

Chapter 2. Defining and Measuring Offenses in Texas

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Introduction

Measuring juvenile crime at the state level is more difficult than the national level as Cox, Conrad, Allen and Hanser (2008) describe in Chapter 2. At the national level the Uniform Crime Reports (UCR) can be cross referenced with The National Crime Victimization Survey, National Incident-Based Reporting System and other sources such as self-report studies and police observations. In Texas the primary methods for measuring juvenile offenses are the Texas Juvenile Probation Commission (TJPC) and Texas Youth Commission (TYC) data. This chapter will define the ages of a juvenile in the state of Texas as well as numbers of juvenile offenders, offenses, locations and trends associated with defining and measuring offenses in Texas.

Age Ambiguity in Texas:

An important, and sometimes confusing, item to consider when looking at the juvenile justice system is the age of persons that the juvenile justice system has jurisdiction over. The Texas Family Code defines a “child” as someone who is between 10 and 17 years of age (Whitten, 2005). To be more specific the term “child” refers to someone who is 10 years of age or older, but has not yet reached their 17th birthday. This means that in Texas the minimum age at which a juvenile is considered under the jurisdiction of the juvenile justice system is 10 and that the maximum age is 17. Proof of age is determined by a preponderance of evidence by birth certificates, testimony of parent or out of court statements made by the juvenile. Timely objections to age must be made in order for the claim to be valid (Mata 2007). If a child younger than ten commits a criminal act then the Texas Family Code, section 264.302 directs the Texas Department of Family and Protective Services to provide services for a child as young as 7 (Mata 2007).

The laws regarding the maximum age at which a juvenile is under the jurisdiction of the juvenile justice system are slightly more complicated than the previous definition makes them seem. Previously under certain circumstances the juvenile justice system can have jurisdiction over juvenile offenders until they turn 18 years of age or until their 21st birthdays. A change which has occurred in the 2007 Texas Legislative Session is that commitments to TYC are until the 19th birthday, reduced from the 21st birthday (Garza 2007).

Age is also an important factor in the eligibility of certification of a juvenile to a criminal court. Certification refers to the process of transferring the offenses committed by a juvenile to a criminal court. Through the certification process a juvenile court waives its jurisdiction over the offenses committed by a juvenile, because of the seriousness of the offenses, and transfers them to an adult court (Bailey, 2005). The Texas Family Code has two different age requirements for certification. If a juvenile allegedly committed a capital felony, an aggravated controlled substance felony, or a first degree felony, then he/she is eligible to be certified if he/she was 14 or older at the time the offense was committed. If the offense that has allegedly been committed is a second or third degree felony or a state jail felony, then the juvenile must have been 15 years of age or older at the time the offense was committed in order to be eligible for certification (Bailey, 2005).

In 1987 the Texas legislature approved an alternative to certifying a juvenile as an adult. This alternative is referred to as determinate sentencing. The original determinate sentencing law

allowed for a juvenile, between the ages of 10 and 17, who is adjudicated for a serious offense to be sentenced to up to 30 years. In the original law the only offenses for which a juvenile could receive a determinate sentence were those that, under the Penal Code, would be classified as capital offenses or first degree felonies. In 1995, the Texas legislature made determinate sentencing an option for second and third degree felonies (Texas Youth Commission, 2007).

Under the determinate sentencing law the juvenile serves the first part of her/his sentence in a Texas Youth Commission (TYC) facility. After the juvenile has served the first part of her/his sentence the juvenile justice system has three options in regard to the juvenile. The first option is for the juvenile to be released from the TYC facility and placed on parole under the jurisdiction of TYC until he/she turns 21. Age is a factor in this option because if the juvenile is placed on parole prior to age 19 he/she will remain under the jurisdiction of TYC until he/she is 21, however if the juvenile is placed on parole after he/she turns 19 then he/she is automatically transferred to adult parole. A second option is for the juvenile to be released from the jurisdiction of TYC. The third option is for the juvenile to be transferred to an institution in the Texas Department of Criminal Justice to serve the remainder of his/her sentence (Texas Youth Commission, 2007). Further details about certification and determinate sentencing will be covered in later chapters.

