



Virginia's Juvenile Justice System

Commission draft

This Commission briefing of the JLARC report, *Virginia's Juvenile Justice System*, has been assembled for discussion, verification, and review.

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Study resolution

- Review Virginia's juvenile justice system, including:
 - juvenile justice processes
 - racial and regional disparities
 - Department of Juvenile Justice's (DJJ) oversight and recent reforms
 - rehabilitative and educational services at state correctional center and local / regional juvenile detention centers
 - future facility needs

Commission resolution (November 2020)

Primary research activities

- Analyzed data on youth needs, services, recidivism
- Conducted four surveys
- Interviewed key stakeholders in Virginia and nationally
 - staff at DJJ, other state agencies, juvenile detention centers
 - probation officers and supervisors
 - judges, commonwealth's attorneys, defense attorneys
 - advocates for youth and families
 - national experts and U.S. Department of Justice
- Reviewed existing research and other states' approaches

In brief

Not all youth receive quality legal representation, and Black youth are referred to the system at higher rates.

Local and regional juvenile detention centers meet safety and security standards but appear less than fully equipped to provide effective rehabilitative services.

DJJ comprehensively assesses youth risks and needs, but rehabilitative programming appears unlikely to reduce reoffending.

DJJ's re-entry efforts have improved, though youth released from custody still lack fully adequate step-down supports.

State has substantial excess juvenile detention center capacity, and opportunities exist to more efficiently use resources.

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Background

Attorney representation for youth

Racial and regional disparities

Probation

Juvenile detention center programs

Rehabilitative programs for youth in DJJ custody

Re-entry from DJJ custody

Number and locations of juvenile justice facilities

Juvenile justice system exists to respond to illegal acts by youth and reduce future delinquency

- Different than adult criminal system because focus is rehabilitation, rather than punishment
- Virginia's juvenile justice system seeks to
 - divert youth when possible, consistent with public safety
 - provide fair procedures that respect youths' rights
 - only separate youth from families if no other options exist
 - protect community against harmful acts
 - reduce incidence of delinquent behavior in future

DJJ primarily responsible for administering and overseeing juvenile justice services in Virginia

- Operates 30 of 32 court service units (CSUs)
 - Investigates complaints referred to CSU
 - Decides whether to charge (“petition”) youth for alleged offenses
 - Supervises youth on probation and parole
 - Connects youth with rehabilitative services
- Operates Bon Air Juvenile Correctional Center
- Oversees local and regional juvenile detention centers

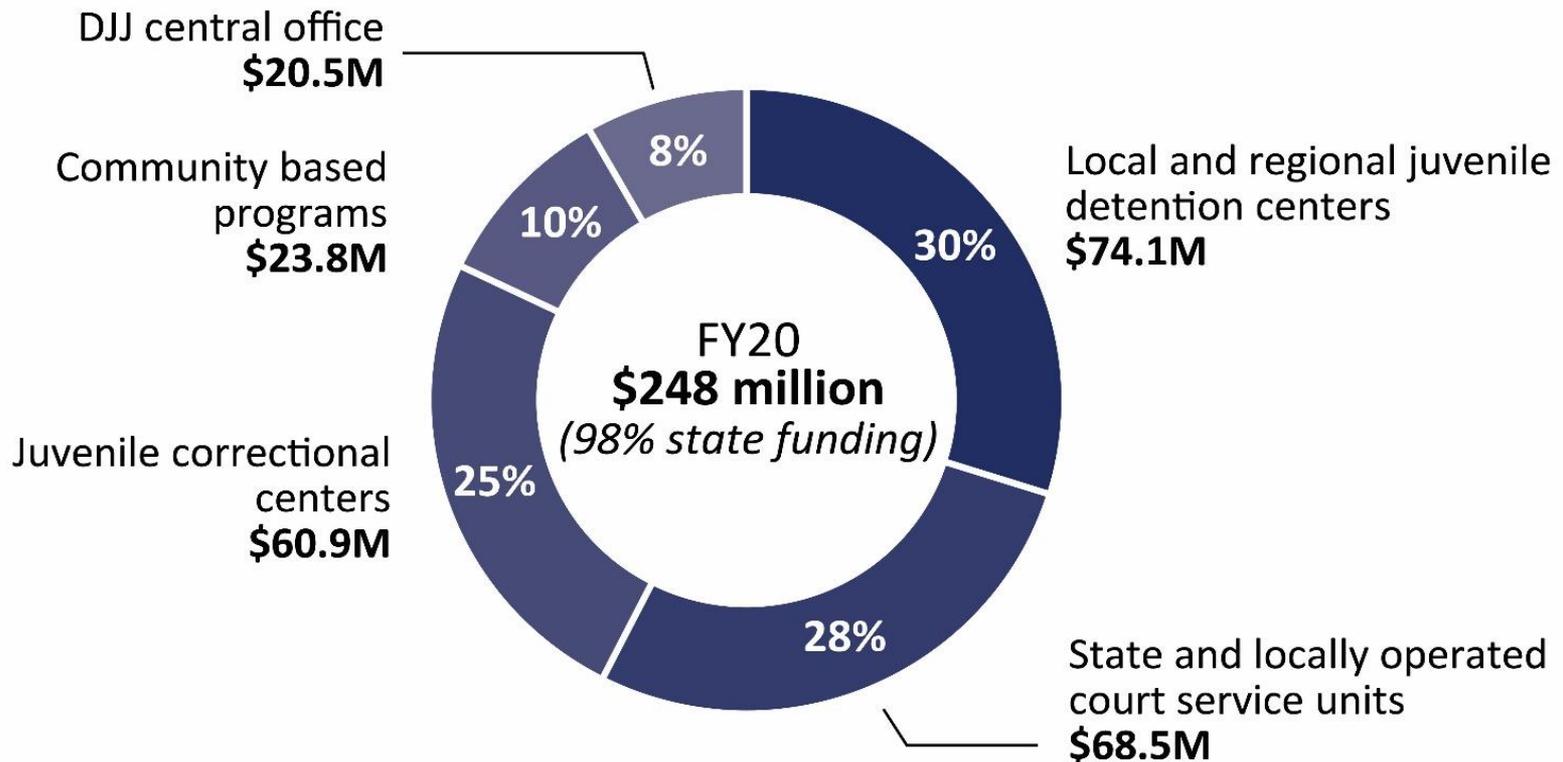
Other federal, state, and local entities play key roles in juvenile justice

- U.S. Office of Juvenile Justice and Delinquency Prevention
- VDOE, OES, and DCJS
- Local and regional juvenile detention centers
- J&DR judges and attorneys
- Community service providers
- Law enforcement, schools, other community members

VDOE= Virginia Department of Education, OES = Office of Executive Secretary of the Virginia Supreme Court, DCJS = Department of Criminal Justice Services, J&DR = Juvenile and Domestic Relations

About \$248M in state and federal funds spent on juvenile justice (FY20)

