Introduction

Juvenile Detention: No More Hidden Closets

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On any given day, more than 18,000 young people can be found in the nation’s public juvenile detention centers (Krisberg & Herrera, 1991). They sleep in tiny, barren cells, often wear “institutional green” uniforms, march single file to and from classes and meals, and sometimes remain locked up for several weeks, and even months, only to be sent home after they finally have their day in court.

Juvenile detention was termed the “hidden closet for the skeletons of the rest of the system” by Patricia Wald in 1975 (see Schwartz et al., 1987). In 1987, Schwartz et al. analyzed national statistics on the rate of detention use in the country and subtitled their article “The Hidden Closets Revisited.” At that time, it appeared that secure juvenile detention was being used increasingly—and often inappropriately—in many jurisdictions. A look at yet more recent data is hardly reassuring—even more facilities are overcrowded and continue to hold many relatively low-risk youths at great and unnecessary expense. Although other areas of the juvenile justice system have received close scrutiny and show some signs of improvement, detention issues appear to have been relegated to low priority. Fiscal concerns alone will not permit states and counties to continue to ignore detention.

Detention centers are essentially jails for juveniles who have been arrested and are awaiting trial and are intended to hold those thought to be the most dangerous or the most likely to abscond prior to their court hearings. Since the juvenile justice reforms of the 1970s, we as a nation no longer hold large numbers of juveniles in adult jails. Juvenile detention centers would thus seem to be an improvement. But are they?
A closer look shows that many detention facilities are not only overcrowded and in poor physical condition but also hold many youths who do not seem to need such costly, secure confinement. Some detained youths have prior records and alleged offenses, which suggests that they are highly dangerous and/or likely to flee, but just as many youths—or more—do not appear to pose much of a risk to public safety. This latter group ends up in detention because communities and various children’s service agencies have failed to find more positive alternatives for them.

When families, neighborhoods, schools, and other programs no longer wish to deal with troubled children, the detention center is the one resource that cannot turn them away. This is an unacceptable excuse for imposing such a costly and potentially damaging experience upon these children. The time has come to confront current juvenile detention practices throughout the country and to develop policies and practices that reserve secure detention for the truly dangerous juvenile offender, while finding other ways to deal with the rest of the youths who currently languish “behind the closet door” in detention facilities.

This book pulls together data on national trends in detention policies and practices, along with practical summaries of reform targets and strategies. The authors represent a mix of policy, research, and practice perspectives. The current trends in detention are disturbing, and this book includes concrete suggestions for improvements. The basic approach is simple: reserve detention for those who pose a truly high risk to public safety; develop ways to accurately assess the degree of risk an individual juvenile presents; develop less costly and less restrictive alternatives for the lower-risk youths; and closely monitor and evaluate the new detention practices and policies. These methods have been applied in some jurisdictions with promising results, as will be shown in succeeding chapters. This book both presents a picture of a more rational structuring of detention and provides a discussion of political strategies that may help bring about the necessary policy changes.

**Juvenile Detention as a Policy Issue**

Juvenile detention is an issue that has received less attention than have training schools, diversion, and other aspects of the juvenile justice system (Schwartz et al., 1987). Its purpose, according to most
states' statutes, is limited to the secure, pretrial confinement of youths who pose an unacceptably high risk of failing to appear for court hearings or of committing offenses in the interim period. It is not intended to be used as a post-adjudicatory commitment placement, for punishment, for administrative convenience, or because of a lack of detention alternatives. Furthermore, detained youths are supposed to be given detention hearings, usually within one or two days, at which time the court is expected to review the grounds for detention. Thus, the purpose and process of juvenile detention—to be limited to high risk cases, and designed to protect both public safety and the child's rights—appear clear.

Yet national statistics, as discussed in more detail by Schwartz and Willis in chapter 1, consistently reveal extensive overcrowding and misuse of secure detention, along with staggering geographical disparities in the rate of detention use. These trends have been apparent for some time (e.g., Krisberg & Herrera, 1991; Krisberg & Schwartz, 1983; Schwartz et al., 1987; Steketee et al., 1989) and appear to have worsened in recent years.

There are several reasons why policymakers should view the growing problems of juvenile detention with alarm. First, secure detention is a very costly use of scarce juvenile justice resources: Per diem operating costs range from $70 to $150 per bed. National operating expenditures for juvenile detention have more than doubled in the last decade, reaching a total of $513 million in 1989 (Krisberg & Herrera, 1991). Construction costs for new detention facilities are estimated at between $75,000 and $100,000 per bed. Thus detention, intended to be neither punishment nor treatment, can consume large portions of a state's juvenile justice budget. For example, Florida in 1988 allocated fully 40% of its delinquency programs budget to the operation of detention (Orlando & Barton, 1989).

Second, detention can have harmful effects on the detained youths. Several specific incidences of abuse and/or wretched conditions have prompted lawsuits (see Dale, forthcoming, for a review and analysis of litigation related to juvenile detention). In addition to such specific harms, several studies have demonstrated that youths who have been securely detained are more likely to receive subsequent out-of-home placements in either juvenile justice, child welfare, or mental health settings, even when the analyses controlled for other relevant factors, including offense and prior history (Feld, 1988; Fitzharris, 1985; Frazier
& Bishop, 1985; Krisberg & Schwartz, 1983; McCarthy, 1987). It would appear that judges and others who make placement decisions sometimes view a youth's detention itself as evidence of the need for continuing out-of-home placement.