Sources of Data in Texas:

There are two main agencies that collect data on juvenile offenses in Texas, the Texas Youth Commission and the Texas Juvenile Probation Commission. The Texas Youth Commission (TYC) is the juvenile corrections agency of Texas. The most serious and chronic juvenile offenders in Texas are committed to TYC. During the 2006 fiscal year 80% of the juvenile offenders committed to TYC had been adjudicated for a felony offense, while the remaining 20% had been adjudicated for misdemeanor offenses (Texas Youth Commission, 2007).

TYC collects data on juvenile offenders that are committed by the juvenile court to the custody of TYC, which is a relatively small number since only about three percent of juveniles referred to the juvenile justice system each year are committed to TYC (Texas Youth Commission, 2007). The Texas Juvenile Probation Commission (TJPC) collects data on all the juveniles that are referred to the juvenile justice system from every county in Texas. Each juvenile probation department submits data on each individual case file electronically to the TJPC. In its annual report, *The State of Juvenile Probation Activity in Texas (2004)*, the TJPC reported a slight increase (.4%) in the number of referrals to the juvenile justice system with 107,794 referrals in 2004 compared to 107,338 in 2003.

These two sources of statistics are subject to the same shortcomings that many sources of official statistics encounter. One of these shortcomings is that these statistics only include offenses that are known to the juvenile justice system. Since the statistics reported by the TJPC are aggregated from many different counties, any error in reporting in a certain county becomes part of the statewide statistics.

There is no agency that collects victimization data in Texas. There is some data from Texas included in the section on homicide rates in the National Crime Victimization survey (NCVS). Juveniles under the age of 18 accounted for nearly 10% (9.4%) of the homicides in Texas (Bureau of Justice Statistics, 2005).

The problem with victimization rates reported in the NCVS is that they only include individuals above the age of 12 who are willing to report incidents in which they were victimized. Therefore, all of the victimizations that occur to individuals who are under 12 years of age are not included in any of the victimization data.

Juvenile Offenders in Texas:

The characteristics of juvenile offenders will be discussed at greater length in the next chapter. So for the purposes of describing those who commit juvenile offenses some brief data will be presented.

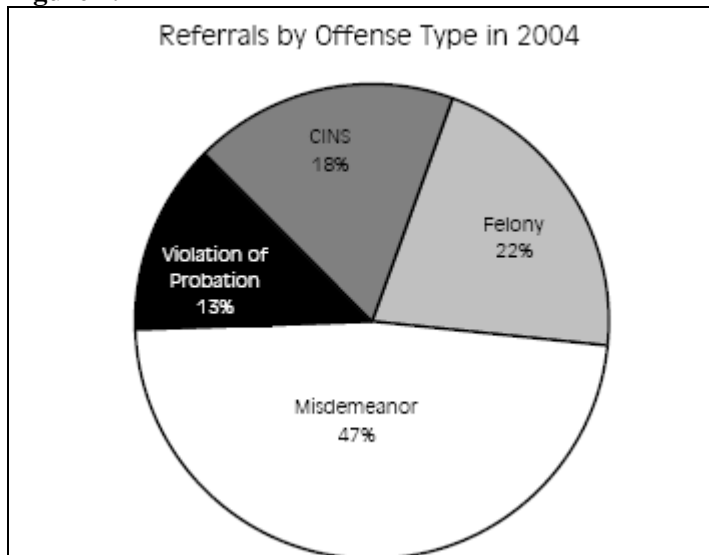
In 2004 there were 107,794 juveniles between the ages of 10 and 17 referred to TJPC. Of these juveniles, most were male (72%), between the ages of 13 and 16 (88%), and nearly half (45%) were Hispanic. A larger percentage of males are referred to the juvenile justice system and committed to TYC than females even though their percentages are almost equal in the juvenile population of Texas. Males make up 51% of the population, while females make up the other 49% (TJPC, 2007)

Of all of the juveniles referred to the juvenile justice system each year only about three percent are committed to TYC or certified as an adult (TYC, 2007). The general demographic characteristics of juveniles committed to TYC are similar to the characteristics of those referred to the juvenile justice system, with 89% being male, 44% Hispanic, and a median age of 16 (TYC, 2007).

