

Private Institutions, Public Costs

Juvenile incarceration has become increasingly privatized, yet costs keep rising. New York City wants judges to keep more delinquents out of institutions.

BY KENDRA HURLEY

FOR YEARS, CITY OFFICIALS have sought to reduce the number of juvenile delinquents sent to institutions, relying instead on cheaper and more humane alternatives to incarceration that offer close supervision and guidance to youths in their own homes and communities. But even as the number of juvenile delinquents admitted to institutions has declined dramatically over the past eight years, the cost to the city of caring for them has increased because of flukes in the formulas that divide costs between the city and state.

Now, in an attempt both to save money and to give juvenile delinquents alternatives that child welfare experts believe they should have, the city's Administration for Children's Services (ACS) has asked the city's Family Court judges to send about 100 fewer youth this year to the private residential treatment centers run by nonprofit agencies such as Children's Village, Lincoln Hall and Graham Windham. Instead, ACS has asked the judges to consider programs to keep juveniles at home, with close monitoring and supports in their own communities. ACS has also informed the nonprofit agencies that it has placed a cap on the number of juvenile delinquents it will pay for in the privately run facilities.

Family Court judges have wide discretion in deciding the fate of children under 16 who are accused of misbehavior that would constitute a crime if committed by an adult. Judges may dismiss a case, order supervision by the probation department, enroll a child in an alternative-to-placement program, or send a child to an institution—which may be either a juvenile justice facility run by the state's Office of Children and Family Services (OCFS) or a residential center run by a private agency. The city and state share the cost of OCFS facilities, while the city bears almost the entire cost of sending a child to a private residential treatment center.

The number of youths sent to OCFS facilities declined sharply from 1,938 in 2000 to 813 in 2008, while the number of youths sent to private residential treatment centers increased from 539 in 2000 to 813 in 2008. The overall number of children placed in either type of institution has declined largely because of the expansion of alternative-to-placement programs, where children receive services and support while living at home.

In other words, about one-half of the young people in custody in New York are now sent to private residential centers, up from about one-quarter just eight years ago. (See table, page 12.)

The state's OCFS facilities have long been considered expensive and ineffective. The federal Department of Justice recently documented brutal treatment of youth by staff and found that conditions in four OCFS facilities were so bad that they violated children's constitutional rights. The OCFS facilities cost between \$140,000 and \$200,000 per person per year, according to Mishi Faruqee, director of the Youth Justice Program at the Children's Defense Fund-NY. In 1999, a state government study found that 81 percent of young men and 45 percent of young women were arrested within three years of their release from state juvenile facilities during the early 1990s. An OCFS study released this year found that 89 percent of the young men and 81 percent of the young women released from juvenile correctional facilities in New York State from 1991 and 1994 were rearrested

“When a judge does want to place someone, they’re more likely to place them in a private agency.”

by the time they were 28 years old. Moreover, 71 percent of the young men and 32 percent of the young women spent time in an adult jail or prison by age 28.



Many of the state facilities resemble adult prisons, their walls topped with razor wire. They require young people to wear uniforms, and have a reputation of being dangerous and poorly run.

Advocates say that many Family Court judges consider the privately run institutions to be better places for youth than state facilities. The private campuses are often described as “bucolic” and “leafy.” Juvenile delinquents living there do not wear uniforms, and in some cases they may roam about the campus and interact with children who are in foster care or who have been sent there by the Department of Education for special education services. These campuses are also closer to New York City than most state-run facilities, making it easier for young people to remain connected to their families and communities.

“When a judge does want to place someone, they’re more likely to place them in a private agency,” says Faruquee, “I think there’s a myth among judges that private agencies are better facilities so they’ll consider a private placement first.”

Faruquee and other advocates warn that little is known about the outcomes of young people at private facilities. The 1999 state study suggested that young people released from private residential centers in the early 1990s had the same high re-arrest rates as young people leaving state-run facilities. In 2007, nearly 30 percent of all juvenile delinquents admitted to private centers were moved to the more secure state-run facilities, either because they broke the rules, were not making progress or were presenting dangerous behavior, or because the agency was unable to provide necessary services. As a growing percentage of children are placed in the private centers many experts expect the rate of transfers to increase.

Moreover, the length of stay is longer at private campuses, averaging 12 to 14 months, about six months longer than OCFS facilities, according to the New York City Independent Budget Office. And, unlike youth at the state-operated facilities, most teens at the private agencies do not receive support, called “after care,” when they return home.

“The kids in the voluntary agencies aren’t getting home sooner,” says OCFS Associate Commissioner Felipe Franco.

It costs \$80 million a year to house young people in these facilities, according to the city’s Administration for Children’s Services, which foots the bill for nearly all of it.