FEDERAL AND STATE JUVENILE JUSTICE SPENDING

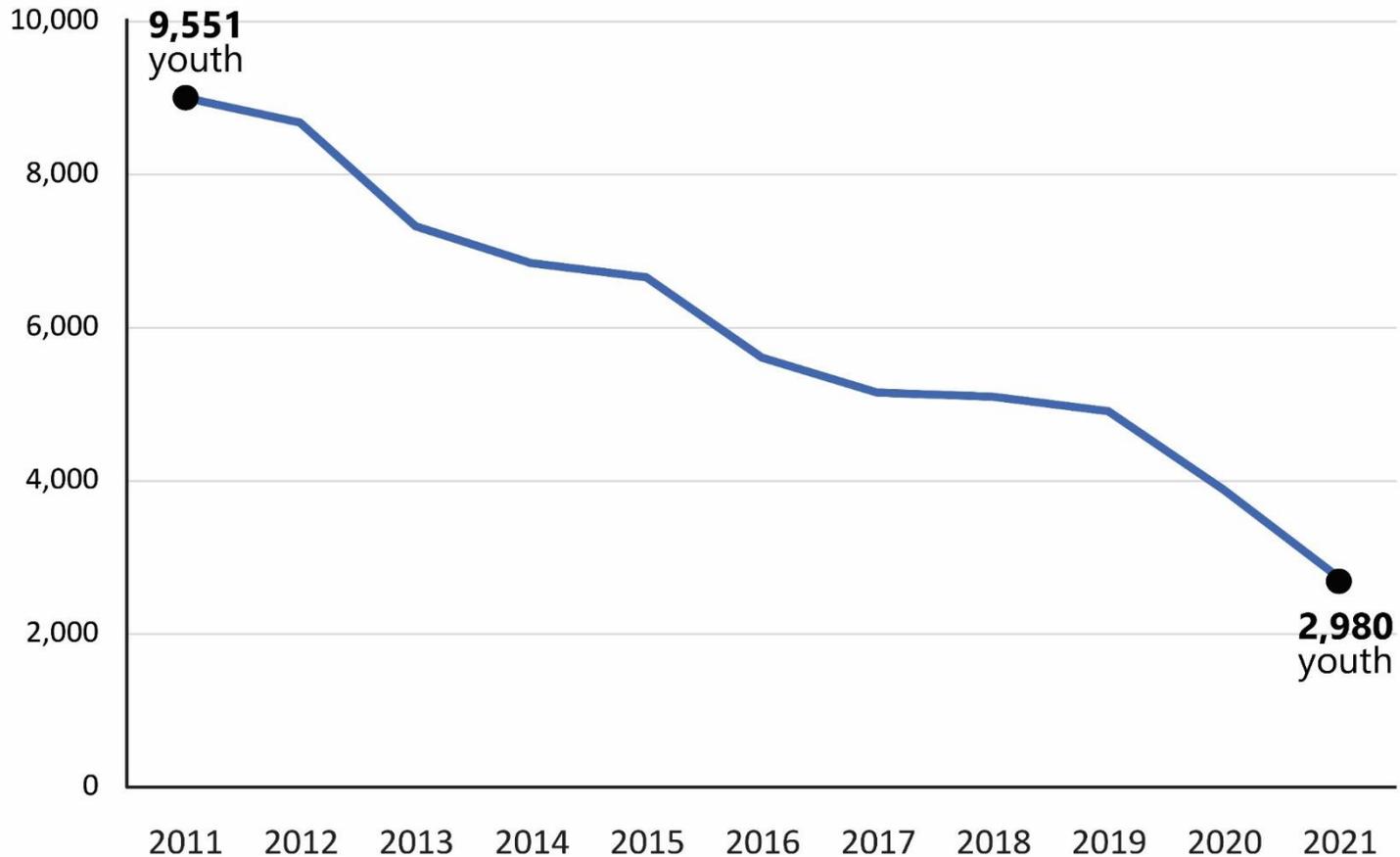


Note: Excludes local spending through 24 regional & local juvenile detention centers.

DJJ began a “transformation” reform effort in 2016

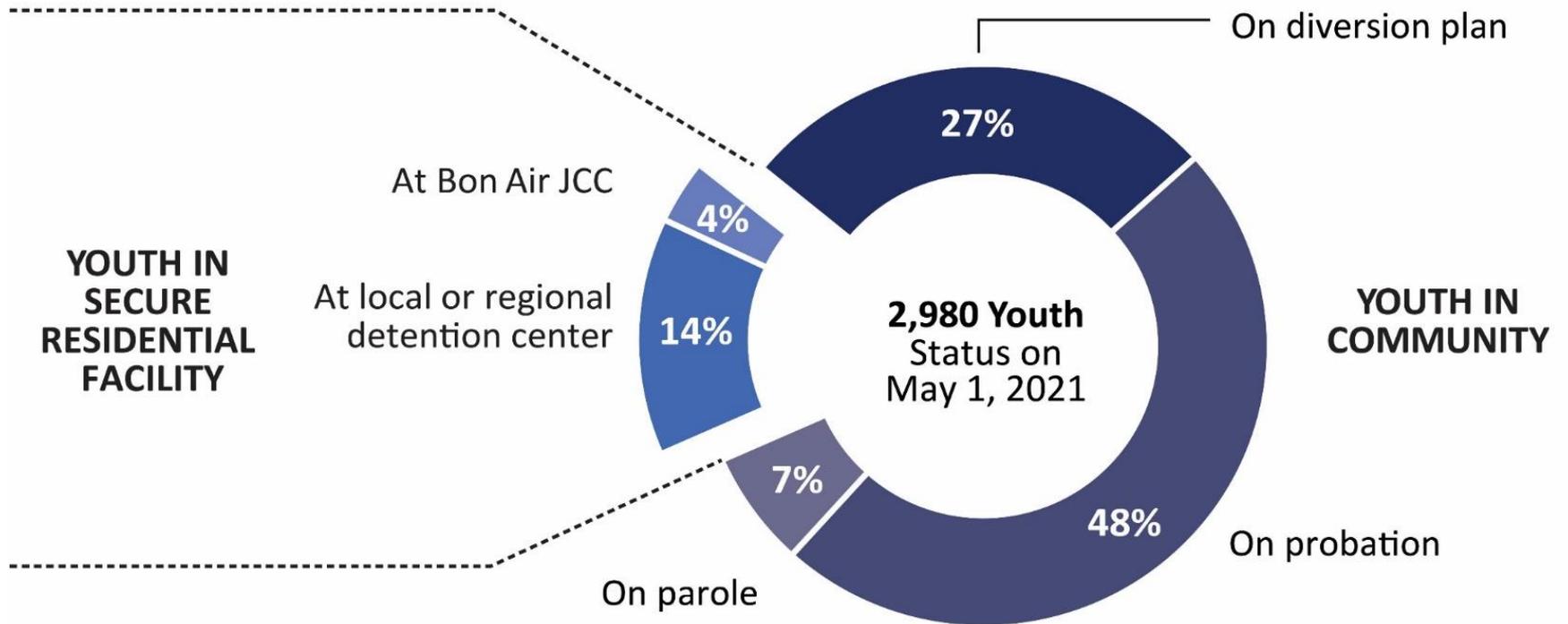
- Reduce the number of youth in state correctional centers, while maintaining public safety
- Increase local placement options & community-based programs
- Ensure youth receive rehabilitative services that meet their needs and reduce the likelihood that they reoffend

Number of youth in Virginia's system has steadily declined, similar to national trends