Offenses Being Committed

Figure 2.1 shows that nearly half (47%) of the referrals to TJPC in 2004 were for misdemeanor offenses and that 22% were for felony offenses (TJPC, 2004).

Figure 2.1



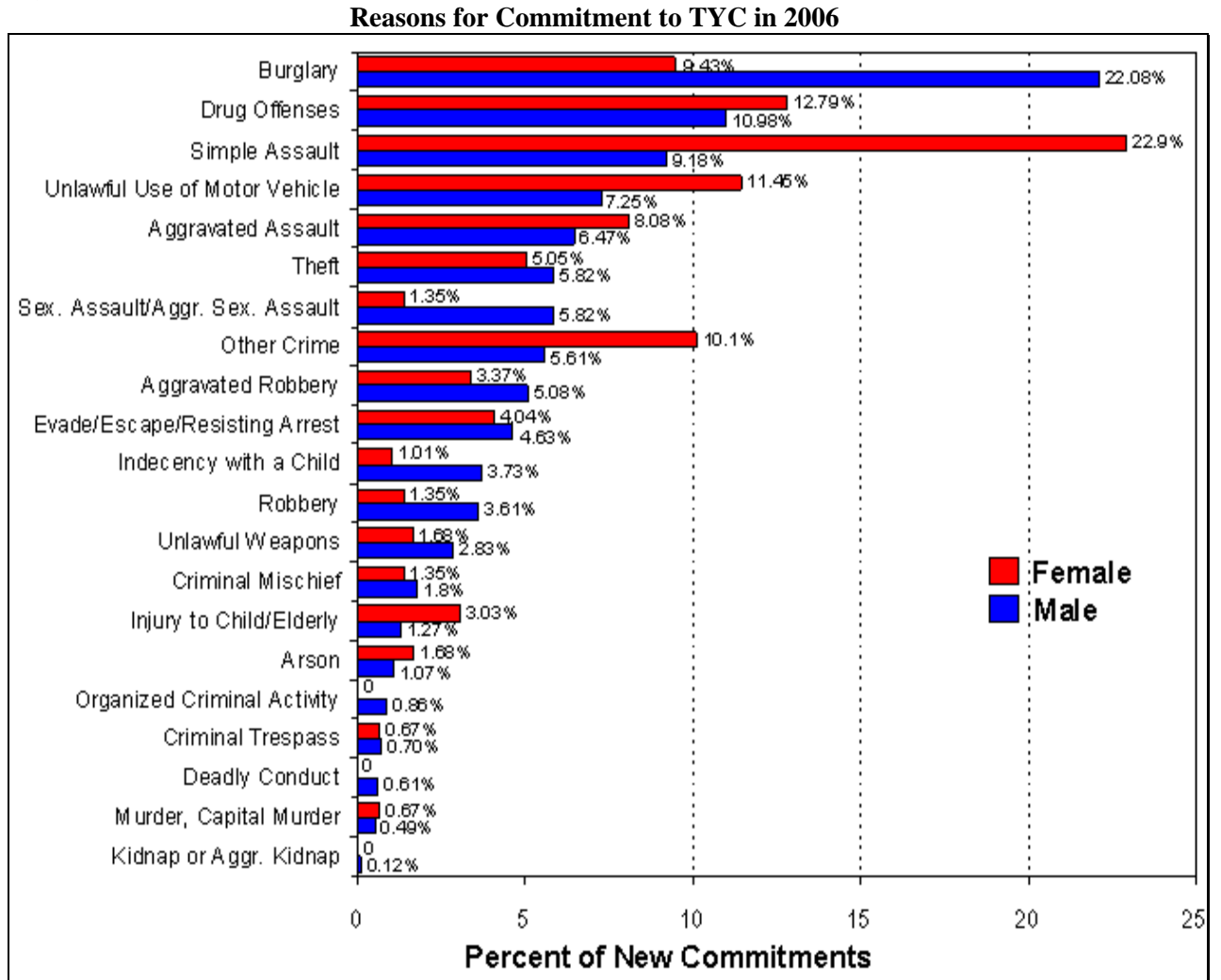
Source: Texas Juvenile Probation Commission
www.tjpc.state.tx.us.