In early 2007, the city created the Juvenile Justice Initiative (JJI), an alternative to incarceration program that was expected to save the city money by reducing the number of young people placed in any facility. Though the program has succeeded at keeping more youth out of placement, it has not yet saved the city money. With nearly \$11 million of city money invested in the community-based JJI each year, the city nonetheless continues to spend the same amount on housing young people in private facilities. In fact, the cost of housing a declining number of young people in OCFS facilities has increased sharply, thanks to complicated budget formulas and the expense of maintaining half-empty facilities.

“Despite the steep drop in the city’s use of OCFS placement, the costs to the city have not been reduced,” said the city’s then-commissioner of probation and corrections, Martin Horn, in a talk he gave last June at John Jay College of Criminal Justice, just before leaving the Bloomberg administration for an academic post. He argued that “because of archaic and counterproductive accounting rules determined by the state... the cost of running this bloated system has been unfairly apportioned to the localities, including the city.”



One way to reduce the cost burden to the city, Horn says, is to place fewer teens in any kind of facility, private or public, so long as there is a safe alternative.

So last March, OCFS Commissioner Gladys Carrion and ACS Commissioner John Mattingly informed Family Court judges that they intended to limit the number of delinquent youth who could be placed at privately operated residential treatment centers. Starting April 1, for the remainder of 2009, they wrote, no more than 300 New York

City adjudicated delinquent youth could be admitted to a voluntary agency placement.

“We have determined that a target is the best means to continue to reduce our reliance on institutional placements and to more fully encourage use of the alternative-to-placement programs that have been developed,” the commissioners wrote. “We are doing this to make sure that youth who can be served in structured community-based programs are not sent to more restrictive ones.”

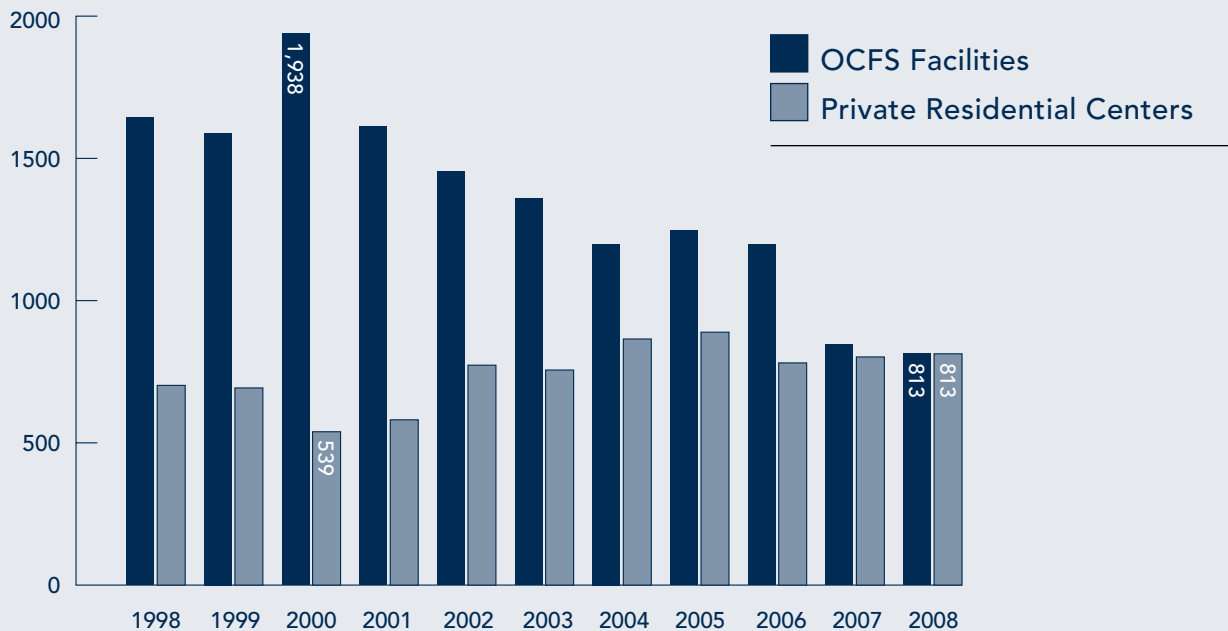
Since then, ACS has raised that target slightly, but plans to keep setting a new limit each year.

There is no guarantee judges will respond to this limit by relying more heavily on community programs. They could simply send young people to state-run facilities instead. However, providers of community-based programs for juvenile delinquents say they are cautiously optimistic that judges are on-board with the effort to keep more kids at home.

