



SUPPORTING JUVENILE DETENTION REFORM IN JJDP STATE THREE-YEAR PLANS

COALITION FOR JUVENILE JUSTICE BEST PRACTICE BULLETIN

In the past several years, states and State Advisory Groups (SAGs) have intensified efforts to include juvenile detention reform and, more specifically, the Juvenile Detention Alternatives Initiative (JDAI) of the Annie E. Casey Foundation, in the objectives of the comprehensive Three-Year Youth Service Plans submitted to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) under the federal Juvenile Justice and Delinquency Prevention Act (JJDP).

Over the course of its multi-year partnership with the Casey Foundation and JDAI (since 2001), CJJ has endorsed JDAI to help states advance their goals under the JJDP. Recognized nationally as a best practice, JDAI's core strategies produce results, including racial/ethnic fairness, public safety, and sound use of public tax dollars. JDAI's core strategies provide a framework that many states find useful in achieving their goals under the JJDP.

There are three primary reasons why every SAG in the nation should place juvenile justice reform and improvement of juvenile detention policy and practice at the top of its agenda. Reducing reliance on secure detention of juveniles through JDAI is demonstrated to:

1. Support the legal obligations and central mission of SAGs in meeting the core purposes and core requirement of the JJDP;
2. Garner substantial long-term savings and allow for more effective use of public dollars;
3. Improve court services and produce better outcomes for court-involved children, youth and families, while also enhancing public safety.

As states prepare Three-Year Plans for the current federal funding period to be submitted to OJJDP, CJJ offers this bulletin highlighting states' approaches to incorporate JDAI/detention reform as a "best practice" into their funding strategies and Three-Year Plans.

The SAG-driven examples chosen for this bulletin demonstrate how detention reform and JDAI:

- Improve cross-system coordination and collaboration and spur broader juvenile justice system reform;
- Address compliance with the deinstitutionalization of status offenders (DSO) and disproportionate minority contact (DMC) core requirements of the JJDP;
- Help jurisdictions to create and sustain community-based alternatives to secure detention, including community-based mental health services and supports.

This bulletin also presents strategic opportunities for accelerating the pace of detention reform under a reauthorized JJDP.

New Mexico

Challenges:

Facing difficulties complying with the JJDPAs' jail removal and DSO requirements, the New Mexico State Advisory Group (NM SAG) searched for approaches to help achieve jail removal compliance and maintain DSO compliance. Several communities and juvenile probation/parole offices were holding youth in detention as status offenders for alcohol possession, despite a statewide mandate from the Children, Youth and Families Department (CYFD) limiting detention to less than 24 hours and discouraging the use of detention altogether. The SAG needed a framework and process to help with JJDPAs' compliance.

Strategies:

The NM SAG collaborated with key juvenile justice leaders on a strategy to award increasingly greater amounts of federal funds to local communities to support development and expansion of alternatives to detention. The SAG supported a juvenile justice collaborative board to oversee the programs by using a combination of Juvenile Accountability Block Grant (JABG) and JJDPAs' Formula Grant/Title II funds. Beginning in FY 2003, the SAG has allocated more than \$1 million in Juvenile Accountability Block Grant and Formula Grant funding to support county efforts. Grants have ranged from \$25,000 to \$200,000.

Results:

In 2003, NM enacted legislation that more effectively aligned the tenets of detention reform and compliance with the JJDPAs' core requirements. An important component of the legislation required that a statewide detention risk assessment instrument be implemented. Objective decision-making at the doors of detention has helped to reduce disproportionate minority confinement and contact in some NM jurisdictions.

Additionally, the NM SAG has focused its efforts on improving mental health services for youth in secure detention, and was instrumental in securing the use of Medicaid funding to provide mental health services to youth in the state's largest juvenile detention center in Bernalillo County (Albuquerque). This approach has resulted in a dramatic drop in average length of stay for youth at the Center (from 33 days in 2000 to 10 days in 2007) and an even greater reduction in recidivism for youth identified as having mental health problems once they leave the Center (from nearly 88% to 33%).

