



It's F**ing Chaos: COVID-19's Impact on Juvenile Delinquency and Juvenile Justice

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Abstract

An early examination of the impact of COVID-19 on juvenile delinquency and juvenile justice in America, this review provides initial scholarship to rapidly evolving areas of research. Our appraisals of these topics are made after nearly 2 months of national COVID-19 mitigation measures, like social distancing and limited “non-essential” movement outside the home but also as states are gradually lifting stricter directives and reopening economic sectors. We consider the impact of these pandemic-related changes on twenty-first century youths, their behaviors, and their separate justice system. To forecast the immediate future, we draw from decades of research on juvenile delinquency and the justice system, as well as from reported patterns of reactions and responses to an unprecedented and ongoing situation. As post-pandemic studies on juvenile delinquency and juvenile justice proliferate, we urge careful consideration as to how they might influence societal and the system responses to youths' delinquency. Additional practical implications are discussed.

Keywords COVID-19 · Juvenile justice · Delinquency · Juvenile justice reform

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Introduction

This paper reflects on the topics and patterns of juvenile delinquency and juvenile justice within an unprecedented context of a global public health crisis. The COVID-19 outbreak reached pandemic status on March 11, 2020 and, as of the drafting of this manuscript, was deemed a “rapidly evolving situation” by the Centers for Disease Control and Prevention [CDC, 2020]. Around the same mid-March timeframe, responses began rolling out coast-to-coast, first at a crawling pace that soon felt like a sprint; the catchphrase “social distancing” morphed from a trending sound bite into increasingly specific protocols, stay-at-home orders, and closures of entire economic and social sectors. This paper considers the impact of these events on youths, their behaviors, and how we, as a system and society, respond to juvenile delinquency.

While no crystal ball exists for such matters, increasingly sophisticated research and theories across multiple disciplines have expanded our knowledge and understanding of risks and protective factors for delinquency. Subsequent results provide a growing evidence base as to how (and how not) to prevent or respond to juvenile deviance. It is with this evidence in mind that we forecast and forewarn about the impact of COVID-19 on juvenile delinquency and justice in America.

Our forecasts begin with an examination of the impact of measures taken to mitigate the spread of COVID-19 on the prevalence and incidence of delinquent behavior. As many states begin phased reopening strategies and lift stay-at-home restrictions, speculation surrounding the effects of such changes on juvenile delinquency is increasing. During the height of the pandemic, for instance, strict stay-at-home orders limited individual movement to only that which was deemed “essential.” Such restrictions to individual movements have widespread consequences for youths and their potential engagement in delinquency. In lieu of more tangible, “real time” data estimating these impacts, we base our predictions on empirical knowledge and theories of juvenile delinquency. Our theoretical arguments integrate components and findings based in opportunity theories and changes to youths’ routine activities and time use, as well as aspects of youths’ peer associations and informal social control agents (e.g., caregiver monitoring, adult supervision).

It is imperative to also consider the impact of COVID-19 on the juvenile justice system, as contagious disease control should be the guiding factor in officials’ decision-making. Thus, we pivot our discussion towards the effects of the pandemic on the juvenile justice system, the youths it serves, and the essential employees who are tasked with its functioning. Knowing that juvenile justice system sizes, processes, and practices vary widely across localities (National Research Council, 2013), we anticipate jurisdictional variations in responses to COVID-19. To help us draw better-informed conclusions, we approach this topic from a “justice by geography” angle (Feld, 1991) and report findings from a basic state-by-state web search of agency responses. While jurisdictional nuances exist, our findings reveal key similarities in the fears and challenges brought about by COVID-19 and trends in protocols put into place since the outbreak. To summarize these changes and overall impact of COVID-19 in the words of an essential employee from the Northeast United States [U.S.], “It’s f***ing chaos” (M.B., personal communications, May 13, 2020).

From our analysis of what has occurred with juveniles and the justice system since COVID-19, we cautiously explicate ensuing predictions of what is likely to occur as

sectors gradually reopen and additional social restrictions are lifted. Our appraisal and forewarning of how the system might respond after COVID-19 is informed by a long history of ideological to and fro that shapes (and reshapes) the juvenile justice system. Historically, we have seen how crises and moral panics (Cohen, 2002) can fuel public buy-in to views of juveniles as the enemy (e.g., superpredators (DiIulio, 1995)). Even in times of declining delinquency rates, the mere confluence of crisis, conservative rhetoric, political climate, and media hype can entirely trump deep-rooted paternalistic approaches to youths (e.g., Get Tough era) (Bernard, 1992).

Lastly, through varied pursuits undertaken in the name of “child saving,” today’s juvenile justice system has the delicate task of balancing perceptions of public safety with trends towards prevention and intervention, all while not looking (or being) *too* soft on delinquency. In this paper, we consider how the current public health crisis may affect this balance. We culminate our review with evidence-based, theoretically-oriented recommendations that are couched in the belief that “most Americans will agree that our children are our greatest national resource” (Office of Juvenile Justice and Delinquency Prevention [OJJDP], 2016, p.1). Our intention is for the system and society to keep these points in mind after the current pandemic crisis has passed.

Pre-Pandemic: A System and Population in Decline

Making predictions about COVID-19’s current and future impact warrants a brief look at the patterns of juvenile delinquency and juvenile justice *before* the outbreak. Importantly, even before the pandemic, juvenile crime trends had dropped to historic lows (Feld, 2017). Overhauls of state-based juvenile justice systems are reflected in decreasing official estimates, which show system-wide reductions in the number of juveniles at *all* stages of the system (Hockenberry, 2018). Efforts include decreasing out-of-home placements while providing more community-based services and diversion programs (Lane, 2018), ensuring a larger percentage of youths receive alternative, community-based sanctions (Hockenberry, 2018).

Policing and Processing Juveniles: Opportunities for Diversion

Law enforcement, as the gatekeepers of an interconnected system, has the discretion to help shape youths’ futures and avoid further entrenchment in the juvenile system (Development Services Group Inc., 2018; Wilson & Hoge, 2013). Evidence reflects a steady reduction in juvenile arrest, down 74% from rates just two decades ago (OJJDP, 2019a). Often as a last resort, law enforcement officers arrest youths and refer them to juvenile courts, yet, there are opportunities for informal warnings or for diversion into community-based services.

