

# Secure Juvenile Facility Population Capacity Analysis: Considerations for Act 185 Implementation

## Table of Contents

Introduction.....	2
Executive Summary .....	3
Background.....	3
Juvenile Crime Trends .....	6
Determining Capacity .....	7
Considerations and Cautions.....	10
Estimated Capacity Needs .....	11

This assessment was requested by the Juvenile Corrections Grant Committee  
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## Introduction

The following analysis was developed at the request of the Juvenile Corrections Grant Committee (JCGC) to project capacity needs for future county/tribal-run Secure Residential Care Centers for Children and Youth (SRCCCYs). Wisconsin Act 185, which was signed into law in 2018, requires SRCCCYs to be opened no later than January 1, 2021, as part of the effort to close Lincoln Hills Schools and Copper Lake School (LHS/CLS) for youth and convert to an adult facility. These new SRCCCYs will house juveniles who are not adjudicated as serious juvenile offenders (SJO) but still require secure correctional placement (as determined by the court).

Wisconsin currently does not have any SRCCCYs, thus the subsequent analysis required input from multiple players in the youth justice system to develop an approach to assessing capacity. The report received input and data from the Wisconsin Counties Association (WCA), the Office of Detention Facilities (ODF) and the Division of Juvenile Corrections (DJC) (both within the DOC), the Wisconsin Department of Health Services (DHS), and the Wisconsin Department of Children and Families (DCF).

The methodology to assess Wisconsin's potential capacity needs post-Act 185 included the following:

- Looking at juvenile crime trends nationally and in Wisconsin over the past decade
- Developing a current-state assessment of existing, long-term secure placements
- Considering how the conversion of long-term dispositional placements to SRCCCYs may impact capacity

Finally, due to the shared state-local structure of the current youth justice system in Wisconsin, as well as a number of changes and mandates within Act 185, there are a number of considerations and cautions included in the analysis.

Updates and changes to estimated capacity needs will be done throughout the Act 185 implementation process and as decisions/changes occur.

## Executive Summary

- The Juvenile Corrections Grant Committee, created under Act 185, requested a capacity analysis of the projected number of secure juvenile placements that will be needed to implement Act 185.
- The analysis includes input from the Wisconsin Counties Association (WCA), Office of Detention Facilities (ODF), Division of Juvenile Corrections (DJC), Department of Health Services (DHS) and Department of Children and Families (DCF).
- Estimating the capacity needs for secure juvenile facilities requires consideration of a number of factors, including youth currently in secure juvenile correctional facilities, youth in long-term post-dispositional county/tribal-run detention programs, and other factors that could affect capacity needs in the future.
- Since the mid-1990's, national juvenile crime rates have steadily declined. Wisconsin has experienced a similar trend. Over the past 17 years, the juvenile correctional facility (JCF) population declined from an average daily population (ADP) of 819 to an ADP of 169, or a 79.4% decline.
- An estimated 0.03% of Wisconsin youth between the ages of 10 and 17 currently require a secure placement in DJC.
- The average daily population (ADP) in state-run juvenile correctional facilities in 2018 was 168.7; however, due to a number of factors including transfers, there are often significant fluctuations in ADP day-to-day.
- An ADP of approximately 42.6 youth were held in long-term post-disposition detention programs in counties that have submitted a non-binding letter of interest in applying for a Secure Residential Care Centers for Children and Youth (SRCCCY) grant. An additional 18.6 ADP of youth were held in such programs in counties that did not submit a letter of interest.
- Based on data provided by WCA, an additional 15.0 youth currently in alternative out-of-state or community placements should be considered when determining future capacity needs.
- The analyses had to consider provisions in Act 185 that change current transfer process and will eventually allow for transfers of youth between DOC Type 1 facilities, SRCCCYs, and Mendota Juvenile Treatment Center (MJTC).
- Industry best practice directs that secure facilities should only be filled to 80%-90% of a building's design capacity. This practice provides for placement needs and unexpected fluctuations in populations due to local events and/or changes of placements.
- Changes and improvements in the broader youth justice system, such as more effective home-based services or an expanded array of non-secure placements, could reduce the number of youth needing secure correctional placement.
- **Using the data outlined above, the estimated combined capacity need for SRCCCYs, DOC Type 1 facilities, and MJTC is 226 youth, which equates to a design capacity of approximately 266 beds.**

## **Background**

Although the capacity analysis in this document captures the potential future needs for secure out-of-home placements, it is important to provide the context in which those facilities currently operate and what changes will occur once Act 185 is implemented. That background context is provided below.

