

Rethinking Juvenile Detention in New York City

A Report by the Juvenile Justice Project
of the Correctional Association of New York

March 2002

Acknowledgements

Mishi Faruquee, Director of the Correctional Association's Juvenile Justice Project, wrote this report.

Robert Gangi, Executive Director of the Correctional Association, Clay Hiles, Chair of the Correctional Association Board of Directors, and Board members, Gail Allen, Wilhelmus Bryan III, Elizabeth Hubbard, Seymour James, and James Silbert, offered valuable editorial comments. Jacqueline Deane of the Legal Aid Society Juvenile Rights Division, Marc Schindler of the Youth Law Center, and Jason Ziedenberg of the Justice Policy Institute also contributed useful suggestions and insight. Design and layout were done by Amadou Diallo.

The New York City Department of Juvenile Justice was extremely cooperative in providing us with statistics and data. The Juvenile Justice Project would like to acknowledge Kim Taylor-Thompson of the New York University (NYU) School of Law for her work in coordinating and supervising the NYU Court Survey. We would also like to thank the many juvenile justice professionals and representatives of community organizations who agreed to be interviewed for this study.

The report was made possible by the generous support of the Rhodebeck Charitable Trust and the New York Community Trust.

Table of Contents

Executive Summary	i
Introduction	1
Methodology	1
Overview	1
The New York Detention Story	2
The Problem	4
Locked Up for Low-level Offenses	4
Racial Disparities in Detention	5
The Neighborhood and Family Context	5
Results of the NYU Court Survey	7
Staying in Detention Longer	8
The Fiscal and Social Costs of Secure Detention	9
Returning to Jail	10
The Solutions	12
Building on Local Innovations	12
CCA's Youth Advocacy Project	12
Expanding and Improving the Alternative to Detention Program	12
Learning from Reform Efforts Elsewhere	14
Broward County, Florida	14
Cook County, Illinois	14
Multnomah County, Oregon	15
Tarrant County, Texas and Kings County, Washington	16
Larger Policy Considerations	18
Recommendations	19
Appendices	
A. Overview of Juvenile Justice System Processing	22
B. New York City Neighborhoods with the Highest Number of Youth Admitted to Secure Detention	23
C. Cook County, Illinois Juvenile Detention Alternatives Continuum	24

Executive Summary

Overview

On any given day, hundreds of juveniles are jailed in one of New York City's three secure juvenile detention centers. Children, most between the ages of 13 and 15, but some as young as 12, are confined in locked facilities while they await trial or placement. Virtually all are African American or Latino and come from the city's poorest neighborhoods. The decision to jail a young person is an extremely costly one—for the city as well as for the individual youngsters. This report analyzes the factors leading to the increased use of juvenile detention in New York City and presents recommendations to reduce the number of youth in secure detention, while simultaneously enhancing public safety and saving tax dollars.

A Questionable Expansion Plan

In February, Mayor Michael Bloomberg introduced his FY2002–03 budget plan, which proposes slashing city services and borrowing \$1.5 billion to cover the city's \$4.76 billion budget deficit. Despite a 20% cut in the city's capital budget, the mayor's preliminary budget includes a \$65 million capital allocation to build 200 additional secure beds at two relatively new secure juvenile detention centers—Crossroads and Horizons, opened in 1998. This allocation originates from an earlier proposal developed by the Giuliani Administration to add capacity to the system so that the city could permanently close its oldest juvenile detention facility, the notorious Spofford (now Bridges) detention center.

Interviews with juvenile justice professionals and a review of detention data indicate that New York City's detention policies and practices are unnecessarily punitive and wasteful. Promising models from other jurisdictions provide concrete strategies on how the city can reorient its juvenile justice policies and reduce the overuse of secure detention.

Findings

The incarceration of youth charged with non-violent, low-level offenses and probation violations has driven the increase in the juvenile detention population.

From 1993 to 2000, as juvenile crime and arrests dropped by 28%, the number of youth remanded to secure detention increased by 60%. Contrary to public perception, the majority of youth are not jailed because they are dangerous or because they have been charged with serious crimes. In FY2001, alleged

juvenile offenders (youth charged with the most serious violent crimes, including murder, arson and robbery) comprised only 10% of all youth admitted to secure detention. Between FY1997 and FY1999, the number of juveniles locked up for misdemeanors increased by 13.3%, while the number detained for felony charges decreased by 4.3%. In addition, during that same period, there was a significant increase in the number of youth detained for violating probation or the conditions of state-mandated aftercare.

Detained youth are overwhelmingly African American and Latino and come from the city's poorest neighborhoods.

The city's detention policies reflect a stark social imbalance. While African Americans and Latinos make up less than two-thirds of the city's youth population, they comprise 95% of the young people entering detention. Young people from just 15 out of the city's 59 community districts account for 54% of all admissions to juvenile detention. The neighborhoods with the highest juvenile detention rates also have the highest levels of poverty, poor housing, and underperforming schools.

The youth confined in the city's detention centers often have troubled family histories and high rates of school failure.

Many of the youth incarcerated in the city's secure facilities come from families fragmented by death, substance abuse, parental incarceration and/or violence. In many cases, the court will remand a youth to secure detention because detention is seen as the only viable option to prevent a child from returning to an abusive or neglectful home. The majority of jailed youth come from large, under-resourced schools that have not adequately addressed their educational needs. Along with unstable family situations, poor school attendance often is a major factor in judges' decisions to detain youth.

An overburdened court system has contributed to the length of time that young people stay in secure detention.

In 1993, a youth spent average of 20 days in secure detention; by 2000 the average length of stay rose to 36 days. Youth awaiting adjudication of more than one case had an average length of stay of almost three months (86 days). The primary reason for this problem is a court system inundated with juvenile cases.

Expenditures on secure detention divert resources away from more cost-effective alternatives to detention, aftercare and delinquency prevention services.

New York City's Department of Juvenile Justice (DJJ) uses 65% of its \$55.4 million annual budget on the operation of its three secure facilities, while it spends only 19% of its yearly expenditures on non-secure detention and 3% on prevention and aftercare. DJJ spends \$358 a day to confine one youth in a secure facility, while the Department of Probation's Alternative to Detention (ATD) program costs less than \$22 a day per participant. The over-use of secure detention consumes resources that could be invested in "high-risk" neighborhoods and lessens the capacity of these neighborhoods to address the underlying causes of delinquency and youth crime effectively. Research demonstrates that the more the city invests in prevention, alternatives to detention and aftercare, the less it will have to spend on future incarceration costs.

Detaining a child diminishes his or her chances to become a productive citizen and increases the likelihood of future incarceration.

The most serious consequence of the city's over-reliance on secure detention is the long-term damage inflicted on the thousands of youngsters who are unnecessarily detained. Jail exposes children to violence and negative peer influence and limits the opportunities for youth when they return to their communities. In particular, the majority of children released from detention face serious obstacles in re-enrolling in school and finding employment. Being detained is a strong predictor of continuing involvement in the juvenile justice and adult criminal justice systems.

Other jurisdictions have pursued concrete strategies to reform their juvenile detention systems and save tax dollars effectively—without jeopardizing public safety. For example:

■ In five years, Broward County, Florida reduced its daily secure detention population from 161 to 56. As a first step to reduce overcrowding in its detention center, the county developed a Risk Assessment Instrument (RAI) to determine which young people actually belonged in secure detention. By diverting selected youth to newly created community-based alternatives, the county saved \$5.2 million from 1988 to 1993.

■ Chicago's Cook County nearly halved its daily secure detention population between 1996 and 2001—from 848 to 450. County officials partnered with community organizations to implement a continuum of alternatives to detention and to reform the system's response to youth

who failed to appear in court, violated probation or were charged with minor infractions.

■ Oregon's Multnomah (Portland) County significantly reduced the racial disparities in its detention population by paying special attention to racial and cultural biases in detention practices and by siting alternative programs in communities of color.

■ Tarrant County, Texas and Kings County, Washington rejected proposals to increase detention capacity to address overcrowding in their juvenile detention centers and opted instead to embark on a systems reform effort to reduce the number of youth confined in their juvenile detention centers.

Recommendations

1 Cancel the plan to construct 200 additional secure detention beds. Reallocate \$65 million to address community needs in neighborhoods with high rates of youth detention.

New York City already has enough juvenile jail space. The Giuliani Administration's plan to expand the city's juvenile detention centers came at a time when the detention population was rising unabated—largely because of the inappropriate jailing of youth charged with low-level offenses and an increase in the length of time youth were detained. Given the continued decline in youth crime and the unused capacity in DJJ's secure facilities, the city should both cancel its plans to spend \$65 million to construct new wings at Crossroads and Horizons and reallocate the \$65 million within the capital budget to pay for construction projects—like new schools and housing for homeless teens—that create opportunities and offer urgently need services for young people living in under-resourced communities.

2 Close the Spofford Juvenile Center.

It is time for the city to honor its longstanding commitment to close this troubled youth jail and consolidate its secure detention population within the two new facilities—Horizons and Crossroads. Savings should be invested in alternatives to detention and aftercare programs.

3 Create a Juvenile Justice Coordinating Committee to develop a master plan to reduce juvenile crime and the unnecessary use of juvenile detention.

Officials from city agencies and communities should work together to develop a comprehensive plan for a continuum of community-based services that include alternatives to court, alternatives to detention, aftercare, family support and youth development programs. This collaborative effort must include representatives from all appropriate agencies—DJJ, Office of the Criminal Justice Coordinator, Legal Aid Society, Corporation Counsel, Administration of Children's Services, Board of

Education, Department of Probation and the Family Courts—as well as elected officials, youth organizations and other community groups.

4 Enroll young people from high-detention neighborhoods in identifying solutions to the issues facing youth in their communities.

City officials should include young people in decision-making on how to improve opportunities for youth living in impoverished neighborhoods. Following the example of a Seattle project, New York City should fund local organizations to conduct a youth-led community mapping project. Youth would identify community strengths and weaknesses in the neighborhoods with the highest rates of juvenile arrests and detention. The purpose would be not only to highlight the need for more neighborhood-based programs but also to identify successful local initiatives that could be replicated in other communities.

5 Improve and expand the Department of Probation's Alternatives to Detention (ATD) Program.

Currently, many young people are inappropriately detained in secure facilities because current alternatives to detention are inadequate or not available on a citywide basis. The city should provide \$3 million to the Department of Probation to create 200 additional ATD slots, including funding for more Board of Education teachers as well as for contracts with community organizations to provide after-school programs, adolescent literacy, tutoring, counseling and other mental health services. In addition, the Department of Probation should establish Expanded Alternative to Detention (EATD) centers in Brooklyn and Queens to augment existing programs in the Bronx and Manhattan.

6 Provide more funding to non-profit agencies to create or expand private alternative to detention programs.

The Criminal Justice Coordinator's office should administer funding for private, not-for-profit organizations to operate alternative-to-detention programs for pre-adjudicated youth. These programs should form a coordinated system of detention alternatives that matches various programs and degrees of supervision to the risks of court-involved youth. The programs should not only offer structured supervision for young people but also seek to build on the individual youths' strengths and skills. The Request for Proposals (RFP) should also provide funding for data collection and evaluation.

7 Fund more aftercare services to reduce the high rate of recidivism of youth leaving detention.

The city should transfer the aftercare program from DJJ to the Department of Youth and Community Development (DYCD). DYCD-funded aftercare and delinquency prevention programs would be better

equipped to work with youth and families in the neighborhoods where they live. DYCD should administer an open RFP process for neighborhood youth organizations to apply for funding for programs that help youth to reintegrate into their schools and communities—such as gang intervention and education advocacy services.

