

Washington Models for Change Initiative
Background Summary

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This report contains a broad spectrum of historical and more recent information regarding Washington State's juvenile justice system as well as a wide range of statistics. While we tried to obtain the most up-to-date information available, there may be emerging developments we missed. We also take full responsibility for any errors that readers may find in the report. Ultimately, we hope the report accurately reflects the structure, complexities, relative strengths, and ongoing challenges associated with State's juvenile justice system, and that it serves as a useful reference document to support the strategic planning required at the state and local level to bring to life the MacArthur Foundation's Models for Change Initiative in Washington State.

The report contains links and references to many websites that provided a wealth of relevant data and other information. We have listed the sites we most heavily relied upon below:

For information on the American Bar Association's assessment of access to and the quality of juvenile defense in Washington, go to www.wsba.org/jjstudy.pdf

For information on the Governor's Juvenile Justice Advisory Committee and the Committee's *Annual Report*, go to <http://www.juvenilejustice.dshs.wa.gov/annualrpt.html>

For information on the National Council of Juvenile and Family Court Judges' *Juvenile Delinquency Guidelines*, go to <http://www.ncjfcj.org/content/view/411/411/>

For information on the Washington Superior Court *2005 Annual Report*, go to <http://www.courts.wa.gov/newsinfo/index.cfm>

For court filing data, go to http://www.courts.wa.gov/caseload/?fa=caseload.display_years&folderID=Superior&subfolderID=ann&year=2005&fileID=ACTVJDP

For DMC-related statistics, go to the Sentencing Guidelines Commission website at http://www.sgc.wa.gov/PUBS/Disproportionality/Juvenile_Disproportionality_Report_FY05.pdf

For basic descriptive statistics regarding children's mental health services, go to <http://www1.dshs.wa.gov/Mentalhealth/factsheet.shtml>

For an overview of the history of mental health system reform in Washington, go to www.metrokc.gov/dchs/mhd/children.htm

For an overview of the state's Children's Mental Health Initiative, go to <http://www1.dshs.wa.gov/workingtogether/mhgroup.html>

For information on Washington's determinate sentencing grid and disposition manual, go to http://www.sgc.wa.gov/PUBS/Juvenile/Juvenile_Disposition_Manual_2005.pdf

For data covering school dropout rates, go to <http://reportcard.ospi.k12.wa.us/DataDownload.aspx>

For truancy information and statistics, go to Please see Washington State Center for Court Research, *Truancy Case Processing Practices* (2004) which is available on line at: <http://www.courts.wa.gov/newsinfo/content/pdf/TruancyReport.pdf>

For information on state juvenile correctional facilities operated by the Juvenile Rehabilitation Administration (JRA), go to <http://www1.dshs.wa.gov/jra/Institutions.shtml>

For information on Washington's participation in the U.S. Office of Justice Program's Serious and Violent Offender Reentry ("Going Home") Initiative, go to <http://www.reentry.gov/sar/wa.html> and http://www.doc.wa.gov/CPU/reentry_index.htm

For information on JRA commitment projections, go to http://www.cfc.wa.gov/Monitoring/Juvenile_Rehabilitation_Frames.html

For information on the identified service needs of state-committed youth, go to <http://www1.dshs.wa.gov/jra/ServiceNeeds.shtml>

For an overview of Washington's adult prosecution/transfer provisions and related information, go to <http://www.ncjj.org/stateprofiles/>

For information on the Washington Institute for Public Policy (WSIPP) and its research projects related to juvenile justice, go to www.wsipp.wa.gov/

The Authors

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Washington Models for Change Initiative Background Summary

Background and Introduction

In 2005, Washington State was selected by the MacArthur Foundation as the 4th state to participate in the *Models for Change - Systems Reform in Juvenile Justice* initiative.¹ The goal of the Models for Change (MfC) initiative is to accelerate the pace of reform in targeted states with the aim that they will become successful models for change in policy and practice that other states would emulate.

This summary provides a history of statewide reform efforts, provides a brief overview and empirical profile of the State's juvenile justice system, and briefly examines issues related to disproportionate minority contact (a primary focus of the Foundation's efforts nationally).

History of Juvenile Justice Reform Efforts in Washington

With the passage of the Juvenile Justice Act of 1977, Washington became the first (and to this day, the only) state to adopt a determinate sentencing structure for juveniles. A brief chronological history of key juvenile justice reform legislation is provided below:

- In 1977, the State Legislature passed the Juvenile Justice Act (RCW 13.40). The Act was influenced by OJJDP's support, at the time, for a determinate sentencing structure for juveniles.
- Also in 1977, the State Legislature passed the Runaway Youth Act and Juvenile Court Procedures for Families in Conflict (RCW 13.30 and RCW 13.32). These removed status offenders from the juvenile offender system.
- In 1979, the State Legislature repealed the Runaway Youth Act and established Crisis Residential Centers (CRC) for runaway youth.
- In 1983, the State Legislature passed the Consolidated Juvenile Services bill that revised the state subsidy program initially codified in 1969. This legislation also provides state funding to local courts for the purpose of "sharing in the cost of providing services to juveniles."²
- In 1986, the State Legislature passed a Mandatory School Attendance bill that required children to attend school and allowed parents to be held accountable for their child's failure to attend.

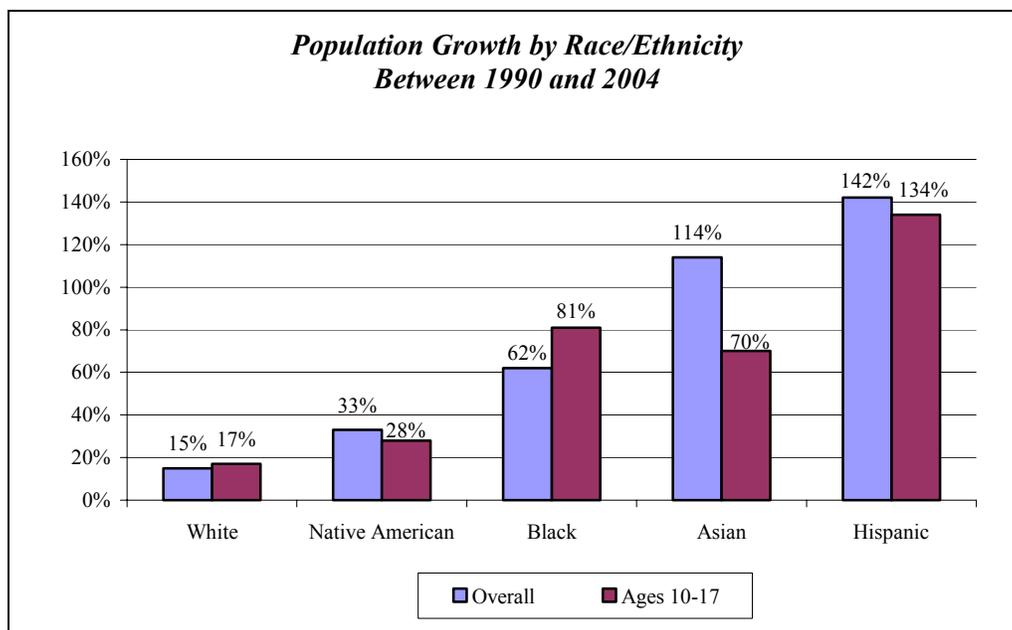
- In 1990, the State Legislature passed the Family Reconciliation Act that establishes the "At-Risk Youth Process" (ARY) and authorizes the detention of youth if found to be in violation of a court order.
- Also in 1990, the State Legislature passed the Community Protection Act that creates the Special Sexual Offender Disposition Alternative (SSODA), establishes sex offender registration requirements, and lowers the age for a "mandatory declination" hearing (i.e., adult prosecution) from 16 to 15 years of age, for juveniles charged with a Class A Felony.
- In 1994, the State Legislature passed the Reducing Youth Violence bill that establishes automatic adult court jurisdiction for juveniles 16 or older charged with a serious violent offense or a violent offense if a juvenile has a certain criminal history. This legislation also restricts eligibility for diversion.
- In 1995, the State Legislature passed the "Becca Bill" (SB 5439). The Becca Bill reflects "the legislature's attempt to empower parents who otherwise have lost control of their runaway, disobedient, or truant children" and provides for strict enforcement of runaway and truancy laws.
- In 1997, the State Legislature passed House Bill 3900 which expanded automatic adult criminal court jurisdiction for some juvenile offenders. It also established a new disposition (sentencing) grid based on the seriousness of the current offense and a juvenile's prior adjudications, and set forth requirements to conduct risk assessments and establish evidence-based programs (EBPs).
- In 2003, the State Legislature passed additional sentencing alternatives for juvenile offenders including the Mental Health Disposition Alternative (MHDA) and the Suspended Disposition Alternative (SDA).
- In 2006, the State Legislature passed the "Reinvesting in Youth Funding" bill that establishes a long-term policy basis for implementing a youth/savings reinvestment strategy in all counties. The legislation provides for the state to partially reimburse counties for costs associated with the program's EBPs for juvenile justice-involved youth.

