



Research Report

Interim Study on the Educational System of the Division of Youth Services ISP 2011-169 and 2011-170

September 2012

**Prepared for
Representative Johnnie Roebuck
and Representative David “Bubba” Powers**

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ACRONYMS

The following acronyms are used throughout this report.

ADE: Arkansas Department of Education

ACS: Arkansas Correctional School

ACTAAP: Arkansas Comprehensive Testing, Assessment, and Accountability Program

AJATC: Arkansas Juvenile Assessment and Treatment Center

ALE: Alternative Learning Environment

AYP: Adequate Yearly Progress

BSD: Bryant School District

CAP: Corrective Action Plan

DHS: Department of Human Services

DOJ: U.S. Department of Justice

DYS: Division of Youth Services

ESEA: Elementary and Secondary Education Act, also known as the No Child Left Behind Act

ESL: English As a Second Language

FINS: Family in Need of Services

GED: General Educational Development

IEP: Individualized Education Program

ISP: Interim Study Proposal

LPC: Licensed Professional Counselor

TABE: Test of Adult Basic Education

INTRODUCTION

About 500 to 650 Arkansas youth are committed to state Division of Youth Services (DYS) each year. While living in DHS residential facilities or other contracted placements, these youth receive educational services along with treatment. As with students in any of our public schools, the state has a responsibility to provide these youth with an adequate and equitable education. More importantly, the education they receive while in the state's juvenile justice system has the potential to keep youthful offenders from becoming adult offenders. Just as important as the treatment they receive while in DHS commitment is the quality of their education, which is key to their future as productive citizens of our state.

The Arkansas General Assembly must ensure the youth who enter our juvenile justice system receive seamless education services with as little disruption to their academics as possible, yet our state has not always lived up to that responsibility. In 2002 the U.S. Department of Justice (DOJ) investigation found the DHS Alexander Youth Services Center "violates the constitutional and statutory rights of its residents by failing to provide adequate education services." DHS has made progress in its educational program in recent years, but the Alexander facility still operates under a consent decree with the DOJ. The reviews and investigations of DHS facilities continue to uncover numerous deficiencies in education facilities, special education, disciplinary practices, and staffing.

We understand that educational problems challenging DHS actually start long before a youth is incarcerated. Some of our public schools use rigid disciplinary practices to push problem students off their rolls and onto the court system, according to testimony provided for this study. Some schools use the courts to address unmet educational needs as well as mental health and substance abuse problems. The crowded juvenile court dockets expose the lack of community options available to schools dealing with difficult students and the lack of school and community partnerships with service providers.

Interim Study Proposals 2011-169 and 2011-170, filed by Rep. Johnnie Roebuck and Rep. David "Bubba" Powers, sought to examine the education being provided to youth committed to DHS. Because the interim study involved data, as well as testimony, from both the Arkansas Department of Education and the Division of Youth Services, two identical interim study proposals (ISPs) were approved for the House and Senate Education Committees, the House Aging & Legislative Affairs Committee, and the Senate Children & Youth Committee. The interim study proposals (ISPs) aimed to determine whether committed youth might be better served if the local school districts in which the facilities are located were responsible for providing their education. (Currently DHS, which is not considered a school district, is responsible for providing education in its eight youth services centers, and the Division uses private contractors to operate the centers' schools.)

A subcommittee was formed to conduct this study. Assigned to the group were members of four committees: the Senate Education Committee, the K-12, Vocational-Technical Institution Subcommittee of the House Education Committee, the Children & Youth Subcommittee of the House Aging & Legislative Affairs Committee, and the Senate Children & Youth Committee. The subcommittee met nearly every month for about seven months, beginning in June 2011. Legislators heard testimony from a wide range of people, agencies and perspectives, including:

1. The Division of Youth Services, Arkansas Department of Human Services
2. The Arkansas Department of Correction
3. The Arkansas Department of Education (ADE)
4. Dana McClain, Senior Staff Attorney, Disability Rights Center of Arkansas
5. Scott Tanner, Coordinator, Juvenile Ombudsman Division, Arkansas Public Defender Commission
6. Paul Kelly, Senior Policy Analyst, Arkansas Advocates for Children and Families
7. Dennis Cottrell, Director, Benton County Juvenile Detention Center
8. Ray Carson, Campus Administrator, Vera Lloyd Presbyterian Home & Family Services

9. Bonnie Smith, Executive Director, Consolidated Youth Services
10. Jerry Walsh, Executive Director, South Arkansas Youth Services
11. The Honorable Joyce Williams Warren, Sixth Judicial District, Division 10
12. Randy Rutherford, Superintendent, Bryant School District

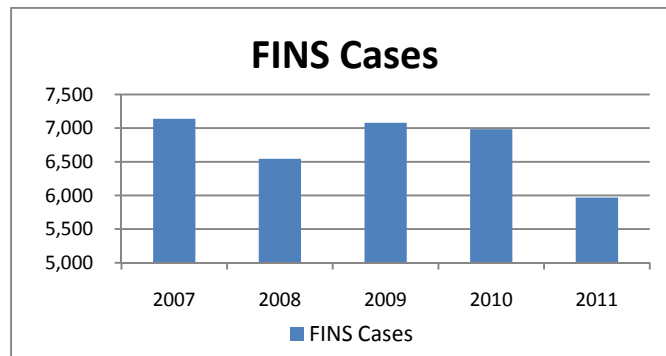
At the invitation of DYS, the study subcommittee also held one of its meetings at the Arkansas Juvenile Assessment and Treatment Center (AJATC), the DYS center under federal monitoring. During that meeting, members heard from executives from G4S, the private company that operates the facility and provides the education. The subcommittee also heard from the facility’s principal and lead special education teacher, and members had an opportunity to tour the center’s new school facility.

As legislators heard more testimony, the scope of the study expanded. Discussion included a review of not only the education provided in the DYS centers, but also in the private residential treatment facilities and youth shelters where DYS places some committed youth. The members also heard testimony about the education provided in county juvenile detention centers (JDCs), where some youth are held before adjudication and where DYS places committed youth when it lacks available space. The ISP also considered the relationship between public schools and the juvenile justice system, with testimony from several witnesses who suggested that schools may push difficult students into the court system with enforcement of “zero tolerance” disciplinary practices.

This report summarizes the information collected through documents and testimony throughout the course of the study and offers recommendations discussed during the study’s hearings.

SECTION I: CURRENT REALITY

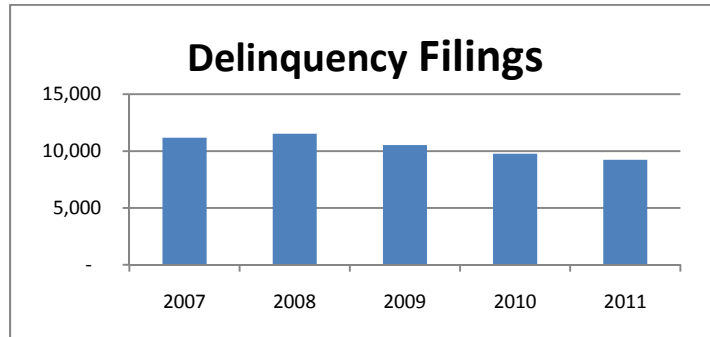
Our juvenile justice system handles two main types of cases: delinquency and family in need of services (FINS)¹. FINS cases involve juveniles 18 years old or younger, who exhibit troubling behavior, such as truancy, habitual disobedience to his or her parents, or running away from home. FINS petitions are frequently filed by school staff, and because FINS youth are not incarcerated as they are in delinquency cases, they typically continue attending regular public school. (More information on FINS cases can be found in Section III.)



A delinquent juvenile is any juvenile 10 years old or older who has committed a violation that, had it been committed by an adult, would be considered a crime. All youth committed to DYS have been adjudicated as delinquency cases. Arkansas youth are committed at a higher rate than the national average: 183 youth committed per 100,000 juveniles, compared with the

¹ Juvenile courts hear a third type of case: extended juvenile jurisdiction (EJJ). EJJ cases are those in which a minor is charged with more serious crimes, such as capital murder. The youth is allowed to remain in the juvenile system until he or she turns 21. EJJ cases are a small subset of all juvenile justice cases.

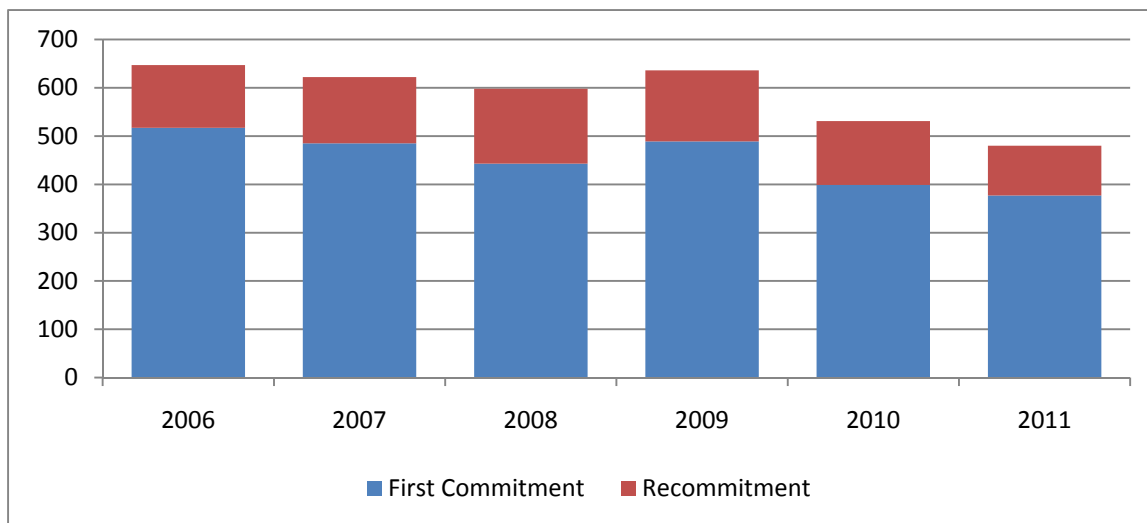
national rate of 154². The following chart shows the number of delinquency filings made in Arkansas over the last five years.



Once a judge has found a juvenile to be delinquent, the youth may be placed in a county JDC for up to 90 days or he or she may be committed to DYS. Other dispositions available for delinquent youth include home detention, probation or fines. (The process youths typically take as they move from arrest or a FINS petition filing, to adjudication, to commitment can be found in Appendix A.)

About 500 to 650 delinquent youths are committed to DYS custody each year (although only about 300 youths are housed in DYS facilities at any given time). Juveniles are committed to DYS after being arrested for a crime and found delinquent through the court system. Commitments to DYS residential facilities represent approximately 0.2% of the youth population of Arkansas. The number has dropped in recent years from 636 in 2009 to 480 in 2011. Roughly 20% to 25% of youth committed to DYS have been previously committed. Fortunately, over the last few years, the total number of commitments has declined due to fewer juvenile delinquency filings and increased use of community-based interventions.

Total DYS Commitments



² Office of Juvenile Justice and Delinquency Prevention. Census of Juveniles in Residential Placement 2010. Washington, D.C.. Retrieved from <http://ojjdp.gov/ojstatbb/corrections/qa08601.asp>

Since 2009, DYS has developed a profile for youth in DYS residential facilities to help better understand and meet the needs of the youth served. The following is a summary profile of the past three years (2009-2011) of youth in DYS residential facilities:

Average Age: 16 yrs old

Race/Ethnicity	
African-American	54%
White	40%
Hispanic	5%
Other	1%
Gender	
Females	16%
Males	84%

IQ Composite: 88 (Low Average)

Average Grade Level: 9th

About 37% of youth failed at least one grade before being committed to DYS. For a majority of those youth, it was an early grade where the failure occurred (54% were retained in grades 1 through 3).

Currently youth committed to DYS do not take the state Benchmark assessments used in public K-12th grade schools. However DYS students are assessed using a Woodcock-Johnson III exam to measure grade equivalency. Among 18- to 21-year-olds, 71% scored between at the 7th grade level or lower in reading comprehension, writing fluency, letter-word identification, and math calculations. Of the total population (ages 11-21), over 50% scored at or below 6th grade level in math calculations, letter/word identification, and reading comprehension.

