

Demonstrating that jurisdictions can respond to delinquent behavior in ways that are more effective, fairer, safer, and less costly.

program
summary

Expanding JDAI's Focus to Reduce
Commitments and Placements

The Annie E. Casey Foundation



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I. Introduction

Each year in the United States, thousands of children are placed inappropriately and unnecessarily into youth corrections facilities and various forms of congregate residential placements. As documented in great detail in *No Place for Kids: The Case for Reducing Juvenile Incarceration*, in the aggregate these out-of-home placements have a deeply troubling track record: high rates of recidivism; exorbitant costs; frequent harm to the health and safety of the youth (and staff) who are confined in them; and poor outcomes in terms of youth development. In spite of more than a decade-long decline in serious juvenile crime across the country, reliance on youth corrections and other out-of-home placements has not mirrored this drop in arrests.¹

However, in recent years national trends in juvenile confinement have shifted, as many jurisdictions have significantly reduced their reliance on out-of-home placements, without compromising public safety. In addition to policy changes at the state level, quite a few jurisdictions that participate in the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI) have reduced commitments and placements largely by "narrowing the pipeline" of youth in the system and by embracing greater reliance on community-based and family-focused interventions. These trends suggest intriguing and potentially dramatic possibilities: *What would happen if the collaborative, data-driven habits of JDAI sites (both local and state) were expanded to focus on the dispositional end of the system, on safely reducing youth incarceration and other forms of out-of-home placement?*

The Casey Foundation envisions an expanded focus to the "deep end" of the system that seeks to:

- Create replicable models at the state and local levels for safely reducing out-of-home placements;
- Serve as a laboratory for innovative policies, practices, and programs that both draw upon and contribute to the national evidence base for juvenile justice;
- Create an infrastructure of tools, training resources, expert and peer technical assistance, and other implementation aids to facilitate such work in multiple sites; and
- Challenge the field of juvenile justice to be accountable for the well-being of youth who come into contact with the system.

This paper offers the rationale for a focus on reducing post-dispositional out-of-home placements, followed by a summary of the multiple facets of JDAI's expanded deep end focus.

II. The Problems with Incarceration and Placements

No Place for Kids documents how the deep end of the juvenile justice system is (1) dangerous, (2) ineffective, (3) unnecessary, (4) obsolete, (5) wasteful, and (6) inadequate.

Dangerous: Since 1970, systemic violence, abuse, and/or excessive use of isolation or restraints have been documented in the juvenile corrections systems of 39 states (plus the District of Columbia and Puerto Rico), including 32 states since 1990 and 22 states since 2000. These conditions have resulted in 57 lawsuits in 33 states. This history of abuse and scandal is so chronic as to raise the question of whether these institutions can be operated in a safe, healthy (much less rehabilitative) manner.

Ineffective: Although recidivism studies and measures vary greatly from state to state, overall the evidence indicates plainly that youth confinement is an ineffective strategy to steer delinquent youth away from future crime. For example, studies show that rearrest rates of 75 percent are common three years after release from juvenile corrections. Moreover, studies have found that incarceration is, at best, no more effective than probation or other sanctions at reducing future criminality, and that confinement especially increases recidivism among low-risk youth.

Unnecessary: Placements of youth into deep end facilities are often unrelated to the severity of their offense² or the risks they pose to others. For example, just 12 percent of youth placed in residential programs in 2007 were adjudicated for what the FBI defines as violent index offenses. Too often, placement decisions are driven by

subjective, abstract goals (e.g., “holding offenders accountable”), or by courts’ frustration with youth (e.g., due to repeated violations of probation), decisions that oftentimes exacerbate racial disparities in the system.³

Obsolete: Over the past four decades and especially in recent years, a wealth of new knowledge about what works and doesn’t work in responding to delinquent behavior has accumulated. Research has clearly shown, for example, that “treatment” is more effective than “punishment” when it comes to redirecting youth and avoiding future criminality. Evidence-based programs and promising approaches such as wraparound services, career preparation and vocational training, and intensive advocate/mentor programs now offer more effective alternatives to placement at far less expense.

