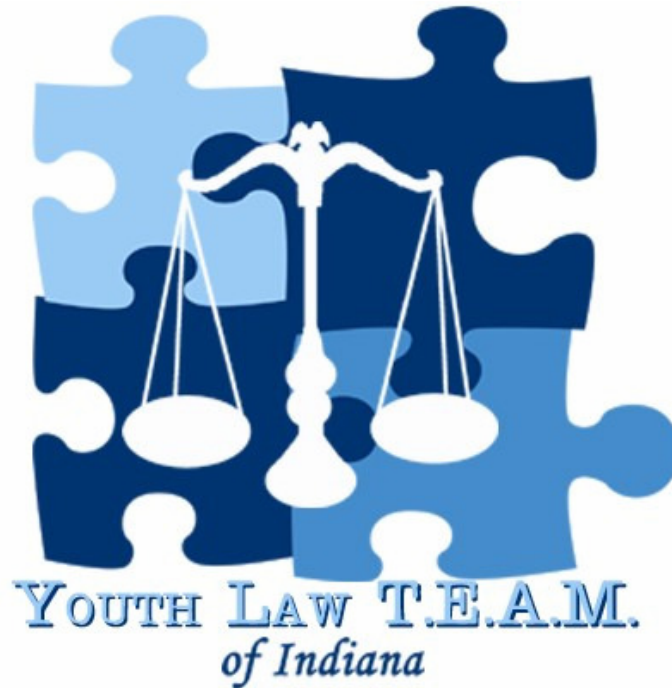


# **Youth Law T.E.A.M. of Indiana**



presents:

## **An Indiana Assessment of Education Services in Juvenile Detention Centers and County Jails**



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Criminal Justice Institute and the Indiana Department of Education*

# TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY.....</b>	<b>1</b>
<b>ASSESSMENT FINDINGS.....</b>	<b>17</b>
<b>DETENTION CENTER VISITS.....</b>	<b>17</b>
<b>SHERIFF’S DEPARTMENT QUESTIONNAIRES.....</b>	<b>31</b>
<b>SPECIAL EDUCATION DISTRICT QUESTIONNAIRES.....</b>	<b>40</b>
<b>ENDNOTES.....</b>	<b>53</b>

## **Youth Law T.E.A.M. of Indiana**

The Youth Law T.E.A.M. of Indiana was formed in 2004 to influence systemic change in the juvenile justice, education and child welfare systems within Indiana. The Youth Law T.E.A.M. serves as a youth law resource center for juvenile justice, education and child welfare professionals, as well as concerned citizens, youth and policy makers. The services of the Youth Law T.E.A.M. include **T**echnical Assistance, **E**ducation and Training, **A**dvocacy of Best Practice and Policy Recommendations, and **M**onitoring of the juvenile justice, education and child welfare systems for Compliance with State and Federal Laws and with Best Practice Standards.

Laurie Elliott & Associates, Inc.  
Youth Law T.E.A.M. of Indiana  
333 N. Pennsylvania Street, Suite 500  
Indianapolis, IN 46204

Phone: (317) 916-0786  
Fax: (317) 916-5369  
lelliott@youthlawteam.org

## **EXECUTIVE SUMMARY**

### **An Indiana Assessment of Education Services in Juvenile Detention Centers and County Jails**

In 1988, Indiana had over 7,500 youth detained in adult jails in violation of the Juvenile Justice and Delinquency Prevention Act (JJDP A) and was in jeopardy of losing federal funds. To prevent the loss of federal funding, the State initiated an intensive effort to comply with the mandates of the JJDP A. One consequence of the JJDP A compliance effort was the construction of new juvenile detention facilities throughout Indiana. During the early to mid 1990's, the number of juvenile detention facilities in Indiana more than doubled.

As a result of the dramatic increase in the number of juveniles being held in juvenile detention facilities, the provision of services, particularly educational services, came under scrutiny. The Indiana Department of Education determined that educational services, particularly special education services, were not being provided in juvenile detention facilities in a timely, consistent, efficient or adequate manner. To address this growing issue, in 1997 – 98, the Indiana Department of Education, Division of Exceptional Learners required each special education district to complete and submit an action plan on how to educate children identified as eligible for special education services in juvenile detention and county jail settings. While all special education districts complied by submitting an action plan, developing a workable procedure for identifying eligible special education students continued to prove difficult. As a result, in 1999 – 2000, the Indiana Juvenile Justice Task Force conducted a pilot project in a juvenile detention facility to test model policies and procedures. The results of this pilot project indicated that it was possible to identify eligible students and receive current individualized education programs (IEPs) within 24 – 48 hours of placement in the facility after the detention hearing. The tested model policies and procedures were then made available to all juvenile detention facilities, county jails and special education districts.

# INTRODUCTION

## Laws Regarding Education

Indiana law and policy reflect the notion that there are few things more important than education. Education is the great equalizer; through it, individuals can control their destiny in life. Education gives individuals the ability to articulate their needs and plan their future. The Constitution of the State of Indiana states that “it should be the duty of the General Assembly... to provide, by law, for a general and uniform system of Common Schools, wherein tuition shall be without charge, and equally open to all.”<sup>1</sup> Indiana law states that “each individual shall attend either a public school which the individual is entitled to attend or some other school which is taught in the English language.”<sup>2</sup> Additionally, Indiana law states that every individual is bound by the requirements of Indiana’s compulsory attendance laws until the juvenile graduates from high school, until the juvenile reaches 16 years of age and has met all the requirements to withdraw from school before graduation, or until the juvenile reaches the age of 18.<sup>3</sup> These requirements apply to all juveniles, including juveniles placed in juvenile detention centers or county jails.

While Indiana law requires all juveniles to attend school, it also places responsibility on parents and guardians to ensure that juveniles receive the education to which they are entitled. It is “unlawful for a parent to fail to ensure that his child attends school.”<sup>4</sup> Additionally, Indiana law addresses the provision of educational services for juveniles placed out of the home by stating that it is “unlawful for a person operating or responsible for an educational, correctional, charitable, or benevolent institution or training school to fail to ensure that a child under his authority attends school.”<sup>5</sup> A person who knowingly violates these sections commits a class B misdemeanor.<sup>6</sup> Each day that each juvenile is not in school is considered a separate offense.<sup>7</sup>

Indiana also has high standards for its educators. Indiana complies with the United States Department of Education’s *Non-Regulatory Guidance on Improving Teacher Quality*, Section 1119 of Title I, that requires each State Educational Agency (SEA) that receives Title I, Part A funds to develop (and hence implement) a plan to ensure that all educators teaching in core academic subjects within the state are highly qualified. “Highly qualified” means that the teacher: (1) has obtained full State certification as a teacher or passed the State teacher licensing examination and holds a license to teach in the State, and does not have certification or licensure requirements waived on an emergency, temporary, or provisional basis; (2) holds a minimum of a bachelor’s degree; and (3) has demonstrated subject-matter competency in each of the academic subjects in which the educator teaches, in a manner determined by the State and in compliance with Section 9101(23) of the Elementary and Secondary Education Act of 1965, as amended. This requirement extends to all educators of core academic subjects who are employed by agencies or entities under the authority of the SEA. As a result, it applies to educators employed by local educational agencies (LEAs) as well as educators employed by the SEA or other entities under the SEA’s authority. Thus, if juvenile detention centers, correctional institutions, and other alternative educational settings are either LEAs under State law or under the authority of the SEA, educators of core academic subjects employed by those entities must be highly qualified.

## **Laws Regarding Special Education**

The Individuals with Disabilities Education Act (IDEA) was originally passed in 1975 and reauthorized in 2004 under the title Individuals with Disabilities Education Improvement Act (IDEIA). It applies to public schools and state-operated agencies such as juvenile correctional facilities.<sup>8</sup> IDEIA states that all eligible students shall receive a free and appropriate public education.<sup>9</sup> A free and appropriate public education has been defined as special education and related services that (1) are provided at public expense; (2) meet state educational standards; (3) include an appropriate pre-school, elementary and secondary education; and (4) are provided in conformity with an individualized education program (IEP).<sup>10</sup> Additionally, the U.S. District Court of Massachusetts ruled in 1980 that students with disabilities maintain the right to an appropriate education despite being incarcerated.<sup>11</sup> IDEIA provides substantive and procedural rights to which eligible students and their parents are entitled. Indiana has adopted these rights in the Indiana Administrative Code (IAC), specifically 511 IAC 7.

The IAC requires the provision of special education services to offenders ages 18 – 21 even though not all IEP requirements are applicable to those offenders. For offenders ages 18 – 21 who are convicted as an adult and incarcerated in an adult correctional facility, the IEP need not contain a statement of transition service needs if the offender will no longer be eligible, due to age requirements, for special education services once released from the county jail or prison.<sup>12</sup> Second, the IAC states that the case conference committee may “modify the student’s individualized education program or educational placement without regard to the least restrictive environment requirements where there is a bona fide security or compelling penological interest that cannot otherwise be accommodated.”<sup>13</sup> Finally, the IAC states that transition services are not required for those offenders convicted as an adult and incarcerated in an adult correctional facility who will no longer be eligible for special education services, due to age requirements, once they are released from the county jail or prison.<sup>14</sup>

## **No Child Left Behind Act**

The No Child Left Behind Act of 2001 (NCLB) was enacted to ensure that all juveniles receive a high quality of education so that all children have a chance to achieve educational success. It is important to be cognizant of the issues that NCLB addresses with respect to juveniles in juvenile detention facilities.

NCLB states that the purpose of Part D, Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk, is to improve educational services for juveniles in local and state institutions so they have the opportunity to meet the same state standards that all juveniles are expected to meet, to provide juveniles in local and state institutions with transitional services from institutionalization to further schooling or employment, and to provide a support system for juveniles returning from local and state institutions to ensure their continued education.<sup>15</sup>

## **Laws Regarding Detention in Juvenile Detention Centers**

Indiana uses juvenile detention pre-adjudicatory and post-adjudicatory for juvenile offenders. In order to securely detain a pre-adjudication juvenile in a juvenile detention facility without a

court order, an intake or probation officer must reasonably believe that the juvenile is a delinquent child and that (1) the juvenile is unlikely to appear before the juvenile court for subsequent proceedings; (2) the juvenile has committed an act that would be murder or a Class A or Class B felony if committed by an adult; (3) detention is essential to protect the juvenile or the community; (4) the parent, guardian or custodian either cannot be located or is unable or unwilling to take custody of the juvenile; or (5) the juvenile has a reasonable basis for requesting that the he/she not be released.<sup>16</sup> A juvenile detention facility is defined as a secure facility that is only used for the lawful custody and treatment of juveniles and meets state standards and licensing requirements as provided in department of correction rule 210 IAC 6.<sup>17</sup> The term “juvenile detention facility” does not include the Department of Correction, which is a post-adjudicative option.

Once a juvenile is taken into custody, a detention hearing must be held within forty-eight hours, excluding Saturdays, Sundays, and legal holidays.<sup>18</sup> In order to continue the detention after the detention hearing, the juvenile court must find probable cause to believe the juvenile is a delinquent child and that (1) the juvenile is unlikely to appear for subsequent proceedings; (2) detention is essential to protect the juvenile or the community; (3) the parent, guardian or custodian cannot be located or is unable or unwilling to take custody of the juvenile; (4) return of the juvenile to the juvenile’s home is or would be contrary to the best interests and welfare of the juvenile and harmful to the safety or health of the juvenile; or (5) the juvenile has a reasonable basis for requesting that the he/she not be released.<sup>19</sup>

There are strict time-lines that must be followed when juveniles are pre-adjudicatively detained. If a juvenile is in detention, a petition alleging delinquency must be filed within seven days, excluding Saturdays, Sundays, and legal holidays, after the juvenile is taken into custody.<sup>20</sup> Also, a fact-finding hearing or a waiver hearing must be commenced within twenty days, excluding Saturdays, Sundays, and legal holidays, after the petition is filed.<sup>21</sup>

As reported above, Indiana also uses juvenile detention as a post-adjudication dispositional alternative. Indiana law allows the juvenile court to order confinement in a juvenile detention facility for no more than 90 days for a student under the age of 17 or for no more than 120 days if the student is at least age 17.<sup>22</sup> In order for a juvenile detention facility to hold a child under a dispositional decree for more than thirty days, the facility must provide the juvenile a program that includes recreation, education, counseling, and health care.<sup>23</sup>

Also, as stated above, this assessment does not focus on the Department of Correction, which is a post-adjudicative option. The local court loses jurisdiction over a juvenile upon commitment to the Department of Correction and juveniles are generally held in the Department of Correction longer than in a juvenile detention center.<sup>24</sup> Also, the Department of Correction is considered a Local Education Agency (LEA) and has its own education program. In contrast, juvenile detention facilities are either privately run or county run.

### **Laws Regarding Juvenile Detention in County Jails**

The Juvenile Justice and Delinquency Prevention Act (JJJPA) was enacted in 1974 and re-authorized in 2002. The Act provides funding to participating states to establish alternatives to secure detention, as well as other juvenile justice programs and initiatives. One of the

JJDPA's core mandate is the Jail Removal mandate, which prohibits the detention of juveniles in adult jails or lockups with certain exceptions. The first exception is that criminal-type delinquent juveniles may be detained in county jails or lockups for six hours upon arrest for the limited purposes of identification, processing, and transfer to other facilities.<sup>25</sup> The second exception is that juveniles formally waived or transferred to criminal court and against whom criminal felony charges have been filed may be detained in county jails and lockups, in excess of the six hours limitation in the first exception.<sup>26</sup> Therefore, the only juveniles who should be detained in the county jails are juveniles under adult court jurisdiction for a felony offense.

### **Special Education Students in Correctional Settings**

Although it is difficult to establish the exact number of juveniles in juvenile correctional facilities who are identified as eligible for special education services in the United States, Casey and Keilitz conducted a meta-analysis of all the predominant studies of juvenile offenders with disabilities.<sup>27</sup> They estimate that 35.6 percent of juvenile offenders have learning disabilities and an additional 12.6 percent have mental retardation.<sup>28</sup> Additionally, the percentage of juveniles in juvenile correctional facilities who were already identified as eligible for special education services was at least three to five times greater than the percentage of juveniles in the public school population who were identified as eligible for special education services.<sup>29</sup>

There are many theories attempting to explain the disproportionate representation of juveniles identified as eligible for special education services in the juvenile justice system. One theory is that failure in school is the common link between delinquency and disability.<sup>30</sup> This theory suggests that the juvenile's learning and/or behavioral disabilities may lead to academic failure and cause the student to drop out of school which will then lead to an increased risk of delinquent behavior.<sup>31</sup>

A second theory is that juveniles with disabilities exhibit certain cognitive, behavioral, and personality deficits that predispose them to delinquent behavior.<sup>32</sup> Because these juveniles have deficits such as lack of impulse control, poor reception of social cues, and a diminished ability to learn from experience, they may have increased susceptibility to delinquent influences.<sup>33</sup>

Finally, a third theory is that juveniles with disabilities are treated differently from other juveniles who engage in the same types of delinquent behavior.<sup>34</sup> Because of these differences, juveniles with disabilities may be more likely to be apprehended by the police since they most likely lack the skills to plan strategies, avoid detection, interact appropriately, and comprehend questions and warnings during interaction with the police.<sup>35</sup>

Regardless of whether one or all of these theories is correct, the fact remains that a significant percentage of juveniles in correctional facilities have disabilities. Thus, it is imperative that correctional facilities identify juveniles with disabilities in a timely manner and that these juveniles receive the special education services to which they are entitled.

## **Methodology**

This assessment was undertaken by the Youth Law T.E.A.M. of Indiana to determine the extent to which adequate policies and procedures addressing the delivery of education services in juvenile detention centers and county jails have been developed and implemented. The information provided herein is a “one-day snapshot” of the status of services provided in Indiana’s juvenile detention centers and to offenders between the ages of 18-21 in Indiana’s county jails. Included within this “snapshot” is the identification of barriers that detention center personnel, county jail personnel, and special education district personnel perceive when educating juveniles with disabilities in the juvenile detention and county jail settings.

This assessment was conducted in three parts. The first part consisted of conducting in-person interviews with administrators and educators of twenty-two of the twenty-four Indiana juvenile detention centers. (Two centers are run by the same county and are therefore counted as one center in the results.) One juvenile detention center was not responsive when approached for this assessment. Another detention center declined participation because it was in the process of opening a new facility, and a third detention center’s interview was conducted via the telephone due to scheduling conflicts. The in-person interviews for the remaining twenty-one detention centers were conducted by a Youth Law T.E.A.M. staff attorney. In most centers, both the detention center director and an educator were interviewed regarding the education policies and procedures. The on-site location of the interviews was helpful in that the interviewer saw the classrooms in each of the centers.

The interviews focused on whether the detention center had a relationship with the local school corporation and special education district. There was also focus on the length of daily instruction time and the acceptance of transfer credit by the home school upon the juveniles’ return. In regards to special education, there was focus on whether the detention centers received every eligible juvenile’s IEP and whether case conferences were conducted. Each detention center director was asked for his/her perception of barriers when teaching juveniles eligible for special education and was asked to rank the ten most significant barriers to the delivery of quality education as identified by the national Juvenile Detention Association in its Educating Youth in the Juvenile Justice System study.

The second part of the assessment consisted of mailing questionnaires to Indiana’s ninety-two sheriff’s departments. Out of ninety-two questionnaires mailed, thirty-nine questionnaires, or forty-two percent, were returned. The questionnaire focused on two main issues. The first issue was the delivery of educational services to offenders under the age of 18. The second issue was the delivery of special education services to offenders within the ages of 18-21. If the county jail delivered special educational services, the questionnaires further inquired whether the jails received IEPs and conducted case conferences. Each sheriff’s department was asked to rank the ten most significant barriers to the delivery of quality education as identified by the national Juvenile Detention Association in its Educating Youth in the Juvenile Justice System study.

The third part of the study consisted of mailing questionnaires to Indiana’s ninety special education districts. Out of ninety questionnaires mailed, forty-one questionnaires, or forty-six percent, were returned. The questionnaire focused on whether the special education districts

received notification of the detention of eligible juveniles. The questionnaire further asked if the special education district provided IEPs, conducted case conferences, and started the evaluation process for offenders not already identified as eligible for special education services. Finally, each special education district was asked to rank the ten most significant barriers to the delivery of quality education as identified by the national Juvenile Detention Association in its Educating Youth in the Juvenile Justice System study.

## ASSESSMENT FINDINGS - SUMMARY

In 2004, the Youth Law T.E.A.M. of Indiana conducted an assessment of the status of education services provided in detention facilities to determine whether the model policies and procedures were being implemented by juvenile detention centers, county jails and special education districts. County jails were included in this study because county jails often hold offenders under the age of 18 and because eligibility for special education and related services continues through age 21. The assessment, consisting of juvenile detention centers visits, county jail questionnaires and special education district questionnaires, yielded the following key findings:

1. Many students in juvenile detention centers do not receive school credit for work completed while detained.
2. The majority of education programs in juvenile detention centers are year round programs; however, the majority of education programs do not provide daily classroom instruction equivalent to the length of daily instruction in a public school.
3. The majority of juvenile detention centers receive assistance, in the forms of materials, staff and/or funding, from the local school corporation where the center is located.
4. Nearly all juvenile detention centers attempt to identify special education eligible juveniles, but less than half of the centers pro-actively attempt to identify special education eligible juveniles by providing names to the juveniles' home special education districts. The majority of juvenile detention centers identify special education eligible students by relying upon unsolicited information from the students' schools or self-reporting by the students.
5. Upon identifying a juvenile as special education eligible, the majority of juvenile detention centers receive copies of the student's IEP immediately upon admission or after the detention hearing. The majority of these receiving centers do not conduct case conference committee meetings.
6. None of the juvenile detention centers initiate the evaluation process for juveniles suspected of having an educational disability.
7. The majority of county jails hold juveniles who are under adult court jurisdiction; however, approximately a quarter of county jails do not provide educational services to offenders of compulsory attendance age.
8. The majority of county jails do not provide special education services to eligible offenders between the ages of 18-21 or have personnel who understand the special education process.
9. Juvenile detention centers perceive serious barriers when educating incarcerated special education students to be: the frequent movement of youth; addressing gaps in students' education; concerns regarding cost of operation; a need for more

collaboration between the public school system and the program personnel; and the lack of after care.

10. County jails perceive serious barriers when educating incarcerated special education students to be: addressing gaps in student's education; concerns regarding cost of operation; overcrowding; and the lack of after care.
11. Special education districts perceive serious barriers when educating incarcerated special education students to be: the frequent movement of youth; transferring, maintaining and acquiring credit for students; a need for more collaboration between the public school system and the program personnel; and the lack of after care.