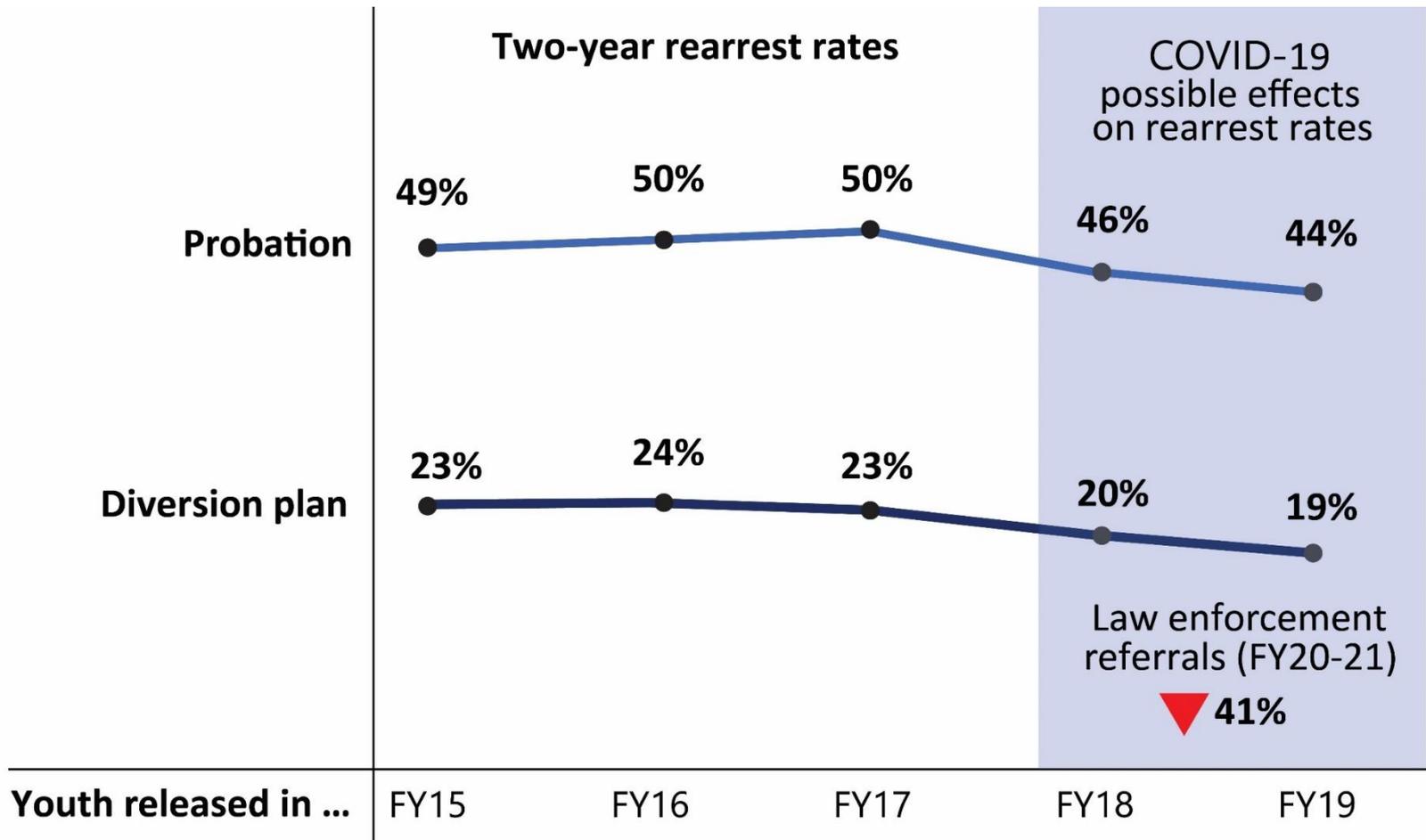


Note: Number of youth as of May 1 each year.

Most youth in Virginia's juvenile justice system are on diversion plans or probation (May 2021)

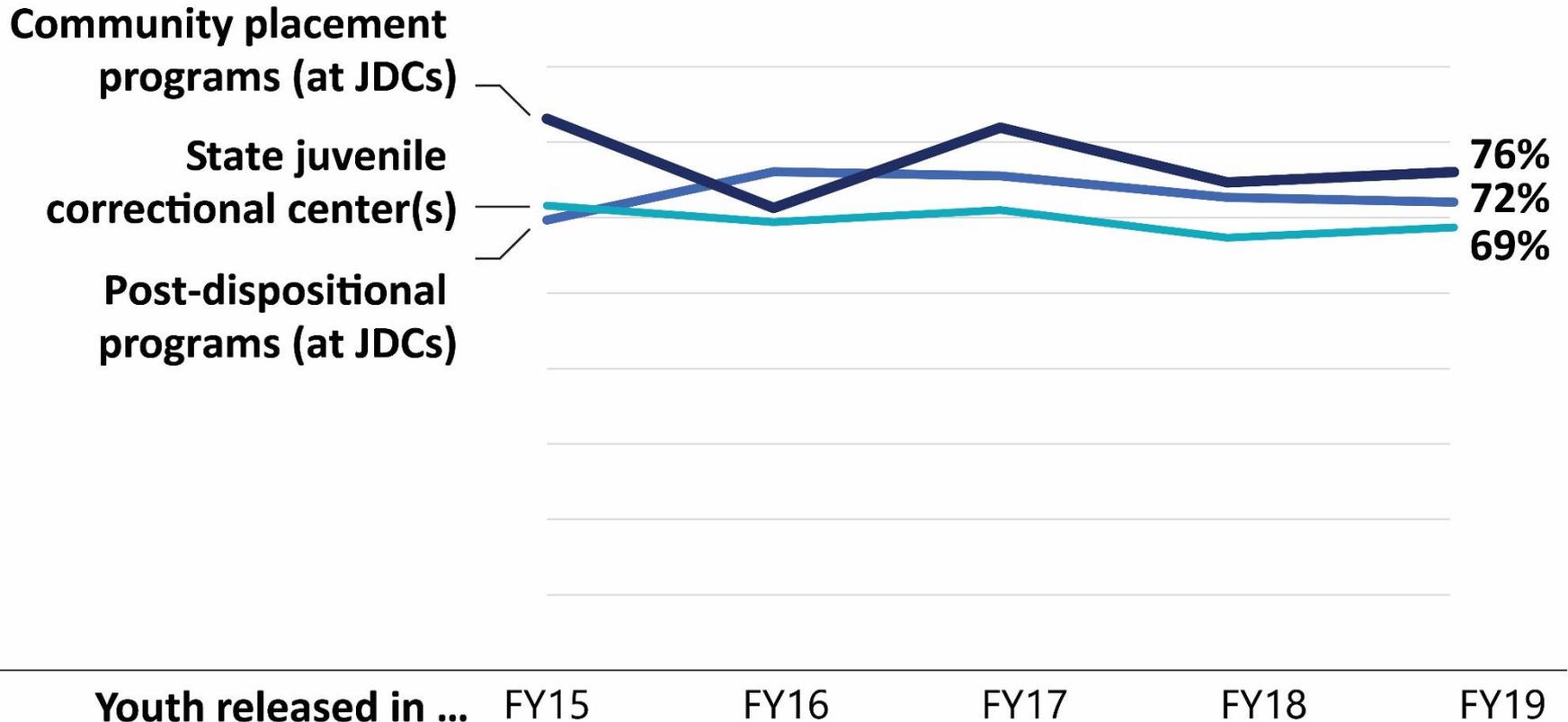


Recidivism of youth on diversion and probation is declining, but pandemic prevents full assessment



Recidivism among higher risk youth is challenging to affect and has remained high

Two-year rearrest rates



JDCs = Juvenile detention centers

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Youth have many of the same due process rights and constitutional protections as adults

- State law requires courts to ensure youth receive a fair hearing and that their rights are recognized and enforced
- Youth are less likely than adults to
 - understand legal proceedings
 - advocate for their own best interests
 - fully consider long-term consequences
- Juvenile cases can be especially complex, requiring knowledge about juvenile and adult law and proceedings

Youth entitled to qualified and competent attorney representation

- To adequately represent youth, attorneys need specialized knowledge
 - juvenile law
 - adult criminal law
 - adolescent brain development
 - community resources and juvenile justice interventions
- Depending on family resources and availability of attorneys, youth are represented by private attorneys, court-appointed attorneys, or public defenders

Finding

Youth usually receive legal representation, but some may not receive quality representation because of several factors, including low compensation and minimal training requirements for court-appointed attorneys.

Not all youth receive adequate legal representation, especially when attorney is court-appointed

- Concerns about inadequate representation were consistently raised in interviews by judges and attorneys
 - Lack adequate knowledge to represent youth
 - Spend insufficient time on cases
- “We have plenty of attorneys—we have enough attorneys to get us by. What we don’t have are quality attorneys.” - *J&DR judge*
- “They consistently misadvise [youth and parents] on the law.” - *public defense attorney*

State maximum fee does not adequately compensate court-appointed attorneys and is less than other states

- In Virginia, court-appointed attorneys for juveniles generally receive a maximum of \$120 per case
 - Compensates for less than 2 hours of work using \$90 hourly rate established by the Supreme Court of Virginia
 - Attorneys should spend 5 to 23 hours on a juvenile case to provide competent representation*
- Virginia's \$120 maximum fee cap is the lowest in nation and substantially less than the median cap of \$1,850

*Not including murder cases or cases transferred to circuit court.

Training requirements for court-appointed attorneys do not reflect the complexity of juvenile cases

- Attorneys must complete 12 hours of continuing legal education to qualify for the court-appointed list—only 4 hours are specific to representing juveniles
 - Less than one hour of training devoted to intake process and detention hearings
- Virginia Indigent Defense Commission staff reported that time allocated in current training is not sufficient to cover complexity of material

Recommendations

The General Assembly may wish to consider

- increasing the maximum compensation for court-appointed attorneys in juvenile delinquency cases;
- directing the VIDC to develop a plan to strengthen training requirements for court-appointed counsel in juvenile delinquency cases; and
- strengthening training requirements for certification of court-appointed attorneys in juvenile delinquency cases.

