

A GUIDE TO JUVENILE DETENTION REFORM

# TIMELY JUSTICE: IMPROVING JDAI RESULTS THROUGH CASE PROCESSING REFORMS



JUVENILE DETENTION ALTERNATIVES INITIATIVE A PROJECT OF THE ANNIE E. CASEY FOUNDATION

#### ACKNOWLEDGMENTS

This report was written by Bart Lubow, a senior consultant to the Annie E. Casey Foundation's Juvenile Justice Strategy Group.

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**sites** can lessen the need for juvenile detention and substantially improve system outcomes if they focus greater attention on one of JDAI's core strategies: *reducing unnecessary delay through case processing reforms*...Racial and ethnic disparities, rearrest and court appearance rates, alternatives to detention program participation and system costs, to name a few, could improve with a renewed focus on how cases move through the juvenile justice system.



## A NOTE TO READERS

Twenty-five years ago, the Annie E. Casey Foundation launched the Juvenile Detention Alternatives Initiative® (JDAI™) in a moment of crisis for our nation’s juvenile justice system. Crime was on the rise and our country’s “tough on crime” response was especially harsh for young people. This was manifest in our juvenile detention centers, which were increasingly overcrowded, unsafe and populated by youth of color.

As the initial JDAI sites sought to demonstrate that they could safely reduce detention utilization, they focused on *keeping* youth out of detention and on *getting* youth out of detention more quickly. In other words, these JDAI pioneers attended to the back door of detention with the same determination as they did the front door. Thus, some of the most successful early JDAI innovations focused on expediting case processing.

A quarter of a century later, it is safe to say that JDAI sites have spearheaded a sea change in our country’s norms for determining how and when to use secure detention. JDAI sites have reduced admissions to secure detention by 49 percent, while average daily population is down 43 percent. But particularly in recent years, the success that JDAI sites have experienced reducing the number of youth *in* detention has been driven almost entirely by reducing the number of youth *entering* detention. It is fair to say that expediting case processing, one of the eight core strategies of comprehensive detention reform, has not received the same attention in recent years as detention populations have fallen well below the capacity of detention centers.

While it is understandable and laudable that jurisdictions have focused so much of their energy on reducing detention admissions, it is a huge missed opportunity to neglect case processing reforms. Perhaps most importantly for jurisdictions that have focused mostly on the front door of detention, case processing reforms can help sites address their persistent racial and ethnic disparities in use of detention. Our single greatest challenge for JDAI is to advance racial and ethnic equity. While no one practice or policy will reverse the pervasive racial and ethnic disparities in our use of secure detention, case processing reforms can offer new pathways to a more equitable juvenile justice system.

In this spirit, we are pleased to offer *Timely Justice: Improving JDAI Results Through Case Processing Reforms*. Written by JDAI’s founder, Bart Lubow, this practice guide primarily focuses on the practical steps that all juvenile justice systems can take to implement case processing reforms as a means for safely and equitably reducing detention utilization. The approaches highlighted here will offer your jurisdictions a range of options for making the use of secure detention not just more rare, but more brief as well.

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## CONTENTS

Introduction 4

I Why Case Processing Reforms  
Are Essential to Effective Juvenile  
Justice Practice 6

II Common Obstacles and  
Challenges to Case Processing  
Reform 10

III Effective Approaches to Reducing  
Case Processing Delay 20

IV Identifying Opportunities for Case  
Processing Improvements 27

V Using Case Processing Reforms  
to Reduce Racial, Ethnic and  
Gender Disparities in Juvenile  
Justice Systems 36

VI A Checklist for Case Processing  
Reform Planning 41



## INTRODUCTION

Over the past 25 years, almost 300 local jurisdictions in 39 states and the District of Columbia have accepted the challenge of juvenile detention reform by participating in the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI). These sites have repeatedly demonstrated that implementing changes to policy, practice and programming, using JDAI's framework of eight core strategies, can safely reduce use of detention. Most sites, for example, have implemented objective screening instruments to better determine which youth to detain. They have implemented or expanded non-secure alternatives to detention (ATD) programs, established new ways to respond to probation violations and developed protocols to maximize court appearance rates. Across the initiative, detention use has decreased, on average, by about 42 percent.<sup>1</sup> In some sites, detention populations have fallen by two-thirds, an astonishing accomplishment in an era of "mass incarceration." Moreover, these reductions have not jeopardized public safety. Most JDAI sites have reported reductions in serious juvenile arrests.

These impressive results, however, mask a significant reality: Sites can lessen the need for detention and substantially improve system outcomes if they focus greater attention on one of JDAI's core strategies: *reducing unnecessary delay through case processing reforms*. Detention population levels are a function of two variables: admissions and lengths of stay. While JDAI sites have been aggressive in reducing admissions by introducing risk assessment instruments and ATD programs, far fewer have focused similar attention on eliminating unnecessary delay from their systems. Limited action in case processing means that the use of detention remains higher than it could be, and that a variety of other important system results — racial and ethnic disparities, rearrest and court appearance rates, ATD program participation and system costs, to name a few — could improve with a renewed focus on how cases move through the juvenile justice system.

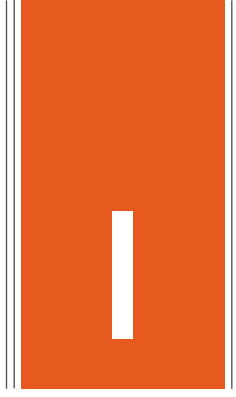
Racial equity is a priority now more than ever in JDAI's pursuit of system improvement. After 25 years of implementation, disproportionality for youth of color has increased slightly as detention populations have decreased across the initiative. Attention to case processing is a critical part of eliminating racial disparity and rebuilding community trust in the justice system. Ensuring that children of color are not left to languish in detention is an important demonstration that we value their well-being.

This JDAI practice guide seeks to heighten awareness of the potential benefits of case processing reforms to local juvenile justice systems and to stimulate action by stakeholders to make their systems more efficient and effective. This core strategy for improving system results is based on the following guiding principles:

- **The goal is reducing unnecessary delay:** The ambition of case processing reforms is not efficiency for efficiency's sake but limiting delays that harm children or undermine equal justice and public safety. Sometimes delays are necessary or desirable to ensure that due-process requirements are met and justice is achieved. Yet delays that don't contribute to improved justice system outcomes are unnecessary and undesirable.

- **Juvenile justice is most effective when it responds quickly to delinquent behavior:** Parents don't tell their misbehaving teenage children, "We'll deal with this in 120 days." Yet this is precisely the typical response of the juvenile justice system. Moreover, four months is often an optimistic estimate of the elapsed time between a juvenile arrest and case disposition.
- **Every bed day counts:** Juvenile justice stakeholders often question whether a slight reduction in one youth's length of stay really makes any difference to system performance. This perspective ignores the cumulative reduction in detention and improved system performance when all cases are subject to more timely processing. The skeptics also fail the "my child test" — i.e., would an extra day in detention matter to you if the child were yours? A system that embraces the notion that "every bed day counts" will be less tolerant of unnecessary delay in individual cases and improve results overall.
- **Case processing reforms are relevant to both detained and non-detained youth:** Because JDAI sites are focused, first and foremost, on safely minimizing their use of detention, they may tend to think of case processing reforms primarily to reduce the population. Yet timely case processing can improve many system outcomes, including having fewer youth commit an offense before their court dates or fail to appear. Sites should review all opportunities to resolve delinquency cases as expeditiously as possible, whether or not the youth is in custody.
- **Case processing reforms require changing the behavior of system stakeholders, not youth:** Minimizing detention populations, improving failure-to-appear and rearrest rates, reducing racial disparities and saving taxpayer dollars are outcomes that can be improved without changing troubling youthful behaviors. Why? Because case processing reform relies on administrative actions by adults and is exclusively under their control.

It is important to acknowledge that juvenile court case processing already is considerably more timely than in adult courts. It is, therefore, relatively easy for practitioners with experience across court systems to conclude that the juvenile court is doing a great job of resolving cases in a timely fashion. But those perceptions should not mask the fact that juvenile courts can — and should — do better.



## Why Case Processing Reforms Are Essential to Effective Juvenile Justice Practice

### TREATING ADOLESCENTS IN DEVELOPMENTALLY APPROPRIATE WAYS

What we know about adolescent development tells us that juvenile justice is most effective when it responds quickly to delinquent behavior. Whether the system's intervention seeks to show youth that there are consequences for misbehavior, or because their misbehavior indicates that services or supervision is needed, timely action is critical. Kids require and deserve immediate adult responses when their behavior violates norms. System delays only minimize the potential effectiveness of these interventions.

### SAFELY REDUCING DETENTION LEVELS

Case processing reform is a powerful tool for reducing average daily population (ADP). A jurisdiction could continue to lock up youth at its historical rate yet still reduce its detention population substantially by resolving cases more quickly.

Admissions and average length of stay (ALOS) determine annual ADP in detention in this way:

$$\text{Annual ADP} = \frac{\# \text{ admissions} \times \text{ALOS}}{365 \text{ days}}$$

Reducing either admissions or ALOS will drive detention populations down. The degree to which case processing reforms can affect detention population levels is illustrated in Figure 1, which charts the actual distribution of admissions by length of stay in one JDAI site. This graph reveals that 59 percent of those admitted to detention were released within five days but accounted for just 7 percent of the total bed days during the study period. In comparison, youth with lengths of stay of 25 days or more (about 19 percent of total admissions) occupied 72 percent of the bed space.



