

# ISSUE BRIEF



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## Rethinking Juvenile Detention in Ohio

### Why Ohio, Why Now

This is a unique time in Ohio's juvenile justice history. Like many states, Ohio is examining its approach to juvenile justice, including the use of incarceration and its effects on the community, families, and youths. The settlement of a federal class action lawsuit, *S.H. v. Stickrath* in 2008,<sup>1</sup> is serving as a catalyst for change, including the closure of several state juvenile correctional facilities, a reduction in the number of youth being committed to state custody, and improvement in conditions of state correctional facilities for those youth who are placed there. An increase in state and private funding has been generated to increase dollars to counties for community-based alternatives in accordance with national best practices. Along with the settlement, a standardized risk assessment measure was developed for statewide use to more accurately match youth with the rehabilitation that is best suited based on their risk levels. And, advocacy organizations across Ohio are working together to promote law reform that returns discretion to juvenile court judges in sentencing and placement.

Juvenile detention is a critical component of the system at the front end once a youth is arrested and charged with an offense, primarily for purposes of public safety and to ensure the youth's attendance in court. Ohio has forty (40) juvenile detention centers, which are locally controlled and operated, and vary widely in size, number of beds and how the centers are utilized. While there is no comprehensive data available, national data shows Ohio detains youth at a rate higher than most states.<sup>2</sup> The majority of youth detained in Ohio are there for non-violent offenses or technical violations.<sup>3</sup> Similarly, data exists which demonstrates that youth of color are disproportionately represented in several juvenile detention centers.<sup>4</sup>

And in many if not most jurisdictions, youth are unrepresented by counsel at the detention hearing stage, or the representation lacks zealous advocacy and proper preparation.<sup>5</sup>

The impact on youth who are detained can be significant. Detention is too often a substitute for the lack of community mental health services, and can expose youth to conditions which are well below accepted professional standards, and which do not adequately meet the youth's needs for education, mental health, health care or programming. Research also suggests that youth exposed to juvenile detention and other judicial interventions are much more likely to be poor, mentally ill and lacking in parental supervision. However, juvenile court interventions, especially detention and other placements, substantially increase the chance that these youth will be arrested as adults.<sup>6</sup> Alternatives that divert youth from formal court involvement and the use of detention can substantially lower the rates of recidivism.

Juvenile detention is also a costly option for many communities, with a price tag of up to \$65,000 a year per bed.<sup>7</sup> National data suggests that the use of good alternatives to detention can help keep costs lower without having a negative effect on public safety.<sup>8</sup>

The purpose of this report is to raise awareness about the need for a paradigm shift in the way that juvenile detention is used in Ohio. The environment is right to examine detention practices at the county and state levels to mirror national trends that can 1) promote cost saving measures; 2) achieve better outcomes for youth without jeopardizing public safety; 3) reduce racial disparities that drive many minority youth deeper into the system; and 4) promote greater accountability. This report also highlights the Juvenile Detention Alternatives Initiative (JDAI), as a nationally recognized model proven to effectively reduce the number of youth held in juvenile detention, minimize the racial disparities among the youth detained, and help



communities realize cost savings without jeopardizing public safety. In the fall of 2010, five of the largest urban Ohio counties are slated to begin to examine their detention practices through implementation of JDAI. While the JDAI model will formally operate in these five counties, other jurisdictions can apply its principles and achieve similar outcomes. Rethinking juvenile detention practices is vital to Ohio's current reform efforts as it should also lead to a continued reduction in the number of youth committed to state and county corrections facilities, and reduce the number of youth likely to recidivate and return to the system.



## The Current Approach to Detention in Ohio

### When Detention is Permitted

The purpose of juvenile pre-adjudication detention is to provide for “the temporary and safe custody of juveniles who are accused of conduct subject to the jurisdiction of the court who require a restricted environment for their own or the community’s protection while pending legal action.”<sup>9</sup> Ohio follows this definition, permitting a youth to be placed in detention if there are reasonable grounds to believe that a child may not appear in court when required, or reasonable grounds that the child committed a crime and that

detention is necessary for public safety.<sup>10</sup> Youth can also be placed in detention after adjudication (or sentencing), known as post-dispositional detention. The reasons for post-dispositional detention generally include awaiting placement, short-term sentencing to detention, or being a danger to self or others. Ohio law allows youth to be placed in juvenile detention for a period of not more than ninety (90) days as a disposition option.<sup>11</sup>

### Ohio Detention Rates are Comparatively High

A 2006 national report indicates that an average of 26,000 children across the country are placed in detention centers facilities on a daily basis.<sup>12</sup> That study reported that Ohio was placing youth in detention at a rate higher than two-thirds of the other states.<sup>13</sup> While there is currently no comprehensive data available regarding the number of youth placed in the forty (40) local juvenile detention centers in Ohio,<sup>14</sup> a review of 2008 data from seventeen (17) of these facilities reveals that more than 21,400 youth were detained during that year. Counties are not required to report this information to the state or to any other source on a consistent basis.<sup>15</sup> The Department of Youth Services (ODYS) is required to adopt regulations regarding the operation of detention centers and the treatment of youth within them. However, without financial eligibility currently tied to these regulations, the monitoring and oversight role is limited or non-existent at the state level.<sup>16</sup>

