

**CHANGING THE PINS SYSTEM
IN NEW YORK:**

A Study of the Implications of
Raising the Age Limit for
Persons in Need of Supervision (PINS)

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Executive Summary

Under a new law, troubled 16- and 17-year-olds across New York State will shortly begin to enter the PINS system – a system already striving to deal with younger children who skip school, leave home, or disobey their parents. For decades, New York has limited its system to children under 16. But last year the New York State legislature passed a bill that raises the PINS eligibility age to 18 starting November 1, 2001. The Governor signed this legislation to assist and support families seeking help with their troubled older children.

This study examines the strengths and weaknesses of the current system and provides the first comprehensive projections of how many more children will enter under the new law. Vera researchers analyzed statewide data kept separately by the courts, probation departments, and social service agencies, as well as more detailed data from ten counties across the state, including all five counties of New York City. To place the resulting statistics in context, Vera staff conducted interviews and focus groups with children, parents, social workers, and government officials familiar with all aspects of the PINS system. Finally, Vera staff compared New York law and practices with those of other states, most of which already serve 16- and 17-year-olds in their equivalent systems.

The results suggest that absent any changes in current procedure, older teens will enter the system in large numbers. Our estimates, based on national patterns and data from New York, suggest that the new law will increase the number of cases coming into the system by between 69 and 105 percent. This increase could be costly to New York taxpayers, with a large proportion of the new costs going to pay for out-of-home placements. But there is encouraging news as well. The results suggest that the most expensive parts of the current system—group homes and foster care—are also the least satisfying for parents and children; and that some New York counties, as well as a few other states, have already successfully reorganized their systems to virtually eliminate these unsatisfactory features.

The report concludes that state and local officials must choose among several options for handling the additional cases they will see under the new law. The options range from the simple but expensive solution of expanding the current system to the more complex but economical solution of substituting family services and short-term respite care for the detention, supervision, and foster placement of these children by the Family Court.

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Introduction

This November, county and city agencies across New York State will experience an influx of new cases into the PINS system, a system that helps families deal with children who skip school, run away from home, or disregard their parents' authority. In New York, these children are known as "persons in need of supervision"; nationally, they are also referred to as "status offenders" because the laws they break apply only to minors. The new cases will be the result of a change in New York State law raising the maximum age of status offenders from sixteen to eighteen (Chapter 596 of the Laws of 2000).

Prior to the passage of Chapter 596, a PINS petition could be filed in Family Court for a child who was "less than sixteen years of age" and who was habitually truant, disobedient, incorrigible or ungovernable (Family Court Act §712; *Matter of Patricia A.*, 31 N.Y.2d 83, 88-89 [1972]). As a result, if a child was aged sixteen or older, the parents could not obtain the assistance of the PINS system. Chapter 596 amended the Family Court Act and Social Services Law to expand the definition of a PINS to include children sixteen and seventeen years of age. The legislation also amended Family Court Act §718 to authorize peace officers to return such children to their homes when they have run away without just cause.

Most parents pride themselves on being able to care for their children without the assistance of government. Unfortunately, however, there are some teenagers who are "beyond the lawful control" of their parents. (Family Court Act §712). Local government officials can assist these parents in getting their children back on track, but until recently the law precluded such assistance for children who had already reached the age of sixteen. When Chapter 596 takes effect on November 1, 2001, the parents of sixteen- and seventeen-year-old children will now be able to seek assistance through the PINS system. This legislation should help these parents obtain much needed treatment, counseling and supervision for their children. In addition, if these troubled children run away, the police will now be able to return them home. Finally, this legislation will send a message to these teenagers—that they are expected to stay at home and follow their parents' guidance at least until they turn eighteen. Shortly after the new law was passed, the Commissioners of Criminal Justice and the Office of Children and Family Services asked the Vera Institute of Justice to assess how county agencies that provide PINS services will be affected when the law comes into effect and how the state can help localities prepare to best serve these additional troubled children and families. This report is the result of that assessment.

Most states already include these older teens in their systems, and national figures indicate substantial use of the status offender system by older youth and their families. Our estimates, based on national patterns and data from New York, suggest that the new law will increase the number of cases coming into the system by between 69 and 105

percent.¹ Unless other changes are made to the laws and regulations that govern the PINS system, serving this new population will lead to significant cost increases.

Many families of 16- and 17-year-olds worked for the passage of the new law because they need the help it promises. But there are also many families of younger children across the state who are unhappy with the services they are receiving under the present system. Fortunately, some of the least effective parts of the current system are also the most expensive, making it possible to conceive of a system that serves more children in need, more effectively, without substantial extra costs. The challenge is to redirect resources from the least effective parts of the current system into cost-effective services for the soon-to-be larger population. If state, county, and city agencies can meet this challenge together, the expansion of the PINS system may be an opportunity to make the entire system better and more cost-effective for all families.

Sources of Information About the PINS System

Responsibility for the PINS system is split among many government and nonprofit agencies, and consequently information about the system is fragmented. To compile a complete picture of the PINS system, we collected five broad types of information, drawing each from multiple sources.

First, we collected statewide data about the numbers of cases. These data came from probation departments, family courts, and social service departments in each county through their respective statewide agencies.² Taken together, these three data sets provided us with a rough estimate of the PINS population statewide.³ Whenever possible, we tested the quality of these aggregate data against data collected at the county level.⁴

Second, we collected data about the processing and duration of cases in certain counties. These data allowed us to address such questions as what brings youth into the PINS system, where they go within the system, and how long they stay.⁵ In general, county probation departments provided this information from their administrative databases, with the help of colleagues at social services or youth bureaus.⁶ We received substantial data sets from ten counties: Broome, Cattaraugus, Clinton, Erie, St. Lawrence, and the five counties within New York City. These particular counties were included

¹ See Appendix A for a detailed description of our methodology.

² These data sets were provided by the Division of Probation and Correctional Alternatives (DPCA), the Office of Court Administration (OCA), and the Office of Children and Family Services (OCFS), respectively.

³ Each data set has weaknesses. The analyses based on these data sources are best used for comparative purposes, not for the absolute numbers.

⁴ For example, we asked social service commissioners across the state about their involvement in their county's PINS system and the numbers of PINS youth placed in their care.

⁵ For a list of the data variables we collected and our research methods, see Appendix A.

⁶ In four counties, probation provided case-specific data. In one county, the family court provided case-specific data and in New York City, both probation and social services provided case-specific data.

because they reflect a broad range of New York State counties with respect to geography, population size and density, and socioeconomic factors. A somewhat larger group of selected counties was asked to submit data for our analysis, but these ten were the only counties that were able to produce data on short notice.

Third, we conducted interviews and focus groups with people who know the PINS system first-hand: children, parents, and professionals. These included discussions with lower-income families that focused on the current system's capacity to assist them in keeping their families intact. The professionals included those working in probation, social and mental health services, and schools, as well as police officers and judges.⁷ The results of these interviews and focus groups help to explain some of the patterns in the administrative data and the different practices in local PINS systems.

Fourth, we reviewed the experiences of other states with status offenders, including the status offender statutes of all fifty states. New York is one of only six states in which the age for status offender jurisdiction is under eighteen.⁸ Consequently, the experiences of 16- and 17-year-old status offenders in other states informed our projection about how 16- and 17-year-olds in New York will use the PINS system. In addition, we spoke with officials in other states to learn how they handle status offenders and reviewed the literature about these systems.

Finally, we collected and reviewed the provisions of New York State law related to status offenders. We reviewed Article 7 of the Family Court Act, the law governing PINS—its legislative history and its accompanying rules and regulations. In addition, we reviewed related New York statutes, including Articles 3 (Juvenile Delinquency), 8 (Family Offenses), and 10 (Child Protection) of the Family Court Act, the Runaway and Homeless Youth Act, and key provisions of the Mental Hygiene Law, the Child Welfare Reform Act, and the Education Law.

Wide Variation Across New York

Projecting the impact of the new law is particularly difficult because counties experience the PINS system differently. Moreover, these differences among counties follow no clear pattern. Counties with similar demographic profiles and in close proximity use the PINS system in very different ways. For example, Kings County in New York City appears to use the PINS system much like Schoharie, a small, rural county outside of Albany, but quite unlike New York County, just across the East River. This type of variation suggests

⁷ We conducted the majority of the focus groups and interviews in New York City and Erie County. Limited time and resources prevented significant qualitative data collection outside of these two regions. We conducted phone interviews with key players in other counties, including family court judges, probation directors, and parents. See Appendix A for a detailed list of all focus group and interview activities.

⁸ The five other states are Georgia, Massachusetts, Michigan, Texas, and Vermont.

differences driven by local agency policy and practice rather than by differences in families and their needs.

Two key statistics enable comparison among counties in New York State—the number of PINS intakes (children brought to the local probation office by parents or others) and the percentage of these PINS cases that the local probation officers refer on to court.

Calculating the number of PINS intakes per one thousand 11- to 15-year-olds living in each county, the population from which most PINS cases are drawn, creates a *usage rate*. This is the rate at which families in a given county rely on the PINS system to help them with their adolescents (see Map 1).⁹ Counties with very high usage rates are shown in red while counties with very low usage rates are shown in light yellow.

While the usage rate tells us how heavily a county relies on the PINS system, the court referral rate tells us how heavily that county depends on the court, rather than social service support for families, to deal with these children (see Map 2). The pie charts shown in each county show the proportion of cases referred to court. Despite a single statutory scheme, which encourages use of family-based interventions as an alternative to court, court referral rates vary widely from less than five percent to more than eighty percent.

The alternative to a court referral is a referral to “adjustment services.” This involves a family assessment followed by social services. While the referral always begins with the probation department, the services themselves may be provided by social service agencies, schools, and community-based organizations. Either a referral to court or a referral to adjustment services should bring more discipline to bear on a child, but where adjustment services strengthen the discipline provided by the family, court action substitutes state discipline for family discipline. Specifically, the result of a court referral in most cases is to place the child under probation supervision, into a juvenile group home, or into foster care.

Alone, the usage rates and the court referral rates allow us to compare trends across counties. But put together, these two measures provide a fuller picture of how the PINS system functions across the state (see Map 3). To return to the earlier example, we can now easily see that Kings County and Schoharie County both have relatively low usage rates and high court referral rates, making them more like each other than they are like their neighbors. Even within New York City, there is significant variation in court referral rates across the five boroughs. For example, in 1999, Manhattan probation referred approximately 20 percent of its PINS cases to Family Court in contrast to Brooklyn, where just over 50 percent of PINS cases were referred to court.

⁹ Population estimates were derived from the *U.S. Census* data files described as the “1990 to 1999 Annual Time Series of County Population Estimates by Age and Sex.” For the purposes of our analysis, we defined 11-to-15-year olds to be the relevant population. A single count of 11-to-15 year old boys and girls per county was aggregated from the raw census files.

St. Lawrence is an example of a county with a high usage rate (62 children in one thousand are brought to the PINS system) that usually responds with adjustment services to support the family—only one-quarter of its PINS cases are referred to court. Its neighbor, Franklin (shown in red on Map 1) has a similarly high usage rate, at 42 per one thousand, but refers almost three-quarters of its cases to court.

The probation director in St. Lawrence reported that her department encourages parents to use the PINS system, particularly for younger kids, who are more responsive to intervention than older kids. She also prefers to use adjustment services to strengthen family discipline for PINS youth. Her department strives to work with these youth in their own homes, schools, and communities.

The wide variation in the use of the PINS system from county to county is a result of changes in the law made sixteen years ago, when New York was a pioneer in its handling of status offender cases. The experience over these last sixteen years contains many lessons for reformers today.

