

Juvenile Detention Reform

Summary:

- ▶ An alarmingly high number of children accused of crimes are jailed before trial.
- ▶ The statutory purpose of pretrial detention—to hold only youths who are a danger to the community or at risk of flight—is largely ignored.
- ▶ Most youths in pretrial detention centers are nonviolent, relatively minor offenders; they do not need to be there.
- ▶ Current detention practices disproportionately affect young people of color.
- ▶ In most cases, locking up young offenders only exacerbates the problem.
- ▶ Detention reform cuts recidivism rates.
- ▶ Detention reform saves tax dollars and redirects resources toward more cost-effective home- and community-based alternatives to confinement.
- ▶ States are adopting detention reforms.

An alarmingly high number of children accused of crimes are jailed before trial.

On an average day, more than 27,000 youths are estimated to reside in locked pre-trial detention centers—a number that has grown by 72 percent since the early 1990s—despite a steady decline in juveniles committing crimes during the same time period.¹ Each year, more than 600,000 children and teens cycle through secure detention facilities in the United States.²

The statutory purpose of pretrial detention—to hold only youths who are a danger to the community or at risk of flight—is largely ignored.

In far too many cases, locked detention has become an easy place to “park” bothersome and troubled young people who have been accused, but not convicted of offenses.³

Most youths in pretrial detention centers are nonviolent, relatively minor offenders; they do not need to be there.

Nearly 70 percent of youths in pre-trial detention are held for nonviolent offenses. Most of them are not the older, violent offenders that the public assumes are under lock and key. More than half are aged 15 or younger, and a third are aged 14 or younger.⁴ And fully one-third of juveniles in detention are status offenders; their offenses would not be considered to be crimes if committed by adults.⁵ In almost half of these status cases, the most serious offense is running away from home.⁶

Current detention practices disproportionately affect young people of color.

Between 1983 and 1997, juvenile detention rates for minorities grew 76 percent, while rates for whites actually declined. Throughout this period, as the detention population grew, four of every five newly detained youths were minorities.⁷

In most cases, locking up young offenders only exacerbates the problem.

Pretrial detention is appropriate for those who present a danger to themselves or others, or who will likely not show up for trial. But for most youths, detention makes their situation worse. By putting young, nonviolent children in close contact with more hardened offenders, detention provides a higher education in criminal methods for some, and a physical or emotional threat for others. Experts have found that detention increases long-range recidivism rates.⁸ Detention also increases the likelihood that children will be placed out of their homes in the future—even when controlling for offense, prior history, and other factors.⁹ And detention leads to more suicide attempts, stress-related illnesses, and psychiatric problems.¹⁰

Detention reform cuts recidivism rates.

In communities across the country, reformers have found that keeping juveniles out of secure detention helps both young people and their communities.¹¹ For example, in a San Francisco study of 1,500 high-risk youths placed in an alternative-to-detention program, upon completion of the program participants were 26 percent less likely to be re-arrested

JUVENILE DETENTION REFORM POLICY SUMMARY

than similar youths released from secure detention facilities.¹² One reason for lower recidivism is that youths in alternative pre-trial programs benefit from better mental health assessments and treatment, and stronger connections with family, school, religious and community supports.

Detention reform saves tax dollars and redirects resources toward more cost-effective home- and community-based alternatives to confinement.

Detention is very expensive: One detention bed costs \$1.25-\$1.5 million dollars over 20 years.¹³ Detention alternatives have proven to save money. In Cook County, Illinois, for example, a combination of accelerated case processing, use of a model objective risk assessment instrument, and a network of community-run reporting centers has saved millions of dollars.¹⁴

States are adopting detention reforms.

New Mexico changed the criteria for juvenile detention to prohibit detention unless an objective assessment demonstrates substantial risk of harm to self or others, or that a youth is at risk of leaving the court's jurisdiction.¹⁵ North Dakota developed a system where youths are held in short-term community sites throughout the state, receiving one-on-one attention from trained adult advocates, including social workers, teachers, clergy and volunteers. The results of such detention reforms have been positive—community safety is preserved, youths are held in the least restrictive setting for the shortest amount of time, youths are held as close to home as possible, and valuable resources are freed up.

This policy summary relies in large part on information from the Coalition for Juvenile Justice.