Special Education: According to DYS's 2011 data, 31.25% of youth committed to DYS are special education students. The percentage is even higher for AJATC, where special education students make up 45% of that facility's population. AJATC has a concentration of special education students that is more than twice as high as the highest school district in the state (based on Dec. 1, 2010 special education child count data and 2010-11 school district enrollments). Approximately 20% of DYS youth (20.21%) scored 79 (borderline impaired range) or below on the IQ evaluation (clinical), and 1.46% had intellectual disabilities (disabilities characterized by significant limitations on cognitive function).

Behavior: Approximately 62% of DYS youth (61.86%) were diagnosed with Disruptive Behavioral Disorder, a term that refers to several types of disorders characterized by temper tantrums, physical aggression, excessive argumentativeness, and other forms of defiance. More than 14% (14.38%) were diagnosed with Oppositional Defiant Disorder, a disruptive behavioral disorder characterized by persistent symptoms of "negativistic, defiant, disobedient and hostile behaviors toward authority figures"³. Seven percent (7%) had some form of Attention Deficit Disorder/Attention Deficit Hyperactivity Disorder. More than 10% (11.21%) were sexual offenders.

Family: More than two thirds of youth (67.99%) came from single parent homes, and 10.35% came from homes with both biological mother and father living in the home.

Mental Health & Substance Abuse: Over 90% of youth (91.67%) were diagnosed with some type of mental health or behavioral problem, and 51.04% had a substance abuse problem (cannabis, alcohol, etc.). Ten percent of youth said they had experienced either sexual or physical abuse.

³ American Academy of Pediatrics, <http://www.healthychildren.org/English/health-issues/conditions/emotional-problems/Pages/Disruptive-Behavior-Disorders.aspx>

In fiscal year 2011, the greatest number of DYS commitments came from Jefferson, Pulaski and Saline counties, with 50, 43, and 40 committed youth, respectively. In Jefferson County, DYS commitments have increased dramatically over the last five years, from 8 in 2007 to 50 in 2011. Pulaski County, however, has seen a decrease in commitments, from 115 in 2007 to 43 in 2011, as some judges are using community-based interventions, where possible, as an alternative to DYS commitment.

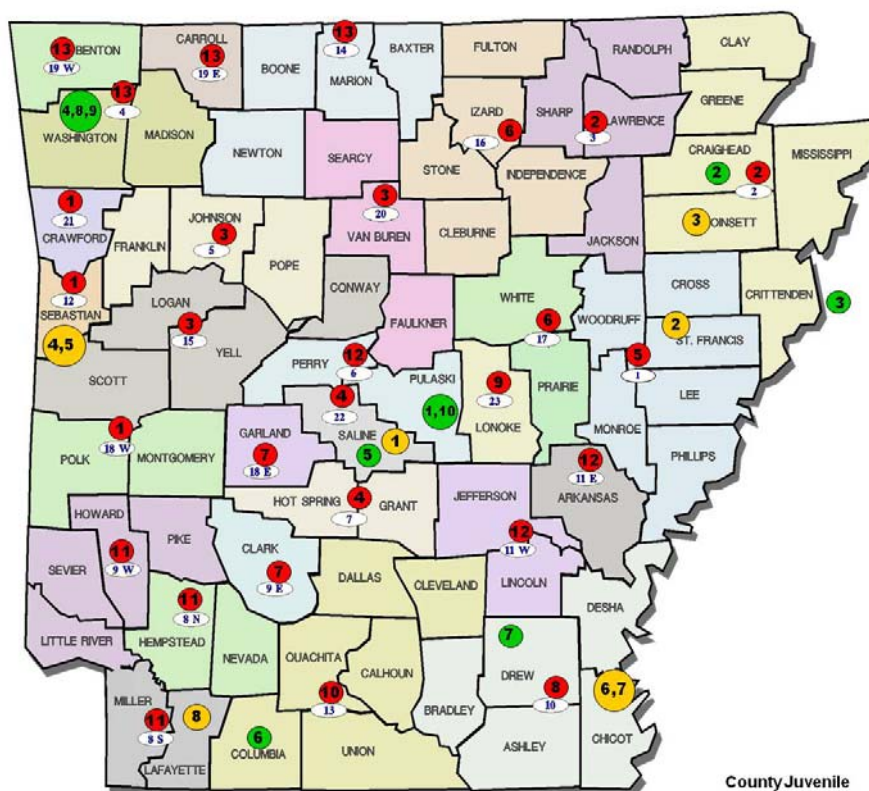
SECTION II: PLACEMENT OF YOUTH COMMITTED TO DYS

When a youth has been committed to DYS, the Division can place him or her in a variety of settings all of which provide education in different ways. DYS can place youth in:

1. One of eight DYS facilities
2. A private, specialized residential facility
3. A county JDC

Following treatment, the youth may be assigned to a community-based provider for “aftercare,” which is similar to parole. A map of DYS facilities and contracted providers appears below.

DYS Youth Placement



Source: Division of Youth Services and Arkansas Bureau of Legislative Research

County Juvenile Detention Centers (Not included on map)

DYS Facilities		Location	Residential Beds
1	Arkansas Juvenile Assessment & Treatment Ctr	Alexander	100
2	Colt Juvenile Treatment Center	Colt	28
3	Harrisburg Juvenile Treatment Center	Harrisburg	36
4	Mansfield Juvenile Treatment Center for Girls	Mansfield	21
5	Mansfield Juvenile Treatment Center	Mansfield	27
6	Dermott Juvenile Correctional Facility	Dermott	32
7	Dermott Juvenile Treatment Center	Dermott	30
8	Lewisville Juvenile Treatment Center	Lewisville	30
			Total Beds 304

Community Based Providers		Location	Judicial Dist
1	Comprehensive Juvenile Services	Ft. Smith	12, 89W, 21
2	Consolidated Youth Services	Jonesboro	2, 3
3	Community Services, Inc.	Morrilton	5, 15, 20
4	Counseling Clinic, Inc.	Benton	7, 22
5	East Arkansas Youth Services	Marion	1
6	Health Resources of Arkansas, Inc.	Batesville	16, 17
7	Ouachita Children's Center	Hot Springs	9E, 18E
8	Phoenix Youth & Family Services	Crosscut	10
9	Professional Counseling Associates	Lonoke	23
10	South Arkansas Youth Services	Magnolia	13
11	SW Arkansas Counseling & Mental Health Ctr	Toscardiana	8W, 8S, 9W
12	United Family Services	Posi Hall/L.R.	6, 11E, 11W
13	Youth Bridge, Inc.	Fayetteville	4, 14, 19W, 19E

Private Residential Programs		Location	Service Type
1	Arkansas State Hospital	Little Rock	Sex Off Tx/Psychiatric
2	Consol. Youth Services	Jonesboro	Sex Off Tx.
3	Youth Villages, Inc.	Memphis, TN	Psychiatric / Therapeutic
4	Piney Ridge Center	Fayetteville	Sex Off Tx.
5	Rivendell Psychiatric Treatment	Benton	Psychiatric
6	South Arkansas Youth Services	Magnolia	Therapeutic
7	Vera Lloyd Therapeutic Group Home	Monticello	Therapeutic
8	Youth Bridge Therap. Group Home (Male)	Fayetteville	Therapeutic
9	Youth Bridge Substance Abuse	Fayetteville	Substance Abuse
10	Youth Home, Inc.	Little Rock	Psychiatric

Judicial districts noted on map

Chart 1 on the following page shows the number of youth committed to DYS in each month of FY11 and the type of facilities in which they were placed. Chart 2 shows the average length of stay for youth housed in two types of DYS facilities, JDCs and specialized treatment centers.

Chart 1: DYS Population by Program Type

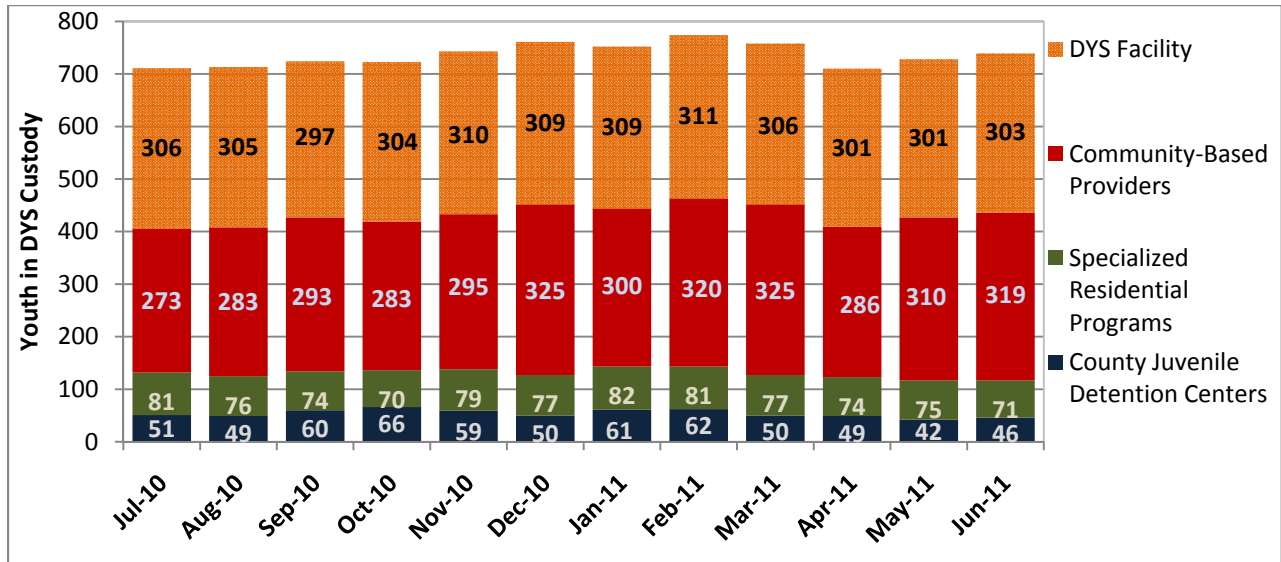
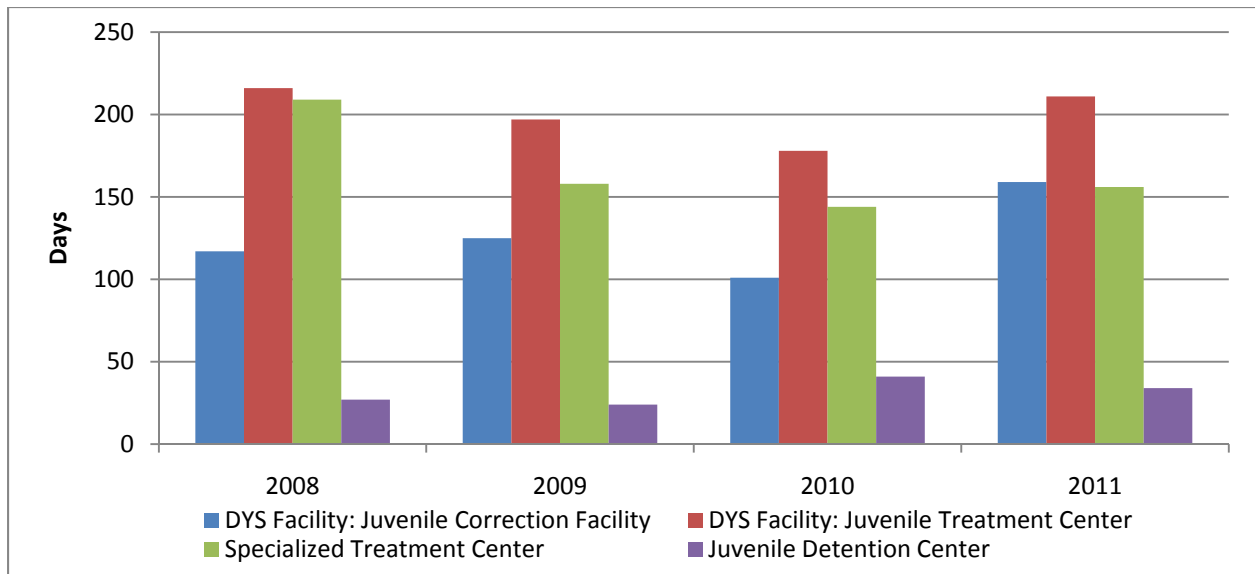


Chart 2: Average Length of Stay



Source: Division of Youth Services and Arkansas Bureau of Legislative Research

DYS Facilities

DYS has eight residential facilities throughout the state and contracts with three private companies to run the facilities. Seven treatment centers serve youth under 18, and one correctional facility serves 18- to 21-year-olds.

