



# Missed Opportunities: *Youth Diversionary Programs in New Jersey*

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**ACLU**  
New Jersey

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## Introduction

Diversionary program. It's a technical term for something portrayed in old movies: a parent arrives at a police station to pick up their child who, instead of being arrested and charged with a crime, has just been given a stern warning by police and an opportunity to make amends.

Unfortunately, in New Jersey, these opportunities for reconciliation are used relatively infrequently, and youth are pushed into the juvenile justice system instead. During a 2016 discussion on criminal justice reform, Camden County Police Chief Scott Thomson lamented the declining use of stationhouse adjustments in the City of Camden. He acknowledged — and the social science research confirms — that jailing a child is “one of the most damaging things you can do.”<sup>1</sup> Limiting children’s contact with the juvenile justice system overwhelmingly decreases the risk of later criminal justice involvement.<sup>2</sup> In childhood, generally considered a time of learning and experimentation, the parts of the brain that govern good judgment and impulse control are still immature. Children sometimes behave in ways that could be interpreted as criminal, such as shoplifting and loitering. Rather than prosecuting children for these behaviors, New Jersey should enhance its systems of support for them. Our state should expand programs and tools that divert children from the criminal and juvenile justice systems.

Diversionary programs are a critical component of the juvenile decarceration movement in New Jersey. Programs that prevent a child's entanglement in the system in the first place can help address the stark racial disparities that exist in the juvenile justice system. Currently, Black youth make up almost three-quarters of those incarcerated in New Jersey's youth correctional facilities.<sup>3</sup> Strong diversionary programs at the front end of the juvenile justice system can be particularly consequential for youth of color, who are disproportionately subject to arrest, charge, and detention.<sup>4</sup>

New Jersey has two primary diversionary programs: curbside warnings and stationhouse adjustments. Both are regulated by the New Jersey Office of the Attorney General, and both are underutilized. A curbside warning is exactly what it sounds like: an alternative enforcement tool that consists of issuing a warning to a young person accused of a minor delinquency, such as loitering, curfew violations, or disorderly conduct. The warning is brief, informal counseling with the juvenile and is supposed to result in a detailed report from the officer.<sup>5</sup> The Attorney General's Office also allows the use of curbside warnings for "activity that is dangerous or disruptive, but not necessarily illegal."<sup>6</sup> We know anecdotally that officers often do not document the interactions, making these warnings almost exclusively verbal and hard to track. We urge law enforcement to better utilize curbside warnings to minimize the unnecessary entanglement of youth in the juvenile justice system.

Stationhouse adjustments, described in greater detail below, apply to behaviors that could possibly be considered crimes if an adult engaged in them. Stationhouse adjustments give young people an opportunity to fulfill certain conditions rather than enter the juvenile or criminal justice system. A 2016 report by the New Jersey Institute for Social Justice, *Bring Our Children Home: Ain't I A Child?*, encourages the use of diversionary programs as a method to tackle juvenile incarceration.<sup>7</sup> It takes a preliminary look at the use of stationhouse adjustments by law enforcement agencies across New Jersey, raising concerns about uneven access to the program based on location. Extending this assessment, our report takes a deep dive into the state's use of stationhouse adjustments and makes recommendations to improve the implementation and oversight of the program.

In theory, diversionary programs provide children with a restorative, rather than punitive, resolution to an offense. Restorative approaches seek to improve community safety by promoting individual accountability and addressing the underlying causes of an offense. Punitive approaches involve extensive dealings with courts or family services and often have no other aim than to punish, ignoring possible negative consequences such as the increased likelihood that a child will later drop out or endure incarceration. Given these consequences, programs that incorporate restorative justice principles should be prioritized over punitive approaches.

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The use of stationhouse adjustments can have a long-term impact on curtailing mass incarceration in New Jersey. This impact will only grow by institutionalizing the program within law enforcement agencies and providing robust support and resources to agencies, families, and schools.

## What is a Stationhouse Adjustment?

New Jersey Attorney General Directive No. 2008-2 defines a stationhouse adjustment as “an alternative method that Law Enforcement agencies may use to handle first time juvenile offenders who have committed minor juvenile delinquency offenses within their jurisdiction.”<sup>8</sup> Any sworn law enforcement officer can order them, often in coordination with the local county prosecutor’s office. The directive mandates that law enforcement agencies throughout New Jersey make stationhouse adjustments available to young people accused of violating the law.

Stationhouse adjustments are intended to provide an accused juvenile “an immediate consequenc[e], such as community service or restitution and a prompt and convenient resolution for the victim, while at the same time benefitting the juvenile by avoiding the stigma of a formal juvenile delinquency record.”<sup>9</sup> The child is required to admit to committing the offense and agrees to satisfy a series of conditions in lieu of a formal charge. If successfully completed, the child will not have a juvenile record. The directive requires the involvement of any known victims affected by the child’s actions, and that person retains the right to object to a stationhouse adjustment in favor of filing a delinquency complaint against the offender.

Though stationhouse adjustments are not available for all offenses, young people are eligible to receive them for ordinance violations, petty disorderly persons offenses, and standard disorderly persons offenses. Fourth degree charges may qualify for adjustment if the youth has no prior juvenile record known to law enforcement agencies. Under certain circumstances, the local county prosecutor’s office can also approve a stationhouse adjustment for juveniles who are detained for use or possession of a controlled dangerous substance or drug paraphernalia.<sup>10</sup>

Some law enforcement agencies partner with chaplains or nonprofit organizations to implement their stationhouse adjustment program, while others delegate responsibility over the program to these partner agencies. Without sufficient training or oversight, this delegation of duties can lead to vague or subjective conditions that young people cannot — or should not be required to — satisfy, even when given with the best of intentions. For example, we have heard anecdotally about conditions that prohibited participants from driving for charges unrelated to moving violations and written agreements for the child to “keep their mouth shut” or “show respect.” Giving conditions unrelated to the underlying offense or stipulations that are unclear or unachievable can undermine the purpose of the program and erode trust



between the participant and law enforcement. Moreover, the terms and conditions for a young person's stationhouse adjustment should not be harsher than those allowed under the ordinance, regulation, or statute of the underlying offense.