## RECOMMENDATIONS

- 1. Lines of communication should be opened among the local school corporation, each juvenile's individual school and teachers, the local special education district, the juvenile detention center, and county jails. Parents should be welcomed in the process of educating their children, but should not be relied upon to ensure their child's right to an education is enforced. Once lines of communication are opened, a system of transferring school credit from detention centers to home schools should be established.*

Throughout interviews with the juvenile detention center administrators and educators, it became apparent that those professionals do not have open communication with the local school corporations or the special education districts. For example, one juvenile detention center reported having no communication with the local school corporation, despite its many attempts to do so. The lack of communication prevents the detention center from receiving the IEPs for special education students, homework for the days the juveniles miss, and ISTEP materials.

One detention center reported that, despite having open communication with the school corporation administrators, it still experiences problems with individual educators who have the attitude that detained juveniles are no longer their "problem." The juvenile detention center reported that some educators refused to accept completed work even if transported to the school by detention center staff.

Another detention center reported that the only form of communication it had with the local school corporation was the receipt of juveniles' paper records. The detention center did not communicate directly with school personnel and could not always determine, from the paper records, exactly what a student needed.

One of the primary barriers that detention center administrators and educators reported was the issue of earning and transferring credit for the work completed during detention. However, if the detention centers were able to transport a student's homework from the home school to the centers, credit for the work done in detention was usually accepted by the school.

Several juvenile detention centers reported relying on parents, rather than cooperation from the school corporation, to transport schoolwork to and from the school and detention center to ensure juveniles receive credit for work done in detention. As one detention center educator reported, the trouble with this arrangement is that not all parents are responsible enough or able to transport the schoolwork. For example, the educator reported observing only two successful instances, in eleven years, in which parents transported the homework for the juveniles.

Even in cases where the juvenile is either expelled from school or not enrolled, detention center educators and administrators believe that juveniles should have something to show for their hard work while in detention. One detention center reported a need for a credit recovery

system for juveniles who are behind in school but close some of the gaps in their education while in detention.

Both the detention centers and the special education districts perceive the lack of collaboration between the local school system and the detention program personnel as a barrier to educating students detained in juvenile detention centers and county jails. Therefore, all parties involved in educating juveniles and special education offenders age 18 through 21 should be committed to creating a system of better communication.

- 2. County jails should develop an action plan with local school corporations to ensure that juveniles under compulsory attendance laws receive educational services.*

Compulsory attendance laws apply to all juveniles under the age of eighteen even if the juvenile is under adult court jurisdiction and detained in a county jail.<sup>36</sup> It is unlawful for a person operating or responsible for a correctional institution to fail to ensure that a juvenile under the person's authority attends school as required by compulsory attendance laws.<sup>37</sup> A person who violates the law commits a Class B misdemeanor, and each day for each juvenile not educated is a separate offense.<sup>38</sup>

18 out of 24, or 75%, participating county jails reported providing educational services to the juveniles they detain. 12 out of 18, or 67% of those educational services are provided by the local school corporation. 2 out of 18, or 11%, of the remaining educational services are provided by the county jail. However, 6 out of 24, or 25%, of county jails reported not providing educational services to the juveniles they detain. These county jails reported being unable to provide educational services due to factors such as inadequate funding, lack of space for classrooms, and lack of resources, including teachers.

Despite the efforts to educate juveniles, one county jail reported that it is often difficult to educate out-of-county students. The jail reported that although it has a good relationship with the local school corporation, other school corporations do not want to trouble themselves with juveniles in a neighboring county jail. Therefore, it is difficult to enroll the juveniles in the local school corporation and provide educational services.

- 3. Juvenile detention centers should abide by State program and instructional day length requirements.*

The Indiana Administrative Code states that each school corporation shall conduct at least one hundred eighty (180) student instructional days for all students in grades 1 through 12.<sup>39</sup> 15 out of 21, or 71%, of the juvenile detention centers reported conducting school year round, and 5 of 6 juvenile detention centers that do not have year round school offer summer school programs.

The Indiana Administrative Code also states that student instructional days consist of a minimum of five hours of instructional time in grades 1 through 6 and six hours of instructional time in grades 7 through 12.<sup>40</sup> Instructional time includes approved courses, curriculum or educationally related activity under the direction of an educator.<sup>41</sup> Only 6 out of 21, or 29%, of the juvenile detention centers reported an instructional day length of six

hours or more. 12 out of 21, or 57%, of the juvenile detention centers reported an instructional day length between three and five hours, and 3 out of 21, or 14% of the juvenile detention centers reported an instructional day length of two hours or less.

4. *Juvenile detention centers and county jails should develop action plans with special education districts to ensure juveniles who are eligible for special education services: are identified upon admission to the facility; the detention facility receives IEPs in a timely manner; and that juveniles receive services specified in their IEPs.*

IDEIA and Indiana's Article 7 state that students eligible for special education services should receive a free and appropriate public education.<sup>42</sup> These laws also apply to juveniles in correctional institutions such as juvenile detention centers and county jails. IDEIA creates a private right of action for special education eligible students who do not receive a free and appropriate public education. Therefore, it is imperative that juvenile detention centers and county jails develop action plans with the special education districts to ensure that every juvenile or adult offender who has been identified as special education eligible receives those services.

Only 43% of the juvenile detention facilities rely on special education districts when determining whether a student has already been identified as eligible for special education services. The majority of facilities rely on the local school corporation, the student, or have no formal process in place to determine eligibility for special education services. Similarly, only 13% of the county jails rely on special education districts when determining whether a student has been deemed eligible for special education services. 25% of the county jails rely on the offender's self reporting. The vast majority of county jails reported not knowing whether there was a process to determine special education eligibility, reported not having a process, or didn't answer the question.

The special education districts reported concerns regarding the identification of special education eligible juvenile and adult offenders. Several districts reported not being contacted for records by either the juvenile detention facility or county jail. Some districts that were contacted for records reported long delays between the beginning of the detention and receiving the request for special education records. For example, one district reported it takes up to six weeks before it is informed that a special education eligible student has been detained.

5. *A short-term, temporary confinement in a juvenile detention center or county jail should not be considered a "change of placement" requiring a case conference committee meeting to create a new IEP. The existing IEP should be implemented in the detention setting to the extent possible. If it is not possible to implement the existing IEP in the detention setting, a case conference should be conducted.*

The case conference committee must meet when a "change of placement" is proposed or to be considered.<sup>43</sup> A "change of placement" means a change in one or more of the following, as determined by the case conference committee: (1) identification of a student's disability (including declassification); (2) length, frequency, or duration of services specified in the student's individualized education program ("IEP") if the changes affect the goals and

objectives of the IEP; (3) placement of where the student will receive services unless the change is contained in the current IEP; (4) location of where the student will receive services if the change affects the goals and objectives of the IEP; and (5) graduation from high school.<sup>44</sup> A “change of placement” for disciplinary issues means the school’s unilateral removal of the student from the student’s current placement for disciplinary reasons.<sup>45</sup>

In regards to “change of placements” due to disciplinary removals, a juvenile’s detention in a juvenile detention center or county jail is not considered a change of placement because the detention is not the result of the school’s unilateral removal of the juvenile; the detention is the result of a law enforcement officer, probation officer, or adult or juvenile court judge decision.

The issue then becomes whether the case conference committee should meet to determine whether the placement of the juvenile in a detention setting affects one of the five factors listed above.

While there are no court cases in Indiana regarding this issue, there have been court cases in other states. A Massachusetts court determined that the initiation of juvenile court proceedings does not trigger protections connected with a “change of placement” under the IDEA.<sup>46</sup> Likewise, a Connecticut court rejected a student’s claim that delinquency proceedings constituted a change of placement.<sup>47</sup> Finally, a South Carolina court addressed this issue with the assistance of the United States Department of Education. The South Carolina Department of Education required a new IEP be formulated at its Reception and Evaluation Center, where the average length of stay was twenty-one days, and a second IEP be formulated upon the special education student’s transfer to a longer term facility.<sup>48</sup> The court thought that this requirement might be too burdensome and contacted the United States Department of Education to seek guidance in this situation.<sup>49</sup> After examining the relevant law, the United States Department of Education responded:

“In the case of short-term, temporary confinement, the State may meet its obligation under IDEA and Section 504...by implementing the IEP from the previous school district or placement instead of developing a new one. The IEP must be implemented to the extent possible in the temporary setting. To the extent the implementation of the old IEP is impossible, services that approximate, as close as possible, the old IEP must be provided.”<sup>50</sup>

This assessment found the average length of stay in an Indiana juvenile detention center to be fourteen days. Consistent with the United States Department of Education response, it is recommended that the existing IEP be implemented to the extent possible in the detention setting. If the juvenile detention facility or county jail can’t implement the IEP or approximate services, then the case conference committee should be convened to create a new IEP for the detention setting.

6. *Juvenile detention centers and county jails should develop an action plans with the local school corporations or special education districts to ensure the identification of juveniles who have not been previously identified as eligible for special education services.*

As stated in the Introduction, studies estimate that the number of special education students in juvenile detention facilities is three to five greater than the number of special education students in public schools.<sup>51</sup> The findings of this assessment indicate that detained juveniles with possible undiagnosed disabilities affecting their education are not being referred for special education evaluations by juvenile detention centers and county jails. Each juvenile detention center reported that it does not make referrals for evaluations despite perceiving many unidentified special education eligible students in their facilities. Over half of the juvenile detention centers interviewed suggested that over 30% of their populations consist of special education eligible juveniles, whether determined to be eligible or unidentified.

The Indiana Administrative Code states that public agencies, meaning private or public entities that have direct or delegated authority to provide special education and related services, must establish, maintain, and implement written procedures to ensure the location, identification, and evaluation of all students who have legal settlement within the public agency's jurisdiction, are under age twenty two, and are in need of special education and related services regardless of the severity of their disabilities.<sup>52</sup>

The following individuals can initiate a special education evaluation: parents; teachers; school administrators; specialists; and the student.<sup>53</sup> Therefore, detention center educators are able to make special education referrals. In addition to the educators, the Indiana Administrative Code does not define the term "specialists," and with the education, training, and experience that detention center and county jail administrators have in dealing with disadvantaged juveniles, they arguably are specialists and able to make a referral.

One detention center reported that upon broaching the subject of making a special education referral to the juveniles' parents, the detention centers found parents wanted to avoid the "special education" label and indicated an intention to refuse consent to the evaluation and/or services. While the inability to obtain parental consent is indeed an obstacle, the mere anticipation of a parent's decision to refuse consent is not a reason for the detention center or county jail to not make a referral to the school. By making a referral to certified school personnel, the detention center or county jail gives the school "knowledge" that the juvenile may have a disability. This "knowledge" invokes procedural protections for the juvenile having disciplinary problems even prior to evaluating the juvenile for services. Anticipated obstacles should not prevent detention centers or county jails from making referrals that could lead to juveniles receiving educational services they need that could possibly help them stay out of detention centers or county jails and be successful in school.

7. *County jails should develop an action plan with special education districts to ensure adult offenders between ages 18 and 21, who have previously been identified as eligible for special education services, continue to receive services until they are evaluated and found to not need special education services or they age out of special education eligibility.*

The provisions of the Indiana Administrative Code 511 IAC 7-17 through 511 IAC 7-31 apply to any person three years of age but less than twenty-two years of age who has formally been referred for an educational evaluation to determine eligibility for special education services or has been identified as disabled and eligible for special education services.<sup>54</sup> There is no exception for persons under adult criminal court jurisdiction. Therefore, adult offenders ages 18 through 21 eligible for special education services are entitled to receive such services even if they are incarcerated in a county jail.

Only 20 out of 36, or 55%, of the participating county jails reported that they provide special education services to eligible offenders between the ages of 18-21. However, when asked the source of the provision of the special education services for age 18-21, county jails reported using GED books, the circuit court's three-hour program, and volunteer teachers. These sources aren't likely to comply with the IAC or IDEA. Therefore, it is likely that even fewer than 55% of the county jails provide special education services in accordance with Indiana law and IDEA to eligible offenders between the ages of 18-21.

A county jail that does offer a special education program reported that it provides the names of offenders to the local special education district upon admission. The school district confirms the eligibility of the offenders and provides IEPs (and accompanying paperwork), if any, for the county jail to implement. Another county jail that does offer a special education program and conducts case conferences reported that even though it has a very good relationship with the local school corporation, it is rare to receive the same cooperation for offenders from foreign corporations. If all counties establish procedures to ensure cooperation between special education districts and county jails, those same procedures could be utilized by distant entities to facilitate the exchange of information.

On a more extreme note, one county jail reported that only way the jail can provide educational opportunities beyond GED study books is if an educator travels to the jail with schoolwork for the offender to complete. The jail further reported that such an arrangement has happened only once in twenty years. School districts and county jails must work together to ensure the education of special education eligible adult offenders between the ages of 18 and 21.

8. *Juvenile detention centers, county jails, special education districts and school corporations should collaborate to form after-care transitional programs to assist juveniles transitioning from detention to the public school system.*

The No Child Left Behind Act (NCLB) requires that all students in local and state institutions be provided transitional services upon release.<sup>55</sup>

Only one detention center reported having an after-care program to help juveniles transition from the detention center to their home school. However, this program only applied to a select few juveniles and not to everyone. Another detention center suggested that an after-care transitional program would be helpful to juveniles detained multiple times. Educators reported that, in most cases, when a juvenile is placed in the detention center for a second time, he or she falls even further behind in the educational track. A third detention center suggested that a transitional program would also be helpful for juveniles ages 15-16 who are unlikely to return to their home schools once they are released from detention. An after-care transitional program may help to ensure this age group receives needed services to increase the likelihood they continue to receive educational services.

Finally, one detention center suggested that school counselors maintain contact with juveniles throughout their detention to keep them connected to their home schools. While this suggestion may be difficult to implement, something of this nature would also serve the purpose of increasing communication between the local school corporations, juvenile detention centers, and county jails.

9. *School corporations, juvenile detention centers, and county jails should utilize the Youth Law T.E.A.M. of Indiana as an information and training resource on educational issues and law for their educators, administrators, and staff.*

Detention centers reported the need for training in the area of education law for detention center and school corporation administrators, staff, and educators. County jail administrators, staff, and educators should also be trained on the current status of education laws. Information about enrollment, compulsory education, and special education laws need to be incorporated into a training curriculum.

The Youth Law T.E.A.M. of Indiana is willing to conduct trainings for detention centers, county jails, and school corporations that feel the need to learn more about these issues. The Youth Law T.E.A.M. of Indiana is also available via telephone to answer questions regarding general education or special education law. Finally, the Youth Law T.E.A.M. of Indiana can serve as a resource for pilot after-care transitional programs, as discussed in Recommendation 8, aimed at providing after-care for juveniles making the transition from detention back to their home schools.

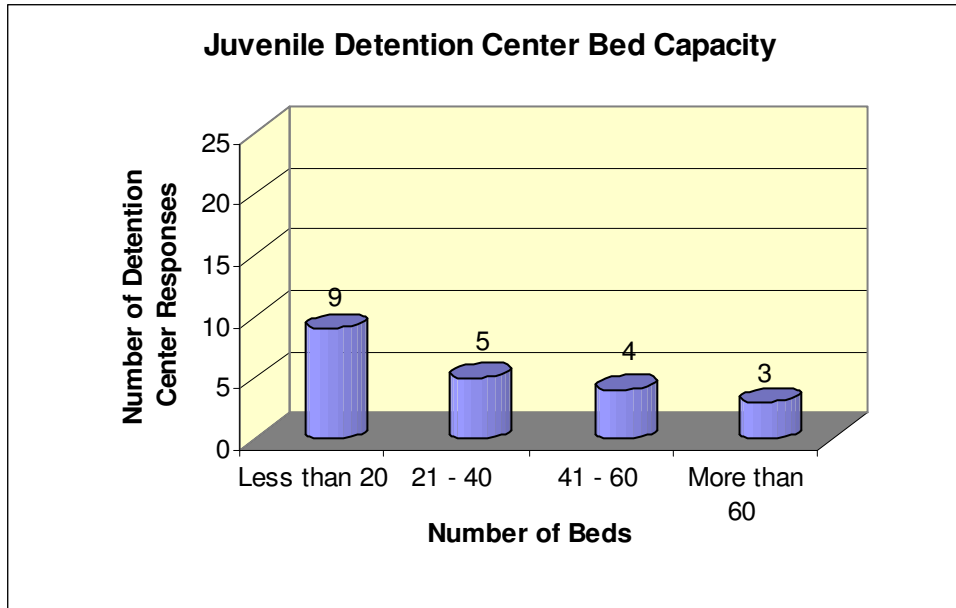
# ASSESSMENT FINDINGS

## JUVENILE DETENTION CENTER VISITS

The reported average length of stay in Indiana juvenile detention centers is 14 days. The following graphs detail the findings of the interviews with twenty-one detention centers' administrators and educators. The findings in this section are represented in graphs that pertain to information regarding the juvenile detention centers. The graphs include:

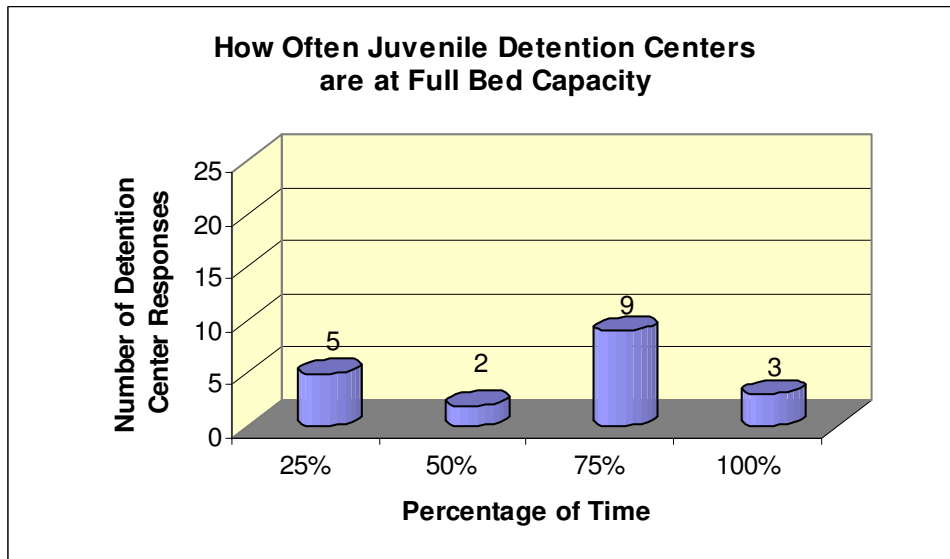
- Graph 1.1 Juvenile Detention Center Bed Capacity;
- Graph 1.2 How Often Juvenile Detention Centers are at Full Bed Capacity;
- Graph 1.3 Juveniles from other Counties in Juvenile Detention Center ;
- Graph 1.4 Estimated Percentage of Detained Juveniles Eligible for Special Education;
- Graph 1.5 Number of Educators in Juvenile Detention Centers' Educational Programs;
- Graph 1.6 Number of Teacher's Aides in Juvenile Detention Centers' Educational Programs;
- Graph 1.7 Juvenile Detention Centers with State Licensed Educators;
- Graph 1.8 Employers of Juvenile Detention Center Educators and Aides;
- Graph 1.9 Length of Instructional Day in Juvenile Detention Centers;
- Graph 1.10 Length of Educational Programs in Juvenile Detention Centers;
- Graph 1.11 Point When Juvenile Detention Centers Obtain Special Education Information;
- Graph 1.12 Method Juvenile Detention Centers use to Determine Special Education Eligibility;
- Graph 1.13 Point During Detention When Juvenile Detention Centers Receive IEPs;
- Graph 1.14 Type of IEP Implemented in Juvenile Detention Centers;
- Graph 1.15 Point when Juvenile Detention Centers Conduct Case Conferences;
- Graph 1.16 How Often Juvenile Detention Centers Conduct Case Conferences;
- Graph 1.17 Participants in Case Conferences Conducted during Juveniles' Detention;
- Graph 1.18 Provision of IEP Services of Counseling and/or Physical Therapy in Juvenile Detention Centers;
- Graph 1.19 Juvenile Detention Centers' Participation in the ISTEP Test;
- Graph 1.20 Juvenile Detention Centers' Communication with the Local School Districts;
- Graph 1.21 Juvenile Detention Centers' Communication with the Local Special Education Districts;
- Graph 1.22 Public School Systems' Contribution to Juvenile Detention Center Educational Programs;
- Graph 1.23 Juvenile Detention Centers' Communication with Parents;
- Graph 1.24 Changes in Juvenile Detention Center Policies to Accommodate Juveniles from Different School Districts; and
- Graph 1.25 Juvenile Detention Centers' Average Responses to Barriers to Educating Special Education Youth.

