

Follow-up report 16-03F  
February 2016

# Confinement of Juvenile Offenders

Office of Performance Evaluations  
Idaho Legislature





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## Office of Performance Evaluations

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### Representatives



**John Rusche**

**Maxine Bell**

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**Senator Cliff Bayer (R) and Representative John Rusche (D) cochair the committee.**

# Follow-up report



## Overview of evaluation

In February 2014 we released the report *Confinement of Juvenile Offenders in response to concerns about Idaho’s rate of juvenile confinement*. According to a 2013 report published by the Annie E. Casey Foundation and based on US Census Bureau data, **Idaho’s confinement rate saw the largest increase in the nation in 1997–2010**. Our evaluation looked at the entire continuum of the juvenile justice system, from efforts to prevent juveniles from entering the system through release and reintegration into the community.

We highlighted several key findings:

Data that the Annie E. Casey report used were incorrect—both the juvenile confinement rate and the average daily count had decreased since 1997.

Stakeholders had differing opinions on the appropriateness of the commitment criteria specified in Idaho Juvenile Rule 19. Further, a community programming criterion was ambiguous as to whether community-based programming was unavailable or inappropriate.

Ambiguity existed for whether a probationary period ran concurrently with confinement when a juvenile was committed to the Department of Juvenile Corrections.

**Diversion practices were inconsistent across Idaho’s counties.**

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We made nine recommendations to various stakeholders. Stakeholders included (1) entities directly involved with juveniles in the system, such as the Department of Juvenile Corrections, the courts, probation officers, and prosecutors, (2) policymakers, **and (3) entities that may have affected juveniles' involvement in the system**, such as the Department of Health and Welfare and the Department of Education.

For this follow-up report, we grouped those nine recommendations by the aspect of the juvenile justice system that they addressed:

- Integrity of confinement data
- Commitment to the Department of Juvenile Corrections
- Diversion from formal charges
- Postcommitment reintegration
- Prevention and early intervention

This follow-up report assesses the implementation status of these recommendations and summarizes actions taken by stakeholders since the release of our 2014 report.

## Assessment of status

We assessed the status of recommendations within three categories:



**Complete:** Measurable steps have been taken to meet the intent, or an approach that diverged from the recommendation has been taken to meet the intent.



**In process:** Measurable steps have been taken that begins to meet the intent.



**No change:** No measurable steps have been taken to meet the intent.

## Integrity of confinement data

We made two recommendations to ensure that data on confined juveniles, both in detention centers and under the jurisdiction of the Department of Juvenile Corrections, were complete and valid. Our intent was to prevent errors in external reporting and to provide stakeholders with information on the population of confined juveniles in the state.

**Recommendation:** Develop quality control measures for data submission to the Census of Juveniles in Residential Placement.

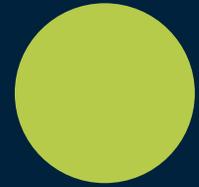
**Status:** Complete

After our evaluation, the Department of Juvenile Corrections contacted the US Census Bureau, which conducts a biennial survey on juvenile confinement. Its survey was the data source for the Annie E. Casey report that showed a purported increase in **Idaho’s juvenile confinement rate in 1997–2010**. This increase had been caused by a number of Idaho facilities that did not participate in the survey in 1997 and 1999. This resulted in establishing an artificially low standard for comparisons.

The confinement rates (number confined per 100,000 juveniles) from the Casey report are shown in exhibit 1 along with data from 2011 and 2013. Though a one-day snapshot leads to some volatility in the data, the confinement rates have decreased since 2001. Exhibit 2 shows a similar decrease in the average daily population of juveniles committed to the Department of Juvenile Corrections.

The department has proposed a back-end data validation approach to the Census Bureau to ensure that complete data is provided by all facilities that confine juveniles. Under the proposal, the Census Bureau will provide to the department a list of entities that submitted confinement data for each survey. The department will then ensure all of the entities that confined juveniles charged with or adjudicated for an offense participated in the survey. In addition, the department will update the Census Bureau when changes to the list of facilities, including private providers, are made.