Local law enforcement officials, human services agencies, prosecutors, and judges have significant discretion and influence on the pipeline of youth into and across the Wisconsin youth justice system. These local determinations include, but are not limited to, where a youth is placed pre-and post-disposition, as well as the approval of a change of placement for a youth. The number of youth held within any one type of placement is directly affected by local decisions made in all 72 Wisconsin counties and the tribes every day.

## **Out of Home Placements**

There are currently 10 primary types of out-of-home placements available to judges as dispositions. Listed in order from least restrictive to most restrictive, they are:<sup>1</sup>

1. Home of a relative
2. A non-relative's home not licensed for foster care for less than 30 days
3. A licensed foster home
4. A licensed treatment foster home
5. A licensed group home providing residential care for five to eight juveniles
6. A licensed residential treatment center
7. An independent living situation, on or after the juveniles' 17<sup>th</sup> birthday, under supervision the court considers appropriate
8. A juvenile detention facility or juvenile portion of a county jail for no more than 365 days\*
9. A Type 2 residential care center for children and youth under the supervision of the county department
10. A Type 1 juvenile correctional facility or secured residential care center for children and youth\*

\*Note: The future capacity needs of these placement types to implement Act 185 is what is captured in this analysis

## **Types of Commitments**

When a youth is placed in a Type 1 facility (and not committed to an adult facility), there are two commitment types: Serious Juvenile Offender Commitments (SJO) and juvenile commitments (JC). Both youth are committed to Type 1 facilities, but the length of the order varies. SJOs typically receive five year commitments (facility and community time), and non-SJO juvenile commitments are typically one to two years (facility and community time).

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[https://docs.legis.wisconsin.gov/misc/lfb/informational\\_papers/january\\_2019/0055\\_juvenile\\_justice\\_and\\_youth\\_aids\\_program\\_informational\\_paper\\_55.pdf](https://docs.legis.wisconsin.gov/misc/lfb/informational_papers/january_2019/0055_juvenile_justice_and_youth_aids_program_informational_paper_55.pdf)

## **Placement oversight**

Each of the abovementioned placement options are overseen by a number of local and state agencies including DHS and DCF. Youth placed in Type 1 facilities are the only ones overseen by DOC. DOC also regulates the operations of secure juvenile detention facilities but does not supervise the youth. LHS/CLS and a small number of beds at MJTC are currently the only Type 1 facilities in Wisconsin. LHS/CLS is administered by DJC within the DOC and MJTC is administered by DHS.

## **Long-term detention programs**

Current state law permits counties to authorize the use of their secure juvenile detention facility for post-dispositional, long-term programs. This means local judges have the ability to place youth up to 365 days in local detention facilities, rather than place the youth at a Type 1 facility. Currently eight of the 13 county-run juvenile detention facilities operate such programs. The local decision to place youth in long-term programs varies for a number of reasons and by location.

## **Change of Placements**

Within the Wisconsin youth justice system, changes of placements can be ordered by the court to move youth within the abovementioned types of facilities/placements. Changes in placement can occur at the request of the juvenile, the agency, or the district attorney. Currently, MJTC only receives referrals from DOC for secure placements. The movement of youth across placement types affects the ADP at any one facility on any given day.

## **What Act 185 changes**

Act 185 focuses on changes to post-dispositional, long term programs including long term detention programs and Type 1 and SRCCCY placements.

Post Act 185 implementation, DJC's primary population will include youth with SJO commitments and youth with adult convictions; county/tribal-run SRCCCY's primary populations will include youth on juvenile commitments. Act 185 also legislated that the county/tribal-run and the state-run facilities are both to be operated as secure facilities. The law does not identify any difference in security level between the two types of facilities in this category.