DYS Facility	Location	Capacity	Operator
Arkansas Juvenile Assessment & Treatment Center (AJATC), formerly known as the Alexander Youth Services Center	Alexander	100 beds	G4S
Colt Juvenile Treatment Center	Colt	28 beds	Consolidated Youth Services
Dermott Juvenile Correctional Facility (18- to 21-year-olds)	Dermott	32 beds	South Arkansas Youth Services

DYS Facility	Location	Capacity	Operator
Dermott Juvenile Treatment Center	Dermott	30 beds	South Arkansas Youth Services
Harrisburg Juvenile Treatment Center	Harrisburg	38 beds	Consolidated Youth Services
Lewisville Juvenile Treatment Center	Lewisville	30 beds	South Arkansas Youth Services
Mansfield Juvenile Treatment Center	Mansfield	27 beds	South Arkansas Youth Services
Mansfield Juvenile Treatment Center for Girls	Mansfield	21 beds	South Arkansas Youth Services
TOTAL		306 beds	

Education Provided in DYS Facilities

The quality of the education provided to youth in the DYS facilities, particularly AJATC, has been a significant concern for the last decade. In 2002, the U.S. Department of Justice (DOJ) released a report concluding, “certain conditions at Alexander violate the constitutional and statutory rights of residents at the facility.” (The Arkansas Juvenile Assessment & Treatment Center was formerly called the Alexander Youth Services Center. The name was changed in statute in 2007.) In addition to deficiencies found in the facility’s mental health care and fire safety protections, the DOJ determined that the facility “fails to provide required education services.”

In March 2003, the DOJ announced a settlement agreement in which the state agreed to implement educational reforms. The consent decree, which remains in place, requires DYS to provide “all juveniles with adequate education services” and “adequate special education services” to students who need it. Furthermore, it requires DYS to:

1. Provide educational instruction within two school days of the juvenile’s arrival, through an intake classroom where students may remain for up to 30 days.
2. Provide prompt and adequate screening for special education needs, and create and implement an adequate individualized education program (IEP).
3. Provide teachers with professional development and ensure students have adequate access to educational materials.
4. Develop a homework policy.
5. Ensure that credits earned at the AJATC unit are “unquestionably accepted by other Arkansas public schools,” and obtain authority to issue high school diplomas.
6. Provide an adequate and appropriate vocational program that satisfies state standards.
7. Employ a counselor and a full-time principal at Alexander and ensure that all teachers are licensed and certified to teach the area in which they teach.
8. Employ at least six full-time special education teachers at Alexander to serve 140 students.

“I am sure the students in the Bryant School District [where AJATC is located] are provided an opportunity for an adequate and equitable education. And the question still out there is, are the students at AJATC and throughout the DYS system getting that same opportunity?”

**Rep. Bubba Powers,
District 3**

The agreement also requires the state to ensure that ADE regularly audits and evaluates all education programs at AJATC.

Over the past decade, DYS has worked to address the requirements outlined in the DOJ consent decree. In 2007, DYS contracted with a different company — G4S — to operate the facility and hired a new division director.

In 2009, the Arkansas General Assembly passed Act 972 of 2009, which found the education provided in AJATC and the other DYS facilities “lacking.” The measure required DYS to establish a system of education to coordinate and standardize the education provided to youth, regardless of the DYS center in which they were placed. Additionally, the law required ADE to establish guidelines for the DYS education system.

Under the law, DYS is responsible for providing educational services to youth housed in its facilities. DYS passes that responsibility to the private companies that operate the facilities by making it part of their contractual obligation. After Act 972 passed, DYS redefined the role of its education director and changed the title to superintendent. DYS also employs a director of special education, a director of curriculum (general education) and a career education/technology specialist who report to the superintendent. DYS also provides professional development opportunities for all instructional staff during the school year and at the back-to-school training in-service in August.

DYS has implemented a number of other improvements to comply with the consent decree. Students are now tested within two days of arriving at intake. Comprehensive evaluations are conducted within ten days of arrival and special education conferences are held within 30 days. DYS provides its teachers with more than half of the 60 hours of annual professional development required for licensure. The Division has implemented a homework policy and DYS now has the authority to award diplomas. Students have access to some vocational courses, including computerized business applications, word processing, horticulture, and landscaping. Today AJATC employs a full-time counselor and has five full-time and two part-time special education teachers serving that facility’s 100 students. Additionally DYS opted to use more than \$5 million in funding from the American Recovery and Reinvestment Act to renovate all of the facilities, including new education space for AJATC.

ADE and DYS worked collaboratively to establish education standards for the facilities, and, in March 2010, ADE conducted its first on-site accreditation review. ADE noted violations in the areas of teacher licensure, guidance and counseling services, gifted and talented education, curriculum and professional development, but the report did not provide any details about the violations. The most recent review, completed in February 2012, found DYS to be in compliance with all reviewed issues.

“These students — the same as students in any school district — are due an adequate and equitable education. More importantly, the education that these students receive while in our juvenile justice system has the potential to keep these youth offenders from becoming adult offenders.”

**Rep. Johnnie Roebuck,
District 20**

DYS also performs formal and informal monitoring at each residential location at least twice a year to ensure the facility operators are complying with their contractual obligations. DYS conducts formal teacher observations and classroom walk through observations each semester.

Still, DYS has never come under full compliance with the DOJ consent decree and remains under its requirements. After the DOJ’s latest monitoring visit in April 2010, (the DOJ did not visit in 2011) the agency noted the progress the state is making in the area of

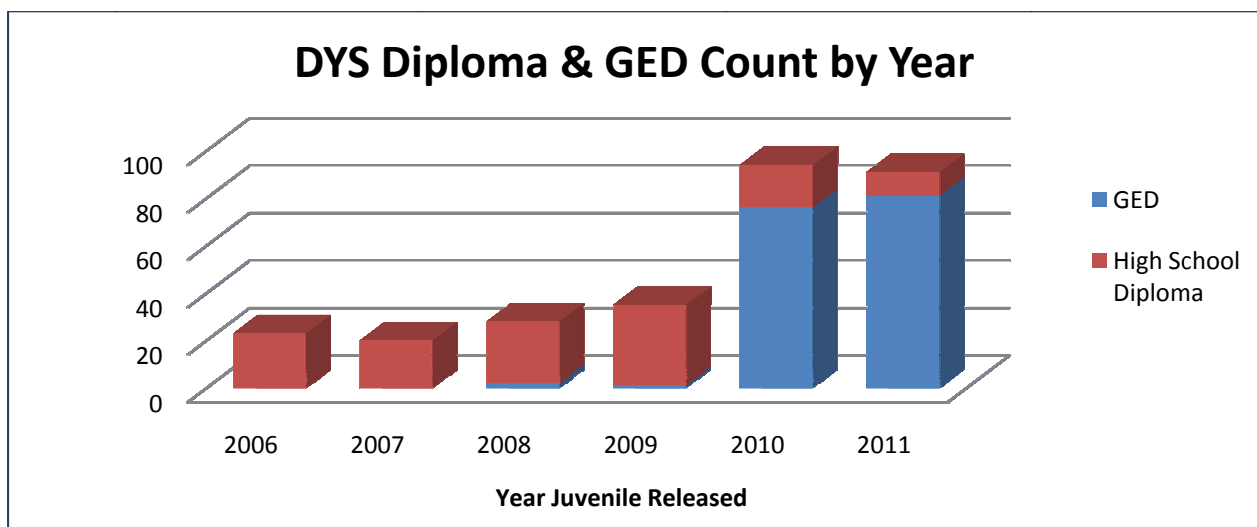
education, and said the new school building under construction “will provide a positive and safe learning environment.” The DOJ also complimented the high level of engagement of teachers and students among other strengths. However, the report also noted that DYS has “regressed” in other areas. The DOJ also found the state to be in only partial compliance with the consent decree provision requiring the state to provide an adequate education to the juveniles in AJATC. The deficiencies, noted in the 2010 report, included inadequate access to core coursework, instruction that fails to comply with student IEPs, a lack of English as a Second Language (ESL) teachers, and an absence of state academic assessments.

Since the DOJ's last visit, DYS has made additional adjustments. DYS students attend school 360 minutes each day and have implemented the curriculum maps of the neighboring school district. Additionally AJATC now has an ESL-certified teacher on staff for any student who may need those services.

The special education provided to youth in DYS facilities has also come under intense criticism. In July 2010, ADE issued a report describing the results of its two-week review of the DYS Education System's special education services, which found 60 deficiencies (known as Corrective Action Plans, or CAPs) across the facilities. A year later, DYS still had many systemic special education CAPs that had not been corrected, prompting the ADE Special Education Unit to take a different approach. In September 2011, the Special Education Unit developed a process to provide intensive technical assistance that included monthly reviews with discussions related to DYS's areas of noncompliance. At the end of one year (in September 2012), ADE will again monitor DYS to determine if the same and/or additional areas of noncompliance continue to exist.

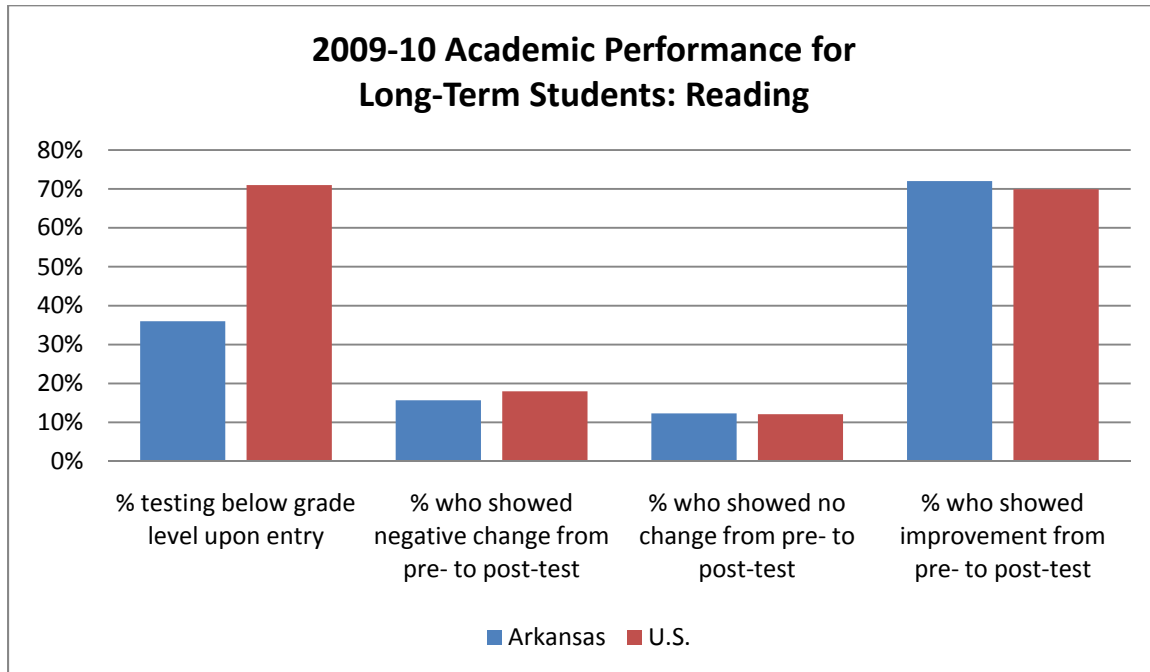
Despite these criticisms, DYS's efforts, by all accounts, have resulted in significant progress. The percentage of students who are released from DYS and get a high school diploma, get a GED or go back to school has increased from 16% in 2009 to 49% for the first six months of FY2011.

Youth who come into the program and are on track to finish their high school education continue to get instruction in core curriculum classes in accordance with Arkansas frameworks, and they earn credits towards a high school diploma for courses they pass. Other youth, age 16 and older, have the opportunity to take the GED test while in the program. The number of youth who go on to receive a diploma or a GED after being released has increased dramatically, from 35 in 2009 to 94 in 2010. However, most of that increase is due to GED certification, rather than integrating back into high school and earning a diploma. In fact, the number of diplomas awarded to youth released from DYS has declined from 34 in 2009 to 10 in 2011.