**Graph 1.1**



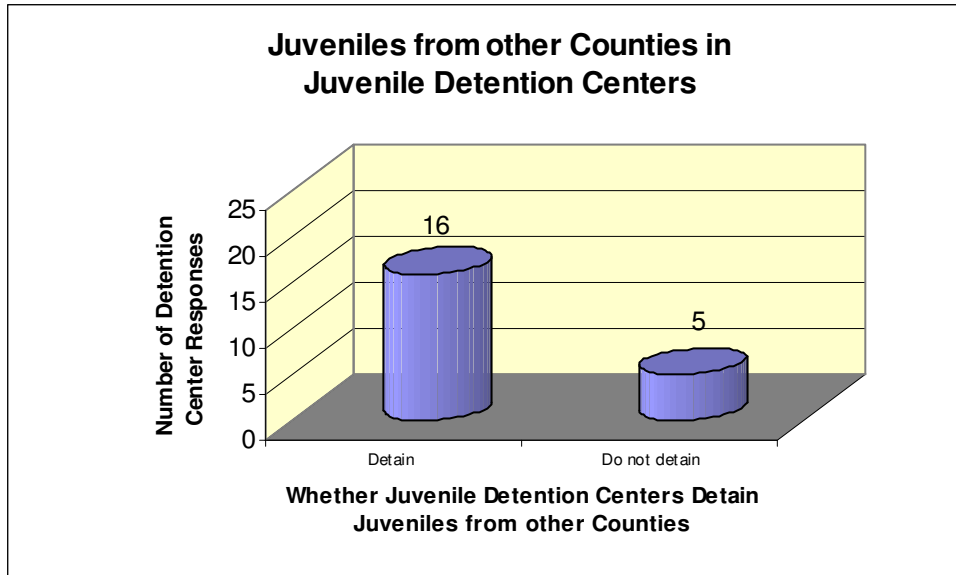
Twenty-one out of twenty-one juvenile detention centers provided valid responses. Twenty-one detention centers reported having a total of 563 males and 128 females in custody at the time of the survey.

**Graph 1.2**



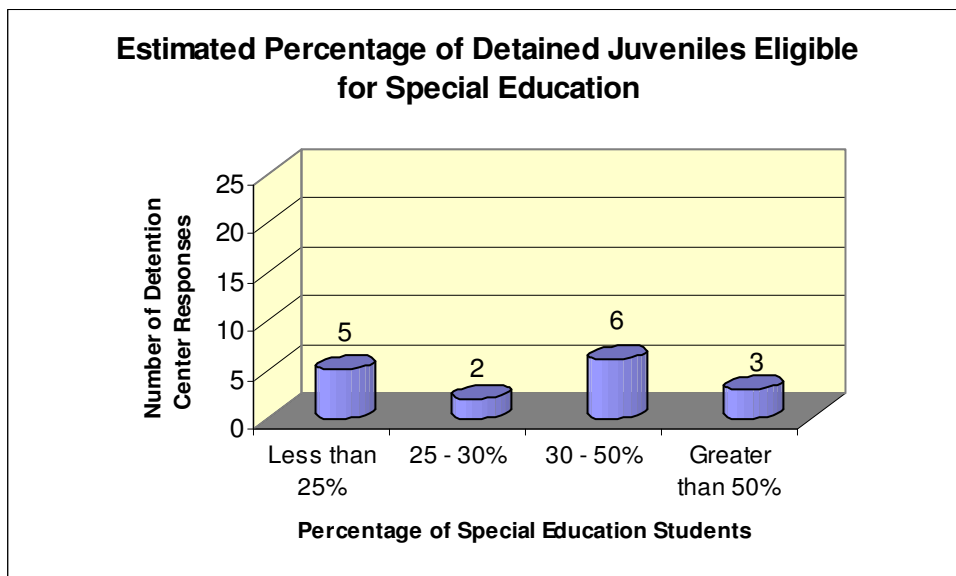
Nineteen out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.3**



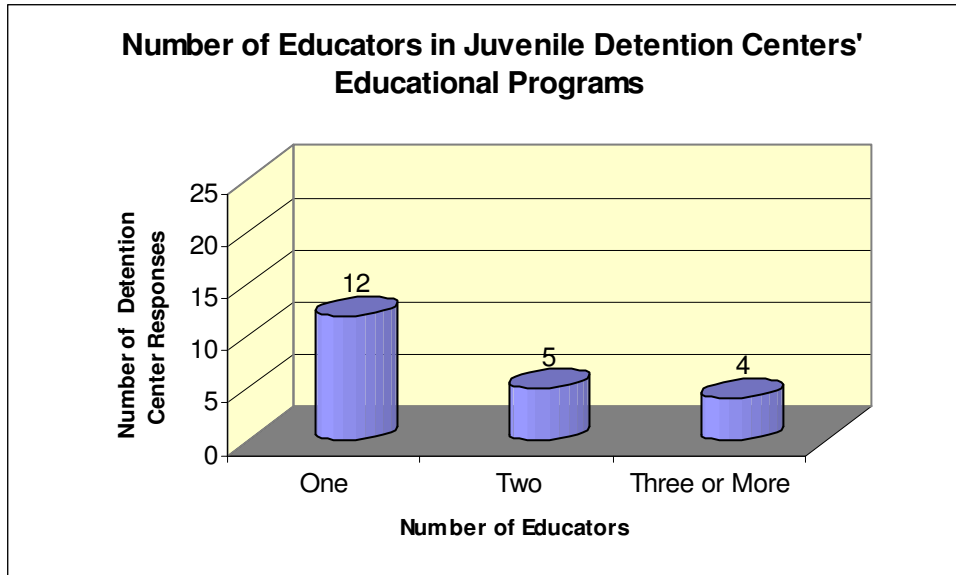
Twenty-one out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.4**



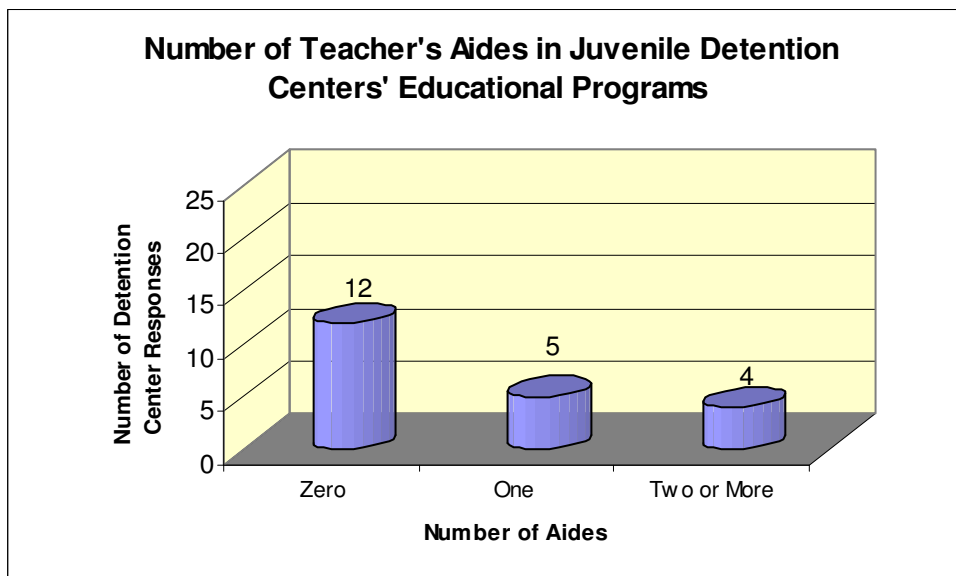
Sixteen out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.5**



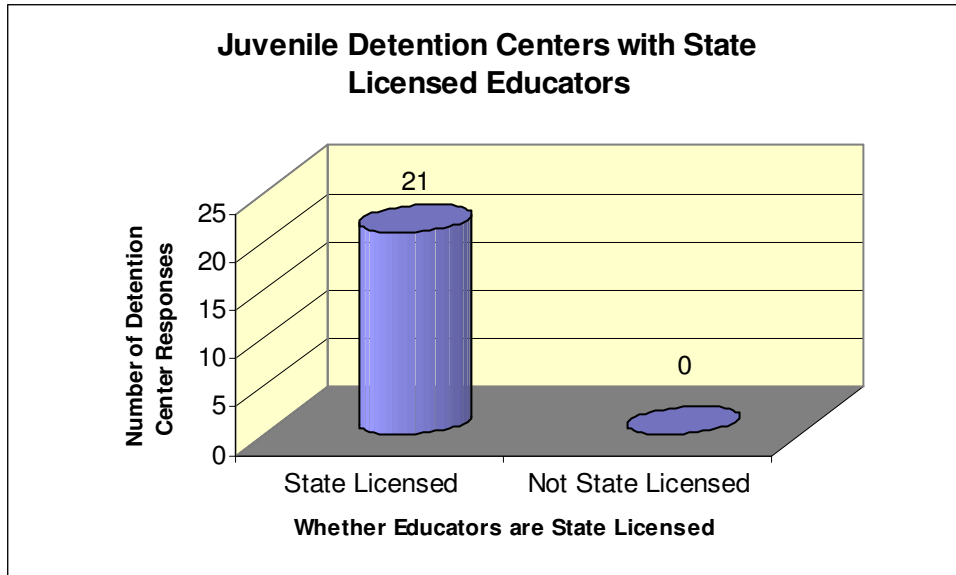
Twenty-one out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.6**



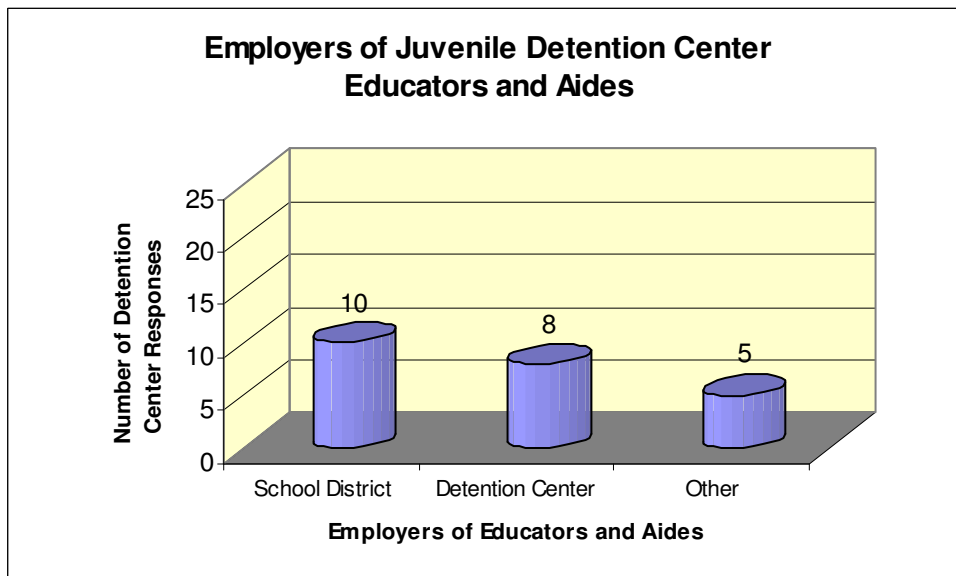
Twenty out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.7**



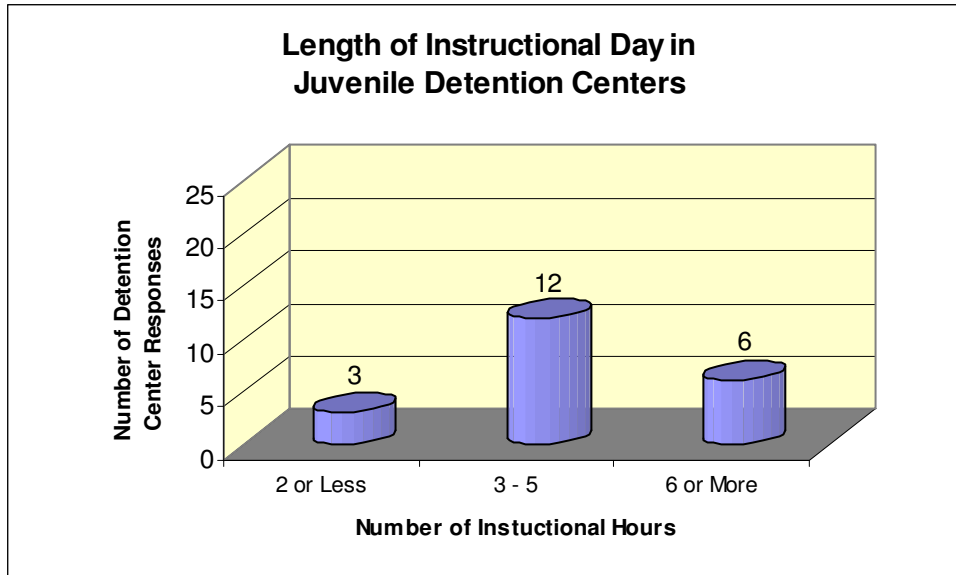
Twenty-one out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.8**



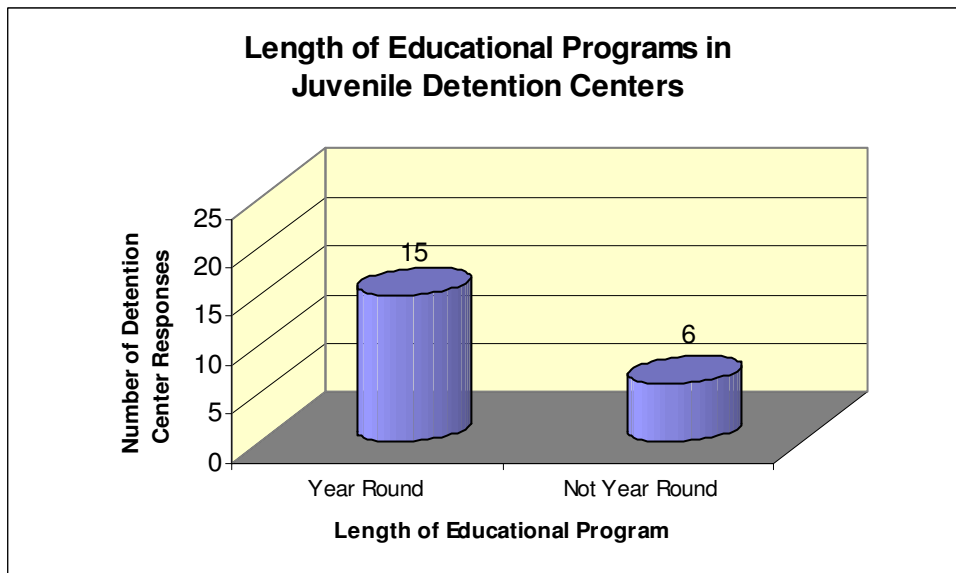
Twenty-one out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.9**



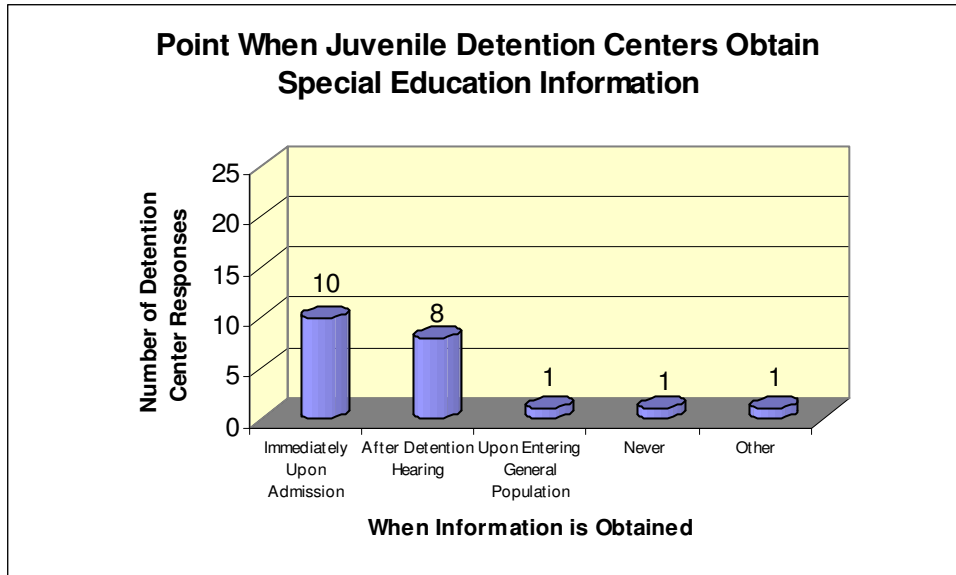
Twenty-one out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.10**



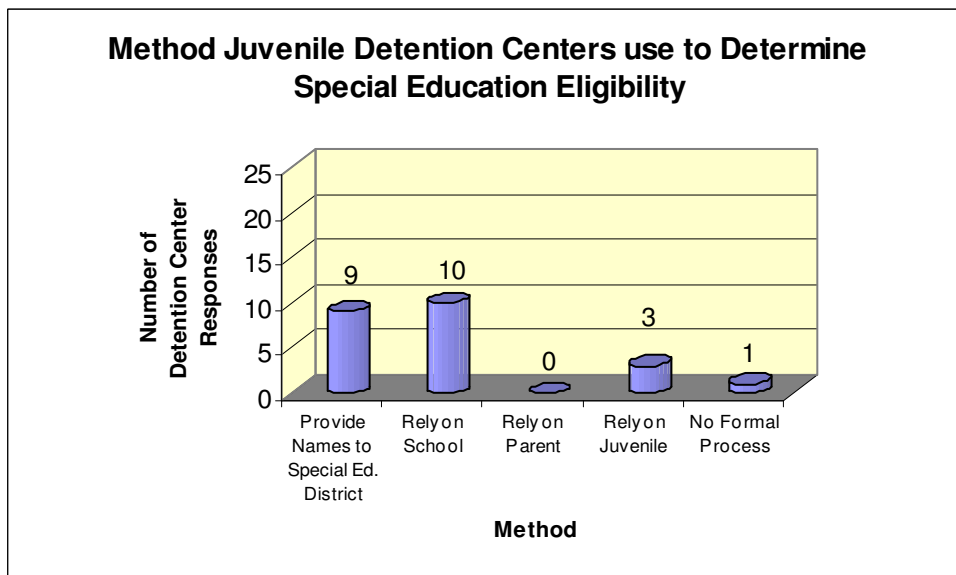
- Twenty-one out of twenty-one juvenile detention centers provided valid responses.
- Of the six juvenile detention centers that do not have a year round educational program, five centers offer summer school programs. Of the centers offering summer school, four of the programs' instructional days are: 2.5 hours; 3 hours; and 4 hours. One program consists of 4 instructional hours a week.