Detention Facility	Youth Detained in 2008
Allen County .....	331
Butler County .....	996
Clark County .....	528
Cuyahoga County .....	2586
Franklin County .....	2830
Hamilton County .....	4150
Lake County .....	943
Lorain County .....	888
Lucas County .....	3235
Medina County .....	508
Miami County .....	356
Montgomery .....	1359
Richland .....	298
Summit .....	1282
Trumbull .....	343
Wood County .....	780
<b>TOTAL .....</b>	<b>21,413</b>

A snapshot of how detention is used in Ohio contained in the 2006 report shows that most youth held in detention are charged with non-violent offenses. The data from this report shows that:

- Only about 33% of the youth detained are charged with person-related offenses
- More than 40% are held on property or drug related offenses
- Almost 25% are held for technical violations, such as violating probation rules or disobeying court orders, or status offenses<sup>17</sup>

## Many Youth Are Unrepresented or Lack Effective Representation While Detained

An assessment of access to counsel and quality of legal representation for youth in Ohio's delinquency system was conducted in 2003, and revealed that many youth are detained in these facilities without the benefit of legal counsel, even those charged with serious offenses.<sup>18</sup> The assessment found that in many jurisdictions, attorneys representing children in delinquent matters are not assigned to cases in a timely fashion nor are they given time to meet with their clients prior to hearings, including pre-adjudicatory detention hearings. Surveys conducted for this study showed that attorneys are appointed for detention hearings in only a small number of jurisdictions, and that many if not most youth waive their right to counsel at this stage.<sup>19</sup>

Assessment investigators also reported that with limited exceptions, attorneys assigned to represent youth at detention hearings were generally unprepared, and the level of advocacy was consistently poor. In many cases, only the probation officer spoke, and there was no evidentiary hearing to make a probable cause finding. Similarly, judges and magistrate frequently failed to make any findings about why youth were being detained, and it appeared that the decision to detain was pre-ordained.<sup>20</sup>

Strong detention advocacy is crucial to every aspect of a youth's case, including the development of the attorney/client relationship. According to national standards, defenders have a duty to "explore promptly the least restrictive form of release, the alternatives to detention, and the opportunities for detention review, at every stage of the proceedings where such an inquiry would be relevant."<sup>21</sup> Defenders must fulfill their ethical responsibilities to advocate for a youth's expressed interest at this stage, prepare for the hearing with creative and thorough investigation, and challenge probable cause when appropriate. Legal advocates can also argue for alternatives to detention and stress the harmful effects of detention on the child in

individualized circumstances. And they can be sure that youth understand conditions for release, or challenge on appeal a decision not to release a youth when appropriate.<sup>22</sup> For many detained youth, the lack of effective legal advocacy may further impede their opportunities to be released into alternatives, or to be released home expeditiously.

## Youth of Color are Disproportionately Detained

While most people agree that some youth need to be detained for a limited period time, research clearly shows that the use of juvenile detention is not an equal opportunity practice. Youth of color represent roughly 41% of the U.S. population, but they make up more than two-thirds of the youth who are placed in detention centers across the country.<sup>23</sup>

National data paints a picture of what is happening across the country, as Ohio does not have comprehensive statistical data on disproportionate minority contact. The average daily population nationally in publicly operated detention centers increased approximately 72% between 1985 and 1995, with the largest increases seen among youth of color.<sup>24</sup> The good news is that national arrest data from 2005 demonstrates that the decline in juvenile arrests and violence continues: the majority of juveniles are not arrested for violent offenses. Assault represented 17% of all juvenile arrests in 2005, larceny 16%, drug possession 12%, and obstruction of justice/disorderly conduct combined account for 21% of all juvenile arrests.<sup>25</sup> This data shows despite a decrease in juvenile crime rates, racial disparities and an overreliance on detention persists, and in some cases, is increasing.<sup>26</sup>

Racial disparities make the likelihood of being arrested for minor offenses greater by orders of magnitude for African American and other minority youth. While there is a decline in overall juvenile arrests, youth of color are arrested at significantly higher rates than white youth for *all types of crime*. The differences are at their greatest in arrest rates for person-related offenses such as assault or sexual offenses; African American youth are nearly four times more likely to be arrested than Caucasian children. And for property and drug offenses, African American youth are twice as likely to be **arrested**.<sup>27</sup> These disparities highlight the likelihood of youth from communities of color being placed in detention at higher rates.

Unfortunately, the contrasts do not stop at arrest, race impacts whether juveniles enter the juvenile system and how they are treated once involved. *While Caucasian youth are twice as likely to be diverted; African American youth are twice as likely to be detained.*<sup>28</sup>

Even when controlling for offense, African American youth are *twice as likely to be **detained*** as Caucasian youth.<sup>29</sup> When considering which youth to place in secure detention, courts are 40% more likely to lock up African American youth than white youth for property offenses, and twice as likely to lock up African American youth as Caucasian youth for a drug offense.<sup>30</sup>

Ohio's youth population is large, at more than 1,644,679 between the ages of 10 and 19, and it is predominantly *Caucasian*. African Americans, Latinos and Asians respectively represent 11.5%, 2% and 1% of Ohio's juvenile population.<sup>31</sup> While little statewide data is available, a one-day census conducted in 2006 of juvenile detention facilities showed that minority youth are over-represented:

- Of the 225 youth in secure detention for *property* offenses, 153 (60%) were African American and 122 (47.4) were Caucasian.<sup>32</sup>
- Of 87 youth in secure detention for *drug* offenses, 51 (58%) were African American and 30 (34.4%) were Caucasian.<sup>33</sup>

In fact, studies show the danger in racial disparities upon entrance into the juvenile system because racial biases are more commonly noted in front-end court processes than back-end processes. But these disparities accumulate as youth are processed further into the system. Ultimately, race directly and indirectly influences court outcomes.<sup>34</sup>

Five counties in Ohio—Cuyahoga, Franklin, Lucas, Montgomery, and Summit—have recognized this national crisis and have taken steps to address high rates of disproportionate minority contact with detention by agreeing to participate in the Juvenile Detention Alternative Initiative (JDAI). The chart below demonstrates the extent of disproportionate minority contacts in those counties for cases involving juvenile detention in 2008.<sup>35</sup> These counties have committed to implementing the JDAI model and taken steps to curb DMC with technical assistance from the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP).<sup>36</sup>

County	White	African American	Hispanic	Other
Cuyahoga	438	2068	76	4
Franklin	706	2055	57	12
Lucas	762	2334	138	1
Montgomery	467	877	8	7
Summit	470	808	0	4

The JDAI model is one model currently used in a host of jurisdictions throughout the country, and will be explained in more detail below.

## The Impact of Detention on Youth

### Detention as a Substitute for Mental Health Services:

Detention is often used for purposes other than the one for which it was created—including serving as a last resort for youth needing mental health services or for parents needing support raising their children. The lack of community-based mental health services in some communities drives youth into the delinquency system for lack of other appropriate alternatives.

As an example, a survey conducted by the Government Accounting Office (GAO) found that in the six month period between January 1st to June 30, 2003, approximately 15,000 youth (representing eight percent of the total number of detained juveniles), waited an average of six months to two years in juvenile detention facilities because of the lack of mental health services in their communities.<sup>37</sup> In that year, detention facilities were estimated to have spent approximately 100 million dollars to house these 15,000 youth.<sup>38</sup>

Most detention facilities report having poor to no basic medical services<sup>39</sup> or lack staff with anything more than a little mental health training.<sup>40</sup> An Ohio official, quoted in the GAO reported, that “[m]ost youth with mental health concerns are housed here whether



appropriate or not as there are minimal mental health resources provide by this state for them.”<sup>41</sup>

### Overcrowding and Poor Conditions:

Conditions in juvenile facilities are often under-resourced and overcrowded, leading to potential negative impacts on youth confined within their walls. The National Coalition for Juvenile Justice noted:

[F]or those in crowded institutions, daily life is frequently defined by a series of negatives: unsanitary living quarters, inadequate education, meager medical and mental health treatment, sexual exploitation, mind-numbing boredom, anger, depression and physical danger. In such settings, privacy vanishes, producing stress that manifests in a high incidence of juvenile-on-staff, staff-on-juvenile, and juvenile-on-juvenile injuries...Faced with threats and intimidation, these young people, who have had no previous history of violence or gang involvement, may need to fight or affiliate with a gang for self-preservation.<sup>42</sup>

Youth held in detention centers are also at higher risk for suicides. In fact, one-third of all suicides by confined youth occur while they are in pre-trial detention centers.<sup>43</sup> More than 40% of suicides were committed within the first 72 hours of confinement in detention, and over half within the first two weeks.<sup>44</sup>

### Detention as a Contributor toward Recidivism

While conventional wisdom holds that locking up juvenile “delinquents” deters future crime, studies uniformly show that pre-trial juvenile detention is instead the best predictor of recidivism, not rehabilitation. Research has shown that pre-trial detention actually makes the work of juvenile justice systems more difficult once a youth has been found to be delinquent. Thus, Ohio’s detention centers may act as a catalyst to push youth deeper into the juvenile justice system instead of towards rehabilitation.

In one of the few longitudinal studies available, researchers found that youth arrested for minor offenses and held in juvenile detention were **seven times more likely to be arrested** and incarcerated as adults than youth who had been kept out of the juvenile court system.<sup>45</sup> Those who entered the system even briefly, such as for community service, were twice as likely to be arrested as adults than those youth with the same behavior problems who remained outside the juvenile justice system. The study suggests that youths who are poor, impulsive, poorly supervised and exposed to deviant friends are more likely to undergo intervention by the Juvenile Court, and this



intervention greatly increases the likelihood of involvement with the adult penal system in adulthood, with placement (including juvenile detention) having the most negative effect on this outcome.<sup>46</sup>

The success of approaches that keep youth out of juvenile detention makes the best case for rethinking its use. For example, reduced recidivism rates at some JDAI sites have reported the following:

- Cook County, Illinois’ Probation Department reported 90% of youth placed in a detention alternatives program were not re-arrested, and staff-secure shelters had success rates of 96%, ultimately leading to a reduction in the number of youth in secure detention by half.<sup>47</sup>
- Clayton County, Georgia reduced its detention rate by 44%, cut minority confinement by 30%, reduced reoffending among those released and awaiting court appearances by 50%, and reduced recidivism among probationers by 50%.
- Multnomah County, Oregon reduced the number of detention admissions by 88% during the course of nine years, decreased the daily population from 96 youth a day to 21, reduced the number of youth in color from 73% to 50%, and experienced a recidivism rate of only 13%.<sup>48</sup>

According to researchers at Carnegie Mellon University the use of juvenile detention tends to “interrupt and delay the normal pattern of



‘aging out’ since detention disrupts their natural engagement with families, school, and work.”<sup>49</sup> Many youth can be diverted not only from placement in detention, but from involvement in the juvenile justice system entirely, meaning their cases are dismissed or resolved informally. The success of diverting youth away from formal court involvement and allowing youth to “mature out” of delinquency all argue for limited use of pre-trial detention—especially in view of the high percentage of these youth charged with non-violent offenses.

