

International Juvenile Justice Observatory Conference Presentation Proposal Juvenile Justice Initiative

SHIFTING AWAY FROM INCARCERATION: Fiscal Realignment Strategies to End the Mass Incarceration of Youth in the United States

Abstract:

The United States is undergoing a profound transformation from mass incarceration of youth to community-based continuums of care. Since 2007, across the U.S., 18 states have closed more than 50 juvenile prisons. The state of California is considering closing all of its juvenile facilities. Change is being driven by multiple factors, including the falling juvenile arrest rate, fiscal constraints, lawsuits over inadequate conditions, advocacy to shift scarce resources to community services for low level offenders, and media reports of abuses. The challenge is to ensure some of the savings from juvenile prison downsizing shifts to community based programming, to keep down the number of youth headed to juvenile prison. The Juvenile Justice Initiative (JJI) promotes the reinvestment and realignment of resources in one state, Illinois.

This paper will document the national shift in the US from juvenile incarceration to community alternatives to confinement, including evidence-based practices.¹ Also included will be specific focus on the Illinois Model for Realignment, shifting resources from pretrial detention and post-trial confinement to community-based alternatives, with emphasis on strategies to implement, sustain and expand community-based alternatives to confinement in Illinois, including the nationally acclaimed fiscal reinvestment model of Redeploy Illinois.² While focusing on reforms in one state, the paper documents similar reforms across the United States, documenting the emerging and rapid deinstitutionalization of juvenile justice in the U.S.³

Finally, the paper also highlights U.S. longitudinal research documenting better outcomes, including reduced recidivism, for youth treated in community alternatives rather than removed from their home.⁴

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¹ *No Place for Kids*, Annie E Casey Foundation, 2011, http://www.aecf.org/~media/Pubs/Topics/Juvenile%20Justice/Detention%20Reform/NoPlaceForKids/JJ_NoPlaceForKids_Full.pdf

² *Redeploy Illinois: 2011 Fact Sheet*, <http://www.dhs.state.il.us/page.aspx?item=59836>

³ *Resolution, Reinvestment and Realignment – 3 Strategies for Changing Juvenile Justice*, Butts, Jeffrey A. and Douglas N. Evans (2011), John Jay College of Criminal Justice, New York, <http://johnjayresearch.org/rec2011/>

⁴ *Highlights from Pathways to Desistance: A Longitudinal Study of Serious Adolescent Offenders*, Mulvey, Edward P., March 2011, <https://ncjrs.gov/pdffiles1/ojdp/230971.pdf>

Movement in the US to Eliminate the Mass Incarceration of Youth

The United States has for too long held the shameful title of world's largest prison population. The US prison system impacts so disproportionately on Black males, that a recent publication concluded one in four Black children will have experienced the incarceration of a parent by the time they turn 18. The reverberations are profound on every level of society.

But, fortunately, the tide is finally turning against the failed policies of mass incarceration.

The United States is undergoing a profound transformation from mass incarceration of youth to community-based continuums of care. Since 2007, across the U.S., 18 states have closed more than 50 juvenile prisons.⁵ The state of California is considering closing all of its juvenile facilities. Change is being driven by multiple factors, including the falling juvenile arrest rate, fiscal constraints, lawsuits over inadequate conditions, advocacy to shift scarce resources to community services for low level offenders, and media reports of abuses. The challenge is to ensure some of the savings from juvenile prison downsizing shifts to community based programming, to keep down the number of youth headed to juvenile prison.

The Juvenile Justice Initiative (JJI) is a non-governmental organization, devoted to promoting compliance with fundamental standards of international human rights for youth, including shifting away from incarceration toward reinvestment and realignment of resources to community based alternatives in one state, Illinois. This paper will examine the impact of this shift of resources within Illinois, along with a brief examination of the current landscape of youth incarceration in the U.S.