Demographic and Arrest Profiles

Charts displayed in the following pages highlight selected demographic and juvenile arrest data by JRA service regions. Statewide highlights are also provided.

The U.S. Census Bureau estimates Washington's total 2004 population at slightly more than 6.2M with 11% of this population comprised of at-risk youth between the ages of 10 and 17. Minorities represent one-quarter of the state's at-risk youth population – 11% are Hispanic/Latino, 7% are Asian, 5% are African-American and 2% are American Indian.

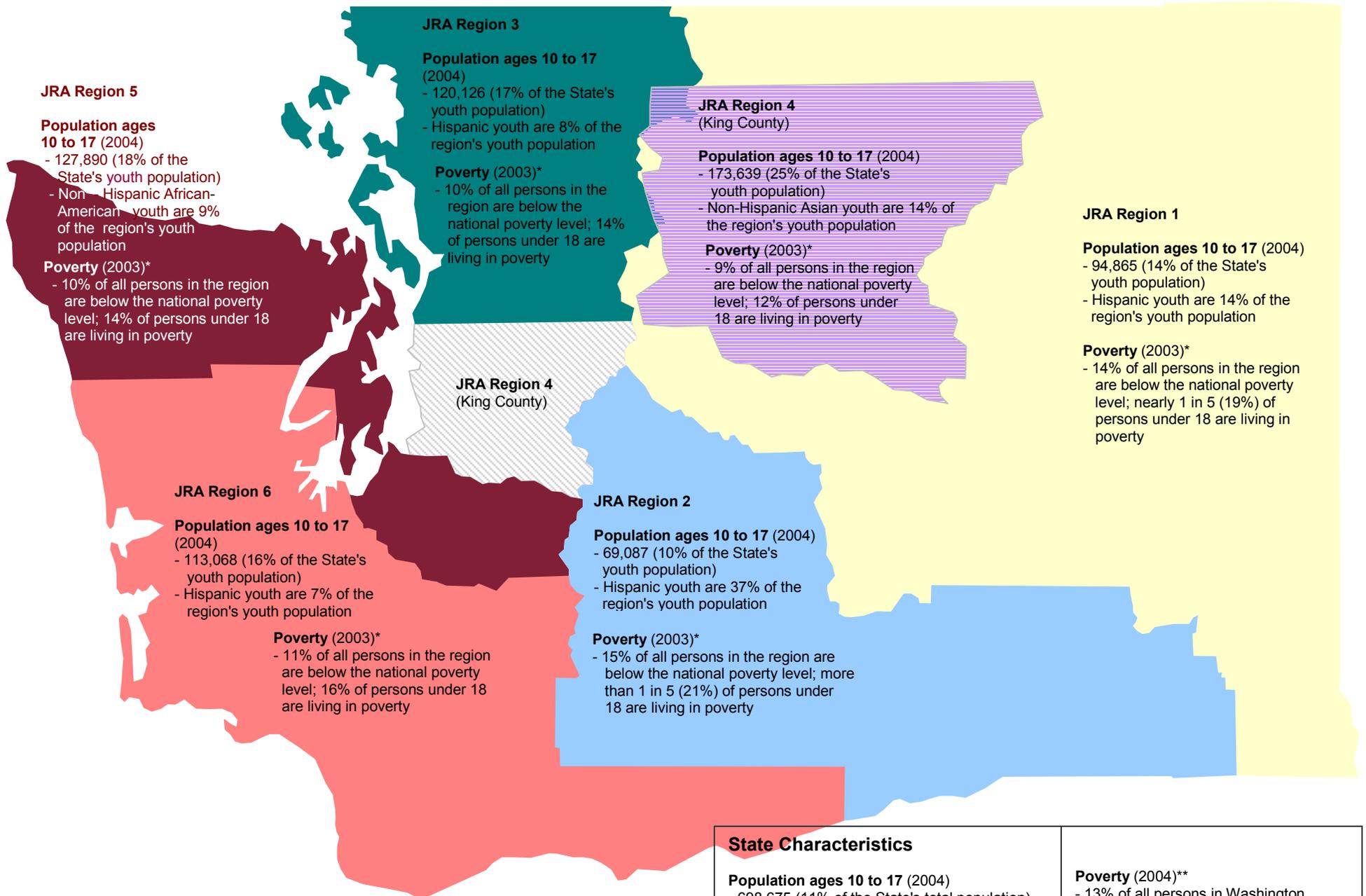
Washington's population has grown considerably since the 1990 Census. By 2004, the state's overall population had grown by 27% and the at-risk youth population had increased by 30%. Population growth has been most dramatic among Hispanics.



Analysis of various economic and educational indicators (including percentage of youth living in poverty, TANF/Family Assistance rates, and school dropout/graduation rates) by JRA region reveal some regional variations; most notably, *Region 2 (southeast Washington) – the region with the largest percentage of non-Asian minority youth (primarily of Hispanic descent) – consistently does poorer on these indicators than the five other JRA regions.*