Wasteful: Juvenile incarceration’s poor record is even more disturbing when one considers its jaw-dropping costs. Governments spend an estimated \$5.7 billion annually incarcerating juvenile offenders⁴, with the annual cost to operate a single bed often exceeding \$100,000. The result is that the deep end eats up much of state and local juvenile justice budgets, leaving scarce resources for interventions with the vast majority of youth referred to juvenile courts. This imbalance is especially problematic because local jurisdictions often have little incentive to reduce commitments because state government typically foots most or all of the bill for incarceration, while the locals are on the hook for community-based supervision and services.

Inadequate: Despite their exorbitant daily costs, youth corrections facilities are typically ill-prepared to address the needs of confined youth. Many of these commitments are motivated by the court’s desire to address the needs of young people (e.g., mental health conditions, learning disabilities, substance abuse). However, few if any of these facilities actually offer high-quality services and the correctional environment itself is generally antithetical to therapeutic endeavors.

III. Recent Developments Challenge this Status Quo

Between the mid-1990s and the early part of the 2000s, the United States experienced a substantial decline in juvenile arrests, especially for the most serious of crimes, yet the use of residential placement was largely unaffected. Between 1997 and 2001, arrests for Part I or “index” offenses (those considered most serious by the FBI) fell by 34 percent while the number of youth in post-dispositional placements *increased* by 1 percent. The number of youth in placement slowly declined through much of the 2000s, but never kept pace with the decline in crime. Indeed, by 2007, the rate of placement per Part I arrests was 33 percent higher than it had been a decade earlier.⁵

Since 2007, however, there has been a substantial shift away from the use of out-of-home placement, a steep decline that has outpaced the continued drop in arrests. Between 2007 and 2010, the number of youth in placement fell by 20 percent, a larger drop than both the decline in total juvenile arrests (14 percent) and Part I arrests (4 percent). The total number of youth in post-dispositional placement declined by roughly 12,000 between 2007 and 2010, compared to a drop of approximately 15,000 in the previous 10 years combined.

Behind the raw numbers are major policy reforms introduced in a number of states that demonstrate the possibility of safely reducing confinement. States ranging from California and Texas to Alabama and Florida have passed new legislation that has either limited the range of offenses for which youth can be confined or changed the financial incentives to more strongly encourage localities to offer a stronger array of community-based services.

| Policy Reform | Notable Recent Examples ⁶ |
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| Financial incentives have been provided to divert funds traditionally directed to incarceration toward community-based alternatives. | California, Illinois, North Carolina, Ohio, Texas |
| Limiting (or restricting) access to placements has been used to set criteria for who can and cannot be committed, often regulating the ability to commit misdemeanants and status offenders. | Alabama, Florida, Texas, Virginia |
| Realignment efforts have focused on shifting responsibilities of juvenile justice administration—particularly incarceration and other out-of-home placements, from the state to local government. | California, Michigan (Wayne County) |

Even in the absence of state policy reforms, many localities, including most JDAI sites, have safely reduced the number of youth placed in residential facilities at disposition. Overall, JDAI sites report an average 34 percent decrease in commitments to state youth corrections agencies since they began their detention reform efforts. Across 84 sites reporting in 2010, 3,164 fewer youth were committed to their state's youth corrections facilities compared to the year before they began implementing detention reforms – a decrease of 35 percent.

Still, while the trend toward deinstitutionalization is unmistakable, it is less clear whether these statistics and examples of system change reflect a genuine deincarceration movement, or rather signal that this is an opportune time to start one. In spite of the shift over the past few years, the rate of placements per arrest (Part I or otherwise) remains higher than it was in 1997. Whereas youth adjudicated for index crimes comprised 55 percent of all youth in placement in 1997, fewer than half of youth in placement in 2010 had Part I offenses. And while 630,000 fewer delinquent youth came to the attention of local court systems in 2010 than in 1997 (-38 percent), there were actually more *total* youth in placement for technical violations in 2010 than 13 years earlier. Put simply, changes in the past few years are a good start, but there is a long way to go to achieve the kind of widespread, sustainable system change needed in the deep end of the juvenile justice system.