Excerpt from New Mexico's Three-Year Plan



Problem Statement:

The inappropriate use of detention continues to occur because of inconsistent assessment of risk and need, a lack of graduated sanctions and services, the lack of gender-responsive services and the lack of sufficient collaboration at the local level.

Goal:

To improve the juvenile justice system by increasing compliance with the core requirements and by increasing the availability and types of prevention and intervention programs.

Objectives:

- To support models of collaboration and consensus building among all key leaders which will result in the development of comprehensive strategies and the sustainability of such initiatives.
- To provide support to judicial districts and units of local government that wish to address specific gaps in the juvenile justice system through the development of a continuum of services and graduated sanctions.
- To encourage the appropriate use of secure detention and the development of adequate non-secure alternatives and to support state-wide implementation of juvenile detention reform initiatives.



Washington

Challenges:

In Washington, the Governor's Juvenile Justice Advisory Committee (WA SAG) wrote JDAI into its Three-Year Plan as its primary programmatic strategy for bringing the state into compliance with the DSO requirement of the JJCPA. Here, JDAI provides a template to eliminate the inappropriate or unnecessary use of secure detention, particularly for status offenders. The SAG also dedicates funding to serve additional youth who can be safely maintained in alternatives to secure detention while their charges are processed.

Strategies:

Originally, the WA SAG contracted with five pilot counties to provide JDAI services. The WA SAG also sought funds from the state legislature (\$200,000 per year) for the expansion and enhancement of JDAI in early 2007. The legislature allocated the requested amount for a total of \$400,000 over two years. To ensure the advancement of JDAI in the state, the WA SAG initiated a contract for state JDAI coordination.

With assistance from the SAG, detention risk assessments and detention alternative programs have been implemented across the five counties who meet regularly to monitor progress and assist each other in solving JDAI implementation challenges. Each site reports quarterly to carefully review public safety measures, the use of detention alternatives, the effectiveness of detention risk assessment instruments, and the impact on disproportionate minority contact (DMC). The WA SAG also initiated a contract for a Statewide JDAI Coordinator to work with the local sites.

The state also hosts an annual JDAI-DMC Conference for more than 250 participants focusing on strengthening JDAI practices and expanding into new sites.

Results:

In JDAI pilot counties, between 2003 and 2006, average daily population has decreased by 25%, average length of stay has been reduced by 15%, and detention admissions have dropped by 17%.

Juvenile arrest rates for JDAI sites have decreased 5.3% since implementation began.

King County (Seattle) has lowered its detention population from a pre-JDAI peak of 180 to an early 2009 count of 90. King County officials have estimated that JDAI strategies have saved taxpayers \$3.9-\$5.4 million per year over a twenty-year period by avoiding new construction and operation of a larger facility.

Pierce County (Tacoma) closed a 60-bed wing of its juvenile detention facility that was outdated and unsafe. By adopting JDAI strategies, the detention population has been reduced by 50% and the savings redirected to develop new community-based alternative programs including home monitoring, and day and evening reporting centers.

Spokane County was able to eliminate the unsafe practice of "double bunking" because the detention population has been responsibly lowered from an average daily population of 60 to under 40.

Whatcom County (Bellingham) had previously commissioned a study indicating the need for a new 80-bed detention facility by 2010. However, after implementing JDAI strategies, the detention population at the beginning of 2009 is under 20. This has eliminated the need to construct and operate a more expensive facility.

New Jersey

Challenges:

New Jersey's Juvenile Justice and Delinquency Prevention Committee (NJ SAG) invested in JDAI principally as a strategy to resolve disproportionate minority contact (DMC). In New Jersey, racial/ethnic minorities have the highest over-representation at the points of detention and commitment.