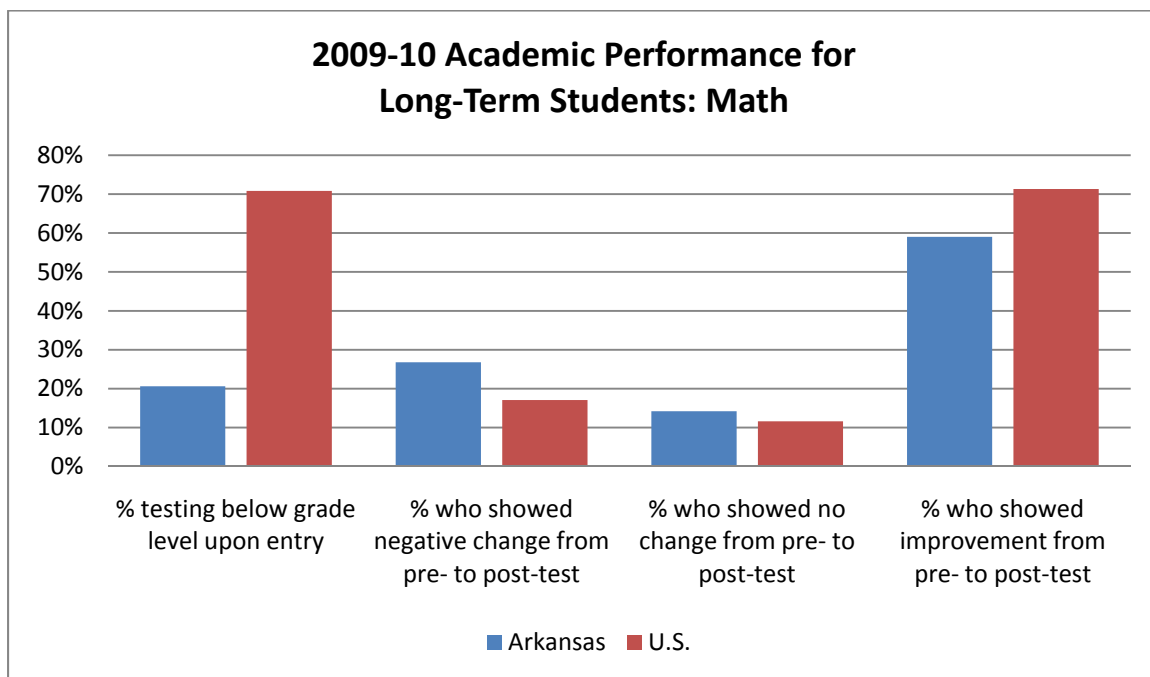


Source: Division of Youth Services

The U.S. Department of Education requires states to report the academic performance of committed youth. The following charts show that, for youth committed to DYS long-term (90 days or longer), the majority of students progress academically while incarcerated. However, a sizeable percentage of students in 2009-10 — 27% — actually scored lower on math tests after long-term incarceration than when they entered. The Arkansas data reflects the student performance on two tests administered by DYS. Youth in AJATC were assessed using the STAR math and reading assessments, while youth in the other DYS facilities were assessed using the Test of Adult Basic Education (TABE 9).



Source: The National Evaluation and Technical Assistance Center for the Education of Children and Youth Who Are Neglected, Delinquent or At-Risk



Source: The National Evaluation and Technical Assistance Center for the Education of Children and Youth Who Are Neglected, Delinquent or At-Risk

Until recently public schools and DYS have tracked students' academic progress through two separate computer systems, making it unnecessarily difficult for public school officials to track their students when they entered the juvenile justice system or for DYS to include students' home schools in curriculum planning and post-treatment transfer planning. However, ADE has given DYS access to the Department's web-based transcript system Triand, and the two agencies are moving forward with providing DYS access to the Arkansas Public School Computer Network (APSCN). Such access will allow DYS to not only view students' grades from their home schools but also enter students' grades into the public school system. DYS's

APSCN training has begun. All teacher data has been entered into the system and student data will be entered soon.

DYS plans to provide high school students access to ADE's distance learning program to increase course offerings, provide advanced courses, and offer elective classes when needed. This will provide DYS the ability to offer all of the 38 units required under state public school accreditation standards. The distance learning program was scheduled to begin in the fall of 2012, but a change in personnel delayed the program's start. Professional development for all teachers, however, did go ahead as planned in August. The education staff is also working to provide internet capabilities that will allow students to take virtual tours via the internet to places they may never have an opportunity to visit. DYS is also expanding career education courses and opportunities so students who have a GED or diploma can continue their education and successfully transition back into the community.

Costs and Funding

The average FY2011 cost of housing and services provided to youth in DYS facilities is \$81,958 per youth, according to DYS. That figure includes the cost of room and board, medical services, and educational services.

	Annual Cost Per Youth
Room and Board	\$68,525
Medical Services	\$3,002
Student Educational Services (General Revenue, Serious Offender Appropriation and Title I)	\$7,948
DYS Central Office Educational Services	\$2,483

Funding for education in the DYS facilities comes from the Serious Offender appropriation in the Public School Fund. The funding is calculated as the amount of state foundation funding (\$6,144 for FY2012), multiplied by the average daily attendance for the previous year's first three quarters. ADE distributes funding for the facilities directly to DYS, which uses it to pay the contracted facility operators. Until FY2012, the AJATC facility's educational services were funded differently from the other DYS facilities. DYS used General Revenue appropriated to DHS to support the AJATC school.

In Arkansas, school districts receive four types of categorical funding to help them educate students with special needs, such as those who live in poverty or those who need a different learning environment due to behavioral factors (alternative learning environment). None of the DYS facilities receive state Alternative Learning Environment (ALE) funding or any of the other types of categorical funding. (See pages 18 and 19 for a chart on funding for all of the different types of facilities.) However, DYS and ADE have discussed the possibility of classifying the Division's education system as an ALE program in hopes of qualifying it for ALE funding.

Additionally the General Assembly appropriates funding to DYS for the purchase and operation of the Division's facilities. Special language in Section 13 of Act 1071 of 2011 allows DYS to utilize these funds to provide education services through private providers. DYS estimates that its contractors — G4S, South Arkansas Youth Services, and Consolidated Youth Services — spend about 6% of their contract payment on educational services. However, there is no contractual requirement that they do so. The contract requires the facility operators to provide educational services as part of the overall contract price, but there has never been a mechanism to specify the amount of money the companies must spend to satisfy that requirement.

In addition to the state funding, DYS receives two types of federal funding: Title I funds and Title VI-B special education funding. Both types are distributed directly to DYS by ADE. Title I funding is part of a federal program to provide prevention and intervention programs for children and

youth who are neglected, delinquent, or at-risk. In FY2011, DYS received \$171,684 in Title I funding. Title I funds are allocated among the facilities based on the number of beds.

In FY2011, DYS received \$40,870 in Title VI-B special education funding, which was primarily used to support central administration special education needs, such as the salary of the education system's special education director. DYS generally does not distribute its special education funding directly to its facilities due to the central office needs. However, some items, such as books, may be purchased for the facilities using Title VI-B funding.

DYS estimated that for FY11, the division incurred \$4.3 million in total educational costs for its eight facilities. However, neither DYS nor ADE track the amount of money the facility operators spend on education.

In its discussion of potential improvements in DYS's education system, the subcommittee explored other ways in which education could be delivered. The subcommittee heard testimony about one existing model — the Arkansas Correctional School (ACS) for incarcerated adults — and one theoretical model — making school districts responsible for the education in DYS facilities in their districts. Appendix B summarizes testimony and documentation provided by Dr. William "Dubs" Byers, Superintendent of the Arkansas Correctional School, and Mr. Randy Rutherford, Superintendent of the Bryant School District.

Challenges

Testimony provided throughout the interim study brought to light a number of challenges DYS is facing with the educational services provided to students in DYS facilities. The following items highlight the most significant issues uncovered.

1. More than half of DYS's students require academic remediation, making it difficult for DYS to promote students from 9th grade, for example, to 10th grade, when they are actually performing at a 6th or 7th grade level. Additionally more than 80% have mental and/or behavioral issues that must be addressed in order to, one day, successfully transition back to their home district. Despite these challenges, the DYS educational system receives no state NSLA funding or Alternative Learning Environment funding — funding sources that public school districts rely on to provide needed services for precisely these types of students. However, DYS is currently working to get its education program designated as an ALE program so that it may qualify for funding.
2. Students within DYS move more frequently than students in a traditional school district. These transitions, from one DYS facility to another or from county lock-ups to the DYS system, invariably create interruptions in students' education. Coordination among the local school districts, ADE, DYS, and other youth service providers (e.g., residential psychiatric providers, emergency shelters, detention centers) is minimal.
3. Academic records are not easily transferred among all facilities in the juvenile justice system and the youths' home school districts. Students' academic work is not uniformly credited and transferred. Although DYS is being added to the Arkansas Public School Computer Network (APSCN), other facilities in the juvenile justice system remain unconnected.
4. More than 30 percent of DYS's population is comprised of special education students, yet the Division receives only minimal federal special education funding to meet those students' needs. In 2011, DYS received \$835 per special education student, compared with the school district with the lowest per-student amount: \$1,126. The disparity comes from the way the special education funding is calculated under the federal formula, which considers a district's total student population, not the number of special education students. Districts with higher concentrations of special education students, like DYS, receive less funding for each special education student. The funding DYS does receive supports special

education activities at the DYS central administrative office, with little funding available to support direct special education needs at each facility.

5. Many special education students' IEPs are 6 to 12 months out of date when they arrive at DYS, requiring extra time and effort to bring them into compliance with the Elementary and Secondary Education Act (ESEA, also known as the No Child Left Behind Act) and the Individuals with Disabilities Education Act.
6. Students who leave DYS often transfer back to a home district that does not welcome their return. It is undoubtedly challenging for districts to accept DYS students or determine their placement without considering the students' past behavior or history. Many youth are placed in ALE programs when they return, where they may interact with or be influenced by other students who exhibit poor behavior. DYS is concerned about school districts properly and legally transitioning DYS students back into the classroom (learning) environment or providing education services to students unable to attend public school once released from DYS.
7. The teachers in the DYS facilities are not eligible to participate in the Arkansas Teacher Retirement System because they are employees of the private companies contracted to operate the facilities. The lack of this benefit sometimes makes hiring and retaining teachers for this challenging population even more difficult.
8. DYS tests students' academic knowledge and progress with the TABE 9-10, and the Division is currently implementing a routine academic testing schedule across its eight facilities. However, the TABE 9-10 is a test of basic education for adults and is not aligned with the state K-12 curriculum frameworks. DYS youth do not take the benchmark or end of course exams that public schools across the state use to measure students' curriculum mastery and the quality of education their schools provide.

Monitors with the DOJ criticized the state for not including DYS students in its public school assessment system (Arkansas Comprehensive Testing, Assessment and Accountability Program, or ACTAAP), as required under ESEA regulations. During this interim study, DYS officials indicated that they would welcome their students' participation in ACTAAP assessments, but this work has met with resistance from ADE.

The Education Department noted that its decision not to test students stems from both state and federal law. ADE pointed out that state law excludes DYS from the statutory requirements of ACTAAP, meaning DYS is not *required* to conduct academic testing [A.C.A. §6-15-419(27)]. Based on this exclusion, ADE documented in its workbook for federal ESEA implementation, that DYS students "are not engaged in an instructional setting that is part of the State's K-12 school system nor are they assessed by the State's assessment system." The U.S. Department of Education approved the workbook with this language. That means that while one federal agency has criticized Arkansas for not assessing DYS students, another federal agency has approved the state's decision not to assess.

It is important to note that neither the state law nor the federally approved workbook *prohibit* testing of these students. Yet the DYS education system remains outside the state's school accountability system.

Specialized Residential Facilities

DYS may place committed youth who need specialized treatment, such as substance abuse treatment or therapy for sex offenders, in specialized residential treatment centers and group homes. These are usually private facilities (although the state-operated Arkansas State Hospital also serves as a specialized residential facility), housing DHS committed youth under a contract with the Division. Across the state, there are more than 1,500 residential and group home beds, though, many of them are used by youth outside the DHS system (for example, youth in foster care or youth in their parents' custody who simply need psychiatric care.) The 10 DHS utilized specialized residential treatment centers are listed below.

