

## NATIONAL TRENDS, LOCAL CONSEQUENCES: THE EXPANSION OF JUVENILE DETENTION FACILITIES

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According to professional standards and most statutes, juvenile detention facilities have two primary functions: they are designed to be used as secure detention to ensure that accused youth appear in court at the proper times and they serve to protect the community by minimizing serious delinquent acts while cases are being processed. They are specifically not intended as places for the punishment or rehabilitation of youth, and it goes without saying that these facilities should do no harm to our youth. This article examines the vital questions of the growing trend of increased incarceration of youth, how well or poorly juvenile detention facilities are meeting both the stated and unstated needs of the communities of which they are a part, and whether there are alternatives to larger facilities and increased incarceration.

Over the past decade, the dramatic increase in the number of “get tough” and “zero tolerance” laws have translated to a significant increase in the number of youth being detained. The volume of juvenile court cases involving detention increased 35 percent among males and 57 percent among females between 1987 and 1996.<sup>1</sup> Between 1985 and 1995, the number of youth held in secure detention facilities increased by 72 percent nationwide.<sup>2</sup> This increase in

the number of incarcerated juveniles, both pre- and post-adjudication, has put a tremendous strain on juvenile detention facilities throughout the country. Many counties have responded by constructing new and larger juvenile detention centers.

Many juvenile detention facilities built during the 1950s, 1960s, and 1970s are “approaching the end of their useful lifespan, an end brought nearer by the ravages of overcrowding.”<sup>3</sup> Half of all public detention centers were operating above their design capacity in 1995,<sup>4</sup> and of the youth in public detention centers in 1995, 60 percent were in overcrowded facilities.<sup>5</sup> This represents a 20-percent increase in these numbers since 1985.<sup>6</sup> Ironically, this increase in overcrowding has occurred at a time when the country

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1985-1995; “Average Daily Population of Juveniles In U.S. Public Detention Center, 1985-1995”.

<sup>3</sup> U.S. Department of Justice, “Construction, Operations, and Staff Training For Juvenile Confinement Facilities”, pg. 3 January 2000.

<sup>4</sup> Id.

<sup>5</sup> Census of Public and Private Juvenile Detention, Correctional, and Shelter Facilities, 1985-1995; “Percentage of Juveniles In Overcrowded U.S. Public Detention Centers, 1985-1995”.

<sup>6</sup> The Census of Juveniles In Residential Placement does not collect data on facility crowding. The CIC census, however, collected information on facility design capacity, which together with facility population data provides a measure of crowding. This study defined design capacity as the number of residents a facility is constructed to hold without double bunking in single rooms and without using areas not designed as sleeping quarters to residents.

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<sup>1</sup> Office of Juvenile Justice and Delinquency Prevention, “Juvenile Offenders and Victims: 1999 National Report”; pg. 153.

<sup>2</sup> Census of Public and Private Juvenile Detention, Correctional, and Shelter Facilities,

has experienced a continuing decline in youth crime<sup>7</sup>.

So why is there an increase in juvenile detention rates? A number of reasons probably contribute: a greater willingness on the part of judges, probation officers, and prosecutors to detain youth after arrest; the enactment of “get tough” laws, such as California’s Proposition 21 (which expose many more youth to the criminal system); and a lack of alternatives to detention in a criminal facility.

Another significant factor in this increase is the adoption of “zero tolerance” policies at schools and the placement of police on school campuses. These two factors increase the likelihood that discipline problems at school, formerly handled by school officials, will be handled by police officers. Students who commit acts that at one time demanded little more than a scolding by a school administrator, or after-school detention, frequently find themselves being fed into the juvenile justice system. One study conducted by Advocates for Children of New York City found that, prior to the implementation of a policy to install police in schools, 30 percent of youth who were suspended or expelled were subsequently arrested.<sup>8</sup> After police were placed in school, the arrest rate went up

to 80 percent for those suspended or expelled.

As previously mentioned, a common response to the problem of overcrowding is for state and local governments to seek increased public funding to support the construction of more and larger juvenile detention facilities. But is the expansion of juvenile detention facilities in society’s best interest? To answer this question, we need to consider whether large juvenile facilities are working, that is whether the juvenile justice system uses them effectively to meet their basic function of providing safety and ensuring the appearance of youth at court proceedings. In addition, we would want to ensure that these facilities are decreasing youth violence and crime rather than exacerbating it.