Third, detention appears to be used increasingly for youths after adjudication who are awaiting placement in commitment programs. According to recent national statistics, the admission of committed youths to public detention centers has increased five-fold from 1977 to 1987 (Steckete et al., 1989). These youths often stay in detention longer, thus placing additional strains on available bedspace. Moreover, the commingling of pre-adjudication and post-adjudication youths raises serious questions of appropriateness.

It is time for juvenile justice policymakers to confront juvenile detention issues head on. Does it make sense to devote such a large share of resources to a part of the system that is not intended or designed to have any impact beyond holding allegedly dangerous youths prior to their adjudicatory hearings? Are there not less costly alternatives that could be more widely used for many of the youths currently being detained? Who decides which youths will be securely detained, and upon what criteria are such decisions based? How long do youths spend in these facilities, and can the lengths of stay be reduced? What kinds of programming should, and should not, be implemented in detention centers? What kinds of due process protections should be available to youths at the point of detention admissions decisions and during any stays in detention? The answers to such questions will profoundly affect the future of juvenile justice systems in this country.

An Agenda for Detention Reform

How can one bring about improvements in juvenile detention policies and practices? First, one must recognize that detention capacity is less related to such determinate factors as the size of a jurisdiction's youth population or juvenile crime rates than one might think. In chapter 2, Martin presents a historical analysis of the detention practices in Cuyahoga County, Ohio, clearly demonstrating that the number of youths held in secure detention is primarily a function of policy decisions which are independent of demographic and crime statistics. As another example, Florida adopted sweeping legislative reform of
juvenile detention practices in 1980. These reforms succeeded in reducing secure detention usage by about 20% and were not accompanied by increased threats to public safety (Florida Department of HRS 1981; McNeese & Ezell, 1983). But despite these successes, the Florida legislature overturned the reforms the following year, and detention rates rose immediately. During none of the years in question were there marked changes in the size of Florida's youth population or the rate of juvenile arrests. Such studies show that juvenile justice policymakers possess the ability to affect the rate of detention usage by implementing and monitoring specific policy objectives.

**Targets for Change**

Attempts to reduce the use of secure juvenile detention should focus on three primary areas: development of objective intake criteria and procedures that consistently limit admissions to secure detention; creation of less restrictive alternatives for some youths who do not require secure detention but who do require some level of supervision; and case-monitoring procedures that insure that youths are moved out of detention as quickly as possible. Of course, the attention given to reducing the use of secure detention does not obviate the need for providing adequate conditions of confinement for those who must still be securely detained. The next sections outline these issues.

**Intake Criteria**

Recent attempts to implement objective intake criteria have met with considerable success. In California, several jurisdictions have adopted objective guidelines developed by the National Council on Crime and Delinquency, as discussed by Steinhart in chapter 3. A similar approach was part of the Center for the Study of Youth Policy's Broward County Detention Project in Florida as described in chapter 4. Evaluations of these and similar programs have shown that objective intake criteria can reduce admissions to secure detention and do not jeopardize public safety. Typically, rearrest rates for youths released while on detention status and rates of failure to appear for court hearings are between 5 and 15% (Community Research Center, 1983; Kihm, 1980; Schwartz, Barton, & Orlando, 1991; Steinhart, 1990).
Detention Alternatives

Some jurisdictions have developed viable home detention programs that have helped limit the use of secure detention. The first juvenile home detention program was started in St. Louis in the early 1970s (Keve & Zantec, 1972). Other notable programs were developed in Jefferson County (Louisville), Kentucky (Community Research Center, 1983) and Cuyahoga County (Cleveland), Ohio (Ball, Huff, & Lilly, 1988). In such programs, workers are assigned small caseloads—ten or fewer—and expected to have one or more daily contacts with the youths at irregular times, to be on call 24 hours a day for crisis intervention, and to have frequent contacts with parents, schools, and other agencies as needed. All of these programs have demonstrated admirable success rates: 5 to 10% failing to appear at hearings and 10 to 20% acquiring additional charges.

Non-secure residential programs—e.g., shelters, family crisis homes, and proctor homes—and daytime report centers can effectively supplement home detention. Some youths are securely detained not because of dangerous offense profiles but because they lack viable homes. Others may be detained because they are neither working nor in school, and this lack of structure is perceived by many judges and other decision makers as making them an unacceptable risk. The Broward County Detention Project (chapter 4) mentioned above also included the development of a shelter program and a daytime report center run by private agencies. These programs greatly enhanced the effectiveness and credibility of the home detention program.