Juvenile diversionary programs work most effectively when public agencies within the criminal justice system run them, as opposed to nonprofit or private agencies.<sup>11</sup> In order to institutionalize them and ensure their success, law enforcement agencies need to dedicate resources and personnel to these programs. Law enforcement agencies should train all officers, coordinate in partnership with local prosecutors, and institute a clear framework to ensure consistent, equitable implementation.

## Not All Youth Have Access to Stationhouse Adjustments

To take a deeper dive into the landscape of juvenile diversionary programs, we requested quarterly stationhouse adjustment reports from January 2014 through December 2016 from the Office of the Attorney General, pursuant to the Open Public Records Act (OPRA). Once we received reports for all the reporting jurisdictions, we analyzed the available information to discern trends in stationhouse adjustments. During the period examined, January 2014 to December 2016, four counties — Camden, Essex, Monmouth, and Warren — had no quarterly reports available, indicating that the local county prosecutor's offices had likely failed to submit quarterly reports to the Attorney General's Office. We also submitted records requests to New Jersey's 21 county seats for quarterly reports and anonymized stationhouse adjustment agreements. Many of the county seats failed to respond, and the City of Camden provided data only for the 2016 calendar year.

In total, we received data from 17 counties, which all together comprise 431 municipalities. In 178 of these municipalities — more than 41 percent of those surveyed — law enforcement did not give a single stationhouse adjustment during the reporting period (see Appendix). Within the reporting counties, 353 law enforcement agencies cover their 431 municipalities. One hundred and twelve, or approximately 32 percent of these agencies, did not perform a single stationhouse adjustment between 2014 and 2016. In other words, approximately one-third of all young people in New Jersey have been deprived of access to stationhouse adjustments by the approximately 20 percent of New Jersey's law enforcement agencies that have not implemented a stationhouse adjustment program. Because 110 law enforcement agencies, covering 134 municipalities and 4 counties, did not comply with the Attorney General's reporting requirements, the true number of both stationhouse adjustments and missed opportunities is impossible to accurately glean. Nonetheless, it is clear that this diversionary tool has not been evenly distributed across the state.

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Based on data received from our OPRA request to the Office of the Attorney General, the use of stationhouse adjustments is concentrated in certain parts of the state. Across New Jersey, a total of 5,234 stationhouse adjustments were issued between 2014 and 2016. The Central Jersey counties of Mercer, Middlesex, Somerset, and Union used stationhouse adjustments most often, comprising 38.2 percent of the total adjustments over the three years examined. Additionally, Atlantic, Cape May, and Cumberland counties in South Jersey also gave out well over 1,000 stationhouse adjustments, or 29 percent of total adjustments. However, the county-level data obscures variations within each county, as poorer areas utilize stationhouse adjustments far less often, according to the New Jersey Juvenile Justice Commission.<sup>12</sup>

Table 1. Total Number of Stationhouse Adjustments, by Quarter and Year, 2014-2016

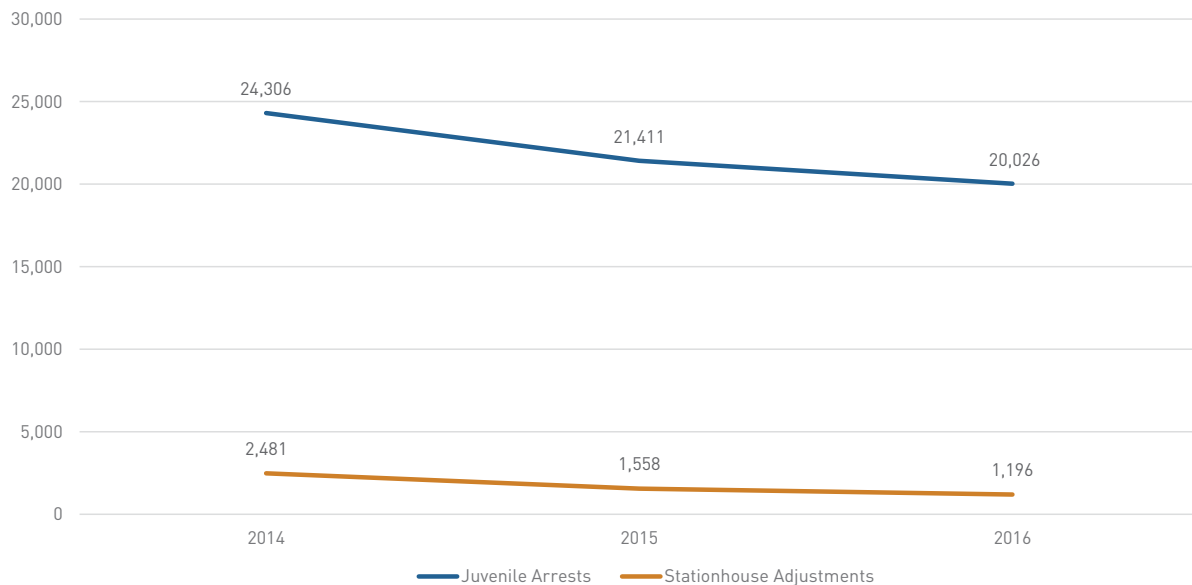
Quarter	2014	2015	2016	Total
1st	579	440	376	
2nd	667	454	314	
3rd	709	335	145	
4th	526	328	361	
Yearly	2481	1557	1196	5234

Source: New Jersey Office of the Attorney General

Of the three years examined, stationhouse adjustments were most prevalent in 2014, then steadily declined throughout 2015 and 2016. Overall, the number of adjustments young people received dropped about 52 percent, from a high of 2,481 in 2014 to only 1,196 in 2016 (Figure 1).

When comparing the number of stationhouse adjustments and juvenile arrests over the same three-year period, the underutilization of stationhouse adjustments becomes even clearer. According to the New Jersey State Police, there were 20,026 juvenile arrests in 2016. This number decreased by about 17 percent from 2014, while the number of stationhouse adjustments dropped at a rate more than three times higher than that — 52 percent — suggesting many lost opportunities to divert children from unnecessary criminal justice system involvement.

Figure 1. Juvenile Arrests Compared to Stationhouse Adjustments, 2014 - 2016



Source: New Jersey Office of the Attorney General; New Jersey State Police, Uniform Crime Report; and New Jersey Courts, Administrative Office of the Courts.

