



# Delaware Juvenile Detention Facilities Population Review

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# DELAWARE JUVENILE DETENTION POPULATION REVIEW AUGUST 2010

The Delaware juvenile detention populations decreased in early 2010 to the lowest level reported in over a decade. In March of 2010, the combined populations of both juvenile detention facilities: the New Castle County Detention Center in northern Delaware and the Stevenson House in southern Delaware reported a combined population of 77. This represents a 58 percent reduction from the peak juvenile detention population of 185 in September 2002.

The March 2010 population of 77 was at 65 percent of the 119 bed capacity. In contrast, the 2002 population significantly exceeded the then detention capacity of 94 and registered at 166 percent of capacity rating. In 2002, while the new and larger Stevenson House facility was slated to come on line in only a few months, it was also realized that even this new capacity was not going to sufficiently house the projected detention population. At the time, there were concerns that policy options that might help ameliorate the growing juvenile detention population had not been seriously studied, understood, or operationally addressed. Nor did the body of concerned leaders know how to specifically affect such a change. The Annie E. Casey Foundation's Juvenile Detention Alternative Initiative provided the framework and with the Delaware juvenile justice system leadership's initiative and resolve, the process of leading, experimenting and doing has led to the reduced juvenile detention population.

Juvenile arrests have not significantly decreased since 2002 thus ruling out changes in crime patterns as the explanation for the juvenile detention population decrease. However, juvenile arrests have not appreciably increased either, which also means that the decrease in the institutional populations has not created new public safety risks. A more plausible explanation is that juvenile population policy efforts that began with the Annie E. Casey Foundation in 2003 and have been renewed under the Juvenile Justice Collaborative (JJC) in 2009, have resulted in the Family Court, Justice of Peace Court, the Superior Court, the Attorney General, the Public Defender, and Youth Rehabilitative Services (YRS) in the Department of Children Youth and Their Families (KIDS) gradually and transparently making decisions regarding admissions and movements of juveniles in detention facilities that have resulted in the reduced population.

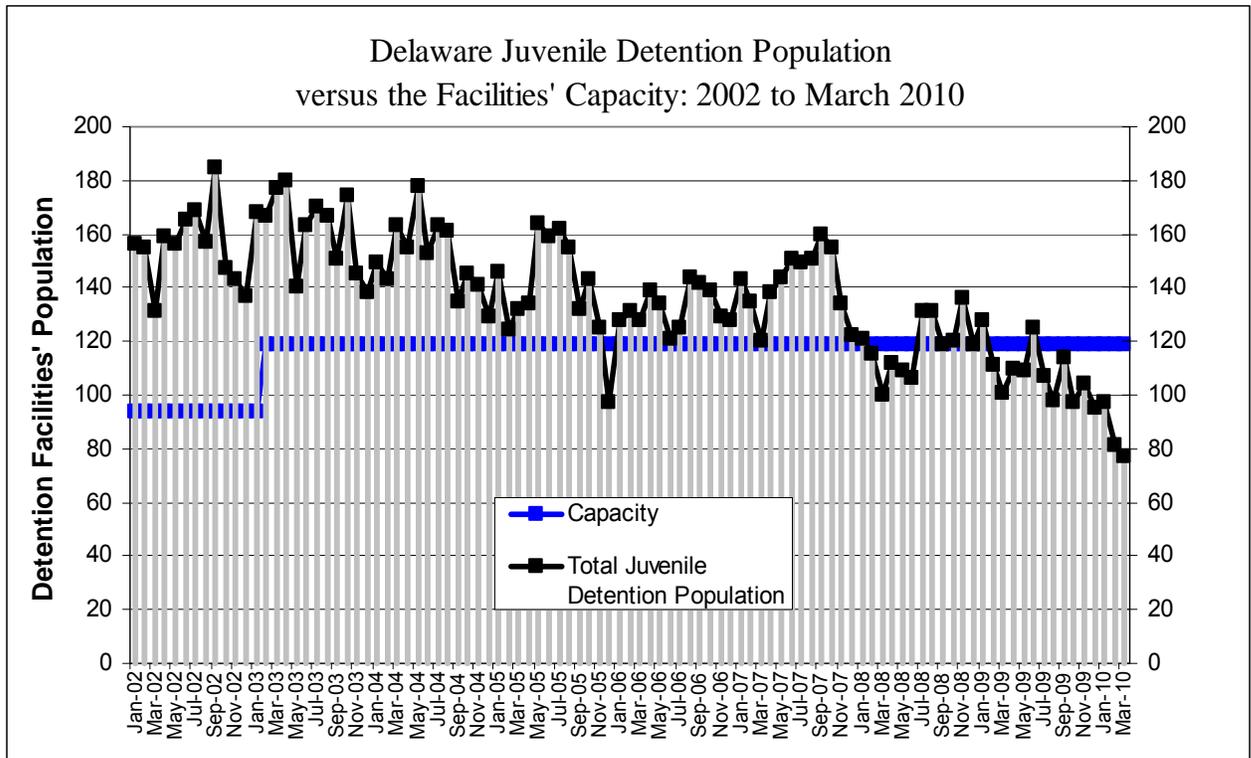
As the discussion below shows, the understanding of "how" to affect these changes did not come out of a box or from the mimicking of other jurisdictions' *best practices*, but out of a gradual awareness of the Delaware juvenile justice community's combined responsibility and knowledge of how the system works. Often, in an overcrowding crisis the host facilities, which in many ways are very restricted in policy/operational options, are looked upon as the sole and immediate source for the overcrowding solutions. More realistically the Delaware process has proven that the use of our juvenile detention facilities starts on the streets or in a family's home and at the initial appearance at the local Justice of the Peace Court, often after the Family Court has closed for the evening, weekend or holiday. Ultimately, it is these critical starting points that have to be addressed first.