A Historical Perspective on Status Offenders

At the beginning of the twentieth century, the category “juvenile delinquent” was born out of the desire to separate children from adults in the criminal justice system. Similarly, in the early 1960s, the category “status offender” was created to separate juvenile delinquents who had committed a crime from truants, runaways, underage drinkers, and others who had broken rules that apply only to children. California was the first state to create a special category for status offenders in 1961. In 1962, New York State passed the Family Court Act, distinguishing juvenile delinquents from status offenders, known as Persons In Need of Supervision (PINS). In the years that followed, other states adopted similar status offender laws.¹⁰

The New York State law defines a “person in need of supervision” as “a male less than sixteen years of age and a female less than eighteen years of age who does not attend school in accord with...the education law or who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of parent or other lawful authority or who violates the provisions of section 221.05 of the penal law, [unlawful possession of marijuana].”¹¹ The courts later declared unconstitutional the difference in the age cutoff for boys and girls, with the result that until the present change in law, New York’s PINS jurisdiction was limited to youth under age sixteen.¹²

Status offenders inhabited a system that was already troubled. By the late 1960s, many believed that the justice system exercised too much power over juveniles, particularly status offenders who were not criminals, and that the state often failed to act

¹⁰ Cheryl L. Maxson and Malcolm W. Klein, *Responding to Troubled Youth* (New York: Oxford University Press, 1997), 26. Hereafter referred to as *Responding to Troubled Youth*.

¹¹ N.Y. Family Court Act Section 712.

¹² See *Matter of Patricia A.*, 31 N.Y.2d 83 (1972).

in the best interests of children. Some children's rights organizations sought to abolish the status offender category altogether. Around the same time, Supreme Court decisions such as *Kent vs. United States* (1966) and *In re Gault* (1967) extended due process rights to juveniles accused of criminal conduct.

In 1967, the President's Commission on Law Enforcement and the Administration of Justice released the *Task Force Report on Juvenile Delinquency*, which reported that status offenders were widely housed in jails and similar detention facilities. The panel called for these youth to be removed from secure custody. The prevailing wisdom was that families and community-based organizations, not penal institutions, should become responsible for these troubled kids. The Commission also recommended that lawmakers consider completely eliminating the court's power over status offenders.¹³

In 1974, Congress passed the Juvenile Justice and Delinquency Prevention Act (JJDPA), which required states to deinstitutionalize status offenders (DSO). The law required states to house status offenders and juvenile delinquents separately and to remove all status offenders from secure detention facilities, a provision that became known as the DSO mandate. For states to receive federal funding, they had to develop programs that offered young people prevention, diversion, and local treatment options.

The DSO mandate had several justifications. Some supporters pointed out that status offenders were not afforded the rights of defendants accused of crimes so should not face quasi-criminal court processes and dispositions. Others argued that secure institutions were not conducive to healthy development in children. Still others, with an eye on public budgets, argued that releasing these youth from secure detention promised significant cost savings.¹⁴

States took various approaches to the implementation of the JJDPA and its DSO mandate. California required status offenders to be removed from detention but provided no money for improved community services. Some states adopted diversion models, and implemented alternative programs such as crisis counseling to keep kids out of courts and jails. Louisiana, Massachusetts, Washington, and Pennsylvania removed status offenders from juvenile court and correctional jurisdiction altogether by transferring authority to welfare agencies, which provided shelter care, foster care, and individual and family counseling. Pennsylvania, Iowa, and Indiana transferred jurisdiction for selected status offenses, such as truancy and ungovernability, to the child welfare section of the legal code.¹⁵

The DSO mandate was not universally welcomed. Some working in the juvenile justice system resisted giving up the power to incarcerate status offenders, and both police and court intake workers found other ways to detain some children in this group.

¹³ Chris E. Marshall, Ineke Haen Marshall, and Charles W. Thomas. "The Implementation of Formal Procedures in Juvenile Court Processing of Status Offenders," *Journal of Criminal Justice* 11 (1983): 195.

¹⁴ *Responding to Troubled Youth*, 26.

¹⁵ *Responding to Troubled Youth*, 26.

Truants were charged as “trespassers,” and runaways as “delinquency suspects.” Courts found parental neglect in some cases and justified detention as an act of protection. Some children were apparently placed in psychiatric hospitals, which recorded an increase in adolescent clients with ambiguous psychiatric diagnoses.¹⁶

Despite this resistance, the new federal law succeeded in expanding diversion, treatment, and rehabilitation. It removed many inappropriately incarcerated juveniles from institutions, spurred the development of alternatives to incarceration, and provided many young people with services in the community. Every state passed legislation to comply with the federal law. In some states, the law was a catalyst for change. In others, such as New York, it added momentum and resources to local reform efforts already underway.

New York State

With the passage of the Family Court Act in 1962, New York had become one of the first states to treat status offenders differently from juvenile delinquents. Yet by the late 1970s, those who knew the PINS system remained dissatisfied. Many felt that the Family Court too often removed children from home for noncriminal behavior, and were concerned that the court process failed to address the family problems that led to PINS filings. Critics pointed out that many families were not well served, since receiving community services could be a frustrating and time-consuming process, and sole reliance on the court too often delayed or hindered, rather than helped the delivery of services.¹⁷

These concerns prompted legislators to pass the PINS Adjustment Services Act in 1985. The law created a mechanism, commonly known as PINS diversion, through which young people and their families could receive support from community services without judicial involvement.¹⁸ The goal of PINS diversion was to reduce unnecessary and inappropriate use of court intervention for troubled children and their families. It also sought to reduce out-of-home placements by encouraging a broad range of services—mental health services, social services, and others—that could respond to the problems that led to the PINS petition. Planners of the new program hoped it could achieve more desirable outcomes at less public expense, as fewer families formally pursued PINS cases in the Family Court.

Supporters of the Adjustment Services Act believed that families benefited in several ways by avoiding court involvement and receiving services in the community. First, the PINS court process was time-consuming, requiring both parent and child to attend several court hearings. Second, PINS hearings followed the adversarial model, pitting parent against child, exacerbating family disputes. Third, the court lacked the necessary tools for

¹⁶ *Responding to Troubled Youth*, 20.

¹⁷ Office of the Deputy Mayor of Public Safety. *The Voices of PINS Diversion* (New York, 1992), 5. Hereafter referred to as *Voices of PINS Diversion*.

¹⁸ N.Y. Family Court Act Section 735.

identifying services quickly for families in need, leading to an over-reliance on detention and placement, neither of which adequately met the needs of the youth and their families.

At the time of the change, a few reformers suggested mandating adjustment services in place of court jurisdiction. But such a move seemed too big a step away from a system that had relied for so long on the court. Instead, the state settled on a statutory scheme that strongly encouraged the use of family-based interventions through adjustment services but kept open the door to court.

At first, the 1985 reform seemed to be a great success, with many counties experiencing a decline in the use of detention or placement. For example, research on PINS cases in New York City from 1986 to 1988 demonstrated that the new adjustment services produced dramatic declines in both the number of cases that resulted in placement and the use of court-mandated services.¹⁹

But in the early 1990s, those successes proved difficult to sustain as the enthusiasm and funding that were initially behind PINS adjustment services deteriorated. Now, statewide, approximately half of all PINS cases entering through probation intake are still referred to court. Consequently, PINS cases continue to consume significant detention and placement resources, contrary to the intent of the 1985 reform.

Illinois

Other states, notably Illinois, went further. By the late 1970s, Illinois had a status offender system similar to the one in New York—it encouraged family-based services but allowed access to court. In 1981, a study of the status offender system in Cook County (Chicago), entitled *Promises, Promises*, documented that the continued availability of court sapped attention and resources from the family-based services.²⁰ It further noted that the court proved a poor vehicle for provision of services, leading to over-reliance on detention and placement.

In the wake of that study and with the encouragement of the Illinois Department of Children and Family Services, the legislature passed a law virtually eliminating court jurisdiction for status offenders.²¹ In its place, the legislature substituted two things: an enhanced police response to families, giving the police authority to take into limited custody, without a warrant, children who appeared to be runaways or out of their homes

¹⁹ In 1986, 3,351 cases were filed; in 1987, there were just 1,830, a 45 percent reduction. In the years before diversion, PINS cases made up three percent of the total court caseload. After diversion, they declined to less than 1.4 percent. *Voices of PINS Diversion*, 1.

²⁰ David Reed, Harris Meyer, Kim Zalent and Janice Linn. *Promises, Promises...Does the Juvenile Court Deliver for Status Offenders? – The Record in Cook County, Illinois*. (Chicago Law Enforcement Group, 1981).

²¹ Illinois divided truancy laws from those governing runaways and youth failing to obey parental authority. The state completely eliminated detention or placement for truancy cases but left a narrow avenue to court to access placement for runaways and youth failing to obey parental authority. This avenue can only be accessed after services, including respite care, have been attempted and have failed, and the family and child cannot agree on an alternative living arrangement. The Illinois reformers created this exception because Illinois lacks a voluntary placement system like the one available to parents in New York.

without parental permission; and enhanced, short-term respite care as part of family-based services.

The Illinois reform achieved its goals. Prior to the change in the law, Cook County struggled with approximately 1,200 placements per year; in the year after the change, the number of placements dropped to 43. This progress has been sustained—in recent years placements have remained under twenty, and in some years, no youth enter placement on status offenses.

Analyzing the Current PINS System

Many people participate in the existing PINS system: the youth who are thought to be in need of supervision, their parents or other petitioners who have brought them to the attention of the system, probation officers who screen all PINS cases, judges who preside over PINS hearings, social workers who serve the children and families in their homes, and detention and foster care workers who care for children who are placed outside of their homes.

Who Seeks Help from the PINS System?

The New York statute broadly defines who can file a PINS petition. The list of potential petitioners includes: police officers; parents or other persons legally responsible for the child’s care; any victim of or witness to the child’s misbehavior; schools and certain other authorized institutions; and juvenile prosecuting agencies.²² In practice, however, there are only three groups of petitioners—parents, schools, and police—and these three groups petition at varying rates from county to county. An examination of ten counties from around the state suggests that parents are the petitioners in anywhere from 42 to 95 percent of the cases, school personnel in 5 to 53 percent of the cases, and the police in up to 15 percent of the cases (see Table 1).

Table 1: PINS Petitioners for Selected Counties, 1999

	Parent	School	Police	Other	Total
Broome (n=372)	56%	44%	0%	0%	100%
Cattaraugus (n=258)	42%	47%	10%	1%	100%
Clinton (n=137)	45%	53%	2%	0%	100%
Erie* (n=1,127)	82%	13%	0%	5%	100%
St. Lawrence (n=198)	49%	30%	18%	3%	100%
New York City (n=5,536)	95%	5%	0%	0%	100%

Note: The table reads: 56 percent of the 372 PINS cases in Broome County were initiated by parents and 44 percent by school officials, with none by police or other petitioners.

* The information reported for Erie County in this table is based on intakes from 1999 and 2000. All other counties reflect intakes from 1999 only. Also, records provided by Erie County consist only of cases that were referred to court. The percentages for Erie exclude the petitioners of cases that were adjusted by probation and were not referred to court.

²² N.Y. Family Court Act Section 733.

The three groups of petitioners approach the PINS system for different reasons. In general, parents are seeking help when their children are disobedient, doing drugs, hanging out with a “bad crowd,” and running away. Many parents report that they initially want three things from the PINS system: official support for their authority (for example, help from the police in returning their child home), discipline for their child (in the form of boot camp or a constant monitor), and services (vocational, educational or job readiness training, and counseling). In focus groups, some parents with experience in the system reported that they benefited most from counseling support tailored to uphold their authority.

The large number of parents appearing as petitioners include some who are there at the urging of school officials and police. Some parents in both New York City and Erie County reported that school personnel sent them to the PINS system to deal with their chronically truant children. In some cases, parents say that attendance teachers and other school administrators threaten to file an educational neglect petition unless the parents file a PINS petition. An attendance teacher in New York City explained that school social workers are busy handling youth with serious behavior problems and do not have the time to address the problems underlying chronic truancy.

School officials can also file directly, and in some counties they do so. These officials may believe that the services available through the PINS system or the authority of a probation officer or judge will compel a habitually truant child to attend school. Alternatively, they may be using PINS petitions simply to document that they have fulfilled their responsibility for chronic truants. By moving parents to file PINS petitions or filing themselves, school officials can demonstrate that they took action in cases of students who are chronically truant.