FIGURE I  
Baltimore Admissions by Length of Stay (LOS)

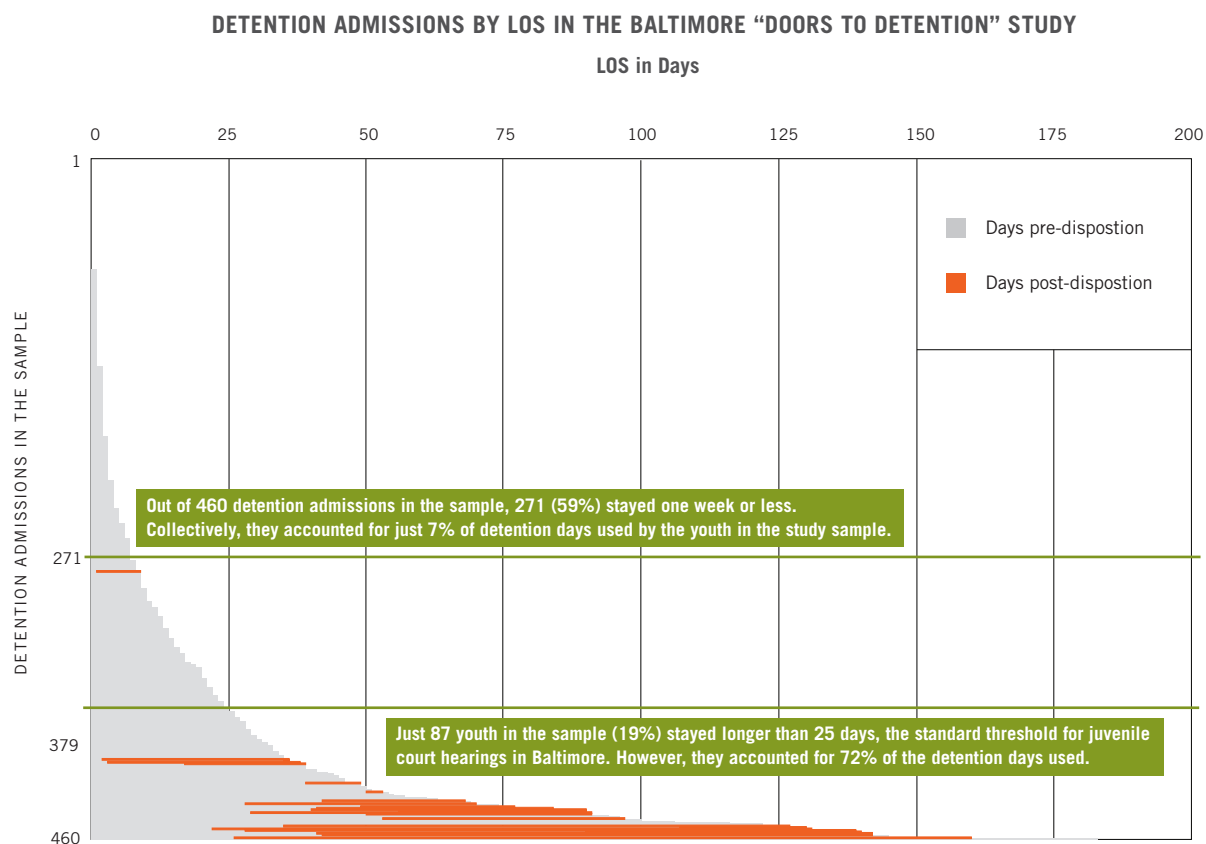


Figure 1 also reveals an important fact about case processing: Simply computing an ALOS across all admissions typically masks the effect of a small number of cases on overall detention population levels. In most sites, most admissions to secure detention are relatively short term. A minority of young people, however, linger in detention for extended periods. If sites can move some of these cases more quickly, the effect will be disproportionately large.

**TABLE I**  
**How Reduced ALOS Expands ATD Program Capacities**

| Program           | Daily Capacity | ALOS in Program | Annual Capacity | New ALOS in Program | New Annual Capacity |
|-------------------|----------------|-----------------|-----------------|---------------------|---------------------|
| Home Detention    | 20 youth       | 90 days         | 80 youth        | 45 days             | 160 youth           |
| Evening Reporting | 12 youth       | 45 days         | 96 youth        | 30 days             | 144 youth           |
| Emergency Shelter | 10 youth       | 30 days         | 120 youth       | 10 days             | 360 youth           |

## EXPANDING AND IMPROVING ALTERNATIVES TO DETENTION PROGRAM CAPACITIES AND RESULTS

Along with reducing use of detention, efficient case processing can expand a jurisdiction's ATD program capacities (without any increased funding) and improve program performance. When cases languish in alternative programs unnecessarily, fewer youth can be placed in them because of slower turnover in program slots, and detention populations will be higher simply because non-secure options are unavailable. Table 1 shows how expedited case processing can expand the number of youth served by a typical continuum of non-secure program options.

Excessive time in alternative programs can also increase program failure rates because there is a longer period when a youth can either fail to appear in court or get rearrested. High failure rates not only lead to new detention admissions, but also can undermine confidence in alternative programs and, ultimately, reduce their use. More efficient case processing should increase the number of youth who can be served by local programs, and it should improve their performance.

## REDUCING RACIAL, ETHNIC AND GENDER DISPARITIES

Research and practical JDAI experiences show that case processing times vary in many places as a function of race, ethnicity or gender. Youth of color typically stay longer in detention than white youth. Girls generally experience shorter stays in detention than boys, but often get stuck in case processing dilemmas, such as in cases involving sex trafficking. And as the nation's population has become more diverse, the increasing number of youth whose primary language is not English poses distinct challenges for timely case processing, including the need for interpreters. Moreover, determining a youth's immigration status may delay resolution of the immediate delinquency charge.

Various factors influence these case processing patterns. Sometimes, it's a lack of dispositional resources for specific groups; other times idiosyncratic decision making by staff, legal representation issues or procedural anomalies may create disparities. One common cause of disparate lengths of stay for youth of color flows directly from their greater likelihood of prosecution as adults, exposing them to the much lengthier case processing times typical of criminal courts. Regardless of the reasons, sites that can identify where cases get delayed and introduce changes to speed the adjudicatory process will likely reduce lengths of stay for youth of color and girls, thereby reducing disparities in the use of secure detention.

### **MINIMIZING THE LIKELIHOOD OF WARRANTS**

Eliminating unnecessary delay from case processing can reduce a youth's risk of future detention. Long case processing times increase the likelihood that youth who are not in custody will miss court appearances (even if accidentally) or get rearrested (even for something very minor). In one of the original JDAI sites, for example, youth given field citations typically were not seen by court personnel until eight to 10 weeks after their original encounter with law enforcement. Almost 40 percent of these youth subsequently missed their first court appearances, had a warrant issued and were automatically detained, even though most of the cases involved relatively minor offenses. When the site made changes that enabled court officials to see youth more quickly, either through probation intake or a formal arraignment, the failure-to-appear rate at first appearances dropped substantially.

### **MINIMIZING "WASTE" THROUGHOUT THE SYSTEM**

Case processing improvements are critical to increasing system efficiency across agencies. For example, if case processing is delayed or disorderly, police officers will be summoned to court repeatedly, but unnecessarily, as cases are postponed. Do we really want prosecutors or defenders making multiple court appearances only to have their cases adjourned? And how about victims? Inefficient or disorganized case processing adds to disruption in their lives and prolongs their emotional distress.



## Common Obstacles and Challenges to Case Processing Reform

Citing the various ways that case processing reforms can improve system outcomes begs an important question: Why haven't JDAI sites been more creative and aggressive about implementing this core strategy? The simplest explanations — reforming case processing is complicated, and there aren't enough examples to emulate — don't tell us what can be done to overcome inertia or resistance to change. Below is a summary of common reasons that sites have not made progress in reducing unnecessary delays in their systems. These potential challenges and obstacles may not be relevant to all jurisdictions. Moreover, some stakeholders may resent some of the comments, finding them stereotypical or overgeneralized. It is certainly not our intention to offend, but we do believe that sites struggling to make progress in case processing owe it to themselves and their communities to examine the reasons. Without candidly acknowledging problems and dilemmas, efforts to make case processing more efficient will likely be stymied.

### A DEARTH OF DATA

A common obstacle to case processing reform is the system's inability to generate timely, accurate data that would help clarify where and why delays occur. Absent concrete information about lengths of stay or reasons for postponements, stakeholders will tend to rely on anecdotal information or personal biases when debating the possibility of expedited case processing. Even when there is agreement about the reasons for extended case processing times, the dearth of data can make it hard to explore important differences between types of cases, limiting remedial options. Having incomplete or misleading information can also impede improvement. For example, analyzing only the ALOS for detainees does not reveal the variability across cases. This may lead stakeholders to believe that their system is doing well in minimizing case processing time, when in fact their ALOS reflects many very short-term admissions, not timely case processing. The absence of data also makes it difficult for stakeholders to “see” the impact of case processing reforms on system performance. But without the capacity to generate such analyses, stakeholders may remain cautious or skeptical that changing the way cases move through their system will produce improved results.

**Consider these approaches** In Section IV, we discuss several examples that show how case processing reforms can improve system performance. Below are two specific data reports that some JDAI sites have used to emphasize the principle that every bed day counts.

- 1) Many sites provide stakeholders with documents called daily population sheets, or pop sheets, that generally list cases in detention each day and often include basic information such as admission date, next court date and disposition status. These reports serve as daily reminders of the detention caseload and reinforce awareness that the youth is in custody.<sup>2</sup>
- 2) Some sites have developed routine reports that rank detained cases by length of stay. To encourage action, the reports highlight the system's oldest cases and identify the people responsible for the case — the judge, prosecutor, defense counsel and probation officer. This kind of report is particularly useful in drawing attention to statistical outliers.

## SETTING THE BAR TOO LOW

Sites sometimes tend to accept the status quo as the best the system can do and simply comply with statutory requirements or court rules. Time limits, however, are typically established to clarify the *maximum* time allowed. There are two potential problems with setting the bar this low. First, relying on the outermost time limits provided by law or court rule may produce high compliance rates but may not maximize timeliness. If a case can be disposed of in 30 days, why not 25 days? The second problem with uncritically relying on statutory requirements or court rules for timely case processing is that they frequently lack consequences for failure to comply or offer easy opportunities for symbolic compliance. Without real consequences for exceeding time limits (such as mandatory release of the youth from detention), compliance rates are typically lower. Similarly, requirements that a trial occur within certain time frames are sometimes undermined by allowing it to begin and then immediately adjourning the case to a later date.