**Graph 1.11**



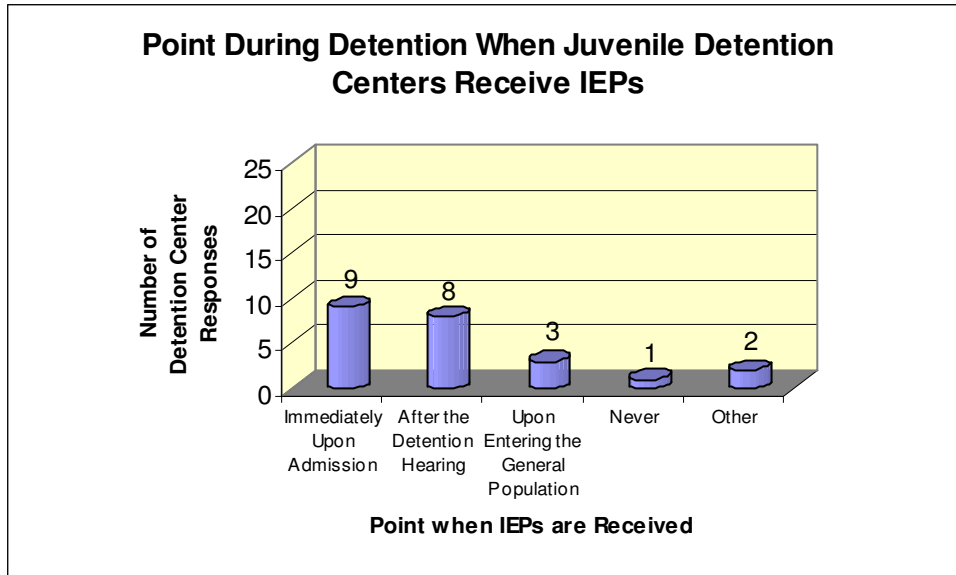
Twenty-one out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.12**



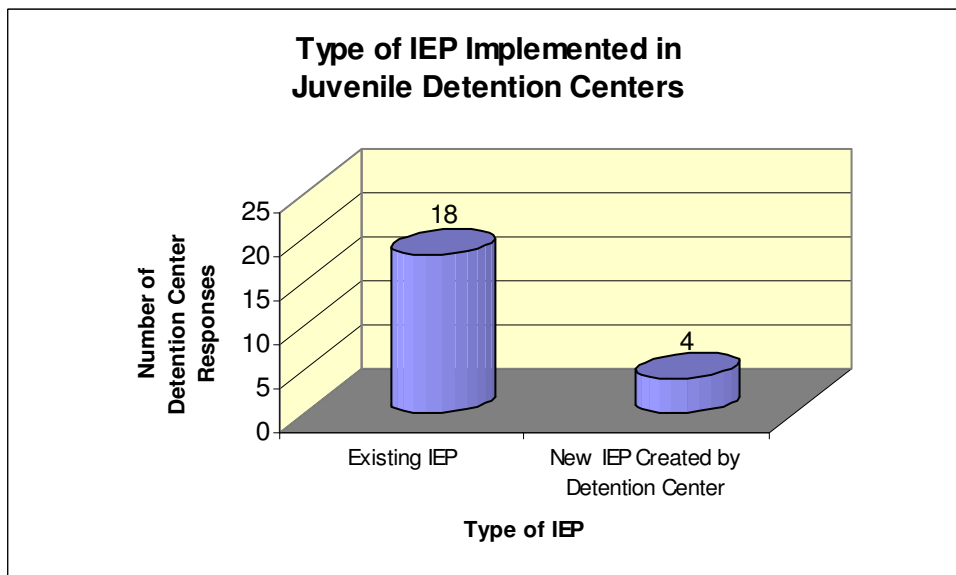
Twenty-one out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.13**



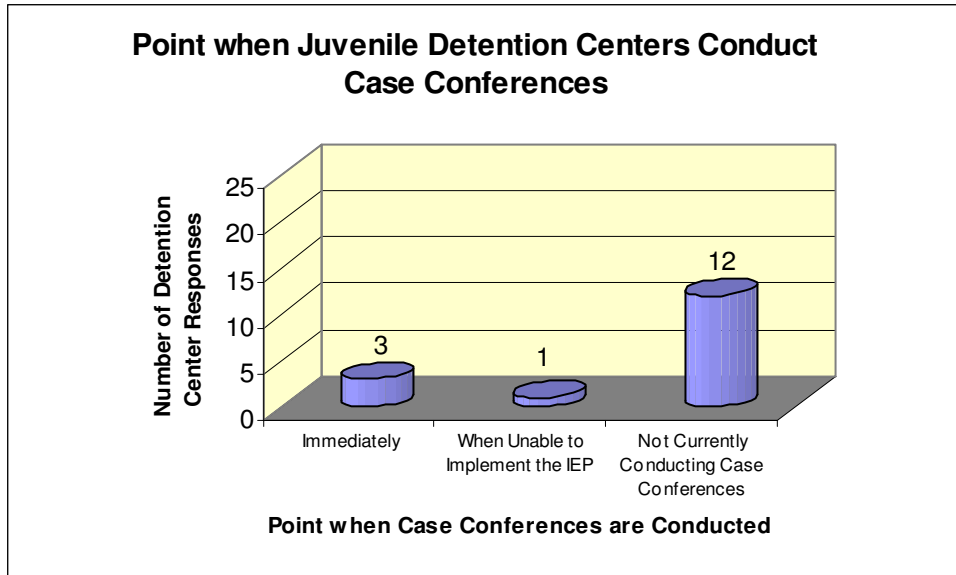
Twenty-one out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.14**



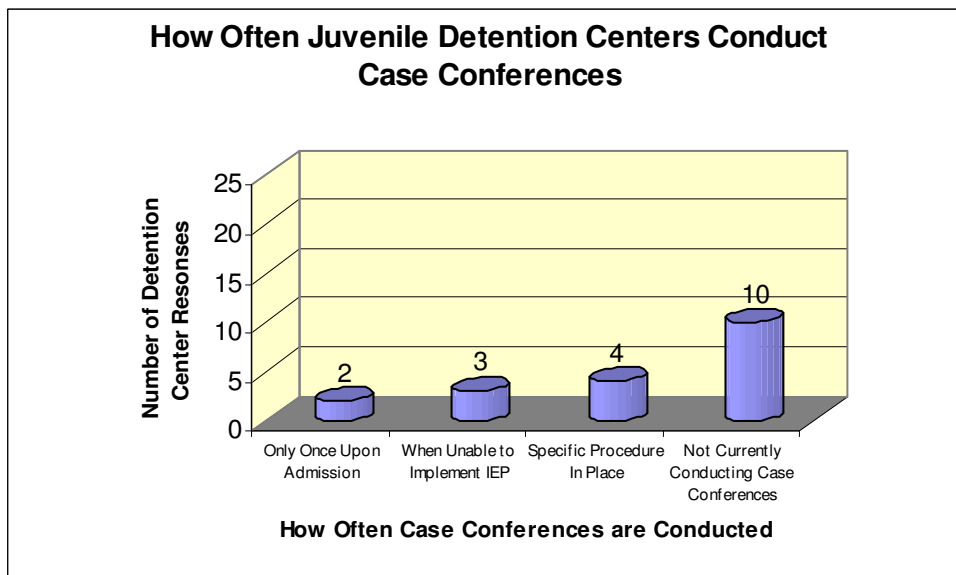
Twenty out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.15**



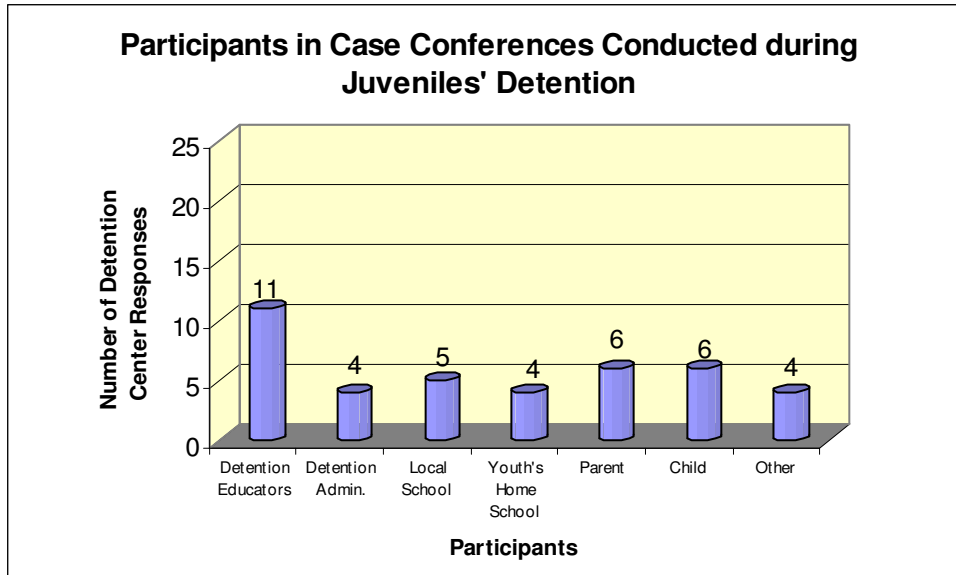
Sixteen out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.16**



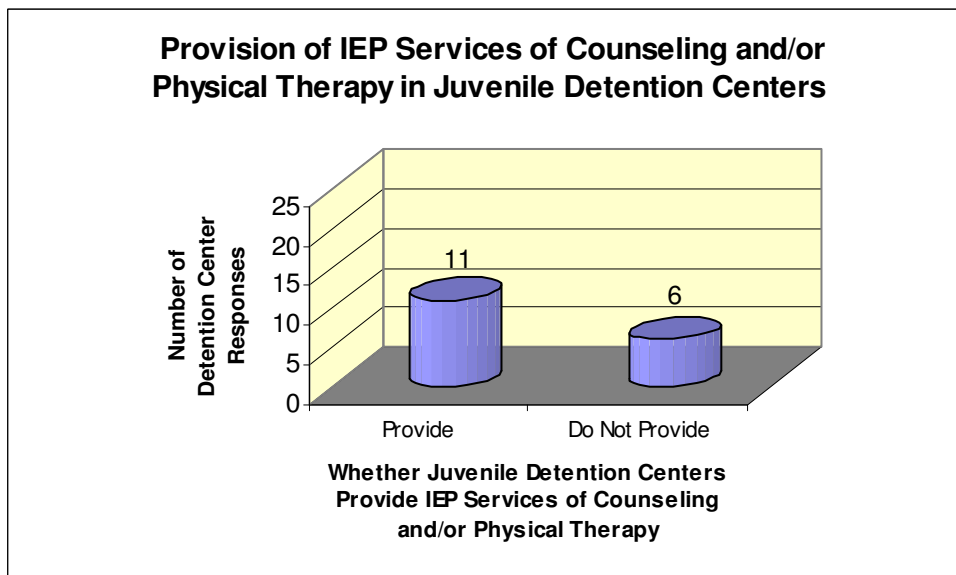
Nineteen out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.17**



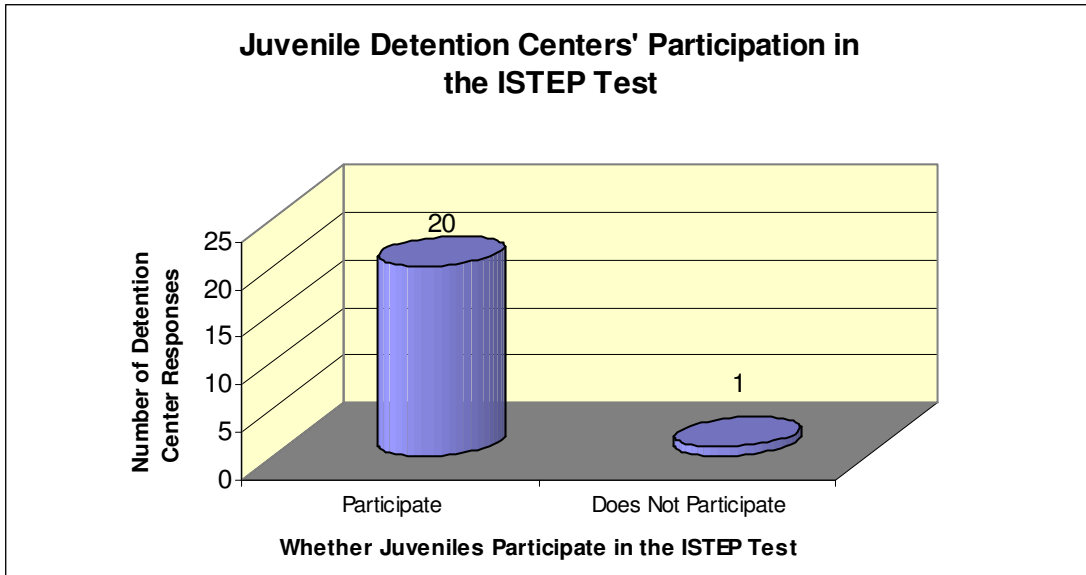
Eleven out of nineteen eligible juvenile detention centers, depending on responses to Graph 1.16, provided valid responses.

**Graph 1.18**



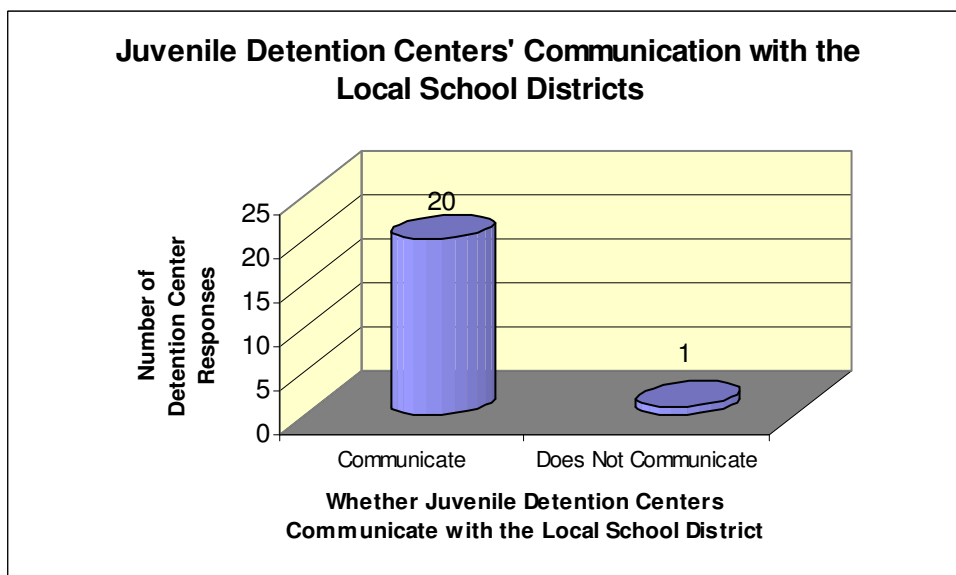
Seventeen out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.19**



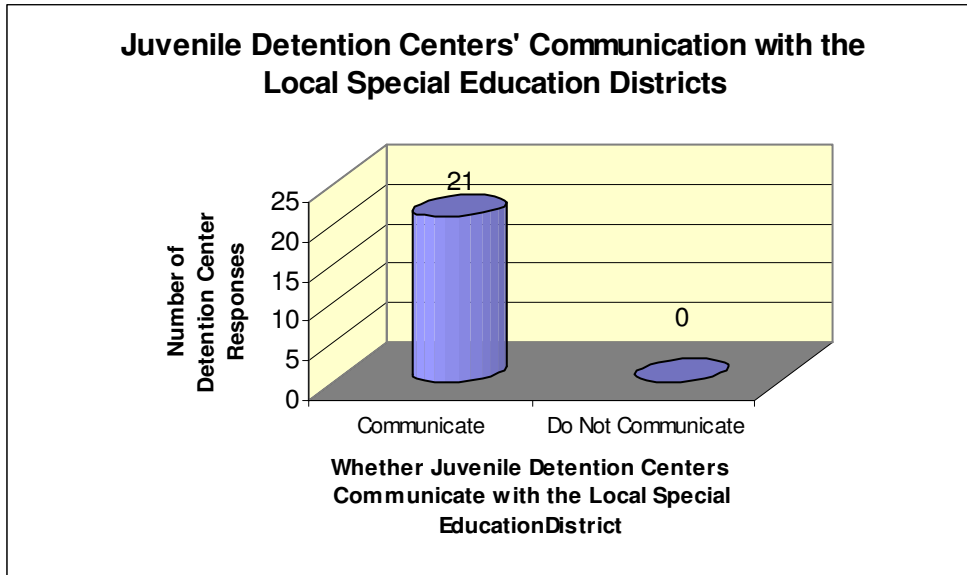
Twenty-one out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.20**



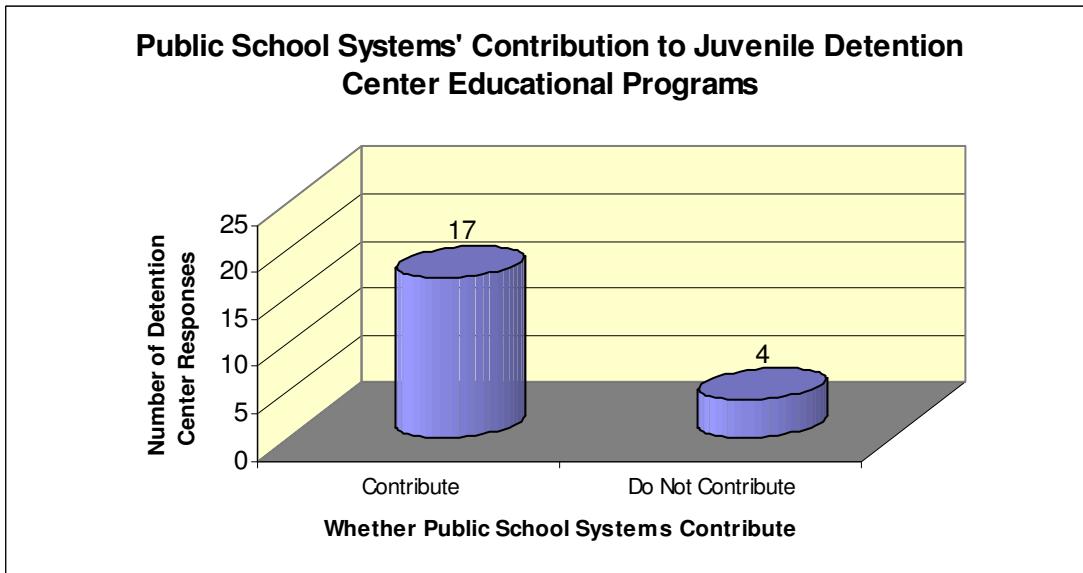
Twenty-one out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.21**



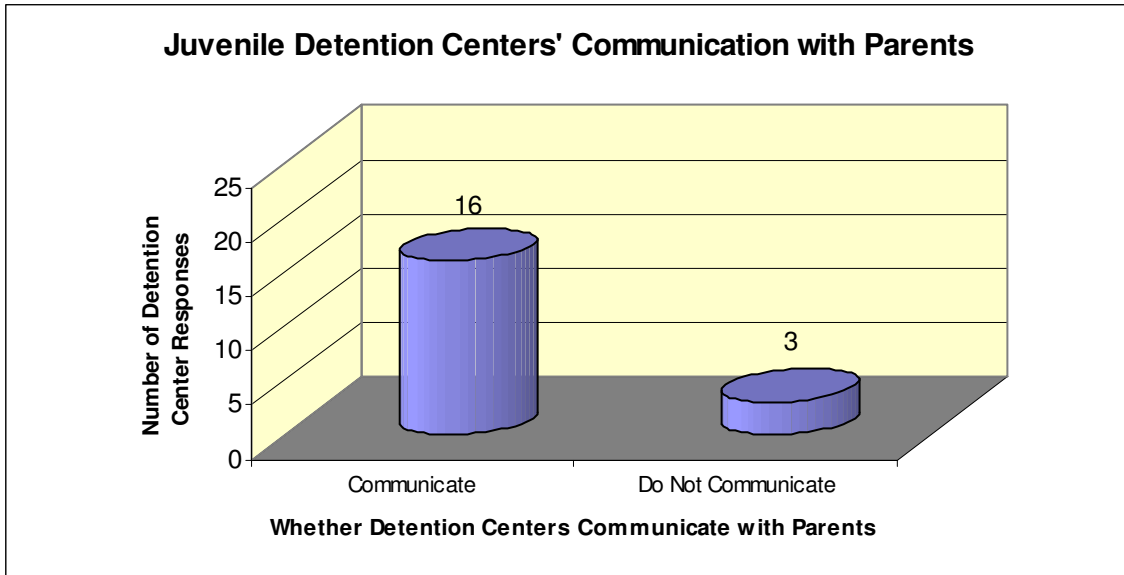
Twenty-one out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.22**



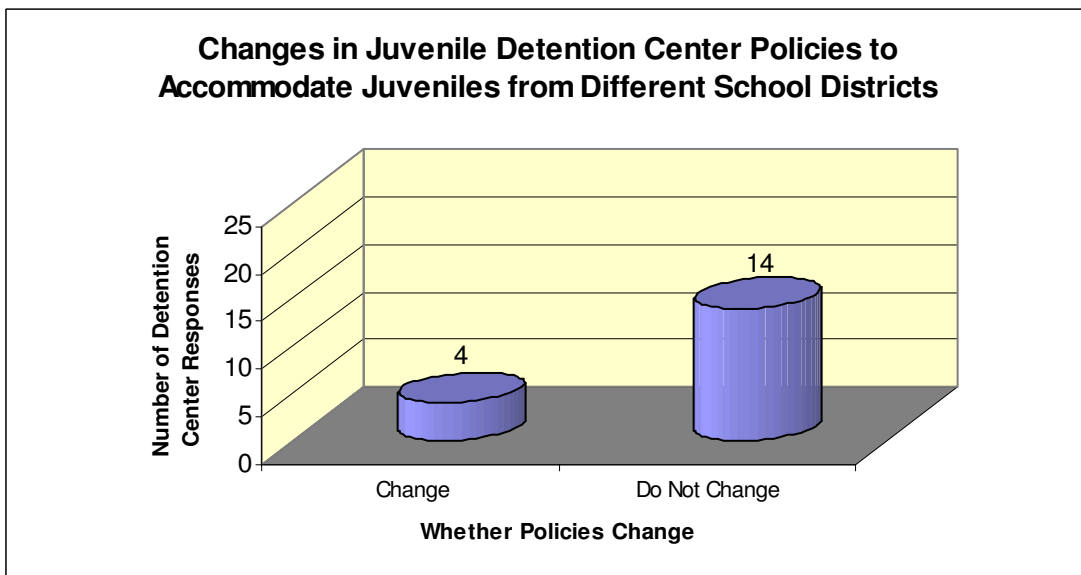
Twenty-one out of twenty-one juvenile detention centers provided valid responses. Sixteen detention centers provided information regarding the type of contributions public school systems' made. Four detention centers reported the school system providing the entire educational program; four detention centers reported receiving money; three detention centers reported receiving computers; eight detention centers reported receiving books; and eight detention centers reported receiving "other" forms of assistance.