Similar to law enforcement, courts’ decisions to handle cases informally or formally can also impact youths’ entrenchment in the justice system. As of 2018, juvenile courts diverted 43% of cases to community-based services rather than more formally involving youths in adjudication processes (OJJDP, 2020a). There is also a growing percentage of petitioned yet *non*-adjudicated cases that may require youths to meet certain conditions, such as drug counseling or community service, prior to full case dismissal (OJJDP, 2020a). The trend in informal juvenile case processing parallels substantial

revisions to the settings and services provided by juvenile diversion programs. These programs progressively reflect wider varieties of interventions, evidence-based practices, and models (e.g., risk/need/responsivity models [RNR], see Andrews, Bonta, & Hoge, 1990) and are increasingly offered in community-based, as opposed to institutional, settings (Hockenberry, 2018).

Confining and Releasing Juveniles

Progressive reductions in juvenile arrests has subsequently reduced the number of cases handled by juvenile courts, which were lower in 2018 than any other year for which these data are reported (OJJDP, 2020b). Correspondingly, the number of detained youths dropped 42% since 2010 (OJJDP, 2019b). Nevertheless, on any given day in 2018 nearly 195,000 youths were still detained in facilities across the U.S. (OJJDP, 2020b). Relatedly, although probation remains the most common disposition for arrested juveniles, approximately one third ($\approx 28\%$) of adjudicated youths receive out-of-home commitments (OJJDP, 2020a). As of last report in 2017, there were approximately 43,500 juveniles institutionalized throughout the country (OJJDP, 2019b). Across all offense levels, the median commitment length was 4 months; for youths committed as a result of technical violations (e.g., violating conditions of probation), the median length of confinement was about 2.5 months (Puzzanchera & Hockenberry, 2019).

Regardless of commitment length, youths' success upon release depends on the quality of aftercare services and resources. The most successful practices for youths returning from facilities often entail collaborative, wraparound-style services. These services engage juveniles, their families, educators, community organizations and stakeholders, plus an extensive aftercare team. Teams may include probation or parole officers, as well as social service and/or local non-profit caseworkers. Evidence shows that the more comprehensive and higher-quality aftercare plan, the greater the reduction in longer-term juvenile correctional costs (Altschuler & Armstrong, 1994; OJJDP, 2020c).

Altogether, juvenile justice reform efforts reflect the initial guiding principles of a separate juvenile system, which deemed youths as, a) fundamentally different from adults; b) resilient; and, c) amenable to treatment. Ongoing modifications of justice system responses to juveniles further illustrate a growing reach of scientific evidence on psychosocial development during adolescence and emerging adulthood (e.g., see Scott & Steinberg, 2008). For instance, we know that *most* youths still engage in some delinquency; with that knowledge, our system's understanding of and reaction to those behaviors has evolved. This brings us to our next section in which we surmise the status of juvenile delinquency as a result of measures taken to reduce the spread of COVID-19.

Mid-Pandemic: Juvenile Delinquency in the Time of COVID-19

Efforts to “flatten the curve” of COVID-19 diagnoses resulted in ordinances that largely affected everyone's day-to-day routines. Overnight, out-of-home activities deemed “non-essential” came to a halt; school campuses closed indefinitely and most

classrooms went virtual. We predict that these pandemic-related ordinances, like stay-at-home and social distancing orders, have led to a decline in rates of delinquency. COVID-19 safety measures simultaneously reduced contact with peers and opportunities for crime while increasing surveillance via caregivers' monitoring and supervision; each of these factors is empirically supported as impacting the likelihood of delinquency and is rooted in mainstream theories like routine activities (Cohen & Felson, 1979) and social control (Hirschi, 1969).

Perhaps the most anticipated changes to adolescent risk are the social connections and opportunities for delinquent behavior during COVID-19. Juvenile delinquency is often committed by small groups of like-minded individuals (Gottfredson & Hirschi, 1990; Haynie & Osgood, 2005; Reiss Jr., 1988; Warr, 2002), making delinquent peer exposure a main risk factor (Pratt et al., 2010). Whether youths seek out delinquent friendships or become delinquent as a result of those friendships is less important than the concept that delinquency is a social activity. For adolescents, simply being in the company of peers makes deviance easier and more rewarding (Osgood, Wilson, O'Malley, Bachman, & Johnston, 1996). Nationwide school closures for primary and secondary education have directly impacted the amount of time and exposure youths have with one another. Similarly, stay-at-home orders have further restricted many juveniles from interacting with those of proximal closeness in their own neighborhoods. Denial of these in-person contacts in either structured (e.g., school) or unstructured (e.g., leisure) time spent with peers (Hawdon, 1996; Haynie & Osgood, 2005; Hoeben, Meldrum, Walker, & Young, 2016) is likely to decrease individual proclivity for delinquency. Without peers to engage in activities with, the situational motivation and perhaps opportunity to engage in antisocial behavior is limited (Hawdon, 1996, 1999).

Beyond the impact of these social limitations and time spent with peers, business closures, particularly of retail establishments, plus fewer pedestrians, serve to limit opportunities for crimes like robbery, burglary, and larceny. Routine activities theory (Cohen & Felson, 1979) would suggest that without available victims in public spaces, even a motivated offender may find it challenging to find the opportunity to offend. Similarly, the lack of movement in public spaces and increased presence of capable guardians through stay-at-home orders may make neighborhood prowling behavior more conspicuous, perhaps especially for juveniles given the concern over youths being asymptomatic carriers of COVID-19. With simply fewer opportunities for low-level street crimes that youths often engage in, we predict youths' delinquency may additionally decline. Already, official reports suggest that home confinement in response to the COVID-19 outbreak brought about dramatic declines in person-to-person level crimes (Dazio, Briceno, & Tarm, 2020).

Lastly, social control theories (e.g., see Hirschi, 1969) suggest that parental supervision and monitoring are key protective factors against juvenile delinquency (Liu & Miller, 2020). School shutdowns, coupled with caregivers who may be working from home, furloughed, or recently unemployed as a result of COVID-19, implies that youths are under more adult supervision. Just like youths, many caregivers are confined to areas in or near their homes. Even employed essential workers are subject to the same local or state ordinances during the time outside of work. Such stay-at-home mandates further increase the likelihood that caregivers are aware of youths' movements and activities. Even less attached caregivers are likely to know the whereabouts and activities of juveniles in their homes.

In sum, Osgood, Anderson, and Shaffer (2005) found that the confluence of peer presence, lax supervision, and unrestricted use of time was most conducive to increased likelihoods of delinquency. COVID-19 mitigation measures have impacted each of these factors, as well as decreased opportunities and increased guardianship; combined, the restrictions for opportunity and increases in surveillance during the height of the pandemic have likely contributed to major declines in official crime statistics (e.g., see Dazio et al., 2020).