**Consider these approaches** Revising statutory or regulatory standards for case processing sometimes requires legislative change, but most can be accomplished through administrative decisions at the local court level. Here are four examples from JDAI sites:

- 1) **ATD Participants = In-Custody Standards:** Several sites have chosen to process youth in ATD programs as if they were in secure custody, applying the same case processing standards as those for detained youth. Other sites have established limits on how long a youth may participate in an ATD program. This approach encourages, but does not mandate, more timely action in ATD cases.
- 2) **Limiting Post-Adjudication Delays:** Several states have enacted laws that define the length of time a youth can remain in detention awaiting commitment or placement. For example, New York State law now requires that all youth committed to state custody be moved from detention within 15 days and all juveniles prosecuted as adults must be moved in 10 days.
- 3) **Flexible Calendaring:** Many court-calendaring practices limit the frequency with which certain types of cases can be heard, thereby extending detention unnecessarily. Before JDAI in Multnomah County, Oregon, probation violations were heard only on Thursday afternoons, meaning that a youth held on a violation of probation on a Friday would typically remain in detention for a week. When this anomaly was identified, court officials began calendaring violations of probation for the next court date, thereby saving many bed days. Similarly, in many jurisdictions, hearings to reconsider detention status require many days' notice — even though substantial changes in case status might result in release if brought immediately to the court's attention. Maintaining a weekend detention hearing calendar is a tactic some jurisdictions use to avoid unnecessary detention.
- 4) **"Detention Early Resolution":** Without a doubt, the most ambitious JDAI case processing reform was the detention early resolution effort championed by stakeholders in Sacramento County, California. See the text box on pages 13–14 for a summary of this site's radical modification of "normal" case-flow standards. A longer discussion of detention early resolution can be found in *Pathway 5: Reducing Unnecessary Delay*.<sup>3</sup>



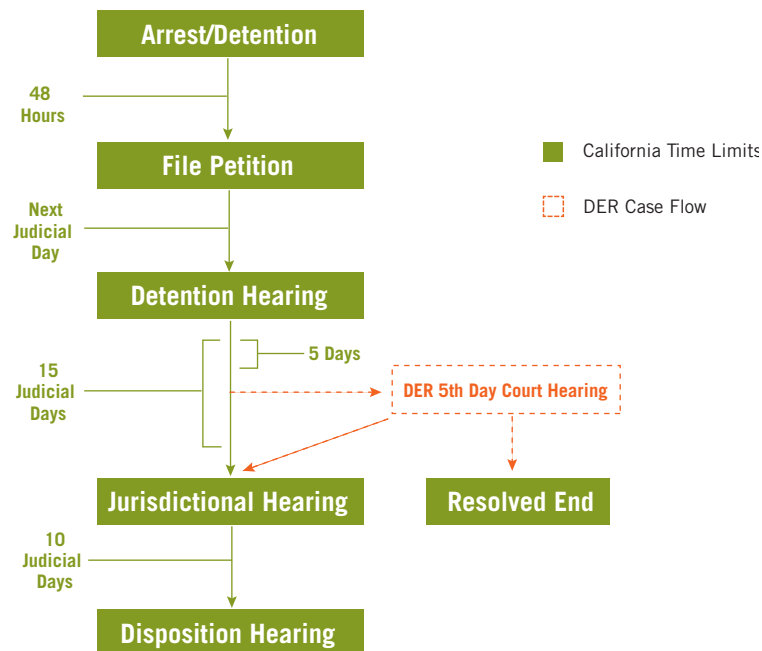
## SACRAMENTO COUNTY DETENTION EARLY RESOLUTION (DER)

In California, detained juveniles must be adjudicated within 15 days of the detention hearing, with dispositions required within 10 additional days. Concerned about staff attorneys spending hours preparing for trials that never happened, witnesses and victims being subpoenaed to court for testimony that never occurred and youth being held in detention for 25 days without interventions or sanctions, Sacramento's chief juvenile prosecutor suggested that "routine" plea-bargained cases could be resolved within five days.

Accomplishing this, however, required a series of changes to routine practice that included the following:

- Expediting scheduling for eligible cases slated for adjudicatory hearings five days after arraignment
- Providing discovery materials such as police reports, witness lists and lab results to defense lawyers immediately
- Expediting probation reports — to ensure appropriate dispositions — by developing a "short form" that required less time to prepare

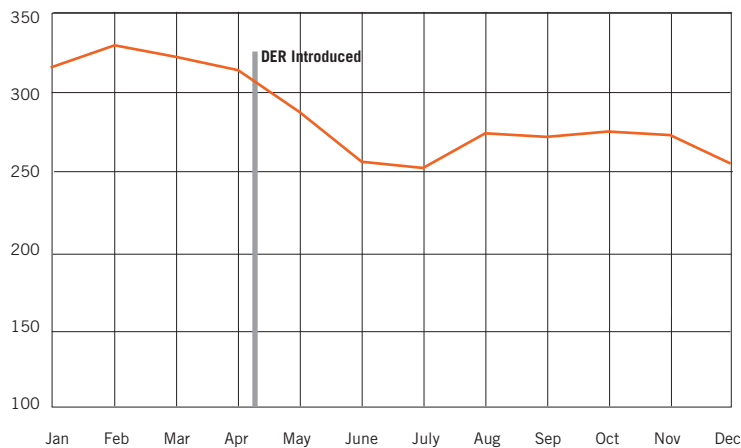
### CALIFORNIA JUVENILE JUSTICE SYSTEM STATUTORY TIME LIMITS For Felony or Misdemeanor in Custody Cases and SACRAMENTO COUNTY DER CASE FLOW



- Proffering prosecutors’ “best plea offers” as the first plea offer at least a day before the detention early resolution hearing
- Providing defense lawyers opportunities to review evidence and plea offers with clients before the detention early resolution hearing
- Establishing an option to adjourn the case for another 10 days if it could not be resolved at the detention early resolution hearing
- Assigning a judge committed to expediting these cases to preside over the detention early resolution hearings

After working out the details in practice, approximately 67 percent of these cases were resolved within five days. Sacramento’s ADP dropped by more than 20 percent within eight months as ALOS in detention decreased from 20 to 16 days.

**MONTHLY AVERAGE DAILY POPULATION IN  
SACRAMENTO JUVENILE HALL, 1996**



SOURCE: Sacramento County

## BACKLOGS VERSUS CHRONIC SHORTAGES

Perhaps the most common misunderstanding about delays in juvenile case processing is the confusion between a systemic backlog (i.e., the volume of pending cases at a particular decision point and how long, on average, it takes to get to them) and a chronic inability to handle the volume of cases with current resources. Many sites experience common points of delay — for example, from arrest to first appearance or for preparation of lab or psychological reports. But if the number of cases awaiting action is not growing, or if the amount of time to complete the task is not lengthening, the site's resources are probably sufficient for the normal flow of cases, albeit insufficient to eliminate the backlog. If a plan can be established to eliminate such backlogs, all cases in the queues could be processed more quickly.

**Consider this approach** Cook County, Illinois, had a substantial backlog of cases awaiting first appearances in court, involving non-detained youth charged with delinquent acts. Typically, a youth would not be summoned to court for as long as 10 weeks after arrest. Consequently, failure-to-appear rates for these arraignments approached 40 percent.

The presiding judge recognized that the lack of timely attention to juvenile cases was interfering with system results and causing havoc in the administration of justice. As a central tenet of his administration, he established the principle that non-detained cases would be seen within a much shorter time frame. Having communicated this value, he assigned judges and probation staff to address the backlog of cases pending first appearance. Once the backlog was significantly reduced, all non-detained cases could now be seen within a couple of weeks. This greatly reduced failures to appear in court, minimized the number of youth subsequently detained because of a failure-to-appear warrant and ensured that kids who needed the court's attention and intervention got it quickly. The required "fix" was not a major new investment in court resources; it was a temporary reallocation of existing resources to address a backlog that was producing negative results. Today, non-detained youth in Chicago are arraigned within two weeks of arrest, dramatically reducing warrant rates.

## RESOURCES

Unnecessary delays in juvenile case processing may result from chronic resource shortages. Such delays can't be resolved with "one-time fixes." When the queue gets longer, or the time to get to cases increases, it may be that the system's resources simply can't keep up with the volume.

**Consider this approach** As everyone reading this guide is undoubtedly aware, securing additional public resources for routine system operations is a heavy lift. Yet it will be even more difficult to make the case for more resources without a careful analysis of caseloads and their impact on the quality of justice. An empirical analysis of case processing, along with corresponding arguments about how delays undermine system results, is an essential strategy for seeking a genuinely needed increase in funding. Presented with data and examples to show how expedited case processing can reduce crime and detention while improving outcomes for youth, financial decision makers may recognize that case processing reforms can be cost-effective. Without such analyses, requests for more money will likely ring hollow.

## COURT CULTURES ARE DIFFICULT TO CHANGE

Of the three branches of government, the judicial branch was the one that the Founding Fathers believed most needed insulation from political pressures. That's why federal judges hold lifetime appointments. It is also why judges are appointed, not elected, in many places, and it is why judicial terms in office are generally much longer than those in the legislative or executive branch. One downside of infrequent personnel changes, however, may be entrenched thinking and related practice. "This is how we've always done it" is a frequent explanation for case processing anomalies. Even when a particular judge recognizes problems and wants to change them, the frequent rotation of judges in many judicial systems may undermine the sustained leadership necessary to change policies and practices that have endured for years. Moreover, reforming judicial administration is no easy task. Court observers have frequently noted that individual judges often act as if the principle of an independent judiciary is synonymous with independent jurists, free from management rules or directives.

The culture and practice of juvenile court may also pose challenges. Founded to serve as a "kind and just parent,"<sup>4</sup> the court has an express commitment to the best interests of the child, which sometimes makes challenging how it operates more difficult. It was only in 1967 that the U.S. Supreme Court extended Fourteenth Amendment due-process protections to young people, including the rights to counsel, to be notified of the charges, to cross-examine witnesses, to not have to make a statement against oneself and to appeal.<sup>5</sup> For years after the *Gault* decision, juvenile courts remained closed to the public, presumably to protect the privacy interests of children. Yet a frequent negative consequence of such proceedings was a lack of accountability for basic operations and outcomes.

Similarly, an assignment to juvenile court is often a steppingstone in a judge's career, and rotation from juvenile to higher-prestige courts is often welcomed. These factors can create a bench of limited experience

and expertise. In other places, judges who handle delinquency petitions hear cases in different localities or switch from juvenile to criminal to civil court in a single week. Under such circumstances, simply handling the normal press of cases limits the likelihood of judges identifying and changing practices that delay adjudication or disposition.

Finally, altering longstanding patterns of case processing typically involves much more than judges issuing orders or opinions. Court operations depend on multiple stakeholders, including those over whom judges often have no direct managerial control. Prosecution and public defense are generally executive branch functions. Probation agencies, which directly affect case processing times, are often independent of the judiciary. Consequently, addressing case processing issues requires joint commitment and action by multiple organizations within the system.

