

Follow-up report
March 2017

Confinement of Juvenile Offenders

Office of Performance Evaluations
Idaho Legislature





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Senators



Cliff Bayer

Mark Harris

Michelle Stennett

Cherie Buckner-Webb

Representatives



Mat Erpelding

Maxine Bell

Caroline Nilsson Troy

Elaine Smith

Senator Cliff Bayer (R) and Representative Mat Erpelding (D) cochair the committee.

Follow-up report



Overview of evaluation

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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 from 1997 to 2010. Our report looked at the entire continuum of the juvenile justice system, from efforts at preventing juveniles from entering the system through release from commitment and reintegration into the community.

Our report 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.

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

We appreciate the assistance we received from the Department of Juvenile Corrections and Judge Mark Ingram of the Judiciary.

Tony Grange conducted the study.

Bryon Welch conducted the quality control review.

Margaret Campbell copy edited and desktop published the report.

the Department of Education. Three of the recommendations were considered completed in the first follow-up report in February 2016.

For this follow-up report, we grouped six recommendations that were in progress in the first follow-up into the following categories:

- 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 2016 follow-up report. Of the six recommendations discussed in this report, three are complete and three are in process.

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 measureable steps have been taken to meet the intent.

Commitment to the Department of Juvenile Corrections

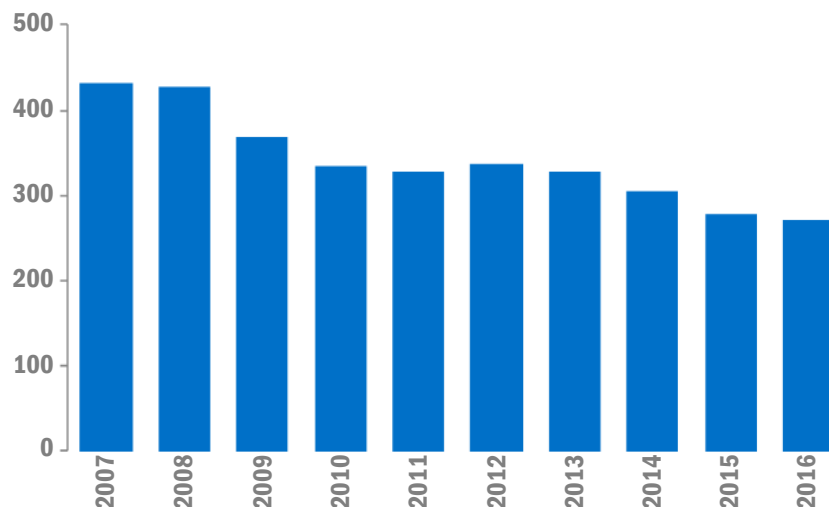
The average daily population of juveniles committed to the Department of Juvenile Corrections has continued to decrease since our 2014 report, as shown in Exhibit 1. Idaho Judicial Rule 19 contains procedures for the commitment of a juvenile to the department. At the time of our 2014 report release, the rule included a list of criteria that needed to be met before commitment can take place. One of the criteria addressed community programming, a topic specifically cited in the letter that requested our 2014 evaluation. This criterion was vaguely written:

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, did 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 was appropriate.

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

Exhibit 1
The average daily population of juveniles committed to the Department of Juvenile Corrections has decreased.





Criteria for commitment to the Department of Juvenile Corrections have been updated.

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: Complete

Judicial Rule 19 was updated effective July 1, 2016. The updated rule states: “Juvenile offenders may be eligible for commitment if their prior history or charged offense(s) contain underlying facts:

- (1) of violence that either did or could reasonably have resulted in serious bodily injury or death to others;
- (2) of a sexual nature;
- (3) demonstrating a wanton and reckless disregard for the property rights of others such that release constitutes a substantial risk to the community; and/or
- (4) demonstrating a pattern of misdemeanor or felony criminal behavior, escalating in its impact on public safety or the juvenile’s safety or well-being over time.”

The new rule also specifies the history of a juvenile that shall be made available to the screening team before it makes a commitment recommendation. Specific history includes mental health and substance abuse issues, family dynamics, academic performance, prior treatment, and prior offenses.