IV. Why Focus on Incarceration and Out-of-Home Placements?

The recent trend away from incarceration is not merely promising, but rather essential if we want the juvenile justice system to be a place that offers positive interventions for young people. Why?

First, the dollars spent in deep end institutions preclude investments in evidence-based and evidence-informed interventions that offer far more promise for far less money. For those wanting greater investments in delinquency prevention and early intervention, the only likely source of funding is reinvestment of deep end dollars.

Second, safely reducing confinement will require system reforms up and down the case processing continuum and across branches and levels of government. Reducing post-dispositional commitments and placements, therefore, can and should stimulate changes in diversion, community supervision, and family-focused programming.

Third, the deep end's availability as a "safety net" for practitioners has muted the creativity desperately needed in the juvenile justice system. When incarceration remains the "when all else fails" option, there is little incentive to innovate or to find alternative approaches to youth crime.

Finally, reducing reliance on confinement will demand system accountability for results that really matter. The process-oriented statistics by which success is typically measured (e.g., referrals, admissions, compliance with probation rules, restitution collected, etc.) fail to answer the key questions that should guide the system: Are kids better off and has public safety improved? The current system has largely forsaken responsibility for the well-being of the young people with which it works. The absence of the incarceration safety net will push the system to focus on these outcomes.

V. Reducing Deep End Placements—A Multi-Tiered Approach

The challenge of safely reducing youth incarceration should not be underestimated, but the foundation laid by detention reform efforts in JDAI sites and recent policy reforms in several states provide strong starting points. To substantially change the nation's overall reliance on confinement will require changing the "rules" established under state statutes, regulations, and funding formulas; altering how those "rules" are implemented by local court systems; and increasing public support for alternative policies and practices. Consequently, expanding JDAI to focus on the deep end will involve four interconnected strategies.

1. Policy Reform and Implementation in Selected States

The states that have achieved the greatest reductions in youth incarceration recently have embraced policy changes that both limit eligibility for commitment (e.g., no misdemeanants) and provide funding incentives designed to reduce out-of-home placements. In partnership with the Pew Center on States, we will identify states where the potential for a new policy consensus regarding youth incarceration seems strongest and work with stakeholders to identify state-specific changes that can minimize inappropriate and unnecessary confinement and placement. Pew's Public Safety

Performance Project (PSPP) team has stimulated significant policy changes in the adult corrections systems of several states and will now be turning its efforts to the juvenile system. Pew will lead efforts to promote statutory, regulatory, and fiscal policies to safely reduce the use of post-dispositional placements, while the Casey Foundation will support these efforts by working closely with state agencies and community organizations to ensure effective implementation of those policy reforms. In 2012, two states will be targeted for these efforts, with additional states selected in subsequent years.

2. Intensive Technical Assistance to Selected Local JDAI Sites

In 2012, the Casey Foundation's Juvenile Justice Strategy Group (JJSJG) will identify two initial local JDAI sites to serve as pilots for comprehensive deep end reform through intensive technical assistance designed to identify key levers for reducing out-of-home placements and prioritize policy, practice, and programmatic changes, followed by implementation. These initial activities will include:

- *The recommitment of the JDAI collaborative* to deep end reforms and its expansion to include additional partners essential to the expanded focus;
- *Training on deep end fundamentals*, which will be based on a set of focus areas analogous to the eight core strategies of JDAI;
- *A quantitative analysis* of dispositional trends to determine the key drivers of out-of-home placement and opportunities for high-impact change;
- *A qualitative assessment* of policies and practices that influence dispositional outcomes, including interviews and/or focus groups with system stakeholders;
- *Prioritization and planning* to identify which policy, practice, and programmatic changes are most critical to implement in order to safely reduce post-dispositional placements; and
- *Drafting a workplan* to establish roles and responsibilities for implementing deep end reforms.