1. Arkansas State Hospital, Little Rock
2. Consolidated Youth Services, Jonesboro
3. Youth Villages, Inc., Memphis
4. Piney Ridge Center, Fayetteville
5. Rivendell Psychiatric Treatment, Benton
6. South Arkansas Youth Services Therapeutic Group Home, Magnolia
7. Vera Lloyd Presbyterian Home, Monticello
8. Youth Bridge Therapeutic Group Home, Fayetteville
9. Youth Bridge Substance Abuse, Fayetteville
10. Youth Home, Inc., Little Rock

Education in Specialized Residential Facilities

DYS's specialized residential facilities fall into two different categories when it comes to education funding and monitoring: Residential Treatment Centers and Youth Shelters.

Residential Treatment Centers

There are 27 in-state residential treatment centers that receive state education funding. Those that contract with DHS are:

1. Arkansas State Hospital, Little Rock
2. Piney Ridge Center, Fayetteville
3. Rivendell Psychiatric Treatment, Benton
4. Youth Bridge Therapeutic Group Home, Fayetteville
5. Youth Bridge Substance Abuse, Fayetteville
6. Youth Home Inc., Little Rock
7. Youth Villages, Inc., Memphis

The school district where each facility is located is responsible for the education of children in the facility. Typically, the school district receives state educational funding and passes it to the facilities. The facilities hire and employ their own school staff. The local districts are responsible for direct monitoring and oversight of the education programs provided in these centers.

Residents in some group homes attend regular public school. Across the state, there were 1,273 residential treatment beds in the 2010-11 school year, only some of which were in facilities that contract with DHS. A total of 5,226 youth were treated in one of the 27 residential treatment centers that year, including many youth who were not committed to DHS.

ADE provides educational funding on a per-child daily rate from the funds appropriated. ADE rules establish the funding rate as the foundation funding amount multiplied by 2.00 for nondisabled students, and the foundation funding amount multiplied by 2.10 for disabled students. However, ADE's current practice is to pay \$60 per student per day for the first three quarters of the year to avoid exceeding the appropriated funds, and then pay a higher amount in the last quarter if funds are available (\$82.23 for 2009-2010 and \$78.23 for 2010-2011). (See pages 18 and 19 for a chart on education funding for all of the different types of facilities.)

Youth Shelters

There are 12 youth shelters across the state that receive education funding. The youth shelters that contract with DYS are:

1. Consolidated Youth Services, Jonesboro
2. South Arkansas Youth Services Therapeutic Group Home, Magnolia
3. Vera Lloyd Presbyterian Home, Monticello

Students in youth shelters generally attend school in the local school districts and are counted in those districts' ADM for the purposes of state funding. However, some youth shelters, such as Vera Lloyd Presbyterian Home, house youth who cannot attend regular public schools due to restrictions regarding the most appropriate learning environment. For these children, the facilities provide educational services on their campuses in collaboration with the school district. Like the JDCs (see "County Juvenile Detention Centers" on the following page), some school districts pass the state funding directly to the youth shelter to hire teaching staff, while other districts employ the teaching staff who work with the facility's residents.

School districts receive regular foundation funding for youth living in youth shelters in their area and enrolled in their district. They also receive a small amount of funding for each bed the youth shelters operate. Districts receive the same amount of funding regardless of whether a youth shelter operates its own school or sends its residents to public schools.

This funding is calculated by dividing the available appropriation by the number of available youth shelter beds. For FY2011, the General Assembly appropriated \$165,000 for the education of all youth shelter students (including youth in shelters that are not part of the DYS system). For 265 beds, including some for youth committed to DYS and some who were not, the funding amount was \$622.24 per bed. ADE does not know the number of youth in these youth shelters because the Department pays based on the number of beds, not the actual number of students. (See pages 18 and 19 for a chart on education funding for all of the different types of facilities.)

In addition to the state funding, some federal education funding targets the needs of youth in shelters. Some school districts receive Title I, Part A funds to help provide educational services to youth living in area shelters. The money is designed to help provide educational support for disadvantaged students. Some districts also receive Title I, Part D funds for youth shelter students. That money is designed to support prevention and intervention programs for children and youth who are neglected, delinquent, or at-risk.

Challenges

Residential providers value their collaborative relationship with school districts and want it to continue. However some general concerns voiced by providers about the education of DYS youth include:

1. Teachers hired by school districts for residential centers lack sufficient expertise to deal with adjudicated delinquent offenders. Juvenile offenders require a different teaching style than students in regular public schools.
2. Students in the juvenile justice system need to be part of the state's school testing and accountability system. Residential providers recognize that these students often have low test scores, and they believe school districts where residential facilities are located should not be penalized by the high concentration of low performing students.
3. Students in residential facilities need help with remediation and credit recovery. Many DYS youth have so few high school credits that earning a diploma is not a realistic option.

County Juvenile Detention Centers

County JDCs serve as temporary placement for youth after arrest while awaiting adjudication or as a placement ordered by a judge as part of a youth's sentence. Additionally DYS has the option of placing youth committed to its custody in a county JDC. However, state law prohibits youth from being detained in a JDC for longer than 90 days. There are 14 county JDCs across the state located in the following counties:

- Arkansas County
- Benton County
- Craighead County
- Crittenden County
- Faulkner County
- Garland County
- Independence County
- Jefferson County
- Miller County
- Mississippi County
- Pulaski County
- Sebastian County
- Washington County
- Yell County

The five JDCs with which DYS contracts are those in Craighead, Garland, Jefferson, Sebastian and Yell counties.

The JDCs collectively have a total of 499 beds, but some JDCs house many more youth than others. The Independence County and Sebastian County JDCs, for example, each housed nearly 1,500 youths in FY2011, while the Arkansas County JDC housed about 160 youths in the same time frame, according to the Criminal Detention Facility Review Committee. More than 11,000 youths were detained in a JDC at some point in 2010, the most recent year of complete data.

Education in the County Juvenile Detention Centers

Each JDC and the district where the JDC is located are jointly responsible for providing education to children ordered to detention. ADE distributes state funding to the school districts based on the number of approved beds at the JDCs (the number of beds for which they have the capacity to educate). The annual rate per bed is based on the per-student foundation funding amount, which is \$6,144 for 2011-2012. (See pages 18 and 19 for a chart on education funding for all types of facilities that house DYS youth.)

Most of the involved school districts provide teachers and other educational staff for the JDCs, while others (Pulaski, Jefferson and Sebastian Counties) simply pass all state funding to the county for educational services. In those JDCs, the counties employ the staff and provide the materials and equipment necessary to provide the education services.

JDCs do not receive any federal Title VI-B Special Education funding or Title I funding.

Challenges

1. When juveniles are placed in detention centers, some school districts immediately drop them from their enrollment, even when many youth may be in a JDC for only a few days. That means the school district does not provide assignments the student needs to successfully return to school. This practice occurs because A.C.A. 6-18-205(b)(1)(A) prohibits school districts from including in their enrollment, for longer than 10 days, any student living in another school district. As a result, school districts must disenroll students held in JDCs within 10 days of the student's arrival.
2. While county JDCs must adhere to state and federal special education requirements, ADE sets only minimal general educational standards for the facilities. JDCs must employ licensed teachers, keep teacher-student ratios within 1 to 24, provide instruction that addresses the state's curriculum standards for at least six hours a day, and provide appropriate instructional materials. However, these few requirements, combined with no standards for monitoring, provide little detailed guidance to ensure that JDC students receive a quality general education while in detention. Additionally, there is little evidence the JDCs' schools are rigorously reviewed by outside monitors.

Community-Based Providers

Community-based providers partner with the juvenile justice system to provide alternatives to incarceration. Some provide community service supervision, electronic monitoring and home detention services. These organizations also provide aftercare services, which are services similar to probation in the adult justice system, to youth committed to DYS. The aftercare program works with delinquent youth to ensure a smooth transition back into their community. Community-based providers offer counseling, transportation and supervision. They also coordinate the youths' transition back to school and their vocational training. The following community-based providers contract with DYS:

1. Southwest Arkansas Counseling & Mental Health Center
2. Ouachita Children's Center
3. Health Resources of Arkansas, Inc.
4. Comprehensive Juvenile Services
5. Youth Bridge
6. Community Services, Inc.
7. East Arkansas Youth Services
8. Consolidated Youth Services
9. South Arkansas Youth Services
10. United Family Services
11. Phoenix Youth & Family Services
12. Counseling Clinic, Inc.
13. Professional Counseling Associates

Education for Youth Assigned to Community-Based Providers

Youth assigned to community-based providers attend regular public schools. There is no additional education funding for these youth or the community-based providers beyond the funding schools normally receive.

Challenges

Arkansas has a limited number of community-based providers offering alternative programs that keep youth out of DYS's residential program. There are not enough community-based services that allow troubled youth, particularly those with mental illness, to remain in their communities with their families. Judges do not have sufficient access to services, such as temporary treatment shelters, that allow for flexibility in dealing with youths' short-term treatment needs.

Community-based providers play a critical role in ensuring that students re-enroll in school following their DYS commitment. However, some community-based providers are not knowledgeable enough about students' educational rights to effectively help transition back to a school district that may not welcome their return. Additionally, DYS and the community-based providers with which it contracts do not have access to youths' education records once they leave DYS's custody, inhibiting DYS's efforts to ensure an appropriate educational transition.

"We should put more emphasis on treating the youth, and the family at the same time, including siblings, that's my wish. It's not more residential [centers]; that's not the answer."

Ron Angel, Director of the Department of Youth Services, Arkansas Department of Human Services

State Educational Funding

The following chart shows the different ways in which the various placements for DYS committed youth are funded through state funding.

	DYS Facilities		Community-Based Providers	Specialized Residential Treatment Facilities		County Juvenile Detention Facilities
Types of facilities	6 JTCs and 1 JCF (18-21 year olds)	AJATC		Residential Treatment Centers	Youth Shelters	
State appropriation	Serious Offender Appropriation in the Public School Fund	Until FY12, DYS used General Revenue to fund AJATC's educational services. (AJATC is now funded through the Serious Offender Appropriation of the Public School Fund.)	NA; Youth assigned to community-based providers attend regular public school. No additional state funding is set aside for their education.	Residential Centers/Juvenile Detention Appropriation in the Public School Fund	Youth Shelters Appropriation of the Public School Fund	Residential Centers/Juvenile Detention Appropriation in the Public School Fund
Funding distributed to:	Division of Youth Services	Division of Youth Services		School district in which the facility is located	School district in which the facility is located	School district in which the facility is located
State funding rate for 2011	\$6,023 per annual average attendance (Average attendance is the number of days of attendance for the first three quarters divided by the number of school days in the first three quarters.)	Until FY12, AJATC used DHS General Revenue to fund its educational services. (In FY2012, ADE received \$632,121 in additional Serious Offender appropriation to fund AJATC's ed services.		\$60 per day of attendance (equates to \$10,680 for 178 days of school)	Youth shelters typically enroll students in regular public schools. The school district receives the regular ADM rate for those students, plus \$622.24 per bed per year.	\$6,023 per bed per year
Total funding paid by ADE FY2011	\$1,216,524			\$12,182,707	\$165,000, not including the regular ADM funding	\$3,005,484
Total DYS educational funding FY2011	\$1,211,843 (as reported by DYS)	\$946,664 (as reported by DYS)				

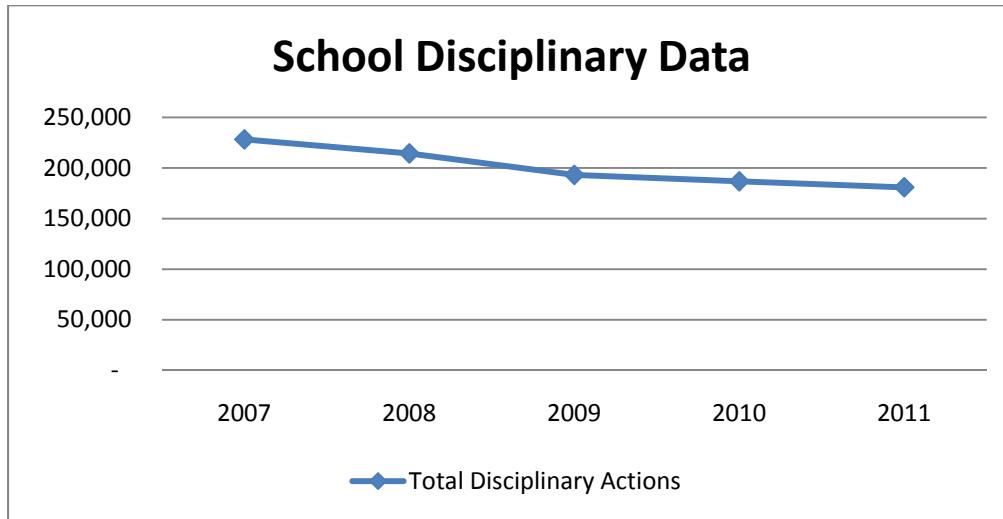
Federal Education Funding

The following chart shows the different types of federal funding received by each of the facilities that house or serve DYS committed youth.

