to counsel and quality of

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<sup>2</sup> Louisiana Supreme Court, 2001 Annual Statistical Report, available at [http://www.lasc.org/press\\_room/annual\\_reports/reports/2001stats.pdf](http://www.lasc.org/press_room/annual_reports/reports/2001stats.pdf). Data from other parishes is not available.

representation in Louisiana's delinquency proceedings found systematic barriers to effective legal representation. The study found that, in many instances, basic obligations of legal representation were unmet because of inadequate funding, training, and oversight.<sup>3</sup>

When a case is adjudicated (similar to a trial in the adult system), the prosecutor must prove to the judge that the youth was responsible for the offense beyond a reasonable doubt. The adjudication is a legal finding of fact. If the prosecutor is unable to prove the youth's guilt, then the child exits the juvenile justice system. If the child is found delinquent, the disposition (similar to a sentence in the adult system) must be determined.

A court may choose to enter into a deferred disposition agreement rather than a formal disposition. A deferred disposition is similar to an informal adjustment agreement. Under a deferred disposition, a child must comply with the supervision and treatment or behavioral conditions set out by the court. If the agreement is successfully completed, the petition is dismissed with prejudice and the child is released from supervision. If the youth does not complete the terms and conditions of the agreement or is accused of another delinquent act, then the court proceeds with formal disposition determinations.

Except in parishes with their own local juvenile probation staff, a probation officer from the Office of Youth Development (OYD) of the Department of Public Safety and Corrections (DPSC) prepares a predisposition investigation for the court. The predisposition investigation (PDI) includes the circumstances surrounding the offense, the attitude of the child and

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<sup>3</sup> American Bar Association Juvenile Justice Center. *The Children Left Behind: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings in Louisiana*, (June 2001).

parents, and the youth's prior offense history. The investigation should also address the child's home environment, social adjustment, and school attendance plus any known physical, mental, or emotional disabilities. PDI reports also recommend dispositions to judges.

In some courts, a court social worker or other administrator convenes a meeting with the prosecutor, probation officer, and defense counsel to discuss the most appropriate disposition. Social workers from the Department of Social Services Office of Community Service and other local social service, education, and mental health agencies may also be asked to participate. These meetings provide an opportunity to present a more complete portrait of the youth and discuss non-OYD treatment and service options. This kind of collaborative approach is important for placing the needs of youth first and designing the most effective and least restrictive responses.

Under the Children's Code, judges may choose to reprimand and release the child, put the child on probation, commit the child to a public or private agency, or commit the child to the custody of DPSC. When children are taken into custody, they are almost always committed to DPSC since it is the only agency compelled to accept adjudicated youth. Judges may recommend alternative care facilities (non-secure institutions) or referral to the Department of Social Services for appropriate placement for youth placed in the custody of DPSC. It is the policy of DPSC to comply with the recommendations of the court on secure or non-secure custody. The judge also sets a maximum duration of disposition up to the child's 21<sup>st</sup> birthday (18<sup>th</sup> birthday for children committed to custody under age 13). The maximum

cannot exceed the maximum term of imprisonment for adults for the same offense. Often, the maximum disposition is set at a child's 18<sup>th</sup> or 21<sup>st</sup> birthday.

Under Article 897.1 of the Children's Code (also known as the Vitter bill) youth adjudicated for the most serious offenses – first and second degree murder, aggravated rape, aggravated kidnapping, and treason – must be placed in secure confinement until their 21<sup>st</sup> birthday without the benefit of probation, parole, suspension or modification. Those adjudicated for armed robbery may receive a shorter disposition, but must be held in secure custody for their entire disposition.

Except in parishes with their own juvenile probation staff, children placed on probation are supervised by OYD probation and parole officers. OYD staff develop individualized service plans to address youth needs. However, probation officers do not have resources to provide or arrange for services. OYD policy and procedures only require that probation officers give a list of youth-serving agencies in the community to youth and their families. Without resources for services, there is no mechanism to provide the care needed to change the causes of a youth's delinquent behavior. The level of counseling, support, and guidance given to youth under probation varies by individual probation officers. Some probation officers have extensive networks in communities and devote considerable time and effort assisting the youth in their care. In many instances, however, probation is principally a supervision function geared towards complying with minimal youth contact requirements.

Probation supervision in Louisiana is typically not very intense. Probation officers assign supervision levels using a risk/needs assessment. Routine supervision requires only one face-to-face visit every other month. Intermediate level supervision includes one visit every month, while minimum supervision involves only one contact every three months. Youth paroled from secure institutions are typically assigned high supervision requiring a face-to-face contact every two weeks and a telephone contact during the weeks in between. Regular contact with the parents or family of supervised youth are not required.

OYD also contracts with day treatment and residential programs to serve youth in their custody or supervision. Day treatment programs are often used for youth expelled from school and typically provide educational services with youth development activities.

