

The background of the cover is a photograph showing the silhouettes of several people from behind, looking out towards a bright, clear sky. The lighting is from the side, creating a strong contrast between the dark figures and the light sky. The people appear to be in a group, possibly outdoors.

# **Why Youth Incarceration Fails:**

An Updated Review of the Evidence



**THE  
SENTENCING  
PROJECT**

RESEARCH AND ADVOCACY FOR REFORM



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## WHY YOUTH INCARCERATION FAILS: AN UPDATED REVIEW OF THE EVIDENCE

This report was written by Richard Mendel, Senior Research Fellow.

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The Sentencing Project promotes effective and humane responses to crime that minimize imprisonment and criminalization of youth and adults by promoting racial, ethnic, economic, and gender justice.

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# WHY YOUTH INCARCERATION FAILS: AN UPDATED REVIEW OF THE EVIDENCE

## EXECUTIVE SUMMARY

Though the number of youth confined nationwide has declined significantly over the past two decades, our country still incarcerates far too many young people.

It does so despite overwhelming evidence showing that incarceration is an ineffective strategy for steering youth away from delinquent behavior and that high rates of youth incarceration do not improve public safety. Incarceration harms young people's physical and mental health, impedes their educational and career success, and often exposes them to abuse. And the use of confinement is plagued by severe racial and ethnic disparities.

This publication summarizes the evidence documenting the serious problems associated with the youth justice system's continuing heavy reliance on incarceration and makes recommendations for reducing the use of confinement. It begins by describing recent incarceration trends in the youth justice system. This assessment finds that the sizable drop in juvenile facility populations since 2000 is due largely to a substantial decline in youth arrests nationwide, not to any shift toward other approaches by juvenile courts or corrections agencies once youth enter the justice system. Most youth who are incarcerated in juvenile facilities are not charged with serious violent offenses, yet the United States continues to confine youth at many times the rates of other nations. And it continues to inflict the harms of incarceration disproportionately on Black youth and other youth of color – despite well-established alternatives that produce better outcomes for youth and community safety.

## Incarceration Produces Counterproductive Outcomes

Part 1 of the report reviews the research on the outcomes of youth incarceration. The evidence reveals these key findings:

### **Incarceration does not reduce delinquent behavior.**

State-level data on recidivism consistently show that youth who are released from correctional confinement experience high rates of rearrest, new adjudications (in juvenile court) or convictions (in adult court), and reincarceration. Studies that track youth outcomes into adulthood have found that an alarming share of young people incarcerated in youth correctional facilities are later arrested, convicted, and incarcerated as adults. Research studies that control for young people's backgrounds, offending histories and other relevant characteristics have found that confinement most often results in higher rates of rearrest and reincarceration compared with probation and other community alternatives to confinement. Data show that large declines in youth incarceration do not result in increases in youth crime.

Research also shows that the initial decision to incarcerate youth in secure detention facilities pending their court adjudication hearings (akin to trials in adult criminal court) substantially increases the odds that they will become further involved in the justice system. Pre-trial detention greatly increases the odds that youth will be placed in residential custody if a court finds them delinquent, and spending time in detention increases the likelihood that youth will be arrested and punished for subsequent offenses. Numerous research studies have found that once youth are incarcerated, longer stays in custody lead to increased recidivism.

**Incarceration impedes young people’s success in education and employment.** A number of studies show that incarceration makes it less likely that young people will graduate high school. The school re-enrollment rates of youth returning home from juvenile facilities are low. Studies find that incarceration in juvenile facilities also reduces college enrollment and completion and lowers employment and earnings in adulthood.

**Incarceration does lasting damage to young people’s health and wellbeing.** Studies find that incarceration during adolescence leads to poorer health in adulthood. This damage exacerbates the serious health problems experienced by many of the youth who enter juvenile detention and corrections facilities. Young people entering youth correctional facilities suffer disproportionately from many physical health challenges (such as dental, vision, or hearing problems, as well as acute illnesses and injuries), and they are far more likely to have mental health problems such as depression, post-traumatic stress disorder (PTSD), and suicidal thoughts. Incarceration in juvenile justice facilities is associated with shorter life expectancy.

**Juvenile facilities are rife with maltreatment and abuse.** Systemic or recurring abuses were documented in the state-funded youth correctional facilities of 29 states and the District of Columbia between 2000 and 2015. Since 2015, the stream of abuse revelations in youth incarceration facilities has continued, with alarming revelations of pervasive abuse in Florida, New Hampshire, and Texas, among other states. Surveys of currently or previously incarcerated youth reveal that many have been abused physically or sexually in their facilities by staff or peers, and that most have witnessed abuses – often repeatedly.

**Racial and ethnic disparities in incarceration are vast and unjust.** Black youth and other youth of color are incarcerated in detention centers (the equivalent of jails in the adult justice system) at far higher rates than their white peers. Many studies have found that these disparities at detention are driven, at least in part, by biased decision-making against youth of color. Youth of color are also incarcerated disproportionately

at the correctional phase of the juvenile court process – after they are adjudicated delinquent (found guilty of an offense). Research finds that the disparities in correctional confinement are due primarily to the cumulative impact of large disparities in early stages of justice system involvement (arrest, formal processing in court, and detention).

## **Why Incarceration Fails**

Part 2 of this report reviews the recent research on adolescent brain development and trauma. This research helps explain why incarceration is the wrong response in the vast majority of delinquency cases.

**Brain immaturity fuels delinquency.** Scientists have confirmed that the brain does not fully mature until age 25, and this lack of brain maturity makes lawbreaking and other risky behaviors more common during adolescence. Research also shows that as their brains develop, the vast majority of youth age out of lawbreaking. Most youth who enter the justice system for delinquency (63%) never return to court on delinquency charges.

**Increased maturity is tied to desistance from delinquency.** New research also makes increasingly clear that young people’s ability to desist from delinquent behavior is tied to their progress in developing “psychosocial maturity,” including the abilities to control impulses, delay gratification, weigh the consequences of their actions, consider other people’s perspectives, and resist peer pressure. Research finds that incarceration slows young people’s psychological maturation – exactly the opposite of what’s needed to foster positive behavior change and promote desistance from delinquency.