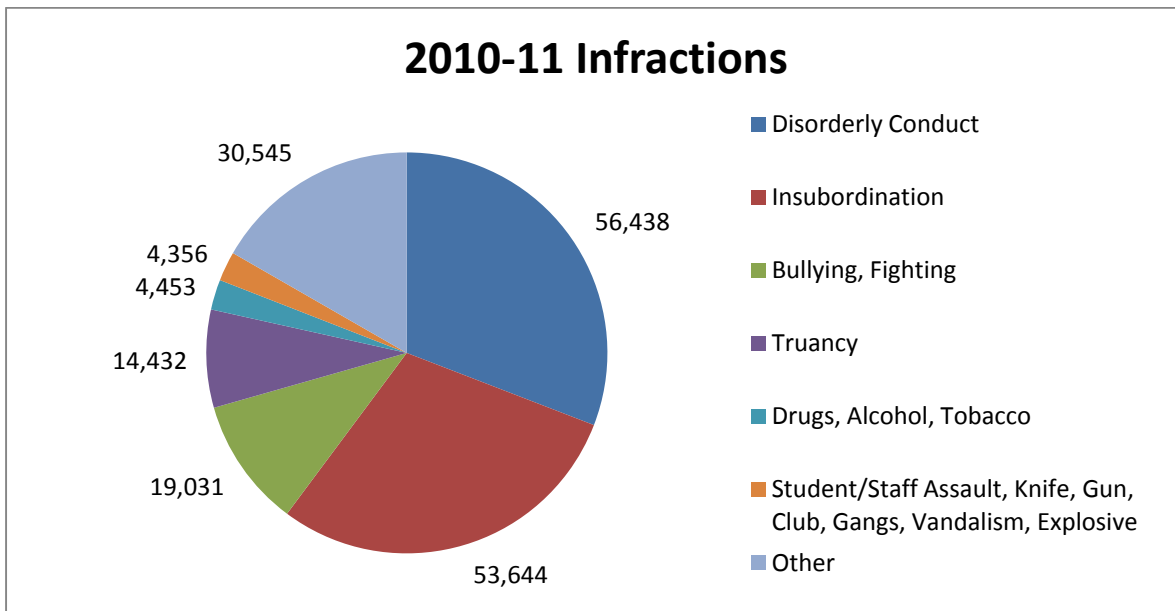
	DYS Facilities	Community-Based Providers	Residential Treatment Centers, Youth Shelters and Other Group Homes	County Juvenile Detention Facilities
FY2011 Title VI-B (Special Education)	\$40,870: regular Title VI-B	NA	Residential Treatment Centers, Juvenile Detention Facilities and Youth Shelters receive no Title VI-B funds. School districts receive Title VI-B funding for students in these facilities who are included in the district's enrollment. The amount of special education funding each district receives is calculated according to the IDEA formula for base, population and poverty indices.	
FY2011 Title I, Part A (Neglected Institutions)	NA		\$604,561 (for 25 facilities, paid to 19 districts)	\$0
FY2011 Title I, Part D (Neglected, Delinquent or At-Risk Youth)	NA		\$359,574 (for 16 institutions for delinquent children, paid to 16 school districts)	\$0
FY2011 Title I, State Agency	\$171,684		NA	NA

SECTION III: PUBLIC SCHOOLS AND THE JUVENILE JUSTICE SYSTEM

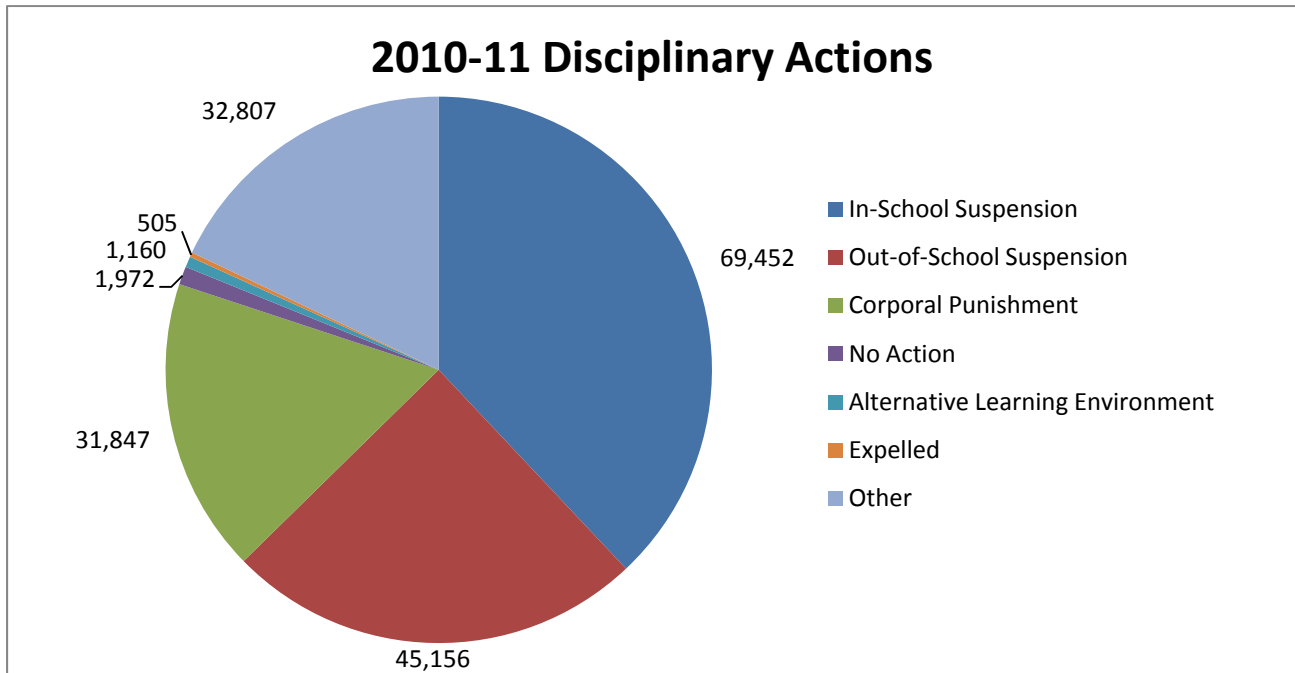
Although this legislative study focused primarily on the education provided to incarcerated youth, the subcommittee also heard testimony about the significant role public schools play in the “cradle-to-prison pipeline.” Fortunately, the total number of school disciplinary actions is declining.



Most of the infractions — 77% — stem from subjective offenses of insubordination, disorderly conduct or “other” misbehavior. Act 1520 of 1999 requires school personnel to report any threat of violence or crime involving a deadly weapon occurring on school property to the superintendent and local law enforcement.



In 2010-11, the majority of school disciplinary actions by schools consisted of suspensions and corporal punishment. Schools issued nearly 70,000 in-school suspensions, more than 45,000 out-of-school suspensions, and 505 expulsions, among other types of actions.



Schools are increasingly facing pressure to aggressively address bullying behavior and ensure student safety. However, testimony indicated school policies, in effect, push troubled youth out of classrooms and into courtrooms. Some schools use resource officers to arrest youth for infractions that previously were handled through school disciplinary measures. One Pulaski County judge estimated that as many as 30% of his delinquency cases originate from school incidents. And some schools seek court intervention for challenging students by filing Family in Need of Services (FINS) petitions.

In both FINS and delinquency cases, schools and courts rely on one another in assisting troubled youth. Many FINS filings and delinquency arrests originate with schools, and judges routinely include school attendance as a requirement in their orders. However, there may not be adequate collaboration between schools and courts.

One effort to improve this partnership in both delinquency and FINS cases is already under way. In December 2011, the Arkansas Supreme Court announced the creation of the Commission on Children, Youth and Families, which will study and recommend improvements to state court practices in cases involving juveniles. The Commission’s scope is broadly defined (it includes foster care, child welfare and juvenile justice), and its goals include the collaboration among a wide range of state leaders (see Appendix C). The Arkansas Education Commissioner has a seat on the Commission, suggesting the group may work to improve connections between schools and the juvenile justice system that ensure the best outcomes for at-risk adolescents.

“Research demonstrates that we need to reassess the importance of keeping children and youth engaged in school and out of our courts, if possible. When they enter our courts, judges must stress the importance of education.”

**Chief Justice Jim Hannah,
Arkansas Supreme Court**

Additionally, in March 2012, Chief Justice Jim Hannah led a team, including the Deputy Education Commissioner, a Circuit Judge and the Director of Juvenile Division Courts, to the National Leadership Summit on School-Justice Partnerships: Keeping Kids in School and Out of Courts. The Summit and the Supreme Court Commission are the first state-level initiatives in which the judiciary and the education community have discussed problems and what's best for children. This legislative study identified a number of challenges to address.

Challenges

1. Increasing emphasis on addressing bullying and ensuring student safety may have led some school officials to seek the arrest of students for relatively minor offenses.

Throughout the interim study hearings, several witnesses testified that some school officials seek court intervention for relatively minor student misbehavior. Judges hear delinquency cases about minor fights at school; incidents on school buses, such as one student threatening to hit another; and students tripping their fellow students. Some school resource officers have arrested students for minor offenses that could be handled more appropriately by school officials. Research indicates that being arrested in high school doubles one's odds of dropping out of school, and those odds are quadrupled when the arrest leads to a court appearance⁴. It is the local schools' responsibility to develop disciplinary policies that lead to safer school environments without removing students from the educational setting.

"The schools are contributing, more than ever, to the cradle-to-prison pipeline, and they are doing this for offenses that are not necessarily related to safety."

**Judge Joyce Williams Warren,
Sixth Judicial District, Division 10**

2. Some schools suspend students for issues that do not warrant suspension.

Some schools are using out-of-school suspensions too liberally, causing students to miss school for relatively minor misbehavior. Particularly problematic is schools' use of out-of-school suspensions as a punishment for truancy. That punishment only exacerbates the problem educators are trying to correct — students losing learning time. What's more, out-of-school suspensions leave students idle and frequently without adult supervision, a situation that often leads to youth getting in more trouble. It's important for schools to set boundaries for student behavior and to have the authority to enforce those boundaries. However, rigidly enforced, zero-tolerance policies are detrimental to students and give schools a central role in the cradle-to-prison pipeline.

3. Students with disabilities are at greater risk of being arrested and committed to DYS.

While special education students make up about 11.6% of all public school students, they comprise 31.25% of youth committed to DYS. More than one-fifth (20.21%) of committed youth have been identified as having borderline intellectual functioning to moderate mental retardation. Some special education youth enter the court system due to inappropriate school disciplinary measures or inadequate availability of services, witnesses testified. About 55,000 special education students are served in Arkansas schools each year. Within that population, schools issue between 5,000 and 6,000 out-of-school suspensions and 30 to 75 expulsions annually. About 11% of all out-of-school suspensions and 12% of all expulsions are issued to special education students.