Risks Compounded by COVID-19

As data become available they will be informative as to how the predicted declines trend across different demographics, including by race, socioeconomic status, or even geographically. In assessing the impact of COVID-19 on juveniles who are at risk for or involved in delinquency, we need to remain cognizant of sociodemographic factors that are directly relevant to both delinquency and disease. Again, we know that most youths engage in delinquent behavior (National Research Council, 2013); however, evidence repeatedly shows that *certain* youths are more likely to come in contact with the juvenile justice system (Lane, 2018; Peck, 2016).

Among the constellation of correlates known to influence youths' risk and likelihood of system involvement, many circle back to concentrated poverty and disadvantage (Sampson, 2011; Shonkoff et al., 2012). Viewing juveniles and the justice system through the lens of the current public health crisis casts even more light on systemic social inequities and disparities in the privilege to avoid not only justice system contact (Peck, 2016) but also COVID-19 (Ahmed, Ahmed, Pissarides, & Stiglitz, 2020; Wright, Sonin, Driscoll, & Wilson, 2020). The epidemiological risk factors for justice system involvement are nearly identical to well-known social determinants of health; for instance, poverty, race, neighborhood characteristics, and access to adequate educational and preventive health resources (Owen, Wallace, and Committee on Adolescence, 2020).

In short, we may all be battling the same COVID-19 storm but are not all sharing the same boat. This adage similarly applies to youths who are justice-system involved and find themselves under community supervision, detained, or committed amid the pandemic. System-involved youths tend to be a higher-risk population, often battling many storms; COVID-19 and its impact on daily life surely compounds these risks. In the next section, our attention turns towards this population and the impact of COVID-19 on the juvenile justice system, its practices and protocols, as well as the essential employees ensuring the system's continued operation during the pandemic.

Mid-Pandemic: COVID-19 and the Juvenile Justice System

To explore common protocols and/or practices that emerged in response to COVID-19, we undertook an abbreviated web search for official reports by local and state agencies from geographic distributions across the U.S.¹ We also reviewed local or national media coverage and solicited anecdotal insights from personal communications with

¹ Regions and states included Northeastern: Massachusetts (MA), Maine (ME), New York (NY); Southern: Florida (FL), Maryland (MD), North Carolina (NC); Midwest: Illinois (IL), Ohio (OH); and Western: California (CA), Colorado (CO).

essential employees working in policing or other juvenile justice arenas.² While this research design may undermine generalizability, all trends and patterns discussed herein were reported across two or more sources or modes of communication; several jurisdictions reported similar protocols, changes, or innovations in response to COVID-19.

Reducing Confinement

Among the most frequently cited reactions to the pandemic was the critical need to reduce the number of youths confined to facilities. States and agencies accomplished this by simultaneously bottlenecking paths for new intakes (e.g., fewer arrests, technical violations) and clearing the way for avenues that facilitated earlier releases and increased use of alternatives to confinement. While we describe jurisdictional variations in the development and implementation of protocols in response to the pandemic, we also highlight commonalities observed across what are typically widely varying juvenile justice systems. To be sure, COVID-19 continues to present unprecedented challenges for all juvenile justice systems.

Confined Population Is Higher Risk

Juveniles, in general, are considered less vulnerable to symptoms of COVID-19 infection. Nevertheless, in order to promote proper social distancing and help “flatten the curve”, *most* settings where youths congregate closed indefinitely by late March (e.g., school campuses, childcare facilities). Yet, tens of thousands of juveniles remain confined and detained in facilities staffed 24/7 by rotations of essential employees. For these youths, the privilege of proper social distancing is virtually nonexistent. Worth noting, research shows that youths who are justice system-involved tend to be in poorer health and at higher risk for infection than youths who are not justice system-involved (Owen et al., 2020). For instance, a nationally representative study of youths revealed that juveniles who reported system contact in the year prior (e.g., from probation to commitment) were significantly more likely to report asthma or hypertension diagnoses than youths reporting no justice system involvement (Winkelman, Frank, Binswanger, & Pinals, 2017).

For reasons like these, juvenile advocates and justice-focused thinktanks (e.g., American Civil Liberties Union [ACLU]; The Sentencing Project) work to underscore the valid fears and concerns surrounding continued confinement of youths during a pandemic. For instance, reporting for The Sentencing Project, Rovner (2020) tracks daily fluctuations in numbers of COVID-19 testing and infections across the nation’s juvenile justice systems. As of May 15th, an estimated 415 confined juveniles and 477 employees were positive for COVID-19; similarly dated graphs of these data show infections were still on the rise (Rovner, 2020).

With many states not testing youths nor reporting diagnoses-related statistics, tracking efforts like the Sentencing Project’s highlight a consistent gap in the juvenile field: the lack of a state-by-state, national database on juvenile justice processing (Lane,

² Personal communications were predominately with essential employees in the Northeast or Southern regions. To protect privacy, no contact and employer/agency names or identifying information are reported.

2018). Even for states with tech-savvy models that show much promise for more transparent reporting of juvenile justice data (e.g., see Florida Department of Juvenile Justice [FDJJ, 2020]), availability of new data is often lagged by months, thus, hampering attempts to report data in “real time”. Such numbers are especially relevant given the interwoven nature of the juvenile justice system, wherein changes and trends in one component (e.g., arrest numbers) will affect the others (e.g., detention numbers). As for the avenues taken for reducing confined populations, we begin with the changes to gatekeepers’ everyday practices.

Arrests & the Alternatives

Since COVID-19, officers in multiple jurisdictions confirm superiors ordering arrest be used only “as a last resort”, not only with juveniles but in all lower-level, non-felonious encounters (M.B., personal communications, May 15, 2020). A memo by the Youth Correctional Leaders for Justice [YCLJ] echoes this recommendation, requesting officers save arrest for “all but the most serious and violent charges” (YCLJ, 2020). As an example of the impact of such orders, a Massachusetts advocacy group, Citizens for Juvenile Justice, indicated in early April that juvenile arrests and calls to law enforcement about juveniles were “way down” (Fadel, 2020). Similar arrest trends were reflected across other state websites and media reports. This trend, however, is not necessarily new to law enforcement’s playbook for handling juveniles. Many law enforcement agencies, for instance, progressively expanded their use of informal diversion and reduced arrest with juveniles (outside of felony incidents) well before the COVID-19 outbreak. This sentiment was reiterated in personal communications with police officers from the Northeastern U.S. region (M.B., personal communications, May 13, 2020) and was further evidenced by the nationwide arrest reductions described earlier in this paper (e.g., see OJJDP, 2019a). As such, declines in arrest during COVID-19 will reflect, at least in part, continued momentum from reform efforts deployed *before* the pandemic.