## Fits and Starts: Staying With It Makes a Difference

Chart 1 (below) chronicles the long term pattern of the gradual decline of the monthly juvenile justice detention populations. The exciting period in late 2005 when the detention populations came close to and actually dropped below the institutions rated capacities of 119 did not last. They were followed by a discouraging reversal where the population increased to 160. Based on a detailed analysis (DeISAC, December 2008), the JJC members were able to determine that the reason for this reversal was not an overall systemic problem but instead an operational log jam of cases of juveniles being held as adults for trial in Superior Court. After the charging and Superior Court juvenile remand processes were reviewed and revised, the population, again, began to decrease.

The recognition of the underlying issues was not automatic and would not have been possible without the consideration of the legislatively mandated Delaware Statistical Analysis Center (DeISAC) quarterly juvenile facility population and movement reports. However, these reports can be effective only because the JJC operates as a cross agency collaborative that is an attentive and deliberative decision making body. As an effort to document the JJC continuing policy work, the remainder of this report examines how this committee and its predecessor committee (Annie E. Casey Juvenile Detention Alternative Initiative) learned and applied methods for controlling the juvenile detention populations.

Chart 1

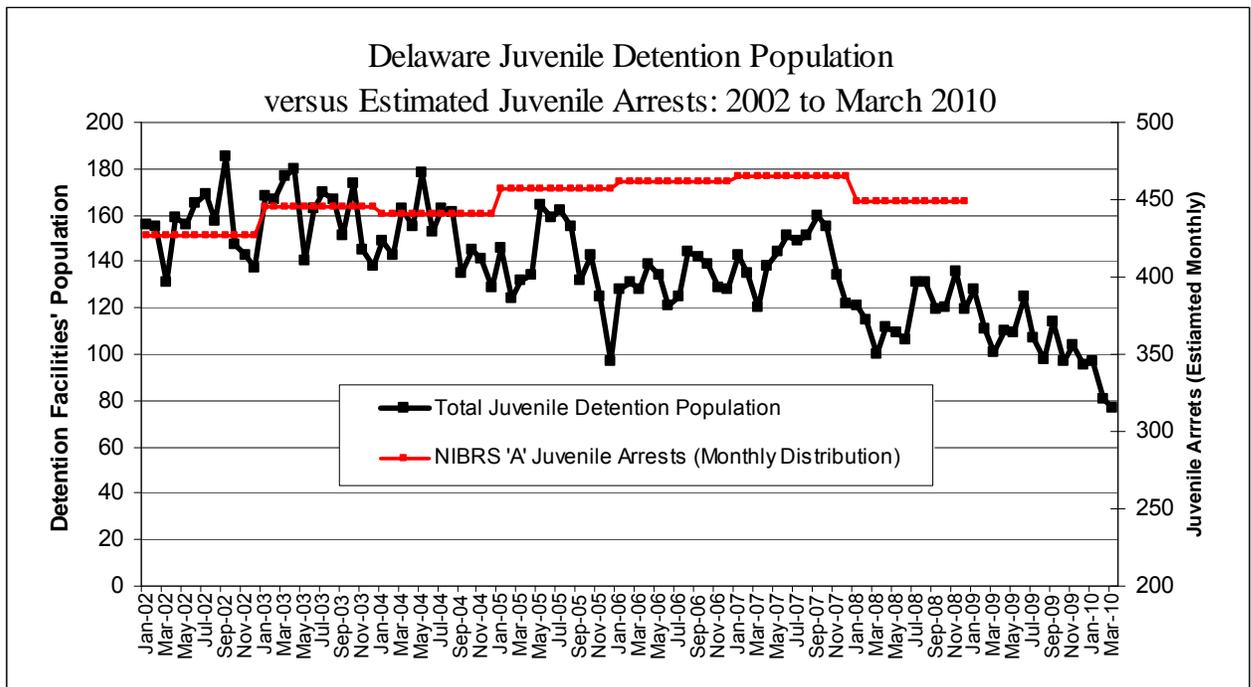


## Crime is not the Reason

When the juvenile detention population increases or decreases one of the most natural thoughts is that it was caused by the change in the “feeder” crimes for detention. That is, if major crimes are down 20 percent, the detention population should also decrease 20 percent. Chart 2 (below) shows that as the state’s official NIBRS Part A juvenile arrests have increased and decreased over time, the juvenile detention populations have not tracked closely. Part A crimes include the 22 most serious reported crimes and are the most likely to result in admission to detention. These include violent crimes such as rape, robbery, drug selling, and serious property crimes such as burglary, car theft, theft and property damage. (Technical Note: In Chart 2, to be able to draw a monthly comparison, the annual juvenile arrests are distributed evenly across the twelve months of the year).

On the other hand, it is good news that the decrease in the detention population did not bring about a commensurate increase in juvenile arrests, which shows that a smaller detention population does not necessarily produce a public safety risk resulting in increased juvenile arrests. For two years the detention population decreased (2004 and 2005) and juvenile arrests increased 3.8 and .9 percent. However, in two other years, that detention population increased (2003 and 2007) and juvenile arrests also increased 4 and 0.8 percent. And, interestingly, in another two years when the detention population decreased (2005 and 2008), juvenile arrests also decreased 1.1 and 3.5 percent. While there may be a point where not detaining the dangerous juvenile could result in a definable public safety risk, this has not yet occurred in Delaware.

