

JUVENILE DETENTION IN NEW YORK STATE

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POLICY & PRACTICE

SUMMARY

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SUMMARY

JUVENILE DETENTION IN NEW YORK STATE 1977: POLICY & PRACTICE

Detention Study Unit

In September 1975, an independent Detention Study Unit was funded through DCJS under a grant from LEAA. The Study Unit was instituted to survey and assess non-secure detention bed-space needs on a county-by-county basis. The following is a summary of the Study Unit's recommendations and findings.

RECOMMENDATIONS

1. Only a small percentage (12%) of the 13,600 youth admitted to detention in 1975 were placed in non-secure detention programs and many of these admissions followed an initial period in a secure detention facility. In addition, in counties with their own secure and non-secure detention facilities, an unnecessarily high number of juveniles were placed in secure detention.

Therefore it is recommended that a greater proportion of detained juveniles be held in non-secure programs. To achieve this shift it is further recommended that all status offenders remanded to detention be placed in non-secure detention programs in compliance with the Federal Juvenile Justice Act of 1974. In those counties with their own secure facility, the practice of initially placing all detained juveniles into a secure facility should be replaced by a 24 hour intake screening service that places a juvenile in the most appropriate detention program from the beginning of the detention period.

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2. A major obstacle to the efficient implementation and development of a diversified range of non-secure programs has been the practice of implementing non-secure detention as separate residential facilities. Non-secure detention is similar to other forms of residential programs provided in open, community based settings where the emphasis is upon supervision and not upon containment. Also, the low non-secure detention utilization rates in many counties and the lack of any non-secure detention programs in others clearly indicate that separate non-secure facilities are financially impractical in many counties of the State.

It is recommended that a more flexible and diversified approach to developing non-secure programs be adopted.

Such an approach should allow the certification and reimbursement of non-secure programs in appropriate but not necessarily separate residential facilities. In addition, non-residential programs should be developed to assure court appearance while maintaining youth in their own homes. Proposed new Rules and Regulations recently distributed for comment incorporate this recommendation.

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3. The findings of the study argue for a re-thinking of the type of temporary residential care currently being provided under Article Seven proceedings of the Family Court Act. The basic question is whether non-secure programs actually provide detention care or shelter care. Under current legal categories and definitions, non-secure programs provide detention care. However, data from the study indicate that non-secure detention is used as shelter care. In effect, detention facilities, beyond assuring court appearance and preventing further crimes, provide a network for the temporary sheltering of adolescents on a crisis intervention or crisis avoidance basis. Yet these cases are currently labeled "detention" cases.

It is recommended that non-secure detention programs be re-defined so that the terms applied to these programs identify more clearly the type of care being provided.

It may well be that non-secure detention programs are neither detention nor shelter programs. They perhaps can best be characterized as "temporary alternative supervision programs."

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4. Recommendations for the provision of non-secure programs are based on a method derived from the findings of the study. The recommendations assume: (1) the removal of all status offenders from secure detention, (2) the elimination of many inappropriate detention admissions, and (3) the adoption of a flexible and diversified approach to implementation of non-secure programs. Also, the recommendations specify the "maximum care-days" needed for each county to meet its detention needs. The concept of "maximum care-days" replaces the concept of "maximum detention beds" as a more usable concept to monitor detention processes and practices.

It is recommended that counties be allocated a maximum number of detention care-days as a bench mark which if exceeded would cause a detailed review by the Division for Youth.

The full report contains specific recommendations for the number of non-secure care-days to be allocated to each county and the number of non-secure detention beds needed.

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5. A portion of the study was devoted to assessing the impact of removing status offenders from secure detention. Despite the fact that high numbers of youths, including PINS, are held in secure facilities, most secure facilities are under-utilized. The removal of PINS from secure detention will result in the reduced use of already under-utilized secure

facilities. The study recommends a reduction in bed capacity in five secure facilities and the closing of two secure facilities based on decreased need. The remaining secure detention beds will be utilized on a regional basis and supplemented by secure 48 hour holdover facilities and a wide range of non-secure programs.

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6. Prior to the study, little overall information on the detention system in New York State was available. During the study period, a more comprehensive, formalized data collection system was devised and introduced by the Detention Services Section of the Division.

It is recommended that the data collection system be expanded and refined and that a facility monitoring system be developed.

The objective of the system should be to provide detailed reliable and easily retrievable data to promote appropriate and standardized detention practices throughout the state.

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7. The study found that the detention decision-making process differed considerably from county to county, particularly after court hours when the process is more varied and less formalized. As a result, the after court hours process is less accountable and individual responsibilities are less specific. Yet as many as 50% of the admissions to juvenile detention occur when the Family Court is not in session.

