



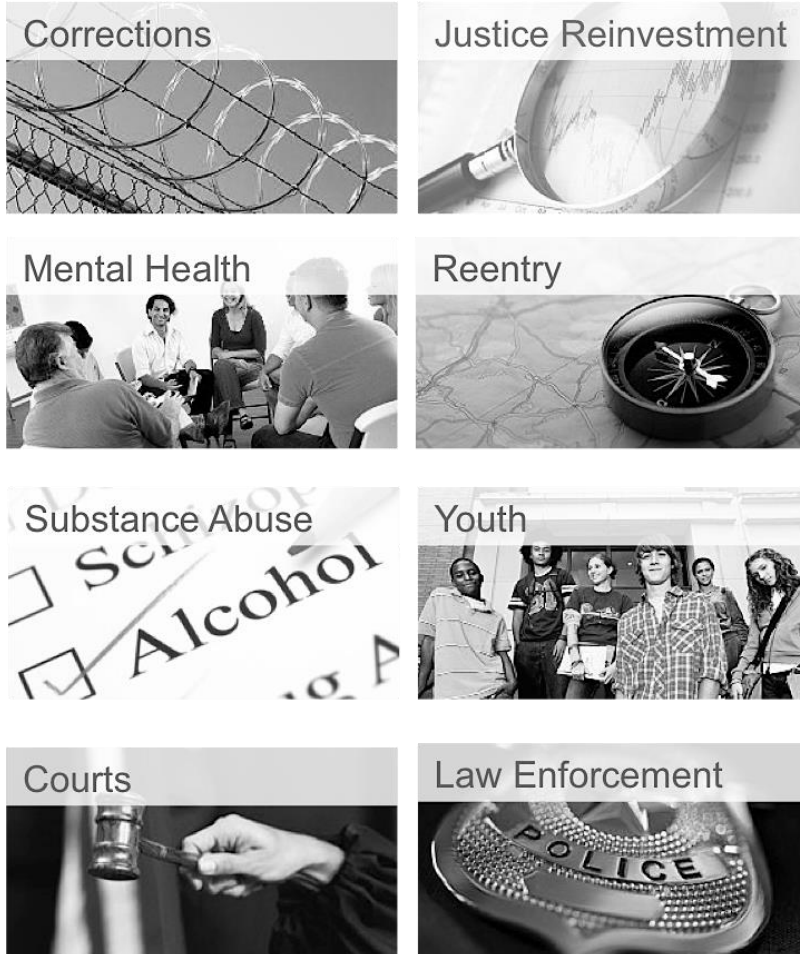
Justice Center

THE COUNCIL OF STATE GOVERNMENTS

NORTH DAKOTA JUVENILE JUSTICE PRELIMINARY ASSESSMENT: FINDINGS AND RECOMMENDATIONS

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About the CSG Justice Center



Justice Center

THE COUNCIL OF STATE GOVERNMENTS

National nonprofit, nonpartisan, membership association of state government officials that engages members of all three branches of state government

Provides practical, nonpartisan research-driven strategies and tools to increase public safety and strengthen communities

Assessment Process Goal and Methods

GOAL: Position ND to develop a consensus-based, data-driven statewide plan that ensures that the juvenile justice system more effectively protects public safety, reduces disparities, and improve outcomes for youth.

- **Reviewed analyses and reports** related to past and current juvenile justice system improvement efforts, annual reports, strategic plans, and other available information.
- **Reviewed current juvenile justice legislative code**, including NDCC 27-20 and other relevant statutes
- **Conducted focus groups** with policymakers, DJS, Juvenile Court judges and Probation staff, prosecutors and public defenders, law enforcement, providers, education and other youth service systems.
- **Assessed North Dakota's capacity to collect and analyze the case-level juvenile justice data** critical to developing a data-driven statewide plan, including system performance, youth outcome, and disparity data

Framework for identifying key findings and recommendations is based on the core principles for what research shows works to improve youth outcomes

1.

Base supervision, service, and resource allocation decisions on the results of **validated risk and needs assessments**

2.

Adopt and effectively implement **programs and services demonstrated to reduce recidivism and improve other youth outcomes**, and use data to evaluate the results and direct system improvements

3.

Employ a **coordinated approach across service systems** to address youth's needs and promote positive youth development

4.

Tailor system policies, programs, and supervision to reflect the distinct **developmental needs of adolescents**



North Dakota's juvenile justice system has significant strengths and has made substantial reforms over the last five years

- Significant effort to divert unruly and low risk youth from formal court involvement;
- Use of risk and needs screening and assessment tools pre and post disposition
- Growing effort to establish continuum of services to meet youth/families' needs;
- Increased cross-systems collaboration through the dual-status youth initiative, Children's Cabinet, and Commission on Juvenile Justice;
- Initial adoption of a statewide incentives and graduated response process, and growing commitment to positioning Court/DJS staff as agents of positive youth behavior change;
- Ongoing efforts to reduce system disparities, including recent enactment of a Memorandum of Understanding with Spirit Lake.