Chart 2



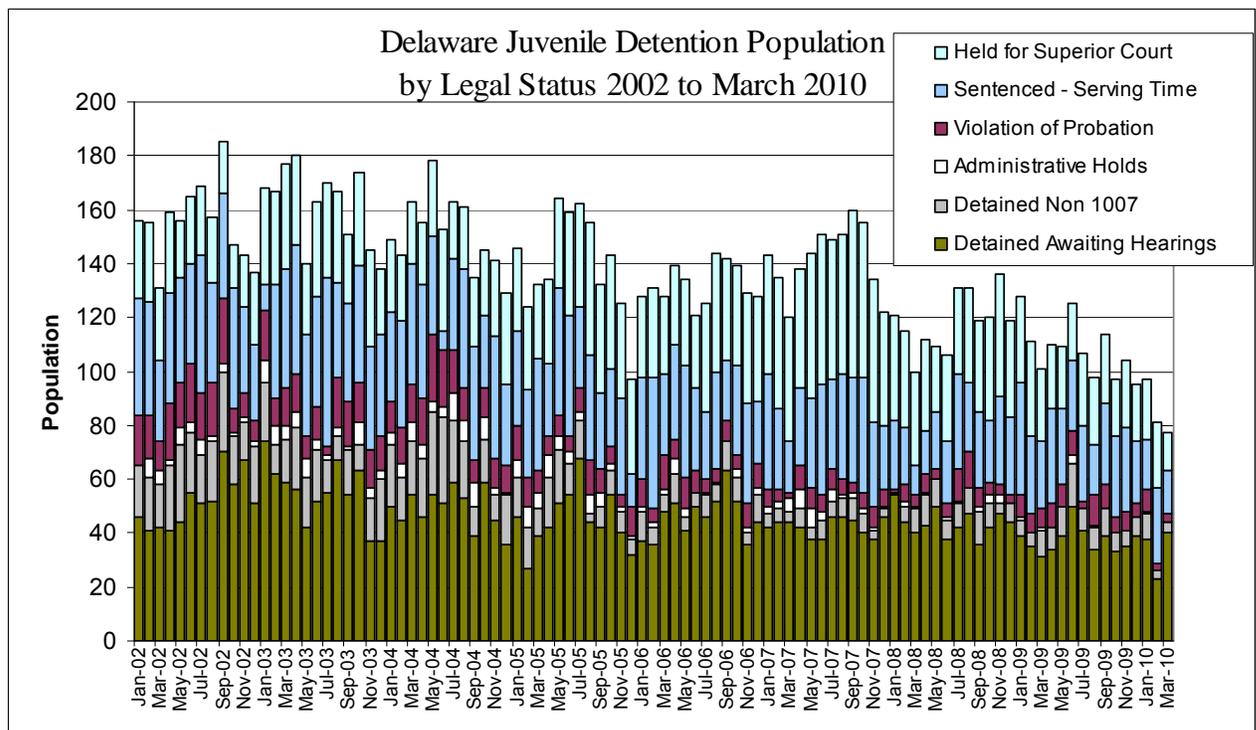
## Juvenile Detention’s Legal Statuses

Chart 3 (below), provides another view of the Delaware juvenile detention populations. Uninformed observers commonly perceive Delaware’s juvenile detention facilities as solely housing juveniles awaiting court hearing or bail. While it is true that this is an important function, this perception does not do justice to the true complexity of the daily Delaware juvenile detention facility operations. In reality there are six separate legal statuses for juveniles held in detention centers. These are:

- Detained Awaiting Hearings
- Detained Awaiting Hearings for non-1007 Cases (juveniles held for minor offenses)
- Administrative Holds (YRS admissions for community placement violations)
- Violation of Probation (A juvenile probation violator held awaiting a hearing)
- Sentenced Delinquents Serving Time (a juvenile found delinquent and held awaiting placement or release)
- Held for Superior Court (remanded as provided by law to be tried as an adult).