It is recommended that each county designate an intake official(s) to be responsible for screening detention admissions after court hours and that such designation be recorded with the Detention Services Section of the Division for Youth.

The designated intake official should be responsible for screening after court hour admissions to detention and for maintaining a record of

each admission. The record should include an indication of the specific legal criteria under which the youth is being detained - substantial probability of non-appearance at court or serious risk of committing a delinquent act - and the evidence for making the decision.

Such a system should reduce the variations in after court hour detention processes while increasing the accountability of the processes.

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8. Because the reasons for detention are a key component in justifying the appropriateness of detention, there is a need to undertake an evaluation of the reasons used to justify detention decisions.

It is recommended that Family Court Remand Orders, or some other official court document, include specific information, in writing, concerning the detention decision.

This information should include: (1) an indication of the legal criteria under which detention is being ordered, and (2) the specific facts that led to the judgement of substantial probability of non-appearance and/or a serious risk of further delinquent acts.

METHOD

The study reviewed detention decision-making processes and practices in each county to study the flow of juveniles through the detention system and to determine how and by whom the decision to detain a juvenile is made. The views of Family Court judges and other county officials involved in the detention decision-making process, on matters related to juvenile detention, were surveyed; these views were considered to be a key variable impacting upon the juvenile detention system. Complementing the review of processes and viewpoints, the study also gathered data to describe the juvenile detention population in secure and non-secure detention.

Ninety interviews with officials, other than Family Court judges,

were conducted; fifty-two of ninety-seven Family Court judges responded to a mailed questionnaire. To obtain data concerning the juvenile detention population, the Study Unit reviewed the case records of all non-secure detention admissions from January 1, 1975 through June 30, 1975 and a sample of the secure detention admissions during the same period. In all, 1,476 admissions to detention were reviewed.

FINDINGS

The total number of admissions to juvenile detention facilities in New York State during 1975 was approximately 13,600. Eighty-eight per cent of these admissions were to secure detention while only 12% were to non-secure detention. Clearly the impact of non-secure detention as an alternative to secure detention is minimal. In addition most of the 13,600 juvenile detention admissions occurred in the predominantly urban counties of the state, while the majority of the counties detain only a small percentage of their youth population, a fact which is important to detention planning in the state.

Detention Decision-Making Process

The detention decision-making process is the process which screens admissions to detention. During court hours, this process is relatively clear. The Family Court judge is primarily responsible for the decision to detain a juvenile. The study identified thirteen after court hour systems which were less clear and less accountable than the during court hour processes. Yet a large percentage of detention admissions, conservatively estimated at 50%, occurred after family court hours.

The study also found that the availability and accessibility of a given type of detention (either secure or non-secure) had an effect upon the portion of detained youth placed in either type. In counties where non-secure detention was readily accessible and where secure detention was

distant, 66% of detention admissions were placed in non-secure detention. In counties where secure detention was readily accessible (those with their own secure facility), 86% of detention admissions were placed in secure detention. The experience of counties using primarily non-secure detention indicates that an unnecessarily high proportion of detained youth are placed in secure detention in the urban counties which have ready access to secure detention.

Views of Decision Makers

The New York State Family Court Act specifies the two criteria under which a juvenile may be detained:

1. if there is a substantial probability that he will not appear in court on the return date; or
2. if there is a serious risk that he may, before the return date, do an act which if committed by an adult would constitute a crime.

The study found that there was general agreement among detention decision-makers that the frequency of past delinquent acts and the seriousness of delinquent acts (past and present) were used to construct the judgement that there is a serious risk of further delinquent acts. There was less agreement about the facts that establish a substantial probability of non-appearance; the most frequently mentioned factors included a "history of runaway behavior," "previous non-appearance at a scheduled court hearing," "environmental factors," and the "juvenile's attitude." It is noteworthy that "previous non-appearance" was the least mentioned of the major factors, when a higher rank would be expected. It should also be noted that some of the factors establishing "probable non-appearance" involve more subjective judgements than those thought to establish "serious risk."

In describing the juvenile offender who should be sent to a secure detention facility, the detention decision-makers indicated a reliance upon

the nature of the alleged delinquent act or status offense. Family Court judges indicated that the attitude of the juvenile was also of significant importance. The description of the juvenile offender to be placed in non-secure detention was less clear. The most frequently mentioned factor was problems in the youth's environment. The attitude of the juvenile was, again, an influential factor for the Family Court judges. The major reliance upon the presence of "environmental problems" in assessing the youth for non-secure detention points to a shelter care use versus a strict detention use of non-secure programs.