Consider the high percentage of youth detained in juvenile facilities for non-violent offenses. A 1995 study revealed that 37.5 percent of incarcerated youth were detained after committing property, drug, public order or other non-violent offenses; 33.9 percent were incarcerated for status offenses and other technical violations;<sup>9</sup> and only 28.6 percent were incarcerated for violent offenses.<sup>10</sup> In other words, more than 60 percent of incarcerated youth were detained for non-violent offenses in 1995. More recent studies conducted by county probation

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<sup>7</sup> Between 1994 and 1999, violent crime arrest rates declined for all age groups, but the declines were greater for juveniles than for adults. Office of Juvenile Justice and Delinquency Prevention, “Age-specific Violent Crime Index arrest rates, 1980, 1994, and 1999”. In Alameda County (Oakland, California) arrest rates for juveniles decreased from 1990 to 1999. Alameda County Probation Department. “Application For Approval Schiff-Cardenas Crime Prevention Act of 2000”, January 17, 2001.

<sup>8</sup> Youth Force. “NYPD Out of Our Schools!”, 2000.

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<sup>9</sup> Technical violations are non-violent offenses such as a violation of terms of probation. Status offenses are similarly non-violent and generally relate to age. A curfew violation is an example of a status offense.

<sup>10</sup> Census of Public and Private Juvenile Detention, Correctional, and Shelter Facilities, 1985-1995. “Census of Public and Private Juvenile Detention, Correctional, and Shelter Facilities, 1985-1995. One-Day Counts In Detention Facilities By Offense Category 1995”.

departments indicate similar trends. In 2001, the Alameda County (Oakland, Calif.) Probation Department found that of the 304 youth incarcerated, 49 were waiting for non-secure placements<sup>11</sup> and 20 youth were being held for probation violations that did not involve a new criminal offense.<sup>12</sup> Roughly 220 youths were being detained prior to their court appearance.

These numbers illustrate at least two ways in which juvenile justice systems may be over-inclusive and wasteful in their use of detention centers. First, given the high proportion of non-violent offenders, there is a question as to whether detention of these offenders significantly enhances community safety. Second, the large number of post-adjudicated youth awaiting non-secure placement suggests that detention centers are being used inappropriately as holding centers for youth that have been deemed not in need of secure detention.

It is also important to note that traditional juvenile detention facilities are costly. According to the Alameda County Probation Department, as of 1997, the average cost of housing youth in a juvenile detention facility was \$107.63 a day. Community-based alternatives to detention programs offer safer and less costly solutions to placing youth in detention facilities.

The high cost of traditional juvenile detention facilities has caused some counties to look for alternatives. Starting in 1995, the Cook County (Chicago) Probation Department developed six evening reporting centers. These centers provide after-school

supervision for youth awaiting trial in juvenile court and offer alternatives to detention for non-violent offenders. Community-based organizations run these centers and have provided services to more than 4,000 youth since 1995.<sup>13</sup> Reporting centers cost \$33 a day per participant, while detention costs in Cook County were estimated at approximately \$115 per day.<sup>14</sup> The reporting centers also proved to meet the goal of protecting society pending the accused's trial as 92 percent of all participating youth remained arrest-free and appeared at their appointed court date.

In addition to questions raised regarding the future of large juvenile detention facilities to meet their function, there have consistently been questions raised regarding their effectiveness to address the needs of youth. Detention of a juvenile is society's first line of intervention to address a youth's delinquency after the commission of a crime. One legitimate measure of this intervention would be to assess whether it helps to address the needs of youth in order to deter them from committing future offenses. Unfortunately, large juvenile detention facilities cannot point to any major successes in this area.

Youth placed in large detention facilities typically have high recidivism rates.<sup>15</sup> These rates are particularly troubling given the large number of non-

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<sup>11</sup> An example of a non-secure placement is a group home.

<sup>12</sup> Alameda County Probation Department's Quarterly Report to the California Board of Corrections, April 2001.

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<sup>13</sup> Mendel, Richard. "Less Cost, More Safety: Guiding Lights For Reform In Juvenile Justice," American Youth Policy Forum, 2001; pg.58.

<sup>14</sup> Mendel, Richard. "Less Cost, More Safety: Guiding Lights For Reform In Juvenile Justice," American Youth Policy Forum, 2001; pg.58.

<sup>15</sup> Mendel, Richard. "Less Cost More Safety", pg. 11, 20-21. American Youth Policy Forum, 2001.

violent offenders being sent to these facilities. The very nature of their offenses suggests that these are the individuals the system has the greatest likelihood of rehabilitating. Yet as we have seen, detention facilities make no attempts at rehabilitation. Instead, they place non-violent youth in contact with violent youth, which has the inevitable result of exposing many youth to negative peer influences during adolescence – a time when youth are particularly impressionable – and creating a virtual classroom for future offenders. Further, the mixture of violent and non-violent offenders combined with overcrowded detention facilities places non-violent youth at greater risk of violence.