8 Create alternative sanctions for juvenile probation violators.

The number of youth entering detention for probation violations has increased 90% over the last seven years. New York should employ a continuum of detention alternatives, similar to the one in Chicago, with programs that are appropriate for pre-adjudicated youth and for youth charged with probation violations. Given that so many youth are removed from probation because of truancy or other school-related issues, the Department of Probation and the Board of Education should work together to create programs that address the educational needs of youth on probation.

9 Reduce unnecessary delays and detentions by decreasing Family Court caseloads and implementing court case processing changes.

The city should create more court diversion programs, particularly neighborhood-based youth courts, to reduce the volume of cases in Family Court. The existence of more community-based intervention and mediation programs, like Youth Force's South Bronx Community Justice Center, would allow the Department of Probation to adjust more cases at intake and limit the number of young people entering the court system.

Conclusion

The experiences of other cities demonstrate that capacity drives utilization—the more a jurisdiction invests in expanding secure detention capacity, the more its policies and practices become oriented towards using this additional jail space. On the other hand, cities that have opted to expand community-based alternatives rather than construct larger facilities found that they could effectively reduce their detention populations and save millions of dollars.

The new political and economic realities in New York City present an opportunity for policy makers to rethink the city's approach to juvenile detention. Given the continued decline in juvenile crime and the current fiscal crisis, the city should now look to significantly reduce its secure detention capacity. The diversion of more youth charged with low-level offenses and probation violations to community-based alternatives would allow the city to close Spofford permanently and to accommodate its current detention population in Horizons and Crossroads—without expanding the capacity of these two facilities.

Introduction

When the Correctional Association first set out to study juvenile detention practices in New York City in 2000, the average daily population of youth locked up in the Department of Juvenile Justice's (DJJ) secure facilities was the highest it had ever been at any point in the city's history.¹ The steady increase in the number of detained youth over the past five years was troubling given the dramatic decrease in juvenile crime and arrests during the same period. More disconcerting was the fact that over 95% of the youth confined in the city's juvenile jails were African American and Latino.² The report's original objective was to examine the factors contributing to the increased use of secure detention and to examine whether young people were inappropriately detained in the city's youth jails.

However, last year, the issue of juvenile detention in New York City took on a new dimension. In 2001, the average daily population of youth confined in the city's youth jails declined markedly.³ Yet at the same time, the city proceeded with plans to significantly expand its secure detention capacity. In June 2001, the City Council approved a capital allocation of \$65 million to construct 200 new beds at two DJJ facilities. Now, at the beginning of 2002, New York City faces an entirely transformed political and economic reality. The economic impact of recession compounded by the attacks on the World Trade Center on September 11, 2001, have resulted in a nearly \$5 billion budget shortfall for fiscal year 2003. The city's exigent economic situation presents not only formidable challenges to the new mayoral administration but also an unusual opportunity to "right-size" the city's juvenile detention system.

The purpose of this report is to present concrete strategies on how New York City can take advantage of this unique moment to overhaul its regressive juvenile justice system. The report analyzes detention trends and presents information on successful models to reduce the inappropriate or unnecessary use of secure detention and to improve the outcomes for youth in the juvenile justice system, including

sensible and cost-effective strategies to divert young people from detention, to reduce the time that youth stay in detention, and to expand aftercare for youngsters leaving detention.

Methodology

This report presents information and recommendations based on interviews with Family Court officials, including judges and New York City Department of Probation staff, attorneys, personnel from the New York City Department of Juvenile Justice (DJJ), academics, advocates and representatives from non-profit organizations working on juvenile justice issues. In addition, an analysis of the most recent population data and detention trends helped to shape our conclusions and recommendations. Unless otherwise noted, DJJ provided us with the statistics presented in this report. A review of literature on successful models of detention reform in other cities also informs the report's recommendations.

In order to understand better the court decisions leading to the use of youth detention, we collaborated with the New York University (NYU) School of Law Community Defender Clinic on a survey of remand decisions in Brooklyn and Queens Family Courts. In addition, the report refers to results from an earlier NYU survey conducted in Bronx and Manhattan Family Courts. In both surveys, NYU court observers monitored detention hearings over a two-week period and recorded information regarding the judge's decision to remand (jail) or parole (release) in each case. Although the NYU court study provides only a snapshot of remand decisions in the city's family courts, the survey does provide valuable insight into larger issues regarding the use of detention in New York City.

Overview

Recognizing the problem of confining children in adult prisons, the State Legislature passed a law in 1824 establishing the New York House of Refuge, the first institution in the nation to house juvenile delin-

¹ According to the New York City Department of Juvenile Justice, the average daily population in secure detention in 2000 was 379 youths.

² In 2001, 62% of youth in DJJ Facilities were African American and 28% were Latino.

³ From July 2001 to October 2001, the average daily population of youth in secure detention was 287 juveniles, reflecting a 15% reduction from the same period the prior year. Testimony of Fred Patrick, Commissioner of Department of Juvenile Justice, before the New York City Council Juvenile Justice Subcommittee of the Committee on Youth Services, December 17, 2001.

quents exclusively. In 1902, New York City created the Children's Courts so that children younger than 16 would not be tried in the adult courts. The original premise of juvenile courts and separate juvenile facilities was the belief that youth were developmentally different from adults. Moreover, state officials believed that children who committed crimes were less culpable and more amenable to intervention and treatment than adults. By 1925, all but two states in the country had established separate juvenile courts to try cases of children accused of crimes.⁴

Today, in New York City, juvenile delinquency (JD) cases for youth aged 15 and younger are heard in Family Court rather than in criminal court. In these cases, the court conducts its own intake and has the option to divert cases from prosecution altogether. In cases that are tried in Family Court, judges can choose from a range of dispositional options—with an expressed emphasis on treatment and rehabilitation.

However, over the years, New York, like other states across the country, has taken steps to limit the jurisdiction of juvenile courts and to steer more youngsters into the adult criminal justice system. Under New York State law, children aged 13, 14 or 15 who are accused of certain serious crimes can be tried as “juvenile offenders” (JO) in adult criminal court. Moreover, New York is one of only three states in which 15 is the oldest age at which a young person may be tried in juvenile court.⁵ If a young person aged 16 or older is charged with a crime in New York, he or she is tried in adult criminal court and, if detained, will await trial in an adult jail.⁶ Youth under the age of 16 are detained in secure (i.e. locked) facilities operated by DJJ⁷ or in non-secure group homes operated by non-profit organizations under contract with DJJ.⁸

When a young person aged 15 or under is arrested, one of the first issues considered is whether he or she will be detained or released to the custody of a parent or guardian. Police officers take juveniles charged with serious felonies directly from the local

precinct to the DJJ intake facility. In cases in which a young person is arrested for “a delinquent act,”⁹ the police officer has the discretion to take the child directly to Family Court or release him or her to the custody of a parent with an appearance ticket indicating the scheduled date of the child's court appearance. If the court is not in session or a parent cannot be contacted, then the police have the authority to admit a child to secure detention directly. At the initial court appearance in Family Court, a judge makes the decision whether to remand a youth to a detention facility or to release the child to a parent or to an alternative-to-detention program. If the judge determines that detention is necessary, he or she may choose between secure detention, non-secure detention or an open remand (which allows DJJ to determine whether secure or non-secure detention is appropriate).

The purpose of detention is neither punishment nor treatment. Young people in detention have been charged, but not convicted, of a crime. Legally, there are two reasons why a young person may be detained: 1) there is a “substantial probability” that the child will not appear in court; and/or 2) there is a “serious risk” that the youngster will commit a new crime.¹⁰ However, in practice, other factors are often involved consciously or even unconsciously in the decision to detain a youth. The authorities may put a young person in jail to “teach him a lesson.” A child who has been truant from school might be held in a secure detention center to ensure that he regularly attends classes. A homeless youth or a youth in foster care might be sent to a detention facility because she doesn't have an appropriate home environment or adequate adult supervision. Finally, detention officials might feel compelled to lock up a young person because less restrictive options are not available.

The New York Detention Story

For decades, the Spofford Juvenile Center was the sole secure detention center in New York City. Opened in 1957, this 289-bed youth jail located in Hunts Point

⁴ Howard Snyder and Melissa Sickmund, 1999 National Report: Juvenile Offenders and Victims, (Washington DC: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, September 1999) p.86.

⁵ Ibid, p.93. Connecticut and North Carolina are the other two states in which 15 is the oldest age for original juvenile court jurisdiction in delinquency matters.

⁶ Although housed in adult jails, adolescent detainees are typically held separately from adults. In New York City, adolescent detainees are held in a separate jail on Rikers Island.

⁷ If a juvenile turns 16 while in secure detention, he will typically remain in DJJ custody for the adjudication of his case.

⁸ Through a network of group homes, non-secure detention (NSD) provides structured residential care for alleged juvenile delinquents who are awaiting disposition of their cases in Family Court. NSD homes lack the restrictive hardware of secure detention centers, and young people in non-secure detention are allowed to leave the group home if escorted by staff. New York City has 14 NSD facilities with a combined capacity of 152.

⁹ A delinquent act is an act committed by a juvenile that if committed by an adult would be considered a crime.

¹⁰ New York State Family Court Act, 320-5, subsection 3.

in the Bronx has long been considered a symbol of overcrowded conditions and brutality against children. Officials from Mayoral and City Council commissions and the American Bar Association have criticized Spofford for its poor design, its remote location, and its lack of needed services—including education, mental health and recreation—for the young people confined at the facility. In addition, official probes revealed incidences of physical and sexual attacks by staff against youths.

After years of community pressure, DJJ acted on its promise to shut down the troubled facility. In 1989, the city approved plans to construct two state-of-the-art secure detention centers to replace Spofford. The new facilities were designed to be smaller than Spofford—holding up to 125 young people each—and to look less like juvenile jails and more like community centers. Built at a cost of over \$70 million apiece, Horizons Juvenile Center in the Bronx and Crossroads Juvenile Center in Brooklyn opened in 1998.

In addition to working to close the notorious Spofford, New York City took other important steps in the early 1990's to improve juvenile detention services and reduce the number of young people entering secure detention. In 1993, the Annie E. Casey Foundation selected New York City as one of five national sites for its Juvenile Detention Alternative Initiative (JDAI). The main goal of the initiative was to reduce the unnecessary or inappropriate use of secure detention for juveniles. Through JDAI, the Casey Foundation awarded grants to plan and implement a range of alternative-to-detention options and to address the racial imbalance in the use of secure detention.

However, the political situation in the city had changed dramatically in the ten years since public officials first approved plans to replace Spofford with smaller, more modern detention facilities. In 1989, the average daily population of young people detained at Spofford was 191. By 1998, the average daily juvenile detention population had jumped to 318, an increase of 65%. The election of Rudolph Giuliani as mayor in 1993 brought into power a “tough-on-crime” administration oriented towards locking up young people for less serious offenses. Moreover, the new administration’s centralized approach to decision-making undermined the collaborative approach of the JDAI initiative.¹¹ Recognizing

that the city’s policy directions were no longer compatible with JDAI, the Casey Foundation dropped New York City from its group of detention reform sites in 1998.

Since 1998, the story of juvenile detention in New York City has been a series of stop-gap measures to deal with growing numbers of children entering and staying in the city’s youth jails. As the Giuliani Administration prepared to close Spofford, it faced a crucial decision: it could expand alternatives to detention to divert the growing number of youth entering the system or it could increase its lock-up capacity. The administration chose the latter course. City officials made the controversial decision to convert a city corrections barge, the Vernon Bain Center, into an 100-bed intake facility for juveniles entering secure detention. Because the use of a jail-barge was only a temporary arrangement, the Giuliani Administration turned to the vacant Spofford as the solution for the city’s ever-increasing need for more detention beds. In December 1999, DJJ closed the barge and reopened Spofford as an intake facility—in effect reneging on the city’s promise to shut down the infamous detention center.