Strategies:

Initially, the NJ SAG supported JDAI by funding staff known as detention specialists in each of the five original sites. They were responsible to collect and analyze data at key decision-making points, staff collaborative committees at the local level, help develop strategic interventions to place increasing numbers of youth in alternatives to secure detention, and reduce case processing delays.

NJ's use of federal funds early in the life of its JDAI initiative successfully stimulated later investment of state monies, including a FY 2008 legislative appropriation of \$4 million to expand JDAI statewide over the next three years.

Results:

New Jersey's five original JDAI pilot sites (identified in the Three-Year Plan as DMC Reduction sites) have achieved significant gains in reducing the number of minority youth in detention since implementation began in April 2004.

Juvenile detention facility populations have been reduced dramatically in these sites, with a substantial positive impact on minority youth. On any given day in 2006, there were 215 fewer youth (199 of them minority youth) in secure detention across the five JDAI sites compared with 2003. This was a decline of 43.1% in average daily population. Additionally, the length of stay in detention for minority youth has decreased substantially, by 34.3% across all five original JDAI sites.

Excerpt from New Jersey's Three-Year Plan

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Problem Statement:

In New Jersey recent research indicates minority youth continue to be overrepresented at key points in the juvenile justice system, culminating in a seriously disproportionate presence in county and state secure facilities. Minority youth are more likely to be arrested, referred to court, adjudicated delinquent, remanded to county detention facilities and committed to the State's Training School. The differences vary by race (with disproportionality greatest for African American youth) and by jurisdiction.

Goal:

To expand efforts to address the disproportionate placement of minority youth in secure detention through the addition of five new JDAI pilot sites.

Objectives:

- To establish collaborative work groups in the five new sites.
- To collect and review juvenile justice system data disaggregated by race, age and gender.
- To craft culturally and racially competent detention alternatives in the pilot sites.

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Virginia

Challenges:

Prior to employing JDAI, Virginia's detention rate exceeded the national average, 65% of detained youth were non-felony level offenders and disproportionately minority youth, and technical violations of conditions of probation (not involving commission of a new offense) constituted fully one-third of youth admissions to secure detention. Virginia saw an opportunity to improve and chose to implement JDAI through inclusion in the state's Three-Year Plan.

Strategies:

The Virginia Advisory Committee on Juvenile Justice (VA SAG) has focused its JDAI efforts on decreasing the unnecessary use of secure detention, supporting less costly, community-based alternatives to detention for low- to moderate-level offenders, and improving case processing through the use of detention "expeditors."

Results:

Between FY 2003 and FY 2008, JDAI sites demonstrated a 27% reduction in detention admissions and a 22% reduction in the average daily detention population.

Additionally, among pre-dispositional cases there has been an increase in felony level offenders (from 50% to 69%) and a related decrease in the cases of youth with technical violations (from 21% to 10%).

Discussions are currently underway for the VA SAG to fund local JDAI Coordinators to enhance collaboration and strengthen infrastructure in anticipation of eventual statewide expansion of JDAI. In preparation for the next Three-Year Plan, the VA SAG has affirmed its commitment to supporting the expansion of JDAI sites throughout the state.

Excerpt from Virginia's Three-Year Plan

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Problem Statement:

Research indicates that placement in juvenile detention is harmful for low-risk offenders, exposes them to more violent offenders and is a predictor for future delinquency. A large percentage of children in secure detention facilities are held for technical violations such as probation or parole violations. Community-based alternatives are both cost effective and can effectively provide for community safety. Moreover, placement in detention is expensive. The average cost per day, per child in Virginia (in FY 2004) was \$181.73 or \$66,331.00 per year.

Goal:

Reduce both the number of juveniles held in secure detention and the length of stay for those placed in detention.

Objectives:

- Increase the use of evidence-based programs and strategies.
- Reduce admissions for technical violations (of probation or parole).
- Expand the use of community-based alternatives to detention.