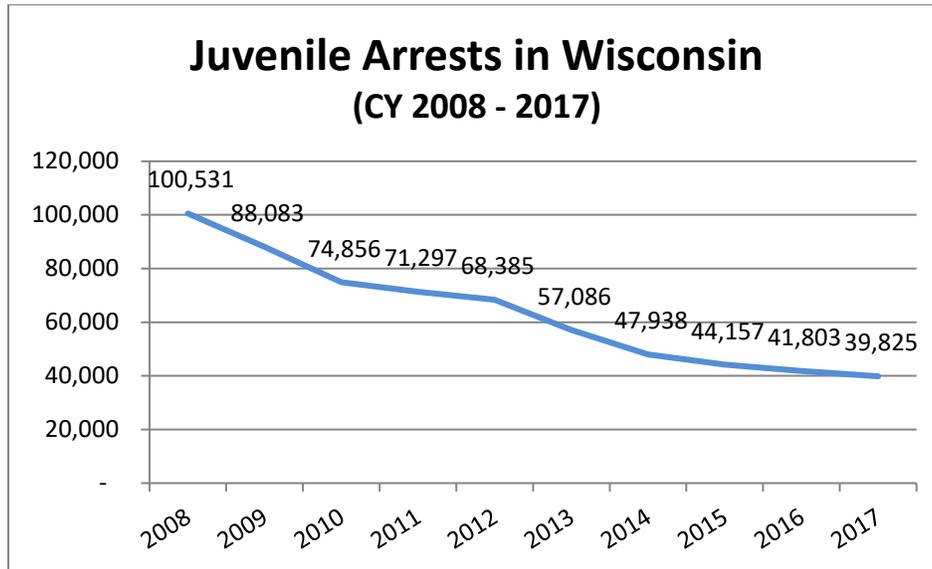
Additionally, following Act 185 implementation, if a county or tribe is awarded a grant for construction of an SRCCCY, juveniles may be held in detention for no more than 30 days, and the portion of the detention facility that housed the long-term program becomes an SRCCCY.

Finally, post-Act 185, MJTC will receive referrals from counties, as well as from DOC.

## Juvenile Crime Trends

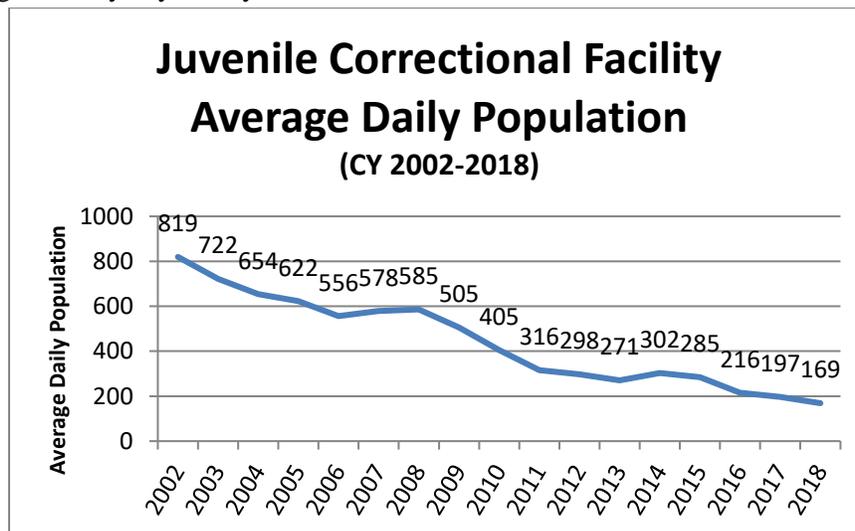
To capture the potential future capacity of secure long-term placements, it is important to consider the trend-line regarding the number of juvenile arrests, both nationally and in Wisconsin, up until now.

Nationally, juvenile crime rates have steadily declined since the mid-1990s. Wisconsin mirrored the decrease, seeing a 60.4% decrease between CY2008 and CY 2017



### Effects of this decline on Type 1 facilities

The declining crime rates are also reflected in the number of youth placed in Wisconsin's Type 1 facilities. From 2002-2018, the number of youth placed with DJC declined by 79.4%. Although the overall population has declined, it is important to note that the number of youth within a Type 1 facility can fluctuate significantly day-to-day or month-to-month.