Eighty percent of the juveniles committed to TYC in 2004 were for felony offenses. The most common felony offense for which juveniles are committed to TYC is burglary. In 2004, juveniles that were classified for burglary made up 22% of those in TYC. The second most common offense among juveniles in TYC is drug offenses. Juveniles that were classified for drug offenses made up half as much of the TYC population as those who were committed for burglary

(11%). Only one percent of the juveniles committed to TYC in 2004 were for murder (TYC, 2007).

Figure 2.2 shows the reasons for commitment to TYC for males and females in 2006. It should be noted that the most common reason for commitment to TYC differs between the two genders. The most common offense for males is burglary, while for females it is simple assault (TYC, 2007).

Figure 2.2



Source: Texas Youth Commission (2007)
www.tyc.state.us.

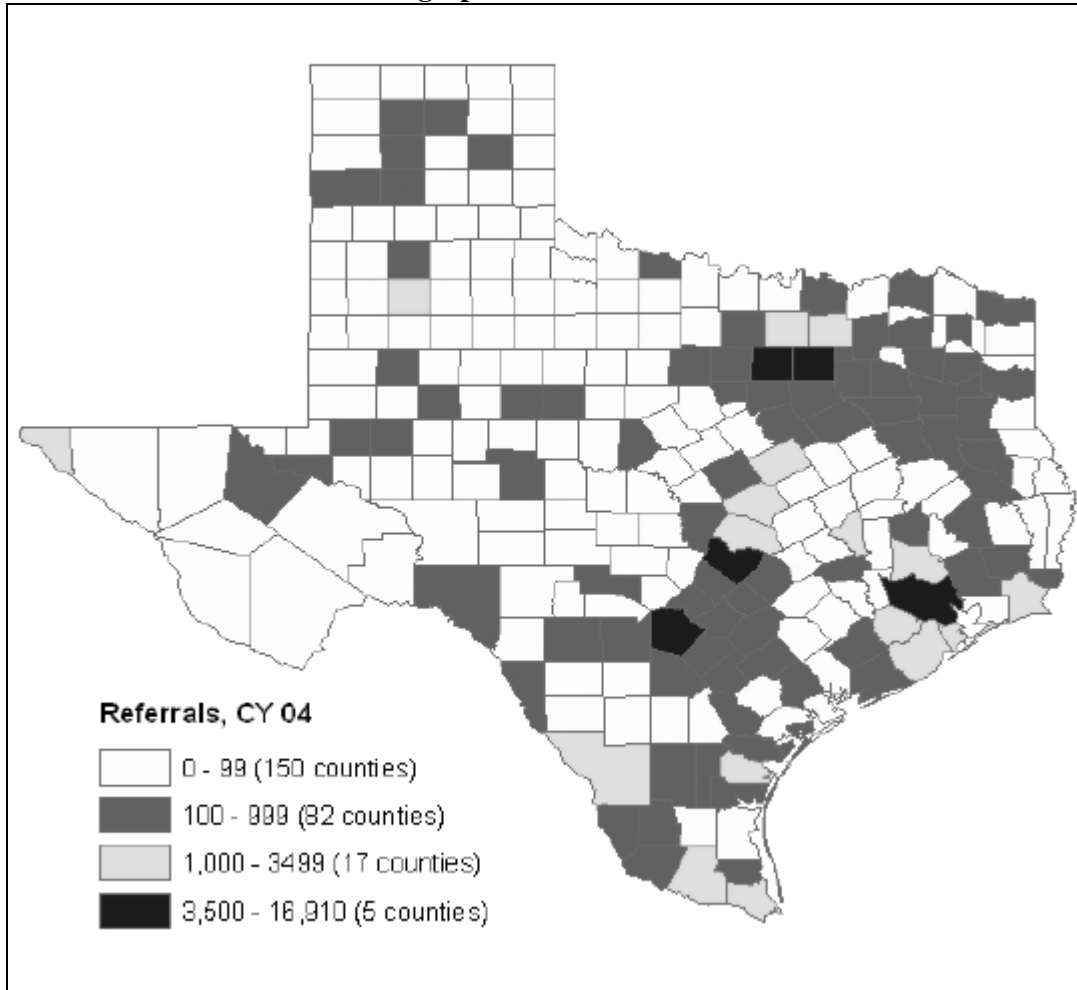
Geographic Location of Offenses

Of the 254 counties in Texas, only 5 of them made more than 3500 referrals to TJPC in 2004. As figure 2.3 shows, most of the counties (150) made less than 100 referrals in 2004. The five counties that have more than 3500 are also the five most populous counties in Texas. Harris County had the highest juvenile population in 2004 (396,348 juveniles) and there were 16,910

