



Issue Brief: Juvenile Justice in Oklahoma

Every year, thousands of Oklahoma youth come into contact with the juvenile justice system. The experiences they have while in contact with the system can drastically alter their future; either creating a stable path to responsible adulthood or funneling youth deeper into the criminal justice system. This issue brief aims to assist collaborative efforts to improve intervention and treatment services to these youth by examining current aspects of the juvenile system.

Justice systems, at their worst, act as repositories for the indigent and delinquent persons with which society no longer wishes to bother. At their best, they act as opportunities in disguise, linking youth to the services and resources needed to better their lives and be productive members of society. Research consistently shows these so-called “problem youth” frequently come from single-parent households or impoverished families, suffered maltreatment and abuse, addiction, educational deficiencies, lack vocational skills and do not have a social support system that many other youth have. Subsequently, the deeper youth penetrate the system, the more likely they are to commit additional crimes which will eventually land them among the adult population of the Oklahoma Department of Corrections (DOC).

The purpose of this report is to raise awareness about the need for system change and smart investments in treatment and intervention services for youth. The environment is right to explore current practices and learn from recent national advancements in juvenile justice reforms that can: promote cost savings; achieve better outcomes for youth without jeopardizing public safety; and promote greater accountability.

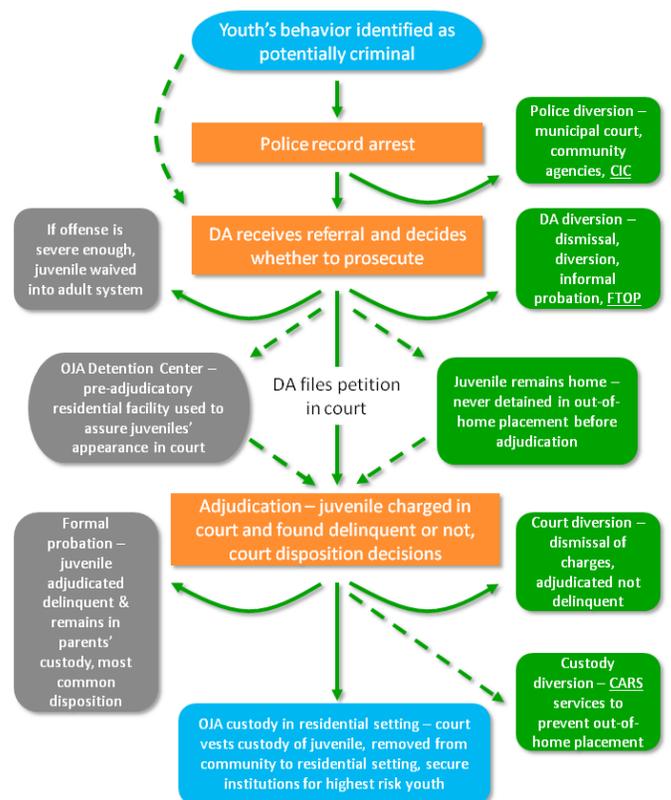
THE CURRENT APPROACH TO JUVENILE JUSTICE

Juvenile Arrests and Violent Crime Are Declining

Overall, the number of juveniles being arrested and detained in the state has been declining (Figure 1). There were a total of 17,205 juvenile arrests in 2011, of which, 3% (577) were classified as violent offenses. During SFY 2011, 27% of youth who were arrested were also detained. Of those arrested, most had committed non-violent offenses.*

*Violent crimes are often considered the most heinous and include murder, forcible rape, robbery and aggravated assault.

Overview of Juvenile Justice Processes, Detention and Diversion Points
This chart is intended to show the points of contact and possible outcomes for juveniles involved in the juvenile justice system. It is not intended as a comprehensive overview of Oklahoma’s juvenile justice system.



Data²¹ for this period shows:

- Only 2% were held for weapons related offenses;
- Only about 18% were charged with crimes against persons;
- Around one in five (19%) were held for property crimes;
- Traffic or public decency offenses accounted for 3% of youth held;
- Less than one in ten (8%) were detained due to drug or alcohol related offenses; and
- Nearly half (49.6%) were detained as a result of a status offense or judicial citation.

