

ACT 4

JUVENILE JUSTICE

The Juvenile Justice and Delinquency Prevention Act

A Fact Book

Compiled by the Act 4 JJ Working
Group of the NJJDPC in 2007



This book was compiled by organizations of the Act 4 JJ working group of the National Juvenile Justice and Delinquency Prevention Coalition in 2007. There have been some updates to the document to reflect current data and trends. Act 4 JJ is hoping to release a completely updated version of the fact book later this year.

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Juvenile Justice Glossary

Adjudication: Judicial determination (judgment) that a juvenile is responsible for the delinquency or status offense that is charged in a petition or other charging document.

Adult Jail: A locked facility, administered by State, county or local law enforcement and correctional agencies, designed to detain adults charged with violating criminal law, pending trial. Also, this term refers to facilities used to hold convicted adult criminal offenders sentenced for less than 1 year.

Adult Lockup: Generally, a municipal or police facility similar to an adult jail designed to temporarily hold persons before they have been formally charged.

Aftercare: A cohesive set of support services designed to provide assistance to youth returning to their community and/or new living situation following their release from a secure or non-secure program, residential placement, or treatment program. Services are designed to assist youth in making a successful transition into the community.

Arrest: Hold time in legal custody, either at the scene of a crime or as result of investigations. Arrest also can be the result of a complaint filed by a third party, an outstanding warrant, or a revocation of probation or parole.

Best Practice: Strategies and programs demonstrated through research and evaluation to be effective at preventing or intervening in juvenile justice delinquency. Best practice models include program models that have been shown, through rigorous evaluation and replication, to achieve target outcomes. Model programs can come from many valid sources (e.g., OJJDP's Model Programs Guide, Blueprints, Substance Abuse and Mental Health Services Administration's (SAMHSA) Model Programs, State model program resources, etc.)

Case Management: A system of services that include referral, assessment, intervention, problem solving, evaluation, and follow-up.

Community-based: A facility, program, or service located near the juvenile's home or family, usually a group home or other appropriate setting. Also, the term refers to programs of community supervision and services that maintain community and consumer participation in program planning, operation, and evaluation.

Commitment: A court order giving guardianship of a juvenile to the state department of juvenile justice or corrections. The facility in which a juvenile is placed may be publicly or privately operated and may range from a secure correctional placement to a non-secure or staff secure facility, group home, foster care, or day treatment setting.

Compliance: In order to receive its full fiscal year allocation of Formula Grants program funds under the JJDP, a state must first demonstrate compliance with the DSO, jail removal, separation, and DMC core requirements. Compliance with the first three core requirements is demonstrated through data provided in the state's annual Compliance Monitoring Report. Compliance with the DMC Core requirement is determined by information provided in the

state's Comprehensive Three-Year Plan and subsequent Three-Year Plan Updates. Full compliance with each core requirement is achieved when:

Deinstitutionalization of Status Offenders: a state has removed 100 percent of status offenders and non-offenders from secure detention correctional facilities.

Jail Removal: a state demonstrates that the last submitted monitoring report, covering 12 months of actual data, demonstrates that no juveniles were held in adult jails or lockups in circumstances that were in violation of jail removal.

OJJDP has developed de minimis standards for states that have not achieved full compliance with the DSO and jail removal requirements. See the OJJDP Guidance Manual for Monitoring Facilities Under the Juvenile Justice and Delinquency Prevention Act of 2002 for further details.

Separation: a State can demonstrate that (a) the last submitted monitoring report, covering a full 12 months of data, demonstrates that no juveniles were incarcerated in circumstances that were in violation of this requirement; or (b) the instances of noncompliance reported in the last submitted monitoring report do not indicate a pattern or practice but rather constitute isolated instances.

Disproportionate Minority Contact: A state can demonstrate progress made each year in addressing specific delinquency prevention and system improvement efforts to reduce the rate of contact with the juvenile justice system of a specific minority group, if that rate is significantly greater than the rate of contact for whites or other minority groups.

Compliance Monitoring Report: OJJDP's Formula Grant Regulation requires states to submit information regarding compliance with the DSO, jail removal, and separation requirements annually. This information is submitted through the Compliance Monitoring (CM) report. States that have been determined by the OJJDP Administrator to have achieved full compliance may be exempt from the annual monitoring report requirements following a written request.

Delinquency: An act committed by a juvenile that would be criminal if committed by an adult. The juvenile court has jurisdiction over delinquent acts. Delinquent acts include crimes against persons, crimes against property, drug offenses, and crimes against public order.

Detention: The placement of a youth in a secure facility under court authority at some point between the time of referral to court intake and case disposition. Detention prior to case disposition is known as pre-dispositional detention. The reasons for post-dispositional detention generally include awaiting placement, short-term sentencing to detention, or being a danger to self or others.

Discretionary funds: Grants other than the JJJPA Formula Grants that OJJDP makes directly to individuals or agencies to provide specific juvenile services.

Disposition: Sanction ordered or treatment plan decided upon or initiated in a particular case by a juvenile court. The range of options available to a court typically includes commitment

to an institution; placement in a group or foster home or other residential facility; probation (either regular or intensive supervision); referral to an outside agency, day treatment, or mental health program; or imposition of a fine, community service, or restitution.

Diversion: A mechanism designed to hold youth accountable for their actions by sanctioning behavior and in some cases securing services, but at the same time generally avoiding formal court processing in the juvenile justice system.

Formal Petition filed: A case that is being forwarded for judicial resolution and is much smaller in number than the number of cases coming through the intake process.

Formula Grants: The Formula Grants Program, funded by the OJJDP, which provides grant monies to State and territories that support State and local delinquency prevention and intervention efforts and juvenile justice system improvements. Juvenile Justice Specialists in each State administer the funding through sub-grants to units of local government, local private agencies, and Indian tribes for programs in accordance with legislative requirements.

Gender-specific services: Services designed to promote healthy attitudes, behaviors and lifestyles, and promote social competence in girls. Key program elements generally address issues in the context of relationships to peers, family, school, and community.

Goals: Broad statements (i.e., written in general terms) that convey a program's overall intent to change, reduce, or eliminate the problem described. Goals identify the program's intended short-and long-term results.

Graduated Sanctions: A graduated sanctions system is a set of integrated intervention strategies designed to operate in unison to enhance accountability, ensure public safety, and reduce recidivism by preventing future delinquent behavior. The term "graduated sanctions" implies that the penalties for delinquent activity should move from limited interventions to more restrictive (i.e., graduated) penalties according to the severity and nature of the crime. In other words, youth who commit serious and violent offenses should receive more restrictive sentences than youth who commit less serious offenses.

Grants: An award of financial assistance, the principal purpose of which is to transfer a thing of value from a Federal or State agency to a recipient to carry out a public purpose of support or stimulation authorized by a law of the United States (see 31 U.S.C. 6101(3)). A grant is distinguished from a contract, which is used to acquire property or services for the Federal Government's direct benefit or use.

Juvenile: Youth at or below the upper age of original juvenile court jurisdiction, which varies depending on the State (e.g., the age is 15 in some States, and 17 in others).

Juvenile Justice and Delinquency Prevention Act: Congress enacted the Juvenile Justice and Delinquency Prevention Act (JJDP) (P.L. No. 93-415, 42 U.S.C. & 5601 et seq.) in 1974 and reauthorized the majority of its provisions in 2002. The JJDP mandates that states comply with four core requirements to participate in the JJDP's Formula Grants programs. This landmark legislation established OJJDP to support local and state efforts to prevent delinquency and improve the juvenile justice system.

Non-offender: A juvenile who is subject to the jurisdiction of the juvenile court usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct.

Objectives: Derived from the program goals and explain how the program goal will be accomplished. Objectives are well-defined, specific, quantifiable statements of the program's desired results and they should include the target level of accomplishment, thereby further defining goals and providing the means to measure program performance.

Parole: A conditional release from imprisonment that entitles the person to serve the remainder of the sentence outside the correctional institution as long as the terms of the release are not violated.

Post-disposition: The period following the imposition of a sanction ordered or treatment plan decided upon or initiated in a particular case by a juvenile court.

Pre-disposition: The period after the filing of a charge and prior to a sanction ordered or treatment plan decided upon or initiated in a particular case by juvenile court.

Probation: Cases in which youth are placed on informal/voluntary or formal/court-ordered supervision. A violation occurs when a youth violates the terms of the probation.

Secure: As used to define a detention or correctional facility, this term includes residential and non-residential facilities that include fixtures, such as locked rooms and buildings, fences, or other physical structures, designed to physically restrict the movements and activities of persons in custody. It does not include facilities where physical restriction of movement or activities is provided solely through facility staff.

Status Offenders: A juvenile charged with or adjudicated for conduct that would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult. Status offenses include truancy, curfew violations, incorrigibility, running away, and underage possession and/or consumption of alcohol or tobacco.

Title V: The Title V Community Prevention Grants Program is a federal grants program to fund collaborative, community-based delinquency prevention efforts. The program provides local communities with funding and a guiding framework for developing and implementing comprehensive juvenile delinquency prevention plans.

Type 1 crimes: Classification used by the FBI, traditionally used as a measure of serious crimes, including murder, rape, robbery, aggravated assault, burglary, larceny, motor vehicle theft, and arson. Also referred to as index crimes.

Unit of general local government: Any city, county, township, town, borough, parish, village, or the general purpose political subdivision of a state and Indian tribe that performs law enforcement functions as determined by the U.S. Secretary of the Interior for the purpose of assistance eligibility, any agency of the District of Columbia government performing law enforcement functions in and for the District of Columbia, and funds appropriated by the U.S. Congress for the activities of such agency may be used to provide the non-federal shares of the cost of programs or projects funded under the JJDPA.

Valid court order: An order given by a juvenile court judge to a juvenile who was brought before the court and made subject to an order; and who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the U.S. Constitution.

Valid court order exception: Permits the secure/locked detention of a juvenile for violation of a court order only if he or she received full due process as guaranteed by the U.S. Constitution.