The department has fulfilled its commitment by sending an up-to-date list of facilities and providers to the Census Bureau. However, the Census Bureau has not yet provided a list of respondents to the department after the October 2015 survey.

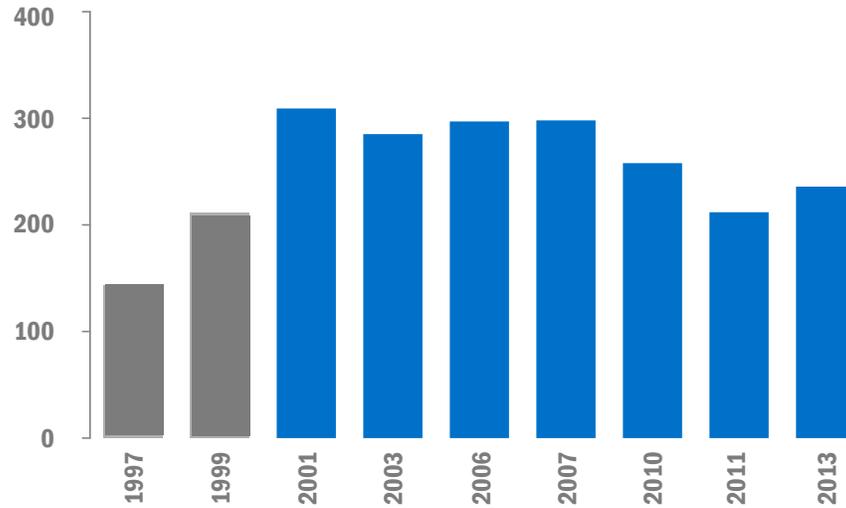


**Incomplete data led to a 2013 national report that showed Idaho with the highest increase in juvenile confinement rates in the nation.**

**The Department of Juvenile Corrections will ensure that the Census Bureau has a complete list of all facilities.**

**Exhibit 1**

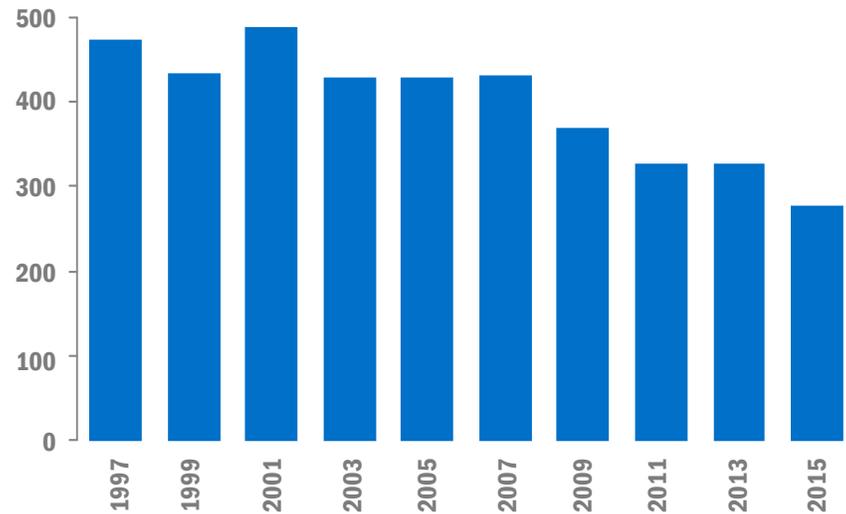
**US Census Bureau rates of all confined juveniles in Idaho have decreased since 2001. Data were underreported in 1997 and 1999.**



Note: The survey was a one-day count taken in October every other year. Surveys for 2005 and 2009 were taken in February of 2006 and 2010, respectively.