Table 2 on the following page breaks down the types of offenses for which juveniles received stationhouse adjustments over the three-year period observed. A significant number of law enforcement agencies either failed to list the offense being adjusted on their quarterly reports or listed an incomplete charge. Other agencies simply stated that the offense was a municipal ordinance violation, but they did not report what that violation was. As a result, 6.6 percent of the 5,239 stationhouse adjustments were categorized as omitting the charge. The category “All Other Offenses” comprises 22.8 percent of all offenses, occurring for 1,194 stationhouse adjustments. This category represents charges that were only reported a handful of times by law enforcement agencies, such as throwing a bodily fluid at an officer (2C:12-13), false government documents (2C:21-2.1), endangering the welfare of a child (2C:22-4), and possession of an emergency communications receiver (2C:33-22).

Table 2. Breakdown of Offenses for which Juveniles Received Stationhouse Adjustments, 2014-2016

	Total Offenses	Percent
Truancy	3	0.1
Theft-Related Offenses	954	18.2
Drugs, Alcohol, & Tobacco	934	17.5
Weapons Related	164	3.2
Disorderly Conduct, Riot, False Alarms, or Improper Behavior	546	10.5
Fights, Altercations, and Assaults	396	7.7
Threat, Intimidation, Verbal Harassment	354	6.8
Criminal Trespass	346	6.6
All Other Offenses	1196	22.8
Missing	346	6.6
Total	5239	100

Source: New Jersey Office of the Attorney General

The most common offenses to garner a stationhouse adjustment were drug, alcohol, and tobacco offenses; theft-related offenses; and disorderly conduct.

The most common offenses to garner a stationhouse adjustment were drug, alcohol, and tobacco offenses; theft-related offenses; and disorderly conduct. In total, there were 934 drug, alcohol, and tobacco offenses, representing 17.8 percent of all stationhouse adjustments. Approximately 80 percent of the drug, alcohol, and tobacco adjustments involved either simple possession (321 cases) or underage consumption of alcohol (422 cases). Nine hundred and fifty-four juveniles received stationhouse adjustments for theft-related offenses, and 60 percent of these theft-related cases were for shoplifting. Another 33 percent of stationhouse adjustments for theft-related offenses were given for unlawful taking (2C:20-3), when someone takes movable property from another person. These offenses are not uncommon behaviors among children, who are not yet able to reason like adults. Criminalizing these behaviors rather than offering greater opportunities for diversion is a mistake that New Jersey needs to correct.

## Racial Differences in Implementation

Using information from the quarterly reports, Table 3 shows the racial breakdown of the young people who received stationhouse adjustments. Black juveniles are the only group that is overrepresented in receiving stationhouse adjustments, while Latinx and Asian youth received stationhouse adjustments at a percentage notably lower than their percentages in the state's population. White juveniles received adjustments at a percentage roughly on par with their share of the population.



The data allowed us to examine the breakdown of juveniles' offenses by race overall (Figure 2), but not the racial breakdown for the number of conditions and types of conditions that juveniles were required to complete as part of their adjustments.

Table 3. Juveniles Receiving Stationhouse Adjustments Compared to New Jersey by Race

	Stationhouse Adjustments	New Jersey Demographics
White	54.1%	55.8%
Black	27.1%	15.0%
Latinx	14.4%	20.0%
Asian	3.7%	9.8%

Sources: New Jersey Office of the Attorney General;  
U.S. Census Bureau, American Community Survey, 2015

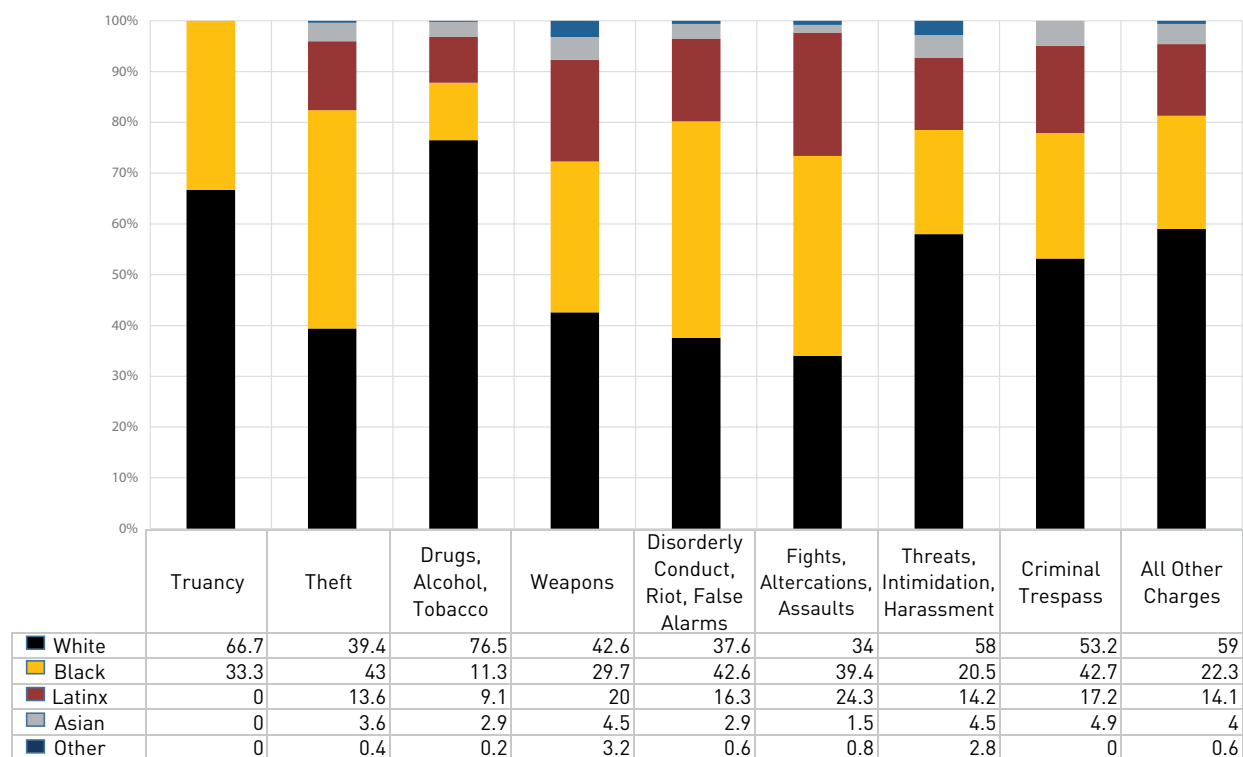
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While juveniles across all races engage in delinquent behavior at approximately the same rates,<sup>13</sup> many juvenile populations in this study did not receive stationhouse adjustments in proportion with their share of the population. However, because we do not have comprehensive information about the number of juveniles who came into contact with law enforcement and the number of children who were offered curbside warnings, we have no way to determine the percentage of arrests or stationhouse adjustments out of the total number of juveniles who came into contact with law enforcement. Because law enforcement agencies' current data collection systems are deficient, we also cannot determine other important details, such as whether the overrepresentation of Black young people receiving stationhouse adjustments is due to more of these young people being given stationhouse adjustments instead of curbside warnings, or more Black children being offered stationhouse adjustments instead of being arrested.