**Graph 1.23**



Nineteen out of twenty-one juvenile detention centers provided valid responses.

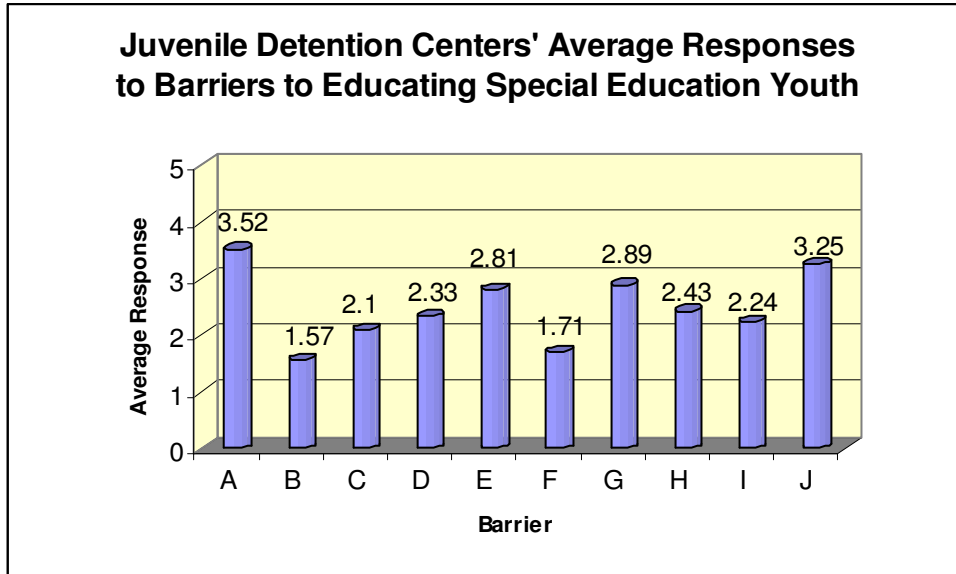
**Graph 1.24**



Eighteen out of twenty-one juvenile detention centers provided valid responses.

**Graph 1.25**

The juvenile detention centers were asked to rank each barrier to educating special education youth on a scale of one to five. “One” indicates that the barrier does not significantly affect education, and “five” indicates that the barrier significantly affects education.



- A. The frequent movement of youth.
- B. Teacher training and certification issues.
- C. Facilities are in need of repair, technological advances or expansions.
- D. Transferring, maintaining and acquiring credit for youth.
- E. Addressing gaps in education.
- F. Behavior/treatment issues involving security.
- G. Concerns regarding cost of operation.
- H. Overcrowding in the facilities.
- I. A need for more collaboration between the public school system and the program personnel.
- J. Lack of after care.

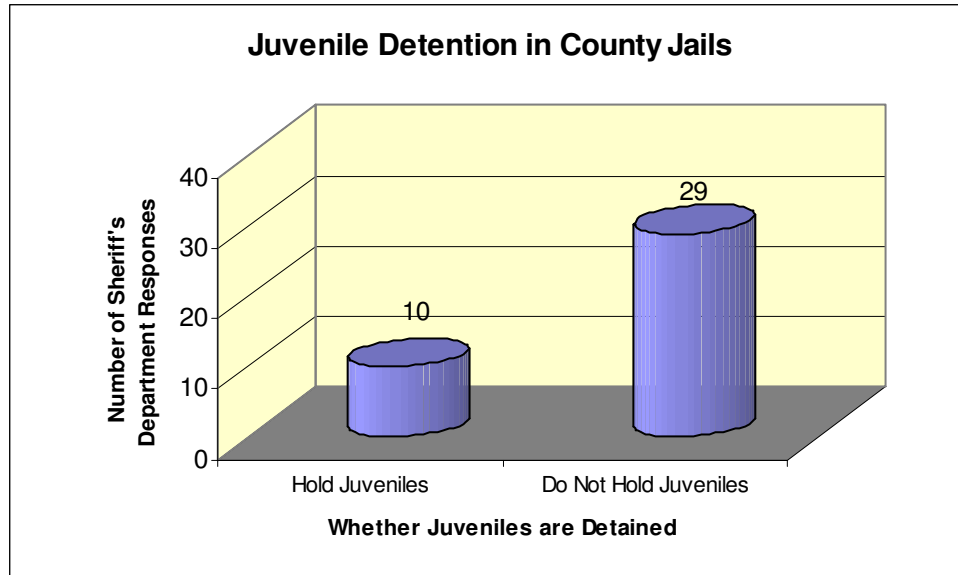
## **ASSESSMENT FINDINGS**

### **SHERIFF'S DEPARTMENT QUESTIONNAIRES**

The following graphs detail the findings of the questionnaires mailed to sheriff departments. The findings in this section are represented in graphs that pertain to information regarding the thirty-nine county jails that completed and returned the questionnaire. The graphs include:

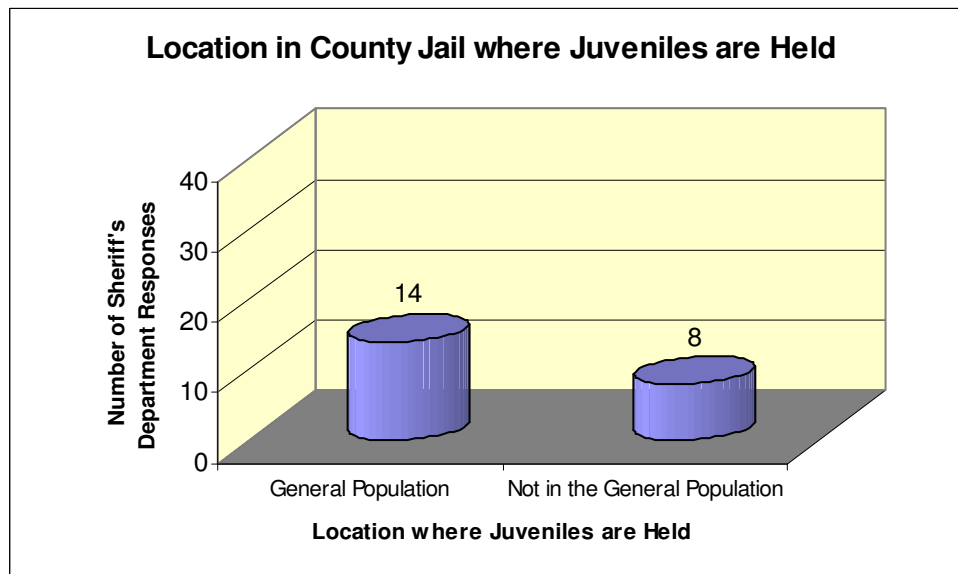
- Graph 2.1 Juvenile Detention in County Jails;
- Graph 2.2 Location in County Jail where Juveniles are Held;
- Graph 2.3 Provision of Educational Services in County Jails to Juveniles under the Age of 18;
- Graph 2.4 Source of Educational Services in County Jails for Juveniles;
- Graph 2.5 Provision of Special Educational Services in County Jails to Offenders under the Age of 22;
- Graph 2.6 Source of Special Education Services in County Jails for Offenders under the Age of 22;
- Graph 2.7 Obtaining an IEP when County Jails have an Educator Employed by the Facility;
- Graph 2.8 Conduction of Case Conferences when County Jails have an Educator Employed by the Facility;
- Graph 2.9 Obtaining an IEP when County Jails have an Educator Employed by the School District;
- Graph 2.10 Conduction of Case Conferences when County Jails have an Educator Employed by the School District;
- Graph 2.11 Length of Instructional Day for Juveniles in County Jails;
- Graph 2.12 Method County Jails use to Determine whether an Offender is Eligible for Special Education Services;
- Graph 2.13 Changes in County Jail Policies to Accommodate the Education of Offenders Ages 18 – 21; and
- Graph 2.14 Sheriff's Departments' Average Responses to Barriers to Educating Special Education Offenders.

**Graph 2.1**



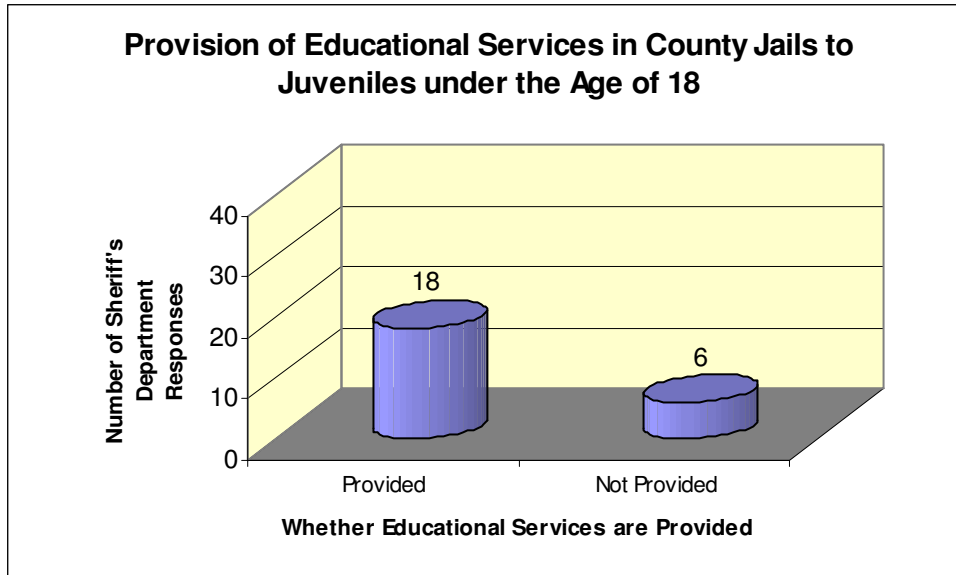
- Thirty-nine out of thirty-nine sheriff's departments provided valid responses.
- Nine sheriff's departments reported having a total of sixteen juveniles in custody at the time of the survey. All sixteen juveniles were under adult court jurisdiction.

**Graph 2.2**



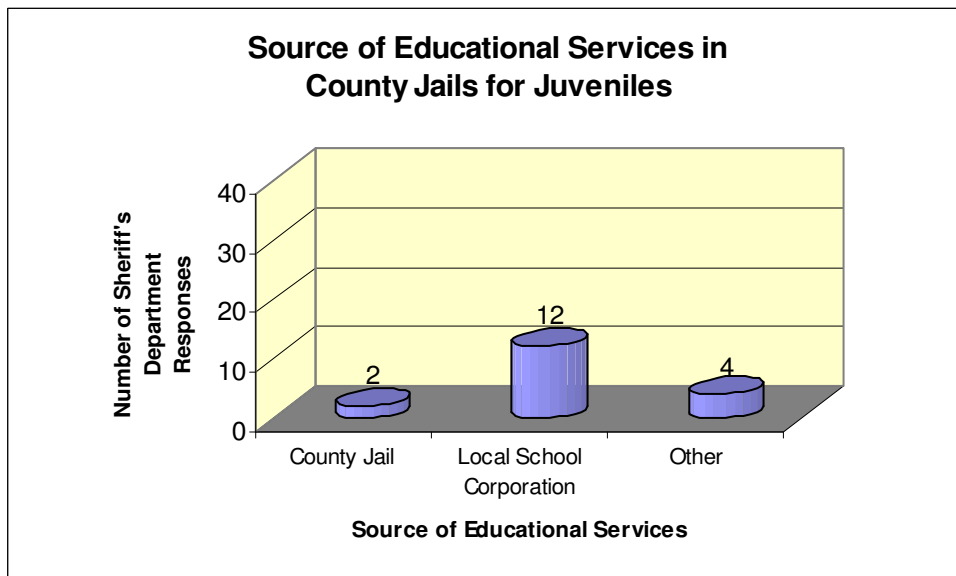
- Twenty-two out of thirty-nine sheriff's departments provided valid responses.
- Of the eight sheriff's departments that reported not holding juveniles in the general population, four departments provided the following alternative locations: separate cell block apart from the adult population; holding cell in booking area; holding cell separated from the general population; and in the work-release area.

**Graph 2.3**



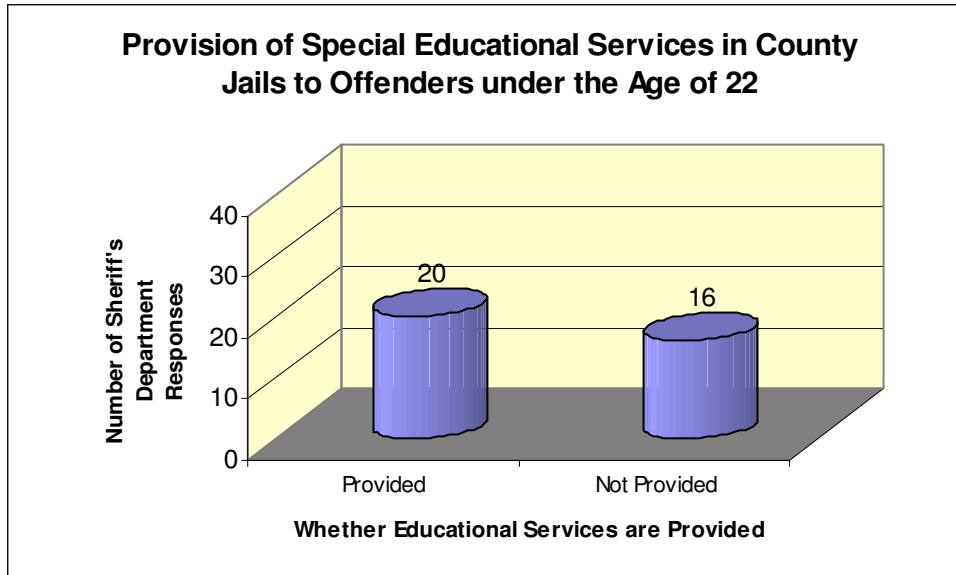
Twenty-four out of thirty-nine sheriff's departments provided valid responses.

**Graph 2.4**



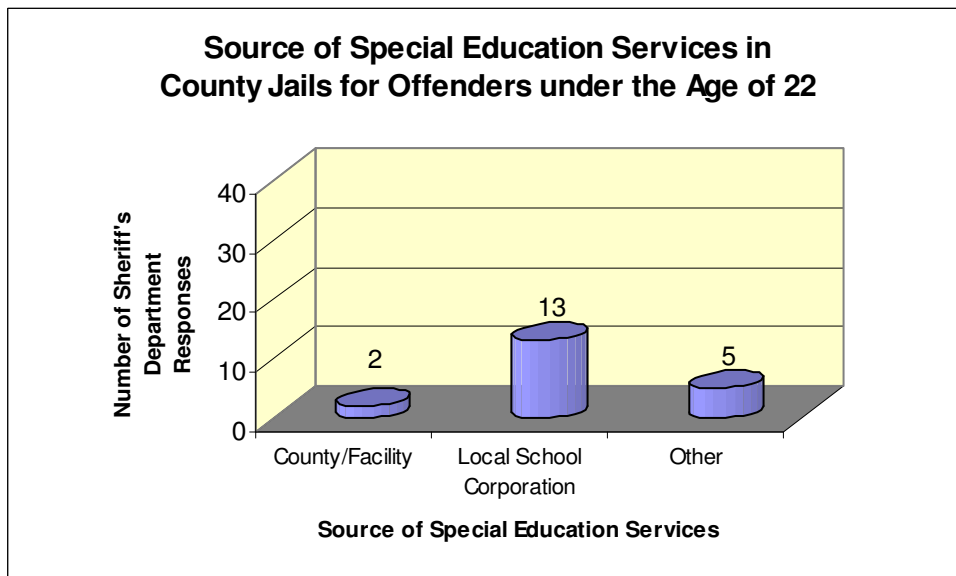
Eighteen out of eighteen eligible sheriff's departments, depending on responses in Graph 2.3, provided valid responses.

**Graph 2.5**



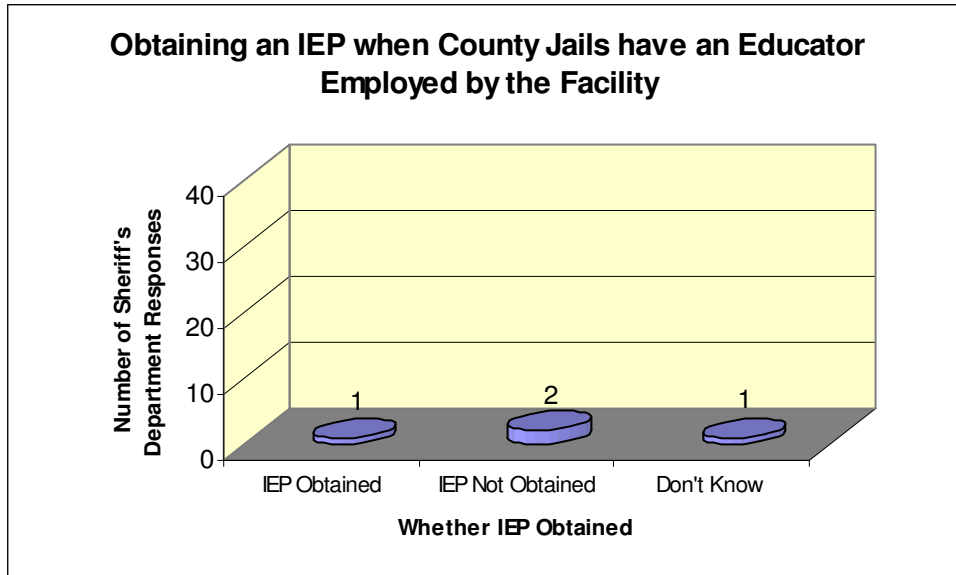
Thirty-six out of thirty-nine sheriff's departments provided valid responses.

**Graph 2.6**



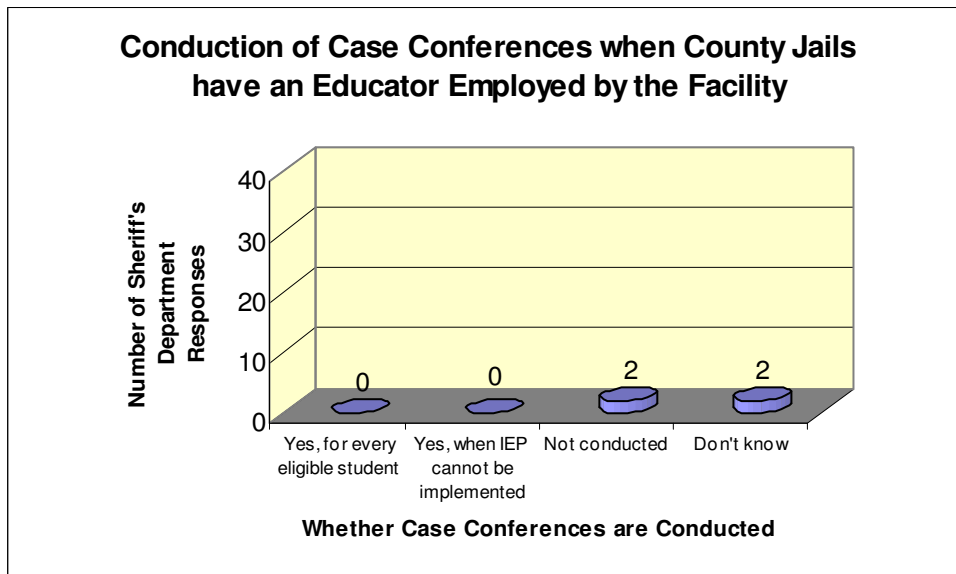
Twenty out of twenty eligible sheriff's departments, depending on responses in Graph 2.5, provided valid responses.

**Graph 2.7**



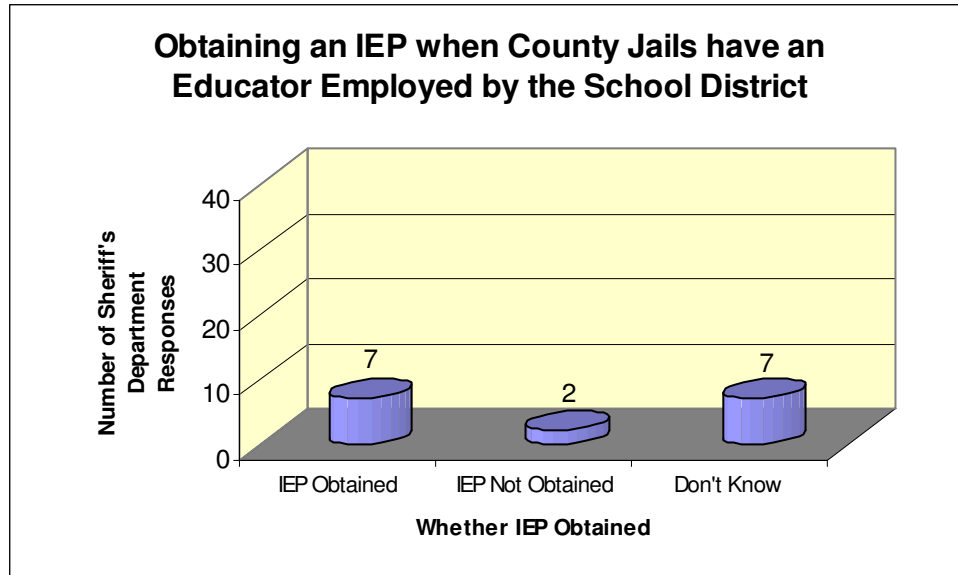
Only sheriff's departments that had special education services provided by an educator employed by the county jail were eligible to provide information for this graph. Four sheriff's departments provided valid responses. One of the four responding sheriff's departments reported that it takes an average of three months to obtain an IEP.