⁴ Sweeten, Gary (2006). Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement. Justice Quarterly, Volume 23, No. 4 462-480. DOI: 10.1080/07418820600985313

4. Schools and school districts frequently are not notified when their students enter the juvenile justice system.

When juveniles enter a JDC or are committed to DYS, school districts frequently are not notified immediately. When a student is arrested, Ark. Code Ann. §9-27-309 requires law enforcement officials to notify superintendents only when the arrest is made for certain weapons offenses or first degree battery. When a student is adjudicated as a delinquent, the law gives courts the authority to keep the records confidential. Prosecuting attorneys must notify superintendents only when a student is adjudicated for a crime for which he/she could have been charged as an adult or for the unlawful possession of a handgun. Otherwise, superintendents must submit written request to obtain information about their students' adjudication.

Without access to immediate information about the student's absence, school staff cannot adequately keep up with students in the juvenile justice system or facilitate the provision of educational services. This is particularly challenging for students with short stays in detention. Without timely notification about a student's whereabouts, educators cannot provide assignments to help those students keep up with their school work.

5. Courts have only limited authority to enforce FINS orders.

Frequently in FINS cases, particularly truancy cases, judges will order the child to attend school. However, they have little recourse for youth who violate that order. If the juvenile violates a valid order — for example, if the youth continues to skip school — the judge can detain the youth in a JDC. However, FINS youth must be kept separate from youth awaiting delinquency hearings, and JDCs are frequently too full to ensure that separation.

6. Community-based treatment options are not adequately available for delinquent youth in Arkansas.

The use of DYS commitments to address youths' unmet educational, mental health, drug and alcohol abuse problems is, in part, a consequence of inadequate community-based options and partnerships with service providers. Placing non-violent, low- or medium-risk youth in secure settings outside their community is not an effective method of addressing the underlying problems influencing delinquent youth, yet in our state, committing youth to DYS is frequently a judge's best available option.

Placing non-violent misdemeanor offenders in a secure facility does nothing more than increase youths' risk of re-offending. The lack of alternative interventions and community services to help youth who are in trouble at school also contributes to schools' use of courts as the default means of managing school misbehavior.

RECOMMENDATIONS

We must strengthen the capacity of our public schools to meet the academic, mental health, and behavior needs of troubled youth before they become incarcerated. To prevent future criminality, we also must provide a quality education to those youth who have already committed crimes. This legislative study developed the following recommendations to address the concerns uncovered in this report.

School Districts

1. School districts should reconsider zero-tolerance policies. Schools need to find appropriate ways of handling minor discipline problems, rather than pushing them onto the court system.
2. Overwhelming research shows the positive impact of quality after-school and summer programs on school discipline problems, particularly in middle school. Yet just 15% of the Arkansas students surveyed in for a 2008 report said they attend an after-school program on a regular basis.⁵ Schools should develop more after-school programs for latch key children and summer programs at schools to engage youth during the summer.
3. Schools should reevaluate policies that prohibit youth placed in alternative schools from participating in extra-curricular activities. Such activities may actually engage these students and keep them out of trouble. Schools should also develop transition plans for students moving from alternative school programs to regular classrooms. Students placed in alternative schools spend multiple years there without a plan to work back into regular classrooms.
4. Schools should reevaluate expulsion policies that result in the denial of enrollment to students who have been expelled from other public schools.
5. Schools should be discouraged from using out-of-school suspensions for truancy. This type of punishment is counterproductive and defeats the purpose of keeping students in the classroom.
6. Schools need active, trained school resource officers on staff. A good resource officer is often a deterrent to crime and provides an avenue for students to interact positively with law enforcement. However, schools should make efforts to develop disciplinary strategies that school resource officers can use as alternatives to criminal charges (e.g., mediation).
7. Schools should have job training programs, vocational certification alternatives and life skills and independent living skills training available for youth returning from DYS. Schools should work with community groups to establish mentoring programs.
8. School district personnel should be responsible for keeping up with their students who enter the juvenile justice system. District officials and parents should be required to participate in academic planning for the student while in the system, and they should be required to collaborate in the transition planning for each student's eventual return to their district.
9. Schools should be invested in credit recovery for juvenile offenders who return to school.
10. School districts should be prohibited from dropping from their enrollment students held in county JDCs less than 10 days.
11. Districts' alternative learning programs should work more closely with the juvenile justice system to help prevent Alternative Learning Environment students from entering the system

⁵ Guzzardi, J., Little, M., and Mitchell, J., The Demand for After-School Programs in Arkansas. Prepared for the Governor's Taskforce on Best Practices for After-School and Summer Programs, May 2008.

and, for those students who do enter the system, to ensure a smooth transition back to school.

12. School districts should be required to assign a school counselor to attend delinquency and FINS court appearances with their students. These counselors should be required to submit copies of district discipline policies to judges handling the court cases of their students.

Arkansas Department of Education

1. All facilities that house youth in the juvenile justice system should have access to ADE's student academic records system. Additionally, ADE and school districts must have a way to track and monitor their students' educational progress while in the juvenile justice system.
2. All youth committed to DYS, including those living in county JDCs, private residential treatment centers and youth shelters, must be included in the state's educational assessment system (Arkansas Comprehensive Testing, Assessment and Accountability Program). Although neither state law nor federal ESEA policies prohibit the state from assessing students in the juvenile justice system, ADE has pointed to both as barriers. The Arkansas General Assembly should amend the state law that excludes DYS from ACTAAP (see Arkansas General Assembly Recommendation #2), and ADE should pursue an amendment to its Accountability Workbook that specifically provides for the assessment of these youth. Unless otherwise specified in an annual IEP with documented justification, students in the juvenile justice system should be academically assessed each year, according to their grade level. Test scores should be reported to students' home districts and included in district/school calculations of adequate yearly progress (AYP).
3. ADE should develop comprehensive academic standards for juvenile detention centers. The Department should also develop an effective monitoring system that ensures that youth placed in JDCs are receiving an adequate education.
4. While state law requires districts to notify parents when their children have reached half of the limit for absences [Ark. Code Ann. §6-18-222(a)(4)(A)(i)], many schools do not take these proactive measures. ADE should ensure that districts are aware of this notification requirement and are in compliance. ADE should also ensure that districts have developed clear and focused plans to prevent truancy and avoid the loss of school credit, as required by Ark. Code Ann. §6-18-209(b).
5. ADE should consider including conflict resolution skills in middle school curriculum. School personnel should receive conflict resolution training and more professional development on diversity issues. Schools also should develop clear policies for reporting and dealing with bullying issues.
6. ADE should develop a financial monitoring and review system to ensure that money provided for the education of youth in all of the juvenile justice facilities is actually spent on education services for these youth. ADE must ensure that the funding distributed to private facility operators and to school districts is not diverted to other programs or operational needs.

“The Arkansas Department of Education will continue to work with the leadership at the local school districts as well as the leadership at the juvenile detention centers to ensure students transition from one program to the next with little or no interruption to their educational programming.”

**Dr. Tom Kimbrell, Education
Commissioner, Arkansas
Department of Education**

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7. ADE should seek a change in the federal formula used to calculate Title VI-B funding distribution. The formula, which is currently based on total student population rather than the number of special education students, results in inadequate funding for DYS. The formula should be adjusted to reflect DYS's large proportion of special education students.
 8. ADE should track through its financial system the number of youth housed in JDCs and youth shelters to determine if the education funding set aside for these youths is being equitably distributed.
 9. ADE should coordinate the process for distributing federal Title I, Part A and Part D funding with the process for distributing state educational funding for county JDCs, residential treatment centers and youth shelters. Such coordination should identify all facilities that serve neglected and delinquent youth and ensure federal and state dollars are appropriately and equitably distributed.

Juvenile Court

1. When youth appear in court due to a school-related incident, judges should be encouraged to ask questions of the school official to determine whether the youths' court appearances align with their school discipline policy.
2. Arkansas must invest in more community-based services, particularly those providing short-term mental health services in group homes. Keeping youths closer to home and out of juvenile treatment centers will reduce the disruption to their education and improve their treatment and help keep youth from further problems with the law.
3. Juvenile judges in Arkansas should continue meeting regularly to discuss issues facing juvenile offenders and FINS youth. Through these conversations, judges should discuss alternative strategies for dealing with truant youth and youth accused of minor offenses. As a group they should engage educators in ongoing dialogue about this population. Based on issues identified in these meetings, juvenile judges should collectively advocate for needed resources and policies to implement these strategies.
4. Parents of committed youth should be required to complete intensive parenting programs before or during discharge review. While such programs are currently part of the services community based providers offer, parents' attendance should be required by court order.
5. The Arkansas court system should require attorneys representing juveniles in delinquency, extended juvenile jurisdiction or FINS cases to provide education information on their clients. Attorneys should be required to complete the school status section of the case cover sheet they file with court clerks, and clerks should be instructed to check that this section is completed and reject any filings missing the information.

Arkansas Division of Youth Services

1. Youth committed to DYS must have continued contact with their home school. Upon a juvenile's commitment, DYS must contact the juvenile's home school to develop a plan for academic success while in DYS custody and a post-treatment plan for a smooth transition back to the home school. School representatives should be invited to help youth services staff with lesson planning and transfer of timely records.
2. DYS and ADE should work together to certify the DYS education system as an alternative learning program, making it eligible for ALE categorical funding.
3. The DYS Superintendent of Education should be required to be fully licensed as a Building-Level and District-Level Administrator and the Special Education Director must hold a current Special Education Curriculum Program Administrator license without a waiver.

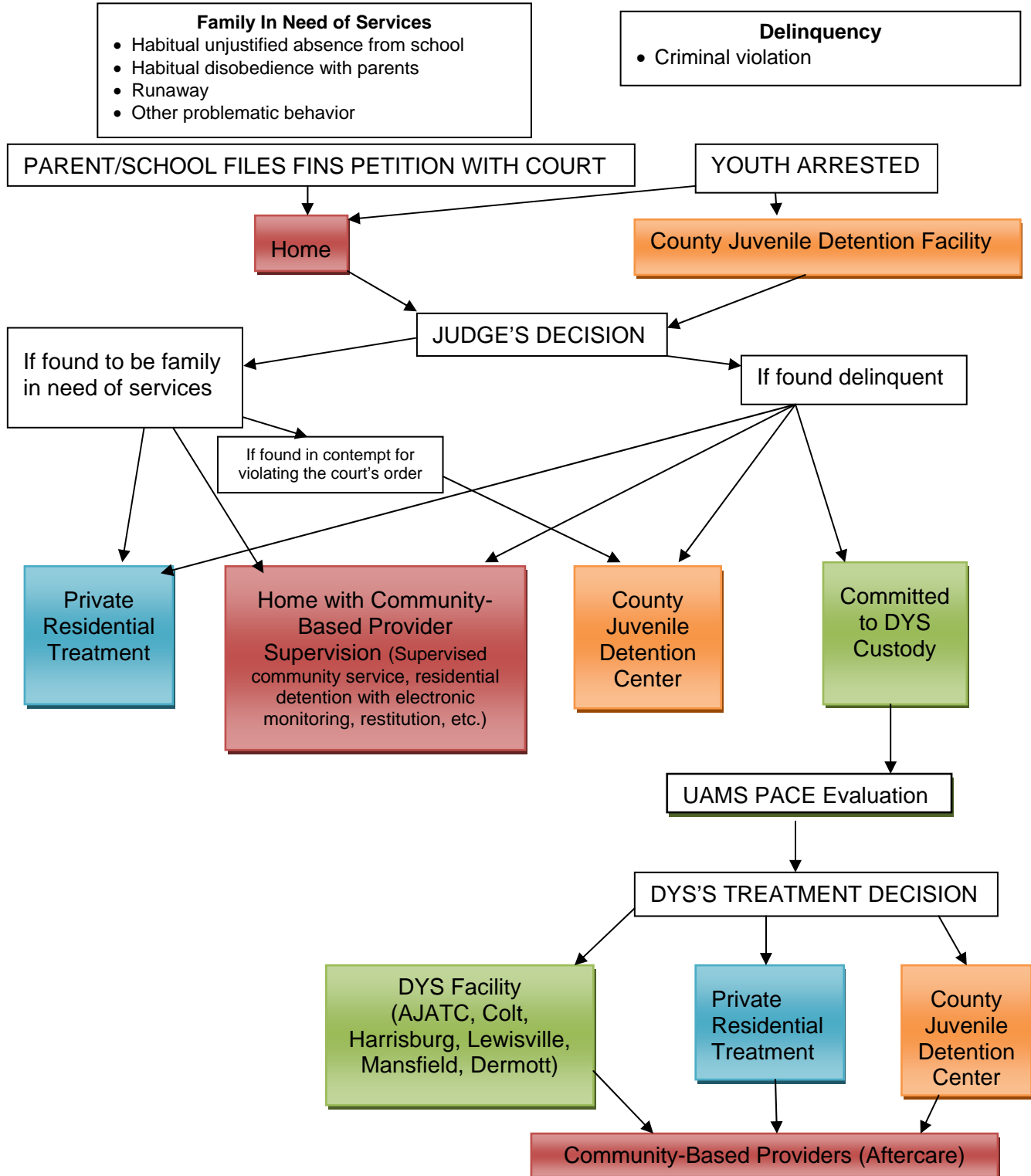
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4. DYS should continue with its plans to provide high school students access to ADE's distance learning program. The Division's education staff should also continue working to provide internet capabilities and expand career education courses. These initiatives will allow students who have a GED or diploma to continue their education and successfully transition back into the community.

