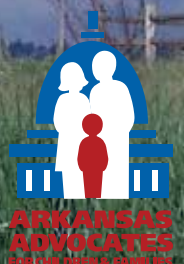


# WHY DETENTION IS NOT ALWAYS THE ANSWER

A CLOSER LOOK AT YOUTH LOCK-UP IN ARKANSAS

APRIL 2014



# WHY DETENTION IS NOT ALWAYS THE ANSWER

## A CLOSER LOOK AT YOUTH LOCK-UP IN ARKANSAS

Paul Kelly  
April 2014

### Seven things you need to know about detention in Arkansas

**Detention is associated with negative long-term outcomes** for youth and must be utilized carefully to make sure low-level, non-violent youthful offenders do not move deeper into the criminal justice system.

**The appropriate purpose of detention** (juvenile jails) is to ensure that youth appear for court hearings and do not re-offend while awaiting their hearing. Just being incarcerated is a primary factor that often determines whether youthful offenders will reoffend.

**A comprehensive analysis of how Arkansas administers juvenile detention is impossible.** The data currently available in Arkansas do not allow for a comprehensive analysis of the 14 local juvenile detention centers.

**A large number of jailed youth are non-violent, low-level offenders,** according to a recent study. A disproportionate number are youth of color.

**Almost all youth who are detained are full-time students.** A recent study shows 74 percent of those youth had one charge against them and 74 percent of those charges were for misdemeanor offenses.

**Using a valid risk assessment method to guide detention decisions** can significantly reduce the number of inappropriate detentions.

**Two counties in Northwest Arkansas are participating** in a nationally recognized Juvenile Detention Alternatives Initiative to help reduce the number of unnecessary detentions.

### Introduction

Juvenile detention – the short-term involuntary holding of juveniles – is often the gateway to longer-term incarceration. According to the Annie E. Casey Foundation’s Juvenile

Detention Alternative Initiative (JDAI), the appropriate purpose of detention is to ensure that youth appear for court hearings and do not re-offend while awaiting their adjudication hearing. However, in practice, detention is also used for other purposes in Arkansas: to ensure that services are in place for the youth and his or her family, or to serve as a “wake-up call” for youth.<sup>1</sup> And too often, youth are held in these jails because jurisdictions lack more humane or less restrictive alternatives. Relying on incarceration instead of more effective and appropriate responses to youthful transgressions can be very harmful to children who are already facing challenges at home and in school. Ultimately, that is harmful to our communities.



Over the past five years Arkansas’ juvenile justice system has undergone significant change. Between 2009 and 2013 the number of youth committed to the custody of the Department of Human Services Division of Youth Services (DYS) dropped 26 percent, and the number of beds at the high security Arkansas Juvenile Assessment and Treatment Center dropped from 143 to 100.<sup>2</sup> These reductions reflect national trends to reduce incarceration by expanding access to more effective and less costly community-based supports and programs. The long-term goal, of course, is to reserve secure confinement for youthful offenders who pose a serious risk to public safety. Under new leadership, DHS continues to expand community-based services and reserves secure confinement for youth who present a threat to public safety.

### Over-reliance on incarceration is bad public policy

We should take steps to keep kids out of the juvenile justice system if it’s possible because it’s a sound policy. A study of Arkansas’s incarcerated\* youth found that not only are youthful offenders likely to offend later in life, but that the number one factor in whether or not they’ll do so is the experience of being incarcerated in the first place. Locking up a youth in a jail is both a symbolic and real “criminalizing” of youthful behavior.<sup>3</sup> It should not be taken lightly or used inappropriately, particularly for those who do not pose a threat to public safety.

*\*Incarceration or confinement refers to involuntary holding of youth in a secure facility. It includes shorter-term detention in a county juvenile detention center (also known as youth jail or youth lock-up), or longer-term holding in a secure residential treatment facility, including the high-security Arkansas Juvenile Assessment and Treatment Center.*

At a recent statewide meeting called by DYS,<sup>4</sup> juvenile justice stakeholders – judges, parole officers, and other advocates – reaffirmed their belief that Arkansas should redirect resources from incarceration\* to prevention and treatment. This approach is more effective, less costly, and leads to greater public safety for the citizens of this state. At this same gathering, stakeholders began to examine outside factors that might be bringing youth unnecessarily into the juvenile justice system.

This report examines the use of juvenile detention in Arkansas, as distinguished from the use of secure confinement facilities operated by DYS. It is an analysis of data provided by the state Administrative Office of the Courts, the U.S. Census, as well as data provided by individual juvenile detention centers.