**Graph 2.8**



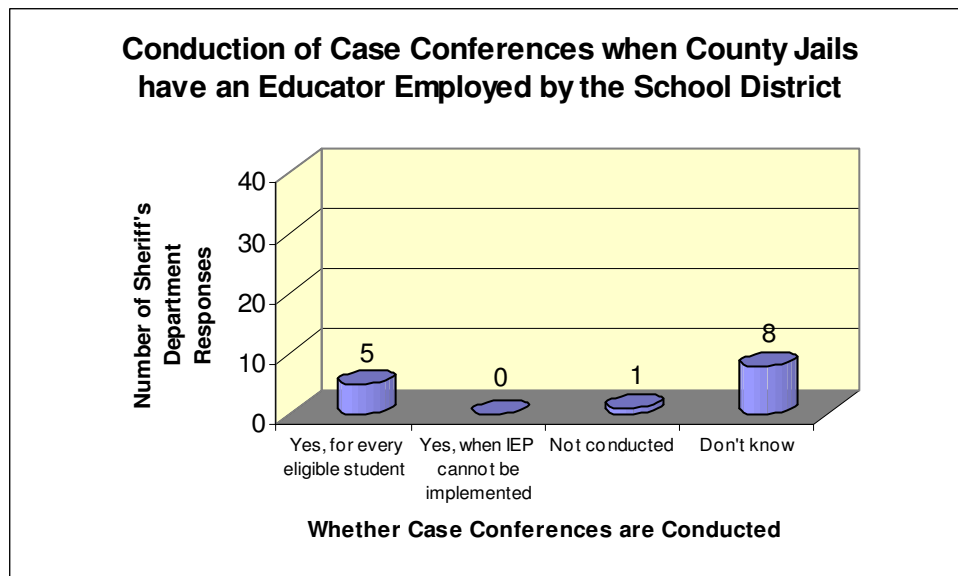
Only sheriff's departments that had special education services provided by an educator employed by the county jail were eligible to provide information for this graph. Four sheriff's departments provided valid responses.

**Graph 2.9**



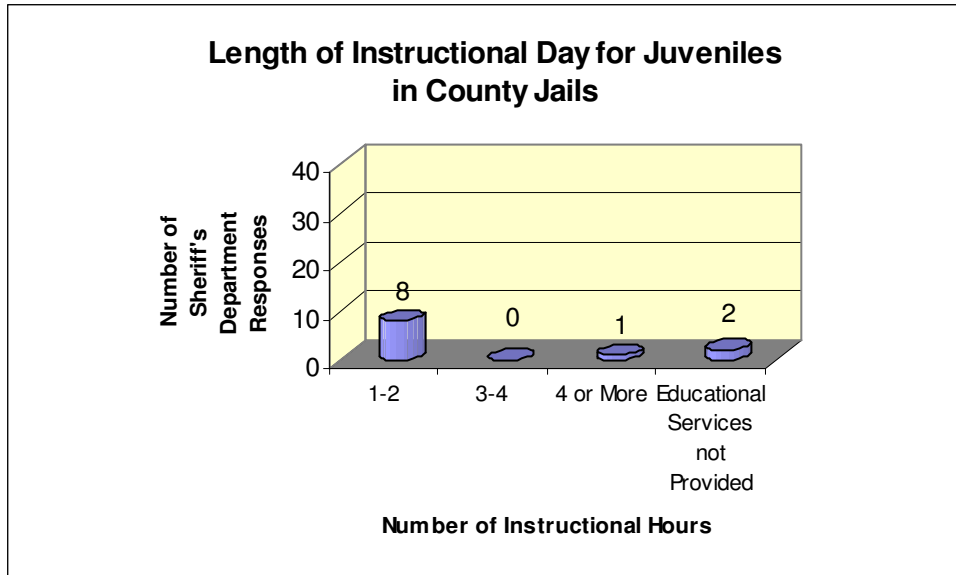
Only sheriff's departments that had special education services provided by an educator employed by the school corporation or special education planning district were eligible to provide information for this graph. Sixteen sheriff's departments provided valid responses. Five of the responding sheriff's departments reported that they receive the IEPs within: one day; three days; 3 months; 6 months; and a time period that varies from offender to offender.

**Graph 2.10**



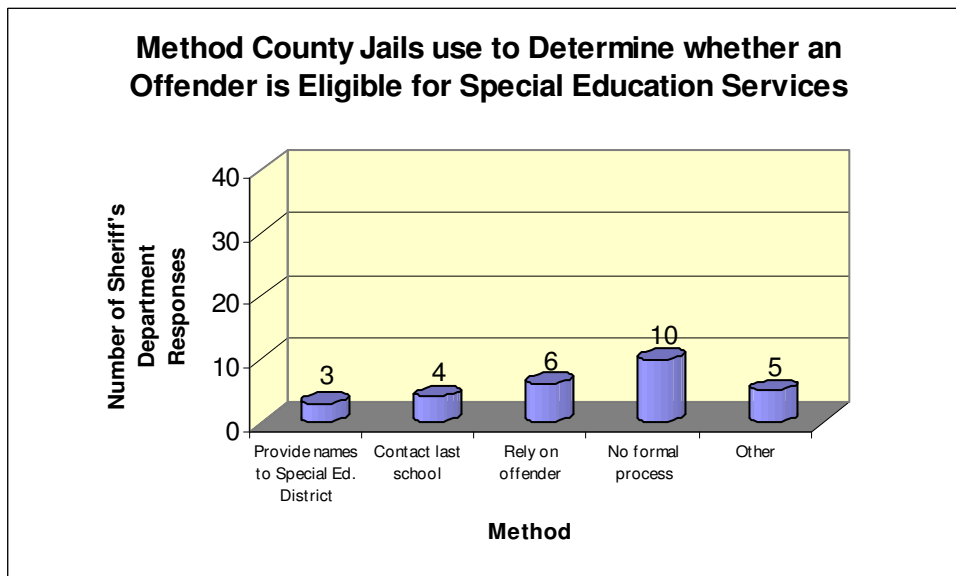
Only sheriff's departments that had special education services provided by an educator employed by the school corporation or special education planning district were eligible to provide information for this graph. Fourteen of the sixteen departments that provided information to Graph 2.9 provided valid responses.

**Graph 2.11**



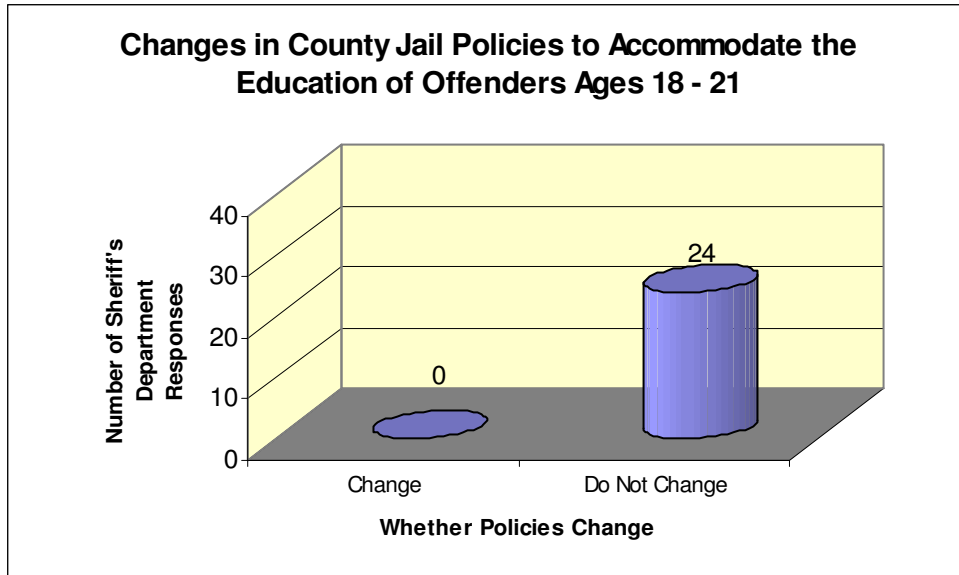
Eleven out of thirty-nine sheriff's departments provided valid responses.

**Graph 2.12**



Twenty-four out of thirty-nine sheriff's departments provided valid responses. Three sheriff's departments responded with multiple methods.

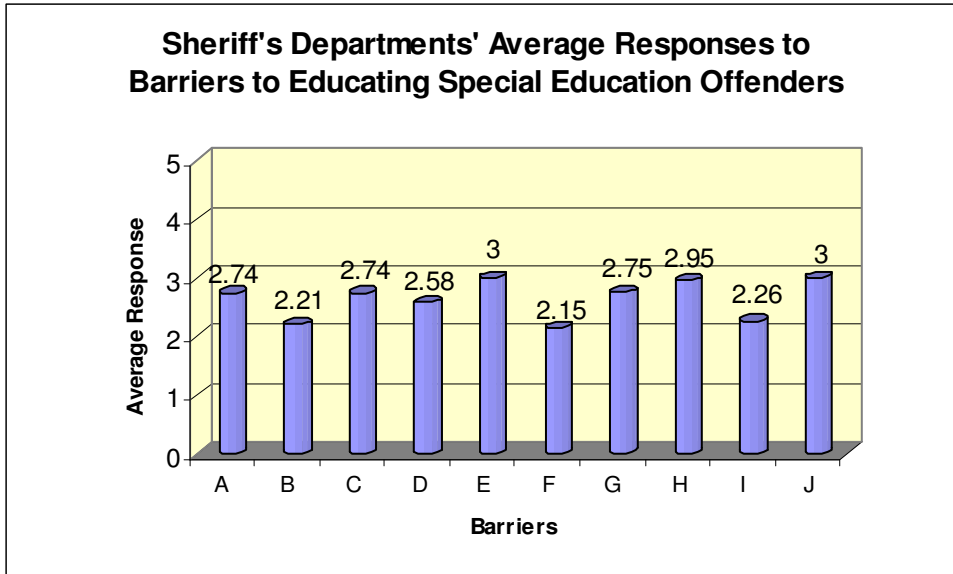
**Graph 2.13**



Twenty-four out of thirty-nine sheriff's departments provided valid responses.

**Graph 2.14**

The juvenile detention centers were asked to rank each barrier to educating special education youth on a scale of one to five. “One” indicates that the barrier does not significantly affect education, and “five” indicates that the barrier significantly affects education.



- A. The frequent movement of youth.
- B. Teacher training and certification issues.
- C. Facilities are in need of repair, technological advances or expansions.
- D. Transferring, maintaining and acquiring credit for youth.
- E. Addressing gaps in education.
- F. Behavior/treatment issues involving security.
- G. Concerns regarding cost of operation.
- H. Overcrowding in the facilities.
- I. A need for more collaboration between the public school system and the program personnel.
- J. Lack of after care.

## **ASSESSMENT FINDINGS**

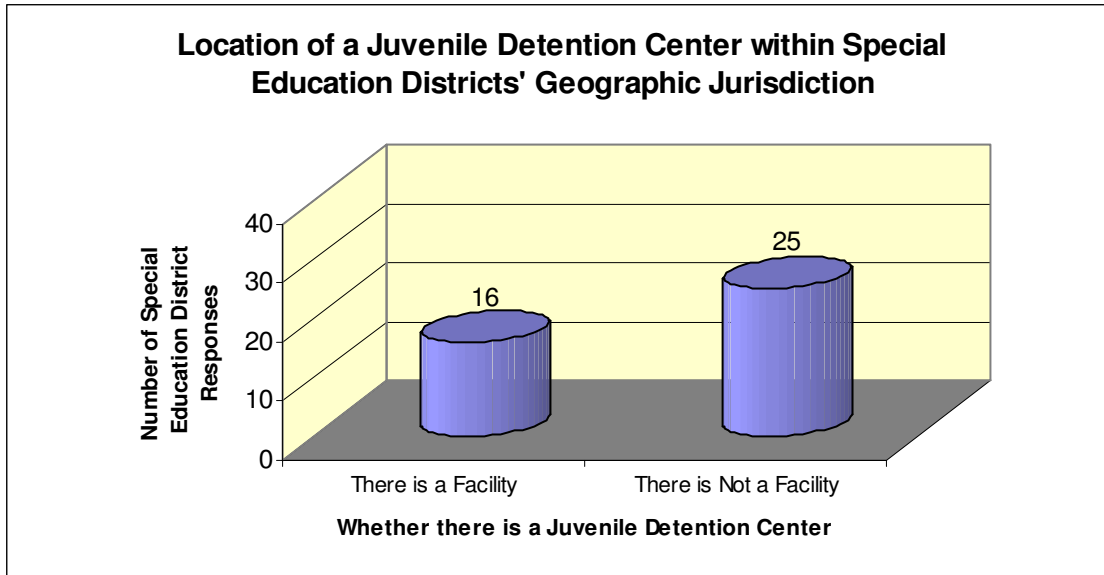
### **SPECIAL EDUCATION DISTRICTS QUESTIONNAIRES**

The following graphs detail the findings of the questionnaires mailed to special education districts. The findings in this section are represented in graphs that pertain to information regarding the forty-one special education districts that completed and returned the questionnaire. The graphs include:

- Graph 3.1 Location of a Juvenile Detention Center within Special Education Districts' Geographic Jurisdiction;
- Graph 3.2 Location of a County Jail within Special Education Districts' Geographic Jurisdiction;
- Graph 3.3 Written Policies of Special Education Districts, without Detention Facilities within their Jurisdictions, Regarding the Identification of Eligible Special Education Students who are being Detained Outside the Special Education Districts' Jurisdiction;
- Graph 3.4 Notification to Special Education Districts, which do not have Detention Facilities within their Jurisdiction, of the Detention of Eligible Special Education Students;
- Graph 3.5 Source of Notification to Special Education District when Students are Detained;
- Graph 3.6 Provision of IEPs by Special Education Districts without Detention Facilities within their Jurisdictions;
- Graph 3.7 Time Frame IEPs are Provided to Juvenile Detention Facilities/County Jails by Special Education Districts without Detention Facilities within their Jurisdictions;
- Graph 3.8 Participation in Case Conferences by Special Education Districts without Detention Facilities within their Jurisdictions;
- Graph 3.9 Policies Implemented for Juvenile Detention Centers Differ from Policies for County Jails for Special Education Districts without Detention Facilities within their Jurisdictions;
- Graph 3.10 Written Policies Regarding the Identification of Eligible Students in Detention within the Jurisdiction of the Special Education Districts;
- Graph 3.11 Notification of Eligible Special Education Students in Detention Within the Jurisdiction of Special Education Districts;
- Graph 3.12 Time Frame of Notification when Eligible Special Education Students are in Detention within the Jurisdiction of Special Education Districts;
- Graph 3.13 Provision of IEPs by Special Education Districts to Detention Facilities within their Jurisdictions;
- Graph 3.14 Time Frame IEPs are provided to Juvenile Detention Centers/County Jails by Special Education Districts to Detention Facilities within their Jurisdictions;
- Graph 3.15 Receipt of IEPs from other Special Education Districts for their Students Detained within the Responding Districts' Jurisdictions;
- Graph 3.16 Time Frame to receive IEPs from other Special Education Districts for their Students Detained within the Responding Districts' Jurisdictions;

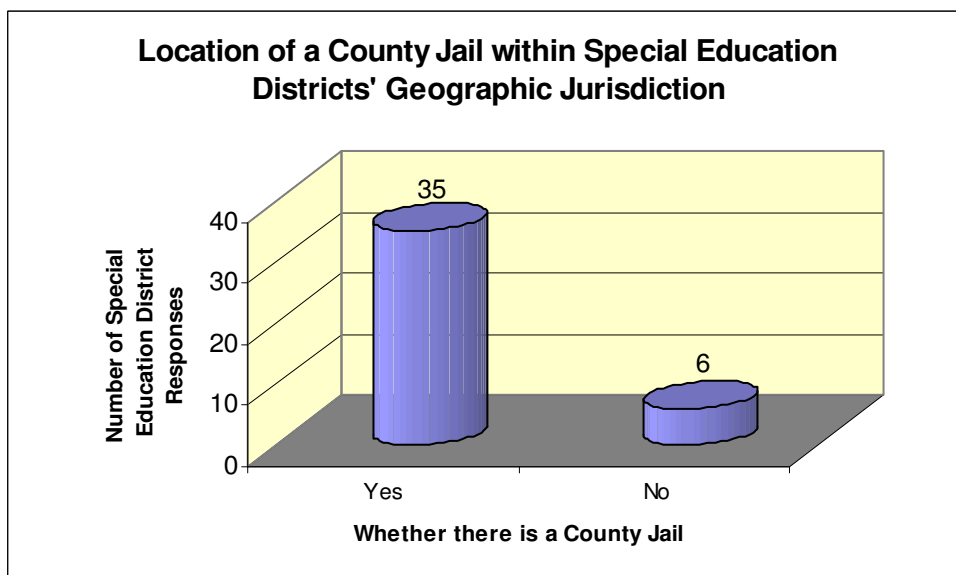
- Graph 3.17 Conduction of Case Conferences by Special Education Districts with Detention Facilities within their Jurisdictions;
- Graph 3.18 Special Education Districts' Policies Implemented for Juvenile Detention Centers Differ from Policies for County Jails when Both are in the Districts' Jurisdictions;
- Graph 3.19 Special Education Districts, with Detention Facilities within their Jurisdictions, which Conduct Initial Evaluations of Detainees Suspected of Having Disabilities;
- Graph 3.20 Source of Referral for Initial Evaluations of Detainees Suspected of having Disabilities by Special Education Districts with Detention Facilities within their Jurisdictions; and
- Graph 3.21 Special Education Districts' Average Responses to Barriers to Educating Special Education Youth.

**Graph 3.1**



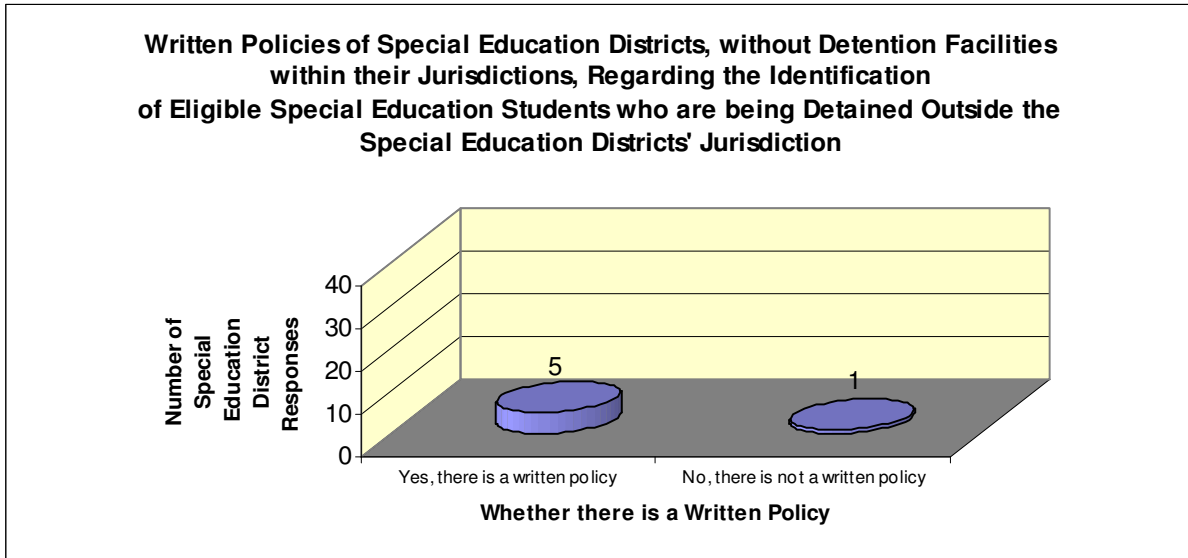
Forty-one out of forty-one special education districts provided valid responses.