Arkansas General Assembly

1. The Arkansas General Assembly must support initiatives that bridge the systems of juvenile justice and public schools. The General Assembly should consider legislation to ensure continuity of educational services for youth in the juvenile justice system. The legislation could be modeled on Ark. Code Ann. §9-28-113, which provides educational continuity for foster children. The General Assembly must highlight the work of the Arkansas Supreme Court's Commission on Children, Youth and Families (see Appendix C) and provide leadership for issues these efforts identify. The General Assembly must also support ongoing state efforts stemming from the National Leadership Summit on School-Justice Partnerships.
2. State law excluding DYS from the ACTAAP system does not prohibit committed youth from participating in Benchmark and End of Course testing. However, ADE has cited it as a barrier. The General Assembly should amend Ark. Code Ann. §6-15-419(27) to ensure that DYS youth are not excluded from the state's academic assessment system.
3. The General Assembly must support legislation to allow teachers in the DYS system to qualify for retirement benefits through the Arkansas Teacher Retirement System. The system must include these teachers despite their status as private employees of DYS contractors.
4. Youth who have been committed to DYS should not have to remain in a county JDC because DYS beds are unavailable. The General Assembly must support DYS's current efforts to create an intake unit at the AJATC for youth. An intake unit would help move youth more quickly from the county lock-ups to a placement in treatment.
5. The job description for school counselors must be redefined to allow time for preventive counseling with all youth and those returning to home schools from DYS.
6. The General Assembly must find a way to fund and provide behavioral health services in schools. The designated funding must support Positive Behavioral Interventions and Supports and School-Wide Positive Behavioral Interventions and Supports programs in schools. Arkansas policy makers should model programs on those already in place in Hot Springs, Blytheville, and Jonesboro.
7. Most school-based counselors do not have the expertise to deal with the severe mental health needs of some students. The General Assembly must support school counselors' efforts to become certified as licensed professional counselors (LPC). Legislators must encourage four groups — the Arkansas School Counselor Association, the Arkansas Licensed Counselor Association, the Arkansas Association for Counselor Education and Supervision and the state's higher education institutions offering licensure in school and/or community counseling — to work together to develop a curriculum pathway for school counselors who want to obtain LPC certification and for LPCs who want to become school counselors.

APPENDIX A: JUVENILE JUSTICE FLOW CHART

The following chart describes the facilities where youth are placed as they move through the juvenile justice system. The chart shows two different tracks: FINS, which starts with the filing of a FINS petition, and delinquency, which begins with an arrest.



APPENDIX B: OTHER MODELS OF EDUCATION DISCUSSED

In its discussion of potential improvements in DYS's education system, the subcommittee explored other ways in which education could be delivered. The subcommittee heard testimony about one existing model — the Arkansas Correctional School (ACS) for incarcerated adults — and one theoretical model — making school districts responsible for the education in DYS facilities in their districts. The following information summarizes testimony and documentation provided by Dr. William “Dubs” Byers, Superintendent of the Arkansas Correctional School, and Mr. Randy Rutherford, Superintendent of the Bryant School District.

Arkansas Correctional School

ACS is a qualified independent school district that serves incarcerated adults confined to a state correctional facility. ACS was created in 1973 and receives both state funding and federal funding. Its state funding comes from an appropriation within the Department of Education budget.

ACS has 21 schools in correctional facilities throughout the state and serves approximately 4,000 students each week. ACS has approximately 90 fully licensed teachers. In addition to the standard program, ACS provides special education services and homebound education services to individuals in administrative segregation (lock-down).

When new inmates arrive in intake units, school personnel determine whether they have a high school diploma (HSD) or GED credential. Inmates who do not have a HSD or GED are then enrolled in school, administered the Test of Adult Basic Education (TABE), and placed in a class with other students who function on about the same level. Inmates who do not have a HSD or GED must attend school on a half-time basis until they get out of prison or obtain their GED credential. There are a few rare exceptions (e.g., those locked up in punitive isolation, confined to mental health, infirmary, etc.). ACS has the largest high school graduating class in the state of Arkansas with over 900 graduates.

Dr. Byers noted that the “independent school district” model has worked well for the Department of Correction. It has allowed ACS to serve the incarcerated population without being overwhelmed with bureaucratic issues, and it has guaranteed that all of ACS's educators are qualified. Dr. Byers made the following recommendations the subcommittee should keep in mind as it considers education reform in the DYS system:

- All persons involved in education decisions should be educators and hold appropriate licensure.
- Educators should be paid commensurate with their licensure and experience, and comparable (at the very least) to their public school counterparts. If teachers are on contract for more than 190 days a year, they should be compensated for the additional days on a cost-per-day basis. Those who work with youthful offenders should make this a profession and not a stepping stone. Adequate compensation assists in that objective.
- As changes are considered, focus on the outcome and not the process is critical. It is evident that a wilderness camp cannot meet the mandates of having certified teachers in all the areas of a normal public school, but are there ways to accomplish the same outcome with a different process? The end should be a quality high school education. Can that be done through virtual classes? IEPs? A charter school?
- Any solution is going to cost more than that of regular public schools, but the investment is worth it. For every youth diverted from long-term incarceration, the State saves about \$25,000 a year.

DYS Education Provided by School Districts

This interim study started as House Bill 2049 of the 2011 Regular Session. Under the bill, the school districts where each of the DYS facilities are located “shall provide education for youths that are committed to the division.” The bill was placed in interim study by the sponsor without committee consideration. During the interim study, Mr. Randy Rutherford was asked to discuss how such a proposal would affect the Bryant School District (BSD), where DYS’s largest facility, AJATC, is located. Mr. Rutherford provided a financial breakdown showing that the Bryant School District would need an additional \$1,182,060 if it were made responsible for providing education in AJATC. That figure includes \$400,000 in state Alternative Learning Environment funding for those youth, which DYS does not currently receive.

Mr. Rutherford also described numerous concerns and questions the proposed arrangement likely would pose for all of the school districts where DYS facilities are located. These concerns included:

- The difficulty of developing a consistent way of awarding course credit. Because of the transient nature of AJATC youth, awarding a unit of credit may be inconsistent or challenging. AJATC students with a sentence of less than 6.5 months are unlikely to complete BSD’s credits, which require 120 clock hours or 131 days of instruction.
- The challenge of having one organization (BSD) provide education, while another organization (G4S) operates the facility.
- Insufficient distance learning equipment to support AJATC’s educational services.
- The difficulty of hiring highly qualified certified teachers due to AJATC’s year-long teacher contract and other requirements, such as attendance at AJATC’s monthly Saturday Family Day.
- The negative impact AJATC students could have on BSD’s special education performance report.

SUPREME COURT OF ARKANSAS

Opinion Delivered December 15, 2011

IN RE CREATION OF THE
ARKANSAS SUPREME
COURT COMMISSION ON
CHILDREN, YOUTH AND
FAMILIES

PER CURIAM

The Arkansas Supreme Court Ad Hoc Committee on Foster Care and Adoption Assessment was created in 1995 to study practices and make recommendations for improvements in how our courts handle foster care and adoption cases. See *In re Arkansas Supreme Court Ad Hoc Comm. on Foster Care & Adoption Assessment*, 319 Ark. 835 (1995).

The Ad Hoc Committee has been in place since that time and has provided valuable service to the court. The court specifically recognizes the direction and leadership provided by Justice Tom Glaze and Justice Annabelle Imber Tuck. We also wish to thank each of the committee members for their energy and dedication to improving the lives of children and families in our court system.

While great strides have been made in addressing the needs of children in foster care there are broader issues involving the interaction between children and youth and the state court system which require our attention. For that reason we announce today the creation of the Arkansas Supreme Court Commission on Children, Youth and Families, which will replace our previous committee.

Arkansas Supreme Court Commission on Children, Youth and Families

Mission Statement

The Arkansas Supreme Court Commission on Children, Youth and Families is created to study and recommend improvements to state courts and state court practice for children, youth, and families who are involved in proceedings in Arkansas Courts.

Goals

- ◆ Develop and sustain a collaborative model among leaders in our state that will produce improved outcomes for children, youth, and families in our courts.
- ◆ Identify, recommend, implement, and evaluate improvements for courts in order to be more effective in achieving safety, permanency, and well-being for children and youth.
- ◆ Promote data-driven, evidence-based practices in our courts.
- ◆ Promote fairness and due process for all parties and provide appropriate access to our courts for foster parents and relative care givers.
- ◆ Promote appropriate training for all participants in the child welfare and juvenile justice system.

Structure

The Commission will consist of (12) members. A member of the Arkansas Supreme Court shall serve as Chair of the Commission. The following members shall serve as members as a result of their service in positions in state government:

The Director of the Arkansas Department of Health and Human Services,
The Arkansas Commissioner of Education,
The Executive Director of Arkansas Advocates for Children and Families; and
The Co-Chairs of the Joint Legislative Committee on Children and Youth.

In addition the Court shall appoint six members of the Commission who shall serve a term of two years. These members may include limited and general jurisdiction judges, employees of the child welfare and juvenile justice system, representatives of the legal community, representatives from business, foundations or organizations, and other state leaders who have demonstrated a commitment to children, youth, and families in Arkansas. The Commission's membership should also reflect the diverse ethnic, gender, and geographic communities of Arkansas.

The Commission shall meet quarterly unless otherwise called to meet by the Chair. A vacancy on the Commission shall occur if a member misses three consecutive scheduled Commission meetings. Except for standing Commission members, no member shall serve more than two successive terms.

The Commission may adopt policies and may form or disband committees as necessary for the Commission's role as it deems appropriate.

SUPREME COURT OF ARKANSAS

IN RE ARKANSAS SUPREME
COURT COMMISSION ON
CHILDREN, YOUTH AND
FAMILIES

Opinion Delivered June 14, 2012

PER CURIAM

We established the Arkansas Supreme Court Commission on Children, Youth and Families on December 15, 2011, to study and recommend improvements to state courts and court practices. See *In re Creation of the Arkansas Supreme Court Comm'n on Children, Youth & Families*, 2011 Ark. 545 (per curiam). At that time, we announced the commission's goals and structure.

Today, we appoint the members of the commission. The standing members are as follows:

Jim Hannah, Chief Justice of the Arkansas Supreme Court (chair),

Mr. John Selig, Director of the Department of Human Services,

Dr. Tom W. Kimbrell, Commissioner of Education,

Mr. Rich Huddleston, Executive Director of Arkansas Advocates for Children and Families,

Senator Missy Irwin, Chair of the Senate Committee on Children and Youth, and

SLIP OPINION

Cite as 2012 Ark. 272

Representative Stephanie Malone, Chair of the House Committee on Children and Youth.

In addition, the supreme court appoints six members to serve two-year terms:

Hon. Wiley Branton, Jr., Circuit Judge, Sixth Circuit,

Hon. Ken Coker, Jr., Circuit Judge, Fifth Circuit,

Dr. Jonathan Bates, President and CEO of Arkansas Children's Hospital,

Dr. Sherece West, President and CEO of the Winthrop Rockefeller Foundation,

Ms. Claire Babineaux-Fontenot, Senior Vice President and Chief Tax Officer of Wal-Mart Stores, Inc., and

Ms. Sedella White, Chair of the Division of Children and Families Youth Advisory Committee.

The court thanks the standing-commission members and the appointees for their interest in this important issue and their willingness to invest their time and talents in the commission's work.