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State law requires fair and appropriate treatment of youth in juvenile justice system

- Generally, youth who commit similar offenses should be treated similarly, though some variation is inevitable
- Disparities in the treatment of youth could occur at several key decision points, including
 - Whether to refer alleged offense to the juvenile justice system (e.g., law enforcement, schools, citizens)
 - Whether to petition youth (CSU staff)
 - Whether to find the youth delinquent (judges)
 - Whether to commit youth to DJJ custody (judges)

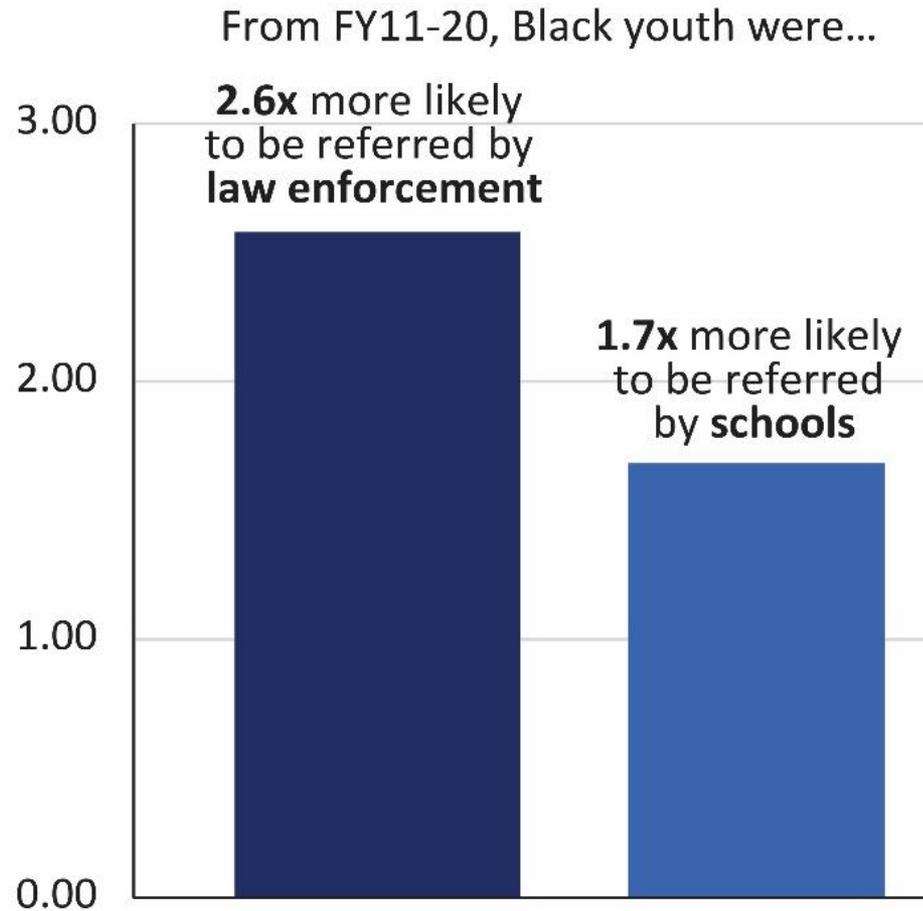
Finding

Black youth are more likely than white youth to be referred to the juvenile justice system.

Black youth ~2.5 times more likely than white youth to be referred to juvenile justice system

- Black youth were referred to juvenile justice system at higher rate (FY11–FY20)
 - 139 complaints per 1,000 Black youth
 - 56 complaints per 1,000 white youth
- Higher likelihood of Black youth being referred holds true for all types of offenses (e.g., felonies, misdemeanors, status offenses)
- Similar to national patterns

Referrals from law enforcement contribute most to overall disproportionality



Reasons for disproportionate referrals are complex, but additional training and review would likely help

- Recent statutory changes in training requirements will address topics related to disproportionate enforcement
 - Implicit bias and cultural competency training now required for law enforcement officers
 - Training not specific to working with juveniles, but could be
 - Similar to recent changes in other states (e.g., NV, UT, NJ)
- \$1 million federal grant awarded to DJJ in November to review disproportionalities in referrals and identify opportunities to mitigate disparate treatment of youth

Within juvenile justice system, disparities also exist, but are less substantial than in referrals

- Black and white youth are generally equally likely to be charged (“petitioned”) by CSU staff
- Black youth are somewhat more likely to be detained, adjudicated delinquent, or committed by judges
 - Quality of representation could play a role in disparities
 - Available data indicates that Black youth more likely to be represented by court-appointed attorneys
 - Other states starting to make implicit bias and cultural competency training available to judges and attorneys

CSU = Court service unit

Recommendations

The General Assembly may wish to consider requiring DCJS to amend law enforcement training standards to address implicit bias, cultural diversity, and protective responses specifically when interacting with juveniles.

DJJ should

- publish a report of the findings from its grant award and changes in disproportionality of school referrals
- assess the effectiveness of its Standardized Disposition Matrix statewide and refine the tool, as appropriate.

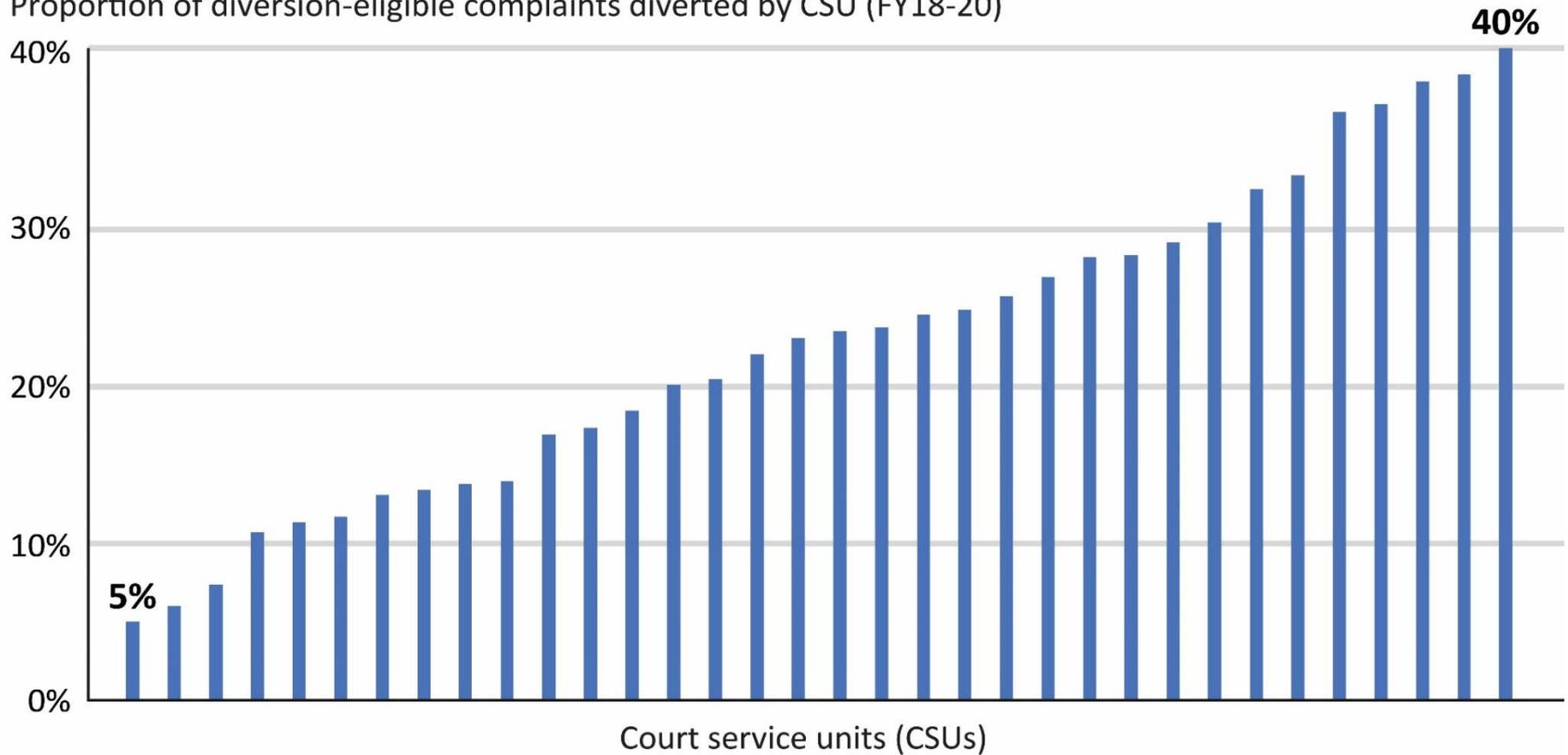
DCJS should collect and regularly report data on disparities by offense type; region, CSU, or locality; and decision point in the system.

Finding

Youth who commit similar offenses are treated differently in different regions of Virginia.