Key Findings

Key Finding #1: North Dakota lacks a statewide vision, purpose, and set of research-based principles to guide its juvenile justice system

Administration of justice, adherence to research, services, and ultimately, system performance, equity, and outcomes differs across the state in important ways, including by:

- Agency (schools, law enforcement, Court regions, etc.)
- Region (urban vs. rural)
- Population (tribal youth and youth of color)

*Limited knowledge across agencies and branches of government on how the juvenile justice system functions and research/best practices exacerbates these differences/inequities

Key Finding #2: North Dakota offers limited access to services without system involvement and has an overreliance on residential services

- Youth that are young, unruly, and/or that have committed low level offenses are referred to the juvenile justice system, *not because they are a public safety risk*, but to get them services;
- Perceived or actual gaps in service availability/access result not only in youth being unnecessarily involved in the juvenile justice system, but also in youth being placed out of home;
- Service challenges are more acute in rural, poorer, and tribal communities, likely a key factor driving the disproportionate representation of youth of color, girls, and tribal youth;
- Formal, ongoing, cross-systems efforts to explicitly address these challenges and build service capacity accordingly have been limited to date

Key Finding #3: North Dakota Has limited capacity for evidence-based service delivery, quality assurance, and data-driven decisions

- Limited evidence-based, community-based cognitive behavioral, family therapy, and behavioral health services demonstrated by research as effective specifically for justice-involved youth;
- Lack of formal, ongoing quality assurance activities to assess service matching, dosage, and implementation fidelity, and data on service participation, completion, and outcomes;
- No established system-wide performance and youth outcomes measures to track and use to evaluate whether agencies, service providers, and limited data/analytic capacity.

Key Finding #4: North Dakota's juvenile justice statute is overly general, vague, and largely bereft of research-based principles and practices

- Lack of statutory framework specific to juvenile justice;
- No guiding statement of principles/purpose or specifics on roles and responsibilities;
- Broad discretion on out-of-home placement, no dispositional guidelines, and limited specifics on research-based practices overall including use of evidence-based services/appropriations and developmentally-appropriate approaches;
- Use of sanctions-based approaches;
- No focus on system performance measures, data collection/reporting, and accountability.

Recommendations

Recommendation #1: Decriminalize unruly behaviors and develop pathways to serve these youth outside of the justice system

- A. Restrict “unruly” youth from being arrested, detained, or court involved to obtain services;
- B. Designate an agency to have case planning/management oversight for these youth with the primary goal of assessing their needs and referring them to appropriate services;
- C. Establish clearer statewide policies on the roles and responsibilities of schools, law enforcement, the child welfare system, service providers, and other entities for managing, on their own, disruptive youth behaviors that don’t rise to the level of public safety risks;
- D. Require agencies to work together to develop a cross-systems service plan for addressing these young people (and their families) needs.

Recommendation #2: Establish more stringent criteria and research-based processes for system decisions, particularly detention and out-of-home placement

- A. Restrict youth from being detained or incarcerated unless public safety is threatened—as evidenced by their risk of reoffending—and unless no other viable community alternatives exist;
- B. Require pre-dispositional risk assessments, and establish at least general statutory guidelines for determining the level and lengths of community supervision, incarceration, and total time in DJS custody based on this information as well as youth’s offenses;
- C. Validate the detention screening tool and establish more robust training and quality assurance protocols on its use

Recommendation #3: Build a more robust continuum of community-based services statewide as well as for specific populations/communities

- A. Use the Children's Cabinet and/or Juvenile Justice Commission as the forum for requiring DJS, Court, DHS, and other partners as needed to develop a cross-systems/branches service plan;
- B. Facilitate the expansion/strengthening of cognitive behavioral, family therapeutic, mental health and substance use, restorative justice, and other needed community services;
- C. The service plan should encompass strategies for improving service access in rural communities, for tribal populations, and for youth of color and girls;

* Budget cuts across agencies resulting from COVID-19 will make the development of such a plan more challenging but also make coordination across systems more important than ever.

Recommendation #4: Strengthen statewide commitment to and capacity for evidence-based services, quality assurance, and data collection

- A. Build provider/community capacity to provide research-based, community-based services, and conduct fidelity monitoring and service quality assessments;
- B. Establish robust continuous quality improvement and accountability processes, provider training, and information sharing/case planning protocols between providers and justice partners;
- C. Establish specific performance and youth outcomes measures for the juvenile justice system, including for service providers, and required data analysis and annual reporting;
- D. Require annual training for agencies and key stakeholders on juvenile justice system functioning and research/best practices.

Recommendation #5: Align state statute with the system-improvement recommendations, and more generally, research/best practice

- A. Establish a stand-alone juvenile justice statute;
- B. Decriminalize unruly (and potentially other low level) offenses and establish required agency roles, responsibilities, and appropriations;
- C. Establish agency roles and responsibilities, and associated research-based and developmentally appropriate practices, for conducting risk and needs screening and assessments, diversion, case planning, service delivery, family engagement, assignment of counsel, restorative justice, and use of incentives and graduated responses, and establish aligned appropriations/incentives/pilot programs as possible;
- D. Base detention and dispositional decisions (particularly all forms of out-of-home placement), including level/lengths of supervision, on youth's assessed risk to public safety;
- E. Eliminate punitive provisions that don't effectively hold youth accountable or promote positive behavior change such as use of detention, burdensome restitution requirements, drivers license suspensions, and holding parents in contempt to compel service participation.

Next Steps

1. Identify priorities for system improvement likely to have the most significant impact and that are also the most feasible for implementation given reductions in agency capacity/resources;
2. Determine the most effective way to advance associated policy, practice, and funding changes, including legislative, administrative, and court rule strategies as appropriate;
3. Craft revised, added, deleted legislative language to 27-20 and other statute in preparation for the 2021 legislative session as well as court rule and agency administrative and funding changes;
4. Establish medium and longer-term priorities for system improvement that require data analysis, further stakeholder input and discussion, policy option development, and formal consensus building and approval.