Rapid Movement to Close Juvenile Prisons – There is a massive and rapid movement to downsize and close juvenile prisons in the United States. The summary that eighteen states have closed more than fifty juvenile prisons since 2007 fails to fully convey the dramatic nature of this shift in juvenile justice. A closer examination of some of the movement in specific states since 2009 conveys a fuller picture⁶:

- Washington DC saved \$18.5 million between '05-'09 by closing Oak Hill, a 188 bed facility, and created a 60 bed facility in a therapeutic and homelike environment with full educational services.
- Kansas saved \$1.4 million by closing one 66 bed facility for girls, Beloit Juvenile Correctional Facility. The overall juvenile correctional population has now declined by 19% from 410 in 2007 to 332 in 2010.

⁵ *No Place for Kids: The Case for Reducing Juvenile Incarceration*; Annie E Casey Foundation, 2011.

http://www.aecf.org/~media/Pubs/Topics/Juvenile%20Justice/Detention%20Reform/NoPlaceForKids/JJ_NoPlaceForKids_Full.pdf

⁶ *Advances in Juvenile Justice Reform: 2009-2011*, National Juvenile Justice Network, July, 2012, <http://www.njjn.org/our-work/juvenile-justice-reform-advances-2009-2011>

- Indiana saved \$4 million annually by closing the N.E. Indiana Juvenile Correctional Facility.
- Alabama shifted \$2.4 million to community-based programs by decreasing commitments by 55% (from 1,084 in '07 down to 490).
- Arizona saved \$2.5 million by closing a facility and decreasing its juvenile correctional population from 600 in '08 to 400 by '12.
- Arkansas decreased commitments by 20% from '08-'11.
- Connecticut saved \$3 million, which was reinvested in programming, by closing a 94 bed facility at New Haven.
- Florida saved \$130 million by decreasing the number of beds from 6,012 in 2006 to 3,455 in 2011.
- Georgia saved \$26 million by closing four facilities and downsizing another youth facility.
- Missouri saved a half a million annually by closing six juvenile detention facilities.
- Ohio saved \$57 million by closing four juvenile prisons and downsizing the remaining facilities. The state reinvested the savings in community based programming through Reclaim Ohio and other community alternatives.
- South Carolina reduced its youth incarceration population by 71% over the past decade and transferred corrections staff to community program offices.
- Wisconsin closed two facilities by reducing its juvenile incarceration by 70% over the past decade.
- Illinois reduced its juvenile incarceration by half over the past decade, and is in the process of closing two juvenile prisons, and has already closed one juvenile detention center – all while shifting some state resources to community alternatives through Redeploy Illinois.

And the big three:

- California decreased the number of youth in confinement by 89%, down from 9,572 in 1996 to 1,082 at end of 2011, and shifted resources to local counties.
- Texas closed five facilities and reduced its population from 4,800 in 2006 to 1,798 in 2010, saving the state \$115 million. Nearly forty percent of the savings was reinvested in diversion funding in juvenile probation departments.
- New York downsized/closed 31 facilities since 2007, recognizing a \$58 million savings. Some of the savings is now being realigned to New York City to manage its youth population closer to home, as part of the *Close to Home Initiative*.

This shift away from incarceration for youth in the United States is rapid and widespread, crossing all regional and political boundaries. Fiscal crises and budget shortfalls are serving as the catalyst in many states, and the fiscal savings are stunning and heartening, but this is by no means the sole reason for backing away from these failed policies. There are a range of catalysts in addition to financial implications, including legal challenges over conditions, media and advocacy attention to abuses within facilities, and an emerging body of research documenting the effectiveness of community based alternatives.

It's worth noting, there is an emerging awareness of the fact that the United States imprisons far more juveniles than any other nation on earth. This fact was emphasized in the introduction to a recent national report on the mass incarceration of youth from the Annie E. Casey Foundation:

America's heavy reliance on juvenile incarceration is unique among the world's developed nations. ... Though juvenile violent crime arrest rates are only marginally higher in the United States than in many other nations, a recently published international comparison found that America's youth custody rate (including youth in both detention and correctional custody) was 336 of every 100,000 youth in 2002 – nearly five times the rate of the next highest nation (69 per 100,000 in South Africa). Cite to Hazel, Neal, Cross-National Comparison of Youth Justice, London: Youth Justice Board, 2008.