**Early childhood trauma often feeds delinquency in adolescence.** Studies find that youth who become involved in the juvenile justice system are several times more likely than other youth to have suffered traumatic experiences. This research finds that exposure to multiple types of trauma can impede children’s healthy brain development, harm their ability to self-regulate, and heighten the risks of delinquent behavior.

**Incarceration can retraumatize youth and make them less likely to succeed.** Often, incarceration is itself a traumatic experience for young people, and it can exacerbate the difficulties experienced by youth who have been exposed to violence and other adverse childhood experiences.

## **Reducing Incarceration Through Alternatives and Policy and Practice Reforms**

Part 3 of this report reviews the research documenting programs and policies that reduce incarceration in ways that lessen delinquent behavior and improve young people's wellbeing.

**Community Alternatives to Confinement Achieve Equal or Better Outcomes at Far Lower Cost.** Our review found several types of community-based alternative programs that are especially promising, with powerful evidence of effectiveness. These include:

- **Youth Advocate Programs (YAP)** offers intensive support and advocacy to 20,000 justice-involved or otherwise at-risk youth and young adults in more than 100 program sites across the country each year.
- **Credible messengers** is an approach where adults with experience in the justice system, typically from the same neighborhoods where many court-involved youth live, mentor young people and help them develop more positive attitudes and values.
- **Intensive multi-pronged family-focused treatment models**, such as Multisystemic Therapy (MST) and Functional Family Therapy (FFT), assign specially trained therapists to work with youth and their families for several months. The programs are designed to improve family functioning, identify and address root causes of delinquent behavior, and support meaningful behavior change.
- **Wraparound programs** hire care coordinators to work with behaviorally troubled youth and their families, devise individual plans to address identified needs, and connect youth to a range of targeted services and opportunities.

- **YouthBuild**, an employment-focused program, engages young people in a combination of high school completion, construction skills training, and personal development activities. It operates in more than 200 program sites across the country.
- **Programs led by grassroots neighborhood, civic, and faith-based organizations** provide counseling, support, skill-building and recreational programs. Although these programs have not been extensively researched, they show promise in steering court-involved youth toward success.

All of these community interventions cost a small fraction of the price associated with confinement in a youth corrections facility.

**Several policy and practice reforms also show substantial promise in reducing youth incarceration while improving youth and public safety outcomes.**

In addition to programs that provide alternatives to incarceration, many policies and practices can reduce overreliance on youth incarceration by ensuring that youth justice systems make good decisions and provide appropriate responses to youth behavior. Promising approaches include:

- **Addressing most youth lawbreaking outside the justice system** by reducing the number of young people arrested for less serious offenses and diverting a far greater share of youth following arrest – addressing alleged misconduct outside of the formal justice system rather than processing their cases in juvenile court.
- **Revamping juvenile probation** to provide individualized supervision focused on long-term success while ending incarceration as a punishment for failing to obey probation rules.
- **Sharply limiting the justice system's use of incarceration** by using fiscal incentives that encourage courts and corrections agencies to keep youth at home, and by prohibiting incarceration as a response to lower-level offenses.

This report describes how a number of states and localities have safely and successfully reduced youth incarceration in recent years using one or more of these strategies.

## **Recommendations**

To help readers put this research to work on reducing incarceration, the report offers nine recommendations for state and local justice systems:

- expand the use of diversion
- invest in alternatives to incarceration
- measure results
- limit the use of pre-trial detention
- prohibit incarceration for low-level offenses
- create financial incentives to limit incarceration
- use objective decision-making guidelines
- limit lengths of stay
- focus explicitly on race in efforts to reduce confinement.

## **Conclusion**

The evidence reviewed in this report leaves no doubt that youth incarceration is a failed strategy for rehabilitating young people and protecting the public. While declines in the number of confined youth are welcome, there remain vast opportunities to further reduce youth incarceration and improve public safety by following the evidence and doing what works.

# INTRODUCTION

**Though the number of youth removed from their homes and confined in residential facilities has declined substantially since peaking 20 years ago, the United States still incarcerates far too many young people as a consequence for delinquent behavior.**

We do so despite overwhelming and ever-increasing evidence that incarceration is most often not an effective strategy for steering young people away from delinquent behavior<sup>†</sup> or promoting their long-term wellbeing and success. Simply put, high rates of youth incarceration do not improve public safety.

The evidence makes plain that incarceration – either detention prior to a young person’s court date or correctional confinement after they are adjudicated delinquent (the juvenile system’s equivalent of an adult conviction) – typically makes further delinquent behavior more likely rather than less. Why? Research shows that confinement<sup>\*\*</sup> harms young people’s physical and mental health, impedes their educational and career success, and often exposes them to abuse. Moreover, the use of confinement is plagued by severe racial and ethnic disparities that are propelled, at least in part, by documented bias against youth of color.

The evidence showing how incarceration harms young people has grown steadily in recent years. Yet not since 2011 has any publication comprehensively reviewed the damage done by correctional confinement, and not since 2006 has any publication reviewed in detail the harms of pre-trial detention. As a result, policymakers, advocates, and journalists examining juvenile confinement policies in recent times have not had access to a single source

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<sup>†</sup> Delinquent behavior is action by a person under 18 for which an adult could be prosecuted in a criminal court, but when committed by a young person, is within the jurisdiction of a juvenile court.

<sup>\*\*</sup> This report uses a variety of terms — “incarceration,” “confinement,” “custody,” “placement” (or out-of-home placement)— more or less interchangeably reflecting the status of youth generally held in locked facilities as part of the youth justice system.

for in-depth, up-to-date information about the costs and negative impacts of youth incarceration.

This publication aims to fill that void by providing a concise summary of the evidence documenting the many problems associated with the youth justice system’s continuing heavy reliance on incarceration.

The report begins by describing recent incarceration trends in the youth justice system. An assessment of these trends shows that the sizable drop in juvenile facility populations over the past two decades is largely due to a substantial decline in youth arrests nationwide, not due to a shift toward new approaches by juvenile courts or corrections agencies once youth enter the justice system. The rate at which this country incarcerates young people remains far higher than is known to be the case for any other nation in the world.