## **PROSECUTION PRACTICES**

When youth are detained pending trial, prosecutors have greater leverage to compel admissions of guilt. To maintain their conviction rates — a dubious measure of the quality of justice — assistant district attorneys may find little incentive to expedite case processing. Moreover, many prosecutors are content to let detained cases remain unresolved to ensure that charged youth experience consequences for their behavior — even though proof has yet to be established and even when a non-custodial disposition is likely. In effect, delays provide opportunities for punishment before trial, which helps explain the large number of time-served dispositions. This scenario is most odious when the state seeks judicial approval to prosecute youth as adults. Even though a case may not likely merit transfer to criminal court, the typically lengthy litigation ensures that the proverbial pound of flesh has been collected well before resolution of the transfer issue.

Prosecutors' failure to review cases in a timely manner may also result in unnecessary detention. Assistant prosecutors must review police charging decisions in a reasonable time frame to ensure that the facts of the case comport with the charges. Otherwise, overcharging could lead to detention even in relatively minor cases. Another source of delay influenced by prosecutors involves discovery material. If assistant district attorneys delay providing defense lawyers with evidence, cases cannot proceed in a timely way. Even when conforming to the letter of the law, delayed sharing of discovery information may not meet its spirit when a case is prolonged to gain a potential trial advantage.

## **DEFENSE PRACTICES**

The biggest obstacles to eliminating unnecessary delay in juvenile case processing are often attributed to defense counsel. On the surface, this perception seems both plausible and appropriate. After all, defense counsel are responsible for ensuring that a youth's due-process rights are safeguarded and that the state is

held accountable for proving guilt beyond a reasonable doubt. If delays are necessary for effective representation, they are not “unnecessary” delays. It is also critical to note, however, that if systems tend to blame defense lawyers for unnecessary delays in case processing, those same systems must be held accountable for untimely assignment of lawyers for indigent clients — disproportionately youth of color — a common problem throughout the country that delays case processing and weakens overall defense representation.

Defense lawyers do sometimes seek delays in case processing to gain relatively rare advantages for their clients. For example, as cases grow old, witnesses’ memories get foggy (or witnesses disappear), and evidence is lost. Such delays are especially prevalent in out-of-custody cases when lawyers are often quite content to prolong the proceedings because their clients are at liberty. While stale cases can benefit the defendant, only a very small percentage of favorable outcomes for charged youth result from delaying tactics.

If their clients are likely to be committed or placed after disposition, defense lawyers sometimes seek to delay case resolution to keep those youths close to home for as long as possible. If youth will receive credit for time served in the local detention center, defense attorneys may hope to keep her or him there, rather than in a state facility. Defense lawyers also contribute to delays by failing to effectively plan and advocate before the dispositional hearing. A common example is when counsel hopes that the court will sentence a client to probation. But when the court indicates its intention to order some form of out-of-home placement, defenders seek postponements to get psychological reports or other assessments that may sway the court toward a non-residential option. Because these assessments and options were not developed before the original dispositional hearing, lengthy adjournments are typically required for defenders to complete their cases.

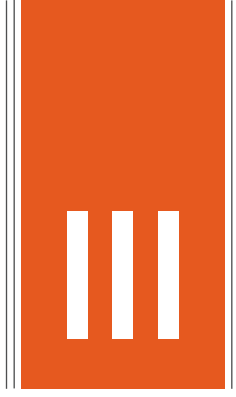
## **PROBATION PRACTICES**

Many probation practices cause case processing delays. For example, preparing social histories or pre-dispositional reports typically takes several weeks. Does the probation department prioritize the writing of these reports for cases in custody? Are reports necessary in many cases, especially when one was recently prepared or when plea bargaining includes an agreed-upon disposition? Similarly, probation’s dispositional planning can often extend cases. For example, efforts to arrange residential placements sometimes don’t begin until the court has indicated its preference for that option. At that point, potential residential placements must be considered, paperwork must be assembled and funding may have to be secured. Generally, these are the cases that make up the awaiting-placement caseload common to many sites. Getting a jump on dispositional planning can save many bed days.





Probation also contributes to delays when it is unable to see newly arrested, but not detained, cases in a timely way. In many jurisdictions, probation departments are responsible for first contact with an arrested juvenile, often having the option of diverting youth or referring cases to prosecutors. When this initial contact is delayed for lengthy periods, youth remain unsupervised and without interventions. These delays increase the odds of new arrests and failures to appear in court. Finally, probation agencies typically serve as the gatekeeper to ATD programs. If a court authorizes placement in such a program, but probation can't act on that authorization in a timely manner, youth languish in detention unnecessarily. Expediting these placements both fulfills the court's intention and limits time in secure confinement.



## Effective Approaches to Reducing Case Processing Delay

JDAI site work has revealed a variety of case processing issues, as well as best practices and innovations to address them. The list below is not definitive, particularly because local legal cultures vary so much. It does, however, include some of the most common dilemmas across sites. Experience indicates that opportunities to eliminate unnecessary delay and to expedite the flow of cases are limited mainly by lack of creativity and determination. A site that can identify cases for swifter resolution should also be able to develop solutions. The examples that follow illustrate the variety of responses sites have devised to improve timeliness.

### EXPEDITING CASES AT THE “FRONT END”

In many jurisdictions, delays in getting to new delinquency cases undermine system results. Lengthy delays between arrest and arraignment often result in high failure-to-appear rates. A lack of timely review of cases for legal sufficiency can sustain cases that should be dismissed or would be better diverted from formal prosecution. Failure to assign legal counsel also means youth may be unrepresented at critical junctures, delaying preparation of a defense. Here are six practices that address common sources of slow, inefficient case processing:

- 1) **Accelerated Citation:** In one site, police were concerned that youth who were not detained would not be seen by either probation or the court for many weeks. For the police, the issue was timely intervention, not detention. The site established a system whereby law enforcement officers could identify cases that they believed should receive expedited reviews. Instead of youth waiting six to eight weeks before being summoned to intake, these accelerated citation cases were seen within five days, increasing the chances for timely interventions.
- 2) **Reducing Delays for First Appearances:** While most sites are diligent in bringing detained youth before a court quickly, kids who are not detained are often not seen for weeks. The Cook County first appearance court described earlier eliminated a backlog of cases, which allowed non-detained youth to be seen within two weeks. Failure-to-appear rates decreased by 50 percent.

- 3) **Timely Reviews for Legal Sufficiency:** Although states vary dramatically in their requirements for prosecutorial review of arrests for legal sufficiency, site experience indicates that early reviews can weed out legally insufficient cases, increase rates of diversion and prevent overcharging. In some sites, district attorneys have expanded or reassigned staff to ensure cases are reviewed within 24 hours of arrest, not only for in-custody cases, but also for those not confined.
- 4) **Earlier Assignment of Counsel:** When JDAI began in Ohio, the Children’s Law Center (CLC) conducted a study of indigent defense services. The center found that youth in some local courts were unrepresented at detention hearings and that untimely assignment of counsel delayed case preparations.<sup>6</sup> Because of result of the study’s findings, certain JDAI counties assigned public defenders to cover all initial court appearances. Yet even in sites where public defenders routinely staff detention hearings, they may not have sufficient preparation time to represent detained youth effectively. Cook County addressed this problem by hiring paralegals, whose job was to help defense lawyers prepare for detention hearings — for example, by urging family members to attend court or verifying attendance in school.
- 5) **Pre-Detention Hearing Meetings:** In several sites, stakeholders meet before detention hearings to review the day’s cases and determine the possibility of (a) resolving any outstanding matters that might prevent release (such as a pending warrant) and/or (b) developing an agreement for conditions of release. In Clayton County, Georgia, this process, formally known as FAST (Finding Alternatives for Safety and Treatment), involves a major meeting that includes potential service providers and family members to discuss ways of minimizing detention and maximizing timely interventions.<sup>7</sup> In Multnomah County, stakeholders gather each day at 11:30 a.m. in a “pretrial placement planning meeting” to prepare for detention hearings at 2 p.m. These meetings, which typically involve probation, defense, prosecution and social service agencies, produce non-binding recommendations to the court for release conditions (if necessary) and possible plea bargains.<sup>8</sup>
- 6) **Facilitating Release:** Sometimes, youth whom the court wants released, either to their homes or to ATD programs, may be held for several days because of (a) parental refusal or (b) untimely program enrollment. In Baltimore, for example, a significant number of youth were detained because parents would not or could not appear to take custody of their children. Baltimore addressed this problem by using a community-based organization to advise parents on the processes for getting their child released and on available services that provide support and guidance. In Cook County, young people whose cases were marked for release by the judge — but who lingered in detention because a parent was unavailable or unwilling to pick them up — could be placed in a temporary shelter, with probation staff following up with families to facilitate reunification. Other jurisdictions have taken steps to speed admissions into ATD programs by assigning staff to quickly complete these placements.

## FREQUENT POSTPONEMENTS

While due process should never be trumped by a desire to reduce case processing times, adjournments unrelated to protecting the rights of youth or ensuring the best decisions may cause unnecessary delay. In some court systems, judges vary considerably in granting postponements. In other places, administrative considerations feature prominently, albeit problematically, in unnecessary continuances. An unjustified request for postponement may come from prosecutors, defenders or probation officers, among others. These parties often agree to continuances to avoid opposition or denial of their own requests at some later date — something they would never do or allow if their own children were involved. A court system that grants postponements liberally or without consistent rules or expectations should examine this practice. Below are six examples of JDAI efforts to minimize interruptions to routine case flow:

- 1) **Establishing Clearer Policies:** Most court cultures and rules on granting continuances are rather vague, referring to concepts such as “just cause” that provide little operational guidance. Consequently, practice can vary considerably across courts. Yet in one site, a judge made it clear that he would not grant postponements requested on the day of a scheduled hearing. He would entertain requests for postponement in advance of the hearing, but believed that the disruption and inconvenience caused by such requests on the actual court date should not be tolerated. Once this policy was articulated, time to disposition decreased considerably.
- 2) **Monitoring Practice:** Simply studying the frequency and reasons for postponements can reduce variability across courts and highlight insubstantial reasons for granting delays.
- 3) **Court Notification Systems:** No court can operate efficiently with high rates of missed court dates. In many sites, automated court notification systems remind youth and their families of upcoming appearances. These simple systems (much like those often used by doctors, dentists and even beauticians) not only limit failure-to-appear rates but also ensure that cases move along in a timely way. These solutions are even easier to come by today with the widespread use of mobile devices and the range of new technologies.
- 4) **Full and Timely Discovery:** If defense lawyers must file motions to secure discovery materials, delays are inevitable, both for the court to review the motion and then to order the delivery of discovery materials. If prosecutors have a clear policy and practice of turning over relevant materials as early in the case as possible, there will be less need for continuances.
- 5) **Timely Probation Reports:** Unnecessary delay related to dispositional reports tends to occur when detained cases are not prioritized, when new reports are ordered even though relatively recent ones exist, when there is a plea bargain *with a disposition* that has already been agreed to, when there is no short-format report available and when reports are delivered late to respective parties.