This issue brief:

- addresses the role that detention plays in handling youth brought before the court and the potential harm done by the inappropriate use of this intervention,
- illustrates the lack of ample and consistent information on the situations leading to the use of detention, and
- offers recommendations about how to decrease the number of youth unnecessarily or inappropriately detained without jeopardizing public safety.

## Juvenile detention has lasting, negative consequences

Juvenile detention often leads to longer-term incarceration. It is not under the jurisdiction of DHS, but is locally controlled by sheriffs, judicial districts, or other branches of county government that operate these facilities across the state.

There are 14 locally operated juvenile detention centers (JDCs) in Arkansas with a total capacity of 538 beds. The Arkansas Criminal Detention Facilities Review Committee regulates these facilities and conducts regular site visits to insure the health and safety of youth held in them. Arkansas's JDCs serve as jails or lock-ups for youth who are: awaiting a hearing on charges filed against them; to sanction youth found delinquent or in violation of a court order; or to hold committed youth awaiting placement in a DYS-operated secure facility.

Children between the ages of 10 and 18 who violate the law in Arkansas can be found delinquent and committed by a juvenile court judge to the custody of DYS. Alternatively, judges may:

# THE COSTS OF DETENTION

A selected sample of five Juvenile Detention Centers, three in urban and two in rural areas, in Arkansas provides a look of the costs associated with operation of these facilities:

- Average annual cost of operation:  
**\$1.2 million**
- Average percent of total cost for personnel:  
**81 percent**
- Average cost per detention bed for one year:  
**\$29,381**
- Annual cost to attend the University of Arkansas in Fayetteville: **\$17,504**<sup>1</sup>
- Annual per student cost for a K-12 education in Arkansas:  
**\$10,978**<sup>2</sup>
- Annual cost of a high quality ABC pre-K program:  
**\$8,100 per child per year**<sup>3</sup>
- Annual cost to attend a high quality afterschool and summer program:  
**\$4,320**<sup>4</sup>

<sup>1</sup> <http://www.collegecalc.org/colleges/arkansas/university-of-arkansas/>

<sup>2</sup> <http://febp.newamerican.net/K12/AR>

<sup>3</sup> <http://www.aradvocates.org/assets/PDFs/Pre-K/Pre-K-Access-in-AR-Final-web-version.pdf>

<sup>4</sup> <http://www.wallacefoundation.org/knowledge-cent>

- place a juvenile in a county detention facility for up to 90 days (commitments to DYS are for an indeterminate period not to exceed two years, unless extended by the court, or the youth's 21st birthday),
- place youth found delinquent on probation instead of committing them to DYS,
- order restitution or community service, or
- place the youth on electronic monitoring in the community.



Whether one agrees that the use of detention is a good or bad idea for an individual youth, there is good reason to closely examine detention practices to determine if it's being used to ensure public safety and to maximize the likelihood that these youth become successful adults. All of this matters because:

- A significant number of Arkansas youth are impacted. Between 2010 and 2012 there were more than 41,000 incidents where Arkansas youth were placed in detention, including 264 who were age 10 or younger.<sup>6</sup>
- Detention increases the likelihood of youth moving deeper into the juvenile justice system. Detained youth are more likely to be formally charged, found delinquent, and committed to youth correctional facilities than similarly situated youngsters.<sup>7</sup> One Florida study found that youth detained pending court were three times more likely to be committed to a correctional facility as youth with identical offending histories who were not detained.<sup>8</sup>
- Detention is associated with negative long-term life outcomes. Youth who spend time in custody are less likely to complete high school, less likely to avoid re-arrest, less likely to find employment, and less likely to form stable families. They are also more likely to abuse drugs and alcohol and more likely to come in contact with the juvenile and criminal justice system in the future.<sup>9</sup>

In the examination of the use of juvenile detention in Arkansas, five important indicators to consider are:

- The number of youth held in detention.
- The demographic characteristics of the youth held in detention.
- The school status of youth in detention.
- The charges against the youth held in detention.
- Number of charges per case.

Because JDCs are locally operated and have limited uniform or centralized reporting requirements, it is hard to get a clear picture of statewide operations. Most of the information for this report comes from cumulative data provided by the Arkansas Administrative Office of the Courts (AOC), the statewide entity that collects statistics on the operations of the juvenile courts across the state. For this report, we looked at data entered on the AOC's Delinquency Cover Sheet (Form AOC 33) that was totaled for a period of three years (2010 -2012). These contain information indicating if a youth was placed in detention while awaiting a hearing, and/or after a decision was reached by the court finding the youth delinquent.