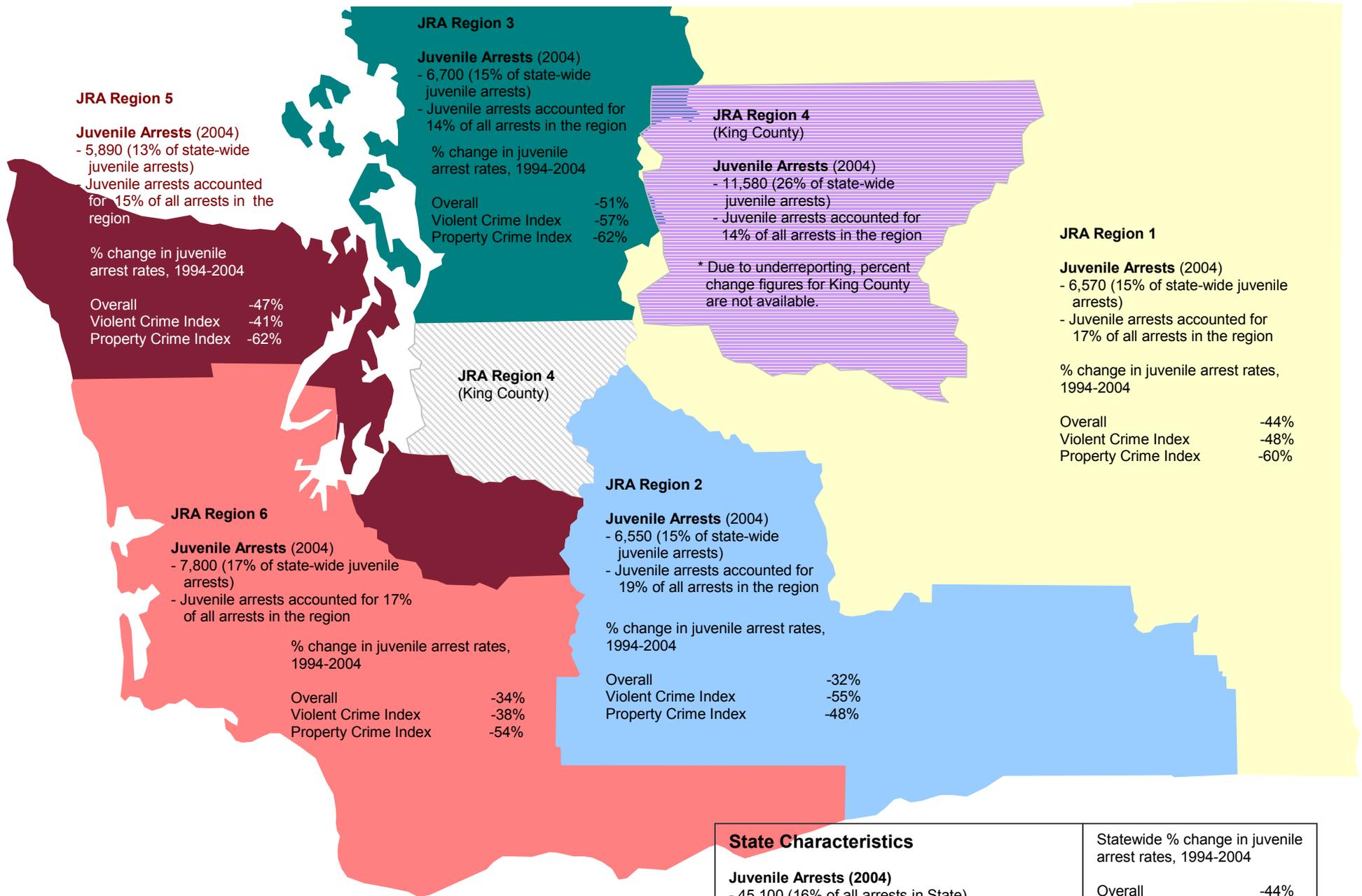
Juvenile arrests patterns in Washington over the most recent 11-year period for which data are available (1994-2004) reveal that juvenile arrest rates declined in a fashion consistent with (and generally exceeding) national trends. Overall, juvenile arrest rates decreased by 44% compared to 29% nationally. Juvenile arrests for violent and property index crimes decreased by 54% and 59%, respectively. These declines also exceeded reductions in national juvenile arrest rates for these offenses (both violent and property index arrest rates declined 47% nationally). Arrests for “Driving under the Influence” were the only juvenile arrest category that experienced a substantial increase during the time period under consideration – 158%.

Demographic Characteristics for Washington's Juvenile Rehabilitation Agency (JRA) Regions



* Regional poverty data based on the US Census Bureau's *Small area income and poverty estimates* program
 ** State poverty data based on the US Census Bureau's *Current Population Survey 2005 Annual Social and Economic Supplement*

Arrest Characteristics for Washington's Juvenile Rehabilitation Agency (JRA) Regions



JRA Region 5

Juvenile Arrests (2004)
 - 5,890 (13% of state-wide juvenile arrests)
 - Juvenile arrests accounted for 15% of all arrests in the region

% change in juvenile arrest rates, 1994-2004

Overall -47%
 Violent Crime Index -41%
 Property Crime Index -62%

JRA Region 3

Juvenile Arrests (2004)
 - 6,700 (15% of state-wide juvenile arrests)
 - Juvenile arrests accounted for 14% of all arrests in the region

% change in juvenile arrest rates, 1994-2004

Overall -51%
 Violent Crime Index -57%
 Property Crime Index -62%

JRA Region 4 (King County)

Juvenile Arrests (2004)
 - 11,580 (26% of state-wide juvenile arrests)
 - Juvenile arrests accounted for 14% of all arrests in the region

* Due to underreporting, percent change figures for King County are not available.

JRA Region 1

Juvenile Arrests (2004)
 - 6,570 (15% of state-wide juvenile arrests)
 - Juvenile arrests accounted for 17% of all arrests in the region

% change in juvenile arrest rates, 1994-2004

Overall -44%
 Violent Crime Index -48%
 Property Crime Index -60%

JRA Region 4 (King County)

JRA Region 2

Juvenile Arrests (2004)
 - 6,550 (15% of state-wide juvenile arrests)
 - Juvenile arrests accounted for 19% of all arrests in the region

% change in juvenile arrest rates, 1994-2004

Overall -32%
 Violent Crime Index -55%
 Property Crime Index -48%

JRA Region 6

Juvenile Arrests (2004)
 - 7,800 (17% of state-wide juvenile arrests)
 - Juvenile arrests accounted for 17% of all arrests in the region

% change in juvenile arrest rates, 1994-2004

Overall -34%
 Violent Crime Index -38%
 Property Crime Index -54%

State Characteristics	
Juvenile Arrests (2004)	
- 45,100 (16% of all arrests in State)	
- The juvenile Violent Crime Index arrest rate was 230 per 100,000 persons ages 10 to 17, which was 15% below the national average	
- The juvenile Property Crime Index arrest rate of 1,973 was 47% above the national average	
Statewide % change in juvenile arrest rates, 1994-2004	
Overall	-44%
Violent Crime Index	-54%
Property Crime Index	-59%

Overview of Juvenile Justice System and Delivery of Delinquency Services

Juvenile justice services are organized at both the state and local levels in Washington with some components the responsibility of the local Superior Courts or a county executive agency and juvenile corrections/parole a state-level executive agency function.

- The age of juvenile court jurisdiction runs from age 8 through 17, although jurisdiction may be extended to age 21 to enforce an order of restitution or a penalty assessment.
- Superior Courts exercise jurisdiction over delinquency proceedings (through Juvenile Court Divisions) and are general jurisdiction trial courts. In most counties, Superior Court judges nowadays rarely rotate into juvenile court for a year or less. This is decidedly different than five years ago when shorter rotations appeared to be commonplace.
- Superior Courts typically administer probation and detention services, except in Clallam, Skagit, and Whatcom counties, where the courts have transferred this responsibility to the county legislative authority, and in King County where detention is administered by the County Executive.
- The Washington State Department of Social and Health Services (DSHS), Juvenile Rehabilitation Administration (JRA), administers commitment (juvenile correctional) programs and aftercare (i.e., parole services) statewide.³

It is important to note that the State of Washington is quite unique in the amount of statutory guidance provided to the court and to other components of the system with regard to how cases will be processed (e.g., diversion and filing guidelines) and the dispositional options available to the court (i.e., sentencing guidelines).⁴ State statutes also tend to limit discretion related to detention utilization and other sanctioning and service options (for both delinquent and status offenders), as well as access to specialized treatment services.