We are concerned by the disproportionality between the share of juvenile arrests and the share of youth who receive stationhouse adjustments for drug, alcohol, or tobacco offenses. According to 2015 figures on juvenile arrests, white youths comprised 69.6 percent of juvenile drug arrests, while Black youths made up 28.4 percent of juvenile drug arrests and Latinx youths comprised 23.4 percent of juvenile drug arrests.<sup>14</sup> However, Black and Latinx youths received far fewer stationhouse adjustments for drug, alcohol, and tobacco related offenses than their proportion of juvenile arrests: Black youths received 11 percent of those stationhouse adjustments, while Latinx youths only received 9 percent. What these numbers represent is a widely missed opportunity to divert young people of color from the juvenile justice system. If stationhouse adjustments were the first resort for all juveniles accused of low-level drug offenses, these racial disproportionalities in utilization would be reduced, if not eliminated altogether.

These disproportionalities between the racial breakdown of juvenile arrests and stationhouse adjustments also exist for weapons-related offenses. Between 2014 and 2016, there were 155 total stationhouse adjustments for weapons-related offenses; 43.2 percent of those adjustments were for white youths while Black and Latinx youths comprised 29.7 and 19.6 percent, respectively. According to New Jersey State Police 2015 figures on juvenile arrests, white youths comprised 47.9 percent of arrests, Black youths comprised 51.1 percent of arrests, and Latinx youths comprised 26.1 percent of arrests.\* White and Latinx youths comprised a proportion of youths who received diversion comparable to their respective share of weapons-related arrests. Black youths, on the other hand, represented a much lower proportion of adjustments when compared to their share of arrests. Much like with low-level drug offenses, if stationhouse adjustments were utilized as a first resort, this disproportionality would be reduced or potentially eliminated.

Figure 2. Juvenile Arrests by Race, 2014 - 2016



\*The New Jersey State Police Unified Crime Report differentiates arrests by race and arrests by ethnicity. The report does not state whether the juvenile is White Hispanic, White Non-Hispanic, Black Hispanic, or Black Non-Hispanic. Though this creates some overlap, the figures still provide a look into who receives stationhouse adjustments and who does not.

Using a stationhouse adjustment for a young person out in public late at night would have a notable impact on diverting Black youth, in particular, from juvenile justice involvement.

Stationhouse adjustments for curfew violations were few and far between, despite numerous arrests for curfew violations. Across the three years examined, only 13 juveniles received stationhouse adjustments for curfew violations, all of which occurred in Mantua, Bridgeton, Greenwich, and Millville. To compare, in 2015 alone more than 1,400 arrests of children were made for curfew and loitering violations.<sup>15</sup> Of these arrests, 63 percent of these youths were Black, while only 37 percent were white. Curfew violations, an offense exclusive to juveniles, do not always result in arrest or citation, as police have more discretion in this area.<sup>16</sup> Curfew and loitering are also explicitly listed in Directive 2008-2 as offenses eligible for adjustment. As the data suggests, using a stationhouse adjustment for a young person out in public late at night would have a notable impact on diverting Black youth, in particular, from juvenile justice involvement.

### Most Stationhouse Adjustments Are Successfully Completed

The data collected through our OPRA requests also provided a look into the outcomes of stationhouse adjustments over the three-year period. For a number of stationhouse adjustments, no outcomes were documented in the quarterly reports; as such, 345 outcomes were listed as missing. Another 455 outcomes from the OPRA responses were listed as “not applicable” by the police departments, but the agencies gave no explanation of that outcome.

Table 4. Breakdown of Stationhouse Adjustment Outcomes, 2014-2016

	Total	Percent
Successful Completion	3485	66.5
Parent/Guardian/Caregiver Not Available or Refused Participation	87	1.6
Juvenile Refused Participation	59	1.1
Victim Insisted on Formal Complaint	626	12.1
Juvenile Committed New Offense or Did Not Complete Terms of Adjustment	153	2.9
Pending	29	0.6
Not Applicable	455	8.6
Missing	345	6.6
Total	5239	100