6) **Placement Planning:** Many detention centers hold large numbers of youth awaiting placement. Moreover, data show that youth of color are more likely to be placed or committed than their white counterparts. Fewer placements and commitments and more timely placement planning, therefore, should reduce the disparate presence of youth of color in the detention population. Some probation agencies have addressed the “awaiting placement” problem by starting to develop placement materials well before disposition, based upon early status conferences or knowledge of dispositional patterns in the jurisdiction. Other sites have addressed this dilemma more directly by developing explicit strategies to reduce placements and commitments. For example, many “deep end” sites have developed structured decision-making tools that seek to minimize corrections and other forms of out-of-home dispositions. Other sites use interagency dispositional planning teams both to minimize out-of-home dispositions and to identify alternative sanctions or treatment options. Some defender offices, when anticipating the likely placement of a client, have case planners or social workers who develop pre-sentence reports aimed at minimizing out-of-home placements or to pursue less restrictive options that the defense can then advocate at disposition. These approaches can reduce the need for postponements, hasten discharges from detention and reduce racial disparities in detention utilization.

## PSYCHOLOGICAL EVALUATIONS

When a case is continued to secure a psychological report for determining competency or disposition, postponements of four to six weeks are common. Yet only about six to eight hours are typically devoted to testing and interviewing the youth and to preparing the written report. These contrasting time frames suggest that cases could be moved more quickly through administrative remedies that expedite completion of these reports.

Sites can address this issue in a few ways. First, the number of requests for psychological reports can be reduced if the court can consult with a mental health professional before ordering such an assessment. Cook County Juvenile Court’s mental health clinic follows this practice.<sup>9</sup> When a judge is considering a postponement to complete a psychological evaluation, a clinic representative consults with the court to advise on the likelihood of the report answering questions relevant to the case. This consultative process has significantly reduced the number of reports ordered and, consequently, the days or weeks lost awaiting their preparation. Other sites, especially those without court-affiliated clinics, have expanded the number of consultants who can prepare psychological reports to reduce backlogs. Other jurisdictions have modified their contractual arrangements with mental health professionals to clarify time frames for submitting reports.



## TRANSFER CASES

Juveniles pending transfer to or prosecution in adult criminal court (in jurisdictions that detain such youth in juvenile detention centers — undoubtedly a good practice if there are to be transfer cases) probably account for more bed days than any other single category of cases. The reasons: lengthy litigation to determine whether to transfer such cases and the much slower pace of criminal courts for those transferred. If more timely decisions for transfer requests were possible, or if specialized courts for juvenile transfer cases were established in criminal courts, case processing times could be significantly reduced. Because youth of color are disproportionately transferred (or considered for transfer) than white youth, effectively minimizing delay in these types of cases provides yet another opportunity to minimize racial disparities in detention utilization.

Sites have sought to address the dilemmas of transfer cases in at least two ways:

- 1) **Case Conferences:** When transfer depends upon a juvenile court's decision, cases can be conferenced early, allowing a judge to get preliminary indications about the likelihood of ordering the case to the adult court. Many hours of legal maneuvering, and many weeks in detention, can be avoided simply by scheduling a status conference to get an early sense of the judge's inclinations. If the prosecutor still wants to pursue a motion to transfer, he or she retains that right, of course. Most prosecutors, however, are disinclined to waste resources on litigation when there is a strong indication they will not prevail.





2) **Specialized Court Parts:** In New York City, juveniles charged with certain violent offenses are automatically prosecuted as adults but are held in juvenile detention centers. To promote consistency, ensure adequate expertise, maximize resources and minimize inefficiency, the city established criminal court Youth Parts for centralizing transfer cases. Having judges, prosecutors and defenders who specialize in these unique cases has made it possible to resolve cases more efficiently and, some would argue, more wisely.

## EXPEDITERS

Numerous JDAI sites have established expeditor positions. The expeditor concept emerged from efforts to manage jail populations in the 1980s. These positions were sometimes referred to as jail case coordinators or population control officers. Whatever the title, the purposes of the expeditor position are to identify inappropriate admissions and reduce lengths of stay, either in individual cases or for categories of cases.

In some sites, the expeditor's functions are narrowly defined. For example, some jurisdictions use expeditors exclusively to arrange timely placement of detained youth into ATD programs. These expeditors produce the required paperwork, schedule appointments and even make home visits to speed up the enrollment process. Other sites, however, have embraced a broader, more aggressive agenda for the position. There, the expeditor's activities and responsibilities range from establishing a database to track all detained cases to convening systemwide meetings to facilitate problem solving in individual cases to identifying policy or practice obstacles that delayed case processing for groups of cases. In its fullest expression, the expeditor position becomes the system's quality control officer for timeliness in case processing.<sup>10</sup>

## WEEKLY DETENTION REVIEWS

One mechanism to minimize the likelihood that young people remain in detention for want of timely action is a weekly detention review meeting. During these discussions, stakeholders, preferably from multiple agencies, review the roster of detainees, focusing on those with extended lengths of stay. Detention reviews address individual cases and assign responsibility for completing certain tasks such as paperwork that is delaying placement. The meetings can also be a forum for highlighting groups of cases that seem to get stuck and identifying practices that demand a systemic solution. Detention reviews are often convened by the expeditor, whose overall familiarity with the flow of cases and responsibility for timely processing can stimulate and focus discussions. The general lesson from weekly detention reviews is that greater accountability for specific actions to resolve cases produces timely case processing.

TABLE 2

## Common Case Processing Problems and Solutions

| Problem  | Possible Solutions  |
|--|---|
| Delays in first appearance for non-custody cases | <ul style="list-style-type: none"> <li>• Employ accelerated citation</li> <li>• Conduct timely case reviews</li> <li>• Reduce backlog</li> </ul>  |
| Delays in processing non-custody cases           | <ul style="list-style-type: none"> <li>• Expedite speedy trial requirements for youth in ATD programs in the community</li> </ul>   |
| Late assignment of counsel                       | <ul style="list-style-type: none"> <li>• Conduct pretrial screening for eligibility</li> <li>• Use public defenders to staff arraignments</li> <li>• Assign cases earlier</li> </ul>                                    |
| Unmet speedy trial expectations                  | <ul style="list-style-type: none"> <li>• Enhance monitoring of compliance</li> <li>• Implement Sacramento detention early resolution processes</li> </ul>   |
| Unnecessary postponements                        | <ul style="list-style-type: none"> <li>• Institute policy changes</li> <li>• Monitor use of continuances</li> <li>• Shorten postponements when necessary</li> </ul>   |
| Delayed psychological reports                    | <ul style="list-style-type: none"> <li>• Seek consultations before ordering reports</li> <li>• Reduce backlog</li> <li>• Establish shorter time frames with service providers</li> </ul>                                |
| Social histories/pre-dispositional reports       | <ul style="list-style-type: none"> <li>• Prioritize in-custody cases</li> <li>• Introduce short-form reports</li> <li>• Triage caseload to cull unnecessary report requests</li> </ul>                                  |
| Transfer cases                                   | <ul style="list-style-type: none"> <li>• Hold pretrial conferences to minimize litigation</li> <li>• Create specialized court dockets</li> </ul>  |
| ATD cases  | <ul style="list-style-type: none"> <li>• Implement legal/rule changes applying in-custody standards to ATD cases</li> <li>• Enforce time limits on program participation</li> </ul>                                     |
| Awaiting placement cases                         | <ul style="list-style-type: none"> <li>• Reduce reliance on placements</li> <li>• Specify time frames for state pickup</li> <li>• Make early placement arrangements</li> <li>• Enforce statutory time limits</li> </ul> |