In many cases, information on the forms is incomplete. Further, the form does not provide for documentation of multiple detentions of an individual or how long he or she is held per detention stay. Although AOC researchers confirm that significant data elements are missing, the data provides information on more than 41,000 incidents of youth placed in detention from 2010 through 2012, a significant sample of what is occurring in Arkansas.

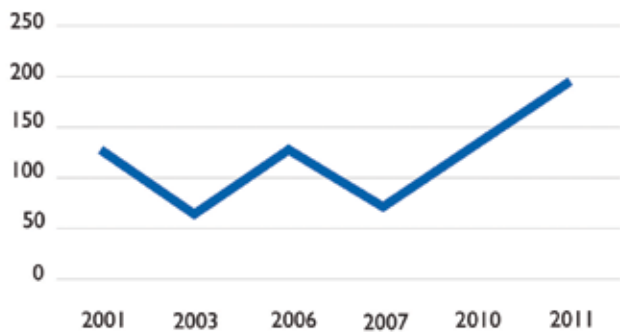
Given the incompleteness of Arkansas data, we turned to other sources. A one-day census "snapshot" of all juvenile residential and detention facilities across the country is intermittently taken by the U.S. Census Bureau.<sup>10</sup> This information is available for the years 2001, 2003, 2006, 2007, 2010, and 2011. The U.S. Census "snapshot" includes data on the number of youth in Arkansas' JDCs. It is also a useful tool in comparing detention trends among states and across the country over time.

## Too many children are detained each year

According to 2001-2011 U.S. Census data, as shown in the chart at the top of page 5, there was a 37.5 percent increase in the number of Arkansas youth held in detention over that decade, with a 100 percent increase between 2007 and 2011.

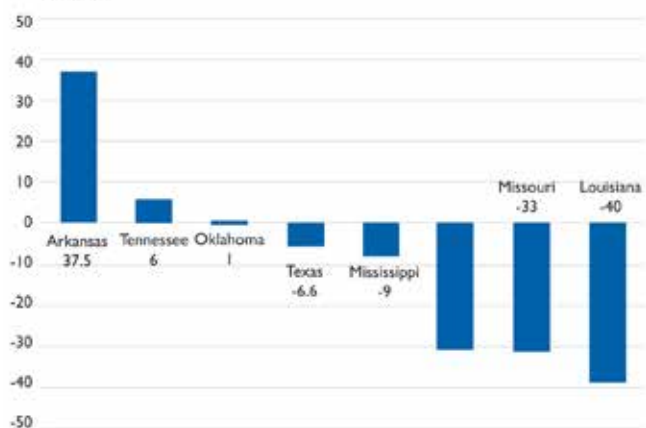
During this same period there was a 30.6 percent decrease nationwide. Arkansas' neighboring states either reduced the use of detention or slowed its growth.

### NUMBER OF ARKANSAS YOUTH IN DETENTION ON DAY OF CENSUS, 2001-2011



SOURCE: U.S. Census, Easy Access to the Census of Juveniles in Residential Placement

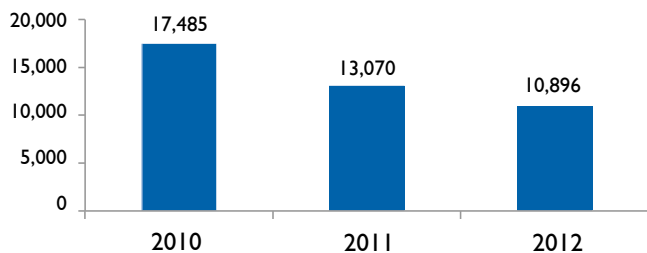
### PERCENT CHANGE IN THE NUMBER OF YOUTH HELD IN DETENTION 2001-2011



SOURCE: Arkansas Administrative Office of the Courts Form AOC 33  
\*The number of times the court makes a decision to place a youth in detention

But the U.S. Census data do not provide as in-depth a picture as that provided by an analysis of data taken from the AOC Delinquency Cover Sheet over the course of the most recently available three years (2010 thru 2012). In most cases AOC documentation indicates whether a youth is placed in detention prior to their hearing or at the time of a formal ruling (disposition) by the court. The chart below displays the number of times each year that the court places a youth in detention before their hearing or after their ruling.

### NUMBER OF DETENTION INCIDENTS\* 2010-2012



SOURCE: Arkansas Administrative Office of the Courts Form AOC 33  
\*The number of times the court makes a decision to place a youth in detention

According to this AOC data, the use of detention in Arkansas is decreasing. This conflicts with the aforementioned census data indicating a 32 percent increased use of detention between 2010 and 2011. According to AOC data there was a 25 percent decrease in use of detention in 2011 followed by a 16 percent decrease in 2012. Because the one-day snapshot is just that – a single day count – it may be that there were factors in play on the days sampled that led to the differences. But, then again, the AOC data was incomplete. The discrepancy between the national census data and the AOC data is possibly attributable to the significant number of AOC forms not fully completed. Further study will be needed to determine the reason for the conflicting data.