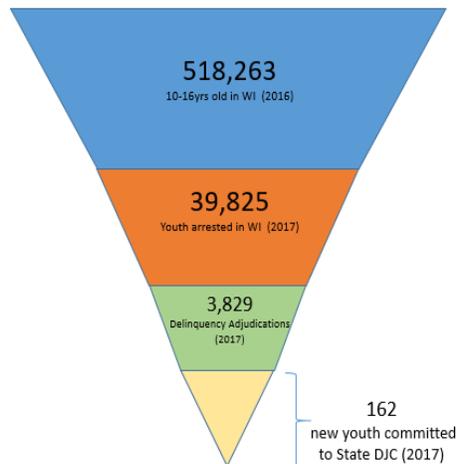


## Determining Capacity: Current Secure Juvenile Populations

To begin developing a model for future capacity needs (DOC Type 1 facilities, SRCCCYs and MJTC), a current-state assessment was done of the number of youth currently placed in DJC facilities, long-term county detention facilities, MJTC, and other secure placement options being utilized by Wisconsin counties.

### DJC population

During 2017, DJC received 162 new youth to its facilities, or an estimated 0.03% of Wisconsin youth between the ages of 10 and 17. The illustration below illustrates how the size of the DJC population compares to the overall population of Wisconsin youth.



The table below drills-down further and captures the CY 2018 average daily population in the state-run secure juvenile correctional facilities by facility and commitment type.

## Juvenile Correctional Facility Average Daily Population by Facility and Commitment Type (CY 2018)

	Juvenile	Serious Juvenile Offender	Adult	Total
<b>Lincoln Hills School</b>	70.5	35.8	19.4	125.7
<b>Copper Lake School</b>	13.5	2.5	0.6	16.5
<b>Mendota Juvenile Treatment Center</b>	14.2	9.5	2.8	26.5
<b>Total</b>	<b>98.2</b>	<b>47.7</b>	<b>22.8</b>	<b>168.7</b>

The DJC Population Data Report [available on the DOC website](#) includes additional detail on the breakdown of commitments by county.

## Youth in Long-Term Post-Dispositional Detention Programs

In 2018, the total average daily population of youth placed in long-term post-dispositional detention programs was 61.2. Of that total, approximately 42.6 were in counties that submitted an SRCCCY letter of interest to the Juvenile Corrections Grant Committee. The remaining 18.6 were in counties that did not submit a letter of interest.

As previously noted, under Act 185, if a county or tribe is awarded a grant for construction of an SRCCCY, juveniles may be held in detention for no more than 30 days, and the portion of the detention facility that housed the long-term program becomes an SRCCCY.

## Long-term Post-Dispositional Detention ADP by Facility and SRCCCY Letter of Interest (CY 2018)

	Letter of Interest Submitted	No Letter of Interest Submitted	Total
<b>Brown</b>	2.6		
<b>Eau Claire</b>		6.6	
<b>Fond du Lac<sup>1</sup></b>		2.0	
<b>La Crosse<sup>2</sup></b>	4.9		
<b>Marathon</b>		1.0	
<b>Milwaukee</b>	22.0		
<b>Racine</b>	13.1		
<b>Rock</b>		9.0	
<b>Total</b>	<b>42.6</b>	<b>18.6</b>	<b>61.2</b>

1. Fond du Lac originally submitted a letter of interest but subsequently withdrew
2. CY 2017 ADP
3. Dane County and the Great Lakes Inter-Tribal Council, Inc. also submitted letters of interest; however they do not currently operate long-term post-dispositional detention programs so were not included in the above chart

## Wisconsin Counties Association (WCA) Survey: Youth in Other Placements or Settings

As previously mentioned, there are 10 major types of out-of-home placements available to local courts. To that end, capacity projections for future secure facilities had to also include any other placements or settings counties are placing youth who may be appropriate for secure placement, aside from county-run detention facilities and state-run Type 1 facilities. In an effort to quantify this potential area of need, the WCA surveyed counties in early 2019. Forty-seven of 72 counties, or 65.3%, responded to the survey. These counties represent 88.4% of the 2014-2018 ADP for youth in state-run facilities under juvenile commitments. An adjustment was made based on this percentage to account for counties that did not respond.

## WCA Survey Data on Additional Capacity Needs (Based on reported CY 2013-2017 data)

	Number of Youth	Estimated ADP	Estimated ADP with Adjustment for Missing Counties
<b>Youth placed in detention (long-term post-dispositional programs)</b>	356.8	42.7	48.3
<b>Youth placed in out-of-state facilities</b>	1.4	0.8	0.9
<b>Youth who met criteria for correctional order but were not placed at Lincoln Hill/Copper Lake or other facilities</b>	25.0	12.5	14.1
<b>Total</b>	<b>383.2</b>	<b>56.0</b>	<b>63.3</b>

It should be noted that variation in responses across the counties suggest that counties may have interpreted the WCA survey questions differently. **Caution should be used in interpreting these results.** The totals may overstate the SRCCCY capacity need if the youth reported in each category would not have been appropriate for a correctional placement. Conversely, the totals may understate the SRCCCY capacity need if additional youth who would have been appropriately placed in a secure facility were not.