The authority police have over status offenders is poorly understood, even by many police. Unlike those in other states, police in New York rarely file PINS petitions themselves. According to the National Center for Juvenile Justice, law enforcement agencies file about half of all status offense cases adjudicated by juvenile courts nationwide.²³ In seven of the ten New York counties we studied in depth, they filed none. Similarly, police in New York are reluctant to respond to parents’ requests that they use their powers to pick-up and bring home teenagers who are staying out all night or are gone for days at a time.²⁴ Rather than returning these children home or filing a PINS petition directly, police refer parents to the PINS system.

²³ These data include only cases that were referred to court. This percentage excludes the petitioners of cases that were adjusted by probation and were not referred to court. United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Juvenile Justice Statistics 1997* (Washington, DC, 2000), 38.

²⁴ The PINS statute currently provides police officers with the authority to either return a runaway to his or her parents or take a runaway to “a facility certified for such purpose.” N.Y. Family Court Act Section 718. Neither a PINS petition need be filed nor a warrant issued for this action. However, the police officer must

Who Are PINS Kids?

Children arrive in the PINS system for a multiplicity of reasons. However, only three statutory allegations define a person in need of supervision: truancy, incorrigibility, and violating section 221.05 of the penal law (unlawful possession of marijuana).²⁵ Some counties collect information solely on these three categories of allegations while others record more detailed charges under the category of incorrigibility, including: running away, abusive language, alcohol or drug use, keeping late hours, threats or use of force, destruction or theft of property, being sexually active or abusive, and associating with undesirable companions.

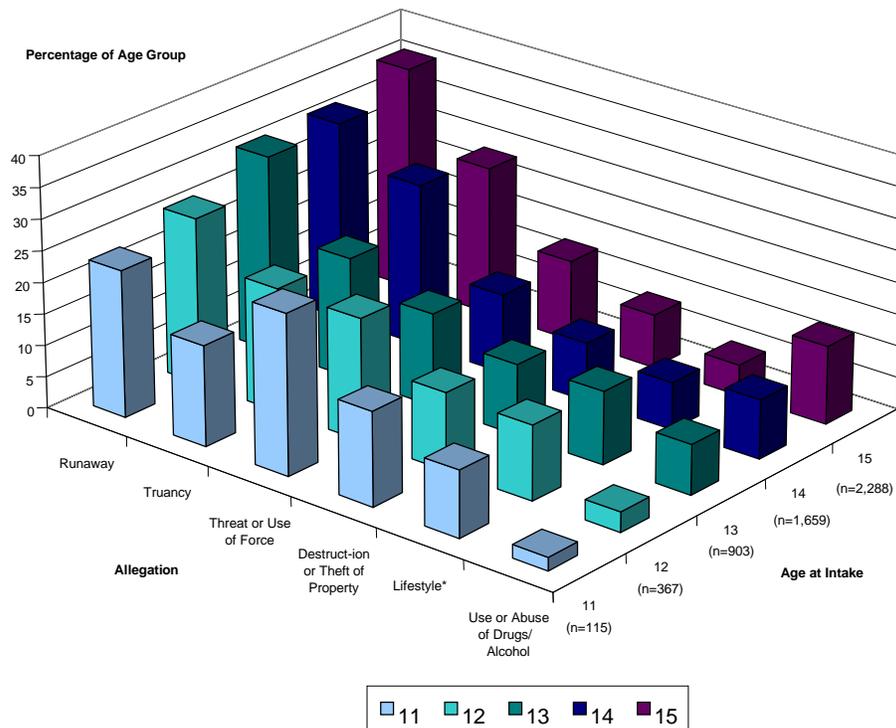
New York City records detailed allegations (25 categories in total) and allows a petitioner to mark more than one for the same child. Figure 1 provides a picture of allegations in New York City by the age of the child.²⁶ The two most frequent allegations are running away and truancy, both of which increase with age. A third allegation, use or abuse of drugs/alcohol, also increases with age.

have probable cause to believe that the child is a runaway. The recent amendment to the statute will extend this authority to youth under eighteen.

²⁵ N.Y. Family Court Act Section 712.

²⁶ New York City PINS records often include multiple allegations. In order to track variation in allegations across age groups, we created six general categories from a broader list of 25 allegations. We then ranked these categories by degree of seriousness in the following order: (from most to least) 1. threat or use of force, 2. runaway, 3. use or abuse of drugs/alcohol, 4. destruction or theft of property, 5. truancy, 6. lifestyle. Each PINS case was assigned a single value reflecting the most serious allegation.

Figure 1: PINS Allegations by Age, New York City, 1998



* The lifestyle category includes the following allegations: uses abusive language, keeps late hours, is sexually active, and has undesirable companions.

Three of the allegations decline as a percentage of overall allegations as age increases. These include threat or use of force, destruction or theft of property, and lifestyle. Both threat or use of force and destruction of property are allegations that have a delinquent equivalent if perpetrated on people outside the home. One possible explanation for the decrease in these allegations over time is that this behavior is interpreted as “incorrigibility” for younger teens, but as delinquent or even criminal for older kids.

A different explanation might account for the decrease in lifestyle allegations over time. As teens get older, parents might be more likely to ignore behaviors related to lifestyle, such as staying out late at night or being sexually active, than when children are in early adolescence. In other words, lifestyle allegations may seem more age-appropriate for older adolescents and no longer the cause for PINS involvement.

Many people we interviewed emphasized that truancy allegations are often signs of unidentified or misdiagnosed educational problems. For example, a student has difficulty reading, performs poorly in the classroom, is embarrassed, and becomes a habitual truant. Another student might be afraid to go to school because of gang activity, and consequently his attendance and grades plummet. One social worker involved in a truancy prevention program described a common case in which a youth who begins skipping school “for thrills” starts to fall behind in his schoolwork. The worse he does academically, the more the skipping becomes a regular habit.

Some of the problems described by the youth involved in PINS are common problems for many adolescents and their families. One boy placed in a group home told us that he believes that if his mother had not worked so much and had talked with him more about the importance of school and staying out of trouble, he would not have ended up in foster care. Another girl, removed from her grandfather’s home by the PINS system, complained that he did not understand “today’s world.” Some girls described the difficulties of resisting the temptations in the neighborhoods—boys, marijuana, and hanging out. One 16-year-old explained how much easier it was to behave well when she was younger and spent most of her time inside watching TV. Around the age of 12 or 13, she began spending more time with her friends in the neighborhood, and that is when the trouble started. Many of the teens we interviewed said that they needed the freedom to make their own mistakes and did not want to listen to the experiences of their parents.

In contrast to children in the delinquency system, who are overwhelmingly male, the children in the PINS system are balanced between boys and girls. In Cattaraugus, Clinton and St. Lawrence counties, boys represent a slight majority of PINS youth, while in Broome and Erie counties, girls appear in slightly higher numbers. In New York City, they are even (see Table 2).

Table 2: Gender of PINS Youth by County, 1999

	Male	Female
Broome (n=373)	46%	54%
Cattaraugus (n=259)	59%	41%
Clinton (n=137)	61%	39%
Erie* (n=1,127)	48%	52%
St. Lawrence (n=196)	66%	34%
New York City (n=5,536)	50%	50%

Note: The table reads across. For example: 46 percent of 373 PINS youth in Broome County are male and 54 percent are female.

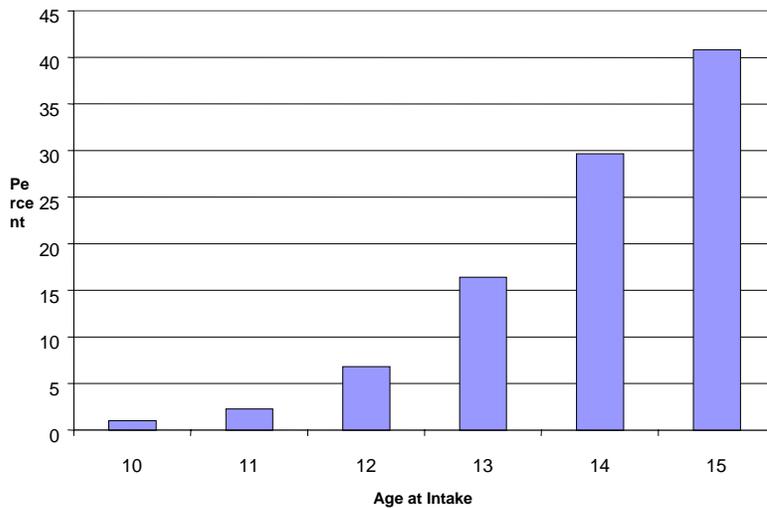
* The information reported for Erie County in this table is based on intakes from 1999 and 2000. All other counties reflect intakes from 1999 only.

Nationally, boys are involved in slightly more status offense cases than girls.²⁷ But a breakdown of allegations by sex shows that girls are a third more likely to be runaways while boys are more than twice as likely to violate liquor laws, an allegation not included in the New York State PINS statute.²⁸ The number of PINS cases increases with age, with the largest group being 15-year-olds (see Figure 2).

²⁷ In 1997, boys were involved in 59 percent of status offense cases. *Juvenile Court Statistics 1997*, 46.

²⁸ *ibid.*

Figure 2: Age at PINS Intake, 1999*



Note: The chart indicates the percentage of PINS cases by age. For example, 41 percent of all PINS youth in our study counties were 15 years old at the time of intake. (N = 7,310).

* Based on information from our five study counties and New York City. The portion of this data for Erie County is based on intakes from 1999 and 2000. All other counties reflect intakes from 1999 only.

How the System Responds

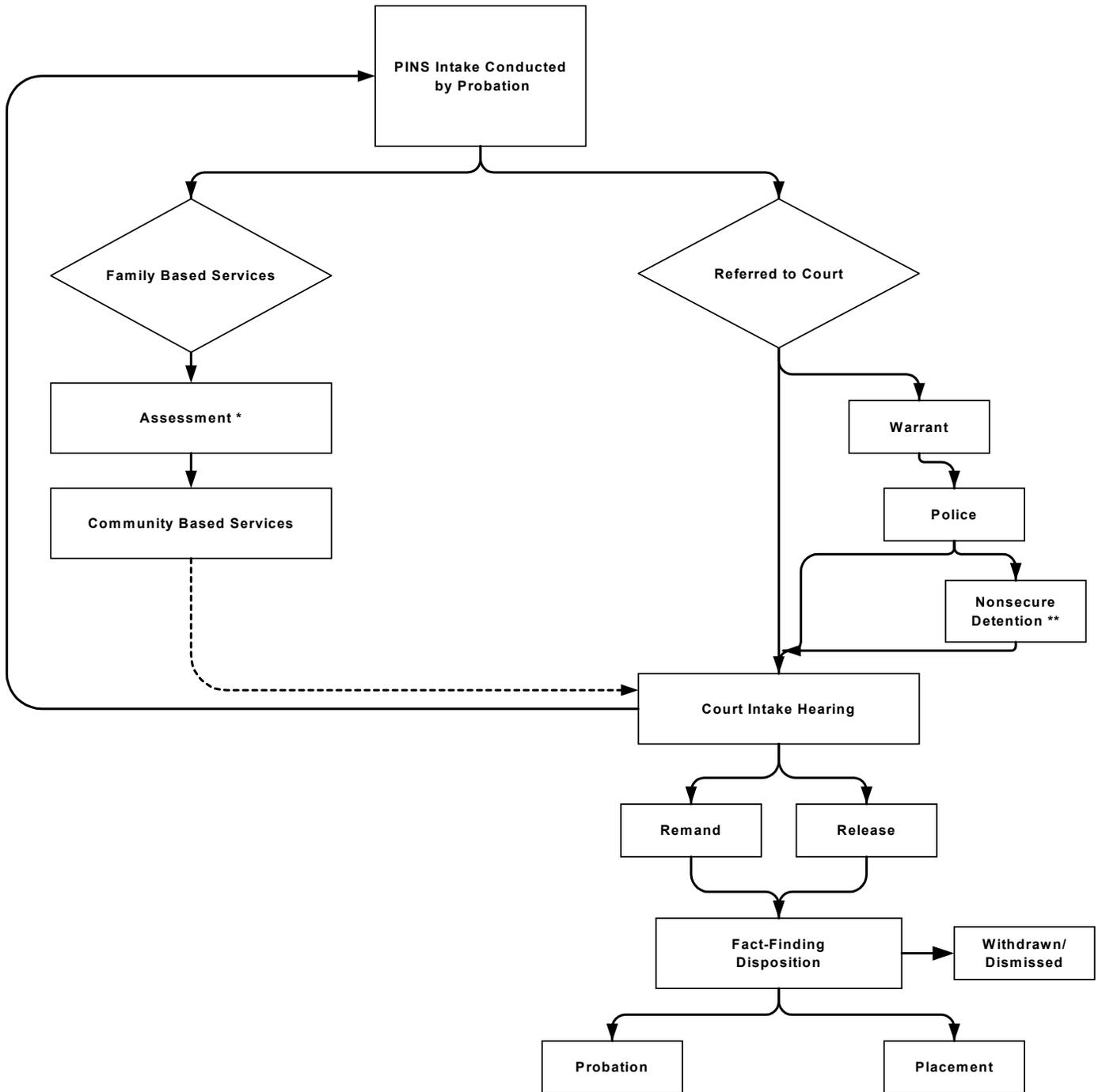
When parents or other potential petitioners decide that they need the state to help with their truant, runaway, or troubled child, they must approach the PINS system by way of the county probation department, which is responsible for PINS intake. By screening all potential PINS cases, the probation department functions as the gatekeeper for the PINS system (See Figure 3).