Until more data are recorded and made available, the national picture remains blurry. Still, based on patterns before COVID-19, along with mid-pandemic communications and reports, we predict that the data will reveal steeper rates of decline in juvenile arrest. The most recent civil citation data provided by FDJJ (2020) support this notion.³ Exploration of these data reveal that, from February to March 2020, law enforcement’s community-based encounters dropped nearly 9% (see Appendix Fig. 2); when law enforcement’s school-based encounters with youths are included, this same month-to-month decline was near 30% (see Appendix Fig. 4).⁴ Focusing on the February to March interval over the past 4 years, such declines in community-based encounters appear somewhat unprecedented; since 2016, on average, eligible

³ Civil citation (alternative to arrest) diversionary practices with Florida juveniles are tracked across the state and made publicly available (e.g., see FDJJ, 2020).

⁴ The near 9% decline in reported community-based contact is a difference of 742 youths versus 679 youths in February and March 2020, respectively. When compared to community-based contacts from February and March for the four prior years, February to March 2020 was the first time a decline is evident. When school-based encounters are included, the reported contacts declined from 1384 youths in February to 982 youths in March 2020. See Appendix for graphical representation of these reported data patterns.

youth contacts in March were 15.1% *greater* than February contacts (see Appendix Fig. 1). As numbers become available from late spring, summer, and fall 2020, and when secondary educational settings reconvene post-COVID-19, these data will be especially informative if they reveal similar declining patterns.

From Confinement to the Community

With fewer arrests comes fewer youths being admitted to detention facilities. In many states, administrators and agencies have ramped up efforts to process juveniles swiftly and to divert them away from confinement. To the extent that public safety permits, the goal is to maintain youths in the community and to not detain or commit them. Advocates have similarly called on prosecutors to facilitate release rather than detaining youths (YCLJ, 2020), along with calls on probation and parole to limit (or entirely end) revocations for technical violations and further reduce the number of confined juveniles. Such options are being explored nationwide by various agencies in response to COVID-19 (National Council on Crime and Delinquency, 2020). The North Carolina Juvenile Justice Division, for example, promoted using alternatives to detention for youths with minor technical violations, in aims to further reduce the number of youths confined across their state (Kees, 2020). As alternatives, diverted youths might be placed on electric monitoring or house arrest or even have detainment deferred until after the pandemic crisis has passed (Kees, 2020).

Unprecedented Reduction Rates

Preliminary data suggests that advocates' and experts' call for expedited reductions in the numbers of youths confined have not gone unheard. From our web search, we found several states and agencies reporting new protocols permitting more expeditious release of confined youths. Reports of percentages of youths released over the one to two-month timeframe since the COVID-19 outbreak ranged from 25% (e.g., North Carolina and Illinois), to 30% (e.g., Maryland), to nearly 40% (e.g., Maine). Results from a recent survey of a subset of agencies active in the Annie E. Casey Foundation's [AECF] Juvenile Detention Alternatives Initiative showed significant drops in the number of detained youths across 30 reporting states. Over a month's time, these reductions grew out of a confluence of fewer new admissions/intakes, plus a rise in the rates at which states were releasing youths from secure facilities (AECF, 2020). In a *single month*, these efforts produced a 24% drop in the surveyed sample's detained population. Prior to COVID-19, it took 7 years (i.e., 2010–2017) to achieve the same reduction in number of detained youths (AECF, 2020).

To be sure, releasing youths to the community after confinement involves a certain infrastructure that is relevant to *all* agencies; however, the implementation of even barebones protocols must be scaled to meet the needs of very differently sized juvenile populations. Consider, for instance, the release of roughly 20 juveniles in Maine, which marked a 38% reduction in the state's confined population, while a 30% reduction to Maryland's confined population

requires managing roughly 200 newly released juveniles across the state.⁵ The impact of release numbers like these, while warranted and in the best interest of “flattening the curve” across the justice system, will surely reverberate through agency workloads and budgets, revealing needs that are not likely addressed for the coming fiscal year. Also, as agencies release unprecedented portions of their populations at a rapid pace, this begs the question, who decides who stays and who goes? This question segues to the next topics of jurisdictional differences in a) which agencies or stakeholders actually hold the authority to release youths and b) how hurried decisions to release youths (or not) are made. These topics naturally dovetail into the related areas of juvenile case processing and juvenile courts during COVID-19.

Authority and Protocols to Release

In states such as Illinois, the authority to release youths belongs to the juvenile justice agencies themselves, meaning release decisions require no direct coordination or formal involvement with juvenile courts. This targeted authority likely hastened implementation of COVID-19-related protocols for expediting early releases. Alternatively, in Colorado, statutory authority for release decisions typically lies with the parole board. However, recognizing potential delays due to COVID-19 closures and social distancing, temporary authority was granted to the Colorado Department of Human Services [CDHS]. The executive order further requires that CDHS review *all* non-violent youths’ cases and release all youths deemed eligible for early discharge (e.g., see Colorado Executive Order D 2020 034, 2020). Thirdly, in other states, like Maryland and North Carolina for example, youths cannot be released without formal juvenile court involvement. Since the COVID-19 outbreak forced court closures for all but emergency hearings, this bifurcated authority has likely delayed implementation of protocols to expedite releasing juveniles from confined settings. While court dockets have largely been suspended, hearings that must occur are most often held virtually.⁶ Using North Carolina and Massachusetts as examples, local departments and agencies are using tablets for virtual proceedings with “on call judges” via videoconference. To expedite releases, staff in North Carolina are reviewing and flagging cases of youths “who might be appropriate for release” before bringing the cases for judicial approval (Kees, 2020).

Regardless of jurisdictional nuances in release authority, the factors considered in determining eligibility for early or emergency release due to COVID-19 appear relatively similar across agencies. Logically, youths not adhering to their treatment

⁵ The number of youths confined varies significantly across states, which all have differently sized juvenile populations, different ages of juvenile jurisdiction (e.g., 16 or 17), plus different reform efforts prior to COVID-19. For instance, the state of Maine’s entire population of youths aged 0–17 was just over 250,000 in 2018; Maryland, on the other hand, had a general juvenile population of over 1.5 million. Both Maine and Maryland confine youths at rates below the estimated national average (i.e., 138 per 100,000 juveniles; OJJDP, 2019b); yet, these two states have starkly different numbers of youths confined, comparing 90 to 500 respectively (OJJDP, 2020b).