referrals from this county. Dallas County, Tarrant County, Bexar County, and Travis County had the other highest juvenile populations in 2004 (248,479, 167,010, 157,204, and 75,719 respectively) and the number of referrals from each county was 9,609, 6,696, 9,684, and 4,331, respectively.

Figure 3.3.

Geographic Location of Referrals.



Source: Texas Juvenile Probation Commission.
www.tjpc.state.tx.us.

Offense Trends in Texas:

There was a slight increase (.4%) in the total number of referrals made to TJPC from 2003 to 2004 (with the numbers from each year being 107,338 and 107,794 respectively). As can be seen from Table 2.1, and Figure 2.4 the number of referrals dropped from 139,062 in 1996 to a low of 105,910 in 2002, but began to rise again from 2002 to 2004.

Table 2.1

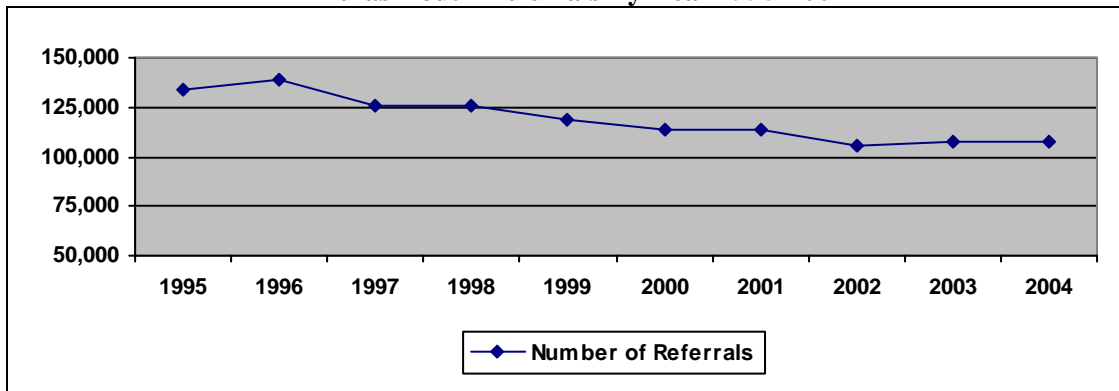
Offense Trends.

| Year | Referrals |
|------|-----------|
| 1995 | 133,866 |
| 1996 | 139,062 |
| 1997 | 126,132 |
| 1998 | 125,608 |
| 1999 | 118,996 |
| 2000 | 113,146 |
| 2001 | 113,134 |
| 2002 | 105,910 |
| 2003 | 107,338 |
| 2004 | 107,794 |

Source: Texas Juvenile Probation Commission
www.tjpc.tx.us.

Figure 2.4

Texas Youth Referrals By Year 1995-2004



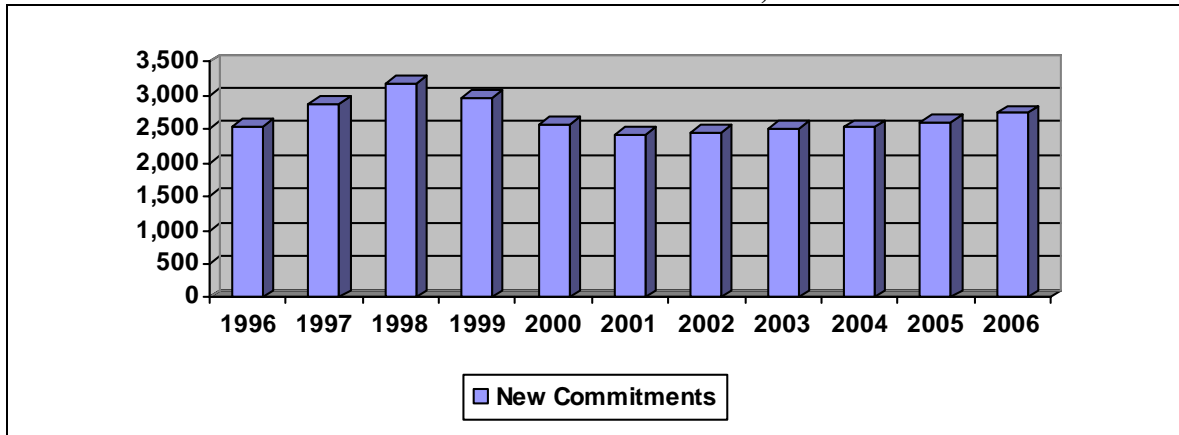
Source: Texas Juvenile Probation Commission
www.tjpc.tx.us.