In addition, the Giuliani Administration made plans to further expand capacity at the new secure facilities. The FY2001-02 Capital Budget included an allocation of \$65 million to construct wings at Horizons and Crossroads that would each hold 100 more youngsters. Notably, at the end of the fiscal year (June 2001), while the city approved this capital plan to build more detention beds, DJJ experienced a 15% drop in its secure detention population from FY2000—the first drop in its annual population rate in over six years. (See Figure 1, p.4.)

The city’s secure detention population continued to decrease in the first half of FY2002 (July to December 2001) and by December the city’s three secure detention facilities were all operating at around 70% of capacity.¹² Yet, with a new administration in office in 2002, the city still appears to be on the expansion track—despite unused bed space at the secure facilities and a continued decline in the detention population. Mayor Michael Bloomberg’s preliminary budget plan introduced on February 13, 2002 retains the \$65 million capital allocation to increase New York City’s juvenile detention capacity by 52%.

¹¹ Elenor Hinton Hoytt, Vincent Schiraldi, Brenda Smith and Jason Ziedenberg, *Reducing Racial Disparities in Juvenile Detention*, (Baltimore, MD: Annie E. Casey Foundation, January 2002) p. 53.

¹² Testimony of Fred Patrick, Commissioner of Department of Juvenile Justice, before the New York City Council Juvenile Justice Subcommittee of the Committee on Youth Services, December 17, 2001.

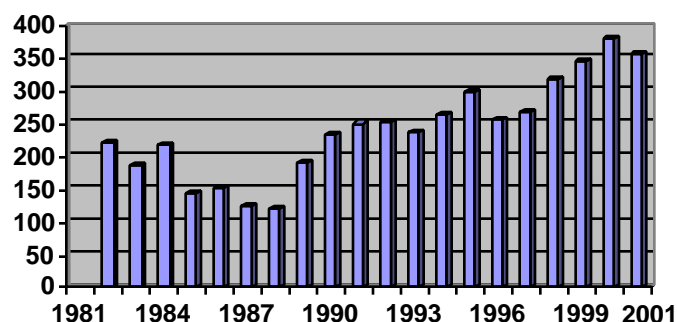
The Problem

A review of data on detention practices reveals several troubling trends. DJJ had over 5,200 admissions to its secure detention facilities in 2001. Boys comprise the majority of detained youth, but a growing percentage of youth in detention are girls.¹³ Over the past seven years, the city has detained more and more children for non-violent offenses, misdemeanors and probation violations. Virtually all the young people confined in juvenile detention centers are African American and Latino and come from the city's poorest neighborhoods—communities that suffer not only from the disproportionate incarceration of their youth but also from inadequate housing, high unemployment and low-performing schools. As detention costs have risen to staggering levels, the increased use of secure detention has consumed a greater and greater share of the city's juvenile justice resources. Moreover, many detained youth would be eligible for less costly alternative-to-detention programs or non-secure detention but are locked up because the city has not expanded these programs to meet the need. Children whose cases are pending in Family Court are often remanded to secure detention not because they are a public safety threat or flight risk, but for other factors such as truancy and unstable family situations.

In the 1980's and the early 1990's, the secure detention population in New York City remained relatively flat. In fact, the average daily population of juveniles in DJJ secure facilities increased only 7% between 1982 and 1993. However, from 1993 to 2000, the average daily population of young people held in the city's juvenile jails soared by almost 60%. During this same period, violent juvenile crime declined by 30% in New York.

Detention and crime trends in other jurisdictions indicate that there is no correlation between the increased use of detention and lower crime rates. In

Figure 1: Average Daily Population in DJJ Secure Facilities, 1981–2001



fact, cities that reduced the number of youth in detention experienced similar or greater juvenile crime drops than New York. During the 1990's, Chicago reduced its detention population by 31%, while seeing a 33% drop in violent crime and a 41% drop in youth homicides.¹⁴ Portland trimmed its detention population by 64% over the decade; at the same time, violent crime declined by 24% and property crime fell by 40%.¹⁵

Along with New York City's drop in juvenile crime, juvenile arrests also decreased significantly over the past decade. In the past ten years, juvenile felony arrests in New York City declined by 28.3%.¹⁶ In light of these trends, a natural question arises: if fewer young people were being arrested in New York City, why were so many more youngsters being locked up in the city's youth jails?

Locked Up for Low-level Offenses

In New York City, while juvenile arrests declined between 1993 and 2001, there was an increase in youth detained for low-level and non-violent offenses and for probation violations. In FY2001, alleged juvenile offenders (youth charged with the most serious violent crimes, including murder, arson

¹³ Girls accounted for 18% of the city's juvenile detention population in 2001; while in 1993, girls were less than 12% of the detention population. Girls and boys are both held at the Spofford, Crossroads and Horizons detention centers but live in separate units.

¹⁴ Illinois, Research and Analysis Unit, Illinois Criminal Justice Information Authority, 2001.

¹⁵ The Multnomah County Department of Community Justice, 2001.

¹⁶ Mark Green, *The Next Crime Problem: We Need a Better Response to Juvenile Crime*, (New York, NY: Office of the Public Advocate, February 2001) p.3.

and robbery) comprised only 10% of all youth admitted to secure detention. Nearly 62% of youth entering DJJ facilities were charged with non-violent offenses. A 2001 study by the NYC Public Advocate found that the increase in the number of admissions to DJJ facilities was “substantially driven by an increase in detention of offenders charged with misdemeanors and rearrested for violating conditions of probation or aftercare.”¹⁷ Today, in early 2002, although the city’s secure detention population has begun to decline, the Correctional Association’s research suggests a number of youth charged with low-level crimes are inappropriately confined in the city’s youth jails.

Between FY1997 and FY1999, the number of juveniles detained for felony charges decreased by 4.3%, while the number of youth locked up for misdemeanors during that same period increased by 13.3%. Another striking trend is the increase in detention for probation violations. In FY1993, only 1.1% of all youth admitted to detention were locked up for violating probation; by FY2001 that number had jumped to 12.3%. According to Advocates for Children, an organization that works with juveniles on probation, truancy or other school-related problems are the most common reasons why youth are charged with probation violations.

Some young people unnecessarily spend the night at Spofford, the city’s juvenile intake facility, and then are released after their first court appearance the next morning. Although juvenile arrests decreased between 1993 and 2001, the number of youth that the police brought to Spofford (so-called JD police-admits) increased during this period. In 2001, 1,916 young people arrested for delinquent acts were directly admitted to secure detention from police custody—a 20% increase from 1993. The high number of youth that the police admitted to Spofford suggests that some police officers may misuse detention. As one former New York Police Department (NYPD) Youth Officer stated, “Sometimes spending a night in jail is all it takes for a young person to learn his lesson.... Even if we [police officers] are not supposed to put kids in jail for that reason, it does happen.” Another reason for the high number of “police-admits” is that the Family Court is not in session during the evening. (See p. 17.)

Racial Disparities in Detention

In New York City and across the country, youth of color are disproportionately arrested, prosecuted and incarcerated. Research conducted by Building Blocks for Youth, a national juvenile justice policy consortium, reveals that youth of color experience more punitive treatment than their white peers in every stage of the justice process. In fact, youth of color suffer from a “cumulative disadvantage” from the point of arrest to incarceration, a process which results in stunning examples of racial disparity in our juvenile justice system. The Building Blocks for Youth study found that in 1998 African American youth represented 15% of the nation’s total youth population, but 26% of the youth arrested, 31% of the youth referred to juvenile court, and 44% of the youth detained.¹⁸ Moreover, when white youth and African American youth were charged with the same offenses, African American youth with no prior admissions were six times more likely to be incarcerated than white youth with the same background. Latino youth were three times more likely than white youth to be incarcerated.¹⁹

The problem of the disproportionate confinement of youth of color is as serious in New York City as in any city in the nation. Over 95% of the young people entering the city’s detention facilities are African American or Latino, while they make up less than two-thirds of the city’s youth population. Furthermore, youth of color stay in detention longer than white youth. Thus, on most days, every single person in the city’s three secure detention centers is a youth of color. A 1996 study conducted by the New York City Criminal Justice Agency (CJA) found that youth of color were more likely than white youth to have their cases referred for prosecution in Family Court, more likely to be detained at arraignment, and more likely to receive incarcerative sentences.²⁰ Notably, in the study, CJA researchers could not conclude their analysis of racial disparities among the detention and incarceration rates of youth tried in adult criminal court because there were not enough cases of white defendants tried in adult court to produce a statistically significant sample.²¹

The Neighborhood and Family Context

Just as youth of color are locked up at higher rates than white youth, young people from particular

¹⁷ Mark Green, *The Next Crime Problem: We Need a Better Response to Juvenile Crime*, (New York, NY: Office of the Public Advocate, February 2001) p.10.

¹⁸ Eileen Poe-Yamagata and Michael A. Jones, *And Justice for Some*, (Washington DC: Building Blocks for Youth, April 2000).

¹⁹ Ibid.

²⁰ Akiva Liberman, Laura Winterfield and Jerome McElroy, *Minority Over-Representation Among Juveniles in New York City’s Adult and Juvenile Court Systems During Fiscal Year 1992*, (New York, NY: New York City Criminal Justice Agency, February 1996).

²¹ There were so few white defendants tried in adult court that CJA researchers using multivariate analysis were unable to evaluate the difference in outcomes among white youth and youth of color.

neighborhoods in the city are over-represented in secure detention centers. Young people from just 15 of the city's 59 community districts account for 54% of all admissions to juvenile detention. In other words, just a quarter of the city's neighborhoods supply over half of the youth entering detention. The neighborhoods that have the largest concentration of youth entering the juvenile justice system are South Jamaica, Bedford Stuyvesant, Harlem, Soundview, Morris Heights, East New York, East Harlem, Brownsville, Saint George, Tremont, Bedford Park, South Bronx, University Heights, Morningside Heights and Crown Heights. With the exception of South Jamaica in Queens and Saint George in Staten Island, these neighborhoods are clustered in Brooklyn, the Bronx and Northern Manhattan. (See Appendix B.)

When examining youth incarceration rates in various communities, it is important to consider the impact of racial segregation in housing, education and employment, and the concentration of poverty in particular urban neighborhoods. The neighborhoods with highest juvenile detention rates also have the highest levels of poverty, poor housing, and under-performing schools in the city. Eight of these neighborhoods are represented among the 11 community districts with the highest percentage of children receiving public assistance, the highest rates of adult unemployment and the highest percentage of households earning below \$10,000.²² Eleven out of the 15 high-detention neighborhoods are also among the 15 neighborhoods in the city with the highest percentage of housing units in fair to poor condition.²³ In all of the high-detention neighborhoods, except Staten Island's Saint George, the majority of children in the local elementary and middle schools test below grade level in reading and math.²⁴

It is not surprising that the majority of children in detention come from neighborhoods with the city's most under-resourced, struggling schools. Schools

that are not able to provide students with basic literacy skills are likely to have a larger number of their children experience academic failure, become chronically truant, and end up in the juvenile justice system.²⁵ Research has shown the link between reading failure and delinquency: "Both school performance, whether measured by reading achievement or teacher-rated reading performance, and retention in grade (i.e. being held back) relate to delinquency... The relationship between reading performance and delinquency appears even for first graders."²⁶ A recent report by the Coalition for Juvenile Justice, a national juvenile justice policy organization, found that youth that drop out of school are three-and-a-half times more likely than high school graduates to be arrested.²⁷ In addition, this study found that roughly 80% of incarcerated youth suffer from learning or emotional disabilities that interfere with their education.²⁸ In DJJ facilities, although detained youngsters on average are old enough to be in ninth or tenth grade, 80% have math skills below the seventh grade level and 55% read below the seventh grade level.