Overcrowding also stretches available facilities and services. As a result, there is inevitably a decrease in the quality of education, health, and other services provided. This problem is particularly felt in the area of mental health treatment. A high percentage of juvenile offenders are in need of mental health care,<sup>16</sup> but receive inadequate treatment while detained in juvenile detention centers.<sup>17</sup> Recidivism is one of the many glaring consequences of such an environment.

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<sup>16</sup> It is estimated that 60 percent of the teenagers in juvenile detention have behavioral disorders and approximately 20 percent experience serious emotional disturbances. In addition, 50 to 70 percent have serious substance abuse problems. National Mental Health Association. Website Press Release, 1999.

<sup>17</sup> Research and experience demonstrate that the services available in the juvenile justice system to alleviate [mental health] problems are entirely inadequate. Bilchik, S., *Mental Health Disorders and Substance Abuse Problems Among Juveniles*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention, July 1998.

Nevertheless, local governments generally focus on building additional juvenile detention centers or expanding existing facilities. The reasons for this reaction are simple: It is a politically expedient and easy solution given the generous allocations of federal and/or state money. A good example is California Senate Bill 2796. Passed in 1998, this bill allocated \$100 million solely for the construction and expansion of juvenile detention facilities by California's counties. The allocation of this money is administered by the Board of Corrections. Counties regularly submit grant proposals to the Board Of Corrections and compete against each other to obtain funds from grants such as this one, exclusively dedicated to construction rather than to more comprehensive reform of juvenile justice systems.

In considering the cost associated with detaining youth, and in light of the problems of these facilities, including high recidivism rates and over-crowding, how are local jurisdictions, besides Cook County, addressing the needs of their juvenile justice systems? The recent experiences of two counties, King County (Seattle) and Alameda County, shed some light on diverging approaches that jurisdictions are taking to address the problem of overcrowding. These two counties share some common characteristics that also reflect the national statistics discussed above. Both of these urban centers have experienced a decrease in crime since the early 1990s, yet in each county, the juvenile detention population steadily increased.

In King County, admissions to detention rose 27 percent from 1993 to 1998, and the average length of stay in detention rose 39 percent causing the average daily population to jump from

119 to 199.<sup>18</sup> In January 1999, the King County detention population topped 200, though the facility was designed to house 160 youth.<sup>19</sup> Similarly, Alameda County has experienced overcrowding in its juvenile detention center in recent years. The average daily population of Alameda County's 299-bed facility has ranged from 300 to 350 for the last several years. In spite of these similarities, each county has taken a different approach in addressing the source of burgeoning populations in their respective juvenile detention centers.

King County's first approach was to develop plans to construct an additional 80-bed juvenile facility at an estimated cost of \$11 million, with annual operating costs estimated at \$5.8 million per year.<sup>20</sup> Rather than simply proceeding forward with the plans, the County Executive commissioned the development of a juvenile justice operational master plan. This plan outlined an approach that took into consideration information from policy experts, county officials, community activists, and other stakeholders. With plans for an additional facility in place, a team of community and local government leaders began to examine whether building this costly new juvenile detention facility was the most effective means of addressing the issue of overcrowding in King County's juvenile detention facility. The team concluded that King County could reduce the detention population, avert the need to build a new facility, and reduce recidivism while investing money

in alternative, rehabilitation programs.<sup>21</sup> However, in order to do so, King County had to re-examine its entire juvenile justice system. "We are at a cross roads regarding juvenile justice..." remarked the report on King County, "...The choices are clear. We can continue to do what we did throughout the 1990s and face the need to construct and operate a major new juvenile detention facility, or we may rethink how we do business and find other ways to promote justice, protect the public, and help youth in trouble make responsible choices."<sup>22</sup> This information was presented to the King County Board of Supervisors.

In April 2000, the King County Council voted to place the plan for a new facility on indefinite hold. County funds, that otherwise would have gone towards construction and operational costs, were invested in juvenile justice administrative reforms as well as research of proven prevention and treatment programs.<sup>23</sup> While the long-term impact of this decision is unknown, King County currently offers an array of improved programs. Since implementation of these reforms, King County's juvenile detention population has begun to decline, falling from more than 200 in January 1999 to fewer than 140 in August 2000.<sup>24</sup>

In choosing this approach, King County showed that meaningful detention reform can relieve overcrowding and that it is possible to avoid the need to construct new multi-million dollar detention facilities. King

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<sup>18</sup> Mendel, Richard. "Less Cost, More Safety", pg. 54.

<sup>19</sup> Id.

<sup>20</sup> Id.

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<sup>21</sup> Mendel, Richard. "Less Cost, More Safety", pg. 54.