**Exhibit 2**

**The average daily population of juveniles committed to the Department of Juvenile Corrections has decreased.**



Finally, the department contacted the National Center for Juvenile Justice, which analyzed the census data before they were made available for reporting. Though the Census Bureau had been unable to update data from 1997, Juvenile Justice indicated that it would work on documentation of the underreporting so that anyone accessing the data would be aware of the problems with data before 2001.

The department provided language to the National Center for Juvenile Justice that could be used as a disclaimer for the incorrect 1997 and 1999 data, but the language has not yet been added to the data access website.

**Recommendation:** Improve the collection, tracking, and reporting of detention data.

**Status:** Complete

The department maintains a database for information on juveniles committed to the department and makes the database available to regional detention centers and counties. At the time of our 2014 report, all but five counties had entered data to some extent. Since then, Nez Perce County has begun using the database. Twin Falls County, its software provider, and the department have been working toward improving data sharing between the two systems. The remaining three counties (Bonner, Canyon, and Kootenai) have been using a different data system that is accessible by the department. The department reported that it had access to the data elements outlined in the recommendation, and it would continue to support its users and encourage full use by all counties.



**Criteria for commitment to the Department of Juvenile Corrections are being updated to emphasize risk to community safety.**

## **Commitment to the Department of Juvenile Corrections**

Two recommendations—one to the juvenile justice system and one to policymakers—addressed the criteria used to commit a juvenile to department custody.

Idaho Judicial Rule 19 contains procedures for the commitment of a juvenile to the Department of Juvenile Corrections and a list of criteria that need to be met before commitment can take place. At least two criteria are required to be met if the sentencing crime is a felony (three criteria if the crime is a misdemeanor). One of the criteria addresses community programming, which was specifically cited in the letter that requested our 2014 evaluation:

**“A community-based program is not available or not appropriate”**

Though commitment orders from the courts indicated which criteria were the basis of commitment, the community-based programming criterion as written does not distinguish between availability and appropriateness of community programming. In our 2014 evaluation, we found concern among stakeholders that smaller, rural areas may not have programs available even if community-based programming is appropriate.

To address these concerns, we recommended better documentation of the criteria used, and in light of varying stakeholder views about the appropriateness of the criteria in Rule 19, recommended policymakers consider updating or providing additional specificity to the criteria.

**Recommendation:** Provide additional information about which commitment criteria were used to commit juvenile offenders.

**Recommendation:** Specify circumstances or factors that should be included as commitment criteria.

**Status:** In process

The department has been working with the courts to document commitments and the criteria on which commitments were based. The department has been tracking all Rule 19 prescreenings (which occurred before commitment and contained recommendations to the court) since our 2014 evaluation.

The Idaho judiciary is rewriting Rule 19. Its intent is to reserve custody for juveniles who pose a community safety risk, rather than those who may struggle in a community setting but pose little risk to the public.

The Juvenile Justice Advisory Team proposed changes in 2015 that would have removed the current criteria and instead required the sentencing offense to be one that threatened public safety. Changes would have also removed the ambiguity in the criterion for community programming. Though the rule changes were not adopted, the Juvenile Justice Advisory Team, comprising judges who specialize in juvenile justice, has been continuing its efforts at reforming the commitment standards. The Juvenile Justice Advisory Team indicated that it hoped to implement changes to Rule 19 by July 1, 2016.



**Diversion practices lack consistency across the state.**



## **Diversion from formal changes**

Idaho Code § 20-511 gives county prosecutors the authority to divert juvenile cases. A formal case is not filed with the courts; instead, a juvenile reports to a probation officer and is given conditions which must be met. In addition, if a prosecutor files a petition in a case, the court can make an informal adjustment to the petition and divert the juvenile as well. In our 2014 evaluation, we found that the specific processes, including who provides input into the decision to divert a juvenile and what elements factor into the decision, varied from county to county. We made two recommendations to address the diversion process.

