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For Juveniles in Family Court, Judges Seek Safer Alternatives to Prison

By JULIE BOSMAN

Standing to address Judge Daniel Turbow in Family Court in Brooklyn, a city prosecutor confidently listed the reasons why the 16-year-old boy in the courtroom should be sent upstate to a juvenile prison.

He was a member of the Bloods, the prosecutor said, and he later joined another gang. He was arrested once for grand larceny and twice for assault. He went to school drunk and spat on the dean of students.

“He admits to going out to Bergen Beach to rob people,” the prosecutor continued, as the courtroom fell silent. “He stated that this is the way that he gets his money.”

Judge Turbow, looking anguished, was still reluctant to issue the harshest penalty: sending the teenager to a juvenile prison run by the state.

A recent [series of reports on the grim conditions at upstate juvenile prisons](#) has made the decisions of Family Court judges even more difficult. The [reports detailed violence](#), broken bones, suicidal behavior and deficient mental health services at the prisons, which recently had a combined population of 777.

As a result, the state official in charge of juvenile prisons, Gladys Carrión, pleaded with the judges who handle juvenile delinquency cases to place young people in the prisons only in the most extreme of circumstances.

Some judges have said they are now in an excruciating position: armed with the knowledge that the prisons are unacceptably dangerous places, but unable to stop sending young people there. And so they send them, one judge said, “every day.”

On the 10th floor of the Family Court building in Brooklyn, where most of the borough’s juvenile delinquency cases are heard, families sat quietly on benches one day last month, waiting anxiously for their children’s cases to be called.

Inside the courtroom of Judge Stewart H. Weinstein, a 15-year-old boy was told that he had been rejected by several privately

run residential facilities in Westchester, leaving an upstate prison as his likely destination. His fate would be decided within weeks.

A 14-year-old girl appeared in Judge Turbow’s courtroom after she was charged with possessing a weapon. Judge Turbow turned to her mother, who was seated in the back row.

“Ma’am, your daughter is at risk of going to jail for a year, upstate, to a juvenile prison,” he said, as the girl buried her face in her hands and wept.

Family Court judges, by and large, have tried hard to find alternatives to prison, and lawyers for the children facing charges credit them for the effort. The result has been the slowing, if not the end, of the procession to prison.

“There is a greater inclination to explore whatever other resources there are out there — even resources that they might not have in the past deemed to be ideal or appropriate for a child,” said Martin Feinman, the lawyer in charge of the [Legal Aid Society’s](#) juvenile-rights office in Brooklyn.

Some judges say they have been more willing to consider probation, even in cases with repeat offenses. Other judges, frustrated with the lack of mental health services at state facilities, have chosen to assign juveniles to the care of the [Administration for Children’s Services](#), the city’s child welfare agency, leaving it to officials there to find foster homes or residential facilities.

Those placements have rankled officials of Children’s Services, who say they have neither the money nor the facilities to take in children who would normally be headed to secure detention in an upstate institution.

“Our partner at the state is acting irresponsibly,” John B. Mattingly, the city’s [commissioner of child welfare](#), said in an interview. “The state simply announces that they cannot produce safe places for children. And they therefore are telling judges not to send children to the places

that are set up for the more troubled young people.

And they are not providing resources to us.” Mr. Mattingly said that judges have ordered dozens of young people, some of them violent, into the custody of his agency. For example, Mr. Mattingly said, one girl who was awaiting placement was a “fire-setter.”

Mr. Mattingly said the state should immediately release some money budgeted to maintain juvenile prisons and transfer it to the city to expand alternative-to-detention programs like the Juvenile Justice Initiative.

The city has already said it intends to make these programs more widely available so that fewer low- and medium-risk teenagers will be sent to jail, but Mr. Mattingly said it would take months to do so. And Gov. [David A. Paterson’s](#) 2011 budget proposal would cut \$16 million from alternative-to-detention programs.

“We want the judges to have more alternatives,” Mr. Mattingly said. “But we simply can’t create them out of thin air.”

Alternative-to-detention programs allow children to stay at home, provided they submit to intensive counseling and follow strict rules governing their behavior. Many young offenders have been placed in such programs run by nonprofit agencies.

But those programs are filling up quickly, and juveniles who are considered violent or dangerous are often deemed ineligible for them. For the same reasons, children can be rejected from residential facilities run by nonprofit organizations like [the Children’s Village](#).

In Judge Lee H. Elkins’s courtroom last month, a 15-year-old boy who had been selling crack cocaine since he was 12 stood before the judge. His mother, who was expected to be there, had skipped the hearing.

Judge Elkins told the boy that it was not too late to work toward graduating from high school and going to college. “I’m trying to get something across to you,” he said.

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get something across to you," he said. "I want you to step away from this. You've got to stop."

Judge Elkins told the lawyers in the room that he wanted the boy to be placed in a nonsecure private residential facility, not an upstate prison.

"Let's find out which of these institutions will accept you," he said. "And if they don't, I want to know the reason why."

The 16-year-old boy in Judge Turbow's courtroom, who was accused of offenses that included grand larceny and assaulting his mother with a stereo speaker, received a last-minute placement at Martin de Por-

res, a small, well-regarded group home in Queens.

"He is in some ways a very lucky young man," Judge Turbow said, addressing his parents. "This is like one of those movies about someone who's about to be strapped into the electric chair and the governor calls at the very last minute."