A probation officer conducts an intake interview, or a series of interviews, with the potential petitioner and the child. Parents, school personnel, and even some probation officers express concern over the time it currently takes to make an intake appointment. In Erie County, for example, it takes between three and six weeks, too long for parents in crisis, worried that the problems with their child will escalate while they wait. Other probation officers, however, describe this waiting period as a useful cooling down time, when both the parent and the child can gain perspective with the result that the family is more receptive to counseling and less likely to seek court intervention.

During the intake interview, the probation officer describes the PINS process. At this point, some parents discover that the system cannot provide what they want—boot camp or a 24-hour monitor for their child—and become more frustrated. At the end of the intake interview, the officers have three options: they can refer the case to court, refer the case for an in-depth assessment to determine the family’s need for services, or dismiss the case if it does not meet the criteria for PINS.

State regulations specify the factors probation officers should consider when deciding whether to refer a case to court or to refer the family for in-home services but neither the

Figure 3: Model of PINS Process



Dotted line represents action taken as a result of failure or noncompliance.

* The assessment can be conducted by probation, social services, or a contract agency.

** In New York City, child welfare provides emergency placement.

statute nor the regulations specify how the factors should be weighed.²⁹ In practice, this decision is based in large part upon the preferences of the individual probation officer and the culture of the local probation department.

Across New York State, probation referrals to court vary tremendously from county to county—from a low of four percent to a high of 81 percent.³⁰ While some counties stand at either extreme, there is still substantial variation across the middle: 80 percent of all New York State counties referred between 26 and 71 percent of their cases to court and half of all New York State counties fall within the 36 to 60 percent range. In short, there appears to be little agreement across the state, or even across New York City, about the appropriate role of the court in meeting the needs of PINS youth and their families.

Referral rates also vary by individual probation officer. In one county, a supervisor noticed that referrals to court shot up dramatically in a one month period. Upon investigation, the supervisor discovered that two new PINS intake probation officers had decided, on their own, that court was the more effective way to deal with status offenders and declined to refer cases to adjustment services. Some probation staff attributed their reliance on court to frustration with the quantity and quality of available adjustment services.

In two common situations, probation officers feel compelled to refer cases to court from the start. First, if the child is not present at the intake interview, the probation officer can immediately refer the case to court to obtain a “PINS warrant.” This direct referral is likely if the parent reports that the youth has run away or if the police have told the parent that they require a PINS warrant to pick the child up (even if the parent knows the youth’s whereabouts). Once the child is returned on the warrant, the case goes before a judge—and the judge may or may not refer the case back to probation for screening for adjustment services.

Second, probation officers may feel compelled to send cases to court when the child or parent declines to participate in services or demands to see the judge. The weight given to parents’ preferences for court involvement varies by jurisdiction and probation officer.

Adjustment Services

Most counties offer adjustment services for PINS cases, which take a variety of forms. Some counties have formal PINS adjustment services, which were created in the late 1980s in response to the PINS Adjustment Service Act. Other counties either did not

²⁹ A probation officer is directed to consider the following factors: (1) the child’s age; (2) the alleged conduct, including whether violence was used or threatened; (3) likelihood of appearance at scheduled conferences; (4) likelihood of cooperation with the adjustment process; (5) likelihood that services could be administered effectively within four months; (6) likelihood that the child will commit other offenses during the adjustment process; (7) other pending proceedings involving this child; (8) prior involvement with the PINS or juvenile justice systems; (9) likelihood that adjustment services would not be successful without removal from the home through court order; and (10) whether a proceeding has been or will be instituted against another person for acting jointly with the child. 22 N.Y.C.R.R. Section 205.62.

³⁰ Based on data provided by DPCA for 1999.

access the state funds to create formal adjustment services or were forced to dismantle the program when the state funding ran out.³¹ Some counties without adjustment services, such as Cattaraugus, maintain an active in-home services program for PINS cases. In Cattaraugus, the county dismantled its adjustment services program when state funding ceased. But a consequent expensive surge in detention and placement prompted the county to design its own alternative to court. The Cattaraugus probation department leads a multi-disciplinary team made up of mental health, school, substance abuse treatment, and other preventive service professionals. This team meets every week to evaluate the recent PINS intakes and decide whether the youth can be served out of court. For those cases kept out of court, the team creates a service plan that draws on community resources.

In counties with formal PINS diversion, probation officers refer cases to the Designated Assessment Service (DAS) for in-depth assessment after the intake interview. Depending on the county, the DAS function is conducted by the probation department, social services, or a contract agency. In some counties, the social services department partners with the probation department to conduct the assessment. The DAS worker creates a service plan for the case and makes referrals to the appropriate community-based providers. Some county social service commissioners report that these are often the same preventive services available for children and families at risk for foster care placement.

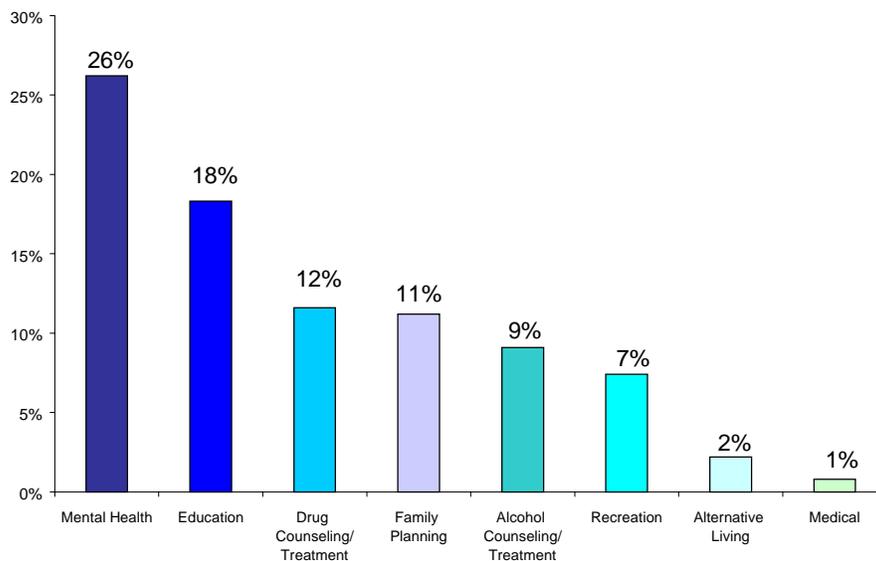
It is difficult to capture families' use of community services, since many providers do not distinguish between PINS clients and other youth and families in their databases. DAS service referrals, however, can provide some clues about the needs of PINS youth.³² In 2000, the four most commonly referred services in Onondaga County were: family counseling, educational programs, individual counseling, and mental health services.³³ Figure 4 shows the service referrals for New York City PINS intakes. The most common referrals were for mental health services or counseling.

³¹ Currently, 37 of New York's 62 counties have PINS adjustment services. State funding for adjustment services became available starting in 1987. Each county received funding for four years, beginning in the year they joined the program. For example, a county that provided adjustment services starting in 1989 could receive funding through 1992.

³² Referrals for services are not the same as the provision of services. But in the absence of information on the services actually delivered, referrals serve as a useful proxy.

³³ Data provided by the Onondaga County Department of Probation.

Figure 4: Service Referrals for PINS Cases, New York City, 1998³⁴



Note: The chart shows that 26 percent of PINS cases in New York City were referred for mental health or counseling services in 1998. (N = 5,536).

In focus groups, parents and children reported mixed experiences, good and bad, with the services they received. A few youth described family counseling sessions as opportunities for parents to articulate yet again the many things the youth had done wrong and some parents worried that counselors gave advice that undermined parental authority. Generally, the parents and children who reported satisfaction with counseling attributed the success to a particular service provider with whom they felt comfortable and whom they trusted.

Service providers are also concerned with the availability of appropriate services for the PINS population. They report that many of the young people they see have mental health or substance abuse problems, and yet services to meet these needs do not exist within the community. Many providers were concerned with the growing number of uninsured children who were not able to access care. School personnel would like access to more truancy prevention programs and parents cited peer support groups as useful vehicles for helping them cope with their problem children.

The provision of services has problems of its own, and in some cases these result in later referrals to court. For example, a parent or child initially agrees but then fails to attend the required services. Persistence by probation or the service providers in pursuing these passive families varies by county. Even when the parent or child engages in

³⁴ The graph includes only the eight most common categories of service referrals. Some PINS records did not include any information regarding service referrals.

services, continuation of the problematic behavior—truancy, incorrigibility, or staying out late—may lead to a later court referral.

Cases in the service system can also be sent to court because of problems with the services offered, as service providers in New York City and Erie County pointed out. Commonly cited examples involved youth needing substance abuse treatment without enough available treatment slots and youth needing mental health treatment where the family lacked the means to pay for the available services. The structure of the services can also preclude success. If, for example, a provider requires a youth to attend family counseling at 3 p.m., his working mother might not be able to take him or participate herself for fear of losing her job. In such circumstances, the probation officer can refer the case to court.

The level of effort to engage parents and youth in the adjustment process varies from county to county and even among individual government officials and local providers. Some counties move already frustrated parents quickly on to court while others strive to intervene several times before permitting a case to go to court. A few probation officers and providers enjoy their contacts with these families, while others report that they feel hopeless or frustrated. Parents and youth report a variety of experiences. Some parents felt that they did not receive the attention and respect necessary to discuss the presenting problems. Some youth also described the process in a negative light. They felt that the probation officer or service provider only listened to their parents and did not take the time to hear their side of the story. Others reported relief in finding a listening ear or help with a problem.

Probation officers, service providers, and family court judges report how difficult it can be to engage families. These professionals observe that parents regularly drop out. Some believe that parents drop out when they learn how long the PINS process takes and what is expected of them. One probation officer described a cycle of parental involvement with PINS, in which the parent asks for help during a period of crisis, drops out during the honeymoon period when the youth's behavior has shown modest improvement, and then returns when the behavior has declined sufficiently to cause another crisis. Many service providers report that discovering how to engage families is the key to successful service delivery.