Separately from race, youth in different regions treated differently for similar offenses

Proportion of diversion-eligible complaints diverted by CSU (FY18-20)



Several factors appear to contribute to inconsistent treatment of youth across regions

- Variation in community-based services available to intake officers and judges
 - e.g., shelter care programs, substance abuse programs
- Variation in CSU policies (e.g., policies on diversion)
- Variation in judicial preferences and awareness of disposition options

Recommendations

The General Assembly may wish to consider directing the Department of Juvenile Justice to conduct a needs assessment for community-based services across the state.

DJJ should

- develop and implement statewide policies for court service units to use in making diversion and probation and parole violation decisions.
- require CSUs to (i) maintain inventory of available services within their jurisdictions and (ii) recommend specific programs that align with disposition recommendations provided to judges.

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Youth on probation remain in the community and are supervised by staff of court service units

- Supervised by probation officer at a court service unit
- Youth required to comply with specific conditions
 - Case management and supervision
 - Participation in certain community-based services
- Most common disposition option
 - 1,390 youth on probation in May 2021
- Recidivism has remained mostly stable over past decade, although recent data indicates a slight decrease

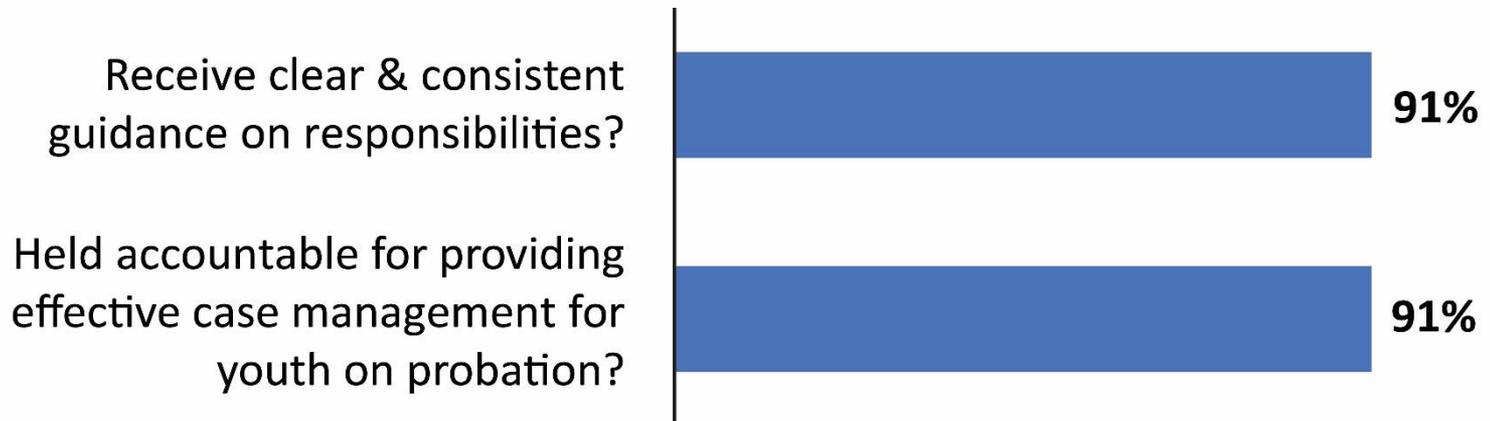
Findings

DJJ uses a nationally recognized community supervision model, but not all youth respond.

More services now available for youth on probation, though reviews of the quality of these services were only recently formalized by DJJ.

DJJ uses EPICS, which addresses risk factors and provides probation officers clear guidance

- DJJ uses the nationally recognized case management model (EPICS) for youth on probation
- Probation officers reported receiving good guidance and being held accountable for effective case management



Not all youth respond to EPICS as implemented

- Responsivity of youth is key to the effectiveness of EPICS



- Youth responsivity could likely be improved through
 - Additional coaching on the full range of EPICS tools
 - Additional training on implicit bias and cultural competency
 - Additional training on motivational interviewing

Recommendations

DJJ should ensure all probation officers receive adequate guidance and coaching on how to use the full range of tools included in the EPICS case management model.

DJJ should require all CSU staff to participate in implicit bias and cultural competency training.

DJJ should implement a pilot program to evaluate the impact of providing more comprehensive motivational interviewing training to probation officers.

More evidence-based services now available for youth on probation

- Youth on probation have access to more services than before DJJ reforms
 - Includes access to evidence-based models with demonstrated effectiveness
- In survey, 87% of probation officers reported being able to access services that match youths' needs and to access these services in a timely manner
- DJJ recently formalized a process to ensure services for youth are high quality and staffed appropriately

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Juvenile detention centers provide secure confinement to youth, mostly on short-term basis

- 24 locally or regionally operated juvenile detention centers in Virginia
 - All provide confinement for youth awaiting hearings
 - Most (21) also provide longer-term rehabilitative programs for youth adjudicated delinquent
- In FY20, 70 percent of youth were released within 30 days of initial placement in detention centers
- All youth in juvenile detention centers receive educational programming

Findings

Virginia JDCs generally meet requirements and address health and safety problems in a timely manner.

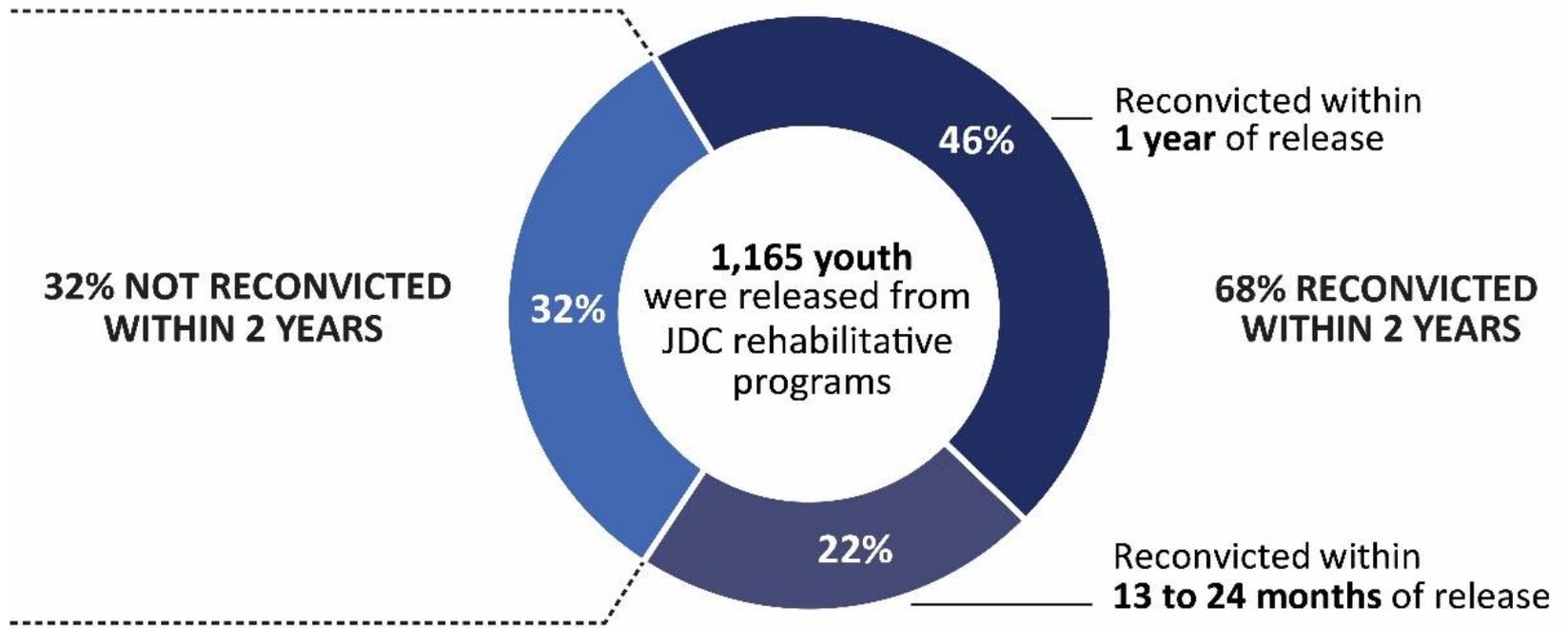
Virginia JDCs appear ill-equipped to provide effective rehabilitative programming.

Educational programming at JDCs lacks adequate oversight, continuity, and vocational services.