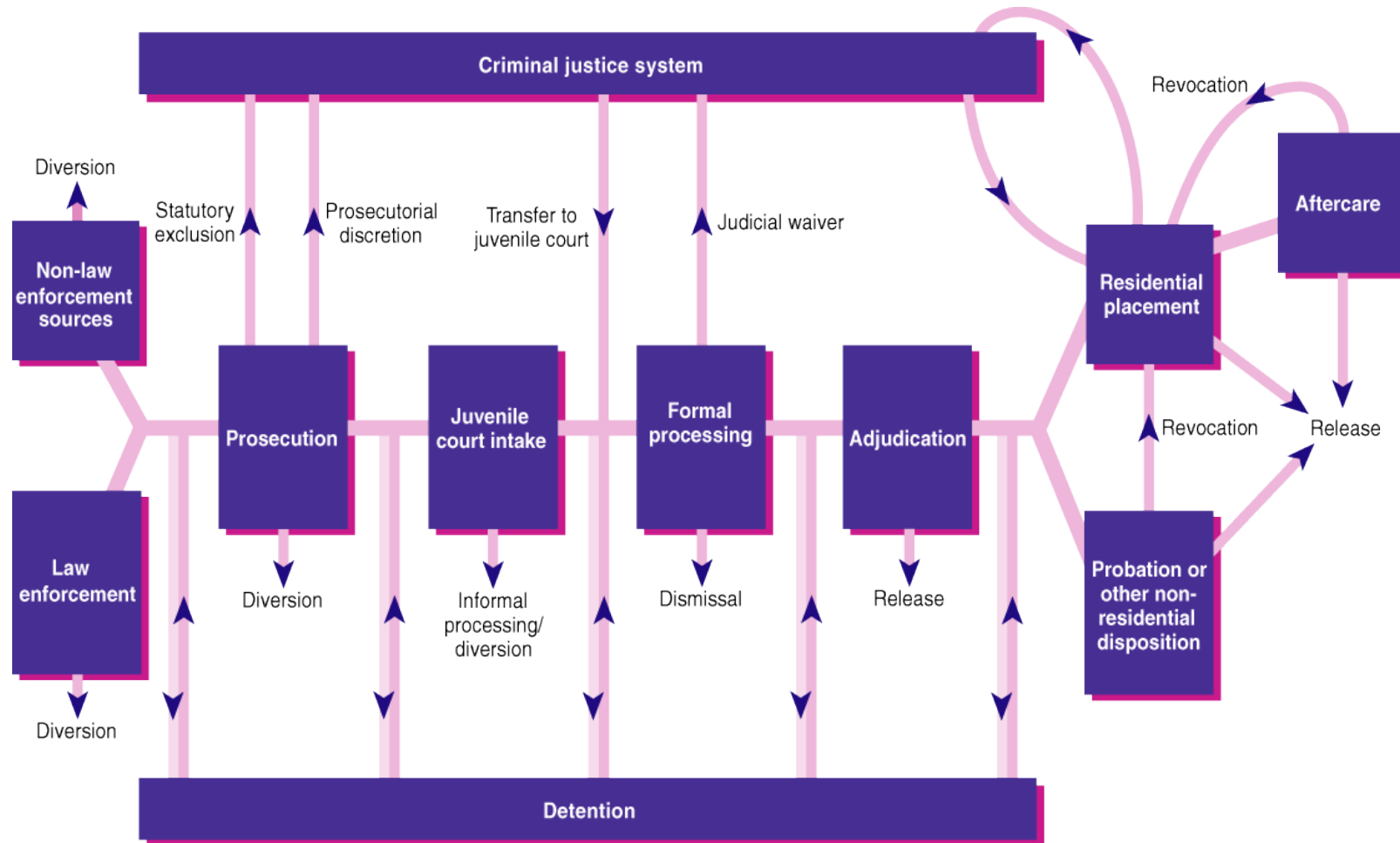
Waived to criminal court: Cases that originated in juvenile court but are transferred to adult criminal court as the result of a judicial waiver hearing in juvenile court.

Abbreviations and Acronyms

ABA	American Bar Association
BARJ	Balanced and Restorative Justice
BIA	Bureau of Indian Affairs, U.S. Department of the Interior
BJA	Bureau of Justice Assistance, U.S. Department of Justice
BJS	Bureau of Justice Statistics, U.S. Department of Justice
CJJ	Coalition for Juvenile Justice
CWLA	Child Welfare League of America
DOJ	U.S. Department of Justice
DMC	Disproportionate Minority Contact
DSA	Designated State Agency
DSO	Deinstitutionalization of Status Offenders
HHS	U.S. Department of Health and Human Services
JABG	Juvenile Accountability Block Grant
JJAC	Juvenile Justice Advisory Council
JJAG	Juvenile Justice Advisory Group
JJDPA	Juvenile Justice and Delinquency Prevention Act
JJS	Juvenile Justice Specialist
NACO	National Association of Counties
NCJFCJ	National Council of Juvenile and Family Court Judges
NCCD	National Council on Crime and Delinquency
NCJA	National Criminal Justice Association
NGA	National Governors Association

NTTAC	National Training and Technical Assistance Center
OGC	Office of General Counsel, U.S. Department of Justice
OJJDP	Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice
OJP	Office of Justice Programs, U.S. Department of Justice
RFP	Request for Proposals
SAC	Statistical Analysis Center
SAG	State Advisory Group
SRAD	OJJDP's State Relations and Assistance Division
TA	Technical Assistance
T&TA	Training and Technical Assistance

Juvenile Justice System Structure and Process



Case Flow Diagram

The case flow diagram describes the stages of delinquency case processing in the juvenile justice system.

Source: http://www.ojjdp.gov/ojstatbb/structure_process/images/flowbluemedwebalt2.gif

Juvenile Justice System Structure and Process

Source: http://www.ojjdp.gov/ojstatbb/structure_process/case.html (The following is an excerpt from the *Juvenile Offenders and Victims: A National Report* publication, NCJ 153569, pages 76-79. The statistics have been updated to reflect the latest available data.)

Young law violators generally enter the juvenile justice system through law enforcement...

Each State's processing of law violators is unique:

Even within States, case processing often varies from community to community depending on local practice and tradition. Consequently, any description of juvenile justice processing must be general, outlining a common series of decision points.

Law enforcement diverts many juvenile offenders out of the justice system:

At arrest, a decision is made either to send the matter further into the justice system or to divert the case out of the system, often into alternative programs. Usually, law enforcement makes this decision, after talking to the victim, the juvenile, and the parents, and after reviewing the juvenile's prior contacts with the juvenile justice system. Twenty-two percent of all juveniles arrested in 2009 were handled within the police department and then released. Seventy percent of arrested juveniles were referred to juvenile court.

Federal regulations discourage holding juveniles in adult jails and lockups. If law enforcement must detain a juvenile in secure custody for a brief period in order to contact a parent or guardian or to arrange transportation to a juvenile detention facility, Federal regulations require that the juvenile be securely detained for no longer than 6 hours and in an area that is not within sight or sound of adult inmates.

Most juvenile court cases are referred by law enforcement:

Law enforcement referrals accounted for 83% of all delinquency cases referred to juvenile court in 2009. The remaining referrals were made by others such as parents, victims, schools, and probation officers.

The court intake function is generally the responsibility of the juvenile probation department and/or the prosecutor's office. At this point intake must decide either to dismiss the case, handle the matter informally, or request formal intervention by the juvenile court.

To make this decision, an intake officer first reviews the facts of the case to determine if there is sufficient evidence to prove the allegation. If there is not, the case is dismissed. If there is sufficient evidence, intake will then determine if formal intervention is necessary. About half of all cases referred to juvenile court intake are handled informally. Most informally processed cases are dismissed. In the other informally processed cases, the juvenile voluntarily agrees to specific conditions for a specific time period. These conditions

are often outlined in a written agreement, generally called a "consent decree." Conditions may include such items as victim restitution, school attendance, drug counseling, or a curfew. In most jurisdictions, a juvenile may be offered an informal disposition only if he or she admits to committing the act. The juvenile's compliance with the informal agreement is often monitored by a probation officer. Consequently, this process is sometimes labeled "informal probation."

If the juvenile successfully complies with the informal disposition, the case is dismissed. If, however, the juvenile fails to meet the conditions, the intake decision may be to formally prosecute the case, and the case will proceed just as it would have if the initial decision had been to refer the case for an adjudicatory hearing.

During the processing of a case, a juvenile may be held in a secure detention facility:

Juvenile courts may hold delinquents in a secure detention facility if the court believes it is in the best interest of the community or the child. After arrest a youth is often brought to the local juvenile detention facility by law enforcement. Juvenile probation officers or detention workers review the case and decide if the juvenile should be held pending a hearing by a judge.

In all States, a detention hearing must be held within a time period defined by statute, generally within 24 hours. At the detention hearing a judge reviews the case and determines if continued detention is warranted. As a result of the detention hearing the youth may be released or detention continued. In 2009 juveniles were detained in 1 in 5 (21%) delinquency cases processed by the juvenile courts. Detention may extend beyond the adjudicatory and dispositional hearings. In some cases crowded juvenile facilities require that detention continue beyond adjudication until a bed becomes available in a juvenile correctional institution or treatment facility.

Prosecutors may file a case in either juvenile or criminal court:

In many States prosecutors are required to file certain (generally serious) cases involving juveniles in the criminal court. These are cases in which the legislature has decided the juvenile should be handled as a criminal offender. In a growing number of States the legislature has given the prosecutor the discretion of filing a defined list of cases in either juvenile or adult court. In these States both the juvenile and adult courts have original jurisdiction over these cases, and the prosecutor selects the court that will handle the matter.

If the case is handled in juvenile court, two types of petitions may be filed: delinquency or waiver. A delinquency petition states the allegations and requests the juvenile court to *adjudicate* (or judge) the youth a delinquent, making the juvenile a ward of the court. This language differs from that used in the criminal court system (where an offender is *convicted* and sentenced).

In response to the delinquency petition, an adjudicatory hearing is scheduled. At the adjudicatory hearing (trial), witnesses are called and the facts of the case are presented. In nearly all adjudicatory hearings the determination that the juvenile was responsible for the offense(s) is made by a judge; although, in some States the juvenile is given the right to a jury trial. In 2009, juveniles were adjudicated delinquent in 59% of cases petitioned to juvenile court for criminal law violations.

Intake may ask the juvenile court to transfer the case to criminal court:

A waiver petition is filed when the prosecutor or intake officer believes that a case under jurisdiction of the juvenile court would be more appropriately handled in criminal court. The court decision in these matters follows a review of the facts of the case and a determination that there is probable cause to believe that the juvenile committed the act. With this established, the court then considers whether jurisdiction over the matter should be waived and the case is transferred to criminal court.

This decision generally centers around the issue of whether the juvenile is amenable to treatment in the juvenile justice system. The prosecution may argue that the juvenile has been adjudicated several times previously and that interventions ordered by the juvenile court have not kept the juvenile from committing subsequent criminal acts. The prosecutor may argue that the crime is so serious that the juvenile court is unlikely to be able to intervene for the time period necessary to rehabilitate the youth.

If the judge agrees that the case should be transferred to criminal court, juvenile court jurisdiction over the matter is waived and the case is filed in criminal court. If the judge does not approve the waiver request, an adjudicatory hearing is scheduled in juvenile court.

Between the adjudication decision and the disposition hearing, an investigation report is prepared by probation staff:

Once the juvenile is adjudicated delinquent, a disposition plan is developed. To prepare this plan, probation staff develop a detailed understanding of the youth and assess available support systems and programs. To assist in preparation of disposition recommendations, the court may order psychological evaluations, diagnostic tests, or a period of confinement in a diagnostic facility.