## The Monetary Cost of Detention

Ohio taxpayers pay considerable sums to place youth in juvenile detention that in too many cases does not promote rehabilitation or best practices.

Indeed, among all of the policy areas affecting vulnerable children and families, juvenile justice probably suffers the most glaring gaps between best practice and common practice, between what we know works and what our public systems most often do on our behalf. The most urgent need is to reduce our wasteful, counter-productive overreliance on incarceration and detention, and instead to redirect resources into proven strategies that cost less, enhance public safety, and increase the success of youth who come in contact with the juvenile courts. Reducing racial disparities and combating abuse in juvenile facilities also require immediate attention.<sup>50</sup>

The human toll of pre-trial detention on youth and their communities is high. But the financial costs of the system hurt youth and communities in other ways, too, by using funds that might be better used with youth preventively and through community-based interventions.

According to Earl Dunlap, the Executive Director of the National Juvenile Detention Association, more than one billion dollars is spent annually in this country on maintaining juvenile detention centers. Although costs vary regionally, maintaining one detention bed on average costs taxpayers between \$60 to \$300 a day or \$14,000 to \$65,000 per year.<sup>51</sup> Moreover, building, financing, and operating a single detention bed can cost the public between \$1.25 million and \$1.5 million over a twenty-year period.<sup>52</sup>

Ohio detention centers also run the gamut as to cost: the Ashland County Detention Center spends \$60/day for a youth, while the per diem cost at the Northwest Ohio Juvenile Detention Center is \$136/day.<sup>53</sup> The expense of a detention centers appears to be

increasing and can be explained somewhat by the following national data:

- The average stay for a youth in a detention center has gone from 15 days in 1994 to 20 days in 2008;
- High rates of overtime payments for employees, staff turnover and the use of temporary help; and
- Litigation over poor conditions and abuse of youth leading to mandated changes.<sup>54</sup>

Alternatives to detention, on the other hand, may include such programs as electronic monitoring or day reporting programs, and are considerably more economical.<sup>55</sup> By contrast, these options may cost as little as \$3.75 to \$50 per day. Creating a good system of alternatives to detention can lower reliance on detention beds while still keeping youth under at least some form of supervision during the pendency of their cases.

**“In light of the high costs and limited benefits of incarceration, one wonders why so many state and county policymakers continue to rely on it so heavily.”**

**– Ira Schwartz, *Injustice for Juveniles*, 1989**



## Juvenile Detention Alternatives Initiative (JDAI)

*The first law of holes: when you find yourself in one, stop digging.*

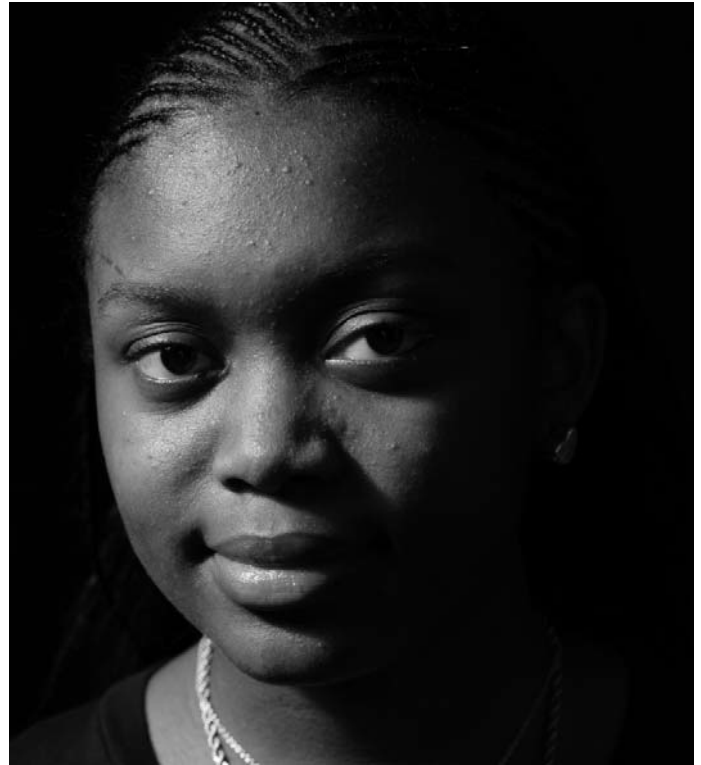
One model for effective detention reform throughout the country has been the Juvenile Detention Alternatives Initiative (JDAI). JDAI was created to address the negative impacts of detention by substantially, but safely, developing an approach to reduce the overuse of secure detention.<sup>56</sup> In developing the JDAI, the Annie E. Casey Foundation hoped to demonstrate “that juvenile justice can be smarter, fairer, and more efficient... that thoughtful, comprehensive reforms can reduce unnecessary or inappropriate confinement, improve public safety, redirect public funds to more positive youth development endeavors, and, in the long term, improve the odds that delinquent youth become productive adults.”<sup>57</sup>

The four core goals of JDAI are to:

- Eliminate the overuse of secure detention;
- Minimize failures to appear in court and reduce delinquent behavior;
- Redirect public finances from building new facilities to creating responsible alternative strategies; and
- Improve conditions in secure detention facilities.