In addition to coming from disadvantaged schools and neighborhoods, many of the young people in detention come from troubled families. There is a demonstrated link between familial abuse and juvenile delinquency. A national study sponsored by the National Institute of Justice found childhood abuse or neglect increased the odds of juvenile delinquency by 59%. In addition, abused or neglected children were younger at the time of their first arrest, committed twice as many offenses, and were arrested more frequently than children who had not been abused or neglected.²⁹ Research also suggests that an overwhelming number of girls in the juvenile justice system have been victims of sexual abuse in addition to physical abuse.³⁰ Many of the youth sent to detention come from families fragmented by death, parental incarceration or violence.³¹

²² Keeping Track of New York City's Children, 2000, (New York, NY: Citizens Committee for Children, 2000) p.14.

²³ Ibid p.47. In Morris Heights, University Heights, Bedford Park, Soundview, Bedford Stuyvesant, East New York, Crown Heights, Brownsville, Morningside Heights, Harlem and East Harlem, at least 38% of housing stock is categorized as in fair or poor condition.

²⁴ Ibid, p.189.

²⁵ Abandoned in the Back Row: New Lessons in Education and Delinquency Prevention, 2001 Annual Report. (Washington DC: Coalition for Juvenile Justice, 2001).

²⁶ Rolf Loeber et al. Urban Delinquency and Substance Abuse Initial Findings Report, (Washington DC: Office of Juvenile Justice and Delinquency Prevention, 1993) p.15.

²⁷ Abandoned in the Back Row: New Lessons in Education and Delinquency Prevention, 2001 Annual Report. (Washington DC: Coalition for Juvenile Justice, 2001).

²⁸ Ibid.

²⁹ Cathy Widom and Michael Maxfield, An Update on the Cycle of Violence Research, (Washington DC: National Institute of Justice, February 2001).

³⁰ See Leslie Acoca, "Outside/Inside: The Violation of American Girls at Home, on the Streets and in the Juvenile Justice System," Crime and Delinquency, Vol. 44, No. 4, October 1998.

³¹ Justice By Gender: The Lack of Appropriate Prevention, Diversion and Treatment Alternatives for Girls in the Justice System, (Washington DC: American Bar Association and the National Bar Association, May 1, 2001) p. 6.

Unfortunately, detention authorities often see incarcerating a young person as the only viable alternative to returning him to an abusive or neglectful home. A supervisor at the NYC Department of Probation (the agency in charge of assessing the home situations of youths tried in Family Court) conceded that her agency often recommends that the court remand a youth to secure detention in order to protect the child from an abusive parent. A judge who hears delinquency cases in Family Court also stated that she is often forced to remand children for their own safety. Thus, in such cases, a youth is detained not as a result of his actions, but because the adult responsible for him is perceived to provide inadequate supervision or a harmful home environment.

Moreover, children who have been removed from their families and placed in foster care are more likely to enter detention. A Vera Institute of Justice study found that foster care children are over-represented in the city's juvenile detention system.³² This study determined that 15% of youth in detention were in foster care at the time of arrest. The high percentage of detained foster care youth was surprising because the study also found that foster care teenagers were not committing more serious offenses than the general juvenile population.³³ Vera researchers concluded that adolescents in foster care were disproportionately detained for two main reasons: 1) foster care youth were less likely to have an adult present at each stage of the juvenile justice system; and 2) foster care youth were more likely to be arrested at home (e.g. in a foster care group home) and therefore were less likely to have a place to go in lieu of detention.

A key reason why young people who cannot remain at home are sent to secure facilities is because of a shortage of non-secure beds in group homes. From 1997 to 2000, the proportion of youth remanded to secure detention in lieu of non-secure detention increased by 13%. In 1998, the Legal Aid Society filed a lawsuit to remedy the overcrowding of non-secure detention (NSD) facilities and to force the city to create more non-secure group home space for the hundreds of children being improperly held in DJJ secure detention centers.³⁴ As a result of the lawsuit, DJJ doubled the number of group home beds from 75 to 152. Yet, even with this increase, DJJ acknowledges that the city's NSD group homes remain filled to capacity in 2002.³⁵

Results of the NYU Court Survey

In late 2000, the high rate of children entering secure detention, particularly in the Bronx, concerned attorneys from the Juvenile Rights Division (JRD) of the Legal Aid Society. To understand better the factors driving these detention trends, JRD asked the Community Defender Clinic at the New York University (NYU) School of Law to conduct a comparative court monitoring study of detention hearings in Bronx and Manhattan Family Courts. During two weeks in February 2001, NYU court observers monitored the number of young people that were detained after their initial court appearance. For the purpose of this report, the Correctional Association requested the NYU Law School clinic to implement a similar survey of remand decisions in Brooklyn and Queens Family Courts in a two-week period between November and December 2001.

The NYU court study provides a "snapshot" of detention practices in New York City—the racial and ethnic background of young people entering the youth jails, where they come from, the offenses with which they are charged, and who is sending them to detention. In total, court observers recorded the outcome of 248 detention hearings (163 in the Bronx-Manhattan survey, and 85 in the Brooklyn-Queens survey).

The study, together with interviews of people who work in the Family Court, indicates that although the city's detention population began to drop in 2001, there are still a significant percentage of young people entering detention each week. Judges remanded youth in 56% of the initial hearings in Bronx Family Court, and in 28% of the hearings in Manhattan Family Court. In Brooklyn Family Court, 37% of the detention hearings resulted in a remand decision and, in Queens Family Court, judges remanded youth in 50% of the initial hearings. The rate of remand varied widely among judges. For example, two judges presided over the same number of initial hearings during the same two-week period; one remanded 71% of the youth, while another did not remand a single young person.

The survey reflects the fact that children involved in delinquency proceedings and entering detention facilities are overwhelming youth of color. In the Bronx and Manhattan survey, 100% of the youth

³² M.L. Armstrong, *Adolescent Pathways: Exploring the Intersections Between Child Welfare and Juvenile Justice, PINS and Mental Health*, (New York, NY: Vera Institute of Justice, May 1998) p.18.

³³ *Ibid.*

³⁴ Testimony of Nancy Rosenbloom of the Legal Aid Society, before the New York City Council Committee on Youth Services and the Juvenile Justice Subcommittee, September 28, 1999.

³⁵ Testimony of Neil Hernandez, Commissioner of Department of Juvenile Justice, before the New York City Council Committee on Public Safety and Subcommittee on Juvenile Justice, March 18, 2002.

remanded to detention were either African American or Latino. In Brooklyn, 68% of youth remanded to detention were African American and 23% were Latino; less than 1% of the remanded youth were white. In Queens, 56% of remanded youth were African American, 28% were Latino and 11% were white, and in 5% of the cases, the race of the child was not indicated.

According to the NYU court monitors, truancy or lack of adequate parental supervision was a key concern in the majority of remand cases. In Brooklyn, judges specifically referred to these factors during 56% of the hearings that resulted in a remand decision. Interviews with Family Court judges supported this finding. Judges who were interviewed for this report stated that they often base remand decisions on school attendance records and whether there is a responsible parental authority in the home.

Staying in Detention Longer

Along with an increase in admissions of juveniles charged with low-level offenses, DJJ also experienced a rise in the amount of time that young people spent in its secure facilities between 1993 and 2000. In 1993, a youth spent an average of 20 days in secure detention; by 2000, the average length of stay had risen to 36 days. Youth awaiting adjudication of more than one case had an average length of stay of almost three months (86 days).

Delays in transferring convicted youth to OCFS³⁶ residential facilities have contributed to the rise in the average length of stay between 1994 and 2000. Fortunately, in 2001, DJJ began to work with OCFS to reduce the period during which young people must stay in DJJ custody awaiting placement in a state-run residential facility. Through coordination with OCFS, the city reduced the average time a young person remained in detention awaiting placement by 12% in 2001.³⁷

Family Court personnel, including defense attorneys and probation staff, maintain that pre-adjudicated youth are staying longer in the city's youth jails because their cases are often delayed in a court system inundated with juvenile cases. One judge stated that because of the high volume of delinquency cases, she is seldom able to complete a fact-finding

hearing (trial) in one day and is often forced to repeatedly adjourn cases.

One reason for the high caseload in Family Court is the low number of delinquency cases that Probation diverts at intake. In New York City, Probation "adjusts" or diverts less than 12% of delinquency cases to alternative-to-court programs or other community-based programs and services.³⁸ Nationally, probation departments typically divert around 50% of delinquency cases. Many court personnel believe that the city's Probation Department could divert many more delinquency cases, particularly those involving minor fights or non-violent offenses, such as shoplifting or graffiti. As one Family Court judge pointed out, "Even if Probation were to adjust 10% more cases, it would free up a significant amount of time for the court to handle more serious cases."

Attorneys from the Legal Aid Society, Juvenile Rights Division (JRD) represent young people whose cases are referred for prosecution in Family Court. By all accounts, JRD law guardians provide excellent legal representation to youth in delinquency proceedings. However, given the high volume of delinquency cases, law guardians have extremely high caseloads. In criminal court, defense attorneys from the Legal Aid Society's Juvenile Offender (JO) Unit represent about half of the juveniles who are charged as adults. Private, "18-b" attorneys carry the other half of JO cases in adult court.³⁹ The state offers "18-b" attorneys an extremely low rate of pay to represent indigent defendants.⁴⁰ Hence, these court-appointed lawyers often carry huge caseloads, are not sufficiently supervised, and do not have sufficient time to prepare properly for each case.

One possible approach to reducing unnecessary overnight stays in detention is to experiment with evening Family Court hours, such as exist in adult criminal court. As stated earlier, some juvenile arrestees spend the night in jail because the police admit them directly to Spofford if the court is closed. As a pilot effort, the Family Court could implement an evening schedule for one delinquency part in one borough. (See Recommendation #9.) This pilot could build on an existing effort in Brooklyn to make the Family Court more accessible

³⁶ The New York State Office of Children and Family Services (OCFS) operates residential placement facilities housing juvenile delinquents and juvenile offenders.

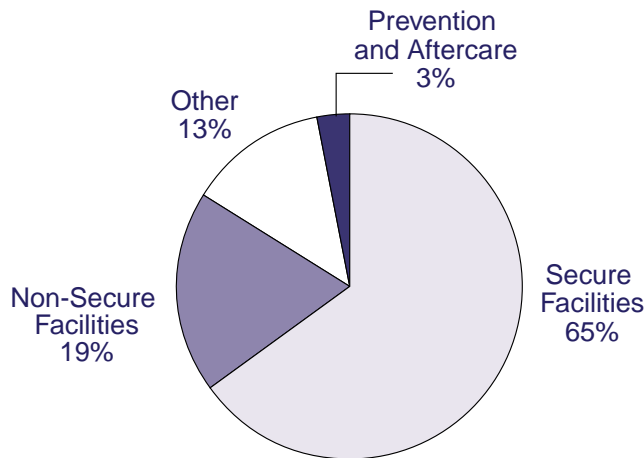
³⁷ Testimony of Commissioner Fred Patrick, before the Juvenile Justice Subcommittee of the New York City Council, December 17, 2001.

³⁸ Mayor's Management Report (MMR), (New York, NY: Office of the Mayor, February 2001) Volume II, p.24.

³⁹ "18-b" attorneys are private attorneys authorized to represent indigent clients under article 18-b of the County Law, section 722. "18-b" attorneys also represent youth in Family Court when there is a conflict of interest for Legal Aid to handle the case.

⁴⁰ The pay scale for assigned counsel in New York has not increased since 1986 and is among the lowest in the nation. New York pays court-appointed attorneys \$40 an hour in court and \$25 out of court.

Figure 2: Breakdown of DJJ Annual Expenditures, 2001



by keeping it open in the evening for new filings of child support cases.