If the case remains out of the court process, participation in adjustment services can end in two ways. First, if a family successfully completes the service plan, the case is declared adjusted and closed by a probation officer. Second, if the families drop out, the probation officer can close the case as not pursued. These families did not successfully complete their service plan, but are not interested in further action. For families receiving adjustment services in 1999, excluding those who were referred to court, approximately eighty percent were “adjusted” while twenty percent were “not pursued.”³⁵

³⁵ “Not pursued” is shorthand for “terminated matter not pursued and not referred to court for petition.”

Court

Children in the PINS system arrive in court by one of two avenues—referral by the probation department or a warrant issued by the court. Of these, the issue of warrants is more complex.

PINS warrants are rarely a high priority for police departments also burdened with warrants for criminal absconders. As a result, these warrants are seldom pursued until the parents call the precinct with the exact location of the child. At that point, the officers generally pick the child up.³⁶

If the police apprehend the child during the court's operating hours, they bring the child to the courthouse for an intake hearing. If the police pick the child up outside of court hours, they bring the child to a nonsecure detention facility, where the child spends the night and is brought to court the next day for the intake hearing. In most counties, the local social service or youth agency provides the nonsecure detention. In New York City, a special statute requires the Administration for Children's Services, the city's child welfare agency, to house alleged PINS youth in emergency placement facilities with foster children.³⁷ Although the law gives judges authority to issue a summons, we heard no mention of the use of this authority in the ten counties we studied in depth.

The parties present during the initial court hearing vary widely across counties. In general, the child is represented by a law guardian (an attorney assigned to represent minors) and the parent or other petitioner does not have a legal representative. In some counties, a prosecutor is present—but this lawyer represents the state in the action, not the parent or petitioner. Sometimes, the Court Liaison Officer from the probation department is present to provide background and recommendations for court action.

In court, many parents are still confused about the PINS process and the potential outcomes. Judges and law guardians reported that many parents are not aware that their child could be placed in foster care as a result of the PINS petition.

At the intake hearing, the judge determines whether to accept the PINS petition or dismiss the case for lack of jurisdiction. If the judge retains the case, the initial hearing focuses on where the child will stay while the case is pending—at home or in nonsecure detention. In general, judges in New York City and Erie County appear to base this determination on the wishes of the parents. As we observed, they ask whether the parent in court wants to take the youth home. If the parent says no, the judge places the youth in nonsecure detention. Data from eight counties (including the five in New York City) show that between one-fifth and one-third of the youth referred to court are held in

³⁶ Parents reported that they directed the police to the exact location of their child. In some cases, they knew exactly where the child was prior to requesting the warrant but could not persuade them to come home.

³⁷ N.Y. Family Court Act Section 720.

nonsecure detention for some period of time while they await the outcome of their cases (see Table 3).³⁸

Table 3: Percentage of PINS Youth Detained, 1998-2000*

	Percent of referred youth detained
Broome (n=201)	18%
Cattaraugus (n=89)	33%
Erie (n=1,188)	30%
New York City** (n=2,113)	28%

Note: The table reads as follows -- 18 percent of 201 PINS youth in Broome County were detained for some period of time during the course of their case.

* The information provided for Broome and Cattaraugus Counties is based on cases initiated in 1999. The information reported for Erie County is based on intakes from 1999 and 2000. And finally, the New York City statistic is based on PINS intakes from 1998.

** In New York City, PINS youth are remanded to foster care rather than nonsecure detention. As a result, the data do not distinguish remands from out-of-home placements. Therefore, the figure for New York City may include a very small number of cases in which a child not detained is placed in care at the conclusion of the disposition hearing.

The statute includes strict timelines for the start of the case when a youth is in detention, but no limit on its duration.³⁹ A fact-finding and a dispositional hearing follow the initial hearing. These two hearings can be combined on a single day, or their progress can be punctuated by multiple postponements. As months pass, many cases end in a withdrawal of the petition or a dismissal.⁴⁰

The high attrition rate can be interpreted in many ways. Drop-outs and dismissals may be an indication that inappropriate petitions are making their way to court. Or, they may indicate that petitioners were satisfied with their experiences—some parents, probation officers, and judges believe that the experience of appearing before a judge, even for the initial hearing, has the effect of scaring the youth into obedience. Some cases disappear because parents expected something different from the court and retire dissatisfied. Some parents grow tired of the process or can no longer afford to take days off from work.

During the fact-finding, the petitioner or prosecutor (in counties that use a prosecutor) attempts to substantiate the allegations against the youth. The youth can make an admission or contest the allegation. If the allegation is established, which it is in the vast

³⁸ In general, the agency that provides nonsecure detention for PINS warrant cases provides nonsecure detention prior to the completion of the fact-finding hearing.

³⁹ If the child is in detention, the court must begin a fact-finding hearing within three days of the filing of the petition (N.Y. Family Court Act Section 747). The court may adjourn a fact-finding hearing on motion of the person filing the petition for no more than three days or on motion of the child or his/her legal guardian for a “reasonable period of time.” “Successive motions to adjourn a fact-finding hearing may be granted only under special circumstances” (N.Y. Family Court Act Section 748). The statute provides no timeline for cases in which the child remains in the home.

⁴⁰ For example, in Erie County, 39 percent of petitioned cases are withdrawn or dismissed prior to the conclusion of a fact-finding hearing.

majority of cases,⁴¹ the judge convenes a dispositional hearing and solicits relevant information to determine the disposition. Parents, school officials, mental health professionals, and other interested parties have the opportunity to describe more fully how the youth has been acting and provide psychological records, case histories, medical records, and school records.⁴²

An examination of ten counties reveals that judges use three primary dispositions: probation supervision, out-of-home placement, or dismissal.⁴³ The statute provides for additional dispositions including referrals to services (medical, dental, and mental health), or more disciplinary options such as restitution and public service, but these options are rarely exercised. The period of probation or placement can last for up to one year, with the possibility of a one-year extension.⁴⁴

Once the placement or probation is underway, a probation officer or placement agency may file a violation petition alleging that the child has violated the court's order, in which case a new dispositional hearing will be held. If the violation is proven, the court may change its order to include any of the disposition options that were available at the original hearing.

Variations by county are again dramatic. Of the cases referred to court, between 13 and 47 percent were withdrawn or dismissed, 43 to 80 percent were placed on probation, and 11 to 25 percent were placed in foster care (see Table 4). The disposition figures in Tables 4-6 are based on data from five of the study counties.⁴⁵

⁴¹ For example, in Erie County, the allegation is established in 88 percent of PINS cases that go to a fact-finding.

⁴² After the fact-finding hearing or during the dispositional hearing (which are often one and the same), the judge may adjourn the proceedings to enable the court to make an inquiry into "the surroundings, conditions and capacities" of the child. If the child is in detention, an adjournment may not be for more than ten days, and no more than two such adjournments may be granted "absent special circumstances." If the child is not detained, adjournments may be for "a reasonable time" not to exceed two months in total (N.Y. Family Court Act Section 749).

⁴³ "Withdrawn/dismissed" include the following categories: withdrawn by parents, dismissed, adjourned in contemplation of dismissal (ACD), conditional release.

⁴⁴ N.Y. Family Court Act Sections 756; 756-a.

⁴⁵ The data received for New York City PINS cases did not include court information, so we cannot report on their dispositions.

Table 4: Disposition of PINS Cases Referred to Court, 1999

	Placement	Probation	Dismissal/ Withdrawal	Total
Broome (n=201)	18%	68%	13%	99%
Cattaraugus (n=89)	25%	66%	9%	100%
Clinton (n=37)	20%	80%	N/A	100%
Erie* (n=1,188)	11%	43%	47%	101%
St. Lawrence (n=46)	22%	78%	N/A	100%

Note: Some rows do not add to 100% due to rounding. The table reads across. For example, 68 percent of 201 PINS cases in Broome County referred to court resulted in a disposition of probation supervision. In comparison, only 18 percent of these cases resulted in an order of out-of-home placement.

* The information reported for Erie County in this table is based on intakes from 1999 *and* 2000. All other counties reflect intakes from 1999 only.

Figure 5 summarizes the collective dispositions for PINS cases referred to court in five counties—Broome, Cattaraugus, Clinton, Erie and St. Lawrence. The most common disposition for PINS cases in these counties is probation supervision (accounting for 47 percent of all cases). In addition, 13 percent of the cases resulted in out-of-home placement, which is a small but substantial number. This group represents the most expensive part of the PINS system.

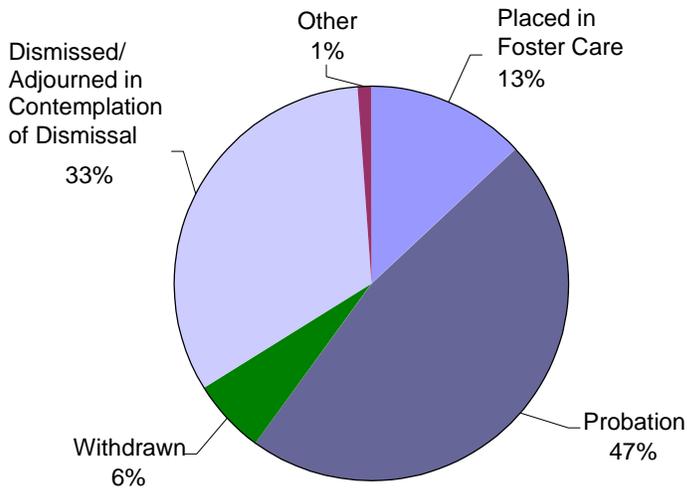


Figure 5: Disposition of PINS Cases in Five Counties, 1998-2000*

The information provided for Broome and Cattaraugus Counties is based on cases initiated in 1999. The information reported for Erie County is based on intakes from 1999 *and* 2000.

Dispositions vary depending upon who brings the petition to court and what allegation is presented. For example, in the sampled counties, cases initiated by parents

are more likely than those filed by schools to result in an out-of-home placement (see Table 5). Placement outcomes also vary by allegation group— youth alleged to be ungovernable/incorrigible (which includes runaways) were more likely to be placed than those charged with truancy (see Table 6). In contrast to both of these, none of the cases based on an alcohol or drug violation resulted in an out-of-home placement.

Table 5: Dispositions of PINS Cases by Petitioner, 1998-2000*

	<i>Disposition</i>					
	Placed	Probation	Withdrawn	Dismissed/ ACD	Other	Total
<i>Petitioner</i>						
Parent	13%	46%	6%	34%	1%	100%
School	8%	57%	3%	30%	1%	99%

Note: Some rows do not add to 100% due to rounding. The table reads across. For example, 13 percent of petitioned PINS cases initiated by parents resulted in a placement, 46 percent resulted in a disposition of probation supervision, 6 percent were withdrawn and 34 percent were dismissed.

* The information provided for Broome and Cattaraugus Counties is based on cases initiated in 1999. The information reported for Erie County is based on intakes from 1999 and 2000.

Table 6: Dispositions of PINS Cases by Allegation, 1998-2000*

	<i>Disposition</i>					
	Placed	Probation	Withdrawn	Dismissed/ ACD	Other	Total
<i>Allegation</i>						
Truancy	9%	58%	2%	31%	1%	101%
Ungovernable/Incorrigible	14%	46%	6%	33%	1%	100%
Drugs/Alcohol	0%	45%	12%	43%	0%	100%

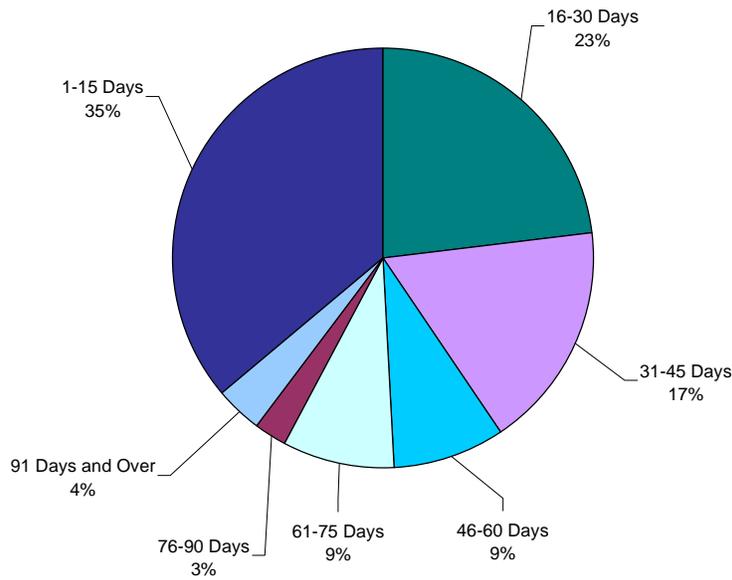
Note: Some rows do not add to 100% due to rounding. The table reads across. For example, 9 percent of petitioned PINS cases with an allegation of truancy resulted in a placement, 58 percent resulted in a disposition of probation supervision, 2 percent were withdrawn and 31 percent were dismissed.