DJJ uses standardized approach to ensure JDCs meet statutory and regulatory requirements

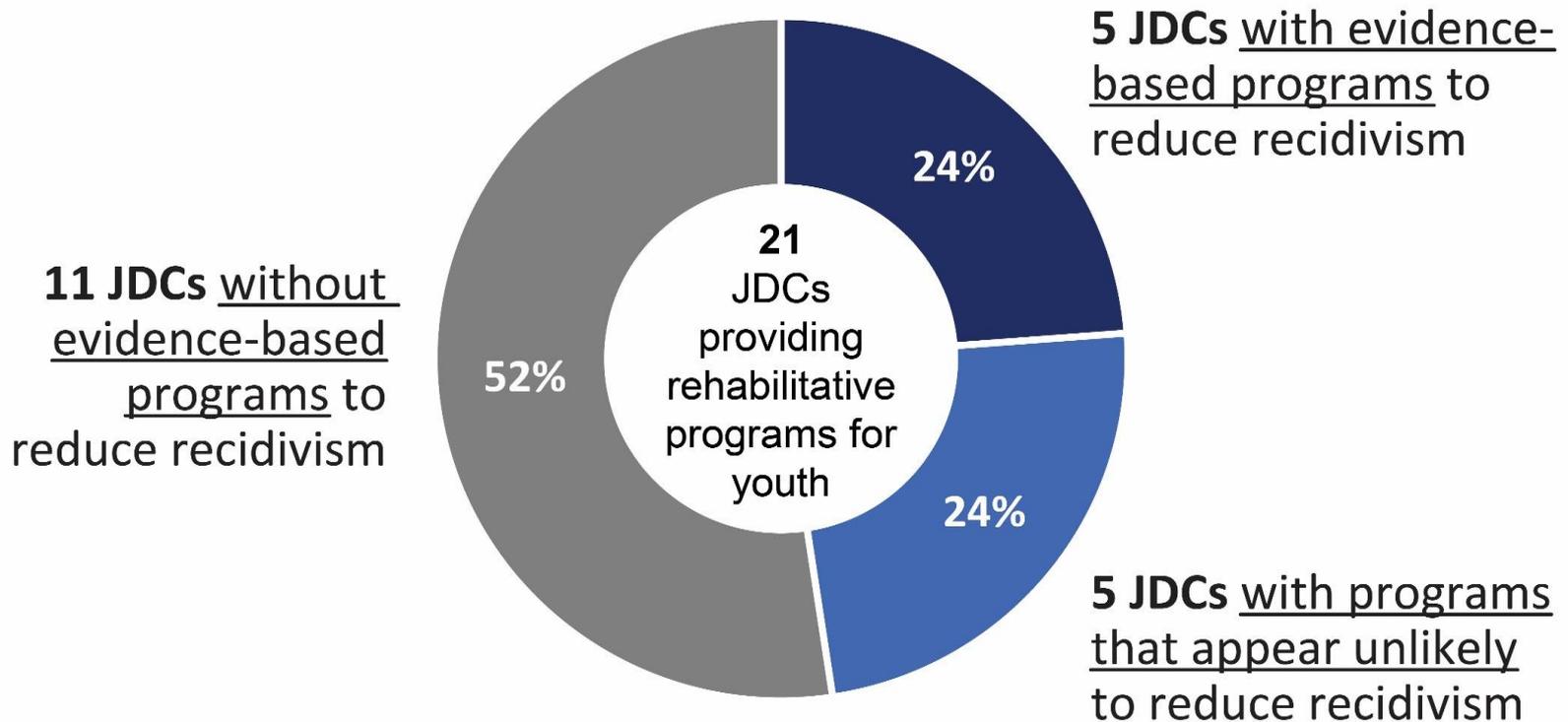
- DJJ conducts on-site certification audits during a two-to five-day period at least once every three years
 - Audits cover 353 compliance areas, such as health and safety, security, residents' rights, and physical environment
 - Includes reviews of case files and staffing records, observations, and interviews with staff and residents
- Most recent cycle found JDCs generally in compliance
 - Majority of non-compliance issues related to documentation
- Non-compliance resolved within 4 months on average

68% of youth released from JDC rehabilitative programs are reconvicted within two years



Note: Youth released in FYs 16, 17, and 18. Includes youth released from post-dispositional programs and community placement programs.

Majority of JDCs lack evidence-based programs to reduce recidivism



Training requirements for JDC staff working with high-risk youth appear insufficient

- Youth at JDCs appear to have more challenging needs than a decade ago, and some JDCs are increasingly supporting youth who would otherwise be in a correctional center
- Minimum training requirements much lower than for in a juvenile correctional center
 - JDC staff: 40 hours initial training
 - Juvenile correctional center staff: 120 hours initial training
- JDC training requirements lower than national standards

Recommendations

The General Assembly may wish to consider

- specifying that if a JDC provides post-dispositional rehabilitative programming, the center shall use evidence-based programs to the maximum extent practicable
- directing the Board of Juvenile Justice to promulgate specific training requirements for front-line JDC staff supporting youth in rehabilitative programs
- authorizing DJJ to conduct quality assurance reviews of JDCs' rehabilitative programs and provide technical assistance

Opportunities exist to improve oversight and availability of educational programming at JDCs

- VDOE contracts with school divisions to provide educational programming at JDCs
 - VDOE does not collect useful information on JDC student outcomes and discontinued on-site quality reviews
- JDC adherence to traditional school year (180 days) misses opportunity to provide structured educational programming in summer
 - At least 18 other states provide at least 200 days of education for youth in detention centers

Recommendations

The General Assembly may wish to consider

- directing VDOE to improve its oversight of educational programming at JDCs and resume on-site quality reviews
- directing VDOE to develop a plan for an extended school year to provide structured summer educational programming in JDCs

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Number and locations of juvenile justice facilities

Youth committed to DJJ generally placed either at Bon Air JCC or at a juvenile detention center

- Youth may be committed by judges to DJJ custody for secure confinement and rehabilitative programming
- 220 youth committed to DJJ custody as of May 2021
- Youth in DJJ custody generally placed either at
 - Bon Air Juvenile Correctional Center
 - Community Placement Programs (CPPs) at juvenile detention centers
- 94 percent had committed at least one felony offense

Finding

Effectiveness of DJJ's core rehabilitation approach—the Community Treatment Model (CTM)—has not been verified and may be compromised by training, recruitment, and retention issues with key frontline DJJ staff.

CTM is an improvement over prior model, but DJJ is facing implementation challenges

- DJJ developed the CTM based on model used in Missouri
 - Develop positive relationships with staff in a therapeutic environment, in contrast with adult correctional model
 - Effectiveness of CTM has not been rigorously evaluated
- CTM implementation relies heavily on residential specialists (RS)
 - not receiving adequate or timely training needed for multi-faceted role
 - ≈35% of RS positions vacant and 27% turnover

Recommendations

DJJ should update and improve training for residential specialists (RS) to address the therapeutic aspects of the role.

DJJ should work with DHRM to identify and address RS position recruitment and retention challenges.

Option

If the General Assembly authorizes salary increases for corrections officers at the Department of Corrections, it could also increase salaries for DJJ's RS staff.

Finding

Although no program can be fully effective, rehabilitative programming provided by DJJ appears unlikely to reduce reoffending.

DJJ's rehabilitative program has some, but not all, elements necessary for effectiveness

- DJJ uses a nationally recognized tool to assess youth when taken into custody
- Treatment progress and completion is not adequately considered when deciding length of stay
- Two primary treatment programs appear unlikely to reduce re-offending, based on best available research
 - About 70% of youth completing primary programs are reconvicted within three years
- DJJ collects recidivism data but does not integrate it with treatment data to evaluate and improve services

Recommendations

DJJ should

- establish a process to ensure indeterminately committed youths' treatment needs and progress in treatment are adequately and fully considered before youth are released.
- evaluate and improve the effectiveness of its rehabilitative programming for DJJ-committed youth.

The General Assembly may wish to consider requiring DJJ to provide rehabilitative treatment programs for youth in its custody that are based on the best available evidence of effectiveness.