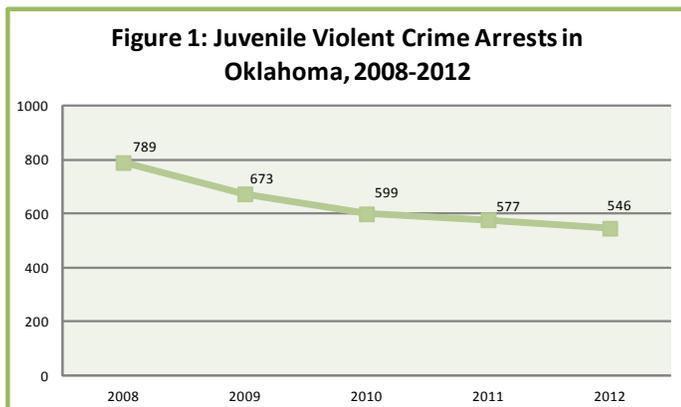
When detention is permitted

Once a youth has been identified as engaging in delinquent behaviors, the court may require the juvenile to be confined to a detention facility while awaiting the outcome of pending legal action. This pre-adjudication detention is allowed if “it is necessary to assure the appearance of the child in court or for the protection of the child or the public.”²² Youth may also be held in detention after adjudication, or awaiting out-of-home placement. The reasons for such confinement typically include protecting the child and/or public safety.

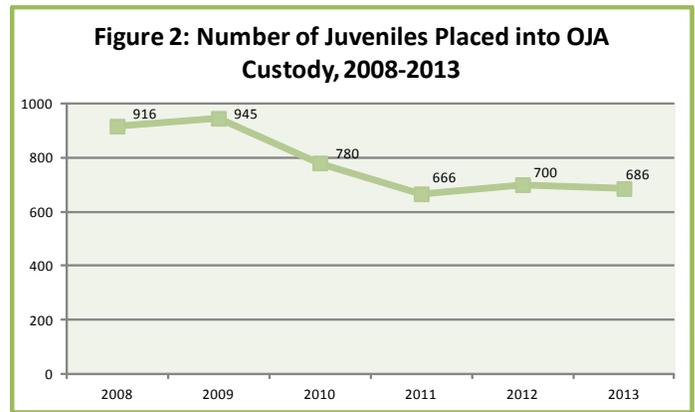
Reliance on and over-use of detention is more harmful than helpful. Detention can be traumatic as it disrupts normal adolescent development, removing youth from family and friend supports and interfering academically because of missed school. It not only has immediate impacts, but also affects juveniles as adults and increases their likelihood of committing a future crime. There has been a national effort to reduce the number of juveniles housed in detention facilities. Oklahoma has also made progress in this area. The decision to place youth in custody has statistically significantly decreased (25%), from 916 in 2008 to 686 in 2013 (Figure 2).

Youth of color are disproportionately arrested and detained

At times, juvenile arrests and detentions are necessary to protect youth and improve public safety. Unfortunately, these practices are not implemented uniformly across all races and ethnicities. In 2000, a national study found that African American youth represented 15% of total youth, however, they accounted for 26% of youth arrested, 31% of



Source: Oklahoma State Bureau of Investigation



Source: Office of Juvenile Affairs

youth referred to juvenile court, and 44% of youth detained nationally.⁵ Delinquent youth populations grew significantly between 1983 and 1997, and the vast majority of this increase was comprised of minority youth. Even after delinquent populations began to decrease in 1998, minority youth remained over-represented in the system.

Following the national trend, Oklahoma has also struggled with Disproportionate Minority Contact (DMC). While the number of juveniles being arrested in the Sooner State has significantly decreased in recent years, this decrease has not been uniform across all races. In SFY 2013, minorities of any color were 1.2 times more likely to be arrested than any White juvenile, and African Americans were 3.13 times as likely. An over-representation of minorities in detention centers is evident as well. In 2013, 11,407 White youth were arrested and only 1,660 were detained (14%). In the same year, 4,597 African American youth were arrested and 1,366 were detained (29%). It is important to stress the severity of offenses committed by youth of color is not a factor in this disparity. Research by the University of Oklahoma has shown youth, regardless of race or ethnicity, commit offenses at the same rate and of the same level of severity.