3. Education, Training, and Resource Hub for JDAI Sites

Our plan to provide intensive assistance to a limited number of sites each year to demonstrate the full potential of deep end reform opportunities does not mean that we don't recognize that many local JDAI sites are poised to embrace an expanded focus on the dispositional end of their systems, regardless of their selection for intensive TA. In an effort to more quickly "scale up" work to reduce commitments and placements, as well as to ensure that all sites that are ready to pursue deep end reforms are able, the Juvenile Justice Strategy Group will be creating a technical assistance hub and website that will allow for a more self-guided approach and serve as a platform for a peer network to support innovation. The website will offer the kinds of tools necessary for sites to analyze existing practices (e.g., quantitative and qualitative analysis guide) and identify potential reforms (e.g., best practices guide), while also serving as a hub for requesting technical assistance either in the planning stages or in implementation. Sites falling into this category will also have opportunities to participate in training seminars and specialized JDAI conferences focused on deep end reform.

4. Creating Public Awareness and Exerting Policy Influence

The final strategy will focus on building public support for reducing incarceration and influencing key policy makers and system leaders to promote policy reforms. Through publications like *No Place for Kids*, issue briefs, and the JDAI Newsletter; through print and online media sources; and through an expanded website dedicated to deep end reform, we will work to refine and spread the message that we can do better by our youth and our communities by reducing inappropriate and unnecessary incarceration. We will also work to build upon established relationships in states and local sites, and among grantees, partners, and networks, to help them serve as messengers for the benefits—both to youth and the community—of reducing out-of-home placements.

| <i>Examples of Deep End Reforms</i> | |
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| <p><i>Across these strategies, states and counties will need new analytical tools, training, and technical assistance to effectively develop ways to reduce incarceration and out-of-home placements. Materials documenting best practices, innovative policies, and model programs are needed to provide stakeholders with ideas and answers to site-specific challenges and opportunities. The range of opportunities for reducing commitments and out-of-home placements should include, but not necessarily be limited to, these kinds of options:</i></p> | |
| <p>Policies that discourage or restrict unnecessary dispositional placements, such as:</p> <ul style="list-style-type: none"> • Prohibitions on placements for targeted populations (e.g., violations of probation, misdemeanors, non-violent offenses) • Fiscal incentives that prioritize community-based or family-focused interventions • Dispositional guidelines that operationalize “least restrictive alternative” | <p>Practices that increase objectivity, rigor, and clarity of decision making, such as:</p> <ul style="list-style-type: none"> • Objective assessment instruments and structured decision-making tools • Alternative dispositional planning techniques (e.g., family conferencing, interagency meetings) • Defender-based dispositional advocacy • Case management practices that reduce time in placement • “Front end” reforms that narrow the pipeline of delinquency cases (e.g., increased diversion) |
| <p>Programs and services that increase options to placement in residential facilities, such as:</p> <ul style="list-style-type: none"> • Non-residential community-based alternatives to provide supervision and case management services designed to help youth succeed • Evidence-based, family-focused programs that have been proven more effective than youth corrections • Treatment for those youth with special needs • Aftercare alternatives that can accelerate release from confinement and help youth successfully adjust to community life | <p>Core organizational capabilities that must be present to conduct the work, such as:</p> <ul style="list-style-type: none"> • Strategic planning, analytical, and collaborative capacities to plan, implement, and monitor reforms • Staff development, training, and knowledge management resources to support this expanded focus • Data management capacities to track impact • Contracts management capacities to develop new programs and services • Fiscal management to guide reallocation of resources |

VI. Policy and Practice Implications of JDAI’s Expanded Focus

The purpose of JDAI’s expanded focus is to demonstrate that jurisdictions can respond to delinquent behavior in ways that are more effective, fairer, safer, and less costly. Specific objectives of this new focus would, therefore, include:

- Eliminating unnecessary and inappropriate out-of-home placements for youth adjudicated delinquent;
- Establishing more robust, targeted, and effective continua of community-based interventions;
- Improving public safety outcomes by reducing recidivism rates;
- Reducing racial, ethnic, and gender disparities in the ways youth are treated;
- Redirecting public resources from the deep end to more effective practices and programs;
- Ensuring that confined youth are held in safe, healthy, and humane conditions; and
- Focusing juvenile justice system accountability on youth well-being.