**Recommendation:** Provide additional information about which types of cases were diverted out of the system.

**Recommendation:** Prioritize which types of cases should be eligible for diversion.

**Status:** In process

The choice to divert a juvenile out of the formal justice system is made by county prosecutors, in some cases with input from probation officers and other parties in the juvenile justice system. However, standards and practices have varied across the state. In 2015 the department initiated the Capstone Project to develop a more consistent diversion process by developing common guidelines, identifying screening tools, and improving the **handling of juveniles' diversion records.**

**To assess the state of diversion processes in Idaho's counties, the department has surveyed probation administrators and juvenile prosecutors on their practices and reported the following statistics:**

Nearly 60 percent of the respondents did not have written guidelines establishing who was eligible for diversion.

More than 70 percent of the respondents did not report using a screening tool.

Almost all respondents (97 percent) reported that juveniles who had been diverted postpetition had their charges

dismissed. However, more than 70 percent of respondents indicated that records were not expunged, and more than 80 percent reported that diversion files were kept.

Because the authority to divert juvenile cases lies with county prosecutors, the department has recognized the importance for cooperation among stakeholders in improving the diversion system. The Capstone team has worked with the Idaho Juvenile Justice Commission, the judiciary, juvenile probation administrators, prosecutors, and others to identify variations in diversion practices across the state. The team recognized that each county had unique needs and that a statewide uniform diversion process could be problematic for individual jurisdictions. Instead, the team has provided training to stakeholders on evidence-based diversion practices. The intent was to enable local juvenile justice systems to incorporate nationally recognized best practices into their diversion processes while maintaining the ability to address their unique needs.

Legislation was introduced in 2016 to amend Idaho Code § 20-511 in two ways.

1. An informal adjustment of a petition is currently required to be made at the admit/deny hearing. The proposed legislation would allow the adjustment to be made at any point during the court process.
2. A juvenile is currently required to petition the court for a dismissal of a case upon successful completion of conditions. The proposed legislation would require the case to be dismissed upon completion without requiring a petition from the juvenile.



**Reintegration  
after  
confinement  
requires  
collaborative  
efforts.**

## Postcommitment reintegration

When a juvenile is committed to the Department of Juvenile Corrections, a reintegration plan is created to address ongoing needs that may exist in the community and maximize chances that the juvenile will succeed upon release and not return to confinement. Our 2014 evaluation had included two recommendations dealing with improving the reintegration process.

**Recommendation:** Share with policymakers the outcomes of the newly awarded reintegration planning grant.

**Status:** In process

Reintegration back into the community after confinement was an area needing improvement, according to stakeholders. The department was awarded a Second Chance Federal Reentry Grant and has used the grant to establish a Reentry Task Force in conjunction with the Idaho Juvenile Justice Commission. The task force established a strategic statewide plan for reintegration improvements. Over the period of the planning grant, four reintegration priorities were identified: collaborative decision making, cross-system youth, youth and the family, and targeted outcomes. Each of the seven judicial districts, as well as the tribal district, has identified goals and objectives in these priority areas that were of highest need. The strategic plan is in the second year of its five-year timeline.

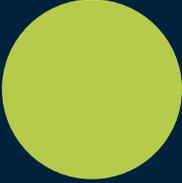
**Recommendation:** Clarify how juvenile offenders released from state custody should receive supervised probation.

**Status:** Complete

In our 2014 evaluation, we found varying interpretations of how a probationary period was treated for a juvenile who was committed to the department. Statute had been unclear as to whether both probation and commitment could be imposed. In addition, when both were imposed, stakeholders had differing views as to whether probation ran concurrently with commitment or whether the probationary period began upon release.

The Legislature passed House Bill 61 in 2015, which amended Idaho Code § 20-520 and established that if a juvenile is committed to the Department of Juvenile Corrections, the court may place the juvenile on probation for up to three years past the date of release from the department, provided that a review hearing take place within 30 days of the release date to determine the conditions and term of the probation.





**Legislation was passed in 2015 to clarify how probation is imposed for juveniles who are also committed to the Department of Juvenile Corrections.**



## Prevention and early intervention

National literature clearly supports prevention and early **intervention to minimize juveniles' exposure to the juvenile justice system**. We made a recommendation to policymakers to help ensure that efforts toward early identification of risk continued to improve.