Source: New Jersey Office of the Attorney General

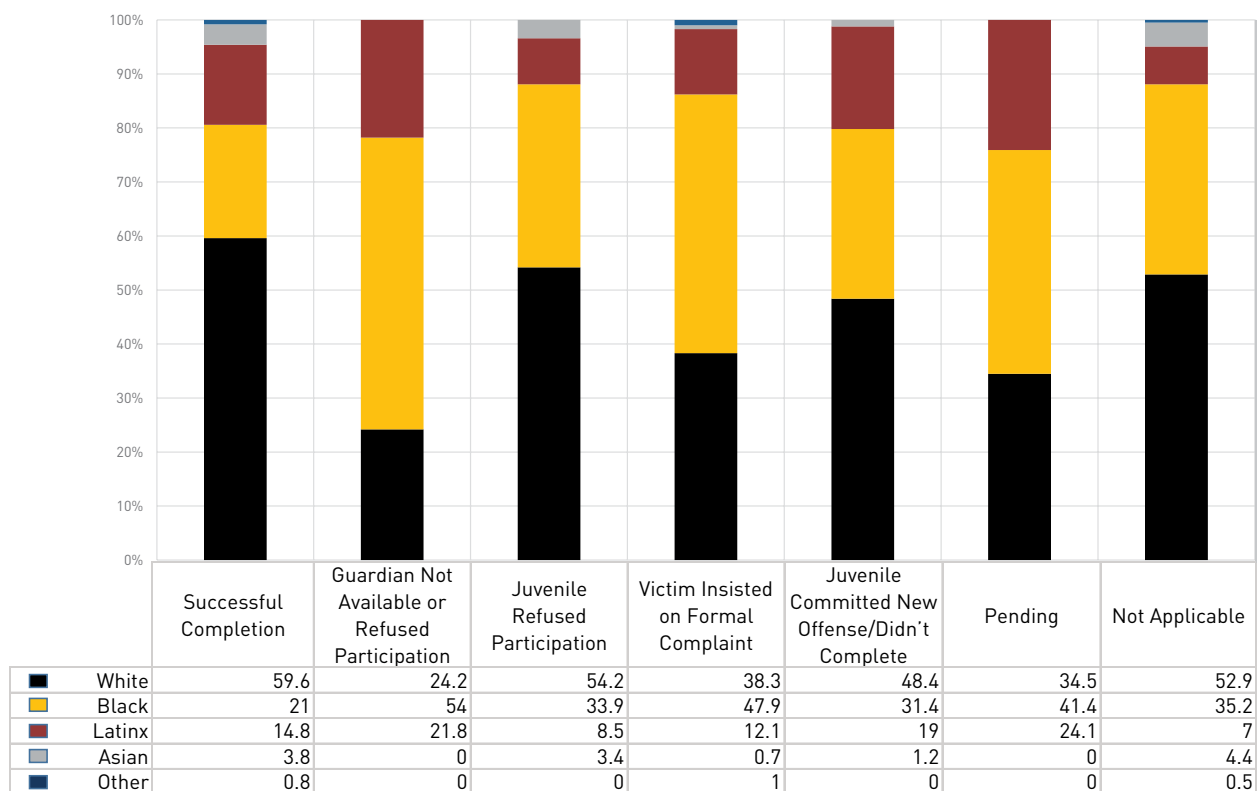
Nonetheless, as Table 4 demonstrates, the majority of stationhouse adjustments resulted in a juvenile being successfully diverted from the juvenile justice system. Of the 5,239 stationhouse adjustments during

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the period, 66.5 percent of them, or 3,485 adjustments, resulted in a young person successfully completing their conditions. In just 3 percent of cases did juveniles commit a new offense or fail to meet the conditions of the agreement. Approximately 3 percent of stationhouse adjustments did not have their conditions fulfilled because either the juvenile or the juvenile's parents refused to participate in the program.

In nearly 12 percent of the adjustments, the victim insisted on filing a formal complaint against the juvenile, generally overriding any decision by law enforcement to give a stationhouse adjustment instead. The majority of victim objections, 53.4 percent, occurred in Atlantic County. Figure 3 shows the breakdown of stationhouse adjustment outcomes by race within the data we received. The victims' right to object to a stationhouse adjustment led to 626 juvenile delinquency complaints charges. Statewide, Black youths make up nearly half of the youths who had complaints filed against them (48 percent). While complaints against a juvenile do not result in a criminal record that employers, banks, or background checks can see unless the juvenile is charged as an adult, law enforcement does have continued access to these records even after the juvenile is an adult. A victim's objection, and subsequently a possible formal charge, may have a powerful influence over any future interactions the juvenile has with law enforcement for decades to come.

Figure 3. Adjustment Outcomes by Race, 2014 - 2016



Source: New Jersey Office of Attorney General

## In Context: A Snapshot of Paterson and Middle Township

In addition to requesting data on stationhouse adjustments, we also sent OPRA requests to police departments across New Jersey requesting individual juveniles' stationhouse adjustment records. In response, the City of Paterson and Middle Township sent us forms that allowed us to further examine the conditions required for successful completion of the stationhouse adjustment program. The Paterson Police Department provided information on its city's stationhouse adjustments from 2010 through January 2017, with personally identifiable information redacted. During this period, 68 incidents involving juveniles were resolved using a stationhouse adjustment. The most commonly adjusted category of offenses was "assault, simple or aggravated," which accounted for 32.4 percent of Paterson's stationhouse adjustments. Other commonly adjusted offenses were harassment/terroristic threats, weapon possession, trespassing, and property crimes.

Middle Township provided information on a total of 37 stationhouse adjustments from 2011 through 2016. Drug-related offenses accounted for nearly 25 percent of the adjustments during this period, followed by theft-related charges and trespass charges.

In any police department, the terms and conditions of stationhouse adjustments that juveniles must satisfy are set by the officer administering the adjustment. On the forms provided by the City of Paterson and Middle Township, the number of terms and conditions for each adjustment ranged from one condition to as many as nine. While the terms and conditions often vary, certain stipulations appear more frequently. The most common terms and conditions laid out for adjustments require the juvenile to respect authority figures or other students; follow all rules according to school guidelines or local ordinances; refrain from participating in the behavior that put the juvenile in trouble; and write an essay of a pre-determined length describing the error of the juvenile's actions. Other terms of the adjustments include apologizing to or reimbursing the victim, as well as completing counseling, an unspecified "adjustment program," and community service.

The individual terms and conditions used in the forms raise concerns about the vague, subjective language used to describe what a juvenile must do to complete the program. For example, a few of the stationhouse adjustments in Paterson included a condition that the juvenile agree to "learn to keep their mouth shut." Another common condition required that juveniles learn to respect a parent, teacher, or other authority figure, but gave no details regarding their definition of respect or their behavioral expectations. Without clear terms and conditions, successful completion of an adjustment is more difficult. Terms and conditions should be detailed, explicit, and achievable so that youths are set up for success.



## The State Attorney General Should Strengthen Oversight and Expand Implementation of the Stationhouse Adjustment Program

Even though all police departments that operate patrols are required to implement stationhouse adjustment procedures, stationhouse adjustments remain severely underused. Only when their usage is compared to juvenile arrests does the opportunity for broader implementation of the stationhouse adjustment program become clear. According to the annual Uniform Crime Report from the New Jersey State Police, juvenile arrests have steadily declined from 24,306 arrests in 2014 to 20,026 arrests in 2016 (Figure 1). However, during the same period the number of stationhouse adjustments decreased from 2,458 to 1,196. The underutilization of stationhouse adjustments has potentially resulted in thousands of youths having a juvenile record in addition to unnecessary, extensive contact with the juvenile justice system — contact that can leave lasting trauma.