At the disposition hearing, dispositional recommendations are presented to the judge. The prosecutor and the youth may also present dispositional recommendations. After considering options presented, the judge orders a disposition in the case.

Most cases placed on probation also receive other dispositions:

Most juvenile dispositions are multi-faceted. A probation order may include additional requirements such as drug counseling, weekend confinement in the local detention center, and community or victim restitution. The term of probation may be for a specified period of time or open ended. Review hearings are held to monitor the juvenile's progress and to hear reports from probation staff. After conditions of the probation have been successfully met,

the judge terminates the case. In 2009, 60% of adjudicated delinquents were placed on formal probation.

The judge may order the juvenile committed to a residential placement:

Residential commitment may be for a specific or indeterminate ordered time period. In 2009, 27% of adjudicated delinquents were placed in a residential facility. The facility may be publicly or privately operated and may have a secure prison-like environment or a more open, even home-like setting. In many States, when the judge commits a juvenile to the State department of juvenile corrections, the department determines where the juvenile will be placed and when the juvenile will be released. In other instances the judge controls the type and length of stay. In these situations review hearings are held to assess the progress of the juvenile.

Juvenile aftercare is similar to adult parole:

Following release from an institution, the juvenile is often ordered to a period of aftercare or parole. During this period the juvenile is under supervision of the court or the juvenile corrections department. If the juvenile does not follow the conditions of aftercare, he or she may be recommitted to the same facility or to another facility.

The processing of status offense cases differs from that of delinquency cases:

A delinquent offense is an act committed by a juvenile for which an adult could be prosecuted in criminal court. There are, however, behaviors that are law violations only for youth of juvenile status. These "status offenses" may include such behaviors as running away from home, truancy, ungovernability, curfew violations, and underage drinking. In many ways the processing of status offense cases parallels that of delinquency cases.

Not all cases, however, consider all of these behaviors to be law violations. Many States view these behaviors as indicators that the child is in need of supervision and respond to the behavior through the provision of social services. This different characterization of status offenses causes them to be handled more like dependency than delinquency cases.

While many status offenders enter the juvenile justice system through law enforcement, in many States the initial, official contact is a child welfare agency. Nearly half (59%) of all petitioned status offense cases referred to juvenile court in 2009 were from law enforcement.

The Juvenile Justice and Delinquency Prevention Act discourages the holding of status offenders in secure juvenile facilities, either for detention or placement. This policy has been labeled *deinstitutionalization of status offenders*. An exception to this policy occurs when the status offender violates a valid court order such as a probation order that requires the adjudicated status offender to attend school and observe a court-ordered curfew. In such situations, the status offender may be confined in a secure detention facility.

Quick Facts: Youth in the Justice System

Youth Crime

Youth commit only a small portion of the nation's crime. Youth under age 18 accounted for only 14% of all arrests.¹ In 2009, 11% of violent crime 17% of property crime involved only youth.²

Youth crime has also declined. While the number of adults arrested between 2000 and 2009 only decreased by 1%, the number of youth arrested dropped a staggering 20% during the same time frame.³

Juvenile Court

Every year, juvenile courts in the U.S. handle an estimated 1.7 million cases in which a youth was charged with a delinquency offense, approximately 4,600 delinquency cases per day.⁴

Juvenile Detention & Corrections

Detained youth are those who are held in a residential facility awaiting a hearing in court. Youth in detention are separated from their community and their normal day-to-day life (school, jobs, etc.).

1 out of every 5 (21 %) youth who are brought before the court with a delinquency case is detained.⁵

Juvenile detention is over used in this country. While detention facilities are meant to temporarily house youth who are a danger to themselves or society or who are likely to skip their court date, many youth held in detention do not meet these criteria.⁶

¹ Federal Bureau of Investigation. Crime in the United States 2009. Washington, D.C. Retrieved July 12, 2011 from http://www.fbi.gov/ucr/cius2009/data/table_28.html.

² Federal Bureau of Investigation. Crime in the United States 2009. Washington, D.C. Retrieved July 12, 2011 from http://www.fbi.gov/ucr/cius2009/data/table_32.html.

³ Federal Bureau of Investigation. Crime in the United States 2009. Washington, D.C., Retrieved July 12, 2011 from http://www.fbi.gov/ucr/cius2009/data/table_32.html

⁴ Puzzanchera, C., Adams, B., and Sickmund, M. (2010). *Juvenile Court Statistics 2006-2007*. Pittsburgh, PA: National Center for Juvenile Justice.

⁵ OJJDP Statistical Briefing Book. Online. Available: <http://www.ojjdp.gov/ojstatbb/court/qa06301.asp?qaDate=2008>. Released on May 06, 2011.

Two-thirds of youth in detention are held for nonviolent charges. These youth are charged with property offenses, public order offenses, technical probation violations, or “status offenses” (crimes that wouldn’t be crimes if they were adults, like running away or breaking curfew).⁷

Youth of color are overrepresented in the detention population. In 2003, African-American youth were detained at a rate 4.5 times higher than whites. Latino youth were detained at twice the rate of whites.⁸

One quarter (25%) of detention centers are at or over their capacity, which impairs the ability of the facility to properly care for the youth.⁹

A one-day snapshot of youth in detention found that roughly 2% were status offenders. However, this number does not account for the number of youth who are held in detention facilities after violating a valid court order.¹⁰

On any given day, over 50,000 youth found to be delinquent are in juvenile correctional facilities after violating a valid court order.¹¹

Adjudicated youth sent to residential placements increased by 44% from 1985 to 2002.¹²

There are less severe alternatives to detaining or committing youth, and they work. Community-based programs, including diversion programs, drug treatment, evening reporting centers, treatment clinics and family programs, have been shown to be less costly than detention or incarceration and to help youth stay out of trouble and to not re-offend.

Youth in the Adult Criminal Justice System

An estimated 250,000 youth are tried, sentenced, or incarcerated as adults every year across the United States.¹³

⁶ Holman, B. and Ziedenberg, J. (November 2006). *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*. Washington, DC. Justice Policy Institute. P. 2.

⁷ Sickmund, M., Sladky, T.J., Kang, W., & Puzzanchera, C. (2011). “Easy Access to the Census of Juveniles in Residential Placement.” Available: <http://ojjdp.ncjrs.gov/ojstatbb/ezacirp/>

⁸ Holman, B. and Ziedenberg, J. (November 2006). *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*. Washington, DC. Justice Policy Institute. P. 12.

⁹ Livsey, S, Sickmund, M., & Sladky, A. (2009). *Juvenile Residential Facility Census, 2004: Selected Findings*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

¹⁰ Sickmund, M., Sladky, T.J., Kang, W., & Puzzanchera, C. (2011). “Easy Access to the Census of Juveniles in Residential Placement.” Available: <http://ojjdp.ncjrs.gov/ojstatbb/ezacirp/>

¹¹ *Id.*

¹² Office of Juvenile Justice and Delinquency Prevention. U.S. Department of Justice, *Juvenile Offenders and Victims: 2006 National Report*, Washington, DC, 2006.

Most of the youth prosecuted in adult court are charged with non-violent offenses.¹⁴

Research shows that young people who are kept in the juvenile justice system are less likely to re-offend than young people who are transferred into the adult system. According to the Centers for Disease Control and Prevention, youth who are transferred from the juvenile court system to the adult criminal system are approximately 34% more likely than youth retained in the juvenile court system to be re-arrested for violent or other crime.¹⁵

Currently, 39 states permit or require that youth charged as adults be held before they are tried in an adult jail. In some states, if they are convicted, they may be required to serve their entire sentence in an adult jail.¹⁶

On any given day, nearly 2,7000 young people are locked up in adult jails.¹⁷

A significant portion of youth detained in adult jails before their trial are not convicted as adults.¹⁸

According to the National Council on Crime and Delinquency, the incarceration of youth in adult jails has increased 208% since 1990, even though youth crime has declined.¹⁹

Youth in adult facilities are at a higher risk of violence and suicide than those in the juvenile justice system. Youth housed with adults are 50% more likely to be assaulted with a weapon than are youth housed with other youth.²⁰ Youth housed in adult institutions are 36 times more likely to commit suicide than are youth housed in facilities for youth under 18.²¹

Youth sentenced as adults receive an adult criminal record, are often denied employment and educational opportunities, and can be barred from receiving student financial aid.²²

¹³ Arya, Neelum. (2011). *State Trends: Legislative Victories from 2005 to 2010 Removing Youth from the Adult Criminal Justice System*. Washington, DC: Campaign for Youth Justice.

¹⁴ *Id.*

¹⁵ Centers for Disease Control and Prevention. (2007) Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services. *MMWR* 2007; 56 (No. RR-9). Available online at <http://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf>.

¹⁶ *Jailing Juveniles* (2007, November). Washington, DC: Campaign for Youth Justice.

¹⁷ West, Heather C. (June 2010). *Prison inmates at midyear 2009*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics.

¹⁸ Juszkiewicz, J. (2000, October). *Youth crime adult time: Is justice served?* Washington, DC: Building Blocks for Youth.

¹⁹ Hartney, C. (2006, June). Fact sheet: Youth under age 18 in the adult criminal justice system. Oakland, CA: National Council on Crime and Delinquency.

²⁰ Fagan, J., Forst, M., & Viona, T.S. (1989). Youth in prison and training schools: Perception and the consequences of the treatment dichotomy. *Juvenile and Family Court*, 40, 9.

²¹ *Jailing Juveniles* (2007, November). Washington, DC: Campaign for Youth Justice.

²² *The consequences aren't minor: the impact of trying youth as adults and strategies for reform* (207, March). Washington, DC: Campaign for Youth Justice.

Human Rights Watch reported in 2009 that an estimated 2,600 people were serving life without parole for crimes they committed while under age 18.²³

Youth of color are over-represented at all stages in the juvenile justice system, according to the National Council on Crime and Delinquency in their January 2007 report, "And Justice for Some."

Public Views on Youth Crime and the Justice System

According to a 2007 nationwide Zogby poll, commissioned by the National Council on Crime and Delinquency, 91% of Americans believe that increasing counseling and substance abuse treatment through the juvenile justice system will help reduce crime.²⁴

According to a 2007 nationwide Zogby poll, commissioned by the National Council on Crime and Delinquency, 89% of Americans believe that rehabilitative services and treatment for incarcerated youth can help prevent future crimes.²⁵

Prepared by the Campaign for Youth Justice

www.campaignforyouthjustice.org

²³ Human Rights Watch. State Distribution of Estimated 2,574 Juvenile Offenders Serving Life Without Parole. (October 2009). New York, NY. Retrieved on October 26, 2009 from <http://www.hrw.org/en/news/2009/10/02/state-distribution-juvenile-offenders-serving-juvenile-life-without-parole>.

²⁴ *Attitudes of US Voters Toward Crime and the US Justice System* (February, 2007). Oakland, CA: National Council on Crime and Delinquency.

