

Youth Arrests in Group Homes and Shelters

History

Researchers have documented the long history of youth in foster care crossing over to juvenile justice systems in jurisdictions across the country. Not surprisingly, placement in congregate care makes it more likely that a youth in foster care, whether referred directly from or living in group care, will come into contact with the juvenile justice system.¹ For example, in one large scale research study, youth in group foster care settings compared to youth living in foster family home settings, after controlling for race, sex, abuse and placement history, presence of behavior problems, and history of running away, were 2.4 times more likely to be arrested than youth in foster home settings.² The nature of group care is at the root of the problem. Children of all ages need to establish a secure, healthy attachment to at least one adult to help develop social competence, self-reliance, and strong emotional regulation. Shift care and rules that discourage close relationships between staff and youth interfere with access to a consistent parental figure leaving youth to rely on peers for close emotional relationships, more susceptible to negative peer influences, and more likely to engage in risky behavior.³ The combination of the impact of complex trauma of youth in group care, the standardized one size fits all rules of group care, and the rigid regulation of the personal lives of youth in group care, undermines healthy development and incites defiance.⁴

Consequences

Overreliance on the use of law enforcement for behavior management further traumatizes and negatively impacts all children in the facility. The facility's need for law enforcement intervention and the consistent police presence imposes additional trauma and signals to children with histories of trauma that their caretakers are unable to effectively control the environment and protect them. Youth who are arrested, detained and prosecuted for minor misbehavior, experience harsher treatment than children living in a family, who would likely be diverted from formal handling, and left or released to a parent to handle the situation. Contact with the justice system can create lifelong stigma, harsher system consequences, and significant barriers to successful transition to adulthood and independence.

¹ Cutuli, J. J. et al. (2016) "From foster care to juvenile justice: Exploring characteristics of youth in three cities." *Children and Youth Services Review*, 67, 84–94; Ryan, J. P., et al. (2008). Juvenile delinquency in child welfare: Investigating group home effects. *Children and Youth Services Review*, 30, 1088-1099.

² Ryan, J.P. et al. *supra*.

³ Zajac, L. et.al. (2017) Group Care in the United States: A Brief Review of Prevalence, Problematic Outcomes, and Alternatives. <http://www.courts.ca.gov/documents/BTB24-PreCon1A-1.pdf>

⁴ Dozier, M., et al. (2014) Consensus statement on group care for children and adolescents: A statement of policy of the American Orthopsychiatric Association. *American Journal of Orthopsychiatry*, 84, 219–225.

Prior Legislation

AB 388 (Chesboro, 2014) established reporting requirements on law enforcement calls by residential foster care facilities (group homes and shelters) to the Community Care Licensing Division (CCL) of the California Department of Social Services (CDSS), increased licensing oversight of facilities that call more than average, and required CDSS to develop performance standards and outcome measures to reduce the reliance on law enforcement to manage behavior. AB 388 performance standards and measures should have been adopted by January 1, 2016, but the development has been folded into the Continuum of Care Reform (CCR) accountability measures that to date are still under development. Although several studies have documented the problem of California youth arrests in group care, little data in California existed to evaluate the extent of the problem prior to the passage of AB 388.

Data

AB 388 established reporting requirements for law enforcement calls by residential facilities for foster youth, increased licensing oversight of those facilities, and required the development of performance standards and outcome measures to reduce the reliance on law enforcement to manage behavior. Despite these measures and the Legislature's expressed intent in AB 388 to reduce reliance on law enforcement for behavior management, foster care facilities continue to call law enforcement for matters that should be handled internally. In 2016, The majority of non-mandated calls (60%) were for behaviors not deemed to be assaultive or aggressive, but were for behavioral health emergencies, property damage, substance abuse, and theft. The calls to law enforcement from children's residential facilities in 2016 alleging a violation of law by youth resulted in 435 youth being cited, 527 youth being detained or arrested and 319 youth being booked into juvenile hall. Only six months of data (released in June 2018) is posted for 2017, but residential facilities are on pace to significantly increase the number of calls from the prior year. The six month 2017 data reveals 329 youth being cited, 201 youth being detained or arrested and 330 youth being booked into juvenile hall a pace that doubles the 2016 incarceration rate.⁵