**Part 1** of the report provides a detailed review of the research showing that incarceration does not work: it cites extensive evidence finding that incarcerating youth does not reduce the likelihood that they will break the law again. Rates of recidivism (re-arrests, new convictions or adjudications, or subsequent incarcerations) are high, and research studies consistently show that youth who are incarcerated reoffend at rates equal to or higher than those of youth with comparable backgrounds and offense histories who remain at home. The evidence also shows that incarceration worsens educational and career outcomes and does lasting damage to young people’s health and wellbeing. Finally, abuse and maltreatment are widespread in facilities where youth are incarcerated, and racial and ethnic disparities are pervasive.

**Part 2** examines two key reasons why incarceration fails. First, it describes how the immaturity of adolescents' brains fuels delinquency. The human brain does not fully develop until age 25, and evidence shows that incarceration slows the natural maturation process that enables most youth to grow out of delinquent behaviors. Second, it describes how youth who become involved in the youth justice system are far more likely than other youth to have experienced childhood trauma, which can affect the brain and increase the likelihood of behavioral problems. Incarceration can exacerbate that trauma and reduce young people's likelihood of success.

**Part 3** describes research showing that many alternatives to incarceration result in better outcomes. It also reviews the evidence showing how a variety of justice system policies and practices can reduce reliance on incarceration in ways that enhance public safety. The report then offers recommendations for advocates and justice system leaders on how best to reduce youth incarceration.

This report cites dozens of sources, including many studies, that – after controlling for offending histories and a variety of other background variables – compare the results of incarceration to the alternatives. The report also cites sources documenting the problematic outcomes experienced by incarcerated youth, as well as information about programs and policies that reduce incarceration while improving youth success rates and enhancing public safety.

Taken together, the evidence presented in this report leaves no doubt that substantial opportunities remain for state and local justice systems to further reduce youth incarceration. The need to seize those opportunities is urgent. The time has come for our justice systems to embrace this evidence, reduce the use of incarceration both before and after adjudication, and adopt proven alternatives that are better suited for reducing delinquent behavior and steering young people safely toward success.

## BACKGROUND

### **The U.S. continues to incarcerate young people for delinquent conduct at alarming rates – far higher than anywhere else in the world.**

The one-day count of youth in residential custody has fallen substantially in the last two decades, from 107,500 in 1999<sup>1</sup> to 25,014 in 2020 (the latest year for which data are available).<sup>2</sup>

However, as detailed in The Sentencing Project’s 2022 report, “[Too Many Locked Doors](#),” this one-day census obscures the reality that youth were incarcerated more than 240,000 times in 2019.<sup>3</sup> This includes 186,000 instances when youth were placed in short-term detention facilities,<sup>4</sup> and 55,000 instances when youth were placed in residential facilities after being found delinquent in court.<sup>5</sup>

The recent declines in facility populations have resulted largely from reductions in the number of youth arrested and referred to court, not from any change in how juvenile justice systems nationwide respond to youth who are referred to court for delinquent conduct. Among young people who are referred to court on delinquency charges, the percentage who are placed in pre-adjudicatory detention pending their court dates has actually increased in recent years.<sup>6</sup> Among youth adjudicated delinquent, the share placed in residential facilities declined slightly over the last decade.<sup>7</sup>

### **Most youth who are incarcerated in juvenile facilities are not charged with serious violent offenses.**

The more recent one-day count of youth in custody nationwide showed that fewer than a third of the youth confined for delinquency were accused of or adjudicated for a serious violent offense (murder, sexual assault, armed robbery, or aggravated assault).<sup>8</sup>



### **The U.S. continues to incarcerate youth at many times the rates of other nations.**

A 2020 United Nations report<sup>9</sup> revealed that the United States youth confinement rate is:<sup>10</sup>

- 11 times higher than the rate for Western Europe
- 11 times higher than Asia
- 10 times higher than Eastern Europe
- 7 times higher than Oceania
- 4 times higher than Canada and Mexico
- 3 times higher than South America

**Youth correctional facilities are home to appalling stories of physical abuse, including sexual abuse, of teenagers. Through this paper, we share three recent examples out of dozens upon dozens of these stories. Readers are advised that some of the language used and situations described in these text boxes may be upsetting.**

### **FIGHT CLUBS IN FLORIDA**

The *Miami Herald* conducted an exhaustive investigation in 2017 into violence inside Florida's state-funded juvenile facilities.<sup>11</sup> The series was entitled "Fight Club" – a reference to an allegedly widespread practice in the facilities where staff bribed groups of youth with honey bun pastries to assault other youth.<sup>12</sup> Staff used this tactic – which became known as "honey-bunning" – "to exert control without risking their livelihoods by personally resorting to violence."<sup>13</sup>

The *Herald* revealed a number of other troubling events, including instances where staffers set up fights between youth and bet on them, and where they physically assaulted youth without provocation.<sup>14</sup> In one article, the *Herald* described a video showing a staff member grabbing a skinny 14 year-old in detention and pinning him against the wall, then tossing him to the ground and – while the boy laid passively on the ground – punching him twice in the face, breaking his nose in two places.<sup>15</sup> In addition, the *Herald* documented situations where staff showed a teen pornography and watched him "fondle himself;" raped a transgender youth; raped a child detainee in a closet; and abused one female detainee by using her head as a "toilet plunger." One staffer beat youth so frequently with a broom handle that the practice became known as "a broomie."<sup>16</sup>

The *Herald* also documented a pervasive pattern of lax oversight by the Florida Department of Juvenile Justice, including faulty or missing security cameras, failure to report abuses, cover-ups of abuse incidents, and "legal impunity for abusive staffers."

# PART 1: The Evidence on Incarceration's Counterproductive Outcomes

## **Incarceration does not reduce delinquent conduct.**

Youth released from incarceration suffer very high recidivism.

State recidivism data consistently show that youth who are released from correctional confinement suffer high rates of rearrest, new adjudications/convictions, and reincarceration. For example, a comprehensive state-by-state review of recidivism data from 2011 found that 70% to 80% of youth who left residential correctional programs were rearrested within two or three years of release.<sup>17</sup> And 45% to 72% of those young people were adjudicated (found to be delinquent in juvenile court) for or convicted (in adult court) for new offenses within three years of release.<sup>18</sup>

A review of most recent data measuring recidivism outcomes for youth returning from correctional facilities in 10 states finds little change in recidivism outcomes. Overall, three of the states (Delaware,<sup>19</sup> Texas,<sup>20</sup> and Virginia<sup>21</sup>) have seen recidivism worsen in recent years, two states saw no change (Colorado<sup>22</sup> and Illinois<sup>23</sup>), and five states have seen improvement (Arizona,<sup>24</sup> Florida,<sup>25</sup> Georgia,<sup>26</sup> Louisiana,<sup>27</sup> and Maryland<sup>28</sup>).