Additionally, on-going statewide DMC assessment found that the degree of minority overrepresentation differs dramatically from location to location (e.g., urban, suburban, rural), subtle stereotype biases serve to perpetuate DMC, and overt racism still exists in some police actions. Though no consistent trend has emerged, between SFY 2008-13 all minorities had higher odds of being arrested and put into detention than their White peers. This disparity varies by race, but African Americans routinely have the highest odds of being arrested or detained. Currently, African American youth are 3.13 times more likely to be arrested than White youth and 5.59 times more likely to be confined in a secure institution (SFY 13).

THE CHALLENGES AND IMPACTS OF JUVENILE JUSTICE

Dual-Status Youth Pose Unique Challenges

Dual-status youth is a term used to describe youth who have come into contact with both the child welfare and juvenile justice systems.²⁶ Beneath this umbrella are three further distinctions. Dually-identified youth are currently

in the juvenile justice system and have a previous child welfare history. Dually-involved youth have concurrent involvement with both systems (diversionary, formal, or a combination). Dually-adjudicated youth are adjudicated and dependent in both systems.

These youth are the highest risk populations due to experiences with past trauma. National studies indicate dual-status youth are more likely to:

- be arrested as a juvenile (59% more likely);
- be arrested as an adult (28% more likely);
- be arrested for a violent crime (30% more likely);²⁶
- be arrested for assaulting another person;¹³
- regularly skip school;
- have parents struggling with their own criminal justice, substance abuse and mental health issues;¹¹ and
- have been in the child welfare system a long time.

Subsequently, dual-status youth do not have just one need or even a narrow set of services that individual agencies are equipped to deliver. Rather, their needs typically span the child welfare, mental health, substance abuse, behavioral health, medical, and educational sectors, requiring an array of social service agencies to collaborate in order to provide necessary and appropriate treatment services.¹⁹

Delinquent youth tend to exhibit comorbidities, however, fragmented sectors of care create roadblocks that prevent effective treatment across services which are attributable to the lack of agency coordination of services and lack of community supports.¹⁹ Through service collaboration, delinquent youth can simultaneously receive a continuum of care.

Lack of Prevention Programs Increases Recidivism

Research shows the more restrictive and intense justice system interventions are, the greater its negative impact on future delinquent behavior.¹⁰ In Oklahoma, this principle holds true. For example, the proportion of former juvenile offenders who are later remanded to the custody or supervision of DOC increases in accordance with the severity of their prior juvenile justice involvement. National research indicates recidivism increases among youth who:

- Were arrested at a young age;
- Had a history of out-of-home placements;
- Had an increased number of prior admissions; and/or
- Experienced any type of juvenile justice intervention other than a dismissal.^{2,10,11,13}

Among dual-status youth, recidivism increased for youth who:

- Received probation or a deferred judgment (2.5 times more likely);
- Were placed in a secure facility or group home (7.9 times more likely); and/or
- Experienced a placement combined with another disposition (2.2 times more likely).¹³

There is a need to avoid more restrictive and intensive interventions for low-risk offenders in order to minimize the compounding negative effects it can have.¹⁰ Detention and scared straight programs are counter-productive

and incredibly costly, both to detain youth in residential programs as juveniles and later as adults in DOC facilities.^{9,17} Programs that attempt to control behavior through deterrence, instilling discipline, or scrutinizing behavior tend to worsen recidivism outcomes.¹⁷ Risk and needs assessments, like the Youth Level of Service/Case Management Inventory (YLS/CMI), are essential to determining the child's risk of recidivism and their need for treatment in order to best match youth with the most appropriate type of intervention.