The Fiscal and Social Costs of Secure Detention
The rise in the average daily detention population has cost the city hundreds of millions of dollars in additional operating expenses. The Department of Juvenile Justice spends an average of \$358 a day to detain one youth in secure detention. Hence, the city spends the staggering amount of \$130,670 a year to confine one juvenile in a secure facility. In contrast, the Probation Department Alternative to Detention (ATD) program costs less than \$7,000 per participant per year and non-secure detention in a DJJ-contracted group home costs \$96,360 per year.

A breakdown of DJJ's annual budget points to the city's emphasis on secure detention versus non-secure detention, prevention programs and aftercare for youth leaving detention. The agency uses 65% of its \$55.4 million annual budget on the operation of its three secure facilities, while it spends only 19% of its yearly expenditures on non-secure detention and 3% on prevention and aftercare. In addition, New York City Probation spends only \$2.4 million per year on its Alternative to Detention (ATD) program out of an annual agency budget of \$88 million.

The cost savings of detention reform should be

measured not only in reduced operating expenses but also in capital savings from foregoing new construction. In addition to the expense of running secure detention facilities, DJJ has spent substantial resources on expanding its secure detention capacity. As stated earlier, DJJ recently spent \$70 million to construct two detention centers and an additional \$8 million to reopen Spofford. In addition, New York is on the threshold of spending almost \$65 million in capital money to expand its detention capacity.

It is important to note that the costs of detention also include questionable fiscal trade-offs. Spending more tax dollars on detention often means that there is less money available for community-based alternatives to detention, aftercare and prevention programs in high-risk neighborhoods. Conversely, the more the city invests in prevention, alternatives to detention and aftercare, the less it will have to spend on future incarceration costs. According to the Citizens Committee for Children of New York City, one dollar invested in a prevention program produces a savings of \$140 later in juvenile justice and law enforcement costs. One million dollars allocated toward a program that offers incentives to students to graduate from high school can help prevent 258 serious crimes.⁴¹ A report by the City Comptroller found that every dollar spent on aftercare services for youth leaving detention saves \$27 in future detention and incarceration costs.⁴²

The overuse of secure detention consumes resources that could be invested in "high-risk" neighborhoods and lessens the capacity of these neighborhoods to address effectively the underlying causes of delinquency and youth crime. For example, in 2001, the city spent nearly \$2 million to detain 159 juveniles from Bedford Stuyvesant, a largely low-income African American neighborhood in Brooklyn.⁴³ At the same time, the Citizens' Committee for Children classified Bedford Stuyvesant as one of New York City's three highest-risk communities for children and pointed out that the city has not invested enough resources in this community to protect child well-being.⁴⁴ Neighborhood indicators show that Bedford Stuyvesant suffers from many of the risk factors known to contribute to juvenile delinquency—including high rates of illiteracy and school failure, youth unemployment and family breakdown.⁴⁵

⁴¹ Keeping Track of New York City's Children, p.3.

⁴² Alan Hevesi, Audit Report on the Effectiveness of the Department of Juvenile Justice's Aftercare Program, (New York, NY: The City of New York Office of the Comptroller, Bureau of Management Audit, June 29, 1995).

⁴³ This estimate is based on an average length of stay in detention of 34 days at a per diem cost of \$358 in 2001.

⁴⁴ The Citizens Committee ranks child well-being in the city's community districts across a range of categories: poverty, health, youth development, community life, child safety, education and environmental quality.

⁴⁵ Ibid, p.23.

Lastly, the most serious consequence of the city's over-reliance on secure detention is the effect that it has on the thousands of youngsters who are unnecessarily detained. Lubow and Tulman outline some of these harmful effects of detention on children in an article in the *District of Columbia Law Review*:

Youths in detention are exposed to negative peer culture and violence. Rather than shocking the youths into good behavior, detention may desensitize youths who otherwise might be deterred by the prospects of confinement. In addition, youngsters are victimized and assaulted while in detention.... Detention stigmatizes children and disrupts their lives. For example, youths released from detention encounter obstacles to re-enrollment in school or renewed participation in specialized treatment.⁴⁶

Detention not only disrupts children's education but also damages their future employment prospects. As Lubow and Tulman point out, the so-called "revolving door" effect—children being released from detention centers only to be re-detained—may be due to the "closed doors" that these youngsters face in society as a consequence of their first detention.⁴⁷

Research indicates that detention does not deter future offending, but it does increase the likelihood that a child will be incarcerated in the future, even when controlling for offense, prior history and other factors.⁴⁸ The decision to lock up a child pending trial can have serious consequences for the ultimate disposition of the young person's case. According to Mark Soler of the Youth Law Center, "Children who are detained rather than let go to their parents or released to some other kind of program, are statistically much more likely to be incarcerated at the end of the process."⁴⁹

Returning to Jail

New York City does not compile adequate data regarding the recidivism rates of young people released from detention. In 2001, 40% percent of the youth who entered DJJ facilities had been in DJJ custody at least once previously in the same year.⁵⁰ Although DJJ does not keep statistics on recidivism, agency officials estimate that the majority of youth entering its facilities have had prior contact with the juvenile justice system.⁵¹ Moreover, the astonishingly high recidivism rates of youth leaving the state juvenile correctional facilities (81% of boys and 45% of are girls are rearrested within 3 years⁵²) indicate the formidable obstacles facing formerly incarcerated youth.

In an effort to reduce the re-arrest and re-detention of youth once they are released, DJJ operates a small-scale aftercare program that works with approximately 623 children per year. Studies have shown that the aftercare program participants are much less likely to be re-arrested than non-participants. Of those re-arrested, non-participants are arrested at a rate 60% greater than youth participating in the aftercare program.⁵³ Participation in aftercare is voluntary—when a young person is released from detention, DJJ will send a letter to his home inviting him to participate in aftercare. However, youth on probation are generally not eligible for the program. An audit by the City Comptroller found that if New York City could enroll all eligible children in aftercare, the city and state would save over \$22 million annually.⁵⁴

Despite the successes and cost-savings from aftercare, the Giuliani Administration repeatedly cut DJJ's post-detention and delinquency prevention programs during the past eight years.⁵⁵ In December 2001, the city cut \$660,000 from DJJ's Community Based Intervention (CBI) program, which includes services for aftercare and delinquency prevention, by eliminating CBI contracts with four neighbor-

⁴⁶ Bart Lubow and Joseph Tulman, "The Unnecessary Detention of Children in the District of Columbia" *The District of Columbia Law Review*, Fall 1995, Vol. 3, No.2, p. xv-xvi.

⁴⁷ *Ibid.*

⁴⁸ Bill Rust, "Juvenile Jailhouse Rocked," *Advocasey*, Fall/Winter 1999, (Baltimore, MD) p. 2.

⁴⁹ *Ibid.*

⁵⁰ Testimony of Douglas Apple, Deputy Commissioner of Department of Juvenile Justice, before the New York City Council Committee on Finance and Committee on Youth Services, March 16, 2001.

⁵¹ *Ibid.*

⁵² Bruce Frederick, *Factors Contributing to Recidivism Among Youth Placed with the New York State Division for Youth*, (Albany, NY: New York State Division of Criminal Justice Services, 1999).

⁵³ New York City Department of Juvenile Justice, 2001.

⁵⁴ Alan Hevesi, *Audit Report on the Effectiveness of the Department of Juvenile Justice's Aftercare Program*, (New York, NY: The City of New York Office of the Comptroller, Bureau of Management Audit, June 29, 1995).

⁵⁵ In testimony before the New York City Council Committee on Finance and Committee on Youth Services on March 16, 2001, DJJ Commissioner Tino Hernandez explained that when his agency was faced with budget reductions, it had to cut community-based programs because these programs, unlike detention services, were not mandated by the state and thus were the only programs that DJJ was permitted to reduce.

hood-based organizations. It is important to note that these cuts in the CBI program constituted the only substantial reduction in the DJJ budget in 2001, although CBI comprised only 3% of the total agency budget.

These cuts were particularly disappointing for long-time advocates who have called for the city to contract out DJJ's community-based services to neighborhood youth programs. The advocates maintain that the city should transfer the aftercare program from DJJ to the Department of Youth and Community Development (DYCD), the city agency responsible for funding community-based youth organizations. This agency could offer grants to neighborhood groups to operate aftercare and delinquency prevention programs because these local organizations are better equipped than DJJ to work with youth and families in the neighborhoods where they live. Connecting youth to DYCD-funded community programs instead of to the DJJ aftercare program would also reduce the stigmatization of young people as "ex-offenders."⁵⁶

⁵⁶ FY2001 Alterbudget Agenda, (New York, NY: City Project, May 2001).

The Solutions

Building on Local Innovations

In New York City, there are small, innovative programs working to make a difference in the lives of youth who come into contact with the juvenile justice system. Some of these initiatives involve creative partnerships between the juvenile justice institutions and community members—particularly community members that the system has traditionally not treated as a resource for supporting delinquent youth—such as other young people from the same neighborhoods. For example, at Youth Force’s South Bronx Community Justice Center, young people operate a youth court, which hears cases referred by Probation’s Alternative to Court Program. Another youth program in the Bronx, the Urban Youth Alliance, connects court-involved youth with adult mentors from local Bronx churches and then works with juvenile justice authorities to allow the youth to participate in intensive one-on-one mentoring as an alternative to incarceration. In another alternative-to-incarceration program, the CASES Youth Enterprise Project (formerly the Legit Program of the Osborne Association), youth learn and develop entrepreneurial skills while working in a youth-run greeting card business.

Only a handful of non-profit organizations operate alternative-to-detention programs for young people. Some programs, such as the Center for Community Alternatives’ Youth Advocacy Project, work with both pre-adjudicated and post-adjudicated youth. Unfortunately, however, city officials have not tried to build on the success of these individual programs and replicate them citywide. In fact, many of the privately-run, community-based alternative programs continue to struggle to obtain institutional support and funding. Likewise, the city has failed to provide enough resources to the Department of Probation to expand and enhance its alternative-to-detention programs, particularly the Expanded Alternative to Detention program. With adequate funding, existing community-based programs in New York City could provide the foundation of a comprehensive continuum of detention alternatives.

CCA’s Youth Advocacy Project

The Center for Community Alternatives (CCA) is a private, not-for-profit agency that runs alternative-to-incarceration programs in New York City and Syracuse. The organization’s Youth Advocacy

Project is one of the few programs that provide pre-adjudicated youth with an alternative to confinement in the city’s detention facilities. The program works with youth who have been charged with serious violent offenses and whose cases are tried in adult court.

CCA identifies potential participants by examining the Criminal Justice Agency’s database of new arrests. Detained youth aged 12 to 16 who have either JO or youthful offender (YO) charges in the Brooklyn or Manhattan criminal courts are eligible for the program. A CCA case manager will contact the young person’s lawyer and family and meet with the youth in detention to determine if the youth is appropriate for the program. If the young person is willing to participate, a CCA court advocate will present to the judge a client-specific plan for the youth to be returned to the community. After the youth is released from detention, a CCA case manager monitors the young person and refers him or her to appropriate programs, including therapy, mentoring, literacy programs, and tutoring.

Each of the program’s six case managers has a caseload of approximately 10 youths. CCA seeks to link each youth with a case manager who lives in the same neighborhood or area. Young people usually stay with CCA for up to a year after which they are most often sentenced to probation. The annual cost per participant is between \$12,000 and \$13,000 a year—less than one tenth of the cost to detain a youth in a secure facility. The program’s structured supervision and case management model has been successful in keeping its young participants on the right track while they await adjudication of their cases. In 2001, only 5% of young people were rearrested while participating in CCA’s Youth Advocacy Project.