To an outsider, the system may seem overly prescriptive and restrictive in options available to appropriately address a youth's offending behavior and individualized needs. However, much of this statutory guidance is based on empirical research and is intended to encourage efficiencies in resource utilization and to address potential biases in individual decision-making.

Funding the Court and Other Components of the Juvenile Justice System

Funding for the juvenile court system is shared between the state and counties. The State Legislature determines judges' salaries. Counties must pay half the salaries of all Superior Court Judges, regardless of the economic situation and cost of living in the individual counties.⁵ Counties also pay all salaries and benefits of court personnel, and bear the full expense of providing public defenders in Superior Court (including juvenile courts). Counties also are responsible for constructing and maintaining all court facilities.

Funding for prosecuting attorneys (and their personnel), diversion programs, detention centers (and staff), and indigent defense are largely if not entirely funded by the counties. Counties are also responsible for funding probation departments and costs associated with court facilities. The state's mental health system, operated through a division of DSHS, is funded through a combination of federal (i.e., Medicaid) and state funds.

To supplement county funding for pre-commitment services and programs, JRA administers a substantial amount of state funding for expenses related to legislatively-created dispositional alternatives to state commitment. The full report details the amount of state funding for these alternatives for the most recent fiscal year.

Diversion

State statute (RCW 13.40.080) covers the framework for diversion eligibility and related matters. First-time offenders referred for misdemeanor offenses (and in some instances second-time misdemeanants) are eligible for diversion. Most diversion programs are operated within probation departments' diversion units and are funded by the respective counties.

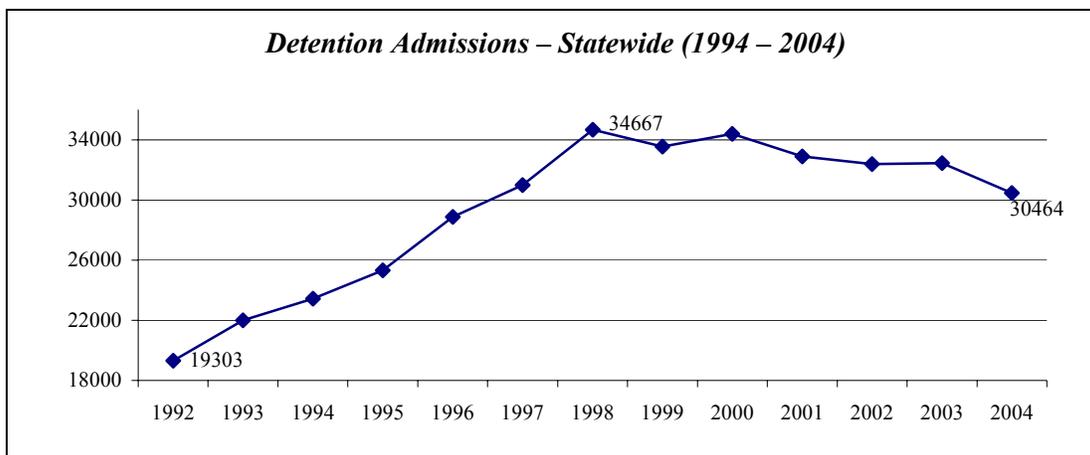
Diversion units have Community Accountability Boards made up of citizen volunteers that determine the terms and conditions of the diversion agreement. These agreements generally reflect many balanced and restorative justice (BARJ) options and may include community service, restitution, counseling/education programs, mediation, or victim/offender reconciliation programs. *Diversion agreements may not extend beyond a six-month time period.* In some counties, including King County, there are alternatives to the accountability boards.

The limited availability of mental health services and EBPs at the diversion stage and possible statutory barriers that inhibit early access to EBPs, are important issues in Washington. While courts have established diversion programs for juveniles who meet the statutorily-defined criteria (i.e., first and possibly second-time misdemeanants), these programs focus on community service, restitution, counseling, education programs, and other more traditional juvenile justice interventions. Research conducted by the Washington State Institute for Public Policy (WSIPP) suggests that a substantial number of youth who are eligible for diversion and who are of "moderate" risk to re-offend could benefit from expanded use of EBPs at the diversion stage.

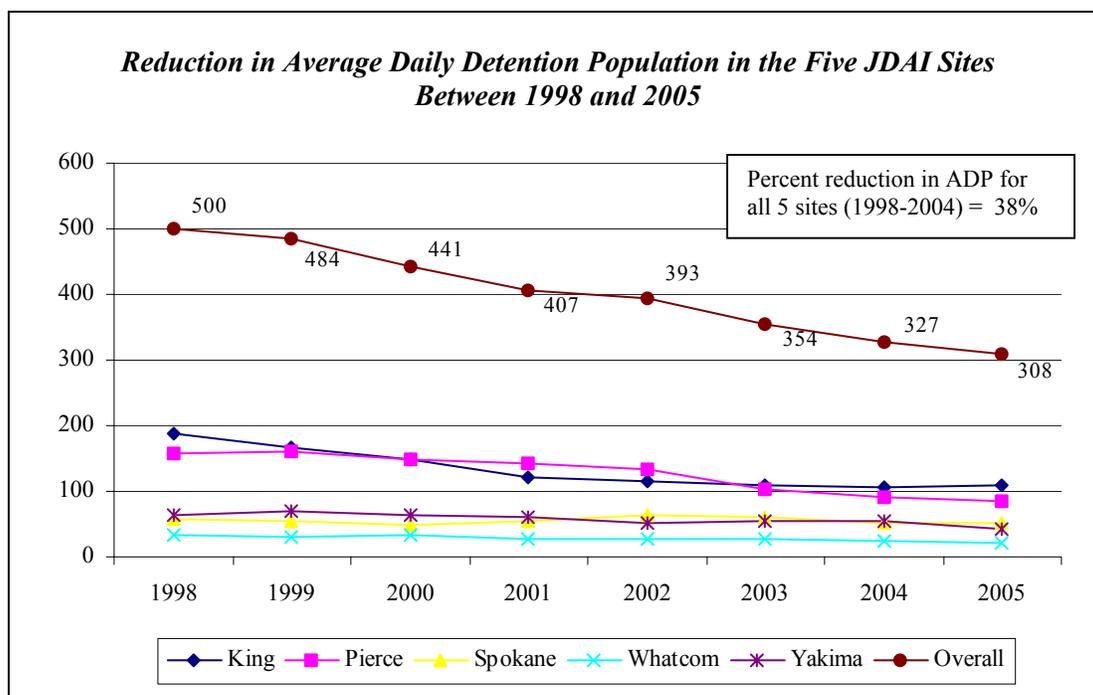
Detention

There are 22 detention facilities in Washington. The local Superior Court administers secure detention facilities in most counties. In Clallam, King, Skagit, and Whatcom Counties and one regional center maintained by a consortium of counties,⁶ the county legislative authority/county executive administers secure detention. The Youth Services Division of the King County Department of Adult and Juvenile Detention is responsible for the secure juvenile facility in King County. Other highlights include:

- State statutes mandate that counties develop and implement detention intake standards to determine whether detention is warranted as well as the type of detention in which a juvenile should be placed. However, detention screening criteria and practices vary from county to county and are guided by local priorities or policies.
- *Detention admissions peaked in 1998 (34,667) and have slowly declined since that time – by 12% in 2004 (30,464).* This decrease comes on the heels of a 79% increase between 1992 and 1998.⁷



- Washington permits the juvenile court to use detention as a dispositional option for adjudicated youth as well as a sanction for probation violations. This is an option that juvenile courts utilize on a routine basis. Data available in the *2005 Superior Court Annual Report* indicate that *more than 6,000 dispositions of youth adjudicated delinquent involved placement on community supervision/probation – 55% of these dispositions included a sentence of detention in addition to placement on probation.*⁸
- Washington statutes permit the juvenile court to detain status offenders/non-offenders (runaways, at-risk youth, truants and children in need of services) found in “civil contempt” of a court order. *In 2004, there were approximately 4,000 detention holds (of four hours or longer) of status offenders and more than half (52%) were girls.*⁹ This represents 14% of all such detention admissions for the year.
- Alternatives to detention are evident in a number of sites and these may include day and evening reporting centers, electronic monitoring, group care, and work crew programs.
- The Annie E. Casey Foundation has selected Washington as a replication site for its Juvenile Detention Alternatives Initiative (JDAI). The five JDAI pilot sites are King,¹⁰ Pierce, Spokane, Whatcom, and Yakima counties.¹¹ While the timing of their participation in the JDAI initiative has varied, the overall average daily detention population (ADP) in these facilities has declined by 38% between 1998 and 2005.¹²

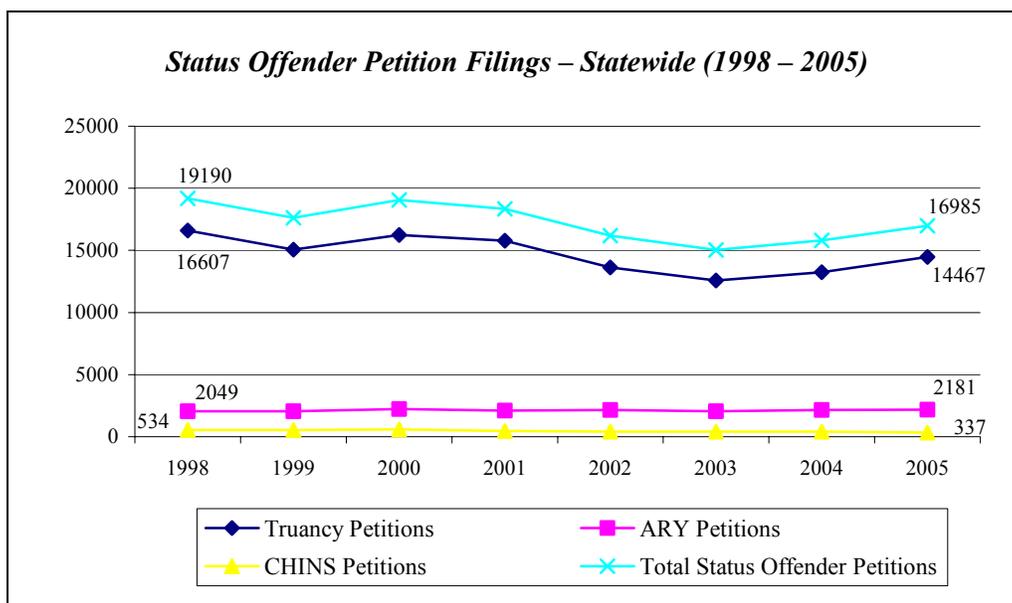


- It appears that a number of counties in the mid-to-late 1990s substantially expanded their detention facilities. With the emphasis on detention alternatives, detention screening and the drop in juvenile arrests, these counties have substantial vacancies in these centers. Juvenile court administrators are examining various options to better utilize this space.¹³

Initiation of Status Offender (CHINS, ARY and Truancy) Proceedings

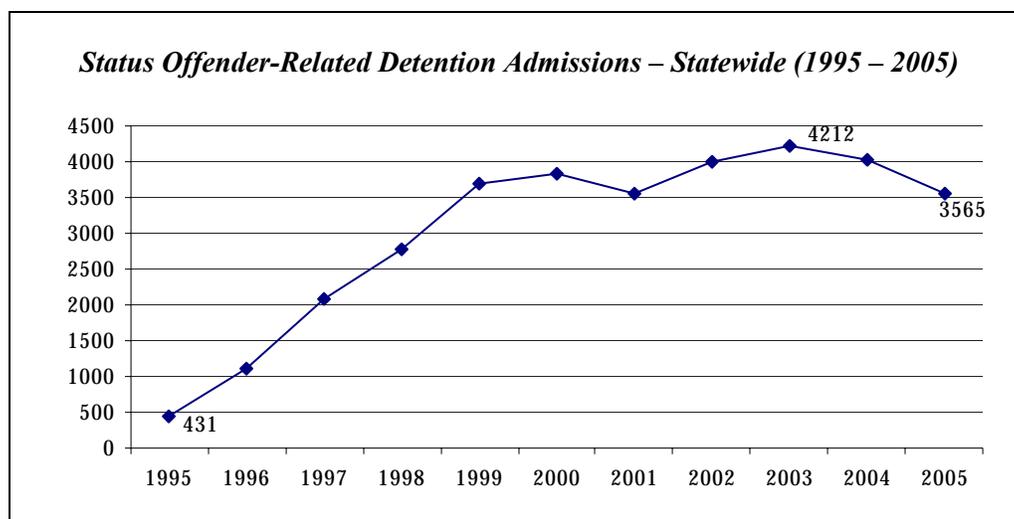
Washington statutes provide for the initiation of essentially three different types of status offender proceedings in juvenile court. That is, proceedings tied to the filing of *Children in Need of Services* (CHINS), *At Risk Youth* and *Truancy* petitions.

A considerable amount of questions/controversy surrounds these proceedings/case types. There are a large number of such filings (close to 17,000 in 2005) and these take up considerable court resources,¹⁴ Truancy petitions represent the largest category of status offender petitions filed annually (typically averaging approximately 14,000 annually).



Service options in these matters are often limited and the system routinely relies on short-term stays in detention or secure crisis residential centers (S-CRC) to sanction/encourage behavioral changes, to support parents in their parenting role, and to provide for the short-term

safety of these children. *In 2003, there were over 4,200 detention admissions (13% of all detention admissions) due to contempt orders on status offenses.*



While Washington statutory provisions may be somewhat unique in this regard, juvenile courts in a number of other states (including a sister MfC state – Louisiana) are also essentially overwhelmed by these challenging cases.

Status Offenders Placed in Secure Crisis Residential Centers

As noted earlier, the At-Risk/Runaway Youth Act which became effective in July 1995 (commonly referred to as the “Becca” Bill), governs issues related to status offenders/non-offenders (i.e., runaways, at-risk youth, truants, and children in need or mental health or substance abuse treatment).

In Washington State, law enforcement can pick up a reported runaway or child whom the officer believes is in circumstances that cause a danger to the child's safety.¹⁵ If the parent cannot be located, the officer must take the child to a Secure Crisis Residential Center (S-CRC), or to a semi-secure facility if a S-CRC is full, not available, or not located within a reasonable distance. There are currently nine S-CRCs statewide with a total of 60 beds. Five of the facilities are private (non-profit) centers. The other four S-CRCs are located within separate sections of local juvenile detention centers.