Finding

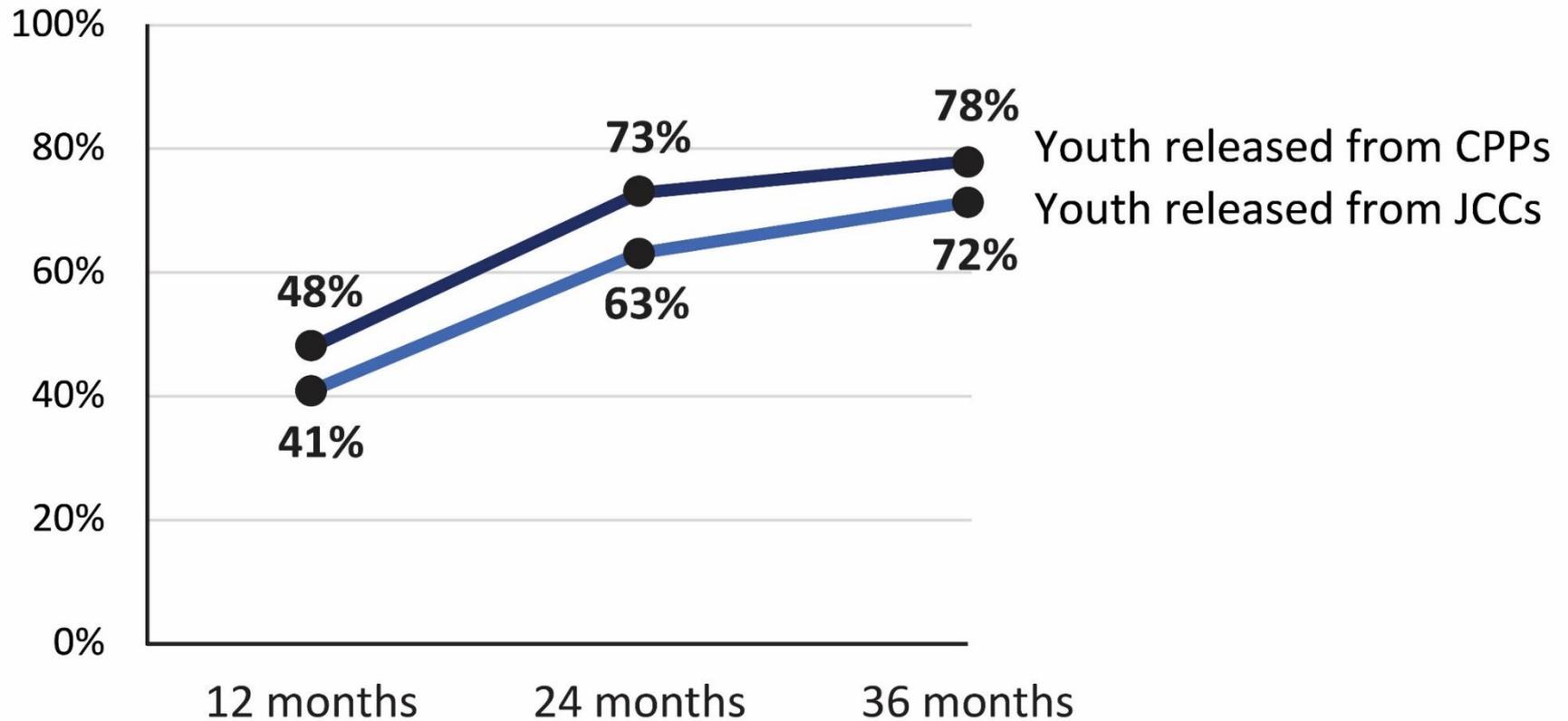
Community placement programs move youth closer to home communities but are not contributing to lower recidivism.

As part of recent reforms, DJJ has increasingly placed youth committed to its custody in JDCs

- DJJ contracts with nine juvenile detention centers to provide secure treatment programs (CPPs) for some youth committed to its custody
- Goals of CPPs are to
 - reduce use of juvenile correctional centers
 - locate youth closer to home, consistent with public safety
- CPPs have helped some youth committed to DJJ stay closer to home, but recidivism outcomes are worse
 - Concerning because youth in CPPs are generally assessed to be lower risk of reoffending than those at Bon Air JCC

Youth released from CPPs reconvicted at higher rate than youth from JCCs (FY15-FY19 releases)

Reconviction rates



CPPs = Community placement programs; JCCs = Juvenile correctional center(s)

DJJ started evaluating CPPs in 2018, which appears useful and should continue

- DJJ established a quality assurance unit in 2018 to oversee CPP programming
 - Reviews appear to identify problems and needed improvements
 - Identified problems include poor implementation of rehabilitative programs
- Recently, DJJ has taken steps to address CPP problems
 - Established CPP performance measures
 - Established short-term contracts with several JDCs
 - Ended one contract with JDC unable to meet requirements

Recommendations

The General Assembly may wish to consider

- (i) creating and funding a position at DJJ to manage and oversee use of CPPs and
- (ii) requiring DJJ to continue to monitor the performance of CPPs, hold programs accountable for low performance, and report annually on the performance of CPPs.

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Effective re-entry planning and supports help maximize likelihood of successful transition

- Nearly half (45%) of youth released from DJJ custody recidivate within first 12 months
- Important to (1) plan for youth's re-entry while still in DJJ custody and (2) facilitate youth's re-entry
 - Educational and vocational programming
 - Family engagement
 - Step-down housing and supports

Finding

DJJ's re-entry efforts have improved, but barriers to effective re-entry remain.

Re-entry efforts are improving, but lack of step-downs and felony records are hindrances

- Educational and vocational opportunities appear to be helping improve career readiness for youth at Bon Air JCC
- Family engagement—a critical component of successful re-entry—has improved in recent years
- Youth released from DJJ custody have limited access to step-down opportunities, including housing and other beneficial programming

Records of felony equivalent offenses likely hinder successful re-entry for some youth

- Currently, records of felony equivalent offenses of youth adjudicated delinquent in J&DR court cannot be sealed or expunged
 - Can make it challenging for individuals to obtain employment, higher education, or housing
- State law now more lenient for adults than youth
 - Certain felony offenses will be eligible for sealing
- All nearby states allow at least some juvenile felony equivalent records to be expunged or sealed

J&DR = Juvenile and Domestic Relations

Recommendations

DJJ should develop and implement a plan to improve its re-entry programming, including expansion of step-down opportunities.

General Assembly may wish to consider establishing a process to allow certain less serious, non-violent felony equivalent offenses for youth adjudicated delinquent in juvenile and domestic relations district court to be eventually expunged.

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State provides substantial funds to JDCs, though they are locally owned and operated

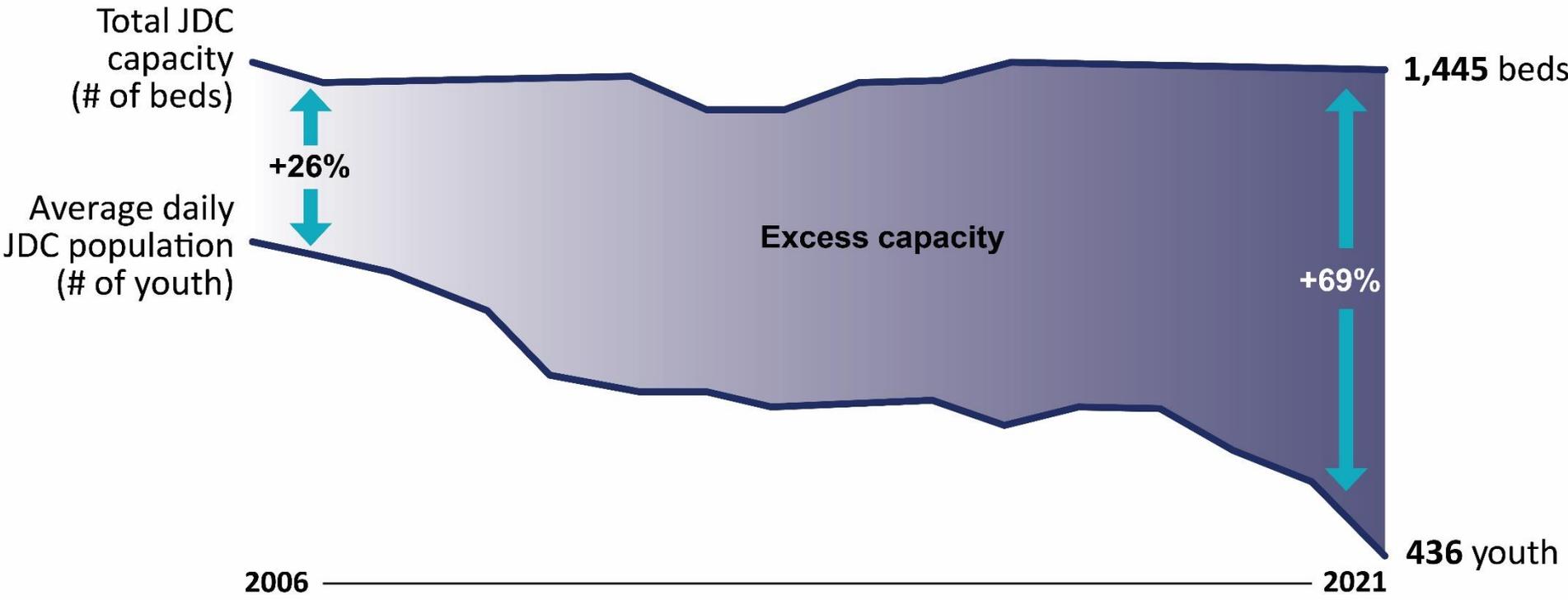
- State provided \$74M to the state's 24 JDCs in FY20, representing about one-third of total JDC operational spending
- Large portion of state funding is for educational programming
 - State pays 100% of educational programming costs
 - \$25M in FY20, equivalent to \$23,000 to \$88,000 per youth on educational programming