²⁵ *Attitudes of US Voters Toward Crime and the US Justice System* (February, 2007). Oakland, CA: National Council on Crime and Delinquency.

Quick Facts: Juvenile Crime and Detention

In 2010, there were an estimated 1.6 million arrests of youth in the United States. Youth ages 16-17 comprised of 73% of all juvenile arrests.²⁶

In 2010, for every 100,000 white youth age 10-17, there were 4,242 arrests of white youth.²⁷ In comparison:

- The arrest rate for Asian youth was 1/3 the arrest rate for white youth;
- the arrest rate for American Indian youth one-fifth below the arrest rate for white youth; and
- the arrest rate for black youth was more than double the arrest rate for white youth.²⁸

The number of youth in residential placement (70,792) is the lowest it has been since data on the juvenile population was first publicly available in 1997.²⁹ Of the 70,792 youth who were held in residential placement in 2010:

- 1% (693) were 12 years old and younger;
- 3% (2,079) were age 13;
- 8% (5,955) were age 14;
- 18% (12,604) were age 15;
- 28% (19,540) were age 16;
- 28% (19,990) were age 17; and
- 14% (9,931) were age 18 or older.³⁰

The number of youth in residential placement is also at its lowest point (225 per 100,000 youth).³¹ Of the 70,792 juveniles held in residential placement in 2010:

- 68% (48,427) of those youth were committed;
- 29% (20,579) were detained; and
- 2% (1,735) were diverted.³²

²⁶ U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *OJJDP Statistical Briefing Book*. Online. Available: <http://www.ojjdp.gov/ojstatbb/crime/qa05101.asp?qaDate=2010>. Released on December 17, 2012.).

²⁷ Id.

²⁸ Id.

²⁹ Children's Defense Fund. "State of America's Children Handbook 2012." Available:

<http://www.childrensdefense.org/child-research-data-publications/data/soac-2012-handbook.pdf>

³⁰ U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Census of Juveniles in Residential Placement: 1997-2010* (Washington D.C., U.S. Department of Justice 2010).

³¹ Children's Defense Fund. "State of America's Children Handbook 2012." Available:

<http://www.childrensdefense.org/child-research-data-publications/data/soac-2012-handbook.pdf>

³² U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Census of Juveniles in Residential Placement: 1997-2010* (Washington D.C., U.S. Department of Justice 2010).

While the number of youth in residential placement has declined, racial and ethnic disparities remain.³³ Once adjudicated, white youth were less likely than black youth or youth of other races to be sent to residential placement. Of the 70,792 juveniles detained in residential placement facilities in 2010:

- 41% were Black;
- 32% were White;
- 22% were Hispanic;
- 1% were Asian; and
- 2% were American Indian.³⁴

Approximately one-third of youth in residential placement are held for offenses against persons, the remaining two-thirds are held for property, public order, a drug offense, technical violations and status offenses.³⁵ In 2010, 70,792 youth were held in residential placement. 26% (18,655) of these were detained for violent offenses and 74% (52,137) for nonviolent offenses. Of those crimes for which youth were detained:

- 24% were property offenses;
- 11% were public order offenses;
- 37% were person offenses;
- 7% were drug offenses;
- 16% were technical violations; and
- 4% were status offenses.³⁶

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³³ Children's Defense Fund. "State of America's Children Handbook 2012." Available: <http://www.childrensdefense.org/child-research-data-publications/data/soac-2012-handbook.pdf>

³⁴ U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Census of Juveniles in Residential Placement: 1997-2010* (Washington D.C., U.S. Department of Justice 2010).

³⁵ Children's Defense Fund. "State of America's Children Handbook 2012." Available: <http://www.childrensdefense.org/child-research-data-publications/data/soac-2012-handbook.pdf>

³⁶ U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Census of Juveniles in Residential Placement: 1997-2010* (Washington D.C., U.S. Department of Justice 2010).

The Juvenile Justice Delinquency and Prevention Act (JJDP): An Overview

The Juvenile Justice and Delinquency Prevention Act (JJDP), established in 1974 and most recently reauthorized in 2002 with bipartisan support, provides for:

- a juvenile justice planning and advisory system spanning all states, territories and the District of Columbia;
- federal funding for delinquency prevention and improvements in state and local juvenile justice programs; and
- operation of a federal agency (OJJDP) dedicated to training, technical assistance, model programs, and research and evaluation, to support state and local efforts.

The JJDP is based on a broad consensus that children, youth and families involved with the juvenile and criminal courts should be guarded by federal standards for care and custody, while also upholding the interests of community safety and the prevention of victimization.

Under the JJDP, all states, territories and the District of Columbia must comply with the following core protections:

Deinstitutionalization of Status Offenders (DSO)

Status offenses are offenses that only apply to children under the age of 18, such as skipping school, running away, breaking curfew and possession or use of alcohol. Status offenders may not be held in secure detention or confinement. There are, however, several exceptions to this rule, including allowing some status offenders to be detained for up to 24 hours. The DSO provision seeks to ensure that status offenders who have not committed criminal offense are not held in secure juvenile facilities for extended periods of time or in secure adult facilities for any length of time. These children, instead, should receive community-based services, such as day treatment or residential home treatment, counseling, mentoring, alternative education and job development support.

Adult Jail and Lock-up Removal

Youth may not be detained in adult jails and lock-ups except for limited times before or after a court hearing (6 hours), in rural areas (24 hours plus weekends and holidays), or in unsafe travel conditions. This provision does not apply to children who are tried or convicted in adult criminal court of a felony level offense. This provision is designed to protect children from psychological abuse, physical assault and isolation. Children housed in adult jails and lock-ups have been found to be eight times more likely to commit suicide, two times more likely to be assaulted by staff, and 50 percent more likely to be attacked with a weapon than children in juvenile facilities according to U.S. Department of Justice studies.

"Sight and Sound" Separation

When children are placed in an adult jail or lock-up, as in exceptions listed above, "sight and sound" contact with adults is prohibited. This provision seeks to prevent children from

psychological abuse and physical assault. Under "sight and sound," children cannot be housed next to adult cells, share dining halls, recreation areas or any other common spaces with adults, or be placed in any circumstances that could expose them to threats or abuse from adult offenders.

Disproportionate Minority Contact (DMC)

States are required to assess and address the disproportionate contact of youth of color at all points in the justice system - from arrest to detention to confinement. Studies indicate that youth of color receive tougher sentences and are more likely to be incarcerated than white youth for the same offenses. With youth of color making up one-third of the youth population but two-thirds of youth in contact, this provision requires states to gather information and assess the reason for disproportionate minority contact.

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JJDPa Core Protections:

1. Deinstitutionalization of Status Offenders (DSO)

The JJDPa mandates that status offenders and non-offenders may not be locked up. The JJDPa states that youths who commit “status offenses,” shall not be placed in secure detention or correctional facilities.^{xxxvii} Status offenses are acts that would not be offenses if committed by an adult. Status offenses include: running away, truancy, curfew violations, and general offenses of “incurability” or “disobedience”.^{xxxviii} Youths who have committed no offense and are aliens or alleged to be neglected or abused may not be placed in secure facilities under the JJDPa.^{xxxix} State failure to comply with this requirement could result in a 20% reduction in its formula grant under the JJDPa.^{xi}

The DSO requirement was designed to help youth in trouble. The Senate committee report accompanying the original 1974 version of this act describes the DSO requirement as allowing children to receive the services that they need through the appropriate human services agency, while freeing the juvenile justice system to focus on children engaging in criminal behavior.^{xii}

^{xxxvii} 42 U.S.C. § 5633 (a)(11) 2006.

^{xxxviii} Alecia Humphrey, *The Criminalization of Survival Attempts: Locking up Female Runaways and Other Status Offenders*, 15 *Hastings Women’s L. J.* 165, 166-167 (2004).

^{xxxix} 28 C.F.R. §31.303(c) 2006.

^{xi} 42 U.S.C. § 5633 (c) 2006.

^{xii} S. Rep. No. 93-1011, at 5287-88 (1974).

Girls are disproportionately affected by status offense statutes. Status offenses disproportionately affect girls, who are 170% more likely to be arrested for status offenses than boys and receive more severe punishment than boys.ⁱ Criminalization of status offenses through the “violation of court order” exception may contribute to the increasing numbers of girls in the criminal justice system. For example, female admissions to secure detention in Pennsylvania increased by 32% between 1997 and 2003.^{xiii}

The intent of the DSO requirement relies on the presence of adequate alternatives to detention. Children who commit status offenses may have unmet mental health or educational needs or may have dysfunctional families and need support. If the alternatives to incarceration used by the state (which may include placement in a non-secure facility, probation or referral to community-based support programs) do not meet these needs, youth are more likely to re-offend. If the repeat offense violates a court order, the child is no longer protected by the DSO requirement and may be incarcerated.

Detention is expensive and less cost-effective than detention alternatives. Detention costs between \$32,000 and \$65,000 per year per bed, many times

^{xiii} Susanna Zawacki, “Girls Involvement in Pennsylvania’s Juvenile Justice System,” *Pennsylvania Juvenile Justice Statistical Bulletin*, Oct. 2005 at. 1.

more than the cost of detention alternatives.^{xliii} Higher benefits per dollar spent are realized by detention alternatives like mentoring problems, aggression replacement training and therapy.^{xliv}

Detention contributes to recidivism.

Children in detention are exposed to negative influences in detention.^{xlv} Children may respond to the stigma of detention and the resulting negative expectations of others by acting in an unacceptable manner.^{xlvi} In Wisconsin, 70% of youth held in secure detention were arrested or returned to secure detention within a year.^{xlvii} Community based alternatives are often a better option. For example, young people involved in Texas community-based placements were found to be 14% less likely to commit future crimes than youth that have been incarcerated.^{xlviii}

Detention interrupts education and negatively affects future employment.

Youth have limited access to educational and job training programs while incarcerated.^{xlix} Detained youth often fail to return to school after release. ¹Incarceration impairs a child's

^{xliii} Barry Holman and Jason Zeidenberg, *The Dangers of Detention*, Justice Policy Institute, 2006 at 11.

^{xliv} Holman, *supra* note xliii at 11.

^{xlv} Jennie Rabinowitz, Note: Leaving Homeroom on Handcuffs: Why and Over-Reliance on Law Enforcement to Ensure School Safety is Detrimental to Children, 4 *Cardozo Pub. L. Pol'y & Ethics J.* 153, 170 (2006); Holman, *supra* note xliii at 5.

^{xlvi} Rabinowitz, *supra* note xlv at 169.

^{xlvii} Holman, *supra* note xliii at 4.

^{xlviii} Holman, *supra* note xliii at 6.

^{xlix} Rabinowitz, *supra* note xlv at 169.