The prevalence of the shelter care use of non-secure detention was pointed out by the responses of the detention decision-makers in describing the objectives of non-secure detention. The responses stressed providing "a change of environment," and "service, evaluation and planning time" and the two major objectives of non-secure detention. To hold a youth for court was considered an objective, but less frequently than the two mentioned above. On the other hand, the primary objectives of secure detention were seen as "to protect the community" and "to hold for court or placement." The objectives of secure detention were more related to the concept of containment.

Utilization of Detention Facilities

Although County Law requires all 62 counties to have access to non-secure detention, only thirty-eight counties and New York City had non-secure detention available for their use during the study period. A utilization rate was calculated for each of these counties; the utilization rate was defined as the percentage of detention bed-days available to a county that were actually used. Overall, the utilization rates indicated a need for reducing the number of beds available for juvenile detention. With one exception, all non-secure detention utilization rates were under

63%, with all but six counties' rates being under 50%.

Twenty-two (56%) of those counties that did have non-secure detention available, had utilization rates of less than 10% and 19 counties in the State did not have any non-secure detention available. Taken together, the data indicates that forty-one counties (61%) in the State had low non-secure detention utilization. The majority of these counties with low utilization rates are predominantly rural and have total populations of under 100,000 and youth populations of less than 13,000. The data suggests that it is financially impractical for these counties to establish separate and distinct non-secure detention facilities.

The remaining counties of the State (21), were the major users of detention facilities, having non-secure detention utilization rates ranging from approximately 25% to 85%. This group included the seven major population centers of the State - Erie, Monroe, Onondaga, Westchester, Suffolk and Nassau Counties and New York City - and the semi-urban counties. These counties exemplify the complexity of the detention system. Those with the highest populations did not have the highest detention use; many variables intervene to affect the actual use made of detention resources.

An analysis of the data on detention utilization revealed four distinct groups of counties, each with differing detention needs. A more flexible approach to juvenile detention will be required to meet the varying detention needs throughout the State.

Detention Youth Population

Detention facilities were utilized primarily for youth between the ages of 13 and 16; less than 10% of detention admissions were under 13 years of age. Sixty-five per cent of all detention admissions were male and 35% were female. This was the approximate distribution in secure detention (67% male; 33% female). The distribution of males and females in non-secure

detention was more evenly divided - 53% male and 47% female.

The study showed that 62% of the admissions to non-secure detention were PINS while 30% of the admissions were JDs. The average length of stay in non-secure detention was essentially the same, regardless of the type of petition - 32 days for a PINS petition, 31 days for a delinquency petition. The average length in a secure detention facility was 15 days for PINS and 12 days for delinquency offenders. The differences in length of stay between secure and non-secure detention regardless of the type of petition point again to the differences in the way the two programs are perceived and used.

Effectiveness of Detention

The study evaluated the effectiveness of non-secure detention and the appropriateness of detention admissions. The effectiveness of non-secure detention was defined as the ability of non-secure facilities with the absence of restricting hardware, construction and procedures to hold a youth for court or for placement. Two measures were taken as indicative of a lack of effectiveness - the AWOL rate and frequency of transfer from non-secure to secure detention. Non-secure detention was found to be effective in 71% of the cases admitted. The study indicated that 18% of all non-secure detention admissions ended with the juvenile absconding from and not returning to the facility while 11% of the admissions resulted in transfer to secure detention.

However, the study found that 24 days was the average length of stay for youths who were transferred to secure detention and who went AWOL. This suggests that the effectiveness of non-secure detention would be enhanced if the average length of stay were reduced below 24 days.

Appropriateness of Detention Admissions

The appropriateness of detention admissions was difficult to

evaluate because of the varying interpretations of the criteria for detention and the lack of information about the reasons for detention. In evaluating the appropriateness of detention admissions, the study accepted the premise that it is advantageous to place juveniles in the least restrictive setting when intervention becomes necessary. The study consequently hypothesized that the level of the initial intervention (secure or non-secure detention) should be followed by a similar level of intervention (placement in a similar setting) if the initial response was appropriate. The study reviewed "release from detention outcomes" for secure and non-secure detention in order to compare the initial and release levels of intervention. While these criteria of "appropriateness" may be challenged in some individual cases, it is clear that the appropriateness of a detention admission can be seriously questioned if a youth was released from the facility directly to his home. A release to home directly from detention raises questions about the necessity of removing the juvenile from his home in the first place.

The study found that 61% of all secure detention admissions and 32% of non-secure detention admissions were released home directly from detention. This data calls into question the appropriateness of a large number of detention admissions.

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