Expanding and Improving the Alternative to Detention Program

The city’s primary community-based option for pre-adjudicated youth is the Department of Probation’s Alternative to Detention (ATD) program. Working with the NYC Board of Education, Probation operates ATD centers in the Bronx, Manhattan, Queens and Brooklyn. Run principally as a school, the program requires the youth to attend classes and participate in other programs (such as counseling and group sessions) from 8:00 a.m. to 4:00 p.m. Typically,

a Family Court judge will send a young person with a history of chronic truancy to the ATD program while the youth is awaiting disposition of his or her case. According to the Probation Department, many of the children in ATD would be remanded to a secure facility if it were not for the existence of the program. In 2001, ATD had a total of 190 slots citywide serving 1,068 youths.⁵⁷ The program's retention rate in 2001 was 90%.⁵⁸

The Expanded Alternative to Detention (EATD) program provides courts with the option to parole youth facing more serious charges. Created in 1996 as part of the Juvenile Detention Alternative Initiative (JDAI), the purpose of EATD is to reduce the city's reliance on secure detention. The program's target population is youth who have been remanded to detention at their first Family Court appearance but who could return to the community if given adequate supervision and support. Significantly, EATD monitors youth during afterschool hours—the time when most youth crime occurs. Youth attend the program 12 hours a day (8:00 a.m. to 8:00 p.m.) five days a week. In addition, probation officers make weekly contact with the EATD participant's parent or guardian and conduct monthly home visits.

Because Probation designed the program to deal with high-risk youth, EATD is an essential means to decrease the number of young people sent to detention centers. Currently, the city operates only two EATD centers, in Manhattan and the Bronx. In 2001, the retention rate for EATD was 89%.⁵⁹ Family Court judges in Brooklyn and Queens both agreed that they would send high-risk youth to EATD in lieu of detention if the program existed in their boroughs.

Interviews with judges, advocates, defense attorneys, probation personnel and EATD participants indicate that, although indispensable, the EATD program needs significant improvement. The numbers of young people paroled to EATD has dropped over the past few years—from a high of 330 in 1998 to 205 in 2001—suggesting that some judges may rely on EATD less because of a lack of confidence in the program. One judge reported that he would be more likely to send high-risk youth to EATD if the program required that a parent or guardian pick up the youngster in the evening rather than allowing the young people to leave unescorted.

Although a few community organizations provide mentoring and other services, these programs are not

available at all the ATD centers. Moreover, because of recent budget cuts, some needed services are no longer offered to young people in ATD. For example, the city recently ended a contract with a community provider to offer mental health and counseling services to youth in the ATD centers in Manhattan and the Bronx. Young people in the EATD program as well as advocates point to a lack of constructive programs and activities to engage youth, particularly in the after-school hours from 4:00 p.m. to 8:00 p.m. Young people at the Bronx EATD site reported that they spent the evening hours “sitting around in the rec room” without much structured recreation or other enrichment activities.

Given the low literacy levels of many of the ATD and EATD students,⁶⁰ the program would particularly benefit from partnerships with programs that build adolescent literacy. The Board of Education needs greater resources to provide more individualized instruction to students during the ATD school hours. Teachers at one ATD site reported that it was difficult to provide appropriate instruction in classes comprised of students from various grade levels and with a wide-range of academic backgrounds. Some students with higher academic skills found the curriculum too easy, while other students at lower literacy levels did not receive the educational support they need. As one Family Court judge pointed out, the inadequacy of this court-mandated schooling sends “the wrong message” to the students enrolled in ATD: “We don't care if a child is actually learning, it only matters that he goes to school.”

The Department of Probation estimates that the ATD and EATD programs save the city and state at least \$20 million each year. In 1999, the approximate cost for each student to spend 60 days in ATD (the average time a young person stays in the program) was approximately \$1,072—less than a tenth of the cost to detain a youth in secure detention for 60 days. Yet, the city spends over 10 times more on detention services (over \$36 million annually) than it does on the Alternatives to Detention program (less than \$3 million a year). Redirecting some of the detention resources to expand and improve the ATD program would save the city many millions more in future detention costs. Moreover, the city should establish EATD programs in Queens and Brooklyn. Most importantly, the city should provide funding to community organizations to partner with the Department

⁵⁷ Statistics provided by the New York City Department of Probation, 2001.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ According to the Department of Probation website, most of the students in ATD have a history of truancy and poor academic skills and need remedial work.

of Probation in order to enhance ATD and EATD educational programs and to provide counseling services not only for youth but also for their families. (See Recommendation #4.)

Learning From Reform Efforts Elsewhere

A number of jurisdictions across the country have demonstrated that with sufficient planning, resources and political will, cities can reduce the overuse of youth detention and save millions of tax dollars—without jeopardizing public safety. Many of these jurisdictions embarked on systematic detention reform when faced with the prospect of costly expansion of their detention capacity.

Broward County, Florida: Paving the Way

Broward County, which includes the city of Fort Lauderdale, is a forerunner of juvenile detention reform. In the 1980's, juvenile justice advocates sued Broward County, challenging excessive overcrowding in the county's sole detention center. To resolve the lawsuit, in 1987 the county launched a five-year, multi-pronged systems reform effort, which dramatically reduced its secure detention population, shortened lengths of stay in detention, and created a mix of detention alternatives for youth released pending trial.

As a first step to address overcrowding, officials developed a Risk Assessment Instrument (RAI) to determine which young people belonged in secure detention and which did not. Through the use of this screening tool, authorities were able to send youth who did not belong in secure detention to newly created alternative programs, which were not only significantly less costly than jail but also exerted a positive influence on many of the youth.⁶¹ By diverting youth to alternatives and shortening the length of stay, Broward was able to reduce its average daily detention population from 161 youths in 1988 to 56 youths in 1993. Although the county originally had to invest additional funds to start up new alternative programs, these programs yielded a cost savings to the county of \$5.2 million over five years.⁶²

The success of the Broward reform effort moti-

vated the Annie E. Casey Foundation to initiate a multi-city, multi-year juvenile detention reform experiment in 1992. Three cities—Sacramento, Portland (Multnomah County), and Chicago (Cook County)—successfully completed the implementation phase of the Annie E. Casey Foundation's Juvenile Detention Alternative Initiative (JDAI).⁶³ The experiences of these jurisdictions, as well as other cities that have independently worked to reorient their detention systems, provide a model for New York City on how to reverse its reliance on secure detention, save tax dollars, enhance public safety, and improve the outcome for children who enter the juvenile justice system.

Cook County, Illinois: Embarking on Systems Reform

Chicago's Cook County, with a population of over 5 million, nearly halved its daily secure detention population between 1996 and 2001—from 848 youths to 450 youths.⁶⁴ The number of youth of color in detention in the county dropped by 31%.⁶⁵ Cook County, an original site of the Casey Foundation's Juvenile Detention Alternative Initiative (JDAI), significantly reduced its juvenile detention population by implementing a range of community-based alternatives to detention and changing the way the system dealt with youth who failed to appear in court, violated probation or were charged with other minor infractions. During the period that Chicago reduced the number of youth confined in its jails, the city experienced a 33% drop in violent juvenile crime.

The inclusion of community-based organizations in the JDAI collaborative was the breakthrough that enabled Chicago to build an impressive continuum of programmatic options. (See Appendix C.) This continuum of detention alternatives includes home confinement, electronic monitoring and shelters. One of the most innovative new programs is the evening reporting center. County officials partnered with community groups to form a system of evening reporting centers that provide structure and supervision to court-involved youth during the "high-crime" after-school hours from 3:00 p.m. to 9:00 p.m. Non-profit, community-based organiza-

⁶¹ Rochelle Stanfield, *Pathways to Juvenile Detention Reform: The JDAI Story*, (Baltimore, MD: Annie Casey Foundation) p. 8.

⁶² Richard Mendel, *Less Cost, More Safety: Guiding Lights for Reform in Juvenile Justice*, (Washington DC: American Youth Policy Forum, 2001) p.54.

⁶³ As noted above (p.3), in 1993, New York City was one of the sites originally included in this experiment. Unfortunately, changes in New York City's policies relating to detention led to the Casey Foundation's decision to drop New York City from this project.

⁶⁴ The numbers of youth in detention in New York City and Chicago are not easily comparable because Illinois treats youngsters as juveniles up to the age of 17.

⁶⁵ As in other large urban areas, the overwhelming majority of the young people detained in Cook County's juvenile jails are young people of color. African American youth comprise 32% of the overall youth population and 74% of the youth in detention. Elenor Hinton Hoytt, Vincent Schiraldi, Brenda Smith and Jason Ziedenberg, *Reducing Racial Disparities in Juvenile Detention*, (Baltimore, MD: Annie E. Casey Foundation, January 2002) p. 33.

tions operate seven centers in Chicago neighborhoods with a high number of youth referred to juvenile court. The centers employ staff primarily from the neighborhood and maintain a ratio of one staff to five youth (each center supervises up to 25 youth). Young people participate in recreational activities, tutoring, and counseling and receive referrals for other community-based opportunities. The city recently contracted with a community organization to open a center exclusively for girls. This center is staffed by female professionals and offers gender-based programs.

A recent evaluation concluded that 60% of youth admitted to the evening reporting centers would have been admitted to secure detention if this program had not been in place.⁶⁶ In addition, after determining that many young people were jailed for probation violations, Cook County officials began to use the centers as an alternative sanction for youth violating conditions of probation. Ninety-one percent of the participants successfully complete the program—remaining arrest-free and attending their court hearings. The total savings that resulted from sending pre-adjudicated youth to evening reporting centers and other community-based programs in lieu of detention amounts to \$3.5 million per year.

Cook County further reduced its detention population by creating alternative sanctions for young people who violate the conditions of probation. In many jurisdictions, including New York City, probation officers use secure detention as the primary sanction for youth who violate probation. In Chicago, officials looked for other options for probation violators. Previously, youth charged with violating the terms of their probation would spend an average of 21 days in detention. Recognizing this practice was costly and unnecessary, Chicago instituted a “detention step-down” policy. Now, the court may choose to detain a young person for 7 days in secure detention and then order that he or she participate in a community-based alternative program. Cook County developed a program exclusively for probation violators—the Sheriff’s Work Alternative Program (SWAP) in which youth are “sentenced” to community service work instead of being sent to secure detention. As stated earlier, probation officers may also directly sanction some probation violations by mandating that youth participate in community-based evening reporting centers or other programs

within Chicago’s continuum of alternative programs.

In addition to establishing a range of community-based alternatives to detention, Cook County limited the number of young people who were detained for failing to appear for their initial court hearing. Before the reform initiative, nearly 40% of alleged juvenile delinquents who were issued a summons, rather than detained, failed to appear for the court date.⁶⁷ These youth, who were released to the custody of their parents, were simply told to appear in court two months later. During that time, the youth would not hear anything from the system and many forgot their court dates or confused them. These youngsters would then receive failure-to-appear warrants, be arrested and jailed in secure detention.

To ensure that young people appear in court, the county’s Presiding Judge shortened the time period between arrest and the first court date. The Probation Department began sending written notices and making telephone reminders to make sure that the youths appear in court on time. In addition, the Probation Department hired community advocates who not only took responsibility for the youth to appear in court but also assisted them with other needs, such as purchasing clothes and making medical appointments. By changing procedures and hiring court advocates, Chicago was able to cut its failure-to-appear rates by half.⁶⁸

Multnomah County, Oregon: Reducing Racial Disparities in Detention

Portland’s Multnomah County’s successful efforts to reduce the overrepresentation of youth of color in its juvenile detention center has made this jurisdiction a national model. An original JDAI site, Multnomah took deliberate steps to address the problem of disproportionate confinement of African American and Latino youth in detention. In 1994, an African American or a Latino youth was twice as likely to be detained in the county’s juvenile jail than a white youth. However, by 2000, among all youth referred with criminal charges, youth of color and white youth experienced nearly identical detention rates.