<sup>22</sup> Mendel, Richard. "Less Cost, More Safety". pg. 55

<sup>23</sup> Mendel, Richard. "Less Cost, More Safety". pg. 54

<sup>24</sup> Mendel, Richard. "Less Cost, More Safety". pg. 58

County also demonstrated that meaningful detention reform can be a catalyst for a more fundamental change in juvenile justice -- a commitment to embracing what works, and discarding unproductive but still common practices that waste money, damage youth, and fail to protect citizens.<sup>25</sup>

Faced with similar problems, Alameda County has been unwilling to take this approach to its juvenile justice system. In July 2001, Alameda County's Board of Supervisors voted in favor of moving forward with a plan for the expansion of the county's current 299-bed juvenile detention facility. Since this decision, the Board has made the further decision to expand its current facility to 420-beds, although the Board also decided to conduct a detention utilization study concurrent with construction. Interestingly, the sole statistical basis used to support the Board's decision to expand stems from a report prepared by the Rosser Corporation. The Rosser Corporation is recognized as one of the nation's leading design architects of criminal justice facilities, and as such has a vested interest in the construction and stands to benefit as a subcontractor for the Alameda County facility. Rosser's report indicated that Alameda County needs a 540-bed juvenile detention facility to suit its needs. In May 2001, Alameda County was awarded a \$33.2 million grant from the California State Board of Corrections to build a 330-bed facility. This state grant was promised on the condition that the county would build an infrastructure to support 540 beds. County Supervisors have since decided to bring the number of beds down to 420. The estimated construction cost of a 420-bed facility is roughly \$110 million.

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<sup>25</sup> Ibid

Annual operating costs would be between \$25 and \$30 million.<sup>26</sup> The increase in operating costs for this large detention facility are going to be taken out of the county's general fund, to the detriment of other county programs, including the implementation of effective community-based detention alternatives.

Alameda County's decision to proceed with a new expanded juvenile hall is troubling in light of the experiences of Cook and King County as well as a recent recommendation by the U.S Department of Justice, as to how these decisions should be made. The Cook and King counties experiences suggest the importance of county officials involving community members and public policy experts when deciding on the size of a county's juvenile detention facility.

In its report "Construction, Operations, and Staff Training for Juvenile Confinement Facilities," the U.S. Department of Justice recommends that a county set up a master plan. As in King County, the master plan affords the county the opportunity to incorporate planners, architects, juvenile justice specialists, community members, and law enforcement specialists into the county's approach to juvenile justice.

Is there a problem with current juvenile detention facilities? High recidivism rates and overcrowding clearly indicate that the current system is producing results that society should not tolerate

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<sup>26</sup>This report indicates that the current annual operating cost of Alameda County's 299-bed detention facility is \$16 million. The estimated annual operating cost of a 350-bed detention facility is between \$19-\$26 million. Justice Policy Institute. "A Preliminary Analysis of Detention Alternatives In Alameda County", 2001.

The majority of the current system seems unable to effect any real rehabilitative change in our youth, nor is it able to prevent the very real harm that non-violent offenders experience there. The current system of detention has flaws, but there are real-life experiences that suggest that alternatives do work. Cook and King counties have taken community-based approaches and adopted alternative solutions to detention. Alameda County officials have chosen to ignore community input and have failed to conduct a detention utilization study. By not taking this more inclusive and comprehensive approach, Alameda County is placing fiscal limitations on its ability to develop solutions and options for its juvenile justice system beyond locking up more youth and contributing to increasing recidivism rates. The funding measures brought about by increased operation expenditures for a large facility will certainly limit the county's flexibility to adopt detention alternatives on a meaningful scale.

The decision by a county, such as Alameda County, to expand its juvenile detention facility is largely the product of misguided policies that are supported by state and federal funding. State and federal funding grants make the choice of expanding juvenile detention facilities a tempting one for county government officials. Resisting the urge to construct larger detention facilities is one of the first steps counties must take in reforming their juvenile justice system. The implications of this choice demand that local advocates and county officials take a step back and look at effective detention alternatives before committing more resources to detention centers that are not meeting their function and not helping youth. Building large detention

facilities not only assures that many non-violent youth are going to be inappropriately incarcerated, but it jeopardizes money and resources that could be put towards more appropriate and effective solutions. A failure to evaluate and pursue solutions outside of detention will increase a county's financial commitment to a failed system, while ensuring that fewer resources are allocated to detention alternatives and other county programs. Keeping the number of beds in juvenile detention facilities at a minimum is one of the first steps in effective juvenile justice reform. Meaningful juvenile justice reform, however, will only come from a shared commitment to develop and emphasize effective community-based programs.