This last objective—focusing system accountability on youth well-being—deserves explanation. To the extent that there is a focus on results in today’s juvenile justice systems, it is exclusively on measures of system activities, such as how many youth are adjudicated, confined, or supervised. Virtually no juvenile justice systems today hold themselves accountable for whether the kids they serve are any better off, in the long term, as a result of system intervention (or lack thereof). For example, are these youth educated, employed, or healthy? Recent research implies that the well-being of youth, generally, would be improved if the juvenile justice system reduced the harm it sometimes does, like

unnecessarily placing kids in dangerous facilities. In this regard, reducing reliance on confinement might by itself improve overall youth well-being, if only systems measured such results. It might also be the case that greater reliance on evidence-based interventions could also improve well-being. Assuming responsibility for such results would be a fundamental shift in system accountability, for sure. And, measuring and achieving improvements in well-being would provide the most compelling possible evidence for expanding and sustaining successful reform strategies.

Moving this agenda forward at the site level will require commitment to some key principles that would drive the work, including:

- Children should be served in the least restrictive setting possible.
- Families are key to the success of their children and should be empowered and engaged by the juvenile justice system.
- Eradicating racial, ethnic, and gender disparities will significantly reduce commitments and placements.
- The system's "pipeline" (from intake through probation to aftercare) all influence reliance on confinement and must be examined and strengthened to achieve reductions in out-of-home placements and improved youth well-being.
- Data-driven, collaboratively designed reforms are most likely to produce successful reforms.
- Youth who are confined have a right to be in safe, healthy, and humane environments.

Endnotes

¹ According to data from the US Office of Juvenile Justice and Delinquency Prevention (OJJDP), when juvenile arrest rates were rising from 1985 to 1997, out-of-home placements rose faster; and when juvenile arrest rates fell from 1997 to 2005, placements fell more slowly. As a result, in 2005 the juvenile arrest rate was about 12 percent lower than in 1985—but the rate of youth in out-of-home placement was 13 percent higher. Author's calculations, based information from the National Center for Juvenile Justice: arrest rate data at http://ojjdp.ncjrs.org/ojstatbb/crime/excel/JAR_2008.xls and adjudication/disposition data at www.ojjdp.ncjrs.gov/ojstatbb/ezajcs/.

² In 2005, 22 percent of all youth adjudicated for any offense were ordered into an out-of-home placement. That percentage varies very little based on the category of offense for which they were adjudicated (person offenses: 25 percent; property offenses: 21 percent; drug offenses: 19 percent; public order offenses: 24 percent). In short, there is almost no relationship between the severity of offense and the likelihood of out-of-home placement. Author's calculations, based on data from the National Center on Juvenile Justice at www.ojjdp.ncjrs.gov/ojstatbb/ezajcs/.

³ For example, black youth who come into contact with the juvenile courts are about 10 percent more likely than their white peers to go before a judge for the same categories of offense; but at the point of disposition, they are 36 percent more likely to be ordered into an out-of-home placement. For some categories of offense the disproportionality is even greater: black youth are twice as likely as white youth to be placed based on a drug offense. Author's calculations, based on 2005 data from http://ojjdp.ncjrs.gov/ojstatbb/court/JCSCF_Display.asp.

⁴ www.justicepolicy.org/images/upload/09_05_REP_CostsOfConfinement_JJ_PS.pdf.

⁵ Arrest statistics in this section are taken from the Federal Bureau of Investigation's (FBI) annual *Crime in the United States* report (www.fbi.gov/about-us/cjis/ucr/ucr). Placement statistics are from OJJDP's *Census of Juveniles in Residential Placement* (www.ojjdp.gov/ojstatbb/ezacirp/).

⁶ Examples of state reform from John Jay College of Criminal Justice report, *Resolution, Reinvestment, and Realignment: Three Strategies for Changing Juvenile Justice*, <http://johnjayresearch.org/wp-content/uploads/2011/09/rec20111.pdf>.