Multnomah County paid special attention to racial and cultural biases in detention practices and ensured equal access to alternatives to detention for youth of color. For example, a committee of representatives from different agencies, including the judiciary, the public defender, probation and the detention

⁶⁶ Paul DeMuro, *Pathways to Juvenile Detention Reform: Consider the Alternatives*, (Baltimore MD: Annie E. Casey Foundation) p.20.

⁶⁷ Bill Rust, “Juvenile Jailhouse Rocked,” *Advocasey*, Fall/Winter 1999, (Baltimore, MD) p.8.

⁶⁸ Ibid.

system, developed a risk assessment instrument to determine which youth should be detained. The committee was careful to evaluate assessment criteria through the lens of race.⁶⁹ The instrument jettisoned criteria, such as “gang affiliation,” which may be biased against youth of color “who may be defined as gang members simply by virtue of where they live.”⁷⁰ Moreover, reformers in Multnomah also made a special effort to locate alternative-to-detention programs in communities of color and to partner with neighborhood-based organizations that were engaged with youth in these communities.

In reducing the racial disparities within its detention system, the jurisdiction was also able to cut its overall detention population. From 1994 to 2000, the number of youth admitted to the county’s secure detention center declined by over 43%. In addition, the average daily population at the facility dropped during this period from 60 youths to 38 youths. During this same period, the county experienced a significant drop in juvenile crime. Between 1995 and 2000, juvenile arrests for violent crime declined 24%; juvenile arrests for property crime dropped 40%; and the total youth crime rate decreased by 26%.⁷¹

Tarrant County, Texas and Kings County, Washington: Rejecting Juvenile Jail Expansion⁷²

Most jurisdictions, when faced with overcrowded detention centers and ever-increasing detention populations, choose to build more juvenile jail cells. However, a few counties in the country have resisted the pull to expand capacity and opted to restructure their detention systems. For example, in 1994, the Texas Legislature allocated \$37.5 million to finance the construction or expansion of juvenile detention and corrections facilities in the state’s largest counties. All but one of the counties eligible for these funds chose to build more secure beds. The exception was Tarrant County, home to the city of Fort Worth. Officials there recognized that new beds were unneeded and that expanding capacity would cost the county millions in increased operating expenses. They chose instead to invest in a continuum of community-based alternatives to detention and incarceration.

One of the programs the county put in place is the Youth Advocate Program (YAP), modeled after a successful program in Pennsylvania. The program trains community members to provide intensive,

individualized supervision to youth pending trial or to adjudicated youth as an alternative to incarceration. A youth advocate not only monitors the young person but also mentors the youth and facilitates a child/family team, which may include parents, relatives, neighbors and professionals. The Youth Advocate Program and other non-residential, community-based initiatives form the bulwark of Tarrant County’s community-based detention and corrections system. Significantly, although Tarrant County has the lowest incarceration rates of any urban county in Texas, it also has experienced a substantial reduction in juvenile crime and recidivism rates.⁷³

Similarly, Seattle (Kings County) has resisted the trend to build more juvenile jail beds. Like New York, Seattle experienced an increase in its juvenile detention population while juvenile crime decreased. The number of youth entering the county detention center rose 27% from 1993 to 1998 and the average length of stay increased by 39%—causing the average daily population to climb from 119 youths to 199 youths.⁷⁴ Overcrowding at the detention center compelled county officials to initiate a plan to build a second 80-bed jail that would cost \$11 million. However, some community and government leaders questioned whether detention expansion was the only option to address the problem of overcrowding. In 1997, the Kings County Executive, Ron Simms, commissioned the Juvenile Justice Operational Master Plan to review detention practices in the county and assess the need to expand capacity. A 22-person team, with support from a 16-person working group, developed the plan with input from more than 100 representatives from various city and county agencies and community organizations.

The Master Plan identified several reforms which could free up beds and reduce overcrowding at the county’s detention center. These reforms included:

- 1 Developing a risk assessment instrument to help police officers determine whether a child should be taken to secure detention.
- 2 Expanding alternatives to detention, including home detention, electronic monitoring and community supervision.
- 3 Reducing failure-to-appear rates by notifying youth and their parents of court dates.

⁶⁹ Justice Policy Institute, “Reducing Disproportionate Minority Confinement: The Multnomah County, Oregon Success Story and its Implications,” Policy Brief, (Washington DC: January 2002).

⁷⁰ Ibid.

⁷¹ Justice Policy Institute, 2001.

⁷² Richard Mendel, *Less Cost, More Safety: Guiding Lights for Reform in Juvenile Justice*, (Washington DC: American Youth Policy Forum, 2001) p. 16.

⁷³ Ibid, p. 20.

⁷⁴ Ibid, p. 54.

4 Diverting truants and status offenders from detention through mediation and alternative-to-court programs.

5 Limiting lengths of stay by adopting clear sentencing guidelines and speeding up transfers of adjudicated youth.

In August 2000, the Kings County Council voted to adopt the proposed reforms set forth in the Master Plan and suspend the county's plans to build more beds. Although Kings County is still in the process of implementing the reforms, it has already made significant progress in reducing its juvenile detention population.⁷⁵

Kings County is also working to reduce the over-representation of youth of color in its justice system by increasing awareness among the police department and other agencies and also working to build opportunities for youth on the neighborhood level. With technical assistance from the Haywood Burns Institute,⁷⁶ the initiative seeks to address racial disparities in three stages: 1) disproportionate arrests of youth of color; 2) racial inequities in detention; and 3) disparities in dispositional decisions. The effort involves a committee of high-level juvenile justice officials as well as community stakeholders, such as youth and community groups.

As part of the initial data-gathering effort, the project has hired teams of youths and adults to conduct city-wide community mapping. Each team of five youths and two adults identifies positive sites (youth programs, schools, libraries, churches) and negative locations (empty buildings, vacant lots, areas with heavy drug and crime activity) in each neighborhood. From this community mapping process and police data, the committee will select neighborhoods for targeted programming and make adjustments to police practices as warranted.⁷⁷ In addition, to understand better the factors that cause so many youth of color from poor neighborhoods to end up in the juvenile justice system, the initiative will track the course of youths arrested and detained from three Seattle neighborhoods, from which 70% of the young people in the Kings County detention center come.

⁷⁵ Richard Mendel, *Less Cost, More Safety: Guiding Lights for Reform in Juvenile Justice*, (Washington DC: American Youth Policy Forum, 2001), p. 55.

⁷⁶ A project of the Youth Law Center, the W. Haywood Burns Institute in San Francisco works to reduce the over-representation of youth in the juvenile justice and child welfare systems.

⁷⁷ Elenor Hinton Hoytt, Vincent Schiraldi, Brenda Smith and Jason Ziedenberg, *Reducing Racial Disparities in Juvenile Detention*, (Baltimore, MD: Annie E. Casey Foundation, January 2002), p. 63.

Larger Policy Considerations

Capacity Drives Utilization

When a jurisdiction invests in expanding its secure detention capacity, its policies and practices become more oriented towards using this additional jail space. This dynamic played out in New York City in the 1990's. After DJJ built two new detention centers and reopened Spofford, the city began to jail more young people—including youth who were eligible for non-secure detention and community-based alternatives. By contrast, other cities, that opted to expand community-based alternatives rather than construct larger facilities, found that they could effectively reduce their detention populations and save millions of dollars—without compromising public safety. Given the continued decline in juvenile crime and the current fiscal crisis, New York City should now look to reduce its secure detention space, not expand it.

What is at stake in our city, however, is much greater than the plan to spend nearly \$65 million to build 200 secure detention beds. Flawed policy choices have driven the increased pre-trial detention of the city's youth. The new political and economic realities in New York present an opportunity for policymakers to rethink the city's approach to juvenile detention. New York City should learn from the successes of local initiatives, as well as from reform efforts in other jurisdictions, not only to modify its detention practices but also to change fundamentally its approach to juvenile justice.

A Community-Focused Agenda

When asked what was her greatest frustration about hearing delinquency cases, one Family Court judge responded that the Court is simply perpetuating the problem of juvenile crime and delinquency. "I feel like we just have our finger in the dike. We are not resolving the issues facing these youngsters and their families." This judge, like several other juvenile justice officials, identified a need for more community resources outside of the juvenile justice system to help troubled youth and their families. These officials expressed the feeling that youth in their custody have been failed by other public systems—particularly the education, child welfare and mental health systems.

In order to address the issues facing court-involved youth and their families and to reduce juvenile crime and delinquency, New York City must

address the larger issues facing youth and families in low-income, urban communities. *A central part of systemic juvenile justice reform should be the diversion of public resources from incarceration to neighborhood-based services. The city must seek to redirect juvenile justice expenditures to fund collaborations with community organizations in order to strengthen education reform, family support programs, youth employment, and community development.*

Moreover, any effort to reduce juvenile detention should adopt a vision of "community justice"—an effort to form creative partnerships between community groups and justice institutions in order to change the way in which the juvenile justice system operates in the city's neighborhoods. Thus, rather than the juvenile justice system running alternatives to detention and aftercare programs, the city should provide funding to community-based organizations to create and operate these programs. Greater cooperation between communities and city agencies will provide direct benefits by reorienting resources from the justice system to neighborhood-based groups and by giving neighborhoods a stake in the justice system. This process will benefit youth and the city as a whole by addressing the underlying causes of juvenile crime and by building healthy, viable communities.

Recommendations

1 Cancel the plan to construct 200 additional secure detention beds. Reallocate \$65 million to address community needs in neighborhoods with high rates of youth detention.

New York City already has enough juvenile jail space. The Giuliani Administration proposed a capital plan to expand the city's juvenile detention centers at a time when the detention population was rising unabated—largely because of the inappropriate jailing of youth charged with low-level offenses and an increase in the length of time youth were detained. Given the continued decline in youth crime and the unused capacity in DJJ's secure facilities, the city should immediately cancel its plans to spend \$65 million to construct new wings at Crossroads and Horizons detention centers.

The city should reallocate the \$65 million within the capital budget to pay for construction projects that will create opportunities for young people living in under-resourced communities. Examples include building more non-secure group homes or creating a small alternative high school for youth who have experienced school failure. Most importantly, the decision about the allocation of this money should be made with the input of youth and community groups in the neighborhoods most affected by juvenile justice policies.

2 Close the Spofford Juvenile Center.

Recently, the city's secure detention population has markedly declined and the Department of Juvenile Justice's three secure detention centers are operating under-capacity. It is time for the city to honor its long-standing commitment to close Spofford and consolidate its secure detention population within the two new facilities—Horizons and Crossroads. It costs the city an average of almost \$12 million per year to operate each of its secure detention facilities. Savings from the closure of Spofford should be invested in alternatives to detention and aftercare programs.

3 Create a Juvenile Justice Coordinating Committee to develop a juvenile justice master plan to reduce juvenile crime and the unnecessary use of juvenile detention.

Officials from city agencies and communities must work together to develop a comprehensive plan for a

continuum of community-based services that include alternatives to court, alternatives to detention, aftercare, family support and youth development programs. In addition, this body must formulate an effective Risk Assessment Instrument (RAI) to ensure that young people are not unnecessarily jailed in secure facilities.

Given its role within the mayoral administration, the Office of the Criminal Justice Coordinator may be the most appropriate agency to convene and coordinate this working committee. The collaborative effort must include representatives from all appropriate agencies—Department of Juvenile Justice, Office of the Criminal Justice Coordinator, Legal Aid Society, Corporation Counsel, Administration of Children's Services, Board of Education, Department of Probation and the Family Courts—as well as elected officials, youth organizations and other community groups.

4 Enroll young people from high-detention neighborhoods in identifying solutions to the issues facing youth in their communities.

City officials should include young people in decision-making on how to improve opportunities for youth living in impoverished neighborhoods. Following the example of a Seattle project, New York City should fund community organizations to implement a youth-led community mapping project. Youth would identify community strengths and weaknesses in the neighborhoods with the highest rates of juvenile arrests and detention. Participating in this process would give young people a sense of ownership of their neighborhoods and provide a concrete way for youth to give input to decision-makers about the needs of youth in their communities. The purpose of the community map would be not only to highlight the need for more neighborhood-based programs separate from the juvenile justice system but also to identify successful local initiatives that may be replicated in other communities.