⁶ The National Juvenile Defender Center [NJDC] weighed in on this emerging practice, underscoring that remote proceedings should be used only when “targeted at increasing youths’ liberty”. They also list valid concerns about using remote hearings for juvenile cases, such as issues with due process considerations and general barriers to attorney effectiveness in their juvenile clients’ cases (NJDC, 2020).

plans and/or progressing programmatically prior to COVID-19 were considered less eligible for early release. Along these same lines, youths showing progress and with release plans already in place were often the first discharged. As an example, Massachusetts' Department of Youth Services revised their protocols so that all youths were considered for early release if their projected release to community supervision fell within a 3.5-month (i.e., 100 day) timeframe. Prior to COVID-19, it was standard practice in Massachusetts that youths within 1 month (i.e., 30 days) of their projected release were considered for early discharge (Fadel, 2020). Similar "fast tracked" discharges target lower risk, nonviolent youths, with decisions most often based off of youths' progress, risks, needs, and the system's ability to meet those needs in the community.

During such unprecedented times, it is even more integral for decision-makers to ensure a certain level of continuity and proper aftercare services. This entails confirming that supports are not only in place but also actually available and accessible with continuing operations during the pandemic. For instance, youths should have approved living situations that are safe and appropriate for placement. A continuum of care from social service agencies and caseworkers to educational supports and reunification-reintegration services should, at a minimum, be considered prior to release.

Redistributing Versus Reducing

This is where differences in the *scale* of wraparound services across different states becomes glaringly distinct; providing a continuum of care for 20 versus 200 youths released in the past month requires very different levels of attention (and funding). This point also serves to underscore the fact that reductions in confined populations are not *absolute* reductions across the juvenile system. Rather, fast-tracked releases to community supervision simply shift the load of system-involved youths from one end to another, albeit softer, end of the system. As such, recently released youths are likely finding themselves added to already overworked community-service and probationary caseloads. Existent caseloads (e.g., probation, parole) and their supervising officers are also adjusting to changes in practices and protocols. For example, technologies allowing virtual check-ins have become integral to managing community-based workloads and an influx of new community-based clients during COVID-19.

Much like the decision-making processes for eligibility for release from confinement, similar risk-needs assessments and procedures are guiding probation and parole decisions on who and where officers/caseworkers should focus limited resources and energies (National Council on Crime and Delinquency, 2020). For example, as a result of the redistributed workload stemming from reductions in confinement during COVID-19, youths making adequate progress and nearing the end of probation/parole may be phased out earlier than expected. Additional lower risk clients who are identified as having adequate alternative supports (e.g., family supervision) may find themselves with fewer probation/parole conditions to meet. As an example, in some cases, caseworkers have reduced or entirely suspended official check-ins, home visits, or drug testing for clients classified as having fewer immediate risks or needs. Such classifications of youths' risks and needs frees up staff and resources for clients with greater risk and needs (e.g., youths recently released). This is a key consideration for

agency and state administrators, as managing caseloads on the front *and* backends of the system entails effectively allocating resources. Such resources include active employees who are essential to public safety as well as effective rehabilitation and care of system-involved youths, but who are also equally at risk of contracting COVID-19.

It's F*ing Chaos**

To be sure, the trending push to reduce facility populations as low as possible is aimed at reducing risk for youths who remain confined in congregate settings. For those youths, and the employees who supervise them, the designs of such settings make following health guidelines and social distancing measures nearly impossible. Confined youths in some states will fare better than others, as protocols prior to COVID-19 required separate sleeping quarters (e.g., no bunking) and private bathing routines (e.g., no “gang showers”). For youths in other states, however, who are perhaps confined to facilities with more residents or run by agencies without clear continuous-operation protocols, the spread of COVID-19, once present, becomes even more inevitable.

Fatigue and Disruption

Frontline, direct care staff working with juveniles report amplified fatigue among themselves and their juvenile clientele. The astounding disruption to daily routines, schedules, or milieus is intensified by fears of contracting COVID-19; these disruptions and fears affect *everyone*. As such stressors become amplified by ever-changing protocols, any seasoned system administrator, staff, and even longer-term resident can foresee the impending storm of disarray. To demonstrate this point, as the numbers of staff and residents diagnosed with COVID-19 rose across Louisiana juvenile facilities, residents responded in riots and plotted (briefly successful) escapes; several involved youths were later transferred (physically moved) to other facilities throughout Louisiana (Mason & McDowell, 2020).

To be sure, juvenile facilities are most often housing youths with extensive histories of trauma and related mental health issues (e.g., anxiety and depression); thus, in order to quell the storm, a semblance of structure and continuity must be reintroduced as quickly as protocol allows. The utility of highly structured, staff-regulated milieus in congregate justice-related settings is not only directed at safety and control. Such routines, consistency in programming, and scheduled therapeutic recreational activities also serve to reduce anxieties. They provide a sense of order in what is often an otherwise off-putting and (re)traumatizing, out-of-norm setting. Unfortunately, COVID-19 continues to affect all sectors of these settings.

Compounding Trauma

One particular concern is the increasing number of confined youths who show symptoms or are diagnosed with COVID-19. There are limited options for quarantining without mimicking conditions of solitary confinement; such isolation is known to have long-lasting deleterious effects on anyone, especially higher-risk youths (YCLJ, 2020). As such, many states have suspended accepting *any* new intakes (admissions) or

allowing any transfers between facilities (e.g., California). In states still permitting emergency intakes, however, arriving youths must remain isolated for 14 days after admission. While we realize the necessity to reduce the spread of COVID-19 between residents and staff, such an experience for almost anyone, never mind a child, is surely nothing short of traumatizing.

Avoiding Staffing Crisis

A related concern, especially for administrators, continues to be if and when essential employees become ill (or quit) at rates that leave facilities understaffed. Many states implemented measures to mitigate these concerns early on. For instance, pursuant to the COVID-19 outbreak, state and local non-profit agencies relaxed hiring protocols (e.g., fast-tracking background checks), reallocated budgets, and even altered shift and schedule styles (e.g., “firefighter-style” shifts of 48 h on/5 days off).⁷ Again, in congregate settings, especially with juveniles, staff consistency and patience are key elements to maintaining the milieu. Shift mandates that are in the best interest of preserving employees’ stamina, patience, and general mental health are part and parcel of this balance; thus, implementing innovative scheduling structures is certainly preferable to covering absences with untrained, temporary, or ill-fitting replacement personnel.