Compliance with the DSO Requirement of the Federal JJDP Act

Washington State's use of the four detention-based S-CRCs has resulted in JJDP ACT compliance issues. During 2004, there were approximately 1,100 admissions of youth to the four S-CRCs located within specific designated areas of juvenile detention centers.¹⁶ Of these admissions, 488 were considered to be in violation of the removal of status offenders and non-offenders requirement (DSO) of the federal JJDP Act. These violations did not include youth who were released within 24 hours, or who received a judicial court review within 24 hours and who were released within an additional 24 hours after the review (excluding weekends and holidays).¹⁷

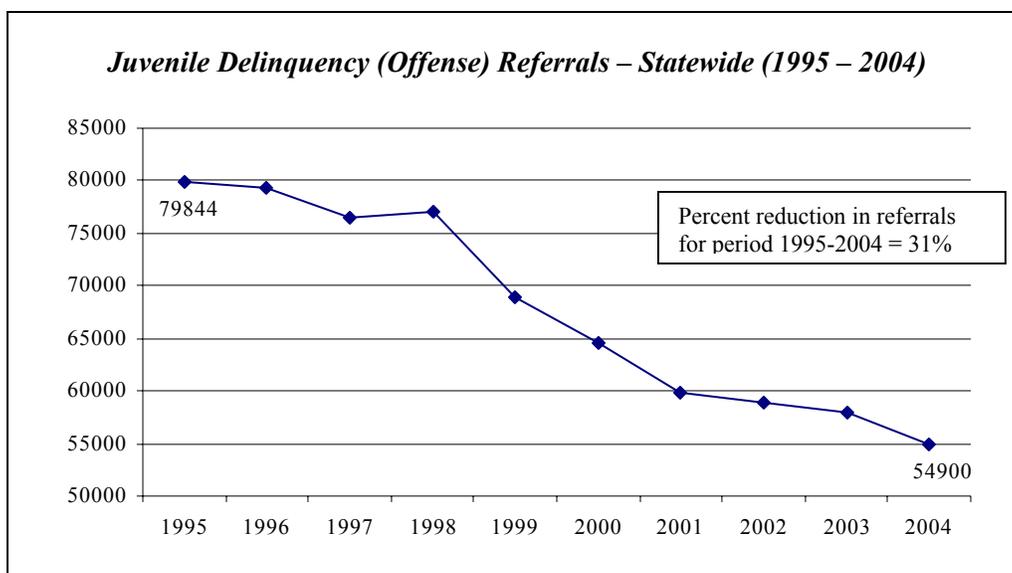
Screening/Processing of Delinquency Referrals

The prosecuting attorney's office in each county is ultimately responsible for reviewing/screening all juvenile delinquency referrals made by law enforcement. State statutes guide this screening decision (RCW 13.40.070), some critical highlights of which include:

- The prosecuting attorney shall (must) file an information (petition) if the case is legally sufficient and
- The alleged offense is a serious felony; or a felony with a prior delinquency history (felony or two misdemeanors);
- A misdemeanor and the juvenile has previously had two misdemeanor referrals diverted;
- Or other special conditions (e.g., prior JRA commitment or had a firearm in his/her possession at the time of the offense).
- The prosecuting attorney shall (must) divert the case if the alleged offense is a misdemeanor and it is the youth's first offense. The prosecutor has discretion to also divert a youth's second offense if both the alleged and prior offenses are misdemeanors.
- The prosecutor also has the discretion to enter into a written agreement with the juvenile court to allow court intake (a probation counselor) to screen non-felony complaints (RCW 13.40.070.9).

In most counties, almost all delinquency referrals are initially received by the juvenile court and sent to the prosecutor's office for review. However, some courts have agreements with the prosecutor to screen a small portion of these referrals before forwarding the remaining for more formal review.¹⁸ Relevant referral/information filing data are reviewed below:

- Statewide, *juvenile delinquency referrals* received by the court (including those not forwarded to the prosecutor's office for formal review) *decreased by 31% between 1995 and 2004.*¹⁹



- While varying by JRA Region, approximately 40-50% of cases referred to county prosecutors in 2004 resulted in the filing of formal charges with the court. (Again, note that prosecutor discretion on filing decisions is somewhat bounded by state statutes and that this is not accounted for in this percentage.)
- Approximately 30-40% of these cases are referred to a juvenile court's diversion unit and no prosecutorial action is taken in approximately 20-25% of cases referred.²⁰

Appointment of Counsel

Washington law grants juveniles the right to be represented by counsel at all juvenile court proceedings, and counsel must be provided to juveniles who are unable to secure representation without causing financial hardship to the juvenile or family.²¹ The law states that the presence of counsel must be provided "in any proceeding where the juvenile may be subject to transfer for criminal prosecution or in any proceeding where the juvenile may be in danger of confinement" (RCW 13.40.140).

Washington does not have a statewide public defender system. Counties fund public defense, and the method of providing legal representation is decided at the county level. Because each county has its own system, there are different approaches across the

state.²² There are a number of ongoing challenges associated with provision of quality defense for juveniles including the lack of public defense standards (as required by state law), high caseloads, no regular training of attorneys, failure to provide counsel at probable cause hearings in some counties, permitting children to waive counsel (in direct conflict with national standards), and other concerns.²³ Despite these continuing challenges, however, there is a pilot initiative underway in Grant County that is designed to upgrade the quality of juvenile defense and to generate examples of best practice that can be replicated in other jurisdictions across the state.

The Juvenile Corrections Continuum and Commitment to the State

The state Department of Social and Health Services' Juvenile Rehabilitation Administration (JRA) administers the state's juvenile corrections. *Commitments are presumptive, determinate, and set by statewide sentencing guidelines.* A judge may find a "manifest injustice" and increase or decrease the disposition given certain factors.²⁴ The seriousness of the offense and the juvenile's criminal history help determine the sanction received. *The juvenile court sets a minimum and maximum amount of time that the juvenile will serve under state custody. When a juvenile is committed, legal custody transfers to JRA. Juvenile court judges cannot order juveniles into placement without committing them to JRA and JRA determines all placement specifics.*²⁵

Youth committed to JRA typically have been adjudicated for at least one violent offense or a large number of various offenses. *The Assistant Secretary of JRA sets the release date using a prescribed range of commitment time from the sentencing guidelines.* A community risk assessment is used if a juvenile is to be released before his or her maximum disposition expires. Every juvenile must be released by his or her maximum disposition. *The court does not have a role in the release decision.*