The JDAI model has been replicated at a tremendous rate, and is now implemented in 110 local jurisdictions across the country.<sup>58</sup> As previously mentioned, five of Ohio's largest counties have agreed to phase the JDAI model into their approach to juvenile justice. This means adopting JDAI's eight core elements:

- 1) **Collaboration** among the local juvenile court, probation agency, prosecutors, defenders, and other governmental entities, as well as community organizations, including a formal partnership to cooperatively plan, implement, and assess detention reforms.
- 2) **Collection and utilization of data** to diagnose the system's problems and proclivities, assess the impact of various reforms, and assure that decisions are grounded in hard facts rather than in myths and anecdotes.
- 3) **Objective admissions screening** to identify which youth actually pose substantial public safety risks, which should be placed in alternative programs, and which should simply be sent home.
- 4) **New or enhanced non-secure alternatives to detention** targeted to youth who would otherwise be locked up and whenever possible based in neighborhoods where detention cases are concentrated.
- 5) **Case processing reforms** that expedite the flow of cases through the system, reduce lengths of stay in custody, expand the availability of non-secure program slots, and ensure that interventions with youth are timely and appropriate.
- 6) **Flexible policies and practices to deal with “special” detention cases**, such as violations of probation and failures to appear in court, that in many jurisdictions lead automatically to detention, even for youth who pose minimal risks to public safety.
- 7) **Persistent and determined attention to combating racial disparities**, including careful study to identify specific strategies to eliminate bias and ensure a level playing field for youth of color.
- 8) **Intensive monitoring of conditions of confinement** for youth in secure custody to ensure that detention facilities are safe and that appropriate care is provided.<sup>59</sup>



## The Success of JDAI

The development of collaborative efforts among local stakeholders, including the juvenile court, probation, prosecutors, defense attorneys, government, and community organizations, is considered critical and the key to JDAI's success. The “siloed” approach that frequently haunts social and justice systems runs counter to JDAI, and as a result, all juvenile justice stakeholders stand to gain from the emphasis on increased inter-agency collaboration.

Site-specific data from JDAI is encouraging; but aggregated national data from JDAI sites is even more impressive:

- 73 of the JDAI sites reported a combined reduction in their average daily population of 1,484 per day.<sup>60</sup>
- These sites reported a combined average daily population total of 5,451 in the year prior to joining JDAI, and 3,967 in 2007—a combined reduction of 27%.<sup>61</sup>
- A one-day census of detention populations across the U.S. in June 2009 revealed that the daily average population continues to decrease.
- New JDAI risk-assessment procedures result in fewer admissions,<sup>62</sup> and expedited court proceedings for juveniles reduces their length of stay.<sup>63</sup>
- Research shows that the JDAI model actually *improves* public safety due to a reduction in crimes committed by juveniles.<sup>64</sup>

Many of the impacts of JDAI involvement are less obvious but equally significant. For instance, allocations of federal block grant money to JDAI programs increased; the development of leadership and shared responsibility for addressing detention issues has resulted in better working relationships between agencies as well as increased coordination of efforts—enabling agencies to do more with less. In some states, the JDAI impact has been seen in updated juvenile codes that reflect evidence-based research on best practices. In other states, detention centers have developed new leadership and pride in providing programming and mental health and medical services to youth in their custody, increasing detention facilities' accountability while reducing states' liability for poor management.<sup>65</sup>

In short, the spillover effects of JDAI are often as powerful and enduring as the direct impact on reducing juvenile detention for those youth not requiring the option.

## Conclusion and Recommendations

Ohio is in the midst of significant reforms which are keeping more youth from the deep end of the system and back in their local communities. Ohio's system of juvenile detention is localized, yet the impact of decisions about its use affects statewide resources as well as local communities. Responsibly reducing reliance on the use of juvenile detention will help to minimize the long term effects caused by unnecessary incarceration, and reduce the number of youth driven into the deep end of the system. To do this, a multi-level approach can best address needed change:

### 1. Continue and Expand County-Based Detention Reform

JDAI offers a “win-win” opportunity for Ohio counties to reduce recurring costs, increase public safety, and protect the state's most vulnerable youth. While Cuyahoga, Summit, Lucas, Franklin, and Montgomery counties will be at the forefront of implementing this model in Ohio, other counties should look to the extraordinary array of successes JDAI has compiled across the country in geographically diverse areas and consider implementing their own initiatives.

### 2. Continue State Leadership on Reducing Incarceration Rates

The state should continue to play a lead in encouraging county-based reforms that will reduce the number of youth that come into the juvenile justice system, in particular those who are detained.

### 3. Create a System of State Oversight, Assistance and Accountability for Juvenile Detention

The state should address the lack of monitoring and oversight of juvenile detention centers by creating a mechanism of oversight with enforcement provisions. Stronger support from the state for funding, technical assistance, data collection and training could help local facilities to improve upon conditions, create better alternatives to detention, and establish a stronger system of accountability.