Studies that track youth over a period of multiple years have found that an alarming share of young people who are incarcerated in youth corrections facilities later get arrested, convicted, and incarcerated in adulthood. For example, in New York State, 89% of boys and 81% of girls released from state youth correctional facilities in the early 1990s were arrested as adults by age 28. Among the boys, 65% were convicted of felonies, and 71% were incarcerated as adults by age 28.<sup>29</sup> A study in South Carolina found that 82% of boys born in 1967 who were incarcerated as juveniles were later imprisoned or placed on probation as adults.<sup>30</sup>

Most research studies confirm that incarceration increases recidivism.

Research studies that control for young people's backgrounds, offending histories, and other relevant characteristics, find that compared to probation and other community alternatives, incarceration most often results in higher rates of rearrest and reincarceration. A few examples include:

- A long-term study of youths in Seattle, published in 2015, found that those incarcerated during adolescence were nearly four times more likely to be incarcerated in adulthood than comparable peers who were not incarcerated (controlling for delinquent conduct, gang membership, peer delinquency, and other relevant risk factors).<sup>31</sup>
- In Ohio, a 2014 evaluation of community alternatives to incarceration funded through the RECLAIM Ohio program showed that youths who were assessed as having a low or moderate risk for rearrest who remained in the community were one-tenth as likely to be incarcerated for a future offense as comparable youths placed in juvenile correctional facilities. Among youth assessed as high-risk, those served by community programs were one-third as likely to be incarcerated for subsequent offenses. Youths assessed as low or moderate risk of rearrest who remained in the community were less than half as likely as those placed in juvenile facilities to be adjudicated for a subsequent felony.<sup>32</sup>
- A 2009 study of low-income boys in Montréal, Canada, found that boys incarcerated in juvenile correctional facilities were 38 times more likely than those with comparable backgrounds and self-reported adolescent offending histories to have a criminal record by age 25 for offenses committed in adulthood.<sup>33</sup>

- An exhaustive 2015 study in Texas showed that adjudicated youth who were allowed to remain in the community on probation were 30% less likely to be arrested for a subsequent offense than comparable youth sent to state corrections facilities.<sup>34</sup>
- Unlike the research cited above, the Pathways to Desistance study, which tracked nearly 1,000 youth from Philadelphia and Phoenix who were adjudicated for serious offenses, did not find a significant difference in future offending between those who were incarcerated versus those who received community alternatives. However, the study authors emphasized that “the results show no marginal gain from placement in terms of averting future offending” and that incarceration’s failure to provide any rehabilitative benefit “calls into question the need to expend resources on extended institutional care.”<sup>35</sup>
- In West Virginia, a 2012 study found that youth who were detained pending court were three times likelier to be sentenced to a residential facility (46% versus 15%) than comparable youth who remained at home before trial (controlling for offense history and other relevant factors).<sup>38</sup>
- Previous studies in Florida, Iowa, Nebraska, and Ohio also found that confinement in pre-trial detention significantly increased the odds of correctional confinement in a residential facility.<sup>39</sup>

Detention also increases the likelihood that youth will be arrested and punished for subsequent delinquent conduct.

- In Washington State, a 2020 study examined the impact of pretrial detention in 46,000 juvenile cases and found that detention is associated with a 33% increase in felony recidivism.<sup>40</sup>
- In Florida, a 2019 study found that youth who were detained for failing to appear for scheduled court hearings were 50% more likely to be adjudicated for a subsequent offense than peers who were not detained for failing to appear, and they were four times more likely to be adjudicated for a subsequent probation violation.<sup>41</sup>

Spending time in juvenile detention increases the odds that young people will be arrested and incarcerated in adulthood.

- A 2013 study of more than 35,000 youth in the juvenile justice system of Cook County (Chicago), Illinois, found that incarceration in a locked juvenile detention facility resulted in a 22-26% increase in the likelihood of subsequent incarceration in an adult jail or prison.<sup>42</sup>
- A 2022 report in Michigan found that confinement in a juvenile detention center as a youth resulted in a 39% increase in adult arrests for violent offenses and a 40% increase in adult arrests for all felony offenses.<sup>43</sup>

### Large cuts in youth incarceration do not result in increased youth crime.

A 2011 analysis found that the states that made the largest reductions in youth incarceration from 1997 to 2007 saw a greater decline in youth arrest rates than states that made smaller reductions or increased youth confinement.<sup>36</sup>

### The initial decision to confine youth in secure detention pending court substantially increases the odds that youth will become further involved in the justice system.

Detention greatly increases the odds that youth will be placed in residential custody if they are found delinquent in court.

- In Arizona, a 2010 study involving more than 23,000 court-involved youth found that, even after controlling for offense histories and other relevant characteristics, confinement in pretrial detention more than tripled the likelihood that young people would be incarcerated following their adjudication hearings.<sup>37</sup>

## Longer Stays in Confinement Don't Reduce Recidivism Rates – and Often Raise Them

In 2009, an analysis examining youth from Philadelphia and Phoenix who were involved in the Pathways to Desistance study (cited earlier), found essentially no difference in future offending for youth held for 3-6 months vs. 6-9 months, 9-12 months, or more than 12 months. “There is little or no marginal benefit,” the study found, “for retaining an individual in institutional placement longer.”<sup>44</sup>

In Ohio, a 2013 study found that the likelihood of reincarceration for a new crime increased steadily the longer young people remained incarcerated for an initial offense. Whereas 34% of youth who were incarcerated for one month or less were later reincarcerated, that share climbed to 61% for youth for who were incarcerated for 60 months.<sup>45</sup>

In Washington State, a 2020 study found that every additional day spent in detention increased the odds of felony recidivism by one percentage point.<sup>46</sup> Studies in Florida<sup>47</sup> and New York City<sup>48</sup> have also found that longer periods of incarceration lead to higher rates of recidivism.