Endnotes

- 1 Annie E. Casey Foundation, "The JDAI Story: Building a Better Juvenile Detention System," *Pathways to Juvenile Detention Reform*, Volume #1, 1998.
- 2 Annie E. Casey Foundation, "Kids Count 2004 Date Book Online," 2004; National Juvenile Detention Association and Youth Law Center, "Crowding in Juvenile Detention Facilities: A Problem-Solving Manual," 1998.

- 3 Coalition for Juvenile Justice, "Unlocking the Future: Detention Reform in the Juvenile Justice System," January 2004.
- 4 Howard Snyder and Melissa Sickmund, National Center for Juvenile Justice, "Juvenile Offenders and Victims, 1999 Report," 1999.
- 5 Deborah Busch, "By the Numbers: the role of data and information in detention reform," Annie E. Casey Foundation, *Pathways to Juvenile Justice Reform* series, 1999.
- 6 "Juvenile Offenders and Victims, 1999 Report."
- 7 Annie E. Casey Foundation, "The JDAI Story: Reducing Racial Disparities in Juvenile Detention," *Pathways to Juvenile Detention Reform*, Volume #8, 2002.
- 8 Coalition for Juvenile Justice, "Unlocking the Future: Detention Reform in the Juvenile Justice System," January 2004.
- 9 Annie E. Casey Foundation, "Juvenile Jailhouse Rocked: Reforming Detention in Chicago, Portland and Sacramento," *AdvoCasey: Documenting Programs that Work for Kids and Families*, Fall/Winter 1999.
- 10 National Juvenile Detention Association and Youth Law Center, "Crowding in Juvenile Detention Facilities: A Problem-Solving Manual," 1998.
- 11 Beneficial results of detention reform have been reported in such diverse jurisdictions as Bernalillo County/Albuquerque (NM), Tarrant County (TX), and Santa Cruz (CA), and the states of Illinois (starting with Chicago/Cook County) and North Dakota. See: Coalition for Juvenile Justice, "Unlocking the Future: Detention Reform in the Juvenile Justice System," January 2004.
- 12 Center on Juvenile Crime and Criminal Justice, "Detention Diversion Advocacy Project Evaluation," September 1999.
- 13 American Youth Policy Forum, "Less Cost, More Safety," 2001
- 14 Richard Mendel, "And the Walls Keep Tumbling Down: A Demonstration Project has Come and Gone but Detention Reform Continues to Gather Steam," Annie E. Casey Foundation, Spring 2003.
- 15 New Mexico Children's Code, Revised, §32A: 2.1 et seq., effective July 2003..

Juvenile Detention Reform

Juvenile Detention Reform Act

SECTION 1. SHORT TITLE

This Act shall be called the "Juvenile Detention Reform Act."

SECTION 2. JUVENILE DETENTION REFORM

After section XXX, the following new section XXX shall be inserted:

(A) STANDARD FOR APPROVING DETENTION

1. A child taken into custody for an alleged criminal act shall not be placed in pretrial detention unless a detention risk assessment instrument is completed and a determination is made that the child:
 - a. Poses a substantial risk of harm to himself or herself;
 - b. Poses a substantial risk of harm to others; or
 - c. Has demonstrated that there is a substantial risk that he or she may leave the jurisdiction of the court.
2. If a juvenile is placed into pretrial detention, a judge of the [Juvenile Court] shall, within 24 hours after the placement, consider the risk assessment instrument and review the appropriateness of pretrial detention. The Court shall not approve a placement in pretrial detention unless the state has proven by a preponderance of the evidence that:
 - a. The child poses a substantial risk of harm to himself or herself;
 - b. The child poses a substantial risk of harm to others; or
 - c. The child has demonstrated that there is a substantial risk that he or she may leave the jurisdiction of the court.
 - d. No lesser custodial restrictions would serve as an effective alternative to pretrial detention.
3. If the Court approves a placement in pretrial detention, the placement decision shall be reviewed by the Court at any pretrial conference.
4. The Department [of Juvenile Justice] shall develop and implement a detention risk assessment instrument. The instrument will be designed to reflect input from the child's family, community, social workers, law enforcement personnel, and the Department's staff and advisors.

(B) CONDITIONS OF DETENTION

1. Pretrial detention shall not take place at any long-term facility for adjudicated delinquents.
2. A person older than 18 shall not be detained in a juvenile detention facility.
3. Publicly-funded counsel shall be available to the juvenile and the juvenile's family upon completion of the risk assessment instrument and before the point at which any detention hearing is held.

SECTION 3. EFFECTIVE DATE

This Act shall take effect on July 1, 2005.



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