# IV

## Identifying Opportunities for Case Processing Improvements

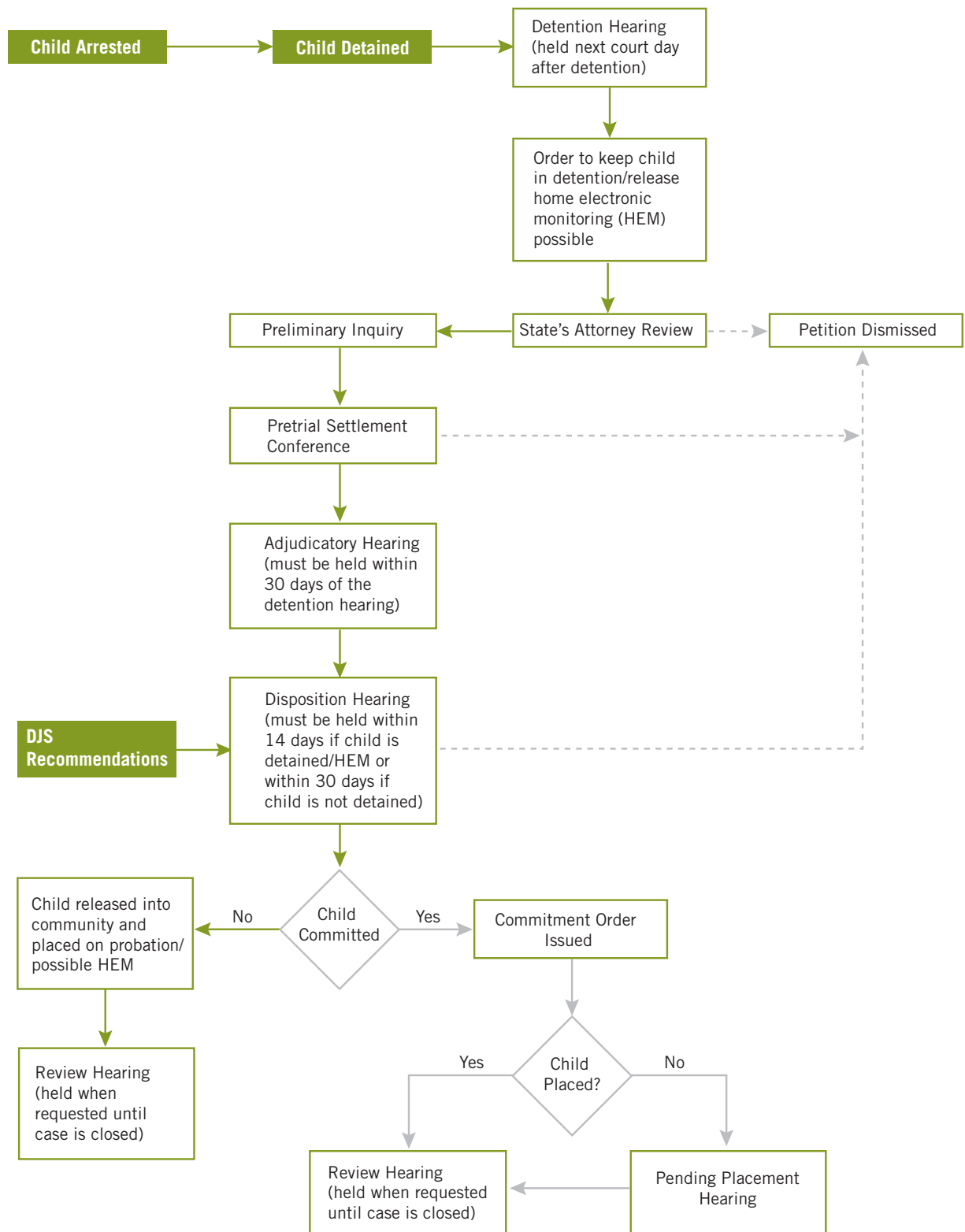
This section discusses the steps JDAI sites can take to identify points of delay and to pinpoint opportunities for moving cases more quickly. The diversity of sites means that each must determine which steps are best for it. Because most case processing reforms require the support or cooperation of multiple agencies, the JDAI collaborative is an ideal context for exploring these issues. The first step, therefore, is engaging the collaborative in a conversation about the potential benefits of elevating a case processing agenda. Assuming sufficient interest, will and administrative capacity to develop a reform plan, follow-up steps are listed below.

### MAP YOUR SYSTEM

A good case processing analysis starts with the development of a case processing flow chart. Sometimes called a system map, the flow chart describes how the current system works. To begin, stakeholders talk through the entry and exit points — from arrest through post-disposition returns to the detention facility — for each youth. Figure 2 is a case processing flow chart for a JDAI site.

This chart reflects the legal idiosyncrasies of this site and is intended only for illustrative purposes. The important point in mapping the system is to clarify the various steps — from arrest through disposition (and, in most cases, post-disposition if youth are likely to reenter detention for things such as violating probation or serving a short sentence).

**FIGURE 2**  
**System Map**



The mapping exercise will be much more informative if stakeholders can address two additional questions about how cases move through the system:

- 1) What are the statutory or court-rule expectations regarding how many days (at most) it should take to move from one step in the map to another? For example, what does state law or court rule say about how many days following arrest before a detained youth must have a detention hearing or how many days the process should take from detention hearing to adjudication or to disposition? Answers to these questions will establish the formal expectations about case processing times.
- 2) How do the site's case processing times compare to these formal expectations? While it may prove initially difficult to compute actual system performance, stakeholders should at least have a general sense of whether cases move within the prescribed time frames. Even if the site largely complies with these expectations, stakeholders should ask themselves whether certain steps can and should be expedited.

Developing a site-specific case processing flow chart should raise a series of important questions for the collaborative. The questions include:

- Do stakeholders generally agree on the way cases move through their local system?
- Is there clarity about statutory or regulatory time frames for both detained and non-detained cases?
- Does case processing reflect the jurisdiction's best aspirations for addressing minors accused or adjudicated of delinquent acts?
- What data are available to fill in important blanks in the system map (e.g., the elapsed time between decision points)?
- Do stakeholders see specific decision points as possible targets for deeper analysis and potential reform?
- Can stakeholders identify specific decision points where youth of color or girls tend to experience different case processing outcomes?

## USING DATA TO DRIVE CASE PROCESSING REFORMS

Ideally, each jurisdiction should conduct a comprehensive empirical analysis of case processing. Because jurisdictions vary widely in terms of data availability *and* analytical capacities, this practice guide does not propose a single methodology for conducting the analysis. JDAIconnect,<sup>11</sup> however, has examples from JDAI sites that have completed such studies, as well as technical information related to those studies, including data elements and sampling methodologies.<sup>12</sup>

We recommend that sites begin their empirical analyses with a broad overview of how long youth admitted to secure detention are staying in these facilities, as represented in Figure 1 on page 7. This graph can be constructed by plotting each admission by length of stay over a representative period. Key questions that might be raised by this exercise include:

- Are there large numbers of relatively short-term admissions to the detention center — for example, released within five days? If so, what changes might help minimize these admissions?
- Are there clusters of cases that are released at a common point (e.g., the date when adjudicatory hearings are required)? If so, can anything be done to expedite those decisions?
- What do we know about the types of cases that remain longest in secure detention? Are there groups of cases that represent a disproportionate number of bed days?

A statistical representation of admissions by lengths of stay won't completely answer these types of questions. It can, however, help identify issues for which a deeper dive into the data could be informative.

Sites that collect and present data about detention utilization in a format similar to the JDAI Quarterly Reporting System (QRS) already have a substantial amount of statistical information that can be viewed through a case processing lens, such as the basic ADP cross-tabulation table used in the QRS.<sup>13</sup> It includes ALOS data that can be disaggregated by race, ethnicity, gender and case type. This information is very valuable for discussing possible case processing reforms. Some of the questions that might surface during an examination of these data include:

- Which types of cases have the longest case processing times?
- Why do certain groups of cases spend amounts of time in detention?
- Are there apparent differences in lengths of stay across different demographic categories?
- What is the volume of cases within these different subgroups? Is a subpopulation so small that differences in lengths of stay reflect important but relatively rare issues not easily addressed by major policy or practice changes?

Quarterly reports of data captured by QRS can be presented in a powerful and concise summary that we generally refer to as a bed space chart (Table 3). This example reflects ways that one site categorized cases. The value of this analytical approach should be immediately apparent. Stakeholders can review different types of cases and ask why lengths of stay are so variable, or which groups occupy large numbers of beds. Depending on your site's data system and analytical capacities, it should be possible to explore questions such as disaggregating data by demographic groups within each offense category.



TABLE 3

**Sacramento County Detention Facility Bed Space**

Admissions, length of stay and beds occupied by offense type, 1995

| Most Serious Offense Type                                  | Number of Admissions | Percent of Admissions | Average LOS (Days) | Beds Needed for Admissions (ADP) |
|--|----------------------|-----------------------|--------------------|----------------------------------|
| 707 Offense  | 154                  | 3%                    | 145.6              | 61                               |
| Violence   | 399                  | 9%                    | 23.0               | 25                               |
| Weapons  | 133                  | 3%                    | 19.5               | 7                                |
| Drug Laws  | 132                  | 3%                    | 19.0               | 7                                |
| Property   | 396                  | 9%                    | 19.9               | 22                               |
| Vehicle Theft  | 422                  | 9%                    | 21.7               | 25                               |
| Other Felony   | 137                  | 3%                    | 30.1               | 11                               |
| Other Misdemeanor  | 124                  | 3%                    | 11.7               | 4                                |
| Probation Violation/Warrant/Program Failure and New Charge | 352                  | 8%                    | 20.5               | 20                               |
| Pre-disposition Program Failure                            | 153                  | 3%                    | 18.9               | 8                                |
| Post-disposition Program Failure                           | 674                  | 15%                   | 28.0               | 52                               |
| Probation Violation  | 356                  | 8%                    | 12.7               | 12                               |
| Warrant  | 389                  | 8%                    | 16.1               | 17                               |
| Remand/Court Hold  | 212                  | 5%                    | 12.1               | 7                                |
| Disciplinary Hold  | 309                  | 7%                    | 7.1                | 6                                |
| Weekend/Courtesy Hold/Medical Hold                         | 177                  | 4%                    | 2.4                | 1                                |
| Transfer In  | 96                   | 2%                    | 19.6               | 5                                |
| Unknown  | 23                   | 0%                    | 9.4                | 1                                |
| <b>TOTAL</b>   | <b>4,638</b>         | <b>100%</b>           | <b>22.9</b>        | <b>291</b>                       |

Source: JJI Database, a local Sacramento resource.

While very informative, quarterly management reports on the use of detention are incomplete in certain ways. For example, the QRS report<sup>14</sup> does not include data on non-detained cases or analyze individual decision points — for example, how much time passes from arraignment to adjudication, or adjudication to disposition. QRS data also do not capture the reasons that cases might be extended at any of those points. As previously noted, relying on ALOS statistics can mask outliers — cases that significantly exceed the average.

Discussions arising from initial data reviews should identify research questions that deserve deeper-dive data collection efforts. Data can be especially powerful if they help estimate the potential impact of case processing reforms. The table below is a simple bed space chart developed by a JDAI site to quantify the effect of reducing lengths of stay in probation violation cases. The chart provides a quick comparison of bed use under current practice with two possible options for the jurisdiction. This use of data helped secure stakeholder buy-in by clarifying the significant population reductions that could be achieved by reform.

**TABLE 4**  
**Decreasing Violations of Probation (VOP) in Cook County**

Estimated Impact of Decreasing Violations of Probation  
Length of Stay in Detention in Cook County

|   | Average VOP<br>Per Month | Average<br>LOS (Days) | Average<br>Daily Beds<br>Used | Average Daily<br>Beds Saved |
|---|--------------------------|-----------------------|-------------------------------|-----------------------------|
| a) VOP Excluding Those With Violent Felonies or Automatic Transfers |                          |                       |                               |                             |
| Present Length of Stay  | 152                      | 25                    | 125                           | –                           |
| Decreased 7 Days  | 152                      | 18                    | 90                            | 35                          |
| Decreased 14 Days   | 152                      | 11                    | 55                            | 70                          |
| b) VOP With No New Offenses or With New Misdemeanor                 |                          |                       |                               |                             |
| Present Length of Stay  | 73                       | 24                    | 58                            | –                           |
| Decreased 7 Days  | 73                       | 17                    | 41                            | 17                          |
| Decreased 14 Days   | 73                       | 10                    | 24                            | 34                          |
| c) VOP With No New Offenses (Warrant Cases)                         |                          |                       |                               |                             |
| Present Length of Stay  | 60                       | 24                    | 47                            | –                           |
| Decreased 7 Days  | 60                       | 17                    | 34                            | 13                          |
| Decreased 14 Days   | 60                       | 10                    | 20                            | 27                          |
| All Violations of Probation   |                          |                       |                               |                             |
| Present Length of Stay  | 171                      | 28                    | 157.5                         | –                           |
| Decreased 7 Days  | 171                      | 21                    | 118                           | 39.5                        |
| Decreased 14 Days   | 171                      | 14                    | 79                            | 78.5                        |

Source: National Council on Crime and Delinquency.