Within the total number of referrals, those for violent felony offenses increased 12% and referrals for misdemeanors decreased .5% from 2003 (TJPC, 2007).

Figure 2.5 shows the number of new commitments to TYC each year from 1996 to 2006. It should be noted from figure 2.5 that the number of new commitments peaked in 1998 at 3,188, declined to 2,406 in 2001, and has since been increasing slightly each year.

Figure 2.5

Texas Youth Commission Commitments, 1996-2006.



Source: Texas Youth Commission
www.tyc.state.tx.us.

Summary

This chapter has shown that there are many ways in which age can be a confusing factor when it comes to the juvenile justice system in Texas. The first way is just by the definition of “child” in the Texas Family Code, only offenses committed by juveniles between the ages of 10 and 17 falls under the jurisdiction of the juvenile justice system.

The second way in which age complicates the juvenile justice system is that 17 is not always the maximum age of juveniles who are committed to TYC. In some circumstances juveniles can remain under the jurisdiction of TYC until their 18th or 21st birthdays. Thirdly, age is a very important factor in determining whether or not a juvenile can be certified to criminal court. The minimum age for certification for capital and first degree felonies is 14, whereas the minimum age for certification for second and third degree felonies, as well as state jail felonies, is 15. Texas also has an alternative to certification in determinate sentencing, which can apply to anyone under the jurisdiction of the juvenile justice system who is being adjudicated on an offense that is considered a first, second, or third degree felony.

There are two main agencies that collect data on juvenile offenses in Texas. The Texas Youth Commission (TYC) collects data on juvenile offenders that have been committed to its custody. The Texas Juvenile Probation Commission (TJPC) collects data from each county about the juveniles that are referred to the juvenile justice system. While these two agencies collect a great deal of useful data, there is still one main problem with the data collected. Both TYC and TJPC only collect data on juvenile offenses that are brought to the attention of the juvenile justice system. Limited data on juvenile victimization in Texas is available through the NVCS; however there is no agency in Texas that collects data on juvenile victimization. The major problem with data that is collect through the NCVS is that it only pertains to individuals over the age of 12. Therefore, victims aged 10 and 11 are not included in the data reported by NCVS.

This chapter also provided some statistics on who was committing juvenile offenses, what offenses were being committed, and where those offenses were being committed. Current data shows that males are both referred to the juvenile justice system and committed to TYC more often than females even though they make up almost even proportions of the population. Data also shows that juveniles in their mid-teens (13 to 16 years old) make up the largest percentage of the referrals, and that 45% of the referrals to TJPC in 2004 were Hispanic. In regards to what juvenile offenses are being committed, data shows that 47% of the referrals to

TJPC in 2004 were for misdemeanor offenses, while 22% were for felony offenses. It was also shown that the most referrals to TJPC in 2004 came from the five most populous counties in Texas.

When looking at trends in the juvenile justice system over the past decade, it seems that the number of referrals to the system and the number of youths committed to TYC peaked in the late 1990's (1996 for referrals, and 1998 for commitments to TYC). It appears that after peaking in the late 1990's, the numbers declined for a few years and have slowly begun to rise again.

Critical Review Questions

1. Why is 10 the low age for the Texas Juvenile Justice System? Why is 17 the upper age?
2. What county in Texas had the highest amount of TYC commitments? Why does this county lead?
3. What trends have developed in youth referrals since the early 00's?

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