¹ Holman, *supra* note xliii at 9

ability to achieve stable employment, increasing the likelihood of recidivism.ⁱⁱ

Detention aggravates mental health problems. Approximately two-thirds of children in detention have a mental disorder. The conditions of detention, including crowding and violence, contributes to high rates of depression and suicidal thoughts.ⁱⁱⁱ

Statutory exceptions to the DSO requirement limit its effectiveness. The JJDPa allows youths who possess a handgun, violate a valid court order, or who are held in accordance with an Interstate Compact on Juveniles to be jailedⁱⁱⁱⁱ The valid court order exception was added to the JJDPa in the 1980's to allow judges to incarcerate repeat status offenders.

Status offenders may not have access to due process protections provided to other offenders, including the right to counsel written notice of charges, cross examination, privilege against self-incrimination and appellate review.^{liv} Status offenders are rarely represented by counsel.^{lv} Status offenders often do not have parents advocating on their behalf (some status offenders are turned over to the juvenile justice system by their parents).^{lvi} Without an advocate, children may not get access to services they deserve.

ⁱⁱ Rabinowitz, *supra* note xlv at 170.

ⁱⁱⁱ Holman, *supra* note xliii at 11.

ⁱⁱⁱⁱ 42 U.S.C. § 5633 (a)(11)(A) 2006.

^{liv} Humphrey, *supra* note xxxviii at 168.

^{lv} Humphrey, *supra* note xxxviii at 171-172.

^{lvi} Humphrey, *supra* note xxxviii at 172.

Massachusetts’s Child In Need of Services (CHINS) Program. The CHINS program provides status offenders with a right to counsel and appoints counsel for children who cannot obtain a lawyer themselves. The attorney serves as an advocate to ensure the child receives appropriate services.^{lvii}

Lack of public information and data makes state compliance difficult to monitor. States must submit plans and reports under the JJDPa about their compliance with the core requirements. Few states make these plans and reports public. Public availability of this information would improve public oversight of state juvenile justice system.

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^{lvii} Michael Kilkelly, Child Welfare Practice in Massachusetts: Children in Need of Services Proceedings, Massachusetts Continuing Legal Education §§18.1, 18.5 (2006).

2. Removal of Youth from Adult Jails and Lock-ups

Youth should not be placed in adult jails or lock-ups. The JJDPa prohibits placement of youth in adult jails.^{lviii} ^{lix} With limited exceptions, youths accused of non-status offenses also may not be detained or confined with adults.^{lx} State failure to comply with this requirement results in a 20% reduction in its formula grant under Title II of the JJDPa.^{lxi}

There are limited exceptions allowing youth to be placed in adult jails. The JJDPa generally prohibits states from placing detained or confined youths in adult facilities, regardless of the child's offense.^{lxii} State failure to comply with this requirement could result in a 20% reduction in its formula grant under Title II of the JJDPa.^{lxiii} However, youths who are accused of non-status offenses may be detained in an adult facility for a short period (less than 6 hours) for processing, release, while awaiting transfer to a juvenile facility, or for a court appearance.^{lxiv} Youths awaiting an initial court appearance and are located in a rural area where no alternative placement exists, where distances create a delay in

initial court appearance, or where travel conditions are temporarily unsafe for travel allowing the court appearance or transfer to a juvenile facility, may be placed in an adult facility for 48 hours.^{lxv}

The number of youth in adult jails is increasing. Between 1990 and 2004, the number of youth placed in adult jails has increased by 208%.^{lxvi} One in ten youths incarcerated on a given day is in adult jail.

Administrative regulations, in concert with state laws, have added exceptions that seem to undermine the intent of the JJDPa. The Department of Justice does not apply this requirement to children who are accused or convicted of a criminal felony and are under the jurisdiction of the criminal court system.^{lxviii} This exception allows youths, regardless of age, to be placed on adult jails under state waiver and transfer laws. 40 states have laws that allow children prosecuted in adult courts to be placed in adult jails.^{lxix}

Youth of color are disproportionately placed in adult jails. In 2002, 75% of children admitted to adult jails were youth

^{lviii} Status offenses are acts committed by juveniles that would not be offenses if committed by an adult. Status offenses vary by state, but may include: running away, school truancy, curfew violations, alcohol possession by a minor, and general offenses of "incurability" or "disobedience". Alecia Humphrey, *The Criminalization of Survival Attempts: Locking Up Female Runaways and Other Status Offenders*, 15 *Hastings Women's L. J.* 165, 166-167 (2004).

^{lix} 42 U.S.C. § 5633 (a)(12) 2006.

^{lx} 42 U.S.C. § 5633 (a)(13) 2006.

^{lxi} 42 U.S.C. § 5633 (c) 2006.

^{lxii} 42 U.S.C. § 5633(a)(13) (2006).

^{lxiii} 42 U.S.C. § 5633 (c) 2006.

^{lxiv} 42 U.S.C. § 5633(a)(13)(A) (2006).

^{lxv} 42 U.S.C. § 5633(a)(13)(B) (2006).

^{lxvi} Christopher Hartney, Fact Sheet, Youth Under 18 in the Adult Criminal Justice System, National Council on Crime and Delinquency, June 2006, available at http://www.nccd-crc.org/nccd/pubs/2006may_factsheet_youthadult.pdf

^{lxvii} Hartney, Fact Sheet, *supra* note lxvi.

^{lxviii} 28 C.F.R. §§31.303(d)(10)(v), 31.303(e)(2) 2006.

^{lxix} National Center for Juvenile Justice. October 2005. Vol. 8, No. 10, pp.3.

of color.^{lxx} For example, youth of color represent 15% of Wisconsin's youth population, but close to 70% of the youth in adult jails in the state.^{lxxi}

Keeping youth away from adults protects youth. Youth in adult jails face a heightened risk of assault, both by jail staff and adult prisoners.^{lxxii} The suicide rate for teens in adult prisons is 8 times higher than that for youth in juvenile facilities.

Evidence does not support the use of harsh, adult punishment to deter crime.^{lxxiii} Anti-social behavior in many youth is "adolescent-limited" and ends as the youth age.^{lxxiv} Incarceration may interrupt this process by separating the child from schools, community, and work environments that encourage mature behavior.^{lxxv} Harsh punishment contributes

^{lxx} National Council on Crime and Delinquency, And Justice for Some: Differential Treatment of Youth of Color in the Criminal Justice System, January 2007.

^{lxxi} WI- Robert Nikolay, Budget Director, Wisconsin Department of Corrections.

^{lxxii} Robert E. Shepherd, Recapturing the Child in Adult Court, 16 Criminal Justice 58,60, Winter 2002; See also Christopher Hartney, Fact Sheet, Youth Under 18 in the Adult Criminal Justice System, National Council on Crime and Delinquency, June 2006, available at http://www.nccd-crc.org/nccd/pubs/2006may_factsheet_youthadult.pdf

^{lxxiii} MacArthur Issue Brief #5 "The Changing Borders of Juvenile Justice: Transfer of Adolescents to the Adult Criminal Court." September, 2006.

^{lxxiv} Hillary Massey, Note, Disposing of Children: The Eighth Amendment and Juvenile Life without Parole After Roper, 47 B.C. L. Rev. 1083, 1093(2006).

^{lxxv} Barry Holman and Jason Zeidenberg, The Dangers of Detention, Justice Policy Institute, 2006 at 6.

to recidivism and decreased job stability.^{lxxvi}

Some children held in adult jails before trial are not convicted as adults. Some children held in adult jails are ultimately transferred back to juvenile court or have their cases dismissed.^{lxxvii}

Adult jails do not offer age appropriate services for youth which are available in juvenile facilities. Despite high rates of mental illness, children in adult facilities are less likely to receive counseling or therapy.^{lxxviii} Children also have reduced access to educational services and job training.^{lxxix} Access to education, including special education services, is crucial, since most incarcerated youth will be released and need to earn a living.^{lxxx}

Youths tried as adults do not need to be placed in adult facilities. California's laws result in many youthful offenders being tried as adults. California policy, however, bans the placement of sentenced youthful offenders in adult facilities, so these youth are placed in juvenile facilities until they reach the age of majority.

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^{lxxvi} See Jennie Rabinowitx, Note, Leaving Homeroom in Handcuffs: Why an Over-reliance on Law Enforcement to ensure School Safety is Detrimental to Children, 4 Cardozo Pub. L. Pol'y & Ethics J. 153, 170 (2006).

^{lxxvii} Juskiewicz, Jolanta. Building Blocks for Youth. "Youth Crime Adult Time: Is Justice Served?" October 2000.

^{lxxviii} *Id.* at 18.

^{lxxix} Hartney, Fact Sheet, *supra* note lxxvi.

^{lxxx} See Harriet R. Morrison and Beverly D. Epps, *Warehousing or Rehabilitation? Public Schooling in the Juvenile Justice System*, 71 J. Negro Edu. 218, 224-25 (2002).

3. “Sight and Sound” Separation of Youth and Adults in Jails and Lock-ups

The JJDPa allows some youths to be placed in adult jails. The JJDPa generally prohibits states from placing detained or confined youths in adult facilities.^{lxxxix} However, youths who are accused of non-status offenses may be detained in an adult facility for a short period (less than 6 hours) for processing, release, while awaiting transfer to a juvenile facility, or for a court appearance.^{lxxxix} Youths awaiting an initial court appearance and are located in a rural area where no alternative placement exists, is located in an area where distances create a delay in initial court appearance, or is located where travel conditions are temporarily unsafe for travel allowing the court appearance or transfer to a juvenile facility, may be placed in an adult facility for 48 hours.^{lxxxix}

Youths in adult jails and lock-ups should not be able to hear or see adult inmates. The JJDPa forbids contact between adult and youth offenders.^{lxxxix} Regulations under the JJDPa prohibit clear visual contact between adult and youth inmates (sight separation) and prohibit direct oral communication between incarcerated adults and youth offenders (sound separations).^{lxxxix}

Sight and sound separation protects children from mistreatment by adult offenders and exposure to adult offender

^{lxxxix} 42 U.S.C. § 5633(a)(13) (2006).

^{lxxxix} 42 U.S.C. § 5633(a)(13)(A) (2006).

^{lxxxix} 42 U.S.C. § 5633(a)(13)(B) (2006).

^{lxxxix} 42 U.S.C. § 5633 (a)(13) 2006.

^{lxxxix} 28 C.F.R. §31.303(d) (2006).

behavior. Youth in adult jails face a heightened risk of assault.^{lxxxix} Youth can be harmed even when physical contact is prevented. For example, a 15 year old in Virginia was housed in an adult jail for 9 months between 2005 and 2006. While in adult jail, he witnessed a suicide attempt and was placed in a cell unit with a sex offender.^{lxxxix}

The sight and sound separation requirement is an imperfect solution. Youths in adult jails who are separated from adult populations are often isolated, exacerbating mental health problems and increasing likelihood that the youth will attempt suicide. However, contact with adult offenders puts children at risk. The suicide rate for teens in adult prisons is 8 times higher than that for youth in juvenile facilities.