Undertaking a quantitative study of case processing times for non-custody cases will likely be necessary, since these data are not routinely collected in most JDAI sites. Please refer to the resource center on JDAIconnect<sup>15</sup> to see how other jurisdictions have studied their non-custody caseloads.<sup>16</sup> At a minimum, data on non-custodial cases should stimulate several significant questions:

- How quickly are non-detained cases seen by intake, formally petitioned and/or arraigned?
- Does the jurisdiction have diversion programs or informal probation supervision services to minimize formal prosecution of minor cases? Are these options used equitably for various demographic groups?
- What is the average time from arrest to disposition in non-custody cases?
- How long are youth enrolled in ATD programs?

It is critical to link data about elapsed time between decision points with system results. Some stakeholders may not be primarily concerned about timeliness, but virtually all are concerned with effectiveness. Linking timeliness findings with system results — for example, rearrest rates, failure-to-appear rates and disparity of outcomes by race, ethnicity and gender — reinforces the idea that case processing analysis is not simply an exercise to generate efficiency statistics. It is intended to uncover opportunities to improve system results.

**TABLE 5**  
**Statistical Tools to Identify Case Processing Targets**

| Tool                               | Purpose                                     |
|------------------------------------|---|
| Admissions x Lengths of Stay Graph | Identify general release times and patterns |
| Quarterly Management Reports       | Identify subpopulations                     |
| Bed Space Charts                   | Clarify usage by subpopulations             |
| Deeper Dives                       | Explore reasons for delay                   |
| Non-Custody Statistical Analysis   | Clarify timeliness and identify delays      |

## A “NORMATIVE” APPROACH TO CASE PROCESSING REFORMS

Even the most data-barren sites can pursue case processing reform through a normative approach, which relies on the practical experiences of system stakeholders to identify issues and opportunities. By exchanging knowledge and ideas, stakeholders can reach consensus on when and why cases either are getting stuck or could move more quickly. Although empirical evidence confirming these observations would be more powerful, data limitations should not prevent a site from improving case processing. Discussions about points of delay may lead to research questions that are beyond the data capabilities of some sites. These conversations, however, will also likely generate actionable ideas that can get case processing reforms underway immediately.

A normative approach might follow these general steps:

- 1) **Assemble stakeholder group for a two- to three-hour brainstorming session.** This step assumes there has been a general discussion of case processing reform and its potential for improving system results. If such a conversation has not occurred, one should take place before the brainstorming session.
- 2) **Clarify the purpose of the session:** to identify points of delay and opportunities to move cases more expeditiously. All ideas should be valued, and disagreements should be anticipated.
- 3) **Structure the brainstorming** to allow input from everyone and to narrow the focus as the discussions deepen.
- 4) Ask meeting participants to anonymously **identify three to five types or groups of cases** that could move more quickly or sometimes get stuck.
- 5) **Compile a master list** based upon *all* responses and have participants review the suggestions made by their colleagues.
- 6) **Facilitate an open discussion of the master list**, allowing stakeholders to clarify or deepen their points of view about colleagues’ observations.
- 7) Have each participant **vote on which issues and case types** (a) influence system outcomes most and (b) are most amenable to change.
- 8) Depending on the degree of consensus on possible reform targets, **develop two more lists:** (a) issues and cases that are likely targets and (b) those that require further exploration to clarify whether a problem is solvable.
- 9) **Establish a plan to dig deeper** into potential targets for which there is general consensus. This plan should seek to provide additional information to clarify specific reasons that certain types of cases are delayed or could move more quickly.



10) **For cases and issues where there is limited consensus**, have the stakeholder group decide whether to dig deeper to determine the feasibility of solving the problem.

Brainstorming sessions can provide rough answers to some or all of the following questions:

- How long, on average, are non-custody cases pending before intake, arraignment, adjudication and disposition?
- How long, on average, are detained cases held before arraignment, adjudication and disposition?
- Do stakeholders comply with the decision-point time frames identified in the system map? Could there be improvements?
- Which types of detained cases take longest to resolve?
- What offense category subpopulations occupy the most beds in detention?
- Do stakeholders believe there are differences in case processing times for different demographic groups?
- What types of cases get stuck and why?
- What are the most common sources of delays in case processing?

Answers to these types of questions may, of course, demand further exploration, either through data collection or file reviews. Stakeholders can establish a research agenda, which, in turn, may generate consensus about actions for expediting case processing. For case processing issues where there is general agreement, stakeholders can begin to map out an action plan to address the desired reforms.

# V

## Using Case Processing Reforms to Reduce Racial, Ethnic and Gender Disparities in Juvenile Justice Systems

We already know enough about systemic disparities for youth of color to predict that case processing times vary by race, ethnicity or gender. We know, for example, that youth of color are arrested, detained, adjudicated, committed and transferred to adult courts at disproportionately higher rates than their white peers. Because we also know that both the likelihood of confinement and lengths of stay increase as youth move more deeply into the system, it follows that youth of color will spend more time in detention than their white counterparts. While empirical details about each site are essential and always informative, especially when formulating solutions, sites can at least begin to explore how case processing reform can increase system equity.

Research on the treatment of girls provides different details but still points to opportunities for reducing reliance on detention. The generally shorter ALOS for girls is a function of at least two phenomena: Girls are arrested at much lower rates than boys for serious offenses, which typically take longer to adjudicate, and girls are more frequently detained for minor offenses, which get resolved more quickly, though not necessarily quickly enough. These differences in behavior indicate that case processing for girls requires a gender-specific analysis. The resulting insights will, in turn, likely suggest different types of reforms than those emerging from a racial equity perspective. Of course, girls of color pose a more complicated challenge in that the combination of race, ethnicity and gender may influence case processing trajectories.

It's important for sites to recognize that if case processing reforms can reduce lengths of stay in detention, improve ATD program outcomes and reduce the issuance of warrants across all demographic categories, then all youth should be positively affected. Because youth of color have higher detention rates and often longer lengths of stay, progress on the case processing agenda should at least reduce their general detention rates. Moreover, if sites can identify decision points where youth of color or girls experience differences in case processing, it should be possible to address and eliminate some of the disparities we see in both case processing and overall system outcomes. The question for sites is how to go about using case processing reform in this manner.

This section speaks specifically to youth of color and to girls because disaggregated data are available for them. Sites may want to consider other groups of youth, such as LGBTQ and noncitizen youth, as well as youth who belong to several categories, in their case processing reform work.

## **STRENGTHEN COLLABORATION**

While all JDAI sites begin their reform efforts by organizing and empowering a collaborative of various system and community stakeholders, many of these governing bodies lose their momentum over time. Even those that continue to meet after many years suffer a traditional weakness: a lack of meaningful community representation, especially advocates for equity. As sites embark on an intensified case processing effort, it would be wise to review collaborative membership, invite new folks (especially representative of subpopulations who are often excluded) and ensure that champions of equity have an explicit role in the new agenda.

If the local collaborative establishes a case processing workgroup, it should be specifically empowered to explore the question, “Do different racial, ethnic or gender groups have different experiences along the case processing continuum?” Without this explicit responsibility, the workgroup probably will not take full advantage of the opportunities this core strategy provides to create a more equitable juvenile justice system.

## **GET CREATIVE JUICES FLOWING**

If a case processing workgroup is going to explore how race, ethnicity or gender might affect case processing times, it is advisable to brainstorm reasons for such differences. This kind of exercise won’t reveal facts about your system, but it can help workgroup members get out of their bubble by entertaining various hypotheses. Workgroup members might begin by sharing their thoughts on the following questions:

- What decision points are most likely to reveal differences in case processing times by race/ethnicity/gender?
- What might explain these differences?
- What can we do to eliminate those differences?

These types of questions should be made part of the normative process described on pages 34–35.

## **USE DATA MORE EFFECTIVELY**

Most sites do not routinely mine their detention use data to explore the influence of demographic characteristics on case processing times. Few, for example, examine individual offense categories disaggregated by race and ethnicity or gender. An analysis of these issues might yield the table below:



**TABLE 6**  
**Average and Median Lengths of Stay by Offense, Race and Ethnicity**

| Offense                      | White | African American | Latino | Asian/<br>Pacific<br>Islander | Native<br>American | All Youth |
|------------------------------|-------|------------------|--------|-------------------------------|--------------------|-----------|
|                              | A / M | A / M            | A / M  | A / M                         | A / M              | A / M     |
| Felony                       | /     | /                | /      | /                             | /                  | /         |
| Misdemeanor                  | /     | /                | /      | /                             | /                  | /         |
| Transfer to Adult Court      | /     | /                | /      | /                             | /                  | /         |
| VOP                          | /     | /                | /      | /                             | /                  | /         |
| Committed/Awaiting Placement | /     | /                | /      | /                             | /                  | /         |
| Program Failure              | /     | /                | /      | /                             | /                  | /         |
| Sentenced to Detention       | /     | /                | /      | /                             | /                  | /         |

An equivalent table could be constructed to explore gender differences. This kind of analysis can highlight differences in ALOS among those held for common reasons. Moreover, a comparison of averages to medians may reveal patterns within particular offense categories where demographic characteristics are relevant. If, for example, the ALOS is significantly higher than the median for a particular race or ethnicity, the implication is that some members of that group are confined for much longer periods. An inevitable follow-up question would be, why? Similarly, an empirical analysis of case processing times, as discussed in Section IV, would allow sites to compare differences between demographic groups by disaggregating data for each decision point.

Case processing workgroups should use these data to answer such questions as these:

- Do case processing times vary by race, ethnicity or gender in general? Within specific offense categories?
- Are there specific decision points (e.g., adjudication, disposition and awaiting placement) where case processing times vary significantly by race, ethnicity or gender?
- Which categories of cases appear to have the greatest potential for reducing racial, ethnic and gender disparities in the system?