Across the nation, studies have shown rates of recidivism anywhere between 30% and 85%.^{12,23} Because there is no universal definition of the term recidivism in the U.S., state by state comparisons of recidivism rates is difficult. However, one method to evaluate juveniles who reoffend is to examine the number of youth who later crossover into the adult prison system. In Oklahoma, 20.5% of former juvenile offenders who had been discharged from OJA between FY2005 and FY2012 and who had been in OJA custody but had not been in out-of-home placement were later sentenced to the custody or supervision of DOC. In these cases, the OJA placement unit decision was to treat the youth in the community due to the children being lower risk. Of those former juvenile offenders discharged between FY2005 and FY2012 who had been in OJA custody and out-of-home placement, 35.7% were later sentenced to DOC custody or supervision. This percentage also includes Youthful Offenders who were later bridged to DOC.

Community-Based Services Are Successful

Community-Based Services make the best case for diverting youth from out-of-home placement. Such services help to prevent juveniles' further penetration into the juvenile justice system by emphasizing skill building, counseling, and multiple, interagency services.¹⁶ OJA has a variety of community-based diversion services, chiefly administered by designated Youth Services Agencies. These services consist of programs proven to lower recidivism rates, including: emergency shelters, the First-time Offender Program (FTOP), Community Intervention Centers (CIC), and Community at Risk (CARS) services. FTOP consistently has a recidivism rate of 9-10% due to its ability to keep youth away from the juvenile justice system and provide minimal intervention to low-risk youth.

While diversion services have been shown effective in reducing recidivism, a significant decline in the number of youth receiving community based services has been seen in recent years. Specifically, the number of youth being served by FTOP, CICs, and CARS programs has decreased significantly (Table 1).

Preventing recidivism is one of the most important goals for the justice system, as this indicates the system worked as intended. In Oklahoma, recidivism rates are calculated for juveniles that have completed program services. Juveniles who have completed program services are tracked for one year from their program discharge date for the occurrence of a new referral for a felony or misdemeanor offense. New referrals for felonies or misdemeanors are then tracked indefinitely for the occurrence of a new adjudication or an informal probation

TABLE 1: Number of Youth Being Served by Community-Based Services

	2008	2009	2010	2011	2012	2013
First-time Juveniles	9,016	8,491	7,896	7,230	7,100	6,702
Number served, FTOP	3,429	3,421	3,577	3,278	3,164	3,135
Admissions to CIC	6,622	6,763	6,125	6,737	6,300	5,533
Receiving CARS services	3,278	3,197	2,547	2,322	2,234	2,084

Source: Office of Juvenile Affairs

agreement. In addition, juveniles who have completed program services are tracked for eighteen months for the occurrence of reception by the Oklahoma Department of Corrections with respect to incarceration or community supervision. Recidivism rates for any given fiscal year may change over time as new information regarding re-adjudications and adult convictions is obtained for juveniles.

Recidivism rates for community-based services are improving:

- **FTOP**, which is primarily designed for juveniles who have been referred to the juvenile justice program for the first time, receive services provided by youth services agencies. Recidivism rates for FTOP dropped from 9.3% in 2011 to 6.9% in 2012.
- **CARS**, intended for juveniles who are in custody and are either at risk for out-of-home placement or who are returning to their home from out-of-home placements, saw recidivism rates fall from 18.3% in 2011 to 15.5% in 2012.
- **Residential treatment programs**, including secure facilities, are used to house youth based on the assessment of the child's risk and needs, documentation and decisions involving the Juvenile Services Division placement unit. Secure facility recidivism rates dropped from 23.8% in 2011 to 20.2% in 2012; Level E group home recidivism fell from 30.3% in 2011 to 29.9% in 2012; and Specialized Community Home recidivism declined from 12.5% to 0.0% in 2012.