**Graph 3.2**



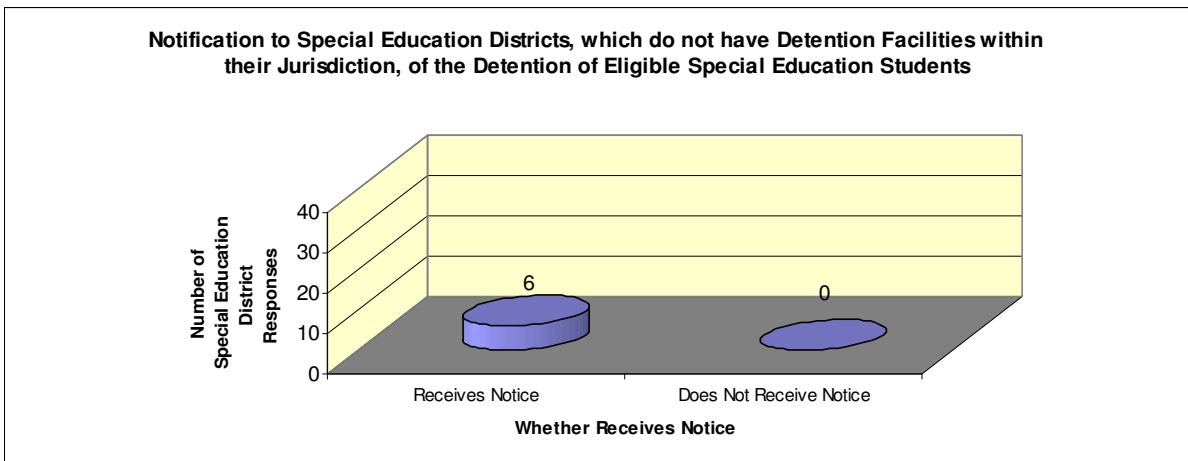
Forty-one out of forty-one special education districts provided valid responses.

**Graph 3.3**



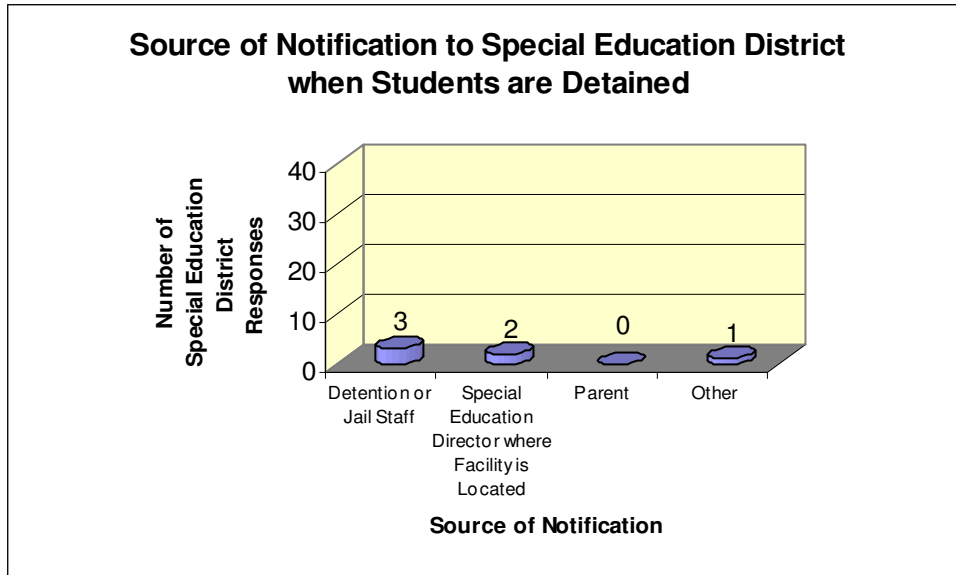
Only special education districts that didn't have both a juvenile detention center and county jail within their jurisdiction were eligible to provide information for this graph. Six out of six eligible special education districts, depending on responses to Graphs 3.1 and 3.2, provided valid responses.

**Graph 3.4**



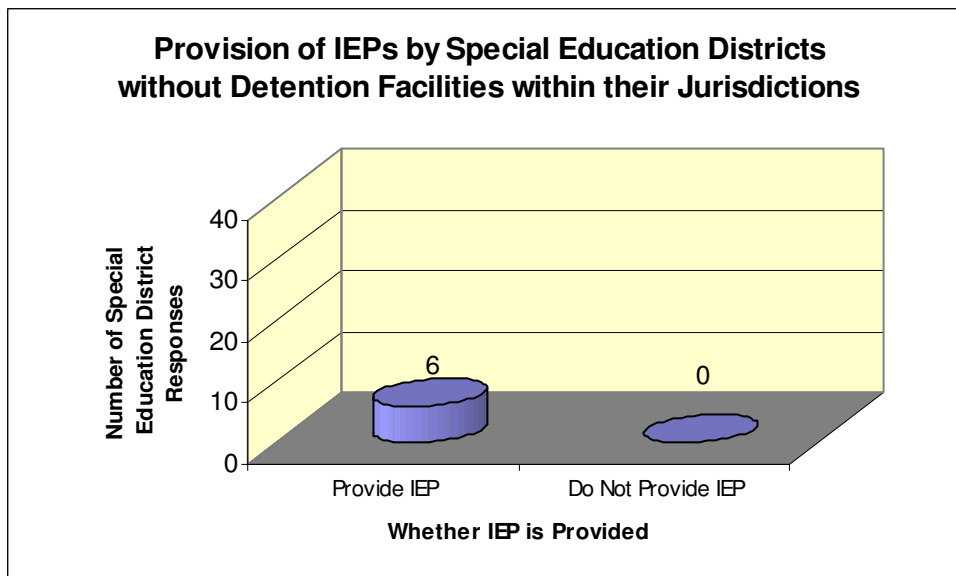
Only special education districts that didn't have both a juvenile detention center and county jail within their jurisdiction were eligible to provide information for this graph. Six out of six eligible special education districts, depending on responses to Graphs 3.1 and 3.2, provided valid responses.

**Graph 3.5**



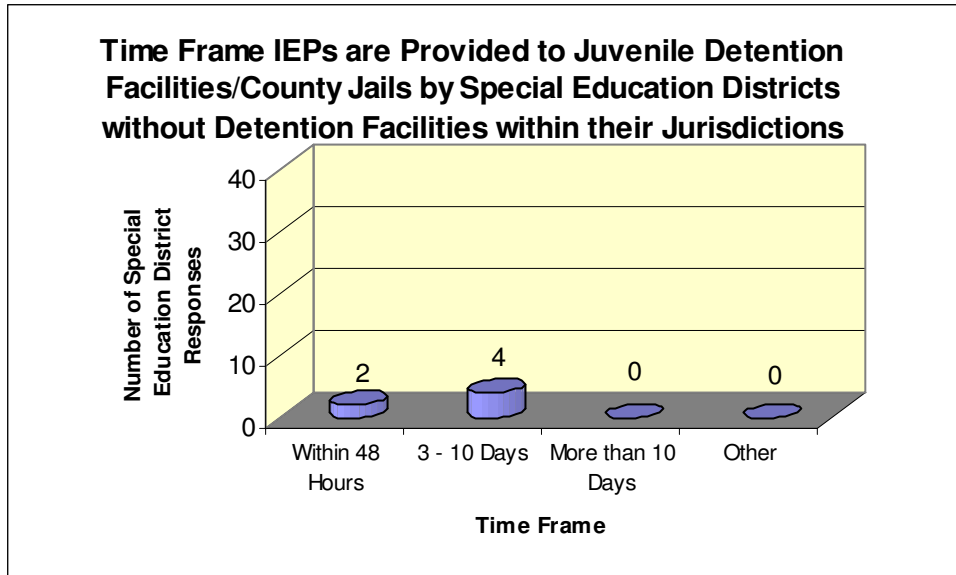
Five out of six eligible special education districts, depending on responses to Graph 3.4, provided valid responses.

**Graph 3.6**



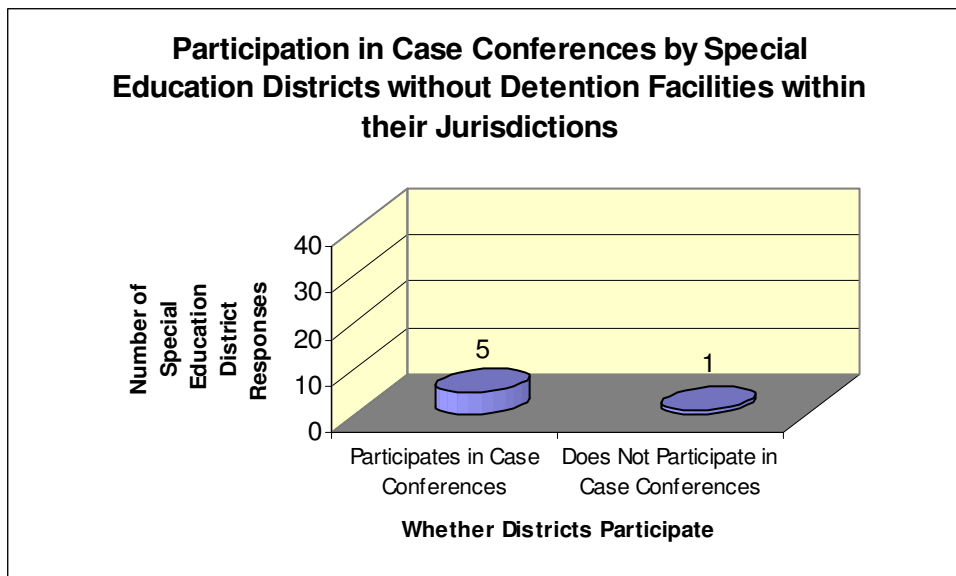
Only special education districts that didn't have both a juvenile detention center and county jail within their jurisdiction were eligible to provide information for this graph. Six out of six eligible special education districts, depending on responses to Graphs 3.1 and 3.2, provided valid responses.

**Graph 3.7**



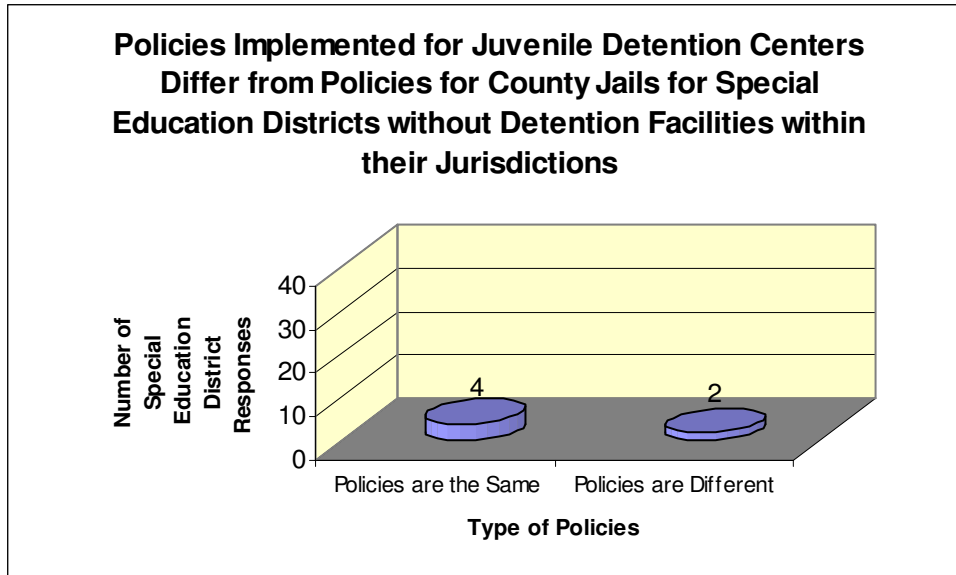
Only special education districts that didn't have both a juvenile detention center and county jail within their jurisdiction were eligible to provide information for this graph. Six out of six eligible special education districts, depending on responses to Graph 3.6, provided valid responses.

**Graph 3.8**



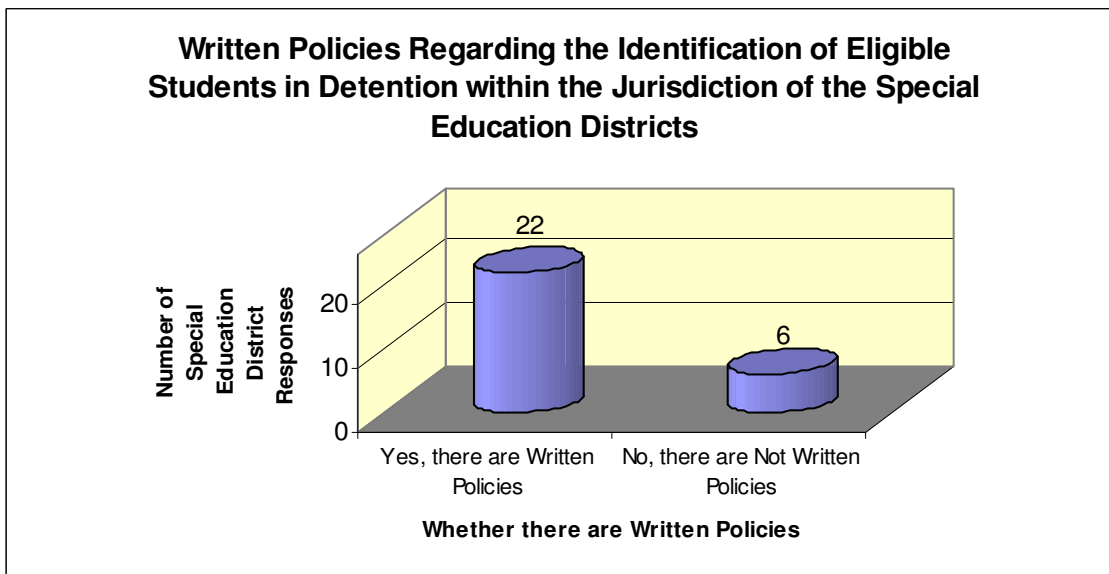
Only special education districts that didn't have both a juvenile detention center and county jail within their jurisdiction were eligible to provide information for this graph. Six out of six eligible special education districts, depending on responses to Graphs 3.1 and 3.2, provided valid responses.

**Graph 3.9**



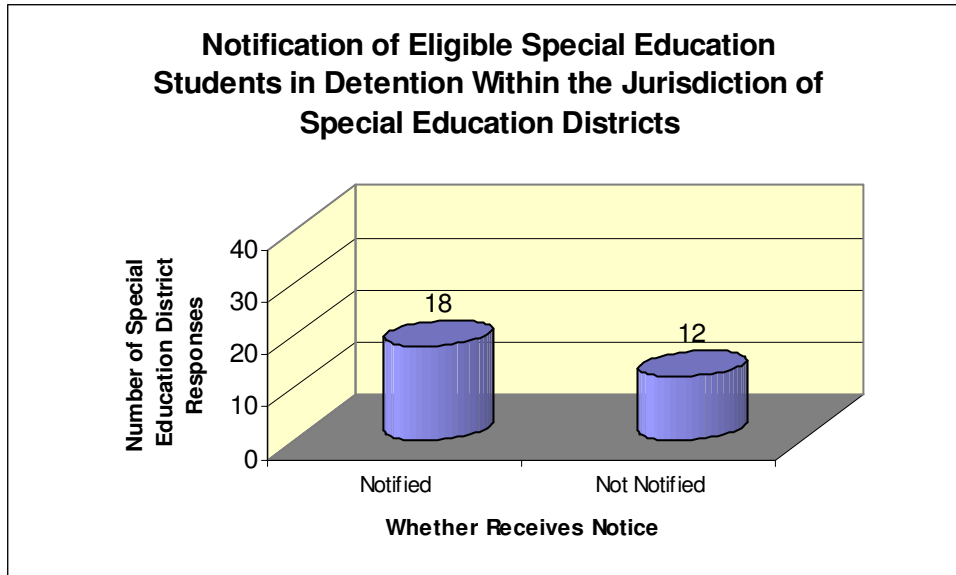
Only special education districts that didn't have both a juvenile detention center and county jail within their jurisdiction were eligible to provide information for this graph. Six out of six eligible special education districts, depending on responses to Graphs 3.1 and 3.2, provided valid responses.

**Graph 3.10**



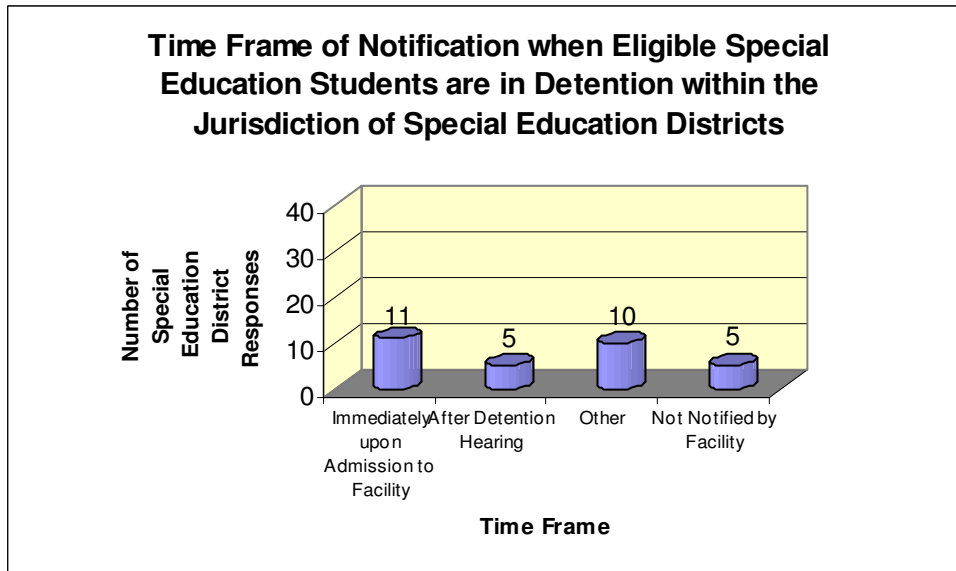
Only special education districts that have a juvenile detention center and/or county jail within their jurisdiction were eligible to provide information for this graph. Twenty-eight out of thirty-five eligible special education districts, depending on responses to Graphs 3.1 and 3.2, provided valid responses.

**Graph 3.11**



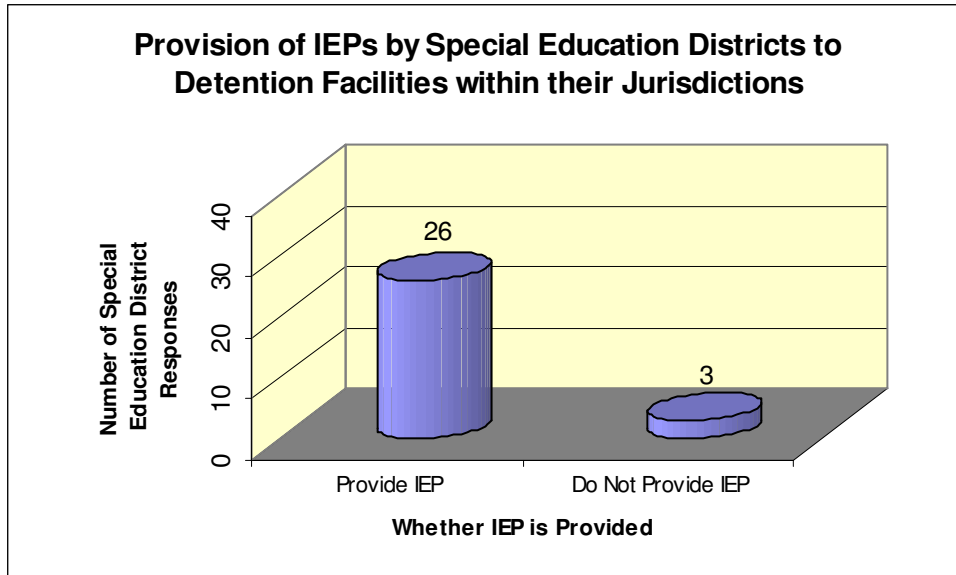
Only special education districts that have a juvenile detention center and/or county jail within their jurisdiction were eligible to provide information for this graph. Thirty out of thirty-five eligible special education districts, depending on responses to Graphs 3.1 and 3.2, provided valid responses.