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The U.S. Department of Justice’s Office of Juvenile Justice and Delinquency Prevention (OJJDP) provides offense breakdowns for arrests of people under 18 years of age. According to OJJDP, there were 18,835 juvenile arrests in 2014 in New Jersey for non-index crimes, which are less serious than index crimes.<sup>17</sup> Over 32 percent of these non-index arrests were for disorderly conduct, curfew violations and loitering, and runaways. Young people accused of these low-level status offenses should have been offered a stationhouse adjustment instead of arrested and processed as a delinquent.

Stationhouse adjustments may be underused due to their being available only to first-time offenders.<sup>18</sup> We recommend that stationhouse adjustments be available for all allowable offenses. Having previously received a curbside warning should not preclude a young person from receiving a stationhouse adjustment.

In 2003, an inquiry into juvenile disparities by the New Jersey Office of the Attorney General found widespread inequity in implementation and procedures for stationhouse adjustments in New Jersey.<sup>19</sup> In 2008, former Attorney General Anne Milgram reissued the directive in order to “standardize, improve, and equalize the use of stationhouse adjustments throughout New Jersey.”<sup>20</sup> Importantly, the directive required law enforcement agencies to use stationhouse adjustments<sup>21</sup> and clarified both the adjustment procedure and the process for quarterly reporting. However, this directive came with little in the way of enforcement, and, as this paper shows, the use of stationhouse adjustments remains fairly minimal, especially relative to the program’s potential.

Stronger oversight will be a key component in making necessary improvements to the implementation of stationhouse adjustments. Responsibility for the current system of oversight and reporting lies with the Division of Criminal Justice within the Office of the Attorney General, which delegates functions to the county prosecutors’ offices in each of

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New Jersey's 21 counties. To help law enforcement agencies submit mandatory quarterly reports to their local county prosecutor, the Attorney General's Office provides a model form for reporting. The prosecutor's office, in turn, is responsible for reviewing the data and maintaining an open dialogue with its county's local police chiefs about potential problems in the administration of stationhouse adjustments.

Several issues make the current implementation and oversight of the stationhouse adjustment program problematic or inconsistent:

- **Prosecutorial discretion.** As in the adult criminal justice system, in which prosecutors have broad discretion in charging decisions, prosecutors hold a great deal of discretion in the implementation of stationhouse adjustments. Under the current state of the stationhouse adjustment program, more serious offenses can be adjusted only with approval from the county prosecutor. This prosecutorial discretion can perpetuate the already-uneven access among youth to diversionary programs, as diversion of children from the juvenile justice system varies widely from county to county.
- **Inconsistent reporting and antiquated reporting methods.** Almost a decade after the State Attorney General found a pattern of inconsistent reporting on the use of stationhouse adjustments<sup>22</sup>, many law enforcement agencies still fail to submit regular quarterly reports on stationhouse adjustments. Although the Attorney General initiated this quarterly reporting system, the office has failed to enforce it. The current, paper-based system of reporting has its advantages: paper forms help protect the integrity of the program by avoiding the creation of a database containing juveniles' interactions with law enforcement, which could be especially problematic after young people have successfully completed their adjustments. However, quarterly reporting to county prosecutors and the state Attorney General should be submitted electronically. Electronic reporting of quarterly reports, which include only an overview of statistics and no personally identifiable information, would make it easier both for county prosecutors to comply and for the Attorney General to determine which agencies are complying with the directive and which ones are not.
- **No oversight of terms and conditions.** Under the present system, no agency provides systemic oversight of the terms and conditions that law enforcement can set for juveniles to observe. Youth are often asked to agree to adhere to vague terms and conditions, and even requirements that run afoul of public policy. The current system also has no mechanisms to measure proportionality or equity in the levying of terms and conditions.

- **A juvenile must admit to the alleged offense to receive a stationhouse adjustment.** Under Directive No. 2008-2, juveniles are required to admit to the alleged offense as a part of the adjustment process. Of particular concern is the scenario in which a juvenile admits guilt but does not successfully participate in the program and then subsequently has a delinquency complaint filed against them. In such a case, it remains unclear whether an admission of guilt can be used against the juvenile in delinquency proceedings.
- **Officers generally cannot administer a stationhouse adjustment if the victim objects.** Under the current system, the victim of a crime allegedly committed by a juvenile, if that person's identity is known, has to agree to the accused juvenile's stationhouse adjustment process. As a check against victim objections, if an officer finds the victim's objections frivolous or lacking probable cause, the agency should not accept the filing of a formal complaint.<sup>23</sup> However, even if probable cause does exist, that should not necessarily preclude someone from taking advantage of an opportunity to avoid a juvenile record. Unfortunately, we do not have the information necessary to determine how many times an officer refuses to accept a delinquency complaint after a victim's objection, but the concept of allowing an alleged victim to veto participation in a diversionary program carries serious implications for justice and fair treatment.

Anecdotally, law enforcement agencies have reported obstacles to the implementation of the stationhouse adjustment program. In conversations with officers assigned to the juvenile bureau, some have reported that their non-juvenile bureau colleagues incorrectly believed that only juvenile bureau officers have the power to use a stationhouse adjustment. Law enforcement agencies have also expressed apprehension about the documentation, reporting, and oversight requirements of stationhouse adjustments. For example, officers have identified insufficient allocation of agency resources and a lack of department support as hindrances to successfully implementing the stationhouse adjustment program.

## Caution Against Net-Widening: A Case for Curbside Warnings

As with any diversionary program, the expansion of non-court alternatives could lead to an overall increase in encounters with law enforcement. This is commonly known as a "net-widening" effect. When law enforcement officers have only the options of charging a juvenile as a delinquent or letting them go, law enforcement will likely focus

on only the more serious offenses. However, when mechanisms exist for dealing with juveniles suspected of less serious infractions, more juveniles would likely be captured under such a scheme than under a system without it.

As noted above, New Jersey also uses curbside warnings to divert youth from the criminal justice system. A curbside warning entails a short, informal meeting between the officer and the child about the consequences of the child's actions, followed by an incident report noting details of the infraction and the outcome of the discussion.<sup>24</sup> We requested information from the police departments in New Jersey's county seats concerning the number of curbside warnings issued, but they were unable provide that data. We attribute this absence of data to the informal nature of the interactions. Because this informal nature sidesteps involvement with the criminal justice system to a much greater degree than a stationhouse adjustment, we believe that law enforcement should attempt to resolve youth infractions with curbside warnings if the circumstances allow before stationhouse adjustments are considered.