### There are demographic disparities in the system

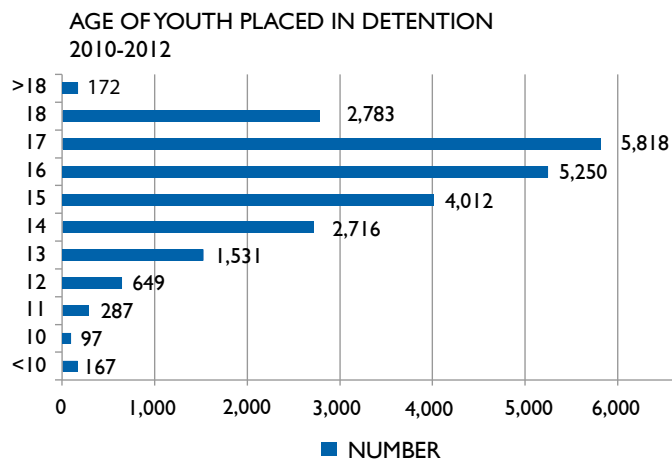
According to available AOC data, the large majority (75 percent) of detained youth from 2010 to 2012 were male. The racial breakdown reveals that 54 percent were white, 39 percent black, and one percent were of other races (Asian or bi-racial). In six percent of the records the race data was blank. According to the U.S. Census, 19 percent of Arkansas youth younger than 18 years old are African-American. African-American youth are detained in Arkansas at more than twice their percentage in the general population.

This disparity already exists in school discipline cases as well; cases that are likely to add to the school-to-prison pipeline. When youth are policed in schools, they are more likely to be written up for non-felony offenses such as simple assault, therefore more likely to be arrested and detained for these non-felony offenses. In Arkansas black students are more likely to be suspended and receive corporal punishment than their white counterparts. In 2012 black students were given out-of-school suspension more than five times as often as white students, in-school-suspension almost three times as often, and corporal punishment almost twice as often.<sup>11</sup>

Seventeen-year-olds account for 25 percent of youth in detention, followed by 16 year olds (22 percent), 15 year olds (17 percent), 13-14 year olds (18 percent). Youth age 18 years and older represent 13 percent of youth held in detention. Juvenile court can retain jurisdiction over youth, once found delinquent as a minor, up to age 21.

Youth ages 12 and under account for five percent of youth in detention. Since Arkansas does not allow children under 10 to be part of a delinquency proceeding, the 167 children under age 10 are most likely before the court as a Family-in-Need-of-Services (FINS) case. They are likely being held in detention because they were found in contempt of a court

ruling related to their FINS case, such as repeated acts of truancy.<sup>12</sup>

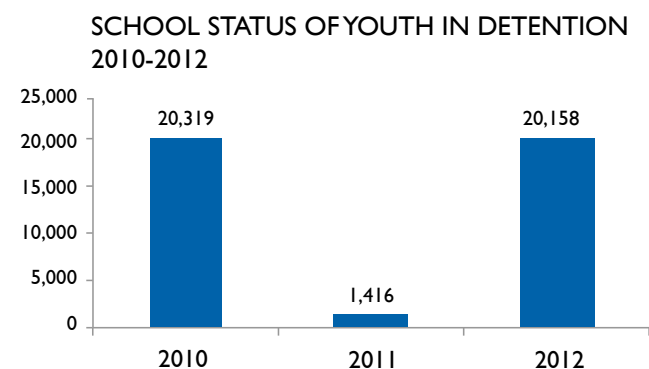


SOURCE:Arkansas Administrative Office of the Courts Form AOC 33

The practice of placing status offenders in detention for violating a Valid Court Order (VCO) is viewed by child advocates as an unacceptable practice.<sup>13</sup> Other possible reasons include FINS children being detained for “the minimum time necessary for purposes of identification, processing, or arranging for release or transfer to another facility.” Further study of this population and the reasons for detention is needed.

### Kids can't learn if they're in detention instead of school

Another factor to consider if a youth should be held in lock-up is their school status. Removing a youth from school has serious consequences. Detention centers often do not have the resources to address the wide variety of educational demands that school officials need to meet. Many youth in the juvenile justice system have difficulty in school anyway, and removing them from their home school makes it even harder for them to keep up.