Each of these legal statuses is associated with unique authorities and processes that must be adhered to. Things can get even more complex for detention centers when a juvenile is held for more than one legal status — such as being held for a VOP and an arrest for a new crime. In this situation, a resolution for one charge does not necessarily allow for the juvenile to be released. It is interesting to note that the classic pre-hearing detention juveniles rarely make up a majority of the detention facility population.

Chart 3

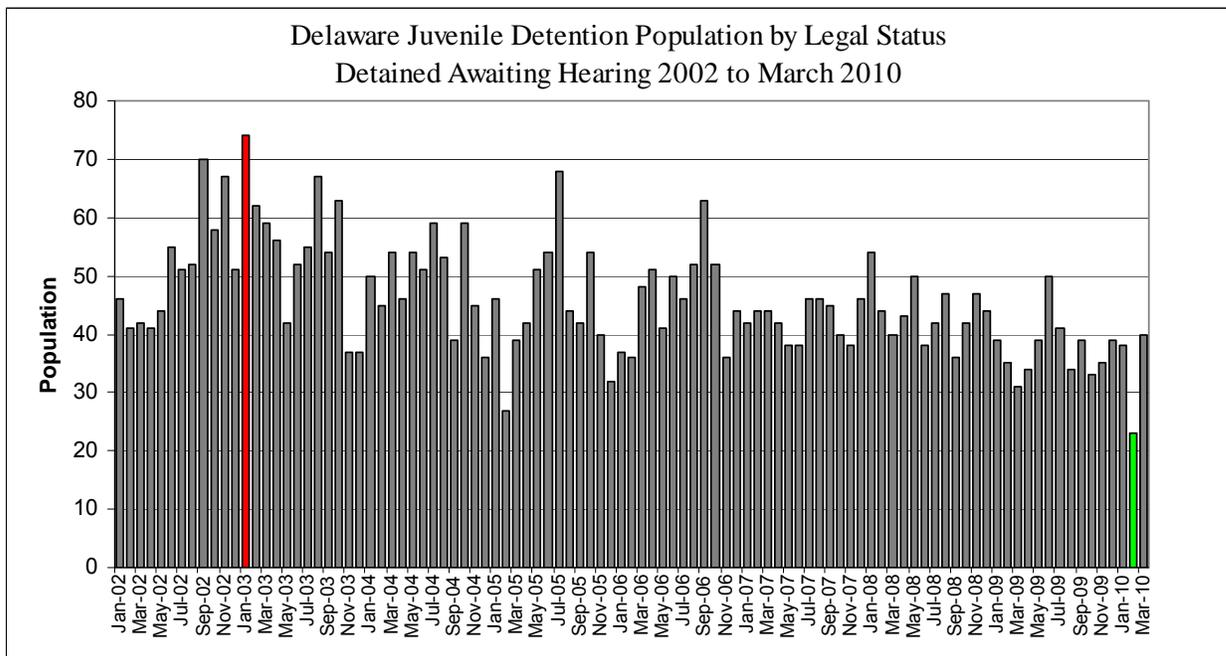


## Detained Awaiting a Court Hearing

Juveniles that are detained awaiting a hearing are the typical offenders thought of when discussing juvenile detention populations. It is also the most appropriate population to consider when comparing Delaware’s detention rates with other states’ county juvenile detention rates. Prior to the initiation of the routine JJC policy reviews, this subpopulation had reached as high as 74 in January 2003 (red bar in Chart 4). It reached a low of 23 (the green bar in Chart 4) in February 2010, however it appears that a more typical population in recent months will be between 35 and 40. Since 2002, the detained awaiting court hearings population has decreased by approximately 50 percent.