Youth May Not Be Competent for Adjudicatory Hearings

Oklahoma is currently the only state in the nation that does not recognize that youth in juvenile court must be competent to stand trial.²⁰ In fact, Oklahoma has specific case law from the state Court of Criminal Appeals explaining that since juvenile proceedings are not criminal but rehabilitative, it is the intent of the legislature not to have competency statutes apply to juveniles.²⁴ Juvenile competency is established through court hearings designed to protect the rights of those accused of a crime. Competency hearings have been a foundational component in the adult justice system for centuries and are generally considered a Constitutional right.²⁰ It requires that defendants be able to rationally and reasonably understand the process of what is happening to them in the court system. There are three overarching reasons for incompetence among youth—mental illness, intellectual disability, and developmental immaturity.

Many youth do not fully understand trial-related matters, with younger children being the least likely to comprehend the process. The MacArthur research network on Adolescent Development and Juvenile Justice found throughout the U.S.:¹⁶

- About 35% of 11- to 13-year-olds and 22% of 14- to 15-year-olds were significantly impaired in their judgment and ability to reason about legally-relevant decisions.
- Sixteen to 17-year-olds are significantly impaired 12% of the time.
- More than half of 11-13 year-olds with IQs between 60-74 and one-third of those with IQs between 75-89 were significantly impaired.
- Of 14- to 15-year-olds significantly impaired, 40% had an IQ between 60-74 and 25% had an IQ between 75-89.
- Over 60% of youth under 15 years in detention centers had IQs between 60-89.

Youth serving systems lack robust data collection and analysis

In order to expand the implementation of best practices and evidence-based programs, there must be a clear picture of the problems faced by the state. Data collection and data sharing are paramount to this process. Data points to where prevention and diversion efforts should be applied, where money should be diverted or invested, and where disparities exist in the current system. While Oklahoma has made strides in disseminating and collecting certain types of juvenile justice data, many gaps still exist.

Municipal Courts – OJA utilizes the Juvenile Online Tracking System (JOLTS) to collect data and monitor information about the arrest and detention of youth in the system. JOLTS links District Attorneys (DA), detention centers, youth service agencies and shelters, institutions, Juvenile Bureaus and OJA personnel into a state-wide communications network; however it is not currently available to municipal courts. This becomes problematic because law enforcement is typically responsible for either referring children to OJA or diverting cases to municipal courts. There is no consistent protocol about how to handle youth who have been arrested. Therefore, arrests by law enforcement do not have to lead to a court petition from the DA or even a referral. In the U.S., law enforcement refers about two-thirds of arrests to juvenile court. In the other one-third of cases, police have chosen the option to handle things informally by diverting youth to municipal court or community agencies, preventing the

referral and intake decision process. As a result, youth going through municipal courts have no record in the JOLTS system, leading to potential lost opportunities for needed community-based treatment and other intervention services.

Mental Health and Substance Abuse – Justice systems, both juvenile and adult, have long been known to accommodate individuals with substance abuse issues and mental health disorders at relatively high rates. This typically occurs as a result of inaccessible or non-existent community-based treatment services. Likewise, many youth-serving organizations in Oklahoma believe the youth they serve are frequently suffering from mental illness and addiction. However, this evidence is only anecdotal because no statewide data currently exists regarding the prevalence of these conditions. According to a 2003 national study, approximately 15,000 youth waited an average of six months to two years in juvenile detention facilities because of the lack of mental health services in their communities, costing around \$100 million.⁸ Most detention facilities provide limited treatment services for these types of conditions and specially trained staff are not always available.

Dual-Status Youth – It is difficult to track dual-status youth and no statewide data exists about the number of dual-status youth. Interagency collaboration requires navigating shared information databases. Juvenile records can be a delicate subject as some people fear violation of privacy rights due to sharing of sensitive information. However, properly implemented shared data systems are meant to allow participating agencies to communicate with each other and monitor roles and responsibilities in caring for youth. Discrepant data collection across agencies that remain siloed can leave staff unaware of youth's involvement with other agencies and result in many unmet needs. Linking databases can reduce the time and effort required to track cases across organizations, increase staff awareness of whether youth have received necessary services, and subsequently facilitate coordinated service delivery.⁷