Residential programs range from specialized foster care to shelter facilities to group homes. These out-of-home placements combine therapeutic programs with the care and housing of youth. OYD does not use all its contracted slots in these programs. Many program slots go unused because OYD does not budget sufficient resources to take full advantage of them. Of the placements that are used by OYD, a large portion is devoted to children adjudicated under the FINS program. The use of day treatment and residential programs for FINS status offenders reduces the available program options for delinquent youth.

Every child placed in secure custody is first sent to Jetson Correctional Center for Youth's Juvenile Reception and Diagnostic Center (JRDC) outside of Baton Rouge. JRDC serves as the central intake for all incarcerated youth. Typically, youth spend about a month at JRDC before being transferred to another facility. Youth are given a battery of medical, dental,

mental health, and educational tests. As a result of litigation with the Department of Justice, the Louisiana State University Health Sciences Center conducts all medical, dental, and mental assessments and arranges for appropriate treatment. In some instances, LSUHSC staff may find that a child's health or mental health status to be inappropriate for secure custody and recommend alternative services. For youth found to be severely mentally ill, LSUHSC staff become a part of the child's case team and must participate in all case planning with OYD staff.

At JRDC, OYD staff prepare case plan treatment protocols for every youth. The case plan treatment protocol details the services and programs that the youth must participate in during his or her incarceration. The protocol may specify therapeutic groups, counseling, or other services. The assessment conducted at JRDC also includes an evaluation of educational and vocational needs.

Once the assessments are completed at JRDC, youth are then transferred to one of Louisiana's four secure juvenile institutions. The four institution are:

- Jetson Correctional Center for Youth – Near Baton Rouge, Jetson has a budgeted capacity of 560 youth<sup>4</sup>. Jetson is the only facility that houses girls.
- Bridge City Correctional Center for Youth – In Jefferson Parish, Bridge City has capacity for 180 boys. Youth in the Short-Term Offender Program (STOP) and young and fragile youth are housed at Bridge City.
- Swanson Correctional Center for Youth – In Monroe, Swanson has capacity for 354 boys. The facility houses OYD's only inpatient mental health unit.
- Swanson-Madison Parish Unit – Formerly called the Tallulah Correctional Center for Youth, Swanson-Madison Parish Unit is managed as a subunit of Swanson Correctional Center for Youth. It has the capacity for 408 boys. The short term

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<sup>4</sup> FY2002-3 budget capacity data are from the Department of Safety and Corrections Office of Management and Finance, "Budget and Cost Data Summary, FY2002-2003 Existing Operating Budget, July 15, 2002," available at [http://www.corrections.state.la.us/Statistics/PDF\\_BB/06-Office%20of%20Management%20and%](http://www.corrections.state.la.us/Statistics/PDF_BB/06-Office%20of%20Management%20and%20)

Louisiana Intensive Training and Education (LITE) program is operated at Madison Parish. The facility includes a maximum security compound with cell block units.

Assignment by OYD to a specific secure institution may be due to the availability of certain specialized programs that meet the youth's needs. It may also reflect the availability of space and routine population management decisions. Distance to a child's home is not considered during assignment.

After a youth is placed in secure custody, caseworkers re-evaluate the youth every quarter. Participation and progress on case treatment protocols and educational programs are documented. The quarterly staffing also reviews all disciplinary issues that have arisen over the previous three months. Based on the child's disciplinary record, the child is assigned a custody level of maximum, medium, or minimum. The custody levels affect the work assignments, furlough, and movement privileges of incarcerated youth. Summaries of these staffings are sent to judges for review. Some judges choose to review their secure custody cases in person and bring the youth and their caseworkers to court regularly.

Discipline in the secure facilities is based on a system of disciplinary tickets. Tickets are issued for a range of violations from not addressing an adult as "Mr." or "Mrs." and littering to fighting and sexual assault. Disciplinary tickets may be issued by guards, caseworkers, teachers or other OYD employees. Variation in the use of disciplinary tickets can have a profound impact on length of incarceration because they have a direct bearing on when youth are recommended for release.

At a quarterly staffing, caseworkers may recommend a youth for reassignment to a non-secure program, release, or discharge from custody. The criteria for a recommendation to modify a child's disposition are:

- Attainment of two consecutive quarters at minimum custody level.
- Completion of all case plan treatment protocol or continued treatment provided throughout community or non-secure assignment.
- Achievement of acceptable progress or participation in institutional educational and treatment programs.
- Approved educational/vocational exit plans.

Most youth are not incarcerated for the maximum duration of their disposition. Their incarceration typically ends when OYD recommends a modification of disposition or early release. When a child is recommended for modification, his or her probation and parole officer conducts a home study and prepares an aftercare plan. Once the aftercare plan is completed, the probation officer files a motion for modification of disposition with the court of jurisdiction. The court may approve or deny the motion with or without explanation.

Youth leaving secure custody and returning home are supervised by their parole officer. Parole supervision may include periodic face-to-face meetings, curfew, school or employment attendance, and other behavioral terms and conditions. Generally, parole violations do not result in re-incarceration unless a youth is charged with a new offense.

## **Appendix B**

### **Louisiana Juvenile Case Processing Flowchart**

## **Appendix C**

### **Final Report Slide Presentation**