**Graph 3.12**



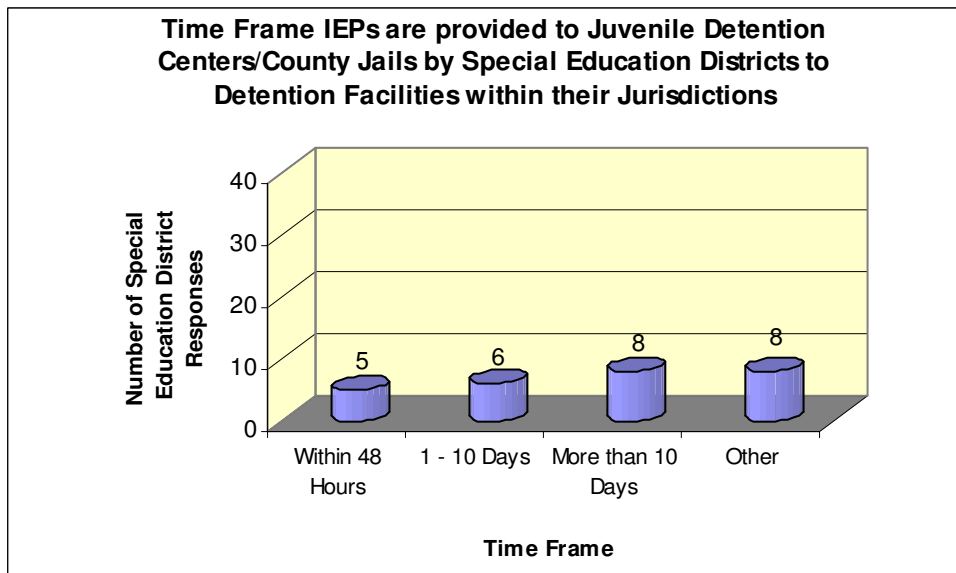
Only special education districts that have a juvenile detention center and/or county jail within their jurisdiction were eligible to provide information for this graph. Nineteen out of thirty-five eligible special education districts, depending on responses to Graphs 3.1 and 3.2, provided valid responses.

**Graph 3.13**



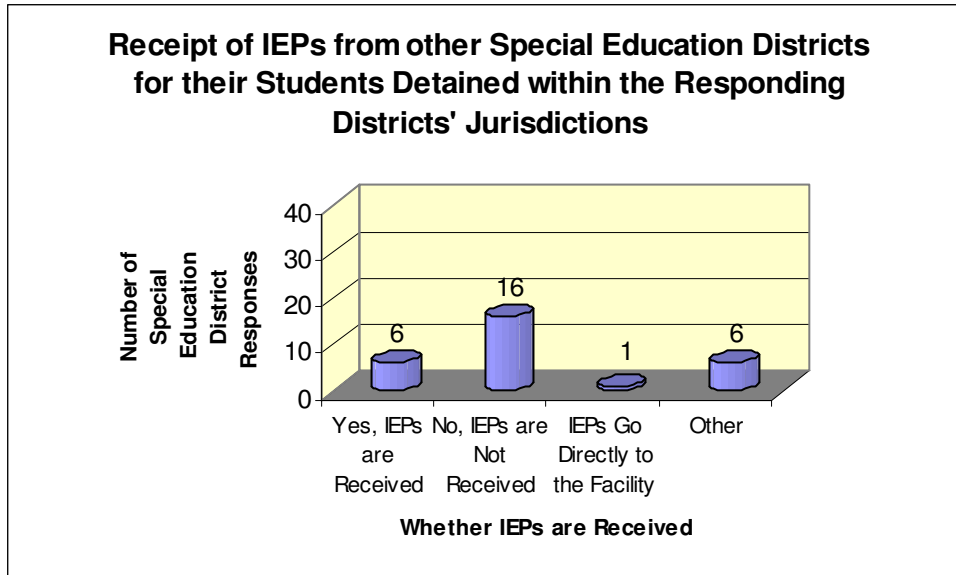
Only special education districts that have a juvenile detention center and/or county jail within their jurisdiction were eligible to provide information for this graph. Twenty-nine out of thirty-five eligible special education districts, depending on responses to Graphs 3.1 and 3.2, provided valid responses.

**Graph 3.14**



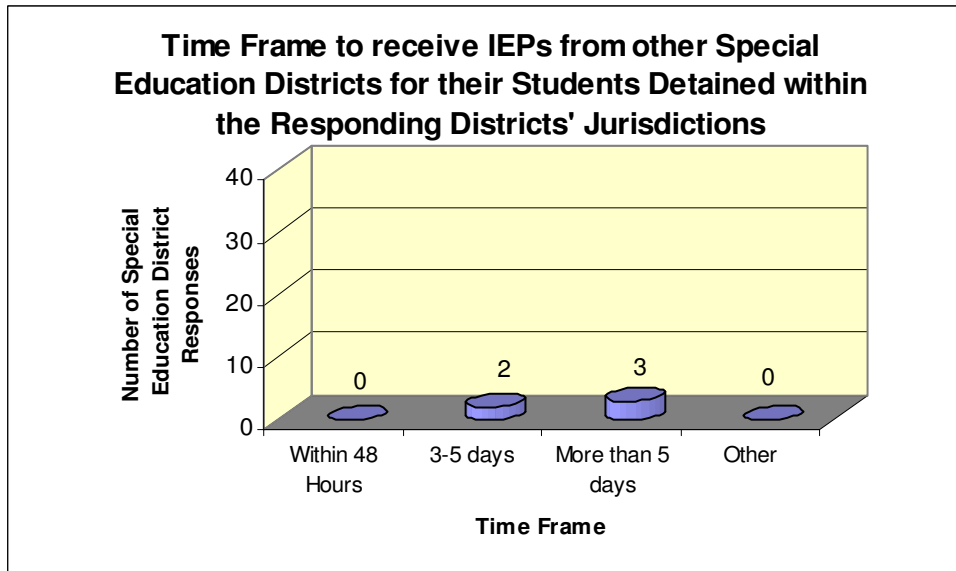
Only special education districts that have a juvenile detention center and/or county jail within their jurisdiction were eligible to provide information for this graph. Twenty-six out of Twenty-six eligible special education districts, depending on responses to Graph 3.13, provided valid responses.

**Graph 3.15**



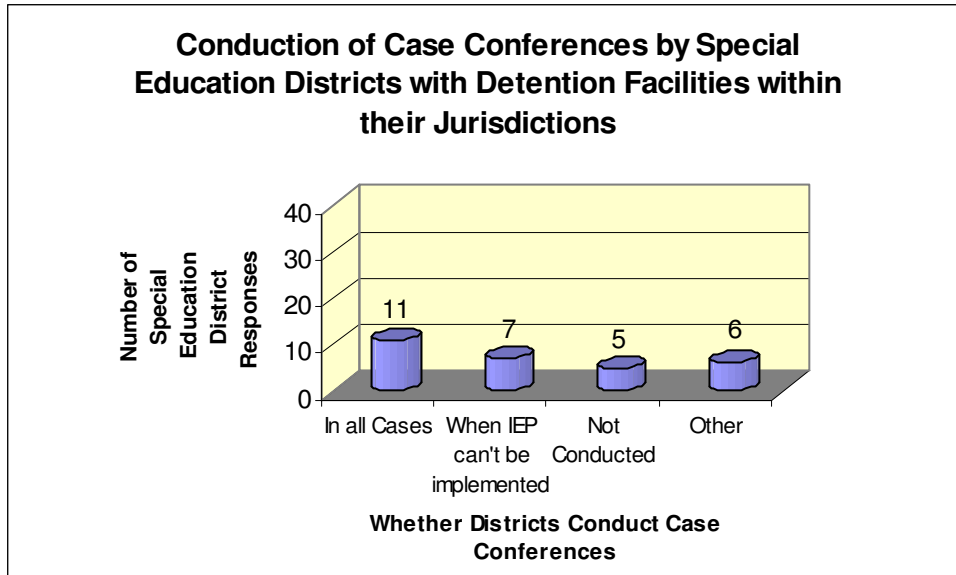
Only special education districts that have a juvenile detention center and/or county jail within their jurisdiction were eligible to provide information for this graph. Twenty-nine out of thirty-five eligible special education districts, depending on responses to Graphs 3.1 and 3.2, provided valid responses.

**Graph 3.16**



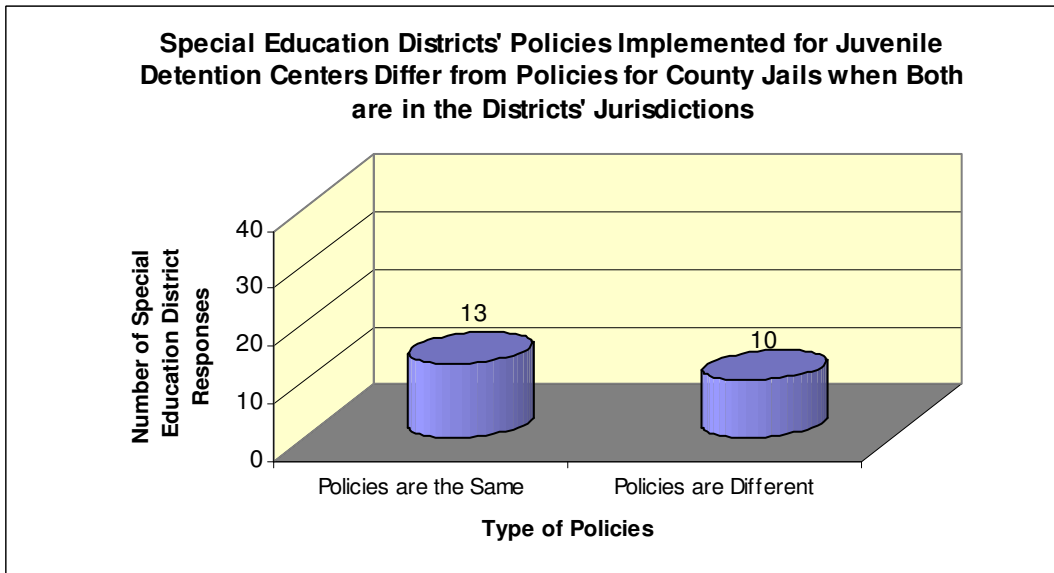
Only special education districts that have a juvenile detention center and/or county jail within their jurisdiction were eligible to provide information for this graph. Five out of six eligible special education districts, depending on responses to Graph 3.15, provided valid responses.

**Graph 3.17**



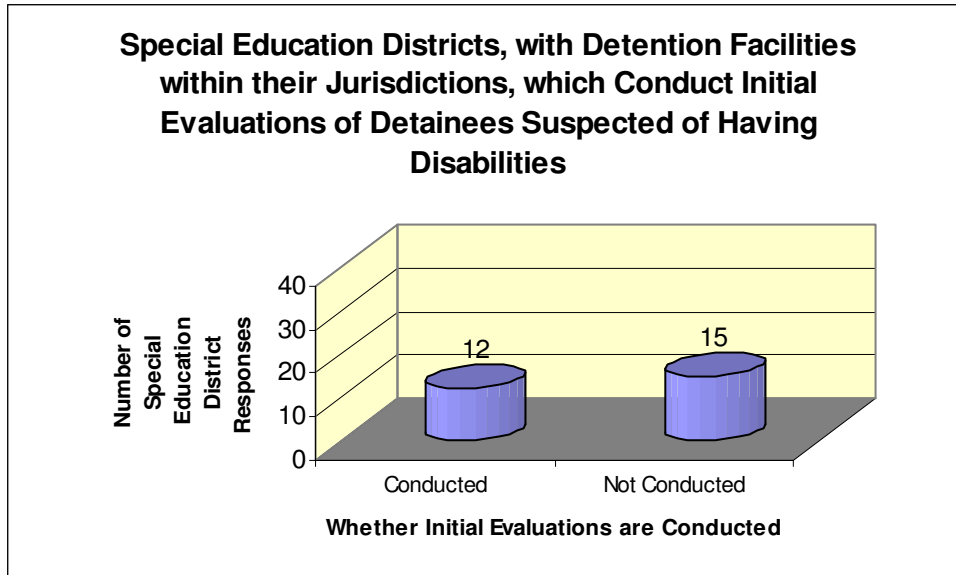
Only special education districts that have a juvenile detention center and/or county jail within their jurisdiction were eligible to provide information for this graph. Twenty-eight out of thirty-five eligible special education districts, depending on responses to Graphs 3.1 and 3.2, provided valid responses.

**Graph 3.18**



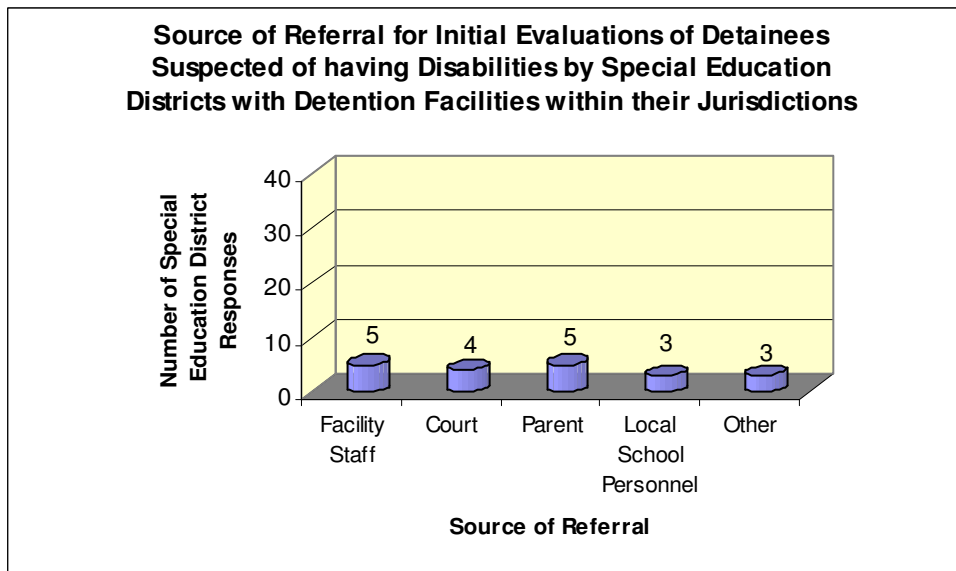
Only special education districts that have a juvenile detention center and/or county jail within their jurisdiction were eligible to provide information for this graph. Twenty-three out of thirty-five eligible special education districts, depending on responses to Graphs 3.1 and 3.2, provided valid responses.

**Graph 3.19**



Only special education districts that have a juvenile detention center and/or county jail within their jurisdiction were eligible to provide information for this graph. Twenty-seven out of thirty-five eligible special education districts, depending on responses to Graphs 3.1 and 3.2, provided valid responses.

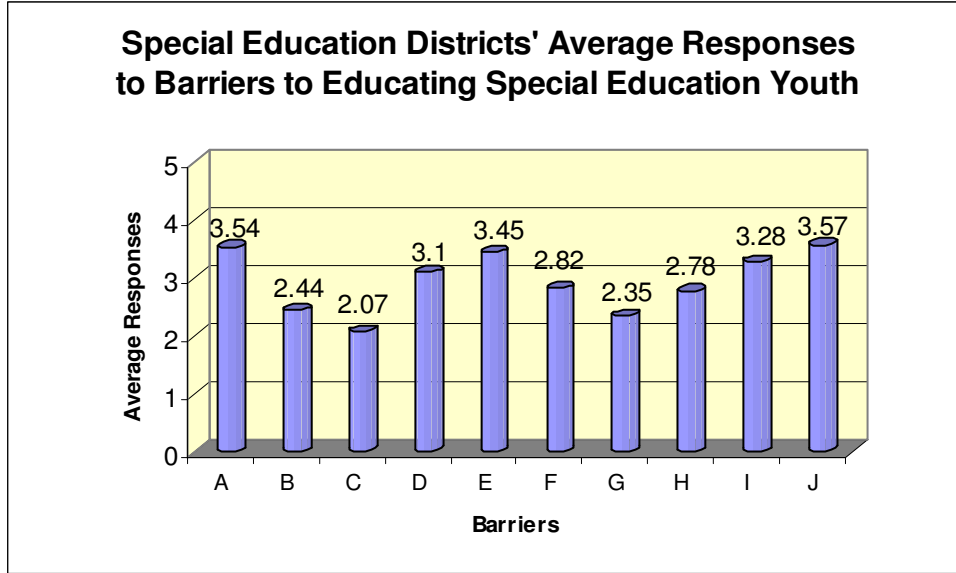
**Graph 3.20**



Only special education districts that have a juvenile detention center and/or county jail within their jurisdiction were eligible to provide information for this graph. Twelve out of twelve eligible special education districts, depending on responses to Graph 3.19, provided valid responses.

**Graph 3.21**

The special education districts were asked to rank each barrier to educating special education individuals on a scale of one to five. “One” indicates that the barrier does not significantly affect education, and “five” indicates that the barrier significantly affects education.



- A. The frequent movement of youth.
- B. Teacher training and certification issues.
- C. Facilities are in need of repair, technological advances or expansions.
- D. Transferring, maintaining and acquiring credit for youth.
- E. Addressing gaps in education.
- F. Behavior/treatment issues involving security.
- G. Concerns regarding cost of operation.
- H. Overcrowding in the facilities.
- I. A need for more collaboration between the public school system and the program personnel.
- J. Lack of after care.

## ENDNOTES

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<sup>1</sup> Ind. Const. art VIII, § 1

<sup>2</sup> Ind. Code 20-33-2-4

<sup>3</sup> Ind. Code 20-33-2-6

<sup>4</sup> Ind. Code 20-33-2-27

<sup>5</sup> Ind. Code 20-33-2-29

<sup>6</sup> Ind. Code 20-33-2-44

<sup>7</sup> Ind. Code 20-33-2-29

<sup>8</sup> Meisel, S., Henderson, K., Cohen, M., & Leone, P. (1998). Collaborate to educate: Special education in juvenile correction facilities. In Building Collaboration Between Education and Treatment for At-risk and Delinquent Youth (pp. 59-72). Richmond: National Juvenile Detention Association, Eastern Kentucky University.

<sup>9</sup> 20 U.S.C. § 1412

<sup>10</sup> 20 U.S.C. § 1401 (8)

<sup>11</sup> Green v. Johnson, 513 F.Supp. 965 (D. Mass. 1981).

<sup>12</sup> Ind. Admin. Code tit. 511, 7-27-6 (b)

<sup>13</sup> Ind. Admin. Code tit. 511, 7-27-9 (g)

<sup>14</sup> Ind. Admin. Code tit. 511, 7-28-3 (h)

<sup>15</sup> No Child Left Behind Act of 2001, Pub. L. No. 107-110 § 1401

<sup>16</sup> Ind. Code 31-37-5-5

<sup>17</sup> Ind. Code 31-31-8-2

<sup>18</sup> Ind. Code 31-37-6-2

<sup>19</sup> Ind. Code 31-37-6-6

<sup>20</sup> Ind. Code 31-37-11-1

<sup>21</sup> Ind. Code 31-37-11-2

<sup>22</sup> Ind. Code 31-37-19-6

<sup>23</sup> Ind. Code 31-37-19-21

<sup>24</sup> Ind. Code 31-30-2-1

<sup>25</sup> 28 C.F.R. § 31.303(e)(2)

<sup>26</sup> Id.

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<sup>27</sup> Puritz, P., & Scali, M. (1998). Beyond the Walls: Improving Conditions of Confinement for Youth in Custody. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs.

<sup>28</sup> Id.

<sup>29</sup> Id.

<sup>30</sup> 21<sup>st</sup> Annual Report to Congress. (2003). *Special Education in Correctional Facilities*. Washington, D.C.: U.S. Department of Education.

<sup>31</sup> Id.

<sup>32</sup> Id.

<sup>33</sup> Id.

<sup>34</sup> Id.

<sup>35</sup> Id.

<sup>36</sup> Ind. Code 20-33-2-1

<sup>37</sup> Ind. Code 30-33-2-29

<sup>38</sup> Ind. Code 20-33-2-44

<sup>39</sup> Ind. Admin. Code tit. 511, 6.1-3-1

<sup>40</sup> Ind. Admin. Code tit. 511, 6.1-3-1

<sup>41</sup> Id.

<sup>42</sup> 20 U.S.C. § 1412

<sup>43</sup> Ind. Admin. Code tit. 511, 7-27-4

<sup>44</sup> Ind. Admin. Code tit. 511, 7-17-13

<sup>45</sup> Ind. Admin. Code tit. 511, 7-17-13

<sup>46</sup> Commonwealth v. Nathaniel N., 764 N.E.2d 883 (Mass. App. Ct. 2002).

<sup>47</sup> State of Connecticut v. David F., 29 IDELR 376 (D. Conn. 1998).

<sup>48</sup> Alexander S. v. Boyd, 876 F. Supp. 773, 801 (D.S.C. 1995).

<sup>49</sup> Id.

<sup>50</sup> Id. at 802.

<sup>51</sup> Puritz, P., & Scali, M. (1998). Beyond the Walls: Improving Conditions of Confinement for Youth in Custody. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs.

<sup>52</sup> Ind. Admin. Code tit. 511, 7-25-2 (a)

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<sup>53</sup> Ind. Admin. Code tit. 511, 7-25-3 (c)(1)

<sup>54</sup> Ind. Admin. Code tit. 511, 7-17-68 & Ind. Admin. Code tit. 511, 7-18-1

<sup>55</sup> No Child Left Behind Act of 2001, Pub. L. No. 107-110 § 1401