### 4. Ensure that All Youth Risking Detention Have Effective Legal Representation

Judges should ensure that all youth are appointed representation at the earliest stage possible, such that youth who are detained have meaningful access to counsel at their detention hearings. Public defender offices, where they exist, should ensure that effective detention advocacy is provided to all youth who are detained, not only at the detention hearing, but throughout the time the youth may remain in detention.





WE ARE  
THE LEADERS  
OF THE CAUSE

## Footnotes

- <sup>1</sup> Case 2:04-cv-01206-ALM-TPK (S.D. Ohio 2008); Stipulation for Injunctive Relief, *S.H., et al. v. Stickrath* (filed April 3, 2008).
- <sup>2</sup> NATIONAL CENTER FOR JUVENILE JUSTICE, CENSUS OF JUVENILES IN RESIDENTIAL PLACEMENT DATABOOK (2008), available at <http://www.ojjdp.ncjrs.gov/ojs-tatbb/cjrp/> (based on 2006 data).
- <sup>3</sup> *Id.*
- <sup>4</sup> C. Puzzanchera, A. Sladky, & W. Kang, *Easy Access to Juvenile Populations: 1990-2008* (2009), available at <http://www.ojjdp.ncjrs.gov/ohstabb/ezapop/> (tabling overall populations of juveniles); M. Sickmund, T.J. Sladky, W. Kang, & C. Puzzanchera, *Easy Access to the Census of Juveniles in Residential Placement*, (2008), available at <http://ojjdp.ncjrs.gov/ohstatbb/ezacrp/> (tabling populations of juveniles in residential placements); See generally National Center for Health Statistics, ESTIMATES OF THE JULY 1, 2000-JULY 1, 2008, UNITED STATES RESIDENT POPULATION FROM THE VINTAGE 2008 POSTCENSAL SERIES BY YEAR, COUNTY, AGE, SEX, RACE, AND HISPANIC ORIGIN (2009) (prepared under a collaborative arrangement with the U.S. Census Bureau), available at [http://www.cdc.gov/nchs/nvss/bridged\\_race.htm](http://www.cdc.gov/nchs/nvss/bridged_race.htm).
- <sup>5</sup> American Bar Association Juvenile Justice Center National Juvenile Defender Center, Central Juvenile Defender Center, & Ohio State Bar Foundation, JUSTICE CUT SHORT: AN ASSESSMENT OF ACCESS TO COUNSEL AND QUALITY OF REPRESENTATION IN DELINQUENCY PROCEEDINGS IN OHIO (March 2003).
- <sup>6</sup> Uberto Gatti et al., Latrogenic Effect of Juvenile Justice, 50 J. CHILD PSYCHOL. & PSYCHIATRY 991, 994 (2009).
- <sup>7</sup> NATIONAL COALITION FOR JUVENILE JUSTICE, *annual report*, UNLOCKING THE FUTURE: DETENTION REFORM IN THE JUVENILE JUSTICE SYSTEM at 18 (2003).
- <sup>8</sup> *Id.* at 22-23.
- <sup>9</sup> T. Stokes & J.S. Smith, *Juvenile detention: A nationally recognized definition*, 5 J. JUV. JUST. & DETENTION SERVICES 24-26 (1990).
- <sup>10</sup> OHIO REV. CODE § 2151(A)(6)(b) *et seq.* (2002).
- <sup>11</sup> OHIO REV. CODE § 2152.19 (2002).
- <sup>12</sup> CENSUS OF JUVENILES IN RESIDENTIAL PLACEMENT DATABOOK, *supra* note 2.
- <sup>13</sup> *Id.*
- <sup>14</sup> Ohio Department of Youth Services and Family and Juvenile Courts Directory, available at <http://www.dys.ohio.gov/DNN/LinkClick.aspx?fileticket=ze9pZRqY1WY%3d&tabid=120&mid=705> (listing all forty centers).
- <sup>15</sup> Data contained in the comparison of county detention rates for 2008 is taken from the Haywood Burns Institute website, state data map at [http://www.burnsinstitute.org/state\\_map.php](http://www.burnsinstitute.org/state_map.php) for counties unless otherwise indicated. Data for Medina County is taken from the 2008 Medina County Juvenile Court Annual Report at [www.medinajuvenilecourt.org](http://www.medinajuvenilecourt.org). Data from Lake County is taken from the Court of Common Pleas, Juvenile Division, 2008 Report, Lake County, Wood County data is found at [www.wood.oh.us](http://www.wood.oh.us), Wood County 2008 Annual Report, pg. 17. Miami County data is taken from the Miami County 2008 Juvenile Court Report, pg. 4.
- <sup>16</sup> OHIO REV. CODE § 5139.281 (“The department of youth services shall adopt rules prescribing the manner of application for financial assistance under this section for the operation and maintenance of a detention facility provided, or district detention facility established, under section 2151.41 of the Revised Code and prescribing minimum standards of operation, including criteria for programs of education, training, counseling, recreation, health, and safety, and qualifications of personnel with which a facility shall comply as a condition of eligibility for assistance under this section”).
- <sup>17</sup> CENSUS OF JUVENILES IN RESIDENTIAL PLACEMENT DATABOOK, *supra* note 2. Offenses against persons include homicide, sexual assault, robbery, or assault. Property related offenses include burglary, theft, and arson, and drug and public disorder offenses include weapons, alcohol, and drug possession and trafficking charges. Status offenses are non-criminal and include acts such as running away from home or being truant from school.
- <sup>18</sup> JUSTICE CUT SHORT, *supra* note 5 at 25 (“For example, only 10% of attorneys and 22% of judges/magistrates reported that counsel is appointed at the detention hearing stage in their jurisdiction, and more than half of the youth waive counsel at the detention hearing stage”).
- <sup>19</sup> *Id.*
- <sup>20</sup> *Id.* at 29.
- <sup>21</sup> Institute for the Judicial Administration/American Bar Association (IJA/ABA) *Standards Relating to Interim Status: The Release, Control and Detention of Accused Juvenile Offenders Between Arrest and Disposition*, JUVENILE JUSTICE STANDARDS at 8.2. Standards for the Defense Attorney (1979), available at <http://www.ncjrs.gov/pdffiles1/ojjdp/83570.pdf>.
- <sup>22</sup> National Juvenile Defender Center, *Ten Principles for Providing Effective Detention Advocacy at Juvenile Detention Hearings*, available at [http://www.njdc.info/pdf/njdc\\_tools/10%20Detention%20Principles%202008.pdf](http://www.njdc.info/pdf/njdc_tools/10%20Detention%20Principles%202008.pdf).
- <sup>23</sup> Puzzanchera, et al., *supra* note 4; Sickmund, et al., *supra* note 4.
- <sup>24</sup> Bart Lubow & Dennis Baron, *Resources for Juvenile Detention Reform*, OJJDP FACT SHEET 18 (Nov. 2000), available at <http://www.ncjrs.gov/pdffiles1/ojjdp/fs200018.pdf> (“Between 1985 and 1995, the average daily population in the Nation’s publicly operated juvenile detention centers increased by approximately 72 percent, resulting in a 642-percent increase in the number of overcrowded detention centers. Today, more than 6 out of 10 youth admitted to juvenile detention are placed in overcrowded institutions. Most of the crowding is due to greatly increased rates of detention for minority youth. In 1985, 56 percent of youth in detention were white, while 44 percent were minority. By 1995, those numbers were reversed as detention rates for African American and Hispanic youth increased by 180 and 140 percent, respectively, while the rate for white youth decreased by 13 percent”).
- <sup>25</sup> Melissa Sickmund, *Delinquency Cases in Juvenile Court, 2005*, OJJDP FACT SHEET (June 2009), available at <http://www.ncjrs.gov/pdffiles1/ojjdp/224538.pdf>. (Updated June 2010 at <http://www.ncjrs.gov/pdffiles1/ojjdp/230168.pdf>).
- <sup>26</sup> *Id.* at 3. The number of delinquency cases involving detention did not decline when the delinquency caseload declined after 1997. In fact, between 1997 and 2005, the number of delinquency cases in which the juvenile was detained increased slightly (2%). The 1985–2005 growth in detained cases was about the same as the growth in the overall delinquency caseload (48% increase in detained cases vs. 46% increase in delinquency cases).
- <sup>27</sup> Neelum Arya and Ian Augarten, policy brief, *Critical Condition: African-American Youth in the Justice System*, 2 RACE AND ETHNICITY at 19 (2008), available at <http://www.campaignforyouthjustice.org/documents/AfricanAmericanBrief.pdf>.
- <sup>28</sup> *Id.*
- <sup>29</sup> Howard Snyder and M. Sickmund, JUVENILE OFFENDERS AND VICTIMS: 1999 NATIONAL REPORT, available at [tp://www.ncjrs.gov/html/ojjdp/nationalreport99/toc.html](http://www.ncjrs.gov/html/ojjdp/nationalreport99/toc.html).