## Recommendations

- **The Office of the Attorney General should issue a new directive that makes the use of a stationhouse adjustment the default option for addressing non-serious crimes committed by juveniles.** When juveniles come in contact with law enforcement for misbehavior, the presumption should be that the officer will give a stationhouse adjustment or curbside warning rather than more severe consequences unless there is good reason for more severe consequences. The Attorney General must unequivocally commit to juvenile diversionary programs by expanding their availability beyond just first-time offenders and ensuring universal access for all juveniles regardless of where they live. As the data bears out, many law enforcement agencies will not implement stationhouse adjustments without county prosecutors or the Attorney General holding them accountable.
- **Admission of guilt to the alleged offense should not be a prerequisite for receiving a stationhouse adjustment.** In the criminal justice context, people plea to charges that they have not committed for a whole host of reasons. We do not want a system that precludes access to diversionary programs if a juvenile will not admit to the offense. It is in New Jersey's best interest to promote policies and programs that limit juvenile justice involvement; admission of guilt should not affect a young person's eligibility to participate in diversionary programs.

- **The availability of a stationhouse adjustment should not depend on a victim's wishes.** Whether a juvenile has the option to receive a stationhouse adjustment for an offense should not turn on the victim. While it may be appropriate to consider victim input when deciding the outcome of an alleged offense, victims should not have the ability to block a juvenile's opportunity to enter a diversionary program. This ability for victims to determine the appropriate course of action for a juvenile goes beyond New Jersey's Crime Victim Bill of Rights<sup>25</sup> and the New Jersey Constitution,<sup>26</sup> and it must be reevaluated.
- **Agencies should not rely on clergy and chaplains to administer stationhouse adjustment programming.** While faith leaders can in some instances play a role in alternative programming for youth, law enforcement must not deny diversionary opportunities to children who practice less common faiths or no faith at all. To the extent possible, youths should be able to fulfill conditions and programs in public buildings rather than houses of worship.
- **The reporting system should be electronic, more comprehensive, and transparent.** Law enforcement agencies should be able to electronically submit quarterly reports to the Attorney General, who in turn could better monitor agency compliance. Further, while the quarterly reports require information on a juvenile's age, sex, and race, as well as the alleged offense and whether the stationhouse adjustment was successfully completed, law enforcement agencies do not have to report how the interaction was initiated or what terms and conditions were required of juveniles. In order for the Attorney General to more effectively oversee the program, quarterly reporting must include all relevant information to help the public better understand youth interactions with law enforcement.
- **Law enforcement agencies need to institutionalize diversionary programs and expand training on youth issues for all law enforcement officers.** The Attorney General bears ultimate responsibility over law enforcement agencies' compliance with Directive No. 2008-2. Compliance with the directive and institutionalization of diversionary programs necessarily involves finding effective alternatives to arrest and detention for juveniles, as well as finding ways to incentivize their use. Diversionary programs such as stationhouse adjustments and curbside warnings should be institutionalized into law enforcement agencies through the training of all officers, not just those in the juvenile bureau, and the investment of resources to support children and facilitate their successful



completion of stationhouse adjustments. Further, all law enforcement officers should be adequately trained in dealing with juveniles and the issues particular to them.<sup>27</sup> The Attorney General and law enforcement agencies should also consider ways to use diversionary measures as an indicator of agency performance.

- **The Office of the Attorney General should launch a statewide public education campaign on diversion.** Information about diversionary programs should be available to those who may be impacted by their use. Juveniles and their parents need to know about the availability of these alternatives, as do school officials, who frequently refer juveniles to law enforcement agencies, and the community at large. The state government needs to proactively engage in a coordinated media campaign to encourage greater usage and greater understanding of diversionary programs.