This population primarily consists of violent felons, violent misdemeanants, and non-violent felons. It is interesting that while this subpopulation did not merit specific analysis or policy assessment to arrive at the reported population reduction; it occurred anyway. The speculation is that the overall encouragement for the use of non-secure detention alternatives for the other detention subpopulations has been generalized in such a way that it has affected the admission rates for some of the more serious offenders. For instance, in 2003 and 2004 more non-secure detention beds, electronic monitoring bracelets and routine YRS “slot availability” reports became available for the courts. In the fourth quarter of 2001, 286 felony and violent misdemeanants were admitted to secure detention compared to only 105 in the first quarter of 2010. This is a 63 percent reduction in the number of juveniles being admitted to secure detention for serious crimes. This represents a change in court processes and decision-making since the number of juveniles arrested for serious crime has not decreased by 63 percent.

Chart 4

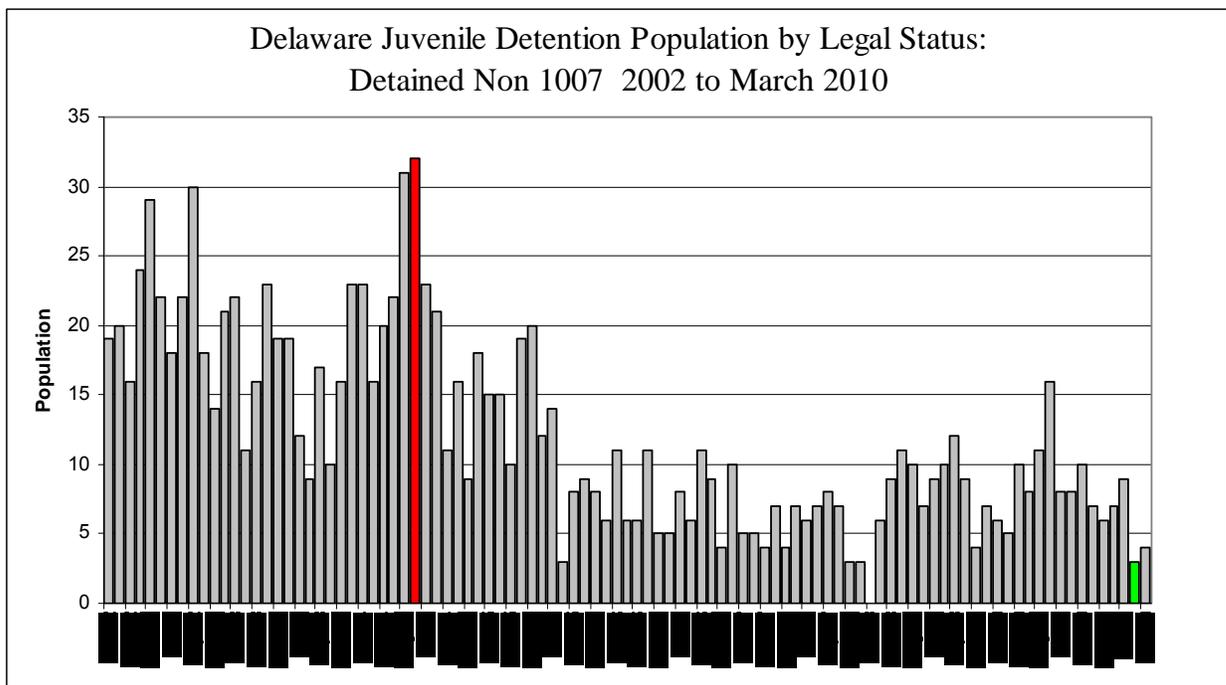


## Detained Non-1007 Juveniles

The non-1007 population includes juveniles admitted to secure detention for crimes not serious enough to be listed in 10 Del. C. §1007 that delineates the crimes for which juveniles can be admitted to secure detention. After many years of stringent efforts there has been a significant reduction of non-1007 detention admissions to secure detention. The sharp decrease in this population in 2004 coincides with Chief Judge of Family Court and the Chief Magistrate's memos, directives and guidelines emphasizing the diversion of non-1007 juveniles. However, there