CONCLUSIONS & RECOMMENDATIONS

Children in the system are generally dealing with a multitude of issues, requiring complex intervention. Oklahoma routinely incarcerates higher numbers of people per capita than most states in the nation. One approach to assist in stemming this tide is to effectively identify high-risk youth and link them to appropriate treatment and intervention services in order to keep them from delving into the deep end of the corrections system. To do this, a multi-level approach to change is needed:

Improve Data Collection and Sharing

Expanding access to statewide data systems allows for the capturing of richer, more extensive information about past involvement with the system and points to effective treatment and intervention needs of youth and their families. Such collaboration represents a win-win opportunity for Oklahoma because it will reduce recurring

costs, increase public safety and protect the state's most vulnerable youth by improving service provision and long-term outcomes.

Improve Interagency Collaboration

The needs and intensity of treatment of delinquent youth are often greater than can be provided by a single system. Expecting any agency by itself to render services in all of these sectors has proven difficult, if not impossible. Yet, to date, the amount of interagency collaboration has been limited. Improving services provided to youth involved in both child welfare and juvenile justice systems will help to reduce the number of youth placed in out-of-home care, reduce the use of congregate care, reduce the disproportionate representation of children of color and reduce the number of youth becoming dually-adjudicated. Collaborative approaches to meeting the needs of dual status youth include such strategies as joint decision-making, cross-training of staff, and collaborative budgeting.⁷ Inter-organizational collaboration helps develop more trusting and reliable relationships that positively impact outcomes.

Increase Investments in Diversion Services and Community-Based Programs

Contact with the juvenile justice system can perpetuate delinquent behavior and those who are at highest risk of delinquency are most likely to reoffend. While logic would suggest that more youth should be diverted to community-based services for treatment, there has actually been a drop in utilization, or the number of kids served. These programs have proven to reduce recidivism and improve outcomes for youth. There is a need to increase the availability of these services to divert more youth away from the juvenile justice system, resulting in greater benefits for youth and increased cost savings for the state.

Implement Juvenile Competency Hearings

Oklahoma has a responsibility, not only to protect our most vulnerable youth, but to deliver justice in the fairest way possible. Therefore, the Sooner State must work to define and assess competence at the front end of the juvenile justice system to avoid unnecessary and ineffective detention. Intellectual disabilities and cognitive impairments affect youth more often than adults. Mental illness in youth is also difficult to diagnose and treat. Even so, typically developing youth may not have the abstract reasoning or executive functioning necessary to comprehend the true nature of court proceedings.

Increase Investments in Resources

As state government becomes leaner, we must make an effort to safeguard the resources necessary for the effective treatment of moderate and higher risk juveniles. These youth require more intensive services in out-of-home placements for rehabilitation and the protection of public safety. In order to effectively treat these children, resources are needed for sufficient staffing and evidence-based interventions.