“I would hope the judges would think that if a kid was a good fit for a private [center], he should then be given a chance in an alternative,” says Jenny Kronenfeld, executive director of Esperanza. ✖

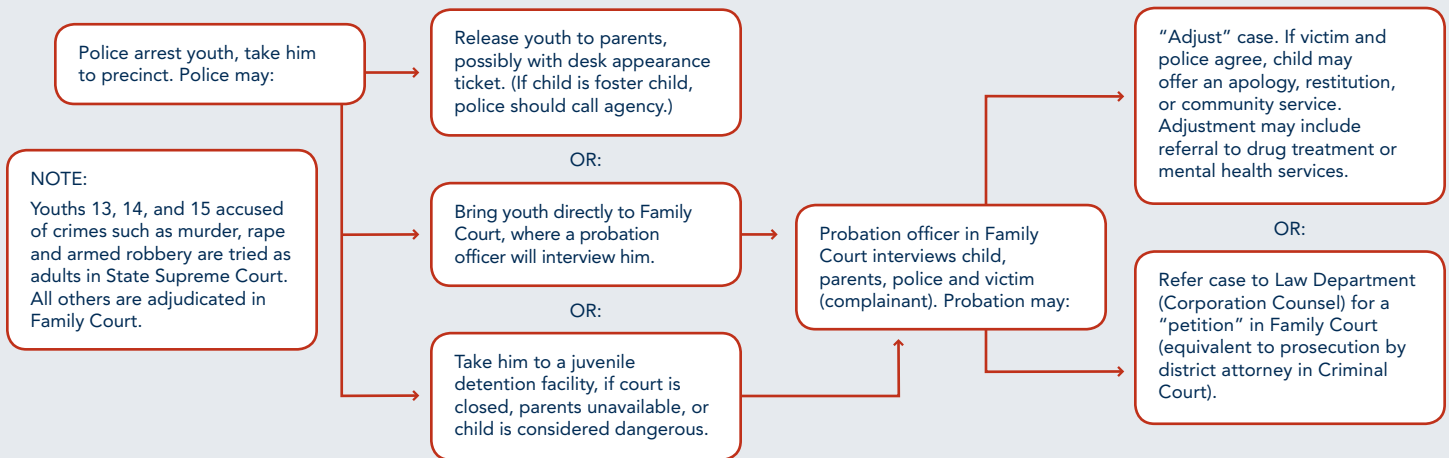
ADMISSIONS OF JUVENILE DELINQUENTS AND JUVENILE OFFENDERS TO INSTITUTIONS 1998-2008

The number of court-involved youth admitted to state-run OCFS facilities has declined dramatically in recent years, while the number sent to private residential treatment centers (such as Children's Village and Lincoln Hall) has increased. The city (or county) bears most of the cost of housing children in private centers, but the cost of OCFS facilities are shared between the city (or county) and the state.

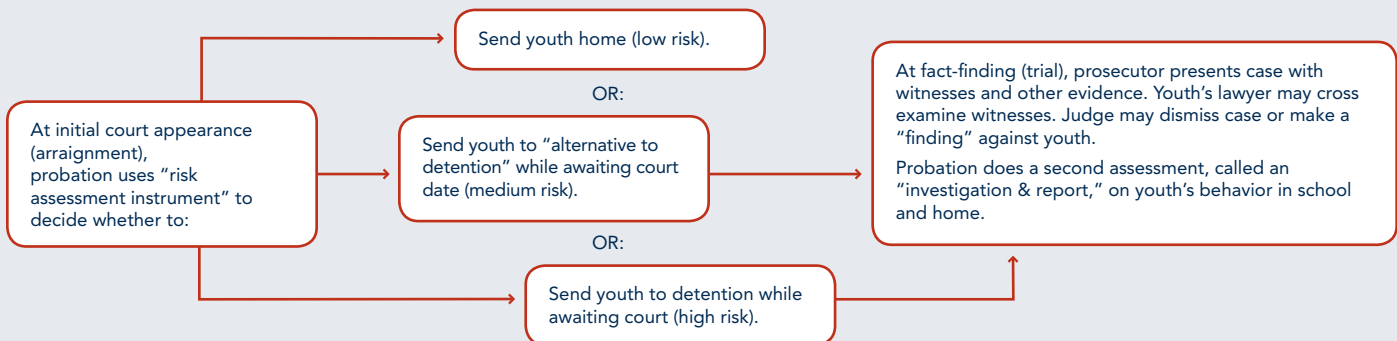


How New York's Juvenile Justice System Works

1. ARREST AND PRE-TRIAL



2. FACT-FINDING (TRIAL)



3. DISPOSITION (SENTENCING)