are still a limited number of non-1007 juveniles being detained for one or two weeks. These cases often include situations of terroristic threatening and reckless endangerment directed toward the parents and/or the staff of the non-secure detention facilities. While there are ample YRS non-secure detention and contract programs available, in some chaotic situations, these non-secure resources are perceived as inappropriate by judges. To begin to address this issue the JJC drafted SB 264, that was signed into law July 12, 2010. This new law provides greater latitude for Magistrates and Family Court judges to detain some of these juveniles. The legislature added a two year sunset provision to the law to ensure that the new practices do not conflict with accepted child welfare practices.

As Chart 5 (below) shows, as late as 2004 the non-1007 subpopulation accounted for as many as 33 non-1007 juveniles (the red bar) being housed in secure detention. In February and March of 2010, this subpopulation was only at 3 and 4 (green bar February 2010). It is helpful to frame this progress from the point of view of quarterly secure detention admissions. Prior to the JJC policy efforts, as many as 172 non-1007 juveniles were admitted to secure detention during the fourth quarter of 2001. In comparison in first quarter of 2010 the admission count was down to 38. This represents a 78 percent reduction in non-1007 juvenile detention admissions

Chart 5



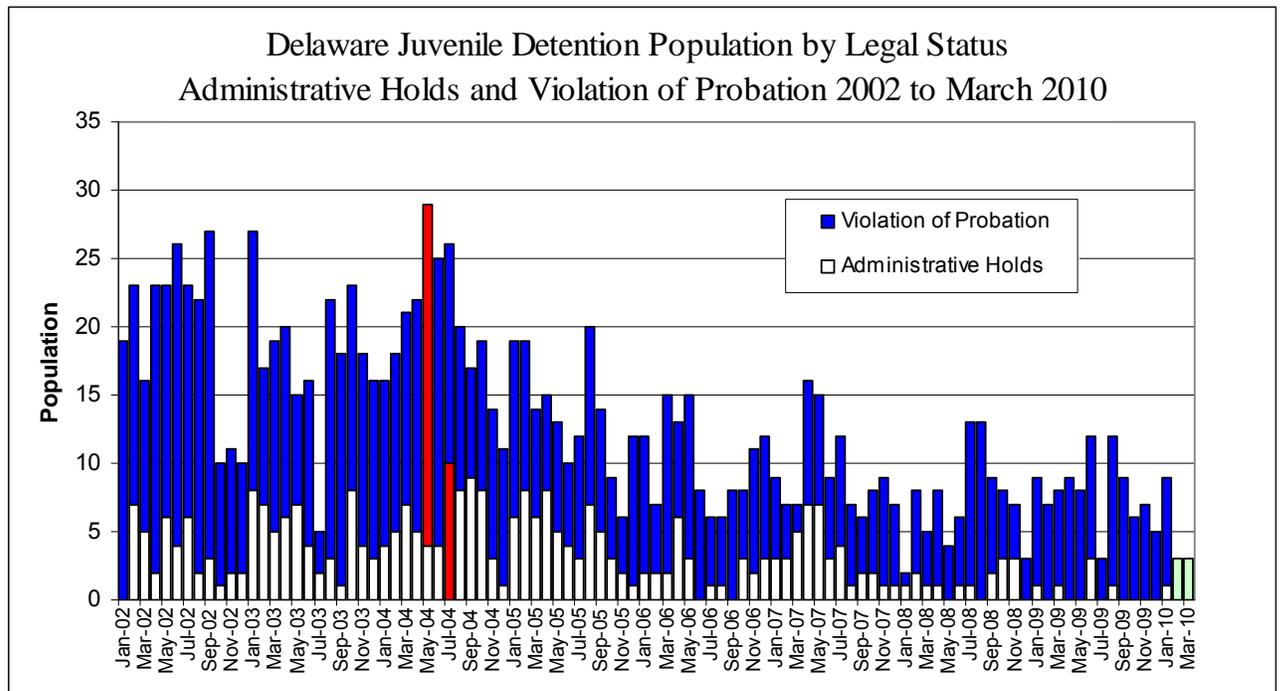
## Administrative Holds and Violations of Probation

Administrative holds include juveniles that violate their aftercare or probation and may serve a YRS administrative sanction or be placed in secure detention prior to a violation of probation hearing.