The San Francisco Chronicle's foster care investigative series' article, *Fostering Failure: Dubious Arrests, Damaged Lives*, <http://projects.sfchronicle.com/2017/fostering-failure/> documents the criminalization of children in foster care facilities. The series (<https://www.sfchronicle.com/investigations/>) highlights, for example, foster youth who have been arrested for a cake icing food fight and charged with inciting a mob or assault with a deadly weapon for poking a staff person with a candy cane where no injury was sustained. In yet another case, a child was charged with burglary of an occupied dwelling for taking juice drinks from a closed closet without permission. In one last example, a facility called the police

⁵ CDSS AB 388 Law Enforcement Contact Reports.
<https://secure.dss.ca.gov/CareFacilitySearch/DownloadABLEData>

on two boys who stayed up after curfew, banged on the bedroom doors of their fellow residents, and rang the facility's door bell. When law enforcement could not make an arrest for an alleged misdemeanor offense, staff made a citizen's arrest and the two boys were carted off to juvenile hall.

Pending Legislation

AB 388 provided data and increased oversight, but did not require the adoption of policies on how to reduce reliance on or when to call law enforcement. Foster care facilities are required to provide effective care and supervision that does not use law enforcement as a form of discipline, but facilities are left to decide whether to adopt protocols or policies on when to contact law enforcement and whether to require any behavioral interventions before resorting to law enforcement intervention. CDSS' oversight is limited to ensuring that facility policies and practices do not conflict with state law and CDSS measures the appropriateness of law enforcement calls of those facilities that call frequently against the facility's own policies. Current law does not provide any clear guidance for facilities regarding reliance on law enforcement for managing behavior that facilities should be handling internally. The facilities that disproportionately call law enforcement incorporate calling the police into their behavior management systems, use law enforcement as a scare tactic, juvenile hall as a time out, or the justice system as a punishment despite regulatory prohibitions on calling law enforcement as a disciplinary measure.

AB 2605 (Gipson 2018) would require foster care facilities to adopt protocols for contacting law enforcement that include trauma-informed and evidence-based de-escalation and interventions, staff training on the protocols, address emergency situations where there is an *immediate risk of serious harm*, and provide that law enforcement intervention is used as a last resort. AB 2605 is similar to the approach taken by many schools across the country that have examined and revised school discipline policies and practices to eliminate reliance on law enforcement for student behavior that should be handled as a school disciplinary matter. In California, school districts in Pasadena, Oakland and San Francisco have adopted policies and entered into MOUs with law enforcement to keep minor misbehavior in school as a school disciplinary matter.⁶ AB 2605 has been combined with the Fostering Success budget ask to provide training and community supports to address youth arrests in group care and incorporated into the budget trailer bill SB 845.

Closing. As implementation of the Continuum of Care (CCR) moves forward, youth in foster care should have less exposure to the increased risk of law enforcement contact while in group care. However, until the goals of CCR are attained, it is important to ensure that youth who remain in group care are protected.

⁶ ACLU (2016) Right to Remain a Student, https://www.aclunc.org/sites/default/files/20161019-the_right_to_remain_a_student-aclu_california_0.pdf

California Department of Social Services
Children's Residential Program
Assembly Bill 388 Data

2017 (January - June) AGGREGATE INCIDENT DATA BY FACILITY TYPE											
Facility Type	Count of Facility Type	Law Enforcement Contact Data									
		Total Law Enforcement Contacts	Type of Law Enforcement Contact			Outcome of Law Enforcement Contact					
			AWOL	Assaultive, Aggressive Behavior	All Other Contacts	Returned to Facility	Detained	Citation	Arrest	Juvenile Hall	All Other
Group Home	706	16368	13252	2632	484	10915	91	329	110	330	4593
Transitional Housing Placement Program	35	336	90	96	150	69	2	4	22	2	237
Transitional Shelter Care Facility	0	0	0	0	0	0	0	0	0	0	0
Community Treatment Facility	1	9	6	1	2	5	1	0	0	0	3
Runaway and Homeless Youth Shelter											
Short Term Residential Therapeutic Program-GH	1	16	8	0	8	11	0	0	1	3	1
Total:	743	16729	13356	2729	644	11000	94	333	133	335	4834