<sup>30</sup> Arya & Augarten, *supra* note 27 at 19.

<sup>31</sup> U.S. Census Bureau, *Profile of General Demographic Characteristics: 2000*, available at [http://factfinder.census.gov/servlet/QTTable?\\_bm=y&-geo\\_id=04000US39&-qr\\_name=DEC\\_2000\\_SF1\\_U\\_DP1&-ds\\_name=DEC\\_2000\\_SF1\\_U&-redoLog=false](http://factfinder.census.gov/servlet/QTTable?_bm=y&-geo_id=04000US39&-qr_name=DEC_2000_SF1_U_DP1&-ds_name=DEC_2000_SF1_U&-redoLog=false).

<sup>32</sup> CENSUS OF JUVENILES IN RESIDENTIAL PLACEMENT DATABOOK, *supra* note 2.

<sup>33</sup> *Id.*

<sup>34</sup> Nancy Rodriguez, *The Cumulative Effect of Race and Ethnicity in Juvenile Court Outcomes and Why Preadjudication Detention Matters*, 47 J. OF RESEARCH IN CRIME AND DELINQUENCY 391, 392 (May 2010).

<sup>35</sup> Data is taken from the Haywood Burns Institute website, interactive map for State Profile for Ohio, One Population Count for Detention, at <http://www.burnsinstitute.org/state.php?custom1=Ohio>.