Impacts on Education and Visitation

This “fit” is also pertinent to academic services for youths who are confined in facilities where access to teachers and formal learning opportunities were suspended indefinitely. Many agencies lack the technologies (or necessary budgets) that have rapidly emerged as the preferred alternative to face-to-face instruction. Instead, unqualified personnel are left to instruct and/or meet the very diverse educational needs of a higher-risk student population. Using New York as an example, staff were not equipped with the systems needed for remote/distance learning; thus, youths are provided with traditional paper folders and worksheets that are collected, corrected, and updated with new sheets on a rotating basis (Council of Juvenile Justice Administrators [CJJA], 2020a, 2020b). Program staff report that the substitutes for “school” are not going over smoothly and both staff and youths are growing increasingly frustrated with the changes (CJJA, 2020a). Unfortunately, outside volunteers who may specialize in instructional needs for youths with learning differences are also not permitted in facilities due to COVID-19 protocols.

Along with not allowing volunteers, we found nearly all states have also suspended visitation with family, loved ones, mentors, and advocates. Such visitation protocols are understandable given a pandemic; however, they were likely met with deep disappointment from both youths and their loved ones. Theories like social bond and general strain note the maintenance of social ties, especially family supports, as an integral

⁷ The Illinois Department of Juvenile Justice responded to COVID-19-related staffing concerns with an even more innovative approach by implementing rotating “teams” of staff who work together in direct care for 14 days (i.e., 2 weeks on) and then work remotely from home the following two weeks (i.e., 2 weeks “off”). This two-week timeframe was intentional to permit each “team” member time to quarantine should symptoms arise (CJJA, 2020a, 2020b).

element for treatment success, facilitating smoother reintegration post-confinement, and reducing recidivism (Altschuler & Armstrong, 1994). As such, if such changes were not met with alternative options like video chats or increased opportunities for email or phone use, the loss of in-person visitation almost certainly sparked fear and anxiety among residents. They are just as worried for their loved ones as everyone else. In sum, maintaining youths' connections with the outside world is key.

Unfortunately, perhaps due to budgetary constraints or longstanding, outdated protocols, not all jurisdictions are equally accommodating at maintaining such ties. Using information from Ohio as an example, documents posted by the Department of Youth Services [ODYS] report that, in lieu of in-person visits with family during COVID-19, youths were permitted “two *free*, 5 minute” calls every 7 days over a 30-day period (ODYS, 2020a). A few days later a revised document was shared with families, explaining policies permitting free video chats via the Zoom platform; however, the document underscored that *free* “Zoom video visitation will only occur during the COVID-19 emergency response” (ODYS, 2020b). Days later, yet another letter to families announced that ODYS was “rolling out” video visitation through a private telecommunications provider, which would allow 20-min *paid* video visits (ODYS, 2020c).

We recognize that using mainstream platforms like Zoom or FaceTime for anything justice-related or having to do with juveniles presents data security and privacy concerns (National Council on Crime and Delinquency, 2020; NJDC, 2020). However, ensuring connections to supports like family and loved ones, regardless of a pandemic, is an integral resource for youths' development, rehabilitation, and treatment. For a state agency to ignore decades of empirical evidence of a key element for improving youths' success is alarming. Agencies should remove as many barriers as possible in the interest of maintaining interpersonal connections; requiring payment for calls and/or video visitation, especially during a pandemic, is clearly such a barrier.

Post-Pandemic: What to Anticipate as the Dust Settles

Given all of the changes brought about by COVID-19 protocols, we turn our attention to what we might expect for the system and for juvenile delinquency as things return to a new normal. As of this writing, social distancing practices are still recommended, yet certain sectors across states are gradually reopening. For instance, several states have reopened retail businesses, restaurants, and bars. Some states are gearing up for a controlled return of tourism by increasingly permitting hotel and rental reservations for the coming summer months. Many furloughed workers and employees who were operating remotely find themselves back at their workplaces and no longer at home. Yet, most school systems remain closed and the fate of summer camps and other structured time use for youths remains undecided. Furthermore, given the effect that the pandemic is having on the economy, there is the likelihood that some youths who would ordinarily be occupied by summer employment will be unable to find work. Some businesses, particularly in the service arena where youths commonly secure summer employment, have failed because of the pandemic (Kochhar & Barroso, 2020). Given such developments, along with theoretical supports further explicated below, as COVID-19 stay-at-home and social distancing restrictions gradually loosen, we

anticipate that rates of juvenile delinquent behavior will increase compared to rates when stricter COVID-19 mitigation measures were in effect.

Expect Brief Delinquency Increase

First and foremost, from a routine activities perspective (Cohen & Felson, 1979), as stay-at-home orders are lifted, movement of suitable targets will slowly increase, thereby creating opportunities. Compared to the higher-than-usual guardianship levels during strict COVID-19 ordinances, guardianship levels are likely to decline as citizens gradually leave their homes and return to work. Relaxing restrictions will also facilitate movement among motivated offenders whose abilities to be in places where crime, particularly property crime, could occur were previously limited. Altogether, once businesses open back up and juveniles are permitted to move more freely throughout their communities, it is likely that the prevalence and incidence of delinquent behavior would rise.

Secondly, reducing COVID-19 restrictions will simultaneously *decrease* levels of adolescent supervision and *increase* opportunities for peer interactions. As caregivers return to work but other prosocial institutions, such as school and extra-curricular activities are still unauthorized, youths will be left with considerable amounts of unstructured and unsupervised time. As social restrictions are lifted and small group gatherings become permissible, such “free time” may increasingly be spent associating with peers. Osgood and Anderson (2004) and Osgood et al. (2005) suggest that it is the opportunity for unstructured time with small groups of friends that creates an environment where youths are most likely to engage in deviant activity. Thus, the confluence of reconnection with delinquent friends and the ennui of life devoid of prosocial opportunities, further suggest a rise in juvenile delinquency in comparison to behaviors observed mid-pandemic.

Lastly, we must also consider the anticipated negative impact on families’ financial situations, particularly for families with greater concentrations of disadvantage *prior* to COVID-19. As with most crises, the pandemic will most impact the families that can least afford it, thereby exacerbating already tenuous situations. Youths’ reactions to strain that stems from worsening family economic conditions may also affect their proclivity to engage in delinquency (Agnew, 2001; Sampson & Laub, 1994). For instance, past research has found an association between “rapidly increasing unemployment rates” after the Great Recession and youths’ externalizing behaviors (see Schneider, Waldfogel, & Brooks-Gunn, 2016). Based on reasons like these, we predict an initial spike in delinquency rates that reach similar or perhaps surpass levels observed prior to the pandemic.