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Opportunities for Expanding Juvenile Detention Reform as the JJDPa is Reauthorized

The JJDPa is past due for reauthorization. Included among key areas for improvement to JJDPa is the emphasis that CJJ, SAGs, JDAI leaders, and many others, have given to urging the Congress to strengthen and improve ways in which this critical federal law can increase home-based and community-based alternatives to detention for status offenders and delinquent offenders. While the above strong examples from New Mexico, Washington, New Jersey and Virginia key into current JJDPa requirements and purposes, it is also important at this juncture to forecast ahead to the opportunities for detention reform likely to emerge as part of a future JJDPa reauthorization.

On March 24, 2009, U.S. Senate Judiciary Committee Chairman Patrick Leahy (D-VT), Ranking Member Arlen Specter (R-PA), Senator Herb Kohl (D-WI) and Senator Richard Durbin (D-IL) introduced S. 678, the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2009. S. 678 is strong bipartisan legislation and is informed by more than 30 years of research and innovation in state juvenile justice reform, including understandings drawn from the progress states and SAGs have made in reducing over-reliance on secure detention.

As an indicator of what can be expected as the JJDPa reauthorization progresses in 2009, S. 678 strengthens the DSO and Jail Removal core requirements to further discourage unnecessary and often harmful use of detention. S. 678 also provides for increased resources to the states to assist them with JJDPa compliance and other reform efforts, and establishes several new opportunities for states to build JDAI objectives and strategies into Three-Year Plans.

I. Greater emphasis on collaboration among the major child-serving agencies and community organizations to develop well-designed and sustainable reforms—particularly aimed at reducing use of detention and increasing community-based and family-linked services and placements.

Under S. 678, states must ensure that their governors, state legislatures and *all* public agencies charged with provision of services to children, youth and families are well-informed of the requirements of the JJDPa and the Three-Year Plan. This will better position states and SAGs to work with all responsible parties toward the same reform goals.

S. 678 also amplifies previous language in the JJDPa to allow and encourage states to use a portion of Formula Grant/Title II funds for training and technical assistance to juvenile justice and child welfare agencies, to assist such agencies in developing coordinated plans for the early intervention and treatment of youth with a history of abuse or trauma, as well as status offenders and delinquent offenders who have had prior involvement with the court system.

Finally, S. 678 creates an Incentive Grants Program linked to the current JJDPa funding streams that states may use to establish partnerships between juvenile justice agencies and mental health authorities to implement service continuums that ensure mental health and substance abuse screening and assessment, as well as opportunities for diversion to community-based and family-linked services and supports (alternatives to detention) for youth who come into contact with the justice system whose principal needs are mental health and/or substance abuse needs.

2. Greater emphasis on new and enhanced non-secure, community-based alternatives to detention for arrested youth who would otherwise be locked up awaiting a hearing.

To affirm the wisdom of and to provide support for alternatives to detention, S. 678 would amend the JJDPA in a number of ways.

First, S. 678 asks states to include the following in Three-Year Plans:

- (1) a plan to provide alternatives to detention, including diversion to home-based or community-based services that are culturally and linguistically competent or treatment for those youth in need of mental health, substance abuse, or co-occurring disorder services at the time such youth first come into contact with the juvenile justice system;
- (2) a plan to reduce the number of children housed in secure detention and corrections facilities who are awaiting placement in residential treatment programs; and
- (3) a plan to use community-based services to address the needs of at-risk youth or any youth who have come into contact with the juvenile justice system.

In addition, S. 678 would amend the JJDPA to allow states to use a portion of Formula Grant/Title II funds to encourage the use of community-based alternatives to secure detention and expand access to publicly-supported, court-appointed legal counsel. This includes enhancing capacity for the competent representation of court-involved youth, shown to help reduce the likelihood that a youth is detained while awaiting disposition.