<sup>36</sup> The Institute for the Study and Prevention of Violence, Kent State University, DISPROPORTIONATE MINORITY CONTACT ASSESSMENT, FINAL REPORT, CUYAHOGA COUNTY, at 1-2; DISPROPORTIONATE MINORITY CONTACT IN THE LUCAS COUNTY JUVENILE JUSTICE SYSTEM ASSESSMENT REPORT (August 2008); BURNS INSTITUTE, ANNUAL JUVENILE JUSTICE SYSTEM DATA BY DECISION MAKING FOR SUMMIT COUNTY, OH, available at <http://www.burnsinstitute.org/state.php?custom1=Ohio> (Data made available through the Office of Juvenile Justice and Delinquency Prevention (OJJDP); BURNS INSTITUTE, ANNUAL JUVENILE JUSTICE SYSTEM DATA BY DECISION MAKING FOR FRANKLIN COUNTY, OHIO, available at <http://www.burnsinstitute.org/state.php?custom1=Ohio>; BURNS INSTITUTE, ANNUAL JUVENILE JUSTICE SYSTEM DATA BY DECISION MAKING FOR MONTGOMERY COUNTY, OHIO, available at <http://www.burnsinstitute.org/state.php?custom1=Ohio>).

<sup>37</sup> Committee on Government Reform, report, *Incarceration of Youth Who are Waiting for Community Mental Health Services in the United States*, Prepared for Rep. Henry Waxman and Senator Susan Collins, Committee on Government Reform (July 2004) at (i) and 11.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 9.

<sup>40</sup> *Id.* at 10.

<sup>41</sup> *Id.* at 13.

<sup>42</sup> UNLOCKING THE FUTURE, *supra* note 7 at 18.

<sup>43</sup> Richard M. Mendel, *Reduce Inappropriate Detention of Youth Awaiting Trial or Pending Placement* LESS COST, MORE SAFETY: GUIDING LIGHTS FOR REFORM IN JUVENILE JUSTICE (American Youth Policy Forum 2001), at 53, available at <http://www.aypf.org/publications/lesscost/pages/10.pdf>. Of the 110 suicides discovered by the study, data was obtained for 79 of them, 29 of which (36.7%) occurred in pre-trial detention centers.

<sup>44</sup> *Id.*

<sup>45</sup> Gatti et al., *supra* note 6 at 994.

<sup>46</sup> *Id.* at 997.

<sup>47</sup> UNLOCKING THE FUTURE, *supra* note 7 at 40.

<sup>48</sup> Community Services Division of the County Services Department, JUVENILE DETENTION REFORM: GUIDE FOR COUNTY OFFICIALS (Feb. 2007), available at <http://www.aecf.org/upload/PublicationFiles/NACoJuvenileDetentionReformGuideforCountyOfficials.pdf>.

<sup>49</sup> A. Blumstein, J. Cohen & A. Golub, *survey*, TERMINATION RATE OF ADULT CRIMINAL CAREERS, 1989; Elizabeth S. Scott & Thomas Grisso, *The Evolution of Adolescence: A Developmental Perspective on Juvenile Justice*

J. 88 CRIM. L. & CRIMINOLOGY(1997); see also Edward Mulvey & Mark Aber, "Growing Out" of Delinquency: Development and Desistance, in Richard L. Jenkins & Waln K. Brown, eds, THE ABANDONMENT OF DELINQUENT BEHAVIOR: PROMOTING THE TURNAROUND (1988), at 100.

<sup>50</sup> Annie E. Casey Foundation, Issue Brief, *Reform the Nation's Juvenile Justice System* (Jan. 2009).

<sup>51</sup> UNLOCKING THE FUTURE, *supra* note 7 at 22.

<sup>52</sup> Annie E. Casey Foundation, Issue Brief, *Detention Reform: A Cost Savings Approach* (2007).

<sup>53</sup> Data obtained from an inspection of detention center websites and phone calls placed to the detention centers by the authors.

<sup>54</sup> *Reform the Nation's Juvenile Justice System*, *supra* note 50 (Between 2004 and 2007, 13,000 cases of abuse were reported against youth held in pre-trial detention. "Violence and abuse are rampant in many facilities, as are the excessive use of isolation and dangerous or overly harsh disciplinary techniques such as four-point restraints, strip searches, and pepper sprays." Recently, journalists have exposed especially egregious staff conduct against youth in California, Kentucky, New York, and Texas detention centers).

<sup>55</sup> UNLOCKING THE FUTURE, *supra* note 7 at 22-23.

<sup>56</sup> Mendel, *supra* note 43 at 58.

<sup>57</sup> *Id.*

<sup>58</sup> *Id.* at 2.

<sup>59</sup> *Id.* at 8-9.

<sup>60</sup> *Id.* at 14.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.* at 15.

<sup>63</sup> *Id.* at 18.

<sup>64</sup> Annie E. Casey Foundation, progress report, *Two Decades of JDAI: From Demonstration Project to National Standard* (2009), at 2.

<sup>65</sup> *Id.* at 2-3.



## CDF Mission Statement

The Children's Defense Fund Leave No Child Behind® mission is to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start* and a *Moral Start* in life and successful passage to adulthood with the help of caring families and communities.

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**Columbus** 395 E. Broad St., Suite 330, Columbus OH 43215  
**Cleveland** 1422 Euclid Ave., Suite 972, Cleveland OH 44115  
**National Office** 25 E Street, NW, Washington DC 20001

p (614) 221-2244 f (614) 221-2247  
 p (216) 298-4480 f (216) 298-4481  
 p (202) 628-8787 f (202) 662-3510

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[www.childrensdefense.org/ohio](http://www.childrensdefense.org/ohio)  
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