Still, two important things must be considered. First, official reports of delinquency *prior* to the pandemic were showing the lowest arrest rates since such data were tracked. Even if we do observe an uptick in rates of delinquency soon after COVID-19, these rates would likely still be relatively low. Also, if law enforcement continues to arrest juveniles only as a “last resort,” official report data may not even reflect meaningful increases. Second, at some point schools will reopen and youths will again find themselves with less unsupervised time and in fewer unsupervised situations. Likewise, the economy will

eventually right itself and employment opportunities for both adolescents and their families should return.

Thus, assuming the pandemic is no longer affecting closures and that the economy recovers, we would *not* anticipate any spike in delinquency to be long lasting. This latter consideration is paramount for how we move forward if and when delinquency rates increase. We must keep in mind that the near century of evidence overwhelmingly shows that there is no panacea or quick fix to juvenile delinquency.

Learn from the Past

As we all recover from a whirlwind of reprioritizing in response to COVID-19, for guidance as to how the system should (or could) respond to juvenile delinquency, we turn to observations made after the financial collapse of 2008. The ‘Great Recession’ placed severe constraints on state budgets, including those related to the juvenile justice system (Green, 2015). Cash-strapped officials and institutions were forced to rethink protocols, practices, and policies, especially if reforms promised more cost-effective results. Greater promotion of evidence-based practices materialized (Lane, 2018; National Research Council, 2013), partly as a result of similarly-timed collective shifts toward more restorative and rehabilitative ideals, especially as applied to juveniles (Ahlin, Gibbs, Kavanaugh, & Lee, 2017; Green, 2015). Such practices were also economically attractive, with far lower costs for community-based alternatives (e.g., \$75 per day, on average) compared to confinement (e.g., \$407.58 per day, on average; see Justice Policy Institute, 2014). As such, despite the 2008 financial crisis, juvenile arrests, court cases, and commitments continued patterns of decline started in 2005 (Puzzanchera & Hockenberry, 2019; OJJDP, 2019a).

As a post-COVID-19 society emerges, the global and national pictures may be temporarily bleak. Nevertheless, we must avoid losing sight of everything we know about how to meet the developmental needs of youths at risk for delinquency, especially youths we know are greater risk for system involvement. We have seen ongoing implementation of evidence-based practices and reforms bring about the lowest numbers in decades for juvenile arrest and entrenchment in the juvenile justice system. It is both very possible and desirable that these efforts continue despite any impact of COVID-19. To successfully do so, however, we must avoid being swayed by potential moral panics or conservative rhetoric that may surface as a result of anticipated increases in delinquency. We must remind policy and decision-makers that we *know* less punitive, more rehabilitative, trauma-informed approaches *work*; after getting through COVID-19, such practices will be ever more necessary for tomorrow’s youths.

COVID-19 as a Seminal Event for Ongoing Reform

Community-based diversionary practices show to be more cost-effective *and* safer for youths’ health. We hope to see even greater implementation of evidence-based practices that account for youths’ risks and needs by responding accordingly with proper services and resources in the community. We also recommend that we

learn from the lived experiences of juvenile justice-involved youths, staff, and other essential personnel. By directly asking their insights on an unprecedented situation and lessons learned for the future, we can better support our juvenile populations and essential employees.

Secondly, we hope agencies and states increasingly recognize the harm that comes from fines, fees, and costs associated with maintaining connections with community supports and/or probation conditions. This has always been a concern for the most fragile families but is even more applicable during a time of such widespread unemployment (e.g., near 14.7% (U.S. Bureau of Labor Statistics, 2020)). Detaining youths on technical violations for nonpayment of fines or fees and/or charging for virtual visitation with family are just two examples of seemingly counterproductive practices.

Third, tracking the impact of ongoing reforms and related outcomes is integral. Thus, we echo prior recommendations (e.g., see Lane, 2018) and suggest broadened national efforts in recording and presenting juvenile justice-related data. Applying the deliverables coming out of the Model Data Project (Deal, 2018) would be a great start to making such data available to the public in a more timely and transparent manner.

On both a micro and macro-level, we face uncharted territory as we transition toward what remains, has changed, and will come after COVID-19. Just weeks prior to the pandemic outbreak, The Urban Institute released a report on lessons learned in closing youth prisons (see Harvell, Warnberg, Matei, & Mensing, 2020). In that report the authors note how seminal events can be catalysts for continued reforms (Harvell et al., 2020), bringing to mind the old adage: strike while the iron's hot.

We view states' varied responses to COVID-19 and the unprecedented speeds at which many agencies reduced confined populations and restructured community services *as* such seminal events. The timing is right for accelerating reforms that continue to be in the best interest of youths. These reforms include further reducing system-involved populations, closing less therapeutic facilities, and expanding implementation of evidence-based approaches in community settings. If nothing else, this pandemic has revealed how quickly decisions can be made and things can move when they *really* need to; we find no reason for such momentum to end simply as a result of the COVID-19 curve flattening.

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Appendix

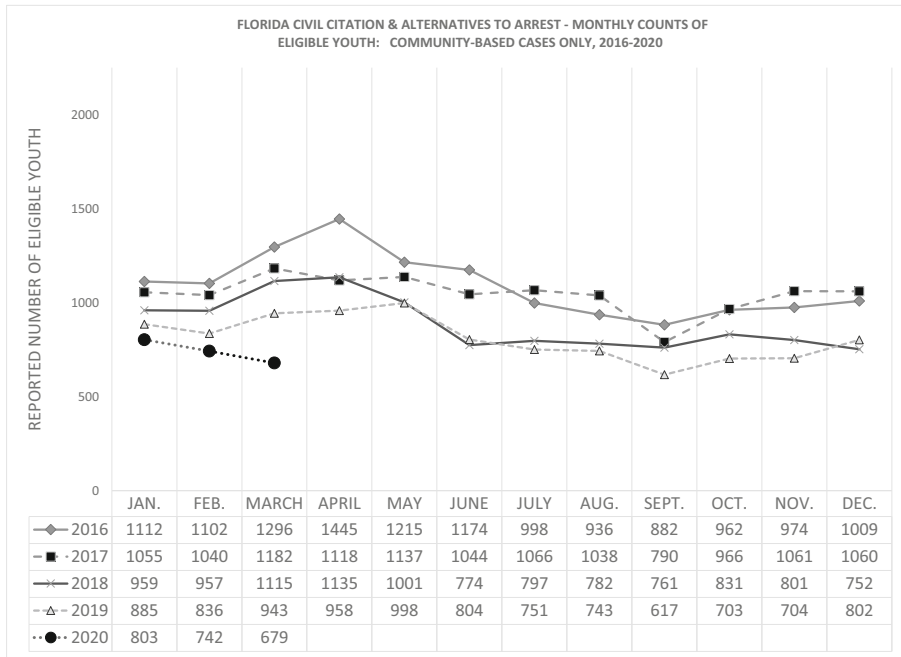


Fig. 1 FDJJ reported cases of eligible youth for civil citation 2016–2020; all months, community-based cases only