In a 2014 study, the National Academy of Sciences concluded that that while incarceration is necessary in some cases to protect public safety, “[c]onfinement of juveniles beyond the minimum amount needed to deliver intensive services effectively is not only wasteful economically but also potentially harmful, and it may impede prosocial development.”<sup>49</sup>



### **Incarceration causes substantial long-term harm to young people's success in education and employment.**

#### **Incarceration reduces the likelihood of high school graduation.**

Using data from a nationally representative survey that tracked more than 7,000 youth, a 2008 study found that incarceration before age 17 reduced the likelihood of teens graduating from high school by 26% – a far higher rate than for youth who were arrested and involved in juvenile court but not incarcerated.<sup>50</sup>

Since then, several rigorous studies at the state and local levels have also found that incarceration in detention and correctional facilities reduces high school graduation rates.

- A Michigan study (cited above) found that placement into a juvenile detention facility reduced the likelihood of high school graduation by 31%.<sup>51</sup>
- In a study from Cook County, Illinois (cited previously), detention reduced the likelihood of high school graduation by 13%.<sup>52</sup>
- In Washington State, a 2019 study found that confinement in a juvenile detention facility reduced the likelihood of graduating high school by 28%.<sup>53</sup>
- A 2019 paper that tracked educational outcomes of youth in Philadelphia and Phoenix who were referred to court for serious offenses found that those who were incarcerated and then released into the community were less than half as likely as comparable never-incarcerated peers to graduate high school.<sup>54</sup>

School re-enrollment rates of youth returning home from juvenile facilities are extremely low.

- In Cook County, Illinois, just 38% of youth who spent time in detention returned to a local public school.<sup>55</sup>
- In Florida, a 2014 study found that only 44% of youth released from residential facilities re-enrolled in school within three years.<sup>56</sup>
- Another Florida study from 2010 estimated that 79% of youth released from correctional facilities who were 16 or older and behind academically never returned to school.<sup>57</sup>
- A 2019 study from the U.S. Office of Juvenile Justice estimated that nationwide, only about one-third of youth returning from residential facilities re-enroll in school.<sup>58</sup>

### **Incarceration reduces college enrollment and completion, as well as employment and earnings in adulthood.**

An analysis from the most recent National Longitudinal Survey of Youth found significant and consistent differences in college attendance, with youth who were not incarcerated more likely to enroll in and complete college than comparable youth who were incarcerated.<sup>59</sup> Another study using data from the same survey found that incarceration in juvenile facilities significantly reduced employment rates and wages and participation in the labor force.<sup>60</sup> A study examining an earlier round of the National Longitudinal Youth Survey found that incarceration in a youth corrections facility led to lower wages, fewer weeks worked, and less job experience by age 39, as well as reduced total educational attainment.<sup>61</sup>

### **VIOLENCE AND RACIAL EPITHETS HURLED AT INCARCERATED KENTUCKY YOUTH**

An investigation by the *Lexington Herald-Leader* documented at least 116 incidents from February 2018 to May 2021 where staff of Kentucky’s state-run youth correctional facilities used excessive force against confined youth.<sup>62</sup> Several of the incidents resulted in serious injuries that sent youth to hospital emergency rooms. In addition to these incidents, the newspaper found that facility employees “engaged in inappropriate sexual conduct with youths; used racial slurs and threats of violence; and sometimes failed to provide appropriate supervision, which sometimes led to illegal drugs being smuggled into facilities, youth-on-youth sexual assault and destructive riots requiring police intervention.”<sup>63</sup>

In one incident at the Fayette Regional Juvenile Detention Center in 2020, a member of the facility staff “wrapped his arms around a 17-year-old resident’s neck and dropped him to the floor during a restraint. . . .” “Told you not to try me, n\_ \_ \_ a,’ [the staff member] told the teen, who is Black. . . . ‘You going to prison, n \_ \_ \_ \_ r.’”

The worker was suspended for 12 days as a consequence for his behavior, but he continued working for the state’s Department of Juvenile Justice and received a raise just months later. No one from the agency informed the teen’s family about the incident.<sup>64</sup>

## **Incarceration does lasting damage to young people's physical and mental health.**

Incarceration during adolescence leads to poorer health in adulthood.

A national survey that tracked health outcomes from adolescence into adulthood found that “any length of incarceration was associated with higher odds of having worse adult health.”<sup>65</sup> More specifically, incarceration for 1-12 months increased the likelihood of poor general health in adulthood, and incarceration for more than 12 months increased the likelihood of functional health limitations.<sup>66</sup>

## **Incarceration worsens pre-existing physical and mental health problems.**

The damage caused by incarceration exacerbates the serious health problems experienced by many youth who enter correctional facilities. Research finds that young people who are incarcerated during adolescence often have health problems. A national survey of youth in custody in 2003 found that two-thirds of the young people had one or more physical health care needs, including dental, vision, or hearing issues (37%); an acute illness (28%); or injury (25%).<sup>67</sup>

Those confined during adolescence also frequently suffer with long-term mental health problems. In the National Longitudinal Survey of Youth cited earlier, young people who were incarcerated for less than one month had higher rates of depression in adulthood than comparable peers who were not incarcerated. Young people who were incarcerated for one year or more were over four times more likely to experience depression and twice as likely to have suicidal thoughts in adulthood than comparable peers who were not incarcerated.<sup>68</sup>

## **Incarceration is also associated with shorter life expectancy.**

In Cook County (Chicago), Illinois, a 2005 study found that youth who were incarcerated in detention were 4.4 times as likely as youth in the general population to die between the ages of 15 and 24.<sup>69</sup> In Marion County

(Indianapolis), Indiana, a 2016 study found that youth involved in the justice system had a 48% higher chance of dying prematurely than the general youth population.<sup>70</sup> Among youth involved in the justice system, those who were incarcerated in detention centers (the equivalent of jails in the adult justice system) or correctional facilities were 1.7 times and 2.5 times more likely to die prematurely, respectively, than youth who were arrested but never confined.<sup>71</sup>

## **The facilities in which juvenile courts incarcerate youth are rife with maltreatment and abuse.**

Abuse is common in juvenile corrections facilities nationwide.