School policies often require that youth returning from detention be placed in an alternative learning environment (ALE), removing them from regular classrooms and further disrupting their normal routine. Although this is a data element on the AOC form used to inform this research, it is regularly left blank.

The most troubling aspect of this data (see chart above) is notable lack of school status in 48 percent of the cases. In cases where school status was reported, the overwhelming majority of detained youth (93 percent) were full-time students.

The “other” category includes (in order of frequency): suspended, not attending, GED, expelled, special education, withdrawn, part-time, and under school age. With the growing number of school referrals to courts becoming a concern among Arkansas juvenile justice stakeholders, local court staff should make sure this data is provided in every case.

### Most charges are brought for non-violent offenses

Perhaps the most frequently-specified rationale for the use of detention is the seriousness and number of charges brought against a youth. The total list of charges included in the AOC data included 402 specific charges filed against youthful offenders from 2010-2012.

The table at the top of page 7 illustrates the seven most common charges brought against detained youth. This select group of charges account for 59 percent of all incidents of detention in Arkansas over a three-year period, providing

TOP SEVEN CHARGES FILED ON YOUTH HELD IN DETENTION, 2010-12				
	TOTAL	TOTAL	TOTAL*	TOTAL
CHARGE	PRE-ADJUDICATION	DISPOSITION	UNKNOWN	CHARGES
Theft of Property	4000	4358	509	8867
Possession/Drug Offense	3186	3368	179	6733
Disorderly Conduct	2789	3223	176	6188
Battery	1489	1601	361	3451
Probation Violation	163	1955	759	2877
Criminal mischief	1176	1325	195	2696
Burglary	649	770	134	1553
Total all Seven	13452	16600	2313	32365
Percent of All Charges	58 percent	60 percent	60 percent	59 percent

\*AOC data from Pulaski County does not indicate whether youth were detained pre-adjudication or at disposition, thus the category of unknown.

a significant sample to explore. You will note that almost 90 percent were for non-violent offenses, with battery being the exception, accounting for 10.7 percent of the top seven charges resulting in detention. The overwhelming of charges (87 percent) listed in the seven most common categories, were classified as misdemeanors.

The number of charge categories was limited to these seven because there was a significant drop-off with other categories, each accounting for less than 1,000 incidents. Each of these seven categories of charges also involves a range of actual behaviors, for which further explanation is provided in the appendix (See page 10).

### Most youth are placed in detention for single, misdemeanor offenses

According to the chart in the next column, before their hearing, 74 percent of youth had one charge against them. Coincidentally 74 percent of the charges were also for misdemeanor offenses. Formal punishment issued by the court on cases with only one charge resulted in 73 percent of those youth being placed in detention.

The slight increase in the number of one-charge cases (341 cases) at the time of disposition is likely the result of youth who were originally placed on probation but were subsequently brought before the court for a probation violation or charged with another crime.

All told there were 48,577 cases with 23 percent of youth being charged with a felony offense. Of the remaining 77 percent of youth charged with misdemeanor offenses, more than half (55 percent) were charged with just one offense at the time they were placed in lock-up.

NUMBER OF CHARGES PER CASE, 2010-2012 <sup>1</sup>								
	1	2	3	4	5	6	Mean	Medium
Pre-adjudication	17841	4687	1162	381	115	35	1.36	1
Misdemeanor	13260	3375	796	252	71	24		
Felony	4185	1178	312	112	38	6		
Disposition	18182	4533	1124	371	111	35	1.35	1
Misdemeanor	13229	3316	773	242	66	23		
Felony	4020	1108	294	108	38	6		

SOURCE: Arkansas Administrative Office of the Courts Form AOC 33

### What does this mean for juvenile justice in Arkansas?

Lack of complete and reliable data: One of the most significant findings of this study on the use of juvenile detention in Arkansas is that reliable data and reporting are lacking. For example, the discrepancy between the national census data and the AOC data on the number of youth in detention (see pages 2-5) should be a cause of major concern. This study was initiated in part because it was unknown whether Arkansas had reduced use of detention at the same time commitments to DYS from 2010 to 2012 were on the decline.

In some cases when other states reduced commitments, they increased the use of detention, exchanging one form of incarceration with another. Existing data shows Arkansas may be going down the same road. Further study will be needed to determine the reason for the conflicting data. Also, the high percentages of missing data on AOC forms is cause for concern and significantly hampers understanding of how juvenile detention is being implemented in Arkansas. The AOC is very aware of the shortcomings of its detention data and has contracted with the National Center for State Courts to address these concerns.

Over-representation of youth of color: The analysis of demographic characteristics of youth in detention showed that black youth are over-represented in the juvenile justice system - more than double their representation in the overall population. This fact, along with the likelihood that a very large majority of all youth charged come from low-income families, lends credence to the belief that the juvenile justice system is becoming a wasteland for poor youth of color.