* The information provided for Broome and Cattaraugus Counties is based on cases initiated in 1999. The information reported for Erie County is based on intakes from 1999 and 2000.

Out-of-Home Placement

Many children detained and placed returned home after only a short stay. For example, in Erie County, 58 percent of children detained in 1999 were released within 30 days. An additional 17 percent were released within 45 days, leaving only 25 percent in detention for more than 45 days (see Figure 6).

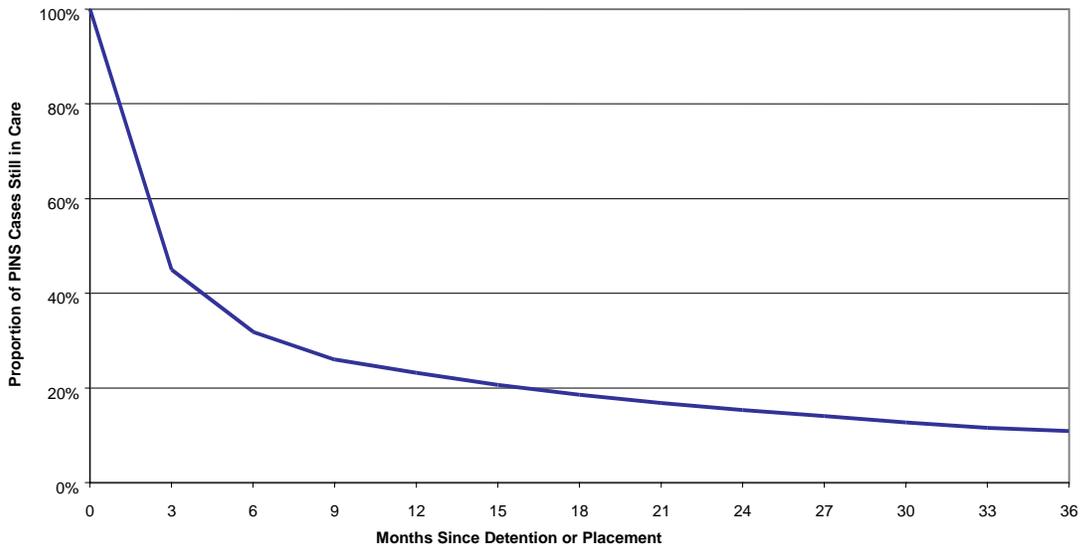
Figure 6: Length of Nonsecure Detentions, Erie County, 1999



Note: N = 196

In New York City, where detained and placed youth are grouped together, 58 percent of these young people are back home within three months and another 12 percent are out of care within six months (see Figure 7).

Figure 7: Length of Stay Rates, New York City, 1994-1998



Note: The length of stay rate as depicted in Figure 7 reflects the proportion of PINS youth who remain in care after each three-month interval. For example, approximately 45 percent of the placements remained active after three months, 32 percent after six months, and 23 percent after one year. (N = 3,138).

The length of stay findings from both Erie County and New York City suggest that some counties use nonsecure detention and placement as a form of short-term respite care for their PINS population. These youth might have been better served in a respite home or center designed for short stays and oriented toward speedy family reunification at less cost. Some short stays might be explained by parents' dissatisfaction with the outcome of a PINS proceeding. During our focus groups, some parents reported that they were disappointed because they perceived that their child received less supervision in placement than they had at home.

The other implication of the survival rate in Figure 7 is that there is a small but significant proportion of PINS youth who remain in foster care for an extended period of time. Approximately one-quarter of PINS foster care placements in New York City last longer than one year. This group of PINS cases accounts for a large share of the cost of the entire process, because they almost always require placement in a group care facility at approximately \$175 a day.⁴⁶

Out-of-home placement has also been shown to reduce, rather than increase, school attendance among PINS youth. At least in New York City, school attendance worsens for PINS youth during the semester after they are placed in foster care, while attendance for other foster children stays the same or improves.⁴⁷ A child having trouble going to school only a few blocks away from home is likely to struggle even more if expected to travel a long distance to go to school or enroll in a new school.⁴⁸

In New York City, PINS children in foster care have the highest AWOL rate (rate of running away, or being Absent Without Leave, from foster placements) of all foster children. A recent study of the experience of early adolescents in foster care in New York City found that youth who were placed as a result of a PINS petition were disproportionately involved in AWOL activity as compared to those who entered care as a result of abuse or neglect or through a voluntary placement. That study reported that PINS youth had a rate of 3.1 AWOL events per 1,000 days in foster care as compared to 0.7 for children who were placed because of abuse or neglect and 1.4 for children who were placed voluntarily.⁴⁹

⁴⁶ This figure was provided by ACS as the average daily cost of placement for PINS youth.

⁴⁷ Looking at the change in attendance rates from the semester before to the semester after placement, the children entering care on abuse and neglect petitions improved their attendance rates once they entered care while the attendance rates for children going into care on a PINS petition declined by 7 percent by the semester after foster care placement. Dylan Conger and Alison Rebeck. *How Children's Foster Care Experiences Affect Their Education*. New York: Vera Institute, 2001, 21.

⁴⁸ In addition, the likelihood of school transfers for PINS youth placed in foster care is higher than for their peers who entered because of abuse or neglect or through the voluntary system. In fact, PINS children have the highest likelihood of transfer of all three groups (66 percent, compared with 59.4 percent for children placed voluntarily and 57.4 percent for those placed due to abuse or neglect). *How Children's Foster Care Experiences Affect Their Education*, 22.

⁴⁹ Timothy Ross, Mark Wamsley, and Ajay Khashu. *The Experiences of Early Adolescents in Foster Care in New York City: Analysis of the 1994 Cohort*. New York: Vera Institute, 2001, 19.

These New York City statistics suggest that placement is a poor answer to the most common problems PINS youth present—truancy and running away. It is worth noting that in New York City, more than 90 percent of PINS youth who are placed out of their homes stay in congregate care (group home) facilities. These placements are more than four times as expensive as the more common foster family and kinship placements (group care costs \$175 per day, versus \$40 per day for kinship and foster homes). Waiting lists for group homes are already long, meaning that youth often stay longer than they should in diagnostic assessment centers, which are designed to be temporary homes where their needs are evaluated. PINS youth may stay in these diagnostic centers well beyond the 90 day limit, or they may have to move on to inappropriate group home settings. In New York City, PINS youth in particular place a strain on the emergency placement system.

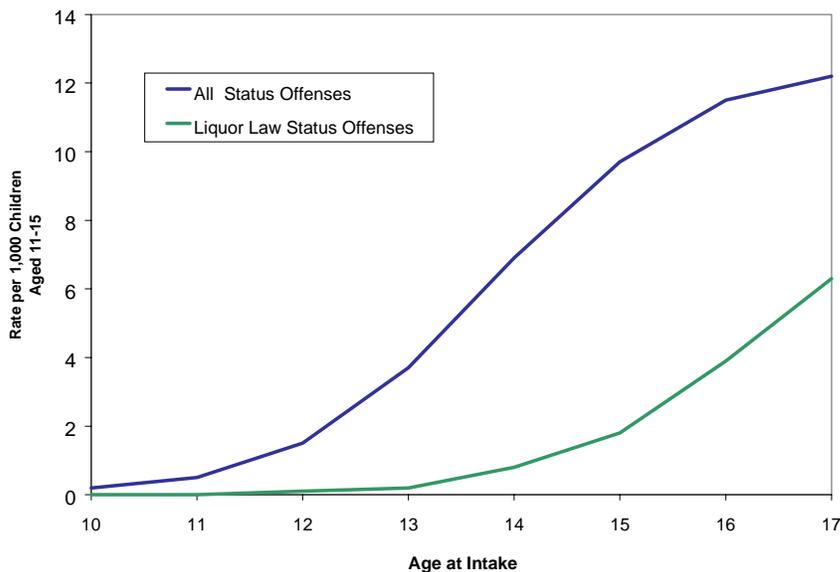
The Projected Impact

The problems with the existing system—from the execution of warrants, through the wide variation in court referrals, to poor supervision in many group homes—are all likely to be exacerbated by the addition of 16- and 17-year-olds in November. But if state and county officials are to improve the system, they need to know how big an influx is coming.

Examining the existing system in New York along with data from other states allows us to project a range of how many older adolescents can be expected. National data, available through the National Center for Juvenile Justice, are useful because, unlike New York, most other states include status offenders up to age 18.⁵⁰ These national data show that 16-year-olds are charged with status offenses at higher rates than children at any younger age, and 17-year-olds are charged at higher rates than 16-year-olds (Figure 8).

⁵⁰ NCJJ collects data processed by juvenile courts. As a result, it covers only petitioned status offenses. For the purpose of our projections, we assumed that the age-specific trends reported by juvenile courts mirror those occurring in the PINS population at large (i.e. including both diverted *and* petitioned cases).

Figure 8: National Rates of Status Offense Petitions Filed, by Age of Child, 1997



Source: United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 1997.

Indeed, approximately one-half of all cases petitioned nationally involve juveniles aged 16 and 17. A large fraction of these cases, however, allege liquor law violations, an allegation not included in New York’s PINS statute.

We have applied these national trends to New York’s demographic and PINS data to create a projected range at which the PINS caseloads will increase. At the top of the range, we applied the national trend for all allegations, assuming that children charged elsewhere with liquor law violations would be charged in New York with other status offenses.⁵¹ At the bottom of the range, we assumed that the pattern in New York would follow the national trend excluding the liquor law cases entirely. When we ignore the national data and assume simply that 16- and 17-year-olds will enter the system just as 15-year-olds do now, the projection falls in the middle of the range.

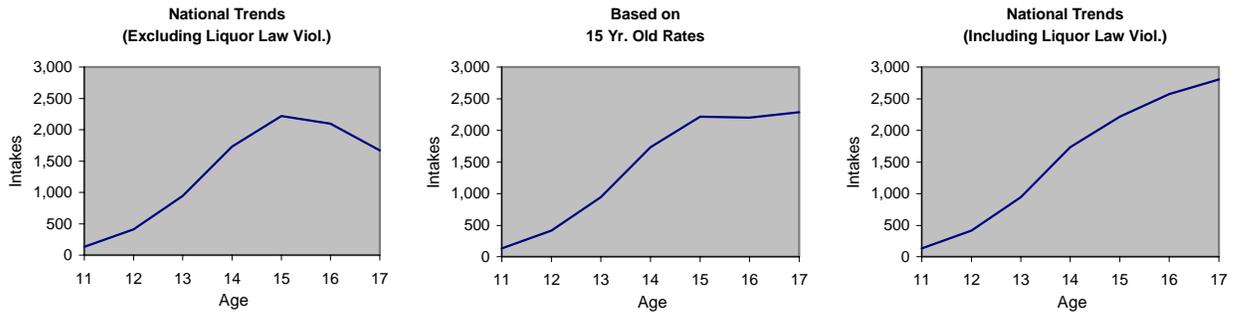
Projections

Statewide, we project that between 69 and 105 percent more youth will enter the PINS system. The same percentage increase will be seen in the number of referrals to court. These percentages translate into between 15,000 and 23,000 more cases entering the system and between 6,500 and 10,000 more cases referred to court.