Violation of probation (VOP) are juveniles that violate their probation per 11 Del. C. § 4334. A VOP may include the commission of a new crime. In this report, only VOPs that do not include the commission of a new crime are counted.

These two categories are related to YRS' direct authority over juveniles under its charge. As shown in Chart 6 (below), the peak population for VOPs occurred in May of 2004 at 25 (upper red bar). The peak population for administrative holds occurred a couple months later in July of 2004 (lower red bar) at 10. Following these peak population periods, YRS began to initiate a series of internal reviews to ensure that the least severe penalty was being used for non-compliant juveniles in non-secure community placements and/or on probation. By 2009, the average population for secure detention for VOPs and administrative cases dropped below 10. In February and March of 2010, these populations accounted for only three of the juveniles in secure detention. As part of the ongoing population tracking, YRS has routinely discussed their revised processes at the JJC meetings for diverting VOP and administrative hold juveniles from secure detention.

Chart 6

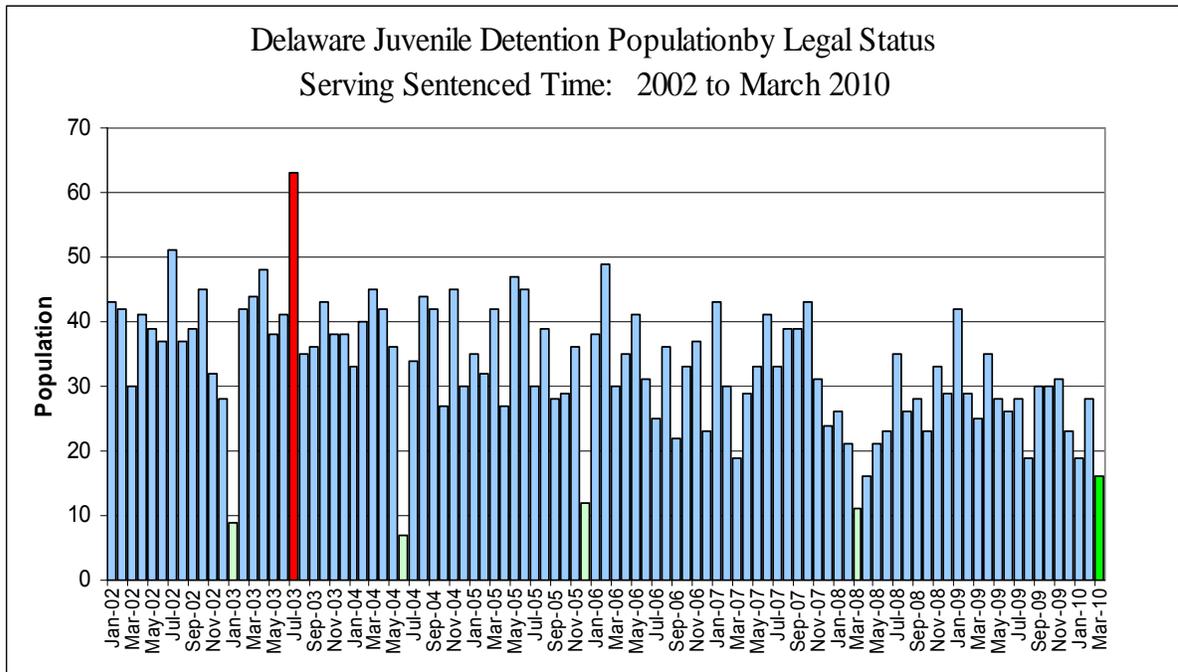


## Sentenced Delinquents Serving Time

Upon being found delinquent in Family Court, sentenced juveniles are often remanded to the detention facilities pending placement in a state operated or contracted Level V, Level IV, or Level III residential program. Technically, the count for sentenced juveniles does not start until 11 days after the sentencing date. This provides an administrative period for DYRS to complete referrals and placement following the receipt of the court's order. DYRS has a significant amount of decision making responsibility where they balance the specific treatment needs of the juvenile with availability of appropriate programs. As DelSAC's JJC tracking reports indicate, sentenced youth are staying in the secure detention facilities for shorter periods of time and are currently more likely to be placed in a treatment program rather than being released to a parent or guardian. As part of the ongoing population tracking, DYRS has routinely discussed the progress and issues related to these efforts to reduce the number of juveniles serving time in the detention facilities post-adjudication as well as minimizing post-adjudication length of stay. Significant in this regard has been the cessation of actual commitments to serve time in detention facilities.