The fact that the United States imprisons youth at five times the rate of any nation on earth, is a message that is reverberating around the country, and is an emerging factor in the sense of urgency around the U.S. movement to eliminate the mass incarceration of youth.

The other message that is taking hold in the US is that the conditions in many of our juvenile jails and prisons violate fundamental concepts of human rights. Recent attention has focused on the use of solitary confinement of youth who are tried as adults and then held in adult jails and prisons – a terrible practice that is also utilized in juvenile facilities. A recent report on solitary confinement of youth tried as adults and held in adult jails garnered press across the US including this editorial in the New York Times:

The practice of confining young people to adult jails and prisons is both counterproductive and inhumane. Adolescents who are locked up with adults are more likely to be raped, battered or driven to suicide than young people who are handled through the juvenile justice system. After the trauma of doing hard, adult time, young people often return home as damaged individuals who are more likely to commit violent crimes and end up back inside.

The prudent approach would be for the states to keep children out of adult jails and channel them through the juvenile justice systems, where they could get the counseling and mental health services that so many of them clearly need. But, as it stands today, tens of thousands of young people each year are charged as adults, even for nonviolent offenses and property crimes that do not warrant adult time.

Many states have adopted various protective strategies, under which young inmates are separated from adults who would otherwise prey on them. One of these strategies is to segregate young people in solitary confinement — a soul-killing punishment that condemns young people to spend weeks or even months locked up alone in small cells for up to 23 hours a day, cut off from all contact with other prisoners.

[A new study issued earlier this month](#) by Human Rights Watch and the American Civil Liberties Union shows the degree to which extended isolation — which is hard going for mature adults — can easily lead to mental illness and other damage among emotionally immature young people. The report, [Growing Up Locked Down](#), is based on interviews and correspondence in 2011 and 2012 with more than 125 individuals who were sent to jail or prison in 20 states while under the age of 18.

Corrections officials have a duty to protect the public from crime. But they also have a responsibility not to permanently scar the lives of young people who are far from fully

*developed when they land in custody. To meet that responsibility, states and localities should ban or sharply minimize solitary confinement for young people, and, more broadly, make sure that fewer of them land in adult jails in the first place.*⁷

Excessive discipline practices, along with inadequate education and other services, have been successfully challenged in conditions lawsuits across the nation. Based on the cost and threat of conditions lawsuits, states are moving to empty and shut down juvenile prisons, along with movement to improve conditions within remaining institutions. Texas, California, and Ohio are three states that have experienced massive reforms closing and downsizing their juvenile prison population following successful conditions lawsuits.

Fiscal Reinvestment/Realignment – In downsizing juvenile correctional systems, states are increasingly turning to reinvestment and realignment strategies to shift some of the savings to more effective and less costly community based alternatives. Evidence based programming is increasing in popularity, as positive results can be documented. States across the nation, including New York, Michigan, Texas, and California, are shifting savings to community-based alternatives. Ohio has refined its fiscal reinvestment model (Reclaim Ohio) and is now fine-tuning it to target areas of the state with the most needs based on high levels of juvenile crime and juvenile incarceration. Illinois has a similar strategy, Redeploy Illinois, with a small amount of funding producing significant results in reducing the numbers of youth in juvenile confinement.

The Redeploy Illinois initiative gives counties financial support to provide comprehensive services to delinquent youth in their home communities who might otherwise be sent to the Illinois Department of Juvenile Justice (IDJJ). Prior research provides solid evidence that community-based services for delinquent youth are more effective and less expensive than a sentence to secure confinement for a certain profile of youth offenders who are deemed likely to benefit from such services, since the cost of community-based programs is lower than the cost of incarceration. Unfortunately, many counties in Illinois lack the necessary programs and services to effectively serve delinquent youth locally while maintaining public safety. This lack of local programs and services often plays a significant role in the Court's decision to commit a youth to IDJJ. The funds provided to the Redeploy Illinois pilot sites help to fill gaps in the continuum of programs and services locally available for delinquent youth and their families, allowing local authorities to cost-effectively serve youth locally and reduce their reliance on IDJJ.