This reality raises serious concerns that stereotypes of black youth are having an influence on detention decisions.

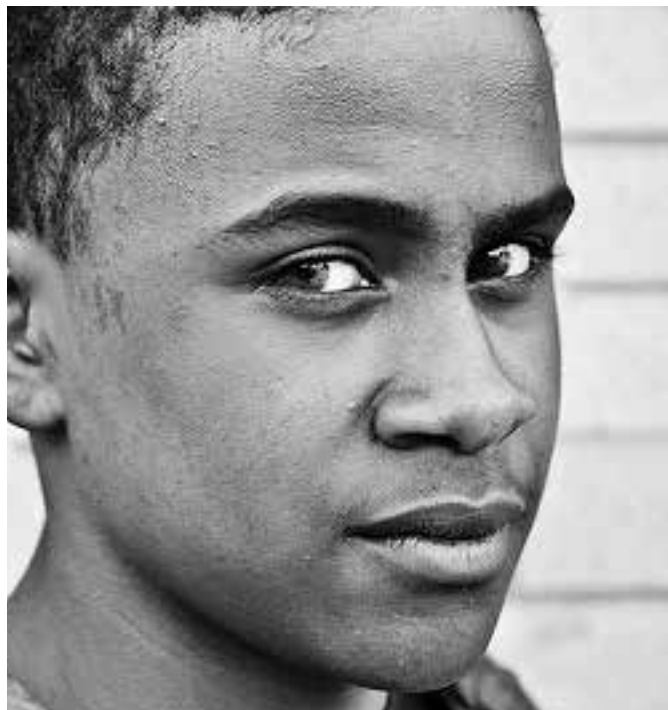
Inappropriate detention: Five percent of youth in detention during the study period were under age 12 and 264 were age 10 or younger. It's understandable that older youth might pose a more serious threat to public safety, or be at risk for not appearing in court, but it is hard to conceive that children age 10 or younger would require being locked in jail except for any other reason than the lack of more appropriate alternative placements. Because of lack of documentation, why these youngsters were detained is unknown, but the sad fact that they were speaks to the lack of community service alternatives.

There are a large number of youth with one low-level charge filed against them who are being held in detention before they have been found delinquent (pre-adjudication). This practice should be scrutinized closely. As with every youth, this denial of liberty should only occur if there is a risk they won't appear for hearings or if they pose a real threat to public safety. Studies show that pre-hearing detention makes recidivism more likely later in life.<sup>15</sup>

Lack of alternatives: Across the state many of the youth placed in detention confront problems better addressed by less costly and more effective alternative approaches. Low-income families do not have the resources or access to services needed to intervene when their child gets in trouble or comes in contact with the court.

Fueled by zero-tolerance policies and increased police presence, schools turn to the courts to address discipline problems once handled in school. And the courts are left with too few options when resources are being used to pay the high cost of incarceration.

We should all ask ourselves: "If my child made a mistake is this what I would want for them?" Would any of us want to be defined by the worst thing we did when we were young? Of course not, but that is happening to a lot of youth who end up in the juvenile justice system because of minor incidents at school. When youth are policed in schools, they are more likely to be written up for non-felony offenses such as simple assault, therefore more likely to be arrested and



detained for these non-felony offenses. This is typically referred to as the "school-to-prison pipeline."

This examination is just the first step toward a complete picture of how detention in Arkansas is being used. The information presented in this issue brief offers a detailed look at the multiple factors associated with determining if a child should be placed in a youth jail. Detention becomes a gateway into the juvenile and criminal justice system when other options don't exist.

## Recommendations

- Maintain uniform and reliable data throughout the state to evaluate the appropriate use of detention. This should include not only completing all data elements contained on the existing Form AOC 33, but collecting data that allow JDCs to document length of stay, the number of previous detention admissions, the supervision status (FINS, on probation, etc.,) at the time of detention, the number prior delinquency referrals, and type of release after admission to detention.
- Examine the reasons for the overrepresentation of African American youth in detention admissions and use that information to implement strategies to address racial and ethnic disparities.
- Implement statewide a validated risk assessment instrument for detention decision-making.
- Develop alternatives to detention for low- and medium-risk youth.



- Develop structured ways of responding to violations of probation and other court orders using sanctions other than detention along with incentives.
- Eliminate the use of detention to reprimand status offenders for violations of Valid Court Orders.
- Develop memorandums of understanding between local law enforcement, courts and schools to develop appropriate school referrals based on guidelines provided by the U.S. Department of Justice and the U.S. Department of Education.<sup>16</sup>

## Items for future study

- The use of detention for youth under ten years old and for status offenders for a violation of a Valid Court Order (VOC).
- How many of the pre-adjudication detentions resulted in dismissals of the delinquency petitions without a finding of delinquency.