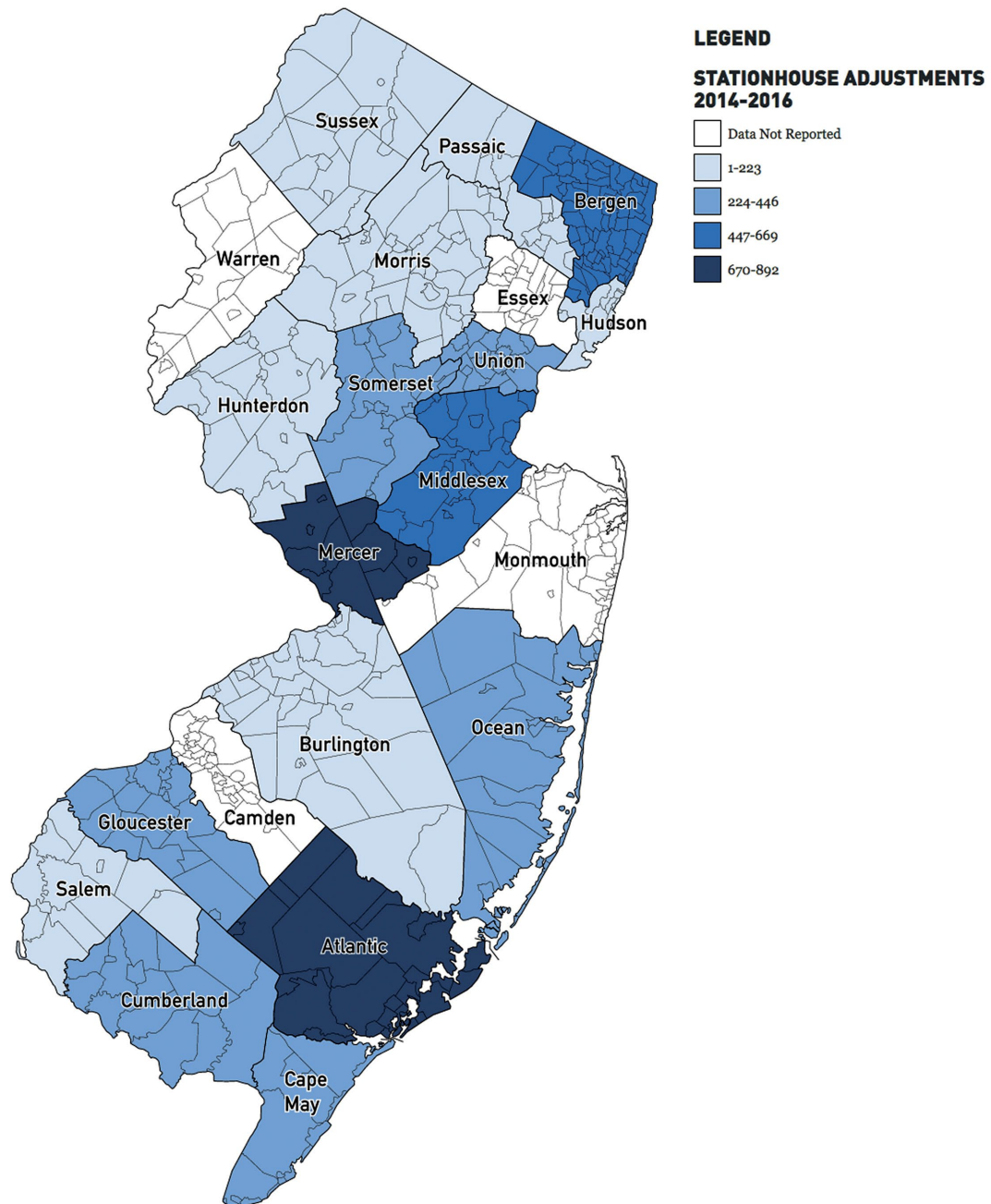
## Conclusion

We, as New Jerseyans, must help children by giving them more effective alternatives to punishment. Expanding these alternatives would have a long-term positive impact on our state by giving children a second chance to develop without the weight of a juvenile record. Law enforcement agencies need to utilize these diversionary tools and ensure that these alternatives to formal punishments are the first option — not simply a limited tool. Only through diversionary practices can we decrease the number of youth involved in the juvenile justice system, making sure that they can learn from past behaviors and fully benefit from opportunities to be successful, thriving members of society.

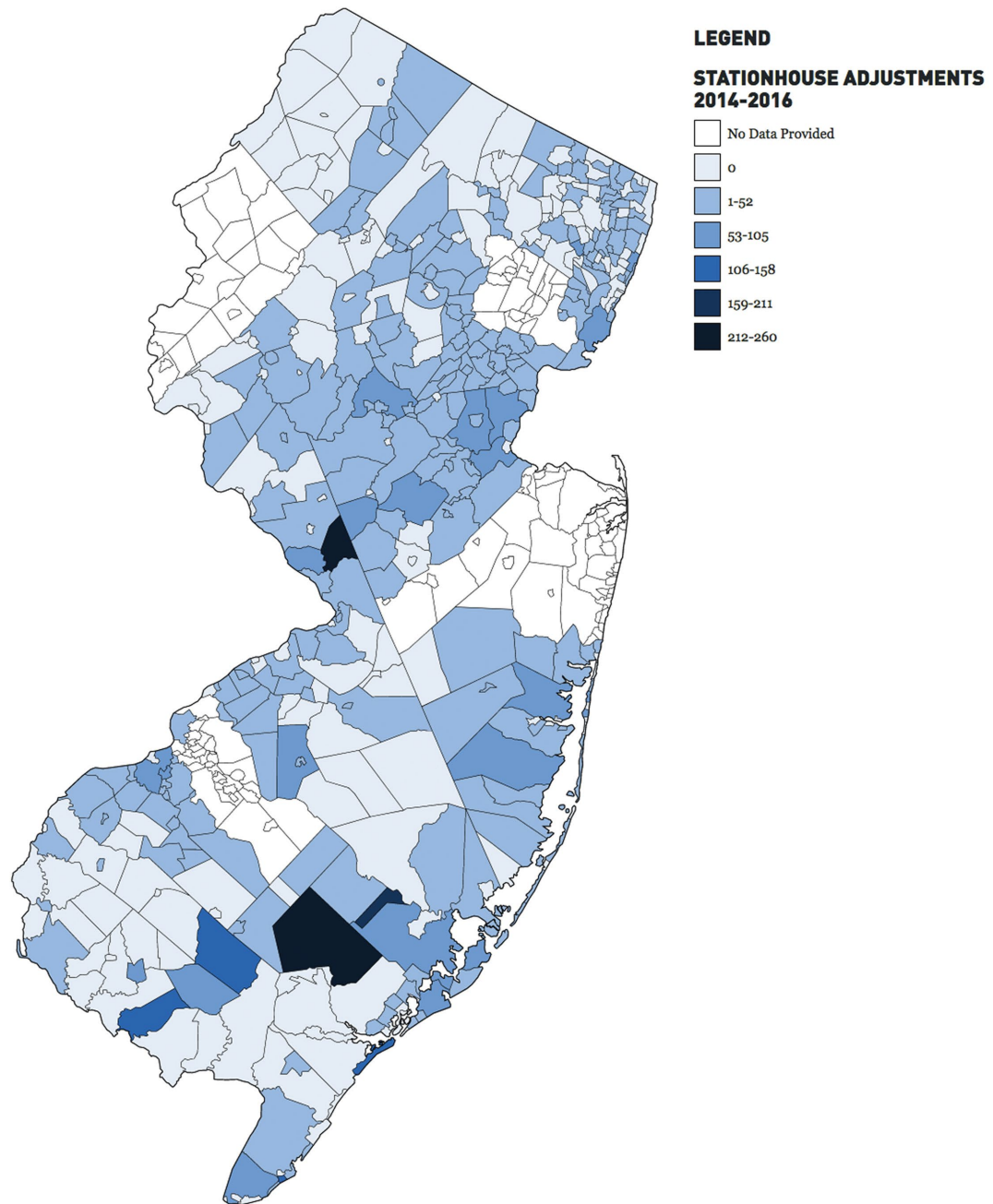
# APPENDIX

To access interactive versions of these maps on the ACLU of New Jersey's website, click the map title or visit [www.aclu-nj.org/sha](http://www.aclu-nj.org/sha).

Map: **STATIONHOUSE ADJUSTMENTS BY COUNTY**



Map: **STATIONHOUSE ADJUSTMENTS BY MUNICIPALITY**



# ENDNOTES

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Missed Opportunities: Youth Diversionary Programs in New Jersey  
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