A comprehensive national review in 2015 revealed that systemic or recurring maltreatment or abuse had been clearly documented in the state-funded youth correctional facilities of 29 states and the District of Columbia since 2000, and in 43 states and the District of Columbia and Puerto Rico since 1970.<sup>72</sup> From 1970 through 2011, 52 lawsuits over conditions of confinement in state-funded youth corrections facilities resulted in court-sanctioned remedies to address systemic problems with violence, physical or sexual abuse by facility staff, or excessive use of isolation and restraints.<sup>73</sup>

Since 2015, the stream of abuse revelations in youth incarceration facilities has continued. Among the multitude of pervasive abuse instances are:

- Wisconsin – In December 2015, law enforcement agents raided the Lincoln Hills School for Boys and Copper Lake School for Girls after investigations revealed rampant problems of abuse, neglect, sexual assaults, and excessive use of force.<sup>74</sup>
- Florida – In October 2017, the Miami Herald revealed that staff in state-funded youth facilities had been organizing “fight clubs” in which some incarcerated youth were rewarded for attacking other residents. The investigation was triggered when a 17-year-old boy was beaten to death by at least a dozen teens who were allegedly offered pastries by facility staff as a reward for attacking

him. The boy was the twelfth juvenile facility detainee in Florida to die under questionable circumstances since 2000.<sup>75</sup> (For more on abusive conditions in Florida facilities, See Textbox about “Fight Clubs in Florida” on p.??.)

- Texas – In October 2021, the U.S. Department of Justice opened an investigation into conditions within five state-run youth corrections facilities after two children’s rights organizations documented pervasive violence and chaos. The problems included an epidemic of physical and sexual abuse, as well as excessive use of isolation and chemical restraints such as pepper spray. High staff turnover and severe understaffing contributed to these problems.<sup>76</sup>
- South Carolina – In April 2022, the U.S. Department of Justice released the results of an investigation into conditions at the Broad River Road Complex. After reviewing hundreds of incident reports, the investigation found that facility staff “often used force on young people who were not engaging in physical violence or even threatening violence,” and “in many cases the use of force appeared to be a staff response to previous youth misconduct that had already ceased.”<sup>77</sup>

### Surveys of incarcerated youth have revealed widespread maltreatment and abuse.

The most recent national survey of youth incarcerated in juvenile facilities, authorized under the federal Prison Rape Elimination Act, questioned 6,000 incarcerated youth in 2018 and found that 7% reported being victimized sexually in the prior year, most of whom reported sexual victimization that involved force or coercion by facility staff or other youth.<sup>78</sup>

Earlier surveys also documented widespread abuse. A national survey of incarcerated youth conducted in 2008-09 found that among youth who reported being victimized, more than 80% were victimized more than once. One-third of youth who were victimized by staff and 43% of youth who were victimized by other youth were attacked by more than one perpetrator.<sup>79</sup>

In a nationwide survey in 2003, 42% of youth who were incarcerated in correctional facilities said they felt afraid of being attacked by another resident, staff, or both.<sup>80</sup> In addition, 45% said that staff “use force when they really don’t need to,” and 30% said that staff placed youth in solitary confinement as a form of discipline.<sup>81</sup>

A 2014 study of youth in southern California who had recently been released from juvenile facilities found that 77% reported suffering one or more types of physical, sexual, or verbal abuse. The study also found that abuse during incarceration led to greater social and emotional problems following release, including posttraumatic stress reactions, depression symptoms, and continued criminal behavior.<sup>82</sup>

### **The abuses and harms of incarceration are inflicted disproportionately on Black youth and other youth of color.**

Black youth and other youth of color are incarcerated in detention centers at far higher rates than their white peers.

The most recent one-day count of youth in detention (from 2019) found that Black youth were detained at six times the rate of white youth nationwide, while Latinx youth were detained at nearly twice the rate as white youth, and Tribal youth were detained at four times the rate of their white peers.<sup>83</sup>

Youth of color who are referred to court on delinquency charges are far more likely than white youth to be placed in detention. In 2019, Black and Latinx youth were 45% and 55% more likely to be detained, respectively, than non-Hispanic white youth, while Tribal and Asian/Pacific Islander youth were about 25% more likely to be detained.<sup>84</sup>

### Many studies find that disparities at detention are driven at least partly by decision-making that is biased against youth of color.

A 2018 review of disparities research in youth justice found that 22 of 27 analyses (81%) that compared

detention decisions regarding Black versus white youth found clear evidence of bias, as did 14 of 16 analyses (88%) that compared detention decisions regarding Latinx versus white youth.<sup>85</sup>

For example, in a 2010 Arizona study (cited earlier), Black, Latinx, and Tribal youth were 49%, 24%, and 93% more likely to be detained than white youth, respectively, even after controlling for offending histories and other relevant factors.<sup>86</sup> A 2018 study that examined court outcomes for more than 50,000 youth in seven Ohio counties found that, non-white youth were “more likely to be detained prior to an adjudication hearing relative to similarly situated [w]hite youth” (after controlling for offense and other relevant factors).<sup>87</sup>

**Racial and ethnic disparities in incarceration are due primarily to the cumulative impact of substantial disparities that are found in early stages of the justice system.**

Youth of color are also confined disproportionately at the correctional phase of the juvenile court process, after they have been adjudicated delinquent (the juvenile system’s conviction). The most recent Census of Juveniles in Residential Placement (2019) found that the post-adjudication placement rate for Black youth was 3.6 times the rate for non-Hispanic white youth. For Tribal youth, the correctional confinement rate was three times that of white youth. (There were scant disparities for Latinx youth.)<sup>88</sup> Even among the narrower populations of youth who are referred to delinquency court and adjudicated delinquent, Black and Latinx youth were about 40% more likely than white youth to be removed from their homes and placed in facilities in 2019.<sup>89</sup>

Some studies examining court decisions on whether to incarcerate youth after they are found delinquent show that youth of color are significantly more likely to be incarcerated than non-Hispanic white youth with similar characteristics and offending histories. A 2018 review of disparities research found that about half of the analyses that compared secure confinement decisions regarding Black versus white youth and 38% of the analyses that compared secure confinement decisions

regarding Hispanic versus white youth documented a clear statistically significant bias. (In many of the other analyses, the results were inconclusive.)<sup>90</sup>

Studies find that significant biases against youth of color are most common in decisions regarding arrest, diversion versus formal processing, and especially detention. These disparities in the early stages cause a snowball effect that leads to substantial cumulative disadvantages for youth of color in later decisions around incarceration in correctional facilities.