## Conclusion

Detention reform has been controversial both inside and outside law enforcement circles. That's mainly because it requires juvenile justice personnel to think and act in new ways. And, it runs counter to the historical trend of putting more juvenile offenders behind bars as a means of getting tough on juvenile crime.

Arkansans must work together to decrease the number of youth unnecessarily or inappropriately detained without jeopardizing public safety, while reducing the number of youth who fail to appear in court or re-offend pending adjudication. Doing so will reduce racial and ethnic disparities in the juvenile justice system and improve the system overall.

Juvenile judges and probation intake staff are given broad discretion in determining if a youth should be placed in detention, so circumstances leading up to the charge(s) are very important. Best practices suggest the use of objective risk-assessment instruments to guide detention decisions based on a multitude of factors, including the number and severity of charges, the number of previous adjudications, and the number of failures to appear.

Doing so will require collaboration among juvenile justice agencies, community organizations and other governmental agencies to provide oversight for needed reform efforts. Local jurisdictions will need to use data in making policy

and case-level decisions and objective instruments to guide detention decisions.

These and other strategies are already being piloted in Arkansas:

This past year, two counties in northwest Arkansas agreed to participate in the national Juvenile Detention Alternative Initiative (JDAI) that is working closely with local stakeholders to collect and analyze their use of detention.

With support from the Arkansas Division of Youth Services and the Annie E. Casey Foundation, the JDAI initiative in 2012 partnered with Benton and Washington Counties to



be the first pilot sites in Arkansas to demonstrate that jurisdictions can establish more effective and efficient systems to accomplish the purposes of the juvenile justice system. Both counties operate juvenile detention facilities, and in September 2013, officials conducted in-depth assessments of how detention is used in their communities.

With the help of staff from the Center for Children's Law and Policy, officials examined aggregate trends on the use of detention and engaged in a detailed analysis of 250 case files to determine which factors led youth to detention.

This data collection provides a comprehensive look at these two detention centers in Arkansas and includes information not currently available elsewhere on the state or county level. Local committees have reviewed the studies and are now using the data to guide reform efforts.<sup>17</sup>



In 2013, JDAI was working in 38 other states plus the District of Columbia. These included Missouri, Tennessee, Mississippi, Louisiana, and Texas.<sup>18</sup> For JDAI grantees that completed the initial process and implemented agreed-upon reforms, the average daily population in detention centers has decreased 42 percent.<sup>19</sup>

The hope is that the JDAI initiative is successfully implemented in these two Arkansas jurisdictions and others in the state will have the opportunity to work with JDAI.

## APPENDIX

**Theft of property**, the most prevalent charge, includes both misdemeanor (78 percent) and felony offenses (12 percent). They account for the largest number of charges against juveniles entering detention. A felony theft charge is generally imposed when an item is valued at more than \$1,000.

The second highest category is **misdemeanor charges for drug offenses such as possession and/or use of controlled substances and alcohol**, including public intoxication. It also includes misdemeanor delivery charges.

**Disorderly conduct**, the third most common charge, is a misdemeanor offense with a very broad list of possible behaviors. It includes behaviors in public that encompass excessive noise, abusive or obscene language or an obscene gesture. It also includes a disturbance of any lawful assembly or meeting of persons; obstructing vehicular or pedestrian traffic; refusing to comply with a lawful order of a law enforcement officer ... in a manner likely to provoke a violent or disorderly response.”

ARKANSAS SHOULD  
REDIRECT RESOURCES  
FROM INCARCERATION  
TO PREVENTION AND TREATMENT.  
THIS APPROACH IS MORE EFFECTIVE,  
LESS COSTLY, AND  
LEADS TO GREATER PUBLIC SAFETY  
FOR THE CITIZENS OF THIS STATE.

Over-use of this charge is often criticized as way to lock up low-level, non-violent offenders for what might be considered conduct that is annoying to adults but nevertheless is within the realm of normal adolescent behavior.

**Battery** is perhaps the most serious charge in this top-seven list. The large majority of charges were for third-degree misdemeanor battery (82 percent), applied when a person

causes physical injury to another person. Felony battery is serious physical injury to any person by means of a deadly weapon or under circumstances manifesting extreme indifference to the value of human life.<sup>20</sup> According to AOC data, a firearm was involved in 0.6 percent of all juvenile charges over the three-year reporting period.