- The first question on the survey asked counties to report youth placed “in a juvenile detention center other than Lincoln Hills, Copper Lake, or Mendota.” This question sought to quantify youth numbers in county run long-term post-dispositional detention center programs. For counties that responded, this figure was an average of 356.8 youth annually from 2013-2017, with an approximate ADP of 42.7 based on days billed.
- The second question on the WCA survey asked “how many minors with a corrections order were placed in an out-of-state facility.” For counties that responded, this figure was an average of 1.4 youth annually from 2013-2017, with an approximate ADP of 0.8 based on days billed.
- The third WCA question asked for youth who “met the criteria for a correctional order but were not sent to Lincoln Hills/Copper Lake or another facility due to the troubles at Lincoln Hills/Copper Lake or juvenile facilities in other counties were full.” For counties that responded, this figure averaged 25 youth from 2013-2017. Although it is not clear whether this is individual youth or ADP, if individual youth with an average six-month length of stay is used as an estimate, this would equate to an ADP of 12.5.

## Secure placements in MJTC

In CY 2018, MJTC's ADP of youth with SJO and adult commitments was 12.3, and its ADP of youth with juvenile commitments was 14.2. MJTC has not historically had capacity for female youth. Currently, MJTC only receives referrals from DOC for secure placements. Post Act 185 implementation, MJTC will receive referrals from counties and tribes, as well as from DOC.

## Capacity Considerations and Cautions

Along with the data sets described above, there are a number of other elements that must be considered when determining potential capacity needs for the future secure juvenile facilities. These elements include, but are not limited to:

- Local law enforcement officials, human services agencies, prosecutors, and judges all continue to have significant discretion in the placement of youth. Local events and community interests may affect populations at particular sites.
- Industry best practice suggests that facilities should be designed with a greater number of beds than the intended operating capacity. Operating capacity is recommended to be at somewhere between 80% and 90%. This guidance accounts for daily fluctuations, movements in and out of the facility, and the need to move or separate youth for safety purposes. The smaller nature of the SRCCCYs increases the importance of this best-practice, as the ability of any one facility to manage its population will be limited.
- Provisions in Act 185 allow for transfers of youth between SRCCCY's, DOC Type 1, and MJTC facilities under certain conditions. Therefore, determining the necessary capacity for any specific type of facility must include consideration of these changes in placement. The extent to which these transfer provisions are used is likely to depend on the capacities and locations of each type of facility, suggesting that a system-level capacity analysis is needed to consider the overall combined bed capacity across these facilities.
- Under Act 185, if a county or tribe is awarded a grant for construction of an SRCCCY, juveniles may be held in detention for no more than 30 days, and the portion of the detention facility that housed the long-term program becomes an SRCCCY. If the detention facility is not awarded an SRCCCY grant, it may continue to hold youth for up to 365 days subject to certain limitations.
- Across the state and locally, work continues reform the youth justice system, from prevention and diversion, to community-based services for high-risk youth. The number of youth in need of secure correctional placement could decrease both as these programs and services become more effective, and if the array of non-secure placement options for youth expands. Projecting the impact of any of these changes, and comparing them to the other factors considered above, is difficult. However, the uncertainty may illustrate the importance of an approach that allows for some flexibility in capacity as needs change.

- Changes in law, such as age of criminal court jurisdiction and waiver laws, could also affect the number of youth receiving juvenile court dispositions.
  - In 2018 there were 98 new admissions to prison for crimes committed when the individual was 17-years-old. Note, however, that if 17-year-olds were returned to juvenile court jurisdiction, these individuals would remain eligible for waiver to the adult court.

## Estimated Capacity Needs

The below analysis provides estimated capacity projections in two ways:

- the need across the secure juvenile placement system; and,
- the need by commitment type (SJO and adult vs non-SJO)

It is important to note that the following capacity projection is based on the assumption that long-term post-dispositional detention programs remain after Act 185 is implemented. If no long-term post-dispositional detention programs remain at any or only some of the current facilities, this number could increase (as noted in the footnotes of the following tables).