Finally, the rule previously required that the court must make findings on the record of which criteria were met to justify commitment, whereas the new rule requires the following:

The court shall make findings on the record as to the underlying facts and circumstances that were relied on in making the decision and the specific facts relied on to determine that a community based alternative was not appropriate.

This more detailed record has the potential to better identify missing resources in communities that, if available, could reduce the number of commitments.

Diversion from formal charges

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 is assigned 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. 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 of Juvenile Corrections initiated the Capstone Project to establish a more consistent diversion process by developing common guidelines, identifying screening tools, and improving the handling of juveniles' diversion records.

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.



**Stakeholders
have been
trained on
evidence-based
diversion
practices.**

The Idaho Supreme Court is developing a juvenile case flow management plan that includes evidence-based best practices for diversion of youth. Two counties (Jefferson and Twin Falls) underwent comprehensive probation system reviews by the Robert F. Kennedy National Resource Center for Juvenile Justice, the results of which were presented to the Idaho Supreme Court in August 2016. The center recommended using a validated screening tool to inform, but not supplant, the discretion of the prosecutor's office in its decision to file a petition or divert a case.

Postcommitment reintegration

When a juvenile is committed to the Department of Juvenile Corrections, the department creates a reintegration plan 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 for improving the reintegration process, one of which was categorized as in progress in our first follow-up.

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

Status: Completed

Reintegration back into the community after confinement was an area needing improvement, according to stakeholders. The department was awarded a one-year Second Chance Federal Reentry Grant and 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: (1) collaborative decision making, (2) cross-system youth, (3) youth and the family, and (4) targeted outcomes. Though federal funding for the implementation stage was not available, three strategies were recommended to the department's leadership team.

Video visitation

The department often houses juveniles at facilities distant from their homes, making important family interactions difficult. They are in the process of purchasing licenses to support video visitation in the state's three correctional centers and the four satellite offices. Families will be able to visit using a device with internet access or by traveling to one of the nearby facilities or satellite offices. Juvenile services coordinators across the state will also be able to travel to a family. This technology will help remove barriers to family engagement and participation and is expected to be operational by March 31, 2017.

Family group decision making

Identified as a best practice program, this strategy helps families engage in reintegration plans. The department conducted a pilot project of ten cases at the Nampa correctional center. Evaluations completed by both the juveniles and their families indicated that the program was beneficial in clarifying and solidifying the reintegration process. The department will collect further outcome data after juveniles have been back in the community for an appropriate amount of time.

Collaboration with the Department of Labor

Department of Labor staff will begin a pilot program around April 2017 at the Nampa correctional center working in adolescent programs. The staff will initiate aptitude, enrollment, and individualized services for juveniles before their return to the community. This earlier initiation of services will allow juveniles a smoother transition to employment upon release.

Department staff provide annual updates to legislative committees, including progress concerning efforts at improving reentry, as well as to other groups involved in juvenile justice in the state.

Three programs are being implemented to strengthen reintegration.



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

Efforts toward prevention and intervention are ongoing and through multiple agencies. In each of the past two fiscal years, the Department of Education allocated more than \$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 various programs in counties. The department has received more than \$1 million in each of fiscal years 2015–2017 for prevention and cessation programs. However, the Millennium Committee has stated that they will no longer support proposals that provide subgrants to fund local organizations. As the department distributes all of its Millennium funding as subgrants, officials anticipate that they will no longer distribute the funding after fiscal year 2017. Even though the department won't be involved in fund distribution, applications for millennium funds include many for projects aimed at juveniles.

The department will attend the Department of Education's Idaho State Prevention and Support Conference in April 2017 to further advance improvements in the diversion system. A preconference diversion forum will include judges, prosecutors, defenders, law enforcement, probation, and schools to continue to identify more effective ways to deal with at-risk youth.

The departments of Juvenile Corrections and Health and Welfare have established a secure data-sharing web service to ensure that upon receipt of a court order to complete an assessment, Health and Welfare is able to immediately begin gathering agreed upon data from the Juvenile Corrections database.