- A comprehensive review of racial disparities research in 2011 found that “minority youths are more likely than whites to be stopped, arrested, and referred to court by police;” “minority youths are less likely than whites to be diverted from the system;” and “[detention is] the point at which race effects unexplained by offense-related variables are most often found.”<sup>91</sup>
- The authors of a 2018 study in seven Ohio counties (cited earlier) noted that “the often-observed racial disparity in pre-adjudication detention... play[s] a vital role in future decision-making via a cumulative, or “snowball,” effect.... In other words, decisions made at earlier stages can affect—and lead to greater racial overrepresentation in—decisions made at later stages.”<sup>92</sup>

## MORE THAN 500 FACILITY ABUSE VICTIMS IN NEW HAMPSHIRE

More than 500 former residents of New Hampshire’s Sununu Youth Services Center, a 150-year-old juvenile corrections facility, have come forward alleging physical or sexual abuse at the hands of facility staff over the past six decades.<sup>93</sup> More than 150 staff members have been implicated in the abuse, the *Boston Globe* reported in April 2022.<sup>94</sup> The state’s attorney general launched a criminal investigation in 2019, and 11 former workers were arrested and formally charged with abuse in April 2021.<sup>95</sup>

In its exhaustive investigation of the abuses, the *Boston Globe* interviewed several youth who had been raped repeatedly by facility staff. One woman described being driven to the woods as a young teen and being raped repeatedly by a staff member in the back seat of his car. When she got pregnant, she was taken to a clinic and given two pills to terminate the pregnancy, but no one from the facility ever asked how she became pregnant. Several men interviewed for the story also described being raped repeatedly during their time at the facility. The *Globe* quoted one former victim recalling that the sexual abuse in the facility was so prevalent, “you just hoped it wasn’t your turn that night.”<sup>96</sup>



## **PART 2: UNDERSTANDING WHY INCARCERATION FAILS: LESSONS FROM RESEARCH ON ADOLESCENT DEVELOPMENT AND CHILDHOOD TRAUMA**

Recent research provides a wealth of information about the causes of delinquent conduct, and this new evidence helps explain why incarceration is the wrong response in the vast majority of delinquency cases.

### **Adolescent Brain Development .**

#### **Brain immaturity fuels delinquent behavior.**

We now know that the human brain does not fully mature until age 25.<sup>97</sup> Recent advances in brain science have confirmed that the sections of the brain dedicated to impulse control, weighing consequences, and regulating emotions are still developing during adolescence,<sup>98</sup> while the part of the brain focused on sensation-seeking and risk taking is unusually active.<sup>99</sup> In addition, youth are swayed by peer influences far more easily than adults.<sup>100</sup>

This lack of brain maturity makes lawbreaking and other risky behaviors more common during adolescence. Rates of self-reported offending and of arrests have historically risen during adolescence and peaked in the late teen years.<sup>101</sup>

We also know that, as their brains mature, the vast majority of youth age out of lawbreaking. Most youth (63%) who enter the justice system for delinquency never return to court on delinquency charges.<sup>102</sup> Meanwhile, studies consistently find that offending rates steadily decline during adulthood<sup>103</sup> – even for those who get arrested for serious lawbreaking in adolescence. Indeed, a rigorous study of youth who were adjudicated for serious offenses found that only 9% continued to commit serious offenses throughout the three-year study period.<sup>104</sup>

#### **Desistance from delinquency is tied to greater maturity.**

New research also makes increasingly clear that young people’s ability to desist from delinquency is tied to their progress in developing “psychosocial maturity,” including the abilities to control impulses, delay gratification, weigh the consequences of their actions, consider others’ perspectives, and resist peer pressure.<sup>105</sup> Youth who persist in delinquency and get arrested repeatedly as adults have far lower levels of psychosocial maturity than their peers who desist from delinquency.<sup>106</sup>

Thus, the key challenge for the youth justice system is to help young people who become involved in the system to accelerate their maturation and prepare for productive roles in adult society.

#### **Incarceration slows maturation, creating a roadblock to outgrowing delinquency.**

Unfortunately, incarcerating adolescents impedes their ability to mature psychologically – exactly the opposite of what’s needed to foster positive behavior change and promote desistance from delinquency. Studies find that youth who are incarcerated in correctional facilities develop psychosocial maturity at far slower rates than comparable peers who remain at home in the community.<sup>107</sup> In other words, the purported solution (incarceration) does not address the underlying cause of the conduct (immaturity). Rather, confinement hinders the process of desisting from delinquency by disrupting young people’s opportunities to learn, grow, and participate in essential rites of passage associated with adolescent development – everything from dating to employment to driver’s education.

## Trauma.

In many cases, childhood trauma fuels delinquency in adolescence.

Studies find that youth who become involved in the juvenile justice system are several times more likely than other youth to have suffered trauma – or adverse childhood experiences<sup>108</sup> – while growing up. For instance, an exhaustive 2014 study in Florida found that justice-involved youth were four times as likely to have experienced four of 10 types of trauma than the general population (50% versus 13%) and just one-thirteenth as likely to have no adverse childhood experiences (less than 3% versus 36%).<sup>109</sup> Up to one-third of incarcerated youth suffer from PTSD (post-traumatic stress disorder).<sup>110</sup>

Research also finds that children who experience multiple types of traumatic experiences in early childhood often suffer from “toxic stress”<sup>111</sup> that can impede healthy brain development, harm the ability to self-regulate, and heighten the risks for delinquency. As one study explained, “Traumatized adolescents typically do not lack a sense of self or values, but are often too anxious, angry, or confused to rely upon these psychological resources while struggling with a sense of being in constant danger.”<sup>112</sup>

Incarceration can exacerbate trauma and reduce young people’s likelihood of success.

Studies consistently find that incarceration is itself a traumatic experience for young people, and it can exacerbate the difficulties experienced by youth who have previous exposure to violence and other adverse childhood experiences.

Surveys of confined youth consistently find high levels of violence and abuse. For instance, among youth participants in the Pathways to Desistance study (cited earlier) who had been placed in residential facilities, 75% reported witnessing violent encounters between other youth in their facilities, 17% reported being victimized by other residents, nearly two-thirds witnessed violence between staff and residents, almost 10% reported being victimized by staff, and 5% reported being beaten by staff.<sup>113</sup>

As a 2016 article in the *Juvenile & Family Court Journal* explained, “The trauma produced by incarceration may actually increase poor behavior, as youth struggle to cope with the emotional impact of confinement and to manage their subsequent externalizing behaviors.” As a result, the paper concluded, “Higher rates of incarceration may actually create more crime.”<sup>114</sup>

## PART 3: The Evidence on Reducing Incarceration Through Alternatives and Policy and Practice Reforms

### **Community Alternatives to Confinement Achieve Equal or Better Outcomes at Far Lower Cost.**

Several types of community-based alternative programs are especially promising, with powerful evidence of effectiveness.