**Probation violation** involves a range of behaviors; basically it's non-compliance with court orders, and is responsible for a significant number of post-disposition lock-ups. Much of this incarceration is not necessary to protect the safety of the community, but, rather, results from “technical” violations of probation such as missing appointments with probation officers, skipping school, or staying out past curfew.

Youth should be held accountable for their actions. However, there are other sanctions that can be effective in teaching youth to respect rules but that do not involve incarceration and removal of youth from family, school, and the community.

**Criminal mischief** involves recklessly damaging, destroying or tampering with the property of another to cause them substantial inconvenience. If the value of damage is less than \$2,500, the offense is a misdemeanor. Seventy-six percent of criminal mischief charges were misdemeanor offenses.<sup>21</sup>

## Notes

<sup>1</sup> Benton County, Arkansas System Assessment, JDAI October 2013 and Washington County, Arkansas System Assessment, JDAI September 2013.

<sup>2</sup> Arthur, P., & Hartney, C. (2012) *Arkansas Youth Justice: The Architecture of Reform*. Oakland, CA: National Center for Youth Law and National Council on Crime and Delinquency.

<sup>3</sup> Benda, B.B. and Tollet, C.L. (1999), "A Study of Recidivism of Serious and Persistent Offenders Among Adolescents," *Journal of Criminal Justice* Vol. 27, No. 2 111-126.

<sup>4</sup> DYS Stakeholder Meeting, January 17, 2014

<sup>5</sup> DHS Division of Youth Services Comprehensive Plan 2009-2014, page 7. Notes from Meeting January 17, 2014

<sup>6</sup> Administrative Office of Courts

<sup>7</sup> Barry Holman and Jason Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, Justice Policy Institute Report. In *Two Decades of Juvenile Detention Alternative Initiative: A Progress Report*, 2009 Annie E. Casey Foundation [http://www.justicepolicy.org/uploads/justicepolicy/documents/dangers\\_of\\_detention.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/dangers_of_detention.pdf)

<sup>8</sup> Frazier, C.E. and Cochran, J.C., 1986, "Detention of Juveniles: Its Effect on Subsequent Juvenile Court Processing Decisions," *Youth and Society* Vol.17 No.3 286-305, cited in Holman & Zeidenberg. In *Two Decades of Juvenile Detention Alternative Initiative: A Progress Report*, 2009 Annie E. Casey Foundation

<sup>9</sup> Chung, H.L., Little, and L. Steinberg, 2005 "The Transition to Adulthood for Adolescents in the Juvenile Justice System: A Developmental Perspectives," in *On Your Own Without a Net: The Transition to Adulthood for Vulnerable Populations*, D.W. Osgood, E.M. Foster, C. Flanagan, and G.R. Ruth (Eds.) University of Chicago Press

<sup>10</sup> Sickmund, M., Sladky, T.J., Kang, W., and Puzanchera, C. (2013) "Easy Access to the Census of Juveniles in Residential Placement." Online. Available: <http://www.ojjdp.gov/ojstatbb/ezacjrp>

<sup>11</sup> Derlikowski, J., *Keeping Kids in Class: Fixing Racial Disparities in School Discipline*, Arkansas Advocates for Children and Families, 2013

<sup>12</sup> Ark. Code §9-27-336(a)(2)(A)

<sup>13</sup> The VCO exception was a 1980 amendment to the 1974 federal JJDP law's Deinstitutionalization of Status Offenders provision and has allowed status offenders to continue to be locked up for second and subsequent status offenses, such as violating a court order not to commit another status offense.

<sup>14</sup> Ark. Code Ann. §9-27- 313(e)(1)(B)(i) (Supp. 2009).

<sup>15</sup> Barry Holman and Jason Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, Justice Policy Institute Report. [http://www.justicepolicy.org/images/upload/06-11\\_rep\\_dangersofdetention\\_jj.pdf](http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf)

<sup>16</sup> *Guiding Principles: A Resource Guide for Improving School Climate and Discipline*, U.S. Department of Education, 2014. <http://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf>

<sup>17</sup> Benton County, Arkansas System Assessment, JDAI October 2013 and Washington County, Arkansas System Assessment, JDAI September 2013

<sup>18</sup> [www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative.aspx](http://www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative.aspx)

<sup>19</sup> Juvenile Detention Alternatives Initiative (JDAI) Change in Average Daily Population (ADP) by Grantee Baseline vs. 2010, N=33 grantees, comprising 86 sites, Annie E. Casey Foundation

<sup>20</sup> <http://www.expertlaw.com/forums/showthread.php?t=25786>

<sup>21</sup> <http://www.criminalpropertydamage.com/arkansas/>

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