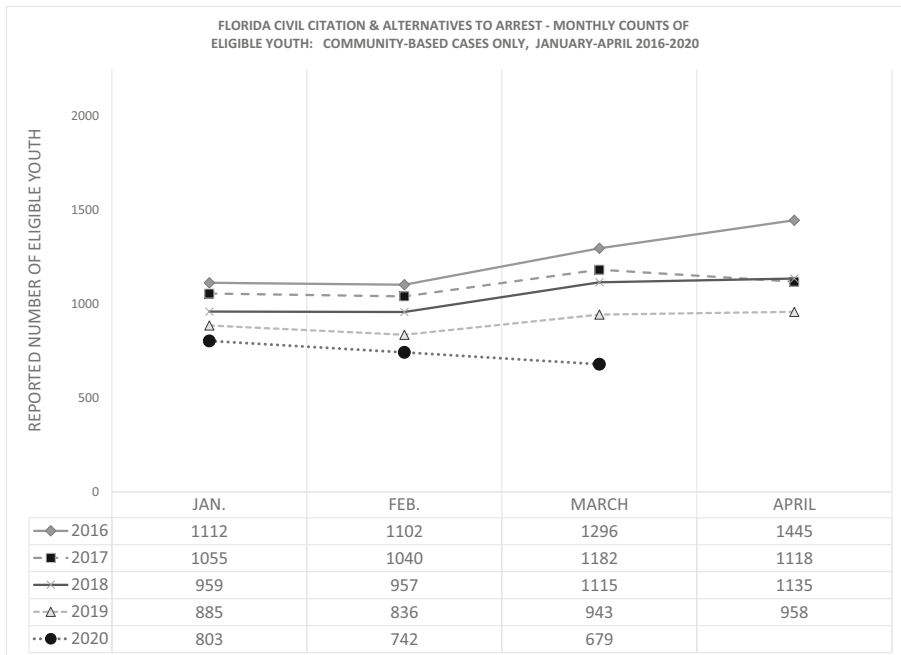


Fig. 2 FDJJ reported cases of eligible youth for civil citation 2016–2020; January–April only, community-based cases only

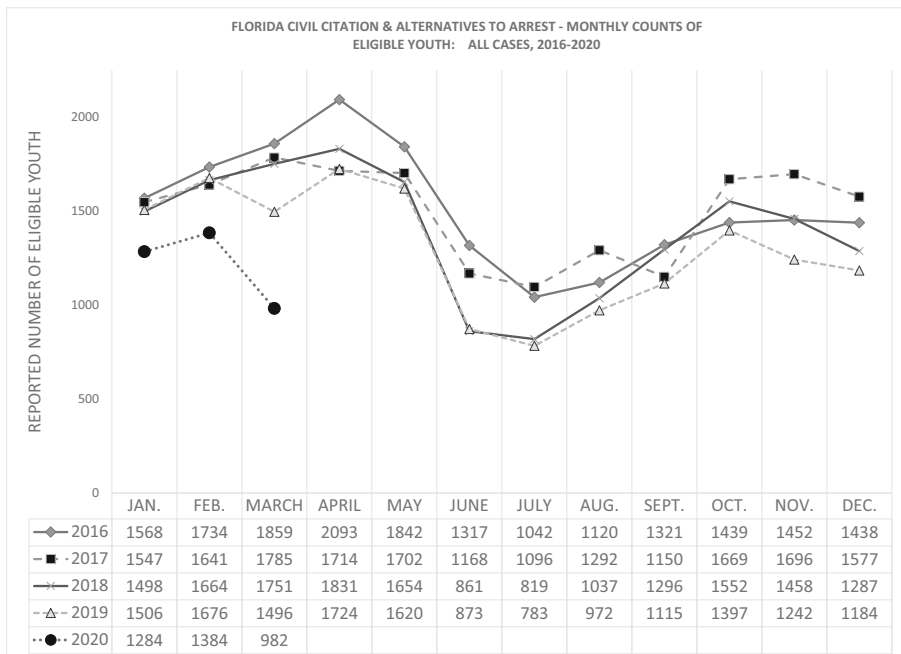


Fig. 3 FDJJ reported cases of eligible youth for civil citation 2016–2020; all months, all cases

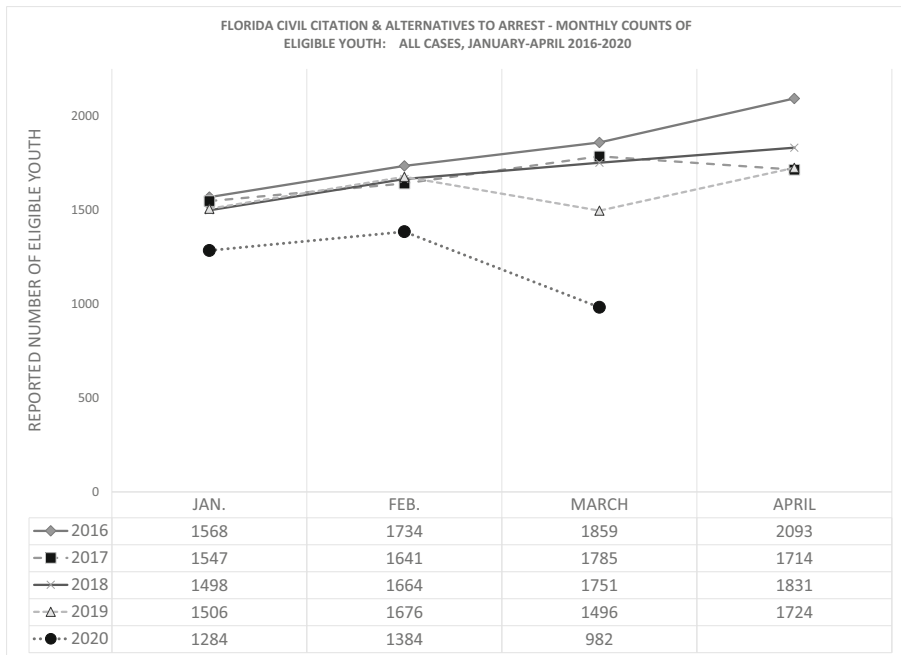


Fig. 4 FDJJ reported cases of eligible youth for civil citation 2016–2020; January–April only, all cases

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