

# Vera Institute of Justice

## Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/least-restrictive-alternative>

### Public Facing Advocacy Writing

Based on the original charter of the family court movement dating back to the 1960s, the decision to incarcerate a young person in the juvenile justice system is supposed to be based on a careful weighing of the risk that a youngster poses to public safety and the availability of less restrictive alternatives that meet that young persons rehabilitative needs and allow him or her to remain safely in the community. As this [New York Times article](#) by Solomon Moore points out, this simple and compelling doctrine breaks down as soon as you consider that a high percentage of young people who enter the juvenile justice system have mental health treatment needs. Moore points out that without effective community-based treatment programs to meet troubled youths' needs, judges often feel compelled to use incarceration as a proxy therapeutic setting.

Moore correctly identifies the core issue facing every family court and juvenile justice system throughout the country: the challenge of disentangling risk from need and finding appropriate treatment programs so young offenders aren't punished for needing treatment. But not all jurisdictions are using detention and incarceration settings as proxy asylums. Some are finding creative ways to pay for research-tested community-based programs.

The average cost of incarcerating one young person for a year (some estimates run as high as \$150K) could save enough money to send 20 other youth to state-of-the-art mental health and substance abuse treatment programs in their communities. Some states notably Illinois and New York have done the math and funded an array of research-tested, community-based treatment alternatives. However, closing juvenile prisons and repurposing funds to keep kids at home and in treatment is not always politically popular. Gladys Carrion, New York State's reform-minded commissioner of the [Office of Children and Family Services](#) the agency that oversees juvenile prisons has faced fierce opposition for taking this policy position, although her efforts have picked up steam in the context of Governor Paterson's [Task Force on Transforming Juvenile Justice](#).

There is no doubt that youth with serious mental health difficulties often penetrate deeper into the juvenile system than less impaired youngsters. But when reading Moore's article it's also important to note that researchers and policy makers (see Linda Teplin and Jeffrey Butts) have begun to reevaluate the scope of the problem and, by questioning how mental illness is defined, to challenge the accuracy of the often-quoted statistic Moore references: (66%) of the nation's juvenile inmates have at least one mental illness. Labels like conduct disorder and oppositional defiant disorder long-time staples of court-based psychiatry might get a youth included in that 66 percent. But they tell us nothing more about a young person's mental health other than perhaps that he or she is a normal adolescent in trouble with the law.

Transformative change, sent to your inbox.

Vera Institute of Justice. All rights reserved.