REFERENCES

1. Abrams, L., Shannon, S., & Sangalang, C. (2008). Transition services for incarcerated youth: A mixed methods evaluation study. *Children and Youth Services Review*, 30, 522-535.
2. Abrams, L., & Snyder, S. (2010). Youth offender reentry: Models for intervention and directions for future inquiry. *Children and Youth Services Review*, 32, 1787-1795.
3. Barton, W. & Butts, J. (2008) Building on strength: Positive youth development in juvenile justice programs. Chicago: Chapin Hall Center for Children at the University of Chicago.
4. Burns, B., Howell, J., Wiig, J., Augimeri, L., Welsh, B., Loeber, R., & Petechuk, D. (2003). Treatment, services, and intervention programs for child delinquents. Washington, DC: U.S. Dept. of Justice.
5. Cabaniss, E., Frabutt, J., Kendrick, M., & Arbuckle, M. (2007). Reducing disproportionate minority contact in the juvenile justice system: Promising practices. *Aggression and Violent Behavior*, 12, 393-401.
6. Chiu, Y., Ryan, J., & Herz, D. (2011). Allegations of maltreatment and delinquency: Does risk of juvenile arrest vary substantiation status? *Children and Youth Services Review*, 33, 855-860.
7. Chuang, E., & Wells, R. (2010). The role of inter-agency collaboration in facilitating receipt of behavioral health services for youth involved with child welfare and juvenile justice. *Children and Youth Services Review*, 32, 1814-1822.
8. Children's Defense Fund of Ohio. (2010). Rethinking Juvenile Detention in Ohio Issue Brief.
9. Citizens for Juvenile Justice. (2014). Unlocking potential: Addressing the overuse of juvenile detention in Massachusetts. Boston: Citizens for Juvenile Justice.
10. Gatti, U., Tremblay, R., & Vitaro, F. (2009). Iatrogenic effect of juvenile justice. *Journal of Child Psychology and Psychiatry*, 50, 991-998.
11. Herz, D., Ryan, J., & Bilchik, S. (2010). Challenges facing crossover youth: An examination of juvenile-justice decision making and recidivism. *Family Court Review*, 48, 305-321.
12. Hoytt, E., Schiraldi, V., Smith, B., & Ziedenberg, J. (2001). Reducing racial disparities in juvenile detention. Baltimore: Annie E. Casey Foundation.
13. Huang, H., Ryan, J., & Herz, D. (2012). The journey of dually-involved youth: The description and prediction of re-reporting and recidivism. *Children and Youth Services Review*, 34, 254-260.
14. Hurst, H. (2012). Models for change update 2012: Headlines. Chicago: National Center for Juvenile Justice.
15. Ketchum, P., Peck, B., & Davis, S. (2013). Disproportionate minority contact in the Oklahoma juvenile justice system [PowerPoint slides]. Retrieved from http://www.ok.gov/oja/documents/Dr%20Paul%20Ketchum%20DMC%20%20OJA%20Board%20PP_5_12.ppt
16. Larson, K., & Grisso, T. (2011). Developing statutes for competence to stand trial in juvenile delinquency proceedings: A guide for lawmakers. Models for Change: Systems reform in juvenile justice. Retrieved from <http://modelsforchange.net/publications/330>
17. Lipsey, M., Howell, J., Kelly, M., Chapman, G., & Carver, D. (2010). Improving the effectiveness of juvenile justice programs: a new perspective on evidence-based practice. Washington, DC: Georgetown University, Center for Juvenile Justice Reform.
18. Lutz, L., & Stewart, M. (2011). Crossover Youth Practice Model. Washington, DC: Georgetown University, Center for Juvenile Justice Reform.
19. Maschi, T., Hatcher, S., Schwalbe, C., & Rosato, N. (2008). Mapping the social service pathways of youth to and through the juvenile justice system: A comprehensive review. *Children and Youth Services Review*, 30, 1376-1385.
20. National Juvenile Justice Network [NJJN]. Retrieved from <http://www.njjn.org/>.
21. Oklahoma Office of Juvenile Affairs. (2012). 2012 Three-year plan. Retrieved from https://www.sagtraining.org/media/state_files/plan/plan_OK.pdf
22. Oklahoma Title 10 O.S.§2-3-101
23. Schwalbe, C., Gearing, R., Mackenzie, M., Brewer, K., & Ibrahim, R. (2012). A meta-analysis of experimental studies of diversion programs for juvenile offenders. *Clinical Psychology Review*, 32, 26-33.
24. Szymanski, L. (2013). Juvenile Competency Procedures. Juvenile justice geography, policy, practice, & statistics: State scan. National Center for Juvenile Justice. Retrieved from http://www.ncjj.org/pdf/JGPS%20StateScan/JGPS_StateScan_JuvenileCompetencyProcedures_2013_1.pdf.
25. Trulson, C., Marquart, J., Mullings, J., & Caeti, T. (2005). In between adolescence and adulthood: Recidivism outcomes of a cohort of state delinquents. *Youth Violence and Juvenile Justice*, 3, 355-387
26. Wiig, Tuell, & Heldman. (2013). Guidebook for Juvenile Justice & Child Welfare System Coordination and Integration: A Framework for Improved Outcomes, 3rd Edition. Boston: Robert F. Kennedy Children's Action Corps