- > The data collected in 2017 is not consistent with the 2016 data as reporting and data collection procedures were still being developed. The methodology used in 2017 will serve as the new baseline for future reporting.
- > Incident data is for the first 6 months of calendar year 2017 and was compiled based on incidents which occurred between January 1, 2017 through June 30, 2017.
- > To protect the identity of the youth, the facility level incident data has been redacted if that facility had 3 or fewer placements in the reporting period, and one or more law enforcement contacts. The aggregate data does contain all data including the types and outcomes of law enforcement contacts.
- > "Placement Count" is from January through June of 2017. Data reflects the number of placements, not the number of clients. Therefore, an individual youth can have multiple placements in the same facility.
 - Data source: Child Welfare Services/Case Management System (CWS/CMS)
 - Numbers in the "2017 Placement Count" column reflect only those placements made by a county child welfare or probation agency as entered into the Child Welfare Services Case Management System. Placements made by a private party are not reflected in this data.
- > "Number of all other Law Enforcement Contacts" includes incidents relating to substance abuse, behavioral health emergencies, property damage and theft.
- > "Law Enforcement Outcome: Arrests" includes arrests that were made without booking, including those resulting in placement in Juvenile Hall.
- > "Law Enforcement Outcome: All "Other" includes unknown outcomes, incidents relating to behavioral health emergencies, reports filed with law enforcement, youth counseled and interviewed by law enforcement and beds that were closed.

Acronyms for Facility Types:

- Group Home (GH)
- Transitional Housing Placement Program (THPP)
- Community Treatment Facility (CTF)
- Runaway Homeless Youth Shelter (RHYS)
- Short Term Residential Therapeutic Program (STRTP)
- Transitional Shelter Care Facility (TSCF)

Data Extraction Date: January 29, 2018

GROUP HOME INCIDENT DATA														
Facility Information					Law Enforcement Contact Data									
Facility Name	County	Year	Facility Capacity	CY 2017 Placement Count	Total Law Enforcement Contacts	Type of Law Enforcement Contact			Outcome of Law Enforcement Contact					
						AWOL	Assaultive/Aggressive Behavior	All Other Contacts	Returned to Facility	Detained	Citation	Arrest	Juvenile Hall	All Other
A. MIRIAM JAMISON CHILDREN'S CENTER	Kern	2016	56	10	116	113	2	1	48	0	0	0	0	68
		2017	56	4	78	72	4	2	37	0	0	2	4	35
A.B. & JESSIE POLINSKY CHILDREN'S CENTER	San Diego	2016	204	1404	393	298	61	34	300	0	3	20	0	70
		2017	204	603	197	126	71	0	124	0	1	1	8	63
MARY GRAHAM CHILDREN'S SHELTER	San Joaquin	2016	60	141	2527	2299	129	99	2139	0	13	11	38	326
		2017	60	39	466	427	38	1	389	2	4	1	13	57
ALL OF GOD'S CHILDREN GROUP HOME	Riverside	2016	8	25	23	18	1	4	15	0	0	0	0	8
		2017	8	12	64	14	50	0	18	0	0	0	0	46
ASSOCIATED RESIDENTIAL SVCS INC I	San Diego	2016	12	19	28	20	2	6	17	0	0	0	0	11
		2017	12	30	37	26	11	0	18	0	1	0	0	18
BOYS TOWN CALIFORNIA, INC	Orange	2016	19	27	25	10	7	8	12	0	0	3	0	10
		2017	19	9	21	3	18	0	5	0	0	0	2	14
CASA DE AMPARO	San Diego	2016	50	78	249	192	34	23	170	0	0	12	0	67
		2017	50	56	170	131	36	3	131	0	0	2	8	29
SUMMITVIEW - AGAPE HOUSE	El Dorado	2016	6	22	39	23	4	12	7	0	0	2	2	28
		2017	6	20	40	16	15	9	12	1	0	0	3	24
Group Home 2016 Aggregate Incident Data					27359	21546	2368	3445	17094	72	424	430	311	9062

2015-2017 AGGREGATE COMPLAINT AND ENFORCEMENT/ADMINISTRATIVE ACTION DATA FOR GROUP HOMES											
	Complaint Data						Enforcement/Administrative Action Data				
	Total Complaints Received	Type of Complaint Received				Complaint Outcome		Type of Outcome			
		Priority 1	Priority 2	Priority 3	Priority 4	# of Substantiated Allegations	# of Complaint Citations	Individuals Excluded from Facilities	License Suspensions	License Revocations	License Surrenders
2015	2622	89	275	1433	825	555	578	100	0	14	126
2016	1920	56	171	1051	642	411	403	88	3	11	66
2017	1488	59	164	910	355	278	213	89	0	10	114
Total:	6030	204	610	3394	1822	1244	1194	277	3	35	306