Aftercare/Re-entry

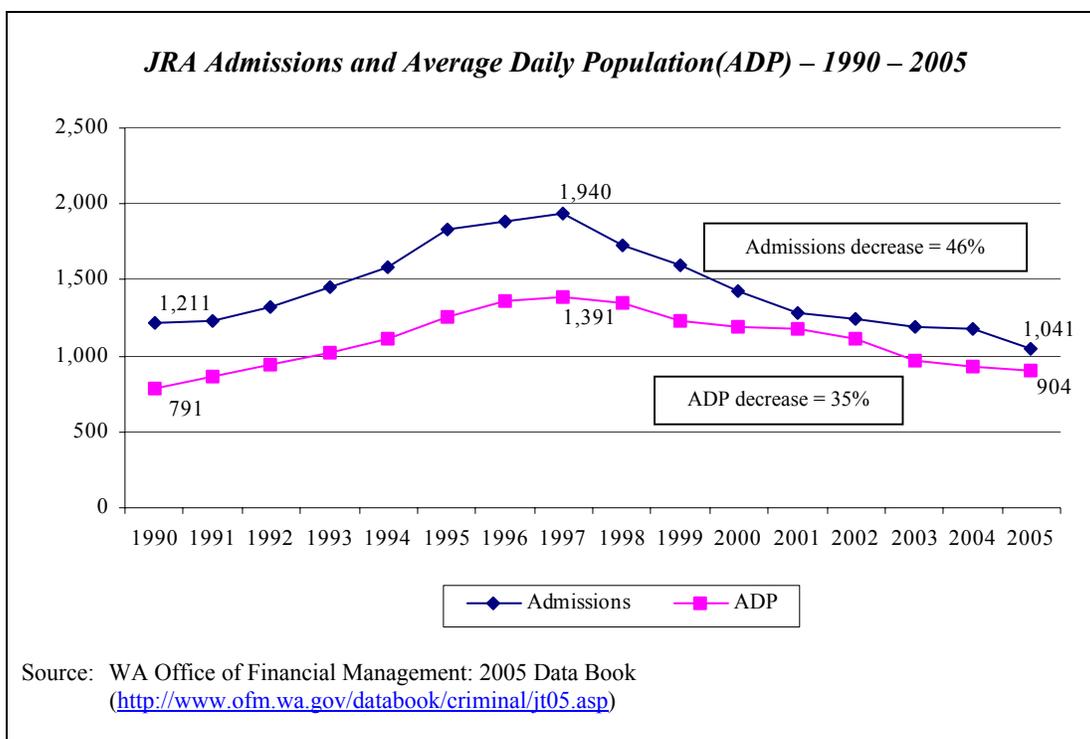
Juvenile parole counselors administer aftercare services for state committed youth. There are currently three types of parole in Washington: Intensive, Sex Offender, and Enhanced Parole. Intensive parole is reserved for the 25% highest risk parolees and these youth receive a mandatory 26 weeks of supervision. All but the most serious sex offenders receive a mandatory

24 to 36 months of Sex Offender Parole supervision.²⁶ Remaining parolees are assigned to Enhanced Parole which entails 20 weeks of supervision.

All youth on parole are served through JRA's aftercare treatment model, "Functional Family Parole." In brief, Functional Family Parole attempts to engage and motivate juveniles and their families to participate in services that are specifically matched to the entire family. This aftercare approach is based on the (EBP) Functional Family Therapy model, and requires parole counselors to see the entire family as their clients. JRA also operates a mentoring program that matches adult mentors with committed youth preparing for release.

Selected JRA statistics and trends include:

- *Current rated capacity at the five JRA facilities (at the end of FY 2005) stands at 879. This is a decrease of approximately 35% from the peak in FY 1999.*
- *Since FY 1997, the number of admissions (commitments) has decreased steadily from a high of 1,940 to 1,041 in FY 2005 – a decrease of 46%.*
- *Similarly, the average daily residential population has decreased from a high of 1,391 at the end of FY1997 to 904 at the end of FY2005 – a decrease of 35%.*



- JRA's March 2006 snapshot of its residential and parole/aftercare population indicates that a very high percentage of youth have chemical dependency and mental health issues (somewhere on the magnitude of 60% depending on the issue and population examined).
- JRA's March 2006 snapshot also indicates that over 60% of its residential and parole/aftercare population has co-occurring needs in the chemical dependency and mental health domains.

Adult Prosecution of Juvenile Offenders

Washington State statutes contain three approaches to prosecuting juveniles in adult courts. These include "discretionary waiver", "statutory exclusion" (or automatic decline or automatic transfer), and a "once an adult, always an adult provision." The state's Sentencing Commission data indicate there were 142 juveniles tried in adult courts during FY2005. Of these, 55% were automatically declined (i.e., automatically transferred or direct filed) and 45% involved discretionary transfers.

Disproportionate Minority Contact

Addressing issues of disproportionate minority contact (DMC) is a cornerstone of MfC and such concerns were consistently expressed during initial site visits in Washington.

Highlights include:

- Minority youth – particularly African-American and Native American youth – are over-represented in most juvenile justice case processing stages. The deeper the processing stage, the more likely African-American and Native American youth are to be over-represented.

<u>Proportion in:</u>	<u>White</u>	<u>Black</u>	<u>Native American</u>	<u>Asian</u>	<u>Hispanic</u>	<u>Other/ Unknown</u>
2004 Juvenile Population (10-17)	75%	5%	2%	7%	11%	0%
2004 Juvenile Referrals	64%	11%	4%	3%	13%	5%
2003 Detention Admissions	64%	12%	5%	3%	12%	4%
JRA - Residential (April 2006 Snapshot)	53%	18%	5%	4%	15%	4%
JRA - Parole (April 2006 Snapshot)	56%	20%	5%	3%	12%	4%

Source: *Puzzanchera e al., Easy Access to Juvenile Populations 1990-2004, 2004 and 2005 GJJAC Annual Reports, JRA website statistics*

- However, a closer examination of the data indicates that disproportionality is most evident at the front-end (arrest/referrals) and that continued over-representation at later processing stages is consistent with these arrest/referral patterns.
- For example, African-American and Native American youth are referred to the juvenile court on delinquency offenses (any type) at considerably higher rates than white youth (double or more) and these rates increase to five times the white rate among African-American youth for serious felony offenses (grade B+ or higher). These are offenses that a youth (in almost all likelihood) would be sentenced to JRA (regardless of priors).

Washington's Mental Health System

Washington's public mental health system is administered by the Department of Social and Health Services through its Health and Rehabilitation Services Administration's Mental Health Division. DSHS contracts for services to be administered and provided through 14 Regional Support Networks (RSNs). In 2005, DSHS estimated that the state and county-based RSNs provided mental health treatment to over 88,000 adults and 37,552 children (under age 18) with mental illnesses.²⁷ The state provides inpatient treatment through community hospitals statewide and two adult state-run hospitals. The hospitals are reserved for the most seriously ill or those sent by state courts for evaluation or treatment.

The publicly funded mental health system in Washington State reflects a managed-care type of approach. In 1995, a statewide Medicaid waiver authorized by the federal Health Care Financing Administration (HCFA) gave the state the authority to consolidate state and federal Medicaid dollars and to have those dollars managed by the RSNs through prepaid health plans.

Eligibility criteria for the state mental health system are based on medical necessity and financial factors. Medical necessity criteria include a mental health diagnosis, symptoms related to that diagnosis, level of functioning across life domains, and conditions and circumstances that may contribute to the mental health of a person seeking services. In addition to determining eligibility, these features also determine the level of care needed at the time of service entry. An additional criterion is income eligibility. All Medicaid funded children and families who meet the medical necessity criteria are eligible, and non-Medicaid funded children whose family income is no greater than 300% of the federal poverty level are also eligible.

Referrals for publicly funded mental health services, including those made through the juvenile justice system (e.g., through probation officers or others), can be made by directly contacting the RSN or a community mental health provider in the local mental health services network.²⁸

The state's mental health system is designed to provide a continuum of care. That continuum is supposed to include a range of crisis services, inpatient services, and outpatient services. The state requires each of the 14 RSNs to have a set of core services available in the system at all times, though service access and availability for youth at risk of juvenile justice system involvement, as well as system-involved youth, is an important challenge in Washington.