## COMMON ISSUES THAT DISPROPORTIONATELY AFFECT CASE PROCESSING TIMES FOR YOUTH OF COLOR

The six examples below are not necessarily relevant to every jurisdiction, but they may provide important starting points to explore how case processing reforms might increase systemic equity.

- 1) **Language Proficiency:** For youth whose primary language is not English, many factors increase the likelihood of delays. For example, youth who have been ordered released by the court may linger in detention because family members don't know how to navigate the system, even for something as simple as appearing at the detention center to take custody of their children. A system's lack of bilingual personnel can cause hearings to be postponed, investigations to be slowed or use of experts delayed.
- 2) **Immigration Status:** If a youth's immigration status becomes a focus of the local juvenile justice system, delays in resolving the immediate delinquency charges are likely. In 2014, the Casey Foundation published a practice guide, *Noncitizen Youth in the Juvenile Justice System*, which might be a resource.<sup>17</sup>
- 3) **Transfer Cases and Enhancements:** Youth of color are much more likely to be prosecuted as adults and/or subjects of gang enhancements, which elevate the potential penalties. These types of cases typically involve the longest lengths of stay of any group.
- 4) **Program Failures:** When community-based interventions are not culturally competent, meaning they fail to interact effectively with people across cultures, youth of color will have high rates of program failure. Youth who are detained after a program failure often have long lengths of stay.
- 5) **Violations of Probation:** Failure to resolve these violations administratively can result in significant detention stays. In many jurisdictions, stays are lengthened by the absence of ways to get new VOP filings before a judge quickly.
- 6) **Awaiting Placement:** Since youth of color are more likely to be placed or committed following adjudication, they often remain in detention centers while arrangements are made. If a community has few placement resources relevant to youth of color, these delays can be quite extensive.

## ISSUES THAT AFFECT CASE PROCESSING TIMES FOR GIRLS

Although girls, in general, have shorter ALOS than boys, there are certain case processing anomalies that deserve attention.

- 1) **Lack of Gender-Specific Community Resources:** Services for girls, especially those that address histories of trauma, risk of sex trafficking or propensity to run away, are frequently unavailable, often causing lengthy delays in release from detention.
- 2) **Timely Calendaring and Action:** As noted, girls are detained far more frequently for relatively minor charges until they are brought before a judge. If cases aren't calendared for immediate action, low-risk girls are held for several days simply because the court does not get to them quickly.
- 3) **Kicking the Can Down the Road:** Girls are commonly detained for reasons unrelated to flight or risk of rearrest. For example, girls are far more likely to be detained for their own protection in some cases, such as when they are thought to be victims of the sex trade. Yet in many jurisdictions, plans are not developed to protect or support the girls upon their inevitable release. This tendency to kick the can down the road often extends lengths of stay without improving case options.
- 4) **Violations of Probation:** Girls often end up in detention for violations of probation, especially for technical violations. If more of these matters could be resolved administratively or through more timely hearings, detention days could be saved.
- 5) **Mental Health Evaluations:** Girls are disproportionately ordered to undergo psychological evaluations, which means they are more likely to experience lengthy delays while these reports are prepared.
- 6) **Specialty Courts:** Some jurisdictions have recently established Girls Courts in an effort to deliver more thoughtful, gender-sensitive interventions. Many of these court programs, however, extend and intensify community supervision activities, ultimately widening the net in ways that can result in new problems, including detention.
- 7) **Program Failures:** A lack of gender-specific programs increases the odds that girls will find interventions designed for boys to be alienating, inappropriate or insensitive. This misalignment of services and clients contributes to program failures. In other words, girls will end up back in detention facing long lengths of stay while new resources are identified or system stakeholders eventually give up and release the youth.

# VI

## A Checklist for Case Processing Reform Planning

This section summarizes a sequence of actions to eliminate delays and to expedite case processing. It also includes ideas for monitoring the plan's implementation. Because sites vary so much, readers should view the steps below as suggestions, not instructions. Each site, depending upon its challenges, capacities and ambition, will ultimately follow its own pathway to case processing reform.

### SETTING THE STAGE

- Secure the support of the most influential JDAI leaders, whose positions will vary from site to site, before promoting case processing reform.
- Stimulate stakeholder interest by sharing written materials, including this guide, with JDAI steering committee members.
- Convene the JDAI steering committee for a detailed discussion about case processing reform and its potential to improve system outcomes.
- Secure the steering committee's explicit endorsement of case processing reform as a priority. Otherwise, there is little point in pursuing this work.

### GETTING ORGANIZED

- Establish or reorganize a case processing subcommittee — one with diverse representation, links with other relevant JDAI subcommittees and a commitment to explore how reforms can increase equity for youth of color, girls and youth whose primary language is not English.
- Deepen the awareness of new case processing subcommittee members by reviewing this guide and other materials available through JDAIconnect.<sup>18</sup>
- Map your system to ensure that all subcommittee members are on the same page about how cases move through the system.
- Examine available data to help stimulate subcommittee thinking and generate some immediate case processing targets.

- Develop a plan to collect and analyze additional data about case processing.
- Take a normative approach to produce both a list of immediately actionable items and a list of issues requiring further research.

## **DEVELOPING A PLAN OF ACTION AND RESEARCH**

- Identify the specific issue being addressed.
- Formulate explicit strategies for reducing delays and expediting cases.
- Be clear about which agency has the primary responsibility for action and which agencies need to be advised, consulted or provide consent for the anticipated changes.
- Set explicit time frames for developing and implementing new policies, practices or procedures.
- Include explicit performance measures and other expectations both for implementation steps and the impact of the proposed actions.
- Prioritize research topics, preferably by the degree of consensus on the issue's potential for significantly affecting system results.

## **MONITORING PROGRESS**

- Use various techniques such as direct observations, reviews of documents and focus groups to ensure that proposed changes have been explained, documented and embraced by system participants.
- Establish baseline data for comparative purposes.
- Assess progress by establishing and tracking quantitative performance measures.
- Improve progress by fine-tuning reforms.

## ENDNOTES

Several of the resources below are available on JDAIconnect, which is a virtual destination for juvenile justice resources, discussion and training material. The Casey Foundation launched JDAIconnect with its partner the Pretrial Justice Institute in 2017. Membership is open to all and free of charge. Please access JDAIconnect by registering directly for the Community Café at [www.jdaiconnect.org](http://www.jdaiconnect.org). Once you are a Community Café member, set up your Community Café profile and then click the yellow button to join the JDAIconnect community.

- 1 The Annie E. Casey Foundation. (2017). *JDAI at 25: Insights from the annual results reports*. Baltimore, MD: Author. Retrieved from [www.aecf.org/resources/jdai-at-25](http://www.aecf.org/resources/jdai-at-25)
- 2 Examples of JDAI pop sheets from Santa Cruz County and Clark County, Nevada, can be found on JDAIconnect at <https://community.aecf.org/docs/DOC-52610> and <https://community.aecf.org/docs/DOC-52661>
- 3 The Annie E. Casey Foundation (2009). *Pathways to juvenile detention reform 5: Reducing unnecessary delay*. Baltimore, MD: Author. Retrieved from [www.aecf.org/resources/reducing-unnecessary-delay](http://www.aecf.org/resources/reducing-unnecessary-delay)
- 4 Ayers, W. (1997). *A kind and just parent: The children of Juvenile Court*. Beacon Press: Boston. Ayers writes that in 1899, Chicago's Juvenile Court prison, the nation's first and largest, was founded at the behest of Jane Addams and the women of Hull House to act as a "kind and just" parent for children in need.
- 5 United States Courts. (n.d.). *Facts and case summary — In re Gault*. Retrieved from [www.uscourts.gov/educational-resources/educational-activities/facts-and-case-summary-re-gault](http://www.uscourts.gov/educational-resources/educational-activities/facts-and-case-summary-re-gault)
- 6 Chang, A. (2015). *Ensuring best practices in defense delivery: A guide for JDAI counties*. Covington, KY: Children's Law Center. Retrieved from <https://community.aecf.org/docs/DOC-52662>
- 7 Juvenile Court of Clayton County Georgia. (2014, May 26). *Order establishing the Clayton County Juvenile Detention Alternative Initiative and FAST Panel Program*. Retrieved February 28, 2017, from JDAIconnect at <https://community.aecf.org/docs/DOC-52663>
- 8 Multnomah County Department of Community Justice, Juvenile Detention Reform Initiative. (2006, August). *Section 13, pre-trial placement planning*. Retrieved from <https://multco.us/file/29075/download>
- 9 Cook County Juvenile Court Clinic. (n.d.). *Annual report, services to the juvenile justice and child protection divisions, January 1, 2015 through December 31, 2015*. Retrieved February 28, 2017, from JDAIconnect at <https://community.aecf.org/docs/DOC-52664>
- 10 Lubow, B. (2016, January 11). *Expediting* (Memorandum). Retrieved February 28, 2017, from JDAIconnect at <https://community.aecf.org/docs/DOC-52665>
- 11 JDAIconnect.org
- 12 Examples of empirical analyses of case processing from Indiana and Baltimore City can be found on JDAIconnect at <https://community.aecf.org/docs/DOC-52666>, <https://community.aecf.org/docs/DOC-52667> and <https://community.aecf.org/docs/DOC-52668>

- 13 A hypothetical example of a basic average daily population cross-tabulation table used in the JDAI Quarterly Report System can be found on JDAIconnect at <https://community.aecf.org/docs/DOC-52499>, tab 2
- 14 A hypothetical example of a basic average daily population cross-tabulation table used in the JDAI Quarterly Report System can be found on JDAIconnect at <https://community.aecf.org/docs/DOC-52499>, tab 2
- 15 JDAIconnect.org
- 16 An example of non-custody analysis from New Jersey can be found on JDAIconnect at <https://community.aecf.org/docs/DOC-52669>
- 17 The Annie E. Casey Foundation. (2012). *Non-citizen youth in the juvenile justice system (JDAI Practice Guide)*. Baltimore, MD: Author. Retrieved from [www.aecf.org/resources/noncitizen-youth-in-the-juvenile-justice-system](http://www.aecf.org/resources/noncitizen-youth-in-the-juvenile-justice-system)
- 18 JDAIconnect.org



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