Department of Justice regulations allow collocation of adult and juvenile facilities.^{lxxxix} Total separation between youths and adults is required in collocated facilities.^{lxxxix} Correctional employees who work in both adult and juvenile facilities

^{lxxxix} Robert E. Shepherd, Recapturing the Child in Adult Court, 16 Criminal Justice 58,60, Winter 2002; See also Christopher Hartney, Fact Sheet, Youth Under 18 in the Adult Criminal Justice System, National Council on Crime and Delinquency, June 2006, available at http://www.nccd-crc.org/nccd/pubs/2006may_factsheet_youthadult.pdf

^{lxxxix} Michael Owens, *OK given for teen to leave adult jail*, The News Virginian, July 20, 2006.

^{lxxxix} 28 C.F.R. §31.303(e)(3) 2006.

^{lxxxix} 28 C.F.R. §31.303(e)(3) 2006.

must be trained and certified to work with youth.^{xc}

Regulatory exceptions increase youth contact with incarcerated adults. The Department of Justice does not apply the “sight and sound” requirement to children accused or convicted of a criminal felony if they are under the jurisdiction of the adult criminal court system.^{xcⁱ} This regulation allows youths, regardless of age, to be placed on adult jails.

The sight and sound requirement is not applied to children under the jurisdiction of adult courts.^{xcⁱⁱ} Thus children transferred to adult court systems through state statutory waiver or transfer provision can be mixed into the general jail population, endangering their physical and mental health and safety.’

The “sight and sound” requirement reflects U.S. responsibilities under its international obligations. The U.S. is a party to the International Covenant on Civil and Political Rights, which gives states the responsibility to ensure the separation of youth and adults in the criminal justice system.^{xcⁱⁱⁱ}

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^{xc} 42 U.S.C. § 5633 (a)(12) 2006.

^{xcⁱ} 28 C.F.R. §§31.303(d)(10(v), 31.303(e)(2) 2006.

^{xcⁱⁱ} National Council on Crime and Delinquency, And Justice for Some: Differential Treatment of Youth of Color in the Criminal Justice System, January 2007 at 34.

^{xcⁱⁱⁱ} Hillary J. Massey, Note: Disposing of Children: The Eighth Amendment and Juvenile Life without Parole after Roper, 47 B.C. L. Rev. 1083, 1115 (2006). The U.S. did make add a reservation to the Covenant when it became a party, allowing it treat youth as adults in the justice system.

4.Reduction of Disproportionate Minority Contact (DMC)

States are required to design efforts to reduce the disproportionate contact of youth of color with the juvenile justice system.⁹⁴ Since 1988, the JJDPa has required states to make an effort to reduce the number of youth of color detained and confined if the proportion of youth of color in secure facilities exceeds the proportion of youth of color in the state population at large.⁹⁵ States failure to formulate effective policies can jeopardize 20% of their formula grant funding under Title II of the JJDPa.⁹⁶

Youth of color are disproportionately represented in all stages of the juvenile justice system. The rates of overrepresentation increase as children go through the system.⁹⁷ Youth of color are overrepresented in arrest data for most offenses.⁹⁸ African-American and Native American are more likely to be referred to court after arrest.⁹⁹ African-Americans are less likely than their white counterparts to receive probation, rather than placement

⁹⁴ 42 U.S.C. § 5633(a)(22) (2006).

⁹⁵ 28 C.F.R. § 31.303(j) (2006).

⁹⁶ 42 U.S.C. § 5633 (c) (2006)

⁹⁷ While African-Americans are slightly more likely to be arrested than whites, they are much more likely to be sent to adult prisons. Jennie Rabinowitz, Note, Leaving Homeroom in Handcuffs: Why an Over-reliance on Law Enforcement to ensure School Safety is Detrimental to Children, 4 Cardozo Pub. L. Pol’y & Ethics J. 153, 172 (2006).s

⁹⁸ National Council on Crime and Delinquency, And Justice for Some: Differential Treatment of Youth of Color in the Criminal Justice System, January 2007 at 6.

⁹⁹ *Id.* at 8 (rather than having their cases dismissed or otherwise disposed of.).

in a secure facility.¹⁰⁰ African-American youth are five times more likely to be incarcerated than white youth.¹⁰¹ Latino youth are also more likely to be incarcerated compared to white youth.¹⁰² African-American youth are overrepresented in juvenile detention facilities in most states.¹⁰³

DMC affects communities of color as well as individual youth. Youth of color are more likely to receive out of home placements.¹⁰⁴ Disproportionate convictions and incarceration lead to decreased wage earnings and lower job security, affecting the economy of disproportionately affected communities.

Evidence of disproportionate minority contact appears in all states.¹⁰⁵ In Utah, African-American youth are 2.5 times more likely to be arrested than white youth.¹⁰⁶ In Massachusetts, 58% of new detention cases were youth of color in 2003, even

¹⁰⁰ *Id.*

¹⁰¹ Marian Wright Ederlman, James M Jones, Separate and Unequal: American’s Children, Race and Poverty, 14 The Future of Children, 134, 135 (2004).

¹⁰² National Council on Crime and Delinquency, *supra* note 98 at 23

¹⁰³ National Council on Crime and Delinquency, *supra* note 98 at 2; Office of Juvenile Justice and Delinquency Prevention, *Authorizing Legislation*, <http://ojjdp.ncjrs.org/about/legislation.html>

¹⁰⁴ National Council on Crime and Delinquency, *supra* note 98 at 20.

¹⁰⁵ Barry Holman and Jason Zeidenberg, The Dangers of Detention, Justice Policy Institute, 2006 at 12.

¹⁰⁶ Utah Board of Juvenile Justice, Annual Report, 2005, available at <http://www.juvenile.utah.gov/Reports/AnnualReport/UBJJ2005.pdf>.

though youth of color represent only 24% of the state youth population.¹⁰⁷ In Wisconsin, African-American youth are 19 times more likely to be admitted to an adult jail, compared to white youth.¹⁰⁸ A study of several counties in rural Texas found DMC at arrest, pre-adjudication detention, and disposition.¹⁰⁹ Vermont, which formerly did not have evidence of DMC, has found evidence of DMC at arrest and detention since 2000.¹¹⁰

Between 1997 and 2003, the percentage of youth of color incarcerated in juvenile detention facilities dropped more rapidly than that of white youth.¹¹¹ This suggests that the DMC requirement is creating some changes in juvenile justice systems, although there is still much room for improvement.

Youth of color are also more likely to be placed in adult jails. In 2002, 3 out of 4 youths under age 18 admitted to adult jails were youth of color.¹¹² African-American, Latino and Native American youth are

¹⁰⁷ Massachusetts Executive Office of Public Safety, Massachusetts Juvenile Justice Data and Information, Commonwealth of Massachusetts, Dec. 2004 at 22.

¹⁰⁸ National Council on Crime and Delinquency, *supra* note 98.

¹⁰⁸ National Council on Crime and Delinquency, *supra* note 98 at 36.

¹⁰⁹ H. Elaine Rodney, et. al. *Over-Representation of Minorities in the Juvenile Justice System; Three Counties in Rural Texas*, 68 Fed. Probation 44, 46-47 (Dec. 2004).

¹¹⁰ Department of Children and Families, Summary OJDP Fiscal Years 2006-2008 Comprehensive 3-Year Plan, March 30, 2006 at.5.

¹¹¹ Howard N. Snyder and Melissa Sickmund, *Juvenile Offenders and Victims: 2006 National Report*, Office of Juvenile Justice and Delinquency Prevention, Department of Justice, 2006 at 211.

¹¹² National Council on Crime and Delinquency, *supra* note 98.

admitted to jails at higher rates than whites.¹¹³

Data is needed to understand DMC and create effective policy solutions. Pennsylvania is improving its DMC data collection and analysis to identify decision points in the juvenile justice system where race may be a factor and to use this information to implement data-driven policy changes that can serve as models for other states.¹¹⁴

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¹¹³ National Council on Crime and Delinquency, *supra* note 98 at 34.

¹¹⁴ Juvenile Justice and Delinquency Prevention Committee, Pennsylvania Juvenile Justice and Delinquency Prevention Plan Update, March 2006 at 18.

Disproportionate Minority Contact (DMC)

How should the DMC Core Protection be strengthened?

The DMC core protection should be strengthened by requiring States to take concrete steps to reduce racial and ethnic disparities in the juvenile justice system. Jurisdictions that have been effective in reducing racial and ethnic disparities shared several elements. Based on evidence of what works, States should be required to:

1. Establish coordinating bodies to oversee efforts to reduce disparities;
2. Identify key decision points in the system to determine which points create disparities;
3. Create systems to collect local data at every point of contact youth have with the juvenile justice system (disaggregated by descriptors such as race, ethnicity and offense) to identify where disparities exist and the causes of those disparities;
4. Develop and implement plans to address disparities that include measurable objectives for policy or practice change that are based on data; and
5. Publicly report findings and progress in efforts to reduce disparities on an annual basis.

Why are these changes needed?

Research consistently indicates that racial and ethnic disparities continue to exist within the juvenile justice system: youth of color are treated more harshly than white youth, even when charged with the same category of offense.

Moreover, youth of color are overrepresented at each point of contact within the juvenile justice system, and often the disparity is cumulative as youth proceed through the decision system from arrest to secure placement to transfer to adult court.¹¹⁵ A 2007 study of decision points in the juvenile justice system found that youth of color represented 28% of youth arrests, 37% of those who were detained, 35% of those who were transferred to criminal court, and 58% of those admitted to state prisons.¹¹⁶

According to a 2010 one-day count of detention facilities within the United States¹¹⁷, youth of color are significantly overrepresented in the juvenile detention facilities.

¹¹⁵ Hartney, C. and Vuong, L. (2009). *Created Equal: Racial and Ethnic Disparities in the U.S. Criminal Justice System*. National Council on Crime and Delinquency. Oakland.

¹¹⁶ National Council on Crime and Delinquency. (2007). *And Justice for Some: Differential Treatment of Youth of Color in the Justice System*. Oakland. Available: http://www.nccdcrc.org/nccd/pubs/2007jan_justice_for_some.pdf.

¹¹⁷ Sickmund, M., Sladky, T.J., Kang, W., and Puzzanchera, C. (2011) "Easy Access to the Census of Juveniles in Residential Placement." Online. Available: <http://www.ojjdp.gov/ojstatbb/ezacjrp/>

- *For every 10,000 White youth in the U.S., 3 were in detention.*
- *For every 10,000 African American youth in the U.S., 17 were in detention.*
- *For every 10,000 Native American youth in the U.S., 9 were in detention.*
- *For every 10,000 Latino youth in the U.S., 8 were in detention.*

African American youth are more than five times as likely as White youth to be securely detained; Native American youth are three times as likely as White youth to be securely detained; and Latino youth are almost three times as likely as White youth to be securely detained. In addition, African American youth are incarcerated for twice as long as White youth for drug offenses and are one and a half times more likely to be transferred to the adult system and admitted to adult prison.¹¹⁸ African American youth are 62% of the youth prosecuted in the adult criminal justice system and are nine times more likely than White youth to receive an adult prison sentence. Latino children are 43% more likely than White youth to be waived to the adult system and 40% more likely to be admitted to adult prison.