As Chart 7 (below) shows, the sentenced subpopulation peaked in July 2003 at 62, although it was more likely to be between 30 and 40 for most months. More recently in 2009, the monthly counts have been between 20 and 30. The most recent low was in March of 2010 at 16.

Chart 7

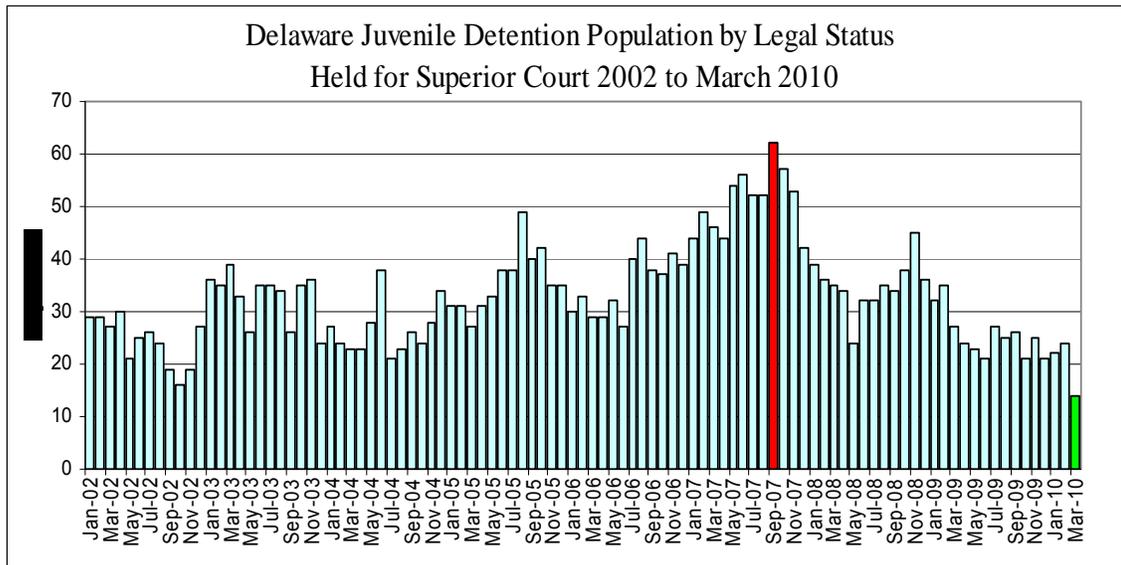


## Juveniles in Detention being held for Trial as Adults

Many juveniles pending dispositions in Superior Court, where they are being tried as adults, are housed in juvenile detention facilities. Since 2002, most of the attention has been directed to major policy issues that determine which youth qualify for a remand to Superior Court. In July of 2003, House Bill 210 became law and all Robbery 1<sup>st</sup> and Assault 1<sup>st</sup> cases became original Superior Court jurisdiction cases, which meant that unless otherwise plead they were to be filed in Superior Court. Based upon the findings in the study entitled *HB 210 Implementation: The Juvenile Sections* (DeSAC, May 2005), Senate Bill 200 was drafted and passed providing new criterion limiting which juveniles could be remanded to Superior Court. After House Bill 210, the juveniles held for Superior Court reached a peak population of 49 in August of 2005 (Chart 8 below). After the implementation of Senate Bill 200, the number of Superior Court juveniles decreased steadily until reaching 27 in June of 2006 (Kuhn, August 2006).

Thereafter, this subpopulation began to increase unexpectedly reaching a high of 63 in September of 2007 (the red bar on Chart 8). At this point, juveniles held as adults for Superior Court accounted for nearly 50 percent of all juvenile secure detention beds. Fewer juvenile remand cases had been diverted at initial hearings and, in turn, the limited prosecution-defense-courts staff assigned to these hearings became overwhelmed. This backlog created a vicious cycle resulting in even longer lengths of stay in juvenile detention and an ever larger population. Following an intensive analysis (DeSAC, December 2008), the discovered administrative delays began to be corrected and the subpopulation began to decrease. More cases are now being diverted to the Family Court, which has resulted in a steady decrease in this population. Most recently, the Juvenile Gun Court, which started in April of 2009, is believed to be also helping to control this population. By March of 2010, the number of Superior Court juveniles had decreased to 14 (green bar on Chart 8).

Chart 8



## Citations and Resources

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Kuhn, Chandlee, *SB200: Balancing Sentencing, Delaware's Juvenile Amenability Laws*, August 2006, Presentation at the National Association of Sentencing Commissions, [sac.omb.delaware.gov](http://sac.omb.delaware.gov).

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