### System-Wide Estimated Capacity

The table below summarizes the data presented in the previous sections. The total estimated ADP is 226.3.

## Estimated System-Wide Capacity Need<sup>1,2</sup>

Potential Population	Estimated ADP
CY 2018 JCF ADP	168.7
Long-term post-dispositional detention converting to SRCCCY <sup>3</sup>	42.6
Additional estimated need from WCA survey data <sup>4</sup>	15.0
Potential increase from increased availability of secure placement options	Unknown
Potential decrease from systems improvement in community-based youth justice	Unknown
<b>Total</b>	<b>226.3</b>
<b>Capacity Need Operating at 85%</b>	<b>266.2</b>

1. Includes youth who would be placed at SRCCCYs, DOC Type 1 Facilities, and MJTC.

2. Based on current law; does not include impact of returning 17-year-olds to juvenile court jurisdiction.

3. Based on assumptions of which long-term post-dispositional detention programs remain post Act 185 implementation. If no long-term post-dispositional detention programs remain, this number could increase to an estimated total of 61.2 ADP.

4. Excludes WCA survey results for question 1 related to long-term post dispositional detention programs. These estimates are included as a separate line in the table.

### Estimated Capacity Need by Commitment Type

As noted earlier, post-Act 185 implementation, DJC’s *primary* population will include youth with SJO commitments and youth with adult convictions; county/tribal-run SRCCCY’s *primary* populations will include youth on juvenile commitments. This categorization reflects initial placement and does not include change of placement across facilities, including change of placement to MJTC.

### Estimated Capacity Need by Initial Placement<sup>1,2</sup>

Potential Population	Estimated SRCCCY ADP	Estimated Type 1 ADP
CY 2018 JCF ADP <sup>3</sup>	98.2	70.5
Long-Term Post-Dispositional Detention Converting to SRCCCY <sup>4</sup>	42.6	N/A
Additional Need from WCA Survey Data	15.0	N/A
Potential increase from increased availability of secure placement options	Unknown	Unknown
Potential decrease from systems improvement in community-based youth justice	Unknown	Unknown
<b>Total</b>	<b>155.8</b>	<b>70.5</b>
<b>Capacity Need Operating at 85%</b>	<b>183.3</b>	<b>82.9</b>

1. Based on current law; does not include impact of returning 17-year-olds to juvenile court jurisdiction
2. Does not include the impact of changes in placement between facilities or to MJTC.
3. Assumes SJO and adult commitments are placed at DOC Type 1; juvenile commitments placed at SRCCCYs.
4. Based on assumptions of which long-term post-dispositional detention programs remain post Act 185 implementation. If no long-term post-dispositional detention programs remain, this number could increase to an estimated total of 61.2 ADP.

### The role of transfers in estimated capacity

Provisions in Act 185 allow for transfers of youth between SRCCCY’s, DOC Type 1, and MJTC facilities under certain conditions. Therefore, determining the necessary capacity for any specific type of facility must include consideration of:

- Transfers from DOC Type 1 facilities to MJTC
- Transfers (via contract) from DOC Type 1 facilities to county/tribal-run SRCCCYs
- Change of placement from county/tribal-run SRCCCYs to DOC Type 1 facilities
- Change of placement from county/tribal-run SRCCCYs to MJTC.

The extent to which these transfer provisions are used is likely to depend, at least in part, on the capacities and locations of each type of facility. In addition, it is important to note that Act 185 also:

- Does not require counties to accept youth into their SRCCCYs, except as may be negotiated under contracts between individual counties; and
- Requires that any youth transferred to MJTC must come with a recommendation of DHS

By contrast, courts can change placement to a DOC Type 1 facility if an SRCCCY either does not have space or is unable to meet the youth's treatment needs. Unlike SRCCCYs and MJTC, DOC does not have the ability to refuse the placement based on capacity (or any other consideration). It is unknown what percentage of SRCCCY youth may be transferred to DOC Type 1 facilities on a change of placement order, but this possibility should be considered in assessing the capacity need of the DOC Type 1 facilities.

To the extent that youth are transferred from Type 1 facilities and SRCCCYs to MJTC, the capacity needs for those facility types will be decreased from the figures shown in the table above.