In New York City, we project between 3,765 and 5,378 additional PINS intakes annually beginning on November 1, 2001 (see Figure 9).

⁵¹ Although a liquor law violation is not one of three specific allowable allegations provided for in New York State’s PINS statute, alcohol and substance abuse issues can be recorded under the ungovernable charge. Therefore, we determined that it would be useful to include a projection model that assumes that 16- and 17-year-old New Yorkers will behave as older teens in other states do.

Figure 9: Low, Mid-Range, and High Projections for Increase in Intake, New York City



* The three graphs show the same number of intakes for age groups 11 through 15—these are the actual caseloads as reported by New York City’s Department of Probation.

Tables 7 and 8 present the ranges of the projected increases for five individual counties and New York City in the ten counties we studied.⁵²

Table 7: Projected Annual Increases in Intakes and Referrals to Court Beginning November, 2001

	Intake		Referral to Court	
	No.	Percent	No.	Percent
Broome	209-299	58-83%	118-170	60-86%
Cattaraugus	155-222	69-100%	67-95	65-92%
Clinton	67-96	49-71%	17-24	45-64%
Erie	N/A*	N/A*	453-645	89-126%
New York City	3,765-5,378	69-98%	1,504-2,132	71-101%
St. Lawrence	111-162	59-86%	25-37	58-86%

Note: For example, we estimate that Broome County will incur an annual increase of 209-299 intakes beginning in November. This would reflect a 58 to 83 percent increase. Moreover, this would increase the number of PINS referrals to Family Court by 60 to 86 percent.

* Erie County provided data from the Unified Court System for all PINS cases placed on the Family Court docket in 1999 and 2000. We do not have probation data on all PINS intakes from these two years.

⁵² See Appendix D for graphs depicting the increases in selected counties. These graphs include the mid-range projections based on the numbers for 15-year-olds.

Table 8: Projected Annual Increases in Detentions and Placements Beginning November, 2001

	Detention		Placement	
	No.	Percent	No.	Percent
Broome	21-30	58-84%	21-30	60-86%
Cattaraugus	12-22	56-100%	5-9	41-73%
Clinton	4-6	26-37%	4-6	26-37%
Erie	160-228	88-125%	48-68	81-116%
New York City	N/A	N/A	364-516	62-88%
St. Lawrence	N/A	N/A	4-5	53-78%

Note: For example, we estimate that Broome County will incur an annual increase of 21-30 detentions and the same number of placements.

Professionals working in the PINS system are concerned that these new, older adolescents will require different kinds of services. Some of these older teenagers will never return home, and will therefore need “transitional services,” such as independent living and employment-readiness programs.

Some will have problems of longer duration than those of younger adolescents, requiring more intense services or segregation from younger children in service and placement settings. Some will be parents themselves, further complicating the provision of services.

In addition, some lawyers raise questions about the overlap between the new PINS statute and other laws. For example, what will happen to a 17-year-old who wants to drop out of school? The mandatory education laws in most parts of New York only require students to stay in school through the academic year in which they turn 16. Will the parents of a 17-year-old who has dropped out of school be able to file a PINS petition for truancy?

Family court judges are concerned about the overlap between the PINS system and the criminal courts, fearing that older adolescents today charged with low-level offenses such as trespassing will soon be sent to the enlarged PINS system. Advocates for children are concerned about the effect of this overlap in the other direction, if family court judges move PINS youth into the criminal court by holding them in contempt of court for violating a court order.⁵³

⁵³ However, see *In the Matter of Naquan J.*, No. 5958B (N.Y. App. Div. June 18, 2001). The Appellate Division of New York’s Second Department recently held that the Family Court does not have the authority to issue a criminal contempt order against or commit to a secure detention facility a PINS who does not comply with its orders.

Increase in Costs

Counties will incur new costs in every area of the PINS system. Probation departments, courts, social services, and assigned counsel offices will incur additional staffing costs. Community-based providers will experience an increase in demand for assessments, counseling services, and substance abuse treatment. Contracts will have to be amended and staffing increased.

Most significantly, demand for nonsecure detention and foster care placements will increase, and it is here that we have made cost projections. While meeting this demand will likely require substantial capital expenditures, our analysis focuses on operating costs.

Although less than half of all court-involved PINS youth are ever detained or placed (26 to 33 percent for detention and 11 to 25 percent for placement), they account for an overwhelming portion of the overall cost of the system. Based on our projections, the state can expect between 1,600 and 2,500 more youth in nonsecure detention and between 800 and 1,200 more in foster care placements annually. Together, these additional cases will result in a minimum increase in operating costs of between \$29 million and \$44 million.⁵⁴

	Projected Increases ⁵⁵	
	#	\$
Detentions	1,600 – 2,500	\$9,000,000 - \$14,000,000
Placements	800 – 1,200	\$20,000,000 - \$30,000,000

Where we could, we used local data to estimate more precisely the additional placement and detention cost that will be incurred as result of raising the PINS age limit. Specifically, to project detention costs, we applied the local detention rate for “older” PINS youth (14- and 15-year-olds) to the projected number of new cases. In other words, we assumed that 16- and 17-year-old PINS youth would be detained at the same rate as today’s 14- and 15-year-olds. To estimate costs, we multiplied the number of new detentions by the average length of detention currently experienced by PINS youth in that locality, and then multiplied this by the daily “bed cost” for nonsecure detention used in that locality.

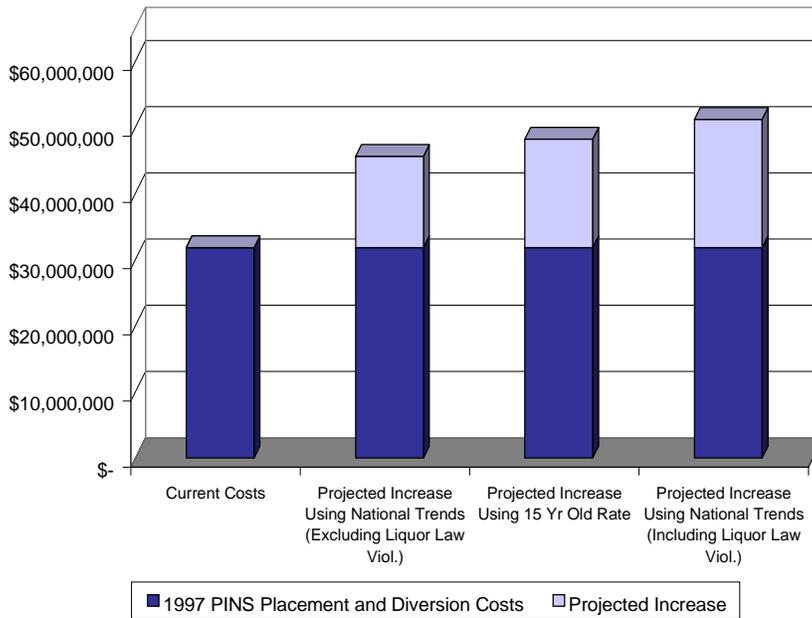
⁵⁴ The non-secure detention projection is based on the following assumptions: that 25% of the projected increase in referred cases will result in a detention, and that these detentions will cost \$185 per day for an average length of stay of 30 days. These assumptions reflect patterns observed for counties that provided us data on their use of non-secure detention for PINS cases (Broome, Cattaraugus, Clinton, Erie and New York City). The placement projection is based on the assumption that 12% of the projected increase in referred cases will result in an order of placement and that these placements will cost an average of \$25,000 (140 days at a cost of \$180 per day). Again, these assumptions are based on data provided by selected counties.

⁵⁵ Although counties will begin to experience cost increases starting November 1st, the full extent of these projected increases will, most likely, not be incurred during the first year after the age increase is in effect.

To estimate the increase in placement costs, we employed a similar technique with one exception. We assumed that 16- and 17-year-olds would be discharged at the age of 18. In other words, we assumed that the lengths of their placements would mirror those of 15-year-olds, but would not extend beyond age 18. If these youth stay beyond the age of 18, the costs would be even higher.

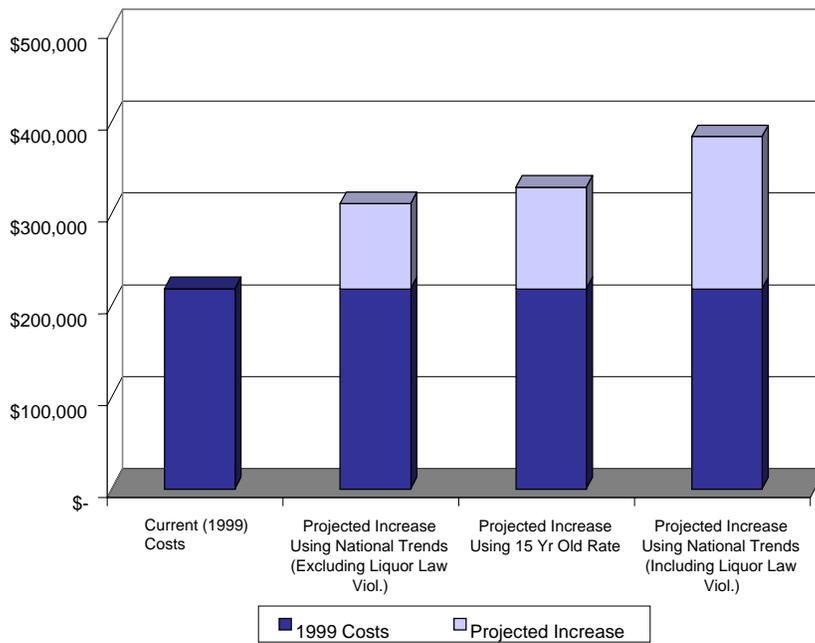
Using these methods, we estimate that, in New York City, ACS's costs for PINS cases will increase by 43-61% (see Figure 10).

Figure 10: Projected Increase in PINS Placement and Diversion Costs for New York City



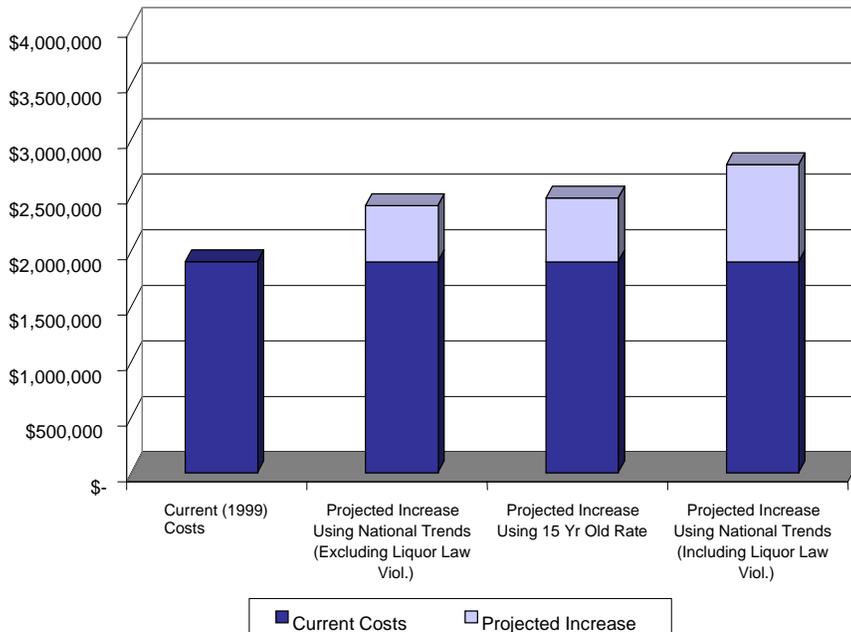
Using the same method, we project that detention costs in Cattaraugus County will increase by 43-76% and placement costs by 27-46% (Figures 11 and 12).