Despite the fact that states have been charged with the federal mandate to address DMC since 1988, too few successes have been documented. This is due, in large part, to the law's lack of guidance, clarity, and accountability. The DMC core requirement of the JJDPa should be strengthened to provide states with concrete guidance and informed by documented successes for effectively lowering DMC.

Why will these recommended provisions make a difference?

The recommended provisions are developed from steps which have demonstrated effectiveness in jurisdictions engaged in targeted DMC reduction work.

1. The work involved in reducing racial and ethnic disparities requires a committee exclusively dedicated to overseeing and monitoring state efforts to reduce disparities and offering guidance and support to local jurisdictions in their efforts to reduce disparities.

State Advisory Groups (SAGs), the governor-appointed entities responsible for administering and managing federal funds allocated in the JJDPa, have numerous responsibilities and are often stretched thin in order to accomplish them. Some SAGs have DMC subcommittees, but for those that do not, it is uncommon that SAGs can devote the time needed to oversee and guide implementation of statewide DMC-reduction strategies. All states need a body of individuals committed to DMC reduction guiding this focused work.

California's Formula Grants are administered by the Board of State and Community Corrections (BSCC) (formerly the Corrections Standards Authority) which leads the State's DMC efforts and monitors all ongoing local efforts to address DMC. The BSCC's DMC subcommittee includes juvenile justice practitioners and experts with experience in successfully reducing racial and ethnic disparities. Reducing racial and ethnic disparities is interwoven into requirements for all juvenile justice-related federal funding streams

¹¹⁸ National Council on Crime and Delinquency. (2007). *And Justice for Some: Differential Treatment of Youth of Color in the Justice System*. Oakland. Available: http://www.nccdcrc.org/nccd/pubs/2007jan_justice_for_some.pdf.

administered by the state, and more than one third of California's Title II award is allocated specifically to reduce disparities.

California uses a multi-faceted approach to reducing disparities which includes direct service, education, and support and advocacy. The direct services component currently includes a three-phase competitive grant awarded to seven counties. The grant is designed to assist probation departments in understanding how to identify DMC, and to equip them with the tools and resources necessary to provide leadership in a collaborative effort to reduce DMC involving traditional and nontraditional stakeholders throughout the county. The education component includes DMC training to grantees receiving federal juvenile justice-related funding and pilot projects as needed. The state provides the support and advocacy component through strategic technical assistance that allows stakeholders to develop innovative, low-cost DMC interventions throughout the State.

In California, we recognize that reducing racial and ethnic disparities is a uniquely local issue. However, in California we also realize that without guidance, local jurisdictions are unclear how to tackle the issue of racial and ethnic overrepresentation. A committee that is designated exclusively to reducing disparities is necessary to provide critical guidance and support for local jurisdictions in their work to reduce disparities.

-Shalinee Hunter, CA State DMC Coordinator

2. Analysis at each decision point is needed so that targeted policy and programmatic changes can be implemented.

To ensure that strategies for reducing racial and ethnic disparities are based on evidence rather than perceptions, it is critical that States collect and analyze data at each juvenile justice decision point. In a meta-analysis of studies on race and the juvenile justice system, researchers found that almost three-quarters of the studies of DMC showed unwarranted racial disparity in at least one decision point in the juvenile justice process.¹¹⁹ Analysis of all juvenile justice decision making points sheds light on the entire system flow equally, and thus minimizes opportunities for blame.

¹¹⁹ Pope, C.E., Lovell, R., & Hsia, H.M. (2002). *Disproportionate Minority Confinement: A Review of the Research Literature from 1989 through 2001*. OJJDP: Washington, DC.

The Tucson, Arizona Police Department has engaged in intensive work to reduce racial and ethnic disparities. In DMC work, the police are often the first to blame. In our experience, however, the opposite was true. The collection and analysis of data encourage open dialogue that is based on fact, not politics. In doing so, we avoided the 'blame game' and 'finger pointing,' The analysis helped our department learn what we are doing well, and where we need to dig deeper to investigate whether local policy and practice have a disparate impact on youth of color.

-Rick Wilson, Lieutenant, Tucson Police
Department

Data regarding Latino involvement in the juvenile justice system are particularly inadequate. In many parts of the country there are no accurate data on the number of Latino youth in the juvenile justice system. Instead, Latino youth are counted as "white" or "black," resulting in significant undercounting of Latino youth.¹²⁰ Although some data on Latino youth are available, they may not represent the full extent of disparate treatment for Latino youth in the juvenile justice system because some jurisdictions mix their counting of race and ethnicity. In these jurisdictions, Latino youth must choose between reporting their race and their ethnicity because the systems do not have capacity to report both (for example, that a youth is both African American and Latino).¹²¹ With accurate data, disaggregated by race *and ethnicity*, communities can plan and coordinate culturally- and linguistically-appropriate services that are effective for youth and their families.¹²²

The argument has been made that minority youth are overrepresented in the juvenile justice system simply because youth of color commit more crime. Careful data collection and analysis reveals that this is generally not the case. A more likely scenario is that DMC is driven by a group of factors that are at work simultaneously. System factors could include: selective police surveillance and enforcement practices, differential opportunities for early prevention and treatment, differential handling of minority youth, indirect effects of juvenile justice policies, legislative changes, administrative policies, and legal factors.¹²³ All of these drivers of racial and ethnic disparity can be remedied through data-driven interventions.

3. To have an impact on racial and ethnic disparities, jurisdictions need to engage in routine data collection and analysis that can guide implementation of meaningful solutions.

In many jurisdictions, race and ethnicity data currently collected are not used to guide policy and practice changes aimed at reducing racial and ethnic disparities. Nearly all states collect

¹²⁰ *Id.* at p. 1.

¹²¹ Villarruel, Francisco A.; Walker, Nancy; et al., (July 2002) *¿Dónde Está la Justicia? A call to action on behalf of Latino and Latina youth in the U.S. justice system*, p. 42-44. Available: <http://www.buildingblocksforyouth.org/Full%20Report%20English.pdf>.

¹²² *Id.*

¹²³ Nellis, A. (2005). *Seven Steps to Develop and Evaluate Strategies to Reduce Disproportionate Minority Contact (DMC)*. Washington, DC: Justice Research and Statistics Association.

some form of data, including the Relative Rate Index required by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to identify whether and to what extent racial and ethnic disparities exist within their juvenile justice systems. In a 2008 survey of DMC coordinators, 97% of respondents (N=33) reported that data collection and analysis efforts were underway in their states.¹²⁴ However, many state officials and juvenile justice stakeholders are concerned that the collection of data is where DMC reduction efforts often begin and end. Moreover, many jurisdictions are unclear how to use the data to effect change. The survey also revealed that only 27% of states examine seemingly race-neutral policies and practices that might drive DMC.

We have successfully collected Relative Rate Index data, but the data have little utility for real change at the local level. In order to effect real change locally, we would need to look behind the numbers to learn where disparities exist. For many jurisdictions, it seems like the data collection is an exercise, not a mechanism to review where we can take action to reduce disparities. In addition, some jurisdictions within the State have expressed reservations regarding the accuracy of the data collected. If we had a better system that required more than simply the collection of data, we might engage in a conversation that would surface any inaccuracies and allow us to move forward in digging deeper into the data.

-Maurice Nins, Minnesota Juvenile Justice Specialist

4. Jurisdictions must implement policy and practice changes designed to address their identified disparities, and monitor progress on an ongoing basis.

Data collection and analysis are critical to understanding the presence and severity of DMC, but the work cannot end there. Jurisdictions must have the political will to change policy and practice, and implement the solutions they have identified. Jurisdictions around the country have achieved measurable reductions in racial and ethnic disparities by implementing data-driven strategies that are guided by collaborative groups of traditional and nontraditional juvenile justice stakeholders. Following are examples of some of these successes:

- **Pierce County, Washington** reduced its detention admissions for probation violations between 2008 and 2011, particularly for Black youth. The county also reduced the disparity gap in admissions to secure detention between White and Black youth. The collaborative used risk assessment instrument data to identify and dig deeper into disparate treatment of Black youth and to identify unnecessary use of detention in the county.
- **Pima County, Arizona** reduced its detention admissions for domestic violence referrals between 2004 and 2011 by 90 percent, which particularly benefited Latino youth. Admission rates decreased by 65% in this time period for the entire youth population, decreasing by 76% for Black and Native American youth, 65% for Latino youth, and 61% for

¹²⁴ CJJ Survey for ECD, 2008.

White youth. The collaborative analyzed referral and admissions data to identify high numbers of youth of color that were being admitted to detention inappropriately for misdemeanor domestic violence referrals.

- **Ramsey County, Minnesota** eliminated its detention admissions due to “waivers” between 2006 and 2010. Waivers are short term detentions as a sanction for youth on intensive and enhanced probation. The policy and practice changes that the county has implemented over the past seven years, including the elimination of waivers, have significantly reduced the use of detention in the county for Black youth.
- **Baltimore City, Maryland** reduced its detention admissions, which are heavily Black, after implementing an intervention to address “parent related issues.” According to an evaluation, 41% of participants in the intervention were released from detention in contrast to just 1% of comparison youth who met the program’s eligibility criteria in the year prior to the start of the program. The collaborative used detention risk assessment instrument data to identify youth who were overridden into detention and unnecessarily detained.
- **Monmouth County, New Jersey** reduced admissions to secure detention for probation violations between 2009 and 2011 by implementing a program called Community Coaches. Admissions rates decreased by 48% for Black youth and decreased by 73% for Latino youth. The collaborative focused on the unnecessary use of detention as its strategy for identifying its target population of Black youth detained for violations of probation.
- **Peoria County, Illinois** examined data from school referrals to the police and determined that the county’s disparities were aggravated by school discipline policies that had a disparate impact on youth of color. The county successfully reduced disproportionate referrals of youth of color to the juvenile justice system by working with the school system to strengthen school-based conflict resolution protocols.¹²⁵
- **Travis County, Texas** analyzed probation data which showed racial and ethnic disparities in the detention of youth who violated probation. The county reduced its disproportionate incarceration of youth of color who violated probation by establishing a Sanction Supervision Program, which provides more intensive case management and probation services to youth and their families.¹²⁶
- **Pennsylvania** implemented a system of statewide juvenile justice data collection procedure in 2006 that captured ethnicity separately from race.¹²⁷ **Berks County, Pennsylvania** found disproportionate representation of youth of color in both detention and secure placement. Through development of a detention risk assessment instrument and an evening reporting center as an alternative to detention, the county reduced its detention population by 45%. The county’s introduction of multisystemic therapy, an evidence-based treatment program for youth and their families in their own homes, along

¹²⁵ Conversation with Laurie Brown, Peoria County Site Coordinator, August 6, 2007.