Findings

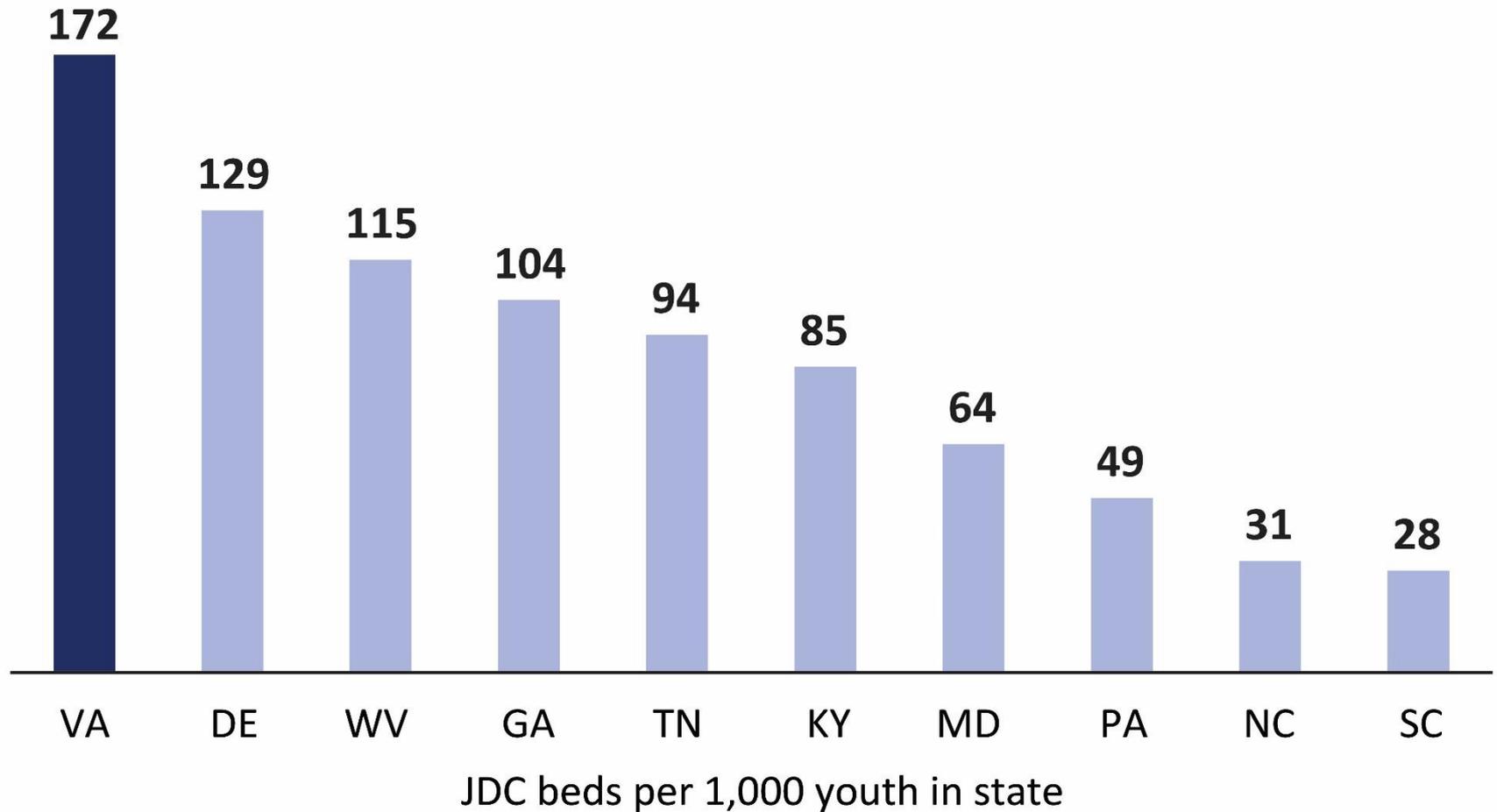
Virginia has substantial excess juvenile detention center capacity and continuing to maintain such levels of excess capacity is not an efficient use of limited resources.

Virginia's approach to educational programming in JDCs could likely be more efficient.

70% of JDC beds across state not used, and state contributes to maintaining 1,000+ vacant beds



Compared with nearby states, Virginia has highest juvenile detention center capacity



Consolidating or closing JDCs would likely reduce total costs, including state costs

- JLARC staff estimate that at least three JDCs within a 45-minute drive of other JDCs could be closed or consolidated
 - More information would be needed to inform consolidation
- Savings would depend on several factors, but could range from \$7 to \$14 million per year in state funds
- State does not have direct control or fully fund JDC operations, which makes closure and consolidations more difficult

Options for General Assembly

- establish a two-tiered reimbursement rate so regional JDCs could receive more funding than those operated by a single locality (*similar to regional jail model*)
- direct DJJ and VDOE to provide less funding for JDCs operated by a single locality and are (i) consistently well below capacity and (ii) within a certain distance of other JDCs also under capacity
- implement a process to identify a list of specific JDCs that should be closed or consolidated to better align facility capacities with regional needs (*similar to federal BRAC process*)
- direct DJJ to evaluate the costs, benefits, and feasibility of transitioning juvenile detention centers to either specialize in (i) short-term detention or (ii) longer-term rehabilitative programming (*regional service model*)

Many JDCs are not implementing potential educational efficiencies that could reduce costs

 Implementing efficiency  **Not** implementing efficiency

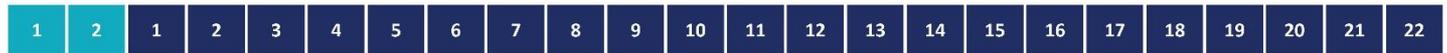
Example efficiency:

Among JDCs



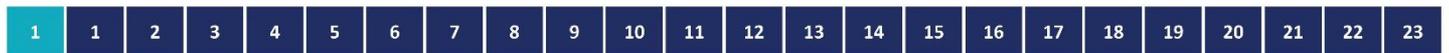
Share staffing

Between JDC & school division



Use part-time staff

Teachers for non-core subjects or subjects not taught every day



Administrative assistants



Recommendation

The General Assembly may wish to consider directing VDOE to work with DPB to determine the extent to which each juvenile detention center currently implements or could further implement cost-effective educational programming strategies.

Finding

Bon Air JCC should be replaced with smaller facilities, but full needs are currently unclear.

Bon Air JCC larger than those in other states and does not support effective treatment

- Most stakeholders agree Bon Air JCC does not cost-effectively meet the needs of youth
- Among the largest secure juvenile facilities in the region and nationally
 - Bon Air JCC's capacity (272 beds) is 6x larger than median among nearby states (45 beds)
- Not designed to support rehabilitative programming
- Single facility can also make it challenging for families from some areas to visit

Recommendation

DJJ should build a smaller juvenile treatment facility on the Bon Air JCC campus while locations for other facilities are being determined.

Key findings

Not all youth receive quality legal representation, and Black youth are referred to the system at higher rates.

Local and regional juvenile detention centers meet safety and security standards but appear less than fully equipped to provide effective rehabilitative services.

DJJ comprehensively assesses youth risks and needs, but rehabilitative programming appears unlikely to reduce reoffending.

DJJ's re-entry efforts have improved, though youth released from custody still lack fully adequate step-down supports.

State has substantial excess juvenile detention center capacity, and opportunities exist to more efficiently use resources.

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