Length of Stay

The size of the detention population at any time is a function of two variables: admissions and length of stay. The design and development of both intake criteria and detention alternatives are intended to reduce the rate of admissions to secure detention. Strategies for reducing length of stay, however, are less clear cut. Prompt judicial review is essential, and most jurisdictions require detention hearings within one or two days of admission. Similarly, many states place limits on time-to-trial, but these limits are often exceeded as a result of case continuances requested by either prosecutors or defense attorneys. In the late 1980s, Cuyahoga County, Ohio, implemented highly aggressive case-
monitoring practices that expedited court processing and reduced detention stays which resulted in sharp decreases in the average daily population in secure detention (as described by Sanniti in chapter 5). These practices included the use of a sophisticated information system that permitted instant tracking of a youth's detention status and court schedule, immediate access to court docketing, a system of around-the-clock detention hearings conducted by special referees, and the assignment of responsibility for case tracking to an official with sufficient authority within the court system to see that policies were carried out.

Conditions of Confinement

Of course, secure detention will always be needed for some youths. With the kinds of alternatives and procedures described above, however, the number of such youths should be more manageable than is currently the case in most jurisdictions. An example of a well-run secure detention program is described by Christy in chapter 6.

Strategies for Change

One must recognize that existing detention policies and practices have evolved from working relationships among several agencies and key actors, each pursuing a variety of interests, not all of which are compatible. The use of secure detention is in line with the interests of judges, prosecutors, and law enforcement officials, who must answer to the public for any threats to public safety. Their tolerance for risks posed by youths on pre-trial status is understandably lower than that of detention administrators, child advocates, and defense attorneys, for whom overcrowding and overuse of detention are seen as highly problematic. The general public's interests are mixed—they demand protection from crime but also must foot the bill for costly protection.

The implementation of policy changes requires a merging of ideas and incentives: development of both the political "will" to initiate the changes and the technical "way" to carry them out. The ideas, the technical "ways," are there—objective intake criteria, a range of alternative programs, diligent case monitoring, etc. Developing the political will is the greater challenge. Political will can be influenced by
consensus strategies, by conflict strategies, or by some combination of both. Consensus strategies may have a better potential for bringing about lasting change but sometimes prove insufficient in overcoming strong initial resistance. Both consensus and conflict strategies have been used in detention reform efforts, and both have their advantages and limitations.

Consensus Strategies

As outlined by Barton in chapter 8, the best potential opportunity for consensus lies in promoting the goal of cost effectiveness. A cost-effective detention policy would place strict limits on the use of expensive secure detention. Non-secure alternatives for many youths currently being detained would provide adequate public safety protection at far less cost. The resulting savings could be applied to other juvenile justice and child welfare programs. A related incentive is the avoidance of some long-term costs associated with subsequent out-of-home placements. Additional incentives can be provided by the possibility of external funding for the development of alternative detention programs, as was the case with the Casey Foundation's funding of the Broward County Project. There may be additional fiscal incentives from the potential access to federal funding streams for detention alternatives (Center for the Study of Social Policy, 1990).

Beyond a consideration of incentives, there are several keys to the process of managing policy change in this or any other area. First, legislation can play a major role in guiding policy development and implementation. Second, the use of local task forces made up of relevant key decision makers (at a minimum, representatives of the judiciary, prosecutors, public defenders, executive juvenile justice agencies, and youth advocates) may enhance the potential for sustained reforms. Third, a key implementing official must be identified, someone who has sufficient authority within the jurisdiction, who is viewed as credible by all relevant parties and is able to maintain a high level of commitment to the reform policies throughout the many months, and even years, that such change efforts require. Finally, careful evaluations of change efforts are necessary to ensure that policy objectives are met.
Litigation

When consensus strategies are insufficient to overcome resistance to change, or fail as a means to bring the relevant parties to the table in the first place, the threat or actual filing of class-action lawsuits against overcrowded detention facilities can serve as a negative reinforcement to motivate change. Lawsuits have played a major role in several change efforts, including the San Francisco and Broward County projects discussed in chapters 3 and 4. In chapter 7, Anderson and Schwartz describe the use of litigation to bring about statewide detention reform in Pennsylvania. Different jurisdictions may require different mixes of incentives.

The Role of the Judiciary

Failure to obtain judicial support can severely, and perhaps fatally, limit the effectiveness of detention reform efforts. Judges in general often resist the introduction of objective intake guidelines and other mechanisms embodied in many detention reform efforts. In particular, judges often use the "valid court order exception" to order the detention of status offenders or others who might be excluded from detention according to various other criteria. These issues are explored by Judge McCully, who argues in chapter 9 that judges need not be fearful of detention reform efforts.

Toward a National Reform Agenda

In the final chapter, Schwartz summarizes the preceding sections and offers a clarion call for a national reform agenda in juvenile detention. Fiscal realities will no longer permit policymakers to ignore juvenile detention. Detention has become a dumping ground to compensate for other inadequacies within both our communities and our youth-serving programs. As a short-term holding facility, it does relatively little to protect long-term public safety, while it unnecessarily increases the likelihood that many youths will continue to require costly out-of-home care far into the future. The time has come to confront these realities and move forward. Only by focusing on detention issues, developing alternatives, and facilitating changes such as
those described in this book can policymakers truly bring juvenile detention "out of the closet" and into its proper, albeit limited place within a more rational juvenile justice system.

Bibliography


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