Figure 11: Projected Increase in Detention Costs for Cattaraugus County



Note: These projections are based on the assumption that 16- and 17-year-olds will be detained at the same rate as those aged 14-15. We assumed that these teens would be detained for 42 days (the average length of detention for PINS cases in Cattaraugus county) at a cost of \$180 per day.

Figure 12: Projected Increase in Placement Costs for Cattaraugus County, 1999



Note: The placement costs for children aged 11 through 15 were based on their actual length of placement as indicated in data provided by the Cattaraugus County Department of Probation. The estimated placement costs for 16- and 17-year-olds were calculated based on the assumption that they would be placed at the same rate as 14-15 year olds. However, we assumed that 16- and 17-year olds would be discharged during the year after they turn 18.

We cannot project the gross costs of an increase in preventive services. There is very little data available about how many of those services are currently provided through the PINS system. The vast majority of agencies providing services to PINS youth also provide services to other youth and do not separate out the PINS population in their data. These agencies, in turn, make referrals to thousands of community-based agencies—a survey of which is beyond the scope of this study.⁵⁶

Other costs associated with the PINS system are also difficult to calculate. The allocation of staffing costs for the courts and probation departments vary tremendously depending on the county. For example, one probation department may respond to increased caseloads by adding new officers. Another might manage the new cases by simply increasing caseloads of existing officers. If staffing is not increased by probation departments, courts, and other agencies, the result will certainly be further delay in a system that professionals, parents, and children already describe as too slow.

Summary of the Findings

The findings of this study demonstrate that the current PINS system is unlikely to meet the needs of the large number of 16- and 17-year-olds who will be entering the system after November 1, 2001, and the increased volume will further strain the system for younger youth and their families.

Parents and school personnel file the vast majority of PINS petitions in New York, and they are usually seeking assistance for 14- and 15-year-olds, the oldest children now eligible for PINS petitions. Running away or truancy most often precipitate a PINS petition, and families are usually seeking services or disciplinary action to remedy these behaviors and regain parental authority.

How each county's system responds varies dramatically—and in no discernable pattern—across the state. Although probation officers are the gatekeeper in every county, rates of intake are inconsistent. Moreover, once an intake is complete, the rate at which probation officers refer PINS youth to court varies from less than 5 percent to more than 80 percent, and the rate of referral to services varies from approximately 20 percent to 95 percent by county. These differences stem from the wide discretion the PINS law gives to counties, and particularly to probation departments, to implement a system for PINS youth.

In most counties, the system offers families few options. PINS youth and families are often referred to mental health counseling. However, many children are unable to obtain

⁵⁶ New York State's Monitoring and Analysis Profiles reveal that the average cost of providing preventive services is \$2,550 per child served. Using this standard, if we assume that 65 percent of the 6,500–10,000 projected increase in court referrals (see p. 26) are diverted to preventive services, the gross annual cost for preventive service would increase by \$10.8–\$16.6 million.

any care, let alone quality care that successfully engages the families. If the child ends up in court, the judge also has much discretion, but few options. Judges use three primary dispositions: probation, out-of-home-placement, or dismissal. The court places a significant number of children in foster care, the most expensive option available within the PINS system. In Erie County, for example, eleven percent of court cases end in placement; in St. Lawrence County, 22 percent result in placement.

However, research indicates that out-of-home placement may not meet the needs of these youth. For example, recent research by the Vera Institute, conducted in partnership with ACS, revealed some worrisome indications that the behavior of PINS youth deteriorates, rather than improving, in placement. This research found that in New York City, among youth placed as a result of a PINS petition, average school attendance declined after placement.⁵⁷ By contrast, school attendance improved after placement for children entering care as the result of an Article 10 (a petition alleging abuse or neglect). Related research also found that PINS youth placed with ACS have a higher AWOL (Absent without Leave or running away from placement) rate than those children who enter foster care for other reasons.⁵⁸ In short, placement may not address two of the primary presenting problems for PINS youth – truancy and running away behavior.

An estimated 69 to 105 percent more youth will enter the PINS system with the age increase to take effect in November. This influx will tax the system in every area, but the greatest costs will be in detention and foster care if counties continue their patterns of out-of-home placement. We estimate that the age increase will cost at least \$29 million in detention and placements.

⁵⁷ *How Children's Foster Care Experiences Affect Their Education*, 21.

⁵⁸ *The Experiences of Early Adolescents in Foster Care*, 19.

Approaches for Improving Services to Youth and Families

There are many approaches the state and counties could pursue in preparing for the implications of recent legislation. These four represent approaches along a continuum of costs and service quality:

Approach 1: Replace Family Court Jurisdiction. An approach already adopted in other jurisdictions, this approach recognizes the need to look for service improvements and redistribute resources in order to accommodate the needs of the older adolescents and their families. It recovers resources currently expended on detention and placement, redirecting them to adjustment and preventive services. It would replace reliance on state discipline with interventions which support, rather than attempt to replace, parental authority and discipline. Using Illinois as an example, this approach would substitute the family court's jurisdiction over status offenders with enhanced police authority over runaway youth and an enriched array of community-based services, including respite care. This approach would require legislative and procedural changes, and the shifting of resources within and between agencies, but would protect the state and counties from incurring significant additional costs and improve the provision of services to these youth and their families.

Four changes would be necessary to implement this approach. First, the PINS statute would need to be amended to remove family court jurisdiction over status offenders. Second, additional legislation would be required to enhance the authority of the police, enabling them to be more responsive to parents who need help locating and bringing home a runaway child. Third, each county would need assistance in developing the capacity to provide short-term (1-21 day) respite care for PINS youth who need a brief cooling-off period away from their parents. This care could take the form of runaway shelters, respite centers, or family-based respite care. The explicit focus of these short-term placements would be on family mediation and reconciliation. In this option, those few families who could not reconcile after the period of respite care would work with social services to assess whether to use the existing voluntary placement system to access out-of-home placement. Fourth, the state would shift dollars formerly spent on the court component of the PINS system to adjustment services. These funds would support respite care and increase the capacity of assessment and referral services.

We can use the example of New York City to illustrate how this approach would result in significant cost savings from placement and allow for enriched preventive services. With implementation, assume that New York City experiences a reduction in placements of 90 percent – eliminating PINS placement but accounting for some

voluntary placement.⁵⁹ Approximately 900 youth and their families would then need preventive services at an additional cost of approximately \$5 to \$6 million.⁶⁰ But placement is so expensive that even with those additional services, the elimination of family court jurisdiction would result in New York City saving \$9 to \$12 million over what it currently spends on the PINS system. Some of those cost savings would be offset by the need for additional personnel and facilities for probation and social services, but there would still be funds available to enrich the existing services. The end result is a less expensive system that emphasizes supporting parental authority and provides better outcomes for troubled youth and their families.

Approach 2: Seek to Discourage the Flow of Cases to Court and Encourage the Use of Adjustment Services. This approach retains the structure of the current PINS system but would try to modify how it is used. It would take an approach similar to that set forth in the 1985 PINS Adjustment Act but attempt to achieve greater success in diversion by encouraging counties to stress the use of preventive services over detention and placement. The state could incorporate stronger language into the statute (for example, mandating adjustment for most cases) or increase state funding for preventive services. Our fifteen years of experience with the outcomes of that law indicate that if this approach is pursued, counties are likely to retain wide variation with substantial use of detention and placement absent strong state action.

To regulate the flow of cases to court, individual probation departments, assessment staff, and family court judges would have to modify their procedures and practices. Probation departments would need to implement uniform guidelines about which cases should be referred to court—ensuring that only those cases that have failed in-home services are referred—and an accountability system would have to be put into place in order to ensure compliance. Assessment staff, be they probation officers, social service case workers, or people at contract agencies, would have to redouble their efforts to engage families in available community-based services. Family court judges would have to return to the probation department all cases coming into court on warrants to ensure consistent screening for adjustment services.

If these changes were implemented statewide, the fiscal impact described in Approach 4, below, would be dampened but a large increase in funding would still be necessary. Expenditures on detention and placement for all youth might be lowered, but any reductions for the existing population would likely be offset by the increase in volume from the new cases. Additional resources would also be needed to pay for assessments and adjustment services for the new group of older teens.

⁵⁹ New York City now spends approximately \$25 million on PINS placements and we anticipate that will increase to \$34-\$38 million as a result of the increase in PINS eligibility. Note that the statutory changes in Illinois resulted in reduction in status offender placements in Cook County exceeding 90 percent.

⁶⁰ Currently, ACS estimates that it spends \$6,200 per year for a preventive service case.

For example, assume that starting November 1, New York City embarked on an ambitious effort to reduce placements for both older and younger youth and succeeded in reducing placement by one-third, shifting those children and their families instead to preventive services. Compared to Approach 4, New York City would save approximately \$10 to \$11 million in placement costs for the approximately 320-370 youth that would be affected.⁶¹ Providing preventive services for those families would cost the city approximately \$2 million, resulting in a net \$8 to \$9 million savings in placement costs. But that reduction would still leave New York City facing a 25 to 30 percent increase over current expenditures, requiring at least \$7 to \$10 million in additional funds.

A variation on this approach would be to eliminate the family court's ability to place 16- and 17-year-olds out of their homes in either nonsecure detention or placement. The implementation of this provision, although cheaper than Approach 4 or Approach 2, would still result in a substantial increase in existing costs. Again, using New York City as an example, if all 16- and 17-year-olds received adjustment services, we can anticipate an increase in diversion costs of 22 to 31 percent.

Approach 3: Expand the System. Some have suggested that the limitations of the current system are related to its singular focus on youth and that families need to be brought under the umbrella of court jurisdiction. This approach would expand the family court's reach to include the family members of PINS youth. It assumes that better outcomes for PINS youth would result if judges had greater authority to order the family members of PINS youth to receive services or comply with other court orders. The changes needed to implement this option would be both legislative and budgetary. First, the PINS statute would need to be amended to place all family members under the court's jurisdiction. Second, funds would need to be allocated to pay for services for these family members as well as for the under- and over-16 PINS youth.

This approach is the most costly of the four. It requires first adding to the current system all of the tens of millions of dollars of additional costs described in Approach 4 and then expanding the system further to add services and the cost of those services for the families. The resources needed simply to expand the current system to include older teens are already daunting, making such an additional family expansion fiscally improbable. This approach has also the potential to further erode, rather than support, parental authority, contrary to the intent of those who supported the change in the law.

Approach 4: Maintain the Current System and Support the New Needs. This approach requires no procedural or legislative change and assumes that counties would not change

⁶¹ This projection is based on data for those PINS youth entering foster care in New York City in 1997. In that year, just under 600 youth were placed in foster care as a result of a PINS petition. As indicated in Table 8, we project that the PINS legislation will require an additional 360-520 placements if the system continues to operate as it does now. We estimate that New York City will incur new placement costs of approximately \$34-\$39 million to serve the 11-17 PINS population.

their policies and procedures. This approach would require a significant expenditure of resources to serve at least 69 percent more youth. The additional costs associated with Approach 4 run into the tens of millions of dollars – conservatively, \$29 million to \$44 million extra on detention and placement alone (excluding any additional capital costs to contract and build new facilities). Further millions of dollars would be necessary to provide more assessment and preventive services and additional personnel for agencies such as probation, social services, and the courts. The resources necessary for detention and placement are likely to drain the system of its ability to focus on and fund family-based adjustment services. For example, the resources needed to place a single youth in foster care in New York City for a year, \$64,000, could be used to provide preventive services to ten families at \$6,200 per family.

Conclusion

The parents who sought this change in legislation wanted the state to stand behind them as they struggled to handle their older troubled youth. They wanted services for their children, and they wanted officials, such as the police, to support their parental authority. The governor and legislature responded. But the increased burden of serving this new population within the existing system threatens to undermine their goal. Without substantial changes, New York State must anticipate both higher costs and decreased quality in its PINS system—a system that currently spends most of its resources on supplanting parental authority with state intervention through out-of-home placement. The challenge is to use this opportunity to rethink the existing system and change it to get parents and youth the help they need.