Finally, S. 678 would amend the JJDPA to require that states phase out use of the valid court order exception to the DSO core requirement over a period of years, which will go a long way in achieving an original purpose of the JJDPA—the aim of diverting runaway, truant and other youth charged with non-criminal offenses away from secure detention and into community-based and family-connected treatment services.

3. Additional strategies and improved guidance focus on reducing racial and ethnic disparities at every point along the juvenile justice continuum.

To help states more effectively achieve reductions in disproportionate minority contact (DMC), S. 678 would amend the JJDPA to require states to develop and execute strategies proven effective at the state and local levels, including:

- (A) establishing coordinating bodies, composed of juvenile justice stakeholders at the state, local, or tribal levels, to oversee and monitor efforts to reduce racial and ethnic disparities;
- (B) identifying and analyzing key decision points in state, local, or tribal juvenile justice systems to determine which points create racial and ethnic disparities among youth who come into contact with the juvenile justice system;
- (C) developing and implementing data collection and analysis systems to identify where racial and ethnic disparities exist in the juvenile justice system and to track and analyze such disparities;
- (D) developing and implementing a work plan that includes measurable objectives for policy, practice or other system changes, based on the needs identified in the data collection and analysis; and
- (E) publicly reporting, on an annual basis, the efforts and progress made.

4. Incentives to improve conditions of confinement by reducing and eliminating the use of dangerous practices.

To further protect youth from the dangers of secure detention, S. 678 would amend the JJDP A to extend separation and jail removal protections to all pre-adjudicated youth younger than the state's age of majority, including those youth charged in criminal court. Youth confined with adults are twice as likely to report being "beaten up" by staff,¹ and 50% more likely to report being attacked with a weapon.² Removing pre-trial youth from adult prisons and lock-ups improves their safety and overall rehabilitation.

S. 678 would amend the JJDP A to ask states to include in their Three-Year Plans the development of policies and procedures, and provision of training for facility staff, to eliminate the use of dangerous practices, including unreasonable restraints and unreasonable isolation, by encouraging use of effective behavior management techniques.

To support SAGs and states in achieving these outcomes, S. 678 would amend the JJDP A to provide increased authorizations for funding. It would also require OJJDP to provide technical assistance and research and evaluation services to assist all states to implement strengthened requirements and to take full advantage of all the opportunities provided by the reauthorization.

Conclusion

The Three-Year Plan cycle affords states and SAGs with unique opportunities to put into practice knowledge about "what works" in juvenile justice.

Juvenile detention reform – primarily advanced through JDAI – holds great potential to positively affect all aspects of the juvenile justice system. Objective decision-making ensures that, whenever appropriate, youth are kept out of detention, alternatives are created to support youth and their families in the communities where they live, core requirements are meaningfully addressed and racial and ethnic disparities are reduced and/or eliminated. Through detention reform efforts, SAGs, together with state and local partners, are actively creating more equitable and effective juvenile justice and delinquency prevention systems.

The reauthorization of the JJDP A presents an opportunity to bolster many of the policies and practices states and SAGs are currently pursuing or wish to pursue to advance detention reform and to put in place resources needed to sustain juvenile detention reform for many years to come.

1 Forst, Martin, Jeffrey Fagan, and T. Scott Vivona. (1989) "Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy." *Juvenile and Family Court Journal* 39:1.

2 Ibid.

For more information on how to build the Juvenile Detention Alternatives Initiative (JDAI) into your state's Three-Year JJDP A Plan or to seek the assistance of a CJJ Detention Reform Peer Mentor, please contact Mark Ferrante, CJJ Director of Leadership and Training Programs: ferrante@juvjustice.org or 202-467-0864, ext 102.

Another noteworthy resource is the 2008 CJJ publication, produced with the Annie E. Casey Foundation, available as a download on the CJJ Web site and entitled: "State Level Detention Reform: A Practice Guide for State Advisory Groups." For this and other CJJ publications, please go to www.juvjustice.org.

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