While some positive steps have occurred in recent years - including (at the state level) the DSHS Children's Mental Health Initiative and the DSHS Transformation Grant, and (at the local level) King County's Reclaiming Futures program and Clark County's Connections program – *local juvenile justice stakeholders consider access to and the availability of quality mental health services to be the most important gap in the state's juvenile justice system.*

Concluding Remarks

The initial review indicates that Washington State offers many of the aspects of a “model” juvenile justice system that are consistent with MfC's guiding principles. At the same time, there are also important challenges. Washington's juvenile justice stakeholders appear to recognize both aspects and seem ready to demonstrate that meaningful and sustainable system improvements are possible and replicable throughout the state.

¹ Pennsylvania, Illinois, and Louisiana were the first three sites selected for the initiative.

² State funding for consolidating juvenile services was based on a number of criteria. One of the goals of this legislation was to reduce state commitments.

³ DSHS also administers the state's child welfare agency (Children's Administration) and the state's mental health office (Mental Health Division).

⁴ The Juvenile Justice Act of 1977 sets out presumed standard sentence ranges for each crime, in a manner very similar to the state adult system. The Juvenile Offender Sentencing Grid is the primary sentencing tool that juvenile court judges and commissioners must use when deciding on a disposition for juvenile offenders. This determinate grid specifies sanctions based on the seriousness of the offense and the juvenile's criminal history.

There is some discretion built into state statutes that permits overrides of the Sentencing Grid on a limited basis and for specific offender populations. Specifically, the juvenile court has the authority to order a mental health,

drug or sex offender alternative or to sentence outside the Grid's "Standard Range" through a finding of "Manifest Injustice." A juvenile court judge or commissioner can find that the Standard Range sentence is either too lenient for the seriousness of the offense and order a longer term of confinement (Manifest Injustice Up) or overly punitive and order a sentence less than the Standard Range (Manifest Injustice Down).

The Sentencing Grid and options are statutorily described in RCW 13.40.0357. A detailed *Juvenile Disposition Manual (2005)* has been developed by the Sentencing Guidelines Commission and is available at: http://www.sgc.wa.gov/PUBS/Juvenile/Juvenile_Disposition_Manual_2005.pdf.

- ⁵ Washington State Association of Counties. Go to www.wacounties.org/wsac/policy_lawjustice.htm
- ⁶ 21 of these facilities are county-run centers. The Martin Hall Juvenile Detention Facility located in Medical Lake (approximately 20 miles southwest of Spokane) is a privately operated facility utilized primarily by nine Eastern Washington counties including Spokane County. The facility also serves youth from three local tribes, the federal INS and possibly several Montana counties. More information on this facility can be obtained at: http://www.cccscorp.com/martin_hall2.htm
- ⁷ Please see *Governor's Juvenile Justice Advisory Committee (GJJAC) Annual Report 2004*. The most recent version of this report is available online at: <http://www.juvenilejustice.dshs.wa.gov/annualrpt.html>. The 2005 Annual Report is set to be released in September 2006 – and the 2004 detention admission statistics were provided from pre-released sections of this forthcoming report.
- ⁸ Please see the *2005 Superior Court Annual Report* which is available on the Washington Courts website: <http://www.courts.wa.gov/newsinfo/index.cfm>.
- ⁹ Data on status offense-related detention holds provided by GJJAC. Please see *2005 GJJAC Annual Report*.
- ¹⁰ In 2000, King County adopted the *Juvenile Justice Operational Master Plan*, a plan to reform its detention system instead of building a new detention center. The Plan includes adopting the risk assessment tools described above, expanding detention alternatives, and limiting juveniles' lengths of stay in detention by using sentencing guidelines and accelerating the transfer of adjudicated juveniles into community placements.
- ¹¹ Detention facilities in these counties represent more than 50% of the detention beds available in the state.
- ¹² Data provided by GJJAC from a draft version of the Annie E. Casey Foundation's *2005 JDAI Annual Report*.
- ¹³ Using data provided by GJJAC and other sources, NCJJ estimates that there are approximately 1,400 secure detention beds in the state and the average daily detention population is approximately 55-60% of that capacity. Only one small facility appears to continually run at over the rated capacity and two have ADP's that are close to their rated capacity (85-87%) - rated capacity at each of these facilities is 20 or less. In contrast, most facilities appear to have ADP's between 45-65% of their rated capacity.
- ¹⁴ While funding is provided by the State Legislature for the processing of these cases – the adequacy of such funding is a point of dispute.
- ¹⁵ See *2004 GJJAC Report*. (Pgs. 60-61 and 246-248)
- ¹⁶ In total, there were 2,757 admissions of youth to the nine S-CRCs in FY 2004.
- ¹⁷ Federal regulations allow a facility to hold an accused status offender in a secure juvenile detention facility for up to 24 hours, excluding weekends and holidays, prior to an initial court appearance, and for an additional 24 hours, excluding weekends and holidays, immediately following an initial court appearance.
- ¹⁸ Statewide, approximately 95% of delinquency referrals received by the juvenile court were referred to the prosecutor's office for formal review. (Based on data provided in the forthcoming *2005 GJJAC Annual Report*.)
- ¹⁹ Please see forthcoming *2005 GJJAC Annual Report* (Table 53).
- ²⁰ Anecdotal reports suggest that the percentage of referrals diverted are higher than reported in this summary. This may be due to inconsistencies in definitions utilized at the county-level as well inconsistencies in data entry.
- ²¹ See *Washington: An Assessment of Access to Counsel and Quality of Representation in Juvenile Offender Matters*. (October 2003). Pg. 19.

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- ²² See *Washington: An Assessment of Access to Counsel and Quality of Representation in Juvenile Offender Matters*. Pg. 20.
- ²³ See *Washington: An Assessment of Access to Counsel and Quality of Representation in Juvenile Offender Matters*. Pg. 3.
- ²⁴ Data provided in the 2004 and 2005 GJJAC Annual Reports indicate that approximately 20-25% of youth committed to JRA annually involve dispositions outside the “Standard Range.” In the vast majority of these instances (approximately 90%) these “Manifest Injustice” dispositions involve “upward” adjustments. Interviews suggest that this is most likely reflective of the rehabilitative needs of these youth (particularly co-occurring mental health and chemical dependency issues) and JRA’s increased role as a mental health facility of last resort. JRA estimates that approximately 35% of juvenile in their care at any one time are serving Manifest Injustice Up sentences and 5% are serving Manifest Injustice Down sentences. Please see: <http://www1.dshs.wa.gov/jra/JuvJustWA.shtml>.
- Youth committed to JRA on Manifest Injustice Up dispositions typically serve longer sentences and represent a higher proportion of JRA’s average daily commitment population as compared to their annual incoming population as reflected in disposition data contained in the GJJAC annual reports.
- ²⁵ Other than short-term stays in secure or non-secure CRCs, and/or detention, judges cannot order youth into residential placements. There are no court-based funds (pre-commitment) to place delinquent youth in such care.
- ²⁶ The most serious sex offenders (level 3) receive six months of Intensive Parole followed by thirty months of Sex Offender Parole.
- ²⁷ Go to <http://www1.dshs.wa.gov/Mentalhealth/factsheet.shtml>
- ²⁸ Referrals may also be made through the Early Periodic Screening, Diagnosis and Treatment (EPSDT) program, the federally-mandated program for children under age 21 that directs that all children at or below the federal poverty level be screened for health problems (including mental health) and provided with appropriate services to treat any identified medical issues.