Redeploy Illinois has diverted over 700 youth from confinement in Illinois over the past three years. Commitments of youth to juvenile prison have been cut in half in participating Redeploy counties, saving the state tens of millions of dollars. Redeploy also reduces recidivism; only 14.2 percent of Redeploy participants were re-incarcerated after completing the program, compared to 57.4 percent of juvenile offenders who were sent to juvenile prison.

An evaluation of Redeploy Illinois reveals youth treated in the community through Redeploy are less likely to repeat offend. But it also reveals that youth who receive Redeploy services in the

⁷ <http://www.nytimes.com/2012/10/16/opinion/adolescents-in-grown-up-jails.html>.

community and fail and are subsequently incarcerated are less likely to reoffend than youth with a straight commitment.

Public Opinion behind Community Based Treatment - The shift of public dollars from juvenile prisons to community programming ties into the current body of public polling. The MacArthur Foundation has supported several public opinion polls in the area of juvenile justice, all of which indicate the public's support of community-based, rehabilitative programs for youth that prioritize public safety.⁸ As the key decision makers in the field of juvenile justice respond heavily to the weight of public opinion, this research documenting public support for reforms has been critical in promoting the fiscal realignment strategies discussed in this paper.

Research Documents Failures of Incarceration - Research on a national level also supports the conclusion that incarceration is less likely to reduce repeat offending than community based programming. *Pathways to Desistance* is a longitudinal research project, funded in part by the John D. and Catherine T. MacArthur Foundation as part of their Models for Change Initiative.⁹ The Pathways study has tracked the outcomes of 1,354 serious juvenile offenders from age 14-18 for seven years after their conviction. The primary findings, based both on self-reports and arrest statistics, document the relative ineffectiveness of longer juvenile incarcerations in reducing juvenile recidivism. The findings conclude that the most effective approach is community based substance abuse treatment, as it reduces both substance use and criminal offending for a limited time.

Hopefully, the study further concludes that most youth who commit felonies greatly reduce their offending over time. The study finds that even adolescents who have committed serious offenses are not necessarily on track for future adult offending.

Conclusion – The United States is rapidly backing away from the failed policy of mass incarceration of juvenile offenders. This shift in policy is due only in part to fiscal considerations. While juvenile prisons are costly (most states spend \$70,000-\$200,000 per juvenile bed annually), the fiscal considerations are frequently secondary to a fundamental shift in philosophy toward youth in conflict with the law. Lawmakers and policymakers are less enchanted with the law and order approach, particularly for low-level juvenile offenders. Research on adolescent brain development has led to a widespread acknowledgement that youth are different from adults, and so should be given treatment rather than punishment – again, particularly in the case of low-level juvenile offenders. More than a decade of development of community-based alternatives has convinced local officials of the efficacy of community based alternatives, rather than incarceration.

The movement away from mass incarceration is also partially fueled by public attention to inadequate and inhumane treatment of youth inside juvenile prisons. Conditions lawsuits across the nation, but particularly in California, Texas and Ohio, have galvanized bi-partisan coalitions of lawmakers to clean up and close abusive facilities. Awareness that the U.S. stands alone in its heavy reliance on incarceration is also propelling change.

⁸ <http://www.modelsforchange.net/searchresults.aspx?q=public+opinion+polls>

⁹ *Highlights from Pathways to Desistance: A Longitudinal Study of Serious Adolescent Offenders*, OJJDP Fact Sheet, March, 2011, <https://ncjrs.gov/pdffiles1/ojjdp/230971.pdf>

The most hopeful aspect of the movement away from mass incarceration is the reinvestment of savings in community based alternative programming. This fiscal realignment will help to ensure sustainability of these reforms.

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