According to Green Map, a New York City not-for-profit group that has carried out youth-led mapping projects, the cost to hire and train a team of youth and adults to conduct a community mapping project in high-detention neighborhoods and produce a well-presented final product is approximately \$25,000 per neighborhood.

5 Improve and expand the Department of Probation's Alternative to Detention Program.

Currently, many young people are inappropriately detained in secure facilities because current alternatives to detention are not adequate or are not available on a citywide basis. The Alternative to Detention program must be expanded and improved so that more youth may be diverted from secure detention. The Department of Probation should establish Expanded Alternative to Detention (EATD) centers in Brooklyn and Queens to augment existing programs in the Bronx and Manhattan. In addition, the city should provide \$3 million to the Probation Department to create 200 additional ATD slots.

This money should include funding for contracts with community organizations to provide after-school programs, adolescent literacy, tutoring, counseling and other mental health services. Given that so many pre-adjudicated youth come from distressed families, the program should also offer mediation and family support programs. In addition, the city should hire more Board of Education teachers to provide instruction to ATD students. Although enhancing ATD programs would require an initial investment (as stated earlier, this money could come from closing Spofford), the decreased use of secure detention would yield millions in savings within a year.

6 Provide more funding to non-profit agencies to create or expand private alternative-to-detention programs.

Tax dollars spent on juvenile detention centers could be used much more effectively on community-based youth programs. The Criminal Justice Coordinator's office should administer funding for private, not-for-profit organizations to operate alternative-to-detention programs. Drawing on the success of evening reporting centers in Chicago, New York City should partner with local groups to create similar programs in neighborhoods with high numbers of court-involved youth. All city-funded programs should be part of a coordinated system of detention alternatives, with various programs and degrees of supervision matched to the risks presented by detained youth.

With adequate funding, private agencies that run alternatives to incarceration may be able to expand their programming to work with pre-adjudicated youth. Because these youth have not been convicted of any crime, the focus of these programs must be on supervision and court advocacy rather than on treatment and rehabilitation. Participants may be offered (but not required) to participate in mentoring, counseling and tutoring. These programs should seek to build on strengths and skills—as in CASES Youth Enterprise Project, which gives youth the

opportunity to run their own business.

A Request for Proposals (RFP) process would allow the city to create detention alternatives that fill gaps in existing programs. For example, New York City has no community-based program that works with youth with mental health needs. The city should also fund community advocates who remind youth and their families of court dates (thereby reducing incidences of youth receiving failure-to-appear warrants), accompany youth to court, and give judges information about alternative programs.

The RFP should provide funding for community organizations not only to develop innovative detention alternatives and court advocacy programs but also to conduct data-gathering and evaluation of these initiatives. There should be money for programs to track participants and to measure success of programs. With additional money, the organizations would be able to keep detailed data on their progress in reducing failure-to-appear rates and re-arrests, and in generating greater cost savings than detention. Importantly, such evaluation efforts will determine whether these programs are authentic diversion programs that reduce the number of young people entering detention rather than “widening the net” of young people involved in the system.

7 Fund more aftercare services to reduce the high rate of recidivism of youth leaving detention.

Currently, the city spends less than \$1.5 million on aftercare services per year. Funding for aftercare should be expanded so that all youth leaving detention are eligible to participate—including youth on probation. In addition, the city should transfer the aftercare program from DJJ to the Department of Youth and Community Development (DYCD). DYCD-funded aftercare and delinquency prevention programs would be better equipped than DJJ to work with youth and families in the neighborhoods where they live. DYCD should administer an open RFP process for neighborhood youth organizations to apply for funding to develop programs that help youth as they reintegrate into their schools and communities—such as gang intervention and education advocacy programs.

8 Create alternative sanctions for juvenile probation violators.

The rate of youth entering detention for probation violations increased significantly over the past seven years. The city needs to implement a system of alternative sanctions for youth who are charged with violating the terms of probation. New York should employ a continuum of detention alternatives, similar to the one in Chicago, with programs that are

appropriate not only for pre-adjudicated youth but also for youth charged with technical probation violations (missing curfew, truancy, etc.). In addition, the city should provide more funding and resources to the Department of Probation's Juvenile Intensive Supervision Probation (JISP) program so youth under general probation supervision may be "stepped-up" to JISP if they violate the terms of their probation.

Given that so many youth are removed from probation because of truancy or other school-related issues, there should be more coordination between the Department of Probation and the Board of Education to create programs that address the educational needs of youth on probation.

9 Reduce unnecessary delays and detentions by decreasing Family Court caseloads and implementing court case processing changes.

The city should create more court diversion programs, particularly neighborhood-based youth courts, to reduce the volume of cases in Family Court. The existence of more community-based intervention and mediation programs, like Youth Force's South Bronx Community Justice Center, would allow the Probation Department to adjust more cases at intake and limit the number of young people entering the court system. The city should also expand Probation's Alternative to Court (ATC) program in Queens and the Bronx to include the other boroughs. In addition, Probation should implement better training of its Family Court intake workers to ensure that appropriate cases are diverted from prosecution.

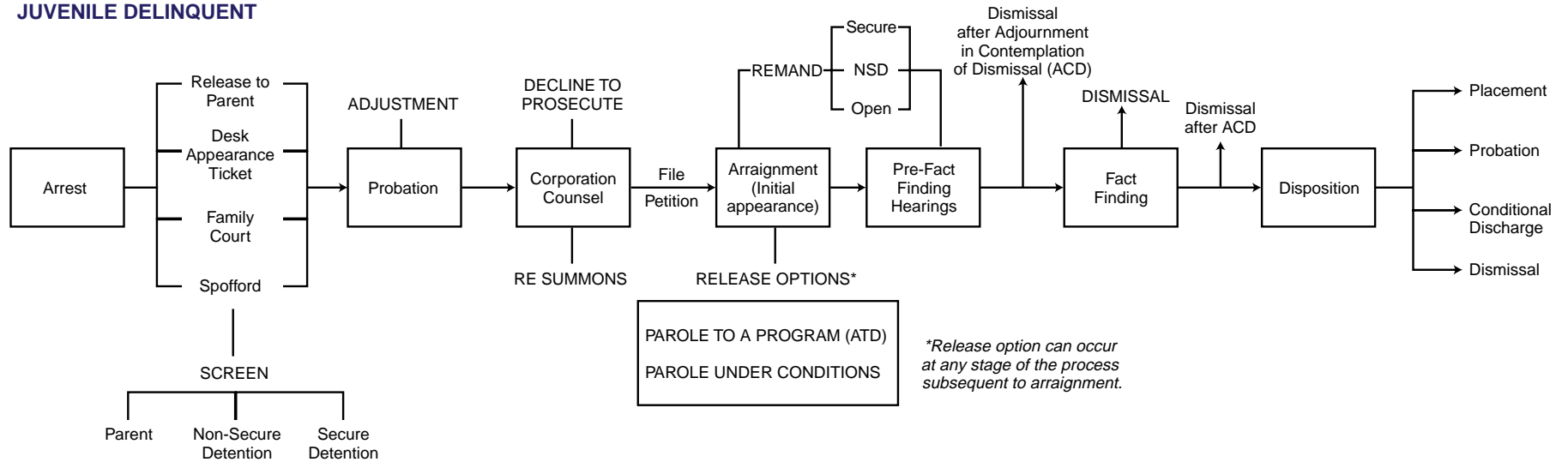
In addition, the city should expand funding for the Legal Aid Society in order to hire more law guardians in Family Court and reduce delinquency caseloads. Expanded funding to the Legal Aid Society would also allow the agency to take on more "JO cases" in adult court—cases that are now frequently represented by private, "18-b" attorneys. These steps would not only improve the quality of legal representation but also make the city's court system more efficient and cost-effective.

As a pilot effort, the Family Court could implement special court hours (for example from 12:00 p.m. to 9:00 pm.) in one borough so that some detention hearings may take place in the evening. This practice would reduce the number of "police-admits"—youth who spend the night in detention because the Family Court is not in session. In addition holding initial hearings in the evening may increase the likelihood that a parent would appear in court with the child. In addition to holding evening court hours, the Family Court should improve the scheduling of cases so that trials are not adjourned for long durations and instead are concluded as quickly as possible. ■

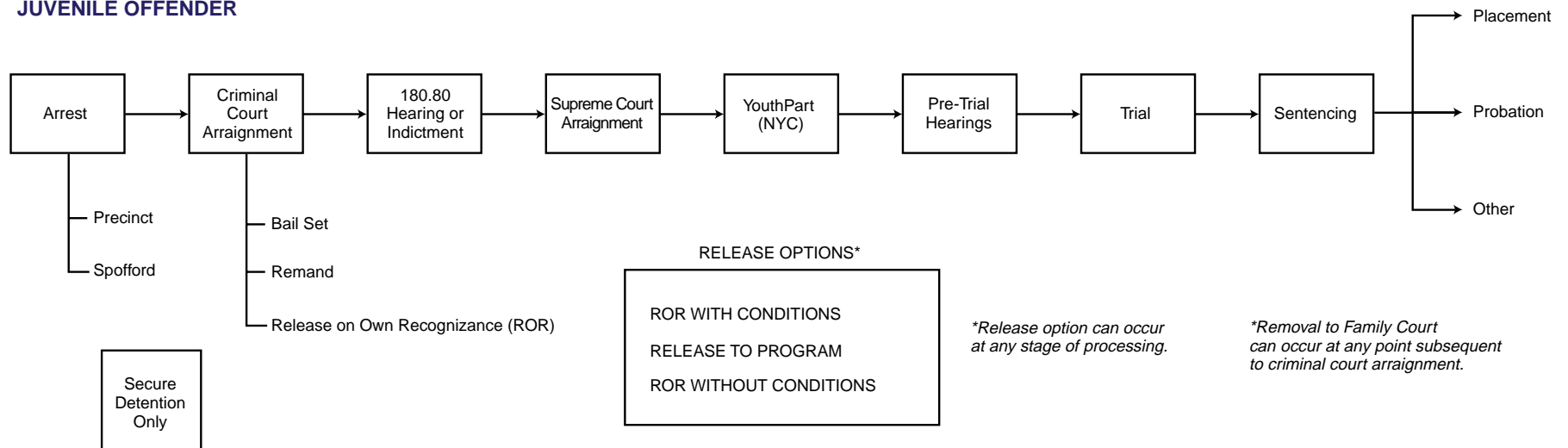
Appendix A

Overview of Juvenile Justice System Processing

JUVENILE DELINQUENT



JUVENILE OFFENDER



Appendix B

<i>New York City Neighborhoods with Highest Number of Youth Admitted to Secure Juvenile Detention, 2001¹</i>		
Community District/ Neighborhood	Borough and Community District Number	Number of Youth Admitted to Detention ²
South Jamaica	Queens 12	163
Bedford Stuyvesant	Brooklyn 3	159
Harlem	Manhattan 10	159
Soundview	Bronx 9	143
Morris Heights	Bronx 4	141
East New York	Brooklyn 5	126
East Harlem	Manhattan 11	124
Brownsville	Brooklyn 16	121
Saint George	Staten Island 1	120
Tremont	Bronx 3	116
Bedford Park	Bronx 7	112
South Bronx	Bronx 1	110
University Heights	Bronx 5	108
Morningside Heights	Manhattan 9	93
Crown Heights	Brooklyn 8	82

¹ Source: NYC Department of Juvenile Justice (DJJ).

² Each youth counted only once, even if admitted multiple times.

Cook County Detention Alternatives Continuum

December 2001