**Recommendation:** Direct state efforts toward prevention and early intervention.

**Status:** In process

The Department of Education has reestablished over \$4 million in dedicated funds for its Safe and Drug Free Schools program after several years in which those funds were appropriated as discretionary. The program helps provide an environment free of the risk factors of violence, drugs, and alcohol.

The Department of Juvenile Corrections received Millennium Fund monies beginning in fiscal year 2015 to fund programs in counties. These programs include youth courts, tobacco and alcohol diversion education, and other efforts toward early intervention. The department has received more than \$1 million in each of fiscal years 2015 and 2016 for prevention and cessation programs.

Health and Welfare has reiterated that its direct role is not to prevent youth involvement in the juvenile justice system. However, to the extent that mental and behavioral health issues relate to involvement in the system, Health and Welfare serves in a preventive capacity. Health and Welfare is required by Idaho Code § 20-511A to submit health assessments and a treatment plan if the court believes juveniles are suffering from an emotional disturbance that impairs their ability to comply with court directives. The departments of Juvenile Corrections and Health and Welfare are now establishing a secure data-sharing web service to ensure that upon receipt of a court order to complete an assessment, Health and Welfare will be able to immediately begin gathering data from the Juvenile Corrections database.

Efforts toward prevention and early intervention are ongoing. This recommendation was not targeted at a single effort but was intended to emphasize the importance of keeping juveniles out of the justice system.

## Reports of the Office of Performance Evaluations, 2013–present

Publication numbers ending with “F” are follow-up reports from previous evaluations.

| Pub. # | Report title  | Date released |
|--------|---|---------------|
| 13-01  | Workforce Issues Affecting Public School Teachers   | January 2013  |
| 13-02  | Strengthening Contract Management in Idaho  | January 2013  |
| 13-03  | State Employee Compensation and Turnover  | January 2013  |
| 13-04  | Policy Differences Between Charter and Traditional Schools                                | March 2013    |
| 13-05F | Coordination and Delivery of Senior Services in Idaho                                     | March 2013    |
| 13-06  | Guide to Comparing Business Tax Policies  | June 2013     |
| 13-07F | Lottery Operations and Charitable Gaming  | June 2013     |
| 13-08F | Governance of EMS Agencies in Idaho   | June 2013     |
| 13-09F | Equity in Higher Education Funding  | June 2013     |
| 13-10F | Reducing Barriers to Postsecondary Education  | June 2013     |
| 13-11  | Assessing the Need for Taxpayer Advocacy  | December 2013 |
| 13-12  | The Department of Health and Welfare’s Management of Appropriated Funds                   | December 2013 |
| 14-01  | Confinement of Juvenile Offenders   | February 2014 |
| 14-02  | Financial Costs of the Death Penalty  | March 2014    |
| 14-03  | Challenges and Approaches to Meeting Water Quality Standards                              | July 2014     |
| 14-04F | Strengthening Contract Management in Idaho  | July 2014     |
| 15-01  | Use of Salary Savings to Fund Employee Compensation                                       | January 2015  |
| 15-02  | The State’s Use of Legal Services   | February 2015 |
| 15-03  | The K-12 Longitudinal Data System (ISEE)  | February 2015 |
| 15-04  | Idaho’s Instructional Management System (Schoolnet) Offers Lessons for Future IT Projects | March 2015    |
| 15-05  | Application of the Holiday Leave Policy   | March 2015    |
| 15-06  | Distribution of State General Fund Dollars to Public Health Districts                     | December 2015 |
| 15-07F | State Employee Compensation and Turnover  | December 2015 |
| 16-01  | Design of the Idaho Behavioral Health Program   | January 2016  |
| 16-02  | Risk of Bias in Administrative Hearings   | February 2016 |
| 16-03F | Confinement of Juvenile Offenders   | February 2016 |