¹²⁶ Conversation with Britt Canary, Travis County Juvenile Probation Department, April 4, 2008.

¹²⁷ National Center for Juvenile Justice (2006). *Guidelines for Collecting and Recording the Race and Ethnicity of Juveniles in Conjunction with Juvenile Delinquency Disposition Reporting to the Juvenile Court Judges’ Commission*. Available: http://www.jcjc.state.pa.us/jcjc/lib/jcjc/publications/cclp001-race_booklet.pdf

with promotion of other alternatives to incarceration, significantly dropped the population of youth in residential placement.

- *Santa Cruz County, California* found ethnic disparities in detention and subsequently reduced disproportionate admissions to detention of Latino youth by focusing on reducing admissions for youth who were initially detained by probation but released by the Judge at first appearance. Development of alternatives to detention in a neighborhood from which many Latino youth entered the juvenile justice system helped reduce the detained population.¹²⁸
- *Baltimore County, Maryland* observed a racially disparate impact at the decision to detain youth who did not appear in court after receiving a bench warrant. The county instituted a call reminder program and subsequently reduced secure detention of African American youth by 50%.¹²⁹

5. Jurisdictions are eager to learn about how other counties and states have successfully reduced racial and ethnic disparities. Annual public reporting of DMC reduction efforts and progress would assist practitioners in learning about successes and challenges that can inform their future efforts.

Ensuring that monies allocated for work to reduce racial and ethnic disparities are being used effectively requires transparency. Requiring that states publicly report their efforts to reduce disparities is an essential component of holding systems accountable for their outcomes.

Moreover, states and local jurisdictions throughout the nation are at different stages in their current efforts to reduce racial and ethnic disparities. Some jurisdictions have sustained reductions of disparities in targeted populations for years, and some jurisdictions have yet to identify whether racial and ethnic disparities exist. Jurisdictions at all stages of this work can benefit from learning about successful efforts in other places.

¹²⁸ Conversation with Scott MacDonald, Santa Cruz County Probation Department, February 13, 2008.

¹²⁹ Conversation with Tiana Davis, Baltimore County DMC Coordinator, March 15, 2008.

Office of Juvenile Justice and Delinquency Prevention (OJJDP)

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) provides national leadership, coordination, and resources to prevent and respond to juvenile delinquency and victimization. OJJDP supports states and communities in their efforts to develop and implement effective and coordinated prevention and intervention programs and to improve the juvenile justice system so that it protects public safety, holds offenders accountable, and provides treatment and rehabilitative services tailored to the needs of juveniles and their families.

OJJDP serves children, families, and communities by working with others to, prevent delinquency and strengthen the juvenile justice system, and protect children and enhance public safety.

OJJDP, a component of the Office of Justice Programs, U.S. Department of Justice, accomplishes its mission by supporting states, local communities, and tribal jurisdictions in their efforts to develop and implement effective programs for juveniles. The Office strives to strengthen the juvenile justice system's efforts to protect public safety, hold offenders accountable, and provide services that address the needs of youth and their families.

OJJDP sponsors numerous research, program, and training initiatives; develops priorities and goals and sets policies to guide federal juvenile justice issues; disseminates information about juvenile justice issues; and awards funds to states to support local programming nationwide through its five components: the Office of the Administrator (under which fall two Offices of the Deputy Administrator), the State Relations and Assistance Division, the Child Protection Division, the Demonstration Programs Division, and the Office of Policy Development.

Juvenile Justice Funding

Federal Funding in Juvenile Justice

The federal government plays an essential role in preventing juvenile delinquency and improving the effectiveness of juvenile justice systems at the state, local, and tribal levels nationwide. When coupled with state, local and private dollars, federal investments seed and support the development, implementation and sustainability of optimal juvenile justice and delinquency prevention systems and practices in all 56 U.S. states, territories and the District of Columbia, as well as in local jurisdictions.

Title II State Formula Grants

Authorized by the Juvenile Justice and Delinquency Prevention Act (JJDP), Title II supports innovative state efforts to adhere to standards that reduce the risk of harm to court-involved youth, ensure fair treatment of minority youth, improve the way systems address delinquent behavior, and ensure citizen involvement and expertise through the State Advisory Groups.

- Title II Current Appropriation: \$44 million, down 50.5% since 2002
- Title II Investment Needed to Secure Our Future: At least \$80 million for the 56 U.S. states and territories

Title V Local Delinquency Prevention Program

Authorized by the JJDP, Title V is the original, and still one of the only, federal programs specifically designed to prevent delinquency at the local level. To ensure a solid return on investment, the Title V program prioritizes the use of evidence-informed approaches, requires coordination with a statewide plan to ensure strategic use of resources and leverages the commitment and resources of state and local jurisdictions by requiring that the state and local applicant provide a 50% match.

- Title V Current Appropriation: \$20 million, down 78.8% since 2002
- Title V Investment Needed to Secure Our Future: At least \$65 million, with no set-asides

The Juvenile Accountability Block Grant

Authorized by the Omnibus Crime Control and Safe Streets Act, the Juvenile Accountability Block Grant Program (JABG) reduces juvenile offending by providing judges, probation officers, case managers, law enforcement and other juvenile justice professionals a range of graduated sanctions for adjudicated youth - including cost-efficient confinement alternatives, for youth involved with the courts.

- JABG Current Appropriation: \$25 million, down 90% since 2002
- JABG Investment Needed to Secure Our Future: At least \$55 million for all 56 U.S. States and Territories)

What's at Stake?

Since FY 2002, federal investments in programs that prevent and reduce delinquency have decreased by almost 50%. At the same time, federal spending on policing, prosecution and incarceration has increased by more than 60%.

On average, it costs \$241 a day - around \$88,000 a year - to incarcerate a youth.¹³⁰ The return on this investment is an average recidivism rate of 55%.¹³¹ Conversely, evidence-based alternatives to incarceration for court-involved youth cost as little as \$11 a day and reduce recidivism by an average of 22% when compared to incarceration.¹³²

Cuts mandated by sequestration, will further weaken the federal state partnership and hobble national, state and local progress. When surveyed by the Coalition for Juvenile Justice, 89% of member states reported that due to federal cuts, fewer youth will have access to services designed to keep them from offending and penetrating deeper into the juvenile and criminal justice systems.

The Path to Public Safety: Youth, Family, and Community Success

To achieve a future where young people lead safe and productive lives, it is critical that we invest in it - even in times of belt-tightening. Therefore, the best federal role and wisest use of public resources is to invest in those things that prevent delinquency and effectively deal with youth in age- and developmentally appropriate ways.

Title II, Title V and JABG provide Congress with an opportunity to partner with states to chart a course for the safety and success of our nation's youth, families and communities. States are proving in small and big ways that these programs work to reduce delinquency, help youth transition safely to adulthood, and save taxpayers' money. Restoring and strengthening our investments in these programs will help secure America's future.

¹³⁰ Justice Policy Institute. (May 2009). *The Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense*.

¹³¹ Snyder, Howard N. and Melissa Sickmund. 2006. *Juvenile Offenders and Victims: 2006*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

¹³² *Supra* note 1.

Coalition for Juvenile Justice Juvenile Justice Historical Federal Funding Chart

	FY 13	% Change FY12 to FY13	% Change FY02 to FY13	WH FY 2014 Proposal	Senate FY 2014 Approp. Committee Proposal	House FY 2014 Approp. Committee Proposal
JJDP A Title II	\$44	+10%	-50.5%	\$70	\$50 ⁱ	\$20
JJDP A Title V (earmarked 90-100%)	\$20	0%	-78.8%	\$56 ⁱⁱ	\$35 ⁱⁱⁱ	\$0
JABG	\$25	-17%	-90%	\$30 ^{iv}	\$30 ^v	\$0
Juvenile Justice Realignment Incentive Grants	n/a	n/a	n/a	\$20 ^{vi}	Included as a set aside of Title V	n/a
Community-Based Violence Prevention Initiative	n/a	n/a	n/a	\$25 ^{vii}	\$11	n/a
National Forum on Youth Violence Prevention	n/a	n/a	n/a	\$4 ^{viii}	\$2 ^{vii}	n/a
Competitive Grants Focusing on Girls in JJ	n/a	n/a	n/a	\$2	\$2	n/a
Youth Mentoring	\$90	+15%	+462.5%	\$58	\$61	\$90
Other	\$100.5	+6%	+9.8%	\$125.5 ^{ix}	\$88 ^x	\$86 ^{vii}
TOTAL	\$279.5^{xi}	+6%	-48.9%	\$332.5	\$279^x	\$196^{xiii}

Federal Juvenile Justice Funding, in millions

ⁱ Of which \$5 hundred is set aside for emergency planning for juvenile detention facilities.

ⁱⁱ Of which \$20 million is for competitive grants to police and juvenile justice authorities in communities that have been awarded Dept. of Education School Climate Transformation Grants to collaborate on use of evidence-based positive behavior strategies to increase school safety and reduce juvenile arrests.

ⁱⁱⁱ 100% earmarked: \$10 million is set aside for tribal youth, \$5 million is set aside for gang and youth violence education and prevention, \$5 million is set aside for alcohol prevention, \$10 million is set aside for juvenile justice and education collaboration assistance, and \$5 million is set aside for juvenile justice realignment incentive grants.

^{iv} The WH budget couples the formula Byrne Justice Assistance Grant and JABG programs with competitive incentive grants that provide “bonus” funds to States and localities for better, evidence-based use of formula funds. The JABG grant should be considered in tandem with \$20 million for Juvenile Justice Realignment Incentive Grants, that will assist States pursuing evidence-based juvenile justice system alignment to foster better outcomes for young people, less costly use of incarceration, and increased public safety.

^v Traditional statutory uses apply.

^{vi} See note ii above. These funds should be considered in tandem with the \$30 million reserved for JABG.

^{vii} To provide grants to replicate successful community-based interventions to control shootings and other serious gang violence, of which no less than \$12.5 million is for public health approaches to reducing shootings and violence.

^{viii} Provides assistance for selected communities across the Nation to develop and implement youth violence strategies.

^{ix} Which includes \$67 million for missing and exploited children programs.

^x Which includes \$67 million for missing and exploited children programs, \$1.5 thousand for training for judicial personnel, \$19 thousand for victims of child abuse, and \$5 hundred for children of incarcerated parents web portal.

^{xi} Does not include budget cuts due to sequestration.

^{xii} Provides that not more than 10 percent of each amount may be used for research, evaluation, and statistics activities designed to benefit the programs or activities authorized and that not more than 2 percent of each amount may be used for training and technical assistance.



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