**Youth Advocate Programs (YAP)**, a Pennsylvania-based youth-serving organization, offers intensive support and advocacy to 20,000 justice-involved or otherwise at-risk youth and young adults each year in more than 100 program sites across the country. Studies of the program have found that participating in YAP reduces involvement in the justice system, improves young people's well-being, and costs less than incarceration.<sup>115</sup> The agency reports that only 3% of participants are adjudicated or convicted of a new offense while in the program, whereas 86% live safely in the community (not in a facility) when exiting the program, and 83% attend school regularly.<sup>116</sup>

**Credible Messengers** is an approach where adults who have been involved in the criminal legal system, typically from the same neighborhoods where many court-involved youth live, mentor young people and help them adopt more positive attitudes and values. A 2018 evaluation found that just 26% of 13-18 year-old New York City youth on probation who worked with credible messenger mentors as part of the Advocate, Intervene, Mentor (AIM) alternative-to-incarceration program were arrested on new charges in the year after enrolling, and just 10% were arrested on felony charges. These rates are far lower than the rates typical for youth who were placed in residential programs historically (49 percent total arrest rate, and 27 percent for felony arrests).<sup>117</sup> New York City's ARCHES program, which offers credible messenger mentors for youth on probation aged 16-24, reduced reconviction rates by more than 50% in the two

years after program enrollment compared to a control group, a recent evaluation found. Program results were the most positive for participants under age 18.<sup>118</sup>

**Intensive multi-pronged family-focused treatment models** include Multisystemic Therapy (MST) and Functional Family Therapy (FFT). These programs assign specially trained therapists to intensively engage youth and their families over several months to improve family functioning, identify and address root causes of delinquent behavior, and support meaningful behavior change. These interventions have substantially outperformed traditional probation programming and facility placements, as shown in a long series of studies dating back to the 1980s.<sup>119</sup>

For many years, Florida funded a program that offered these modes of therapy to some adjudicated teens in lieu of incarceration through its Redirection Program. An evaluation by the state legislature's policy analysis office found that the program reduced recidivism by 31% for high-risk youth and saved taxpayers more than \$50 million in its first five years.<sup>120</sup>

**Wraparound programs** hire care coordinators to work with behaviorally troubled youth and their families to devise individual plans and connect youth to a range of services and opportunities targeted to their needs and personal goals. These programs have proven effective in reducing delinquency and other negative outcomes. Every year, the Wraparound Milwaukee program serves over 1,000 youth with serious emotional disturbances, including more than 400 who have been adjudicated delinquent.<sup>121</sup> The program, which Harvard University recognized with a prestigious Innovations in American Government award,<sup>122</sup> significantly improves mental health symptoms, increases school attendance, and reduces recidivism by more than half compared with other youth in the justice system.<sup>123</sup> The program also

saves taxpayers millions of dollars by reducing the amount spent on incarceration and other out-of-home placements.<sup>124</sup>

**YouthBuild**, an employment-focused program, engages young people in a combination of high school completion, construction skills training, and personal development activities. It operates in more than 200 sites across the country. Studies have found that YouthBuild programs that specifically focus on justice-involved youth reduce recidivism and increase young people's educational progress.<sup>125</sup> A 2015 cost benefit study found that the YouthBuild program that serves justice-involved youth yields \$7.20 to \$21.60 in benefits to society for every dollar spent in program services because it reduces participants' justice system and drug treatment costs, and it increases their lifetime income and tax payments.<sup>126</sup>

**Programs led by grassroots neighborhood, civic, and faith-based organizations** that provide counseling, support, skill-building, and recreational opportunities show great promise in steering court-involved young people away from delinquency and toward success, although they currently lack peer-reviewed research documenting their effectiveness. These organizations include the Youth Empowerment Project in New Orleans;<sup>127</sup> Exalt in Brooklyn;<sup>128</sup> reVision in Harris County, Texas (Houston);<sup>129</sup> Hopeworks in Camden, New Jersey,<sup>130</sup> and La Plazita Institute in Albuquerque.<sup>131</sup> All of these programs engage large numbers of court-involved youth in positive youth development activities, connect them with caring adults, support their families, and address any needs or problems that might be interfering with their success and wellbeing.

These kinds of community interventions all cost a small fraction of the price of incarceration in a youth corrections facility. None of the approaches described above costs more than \$25,000 per youth, and some cost far less,<sup>132</sup> whereas one year of correctional confinement has been estimated to cost an average of \$214,000.<sup>133</sup>

## **Several policy and practice reforms also show substantial promise in reducing incarceration while improving youth and public safety outcomes.**

While alternatives to incarceration programs are essential, they represent only one part of the answer to reducing overreliance on youth incarceration. Just as important are policies and practices designed to ensure that youth justice systems make good decisions and provide appropriate responses to youth behavior. Specifically, the evidence shows that right-sizing the use of incarceration for youth requires states and local justice systems to take the actions discussed here.

### **Address most youth lawbreaking outside the justice system.**

- Reducing the number of young people arrested for less serious offenses at school and in the community. Extensive research shows that arrests in adolescence significantly reduce educational attainment and increase future involvement in the justice system.<sup>134</sup>
- Diverting a far greater share of youth following arrest rather than processing their cases in juvenile court. As The Sentencing Project documented in its recent report, *Diversion: A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice*, youth referred to juvenile court whose cases get diverted (handled informally) achieve far better outcomes than those whose cases are formally processed in court.<sup>135</sup>

### **Offer effective and developmentally appropriate support and supervision to court-involved youth in the community.**

- Revamp juvenile probation to individualize case plans and promote long-term success, rather than focusing on short-term compliance with a long list of standard rules and conditions. Research finds that the traditional surveillance-compliance model of probation is ill-suited to adolescents and ineffective in reducing youth reoffending rates.<sup>136</sup>

- End confinement of youth as a punishment for failing to obey probation rules. The most recent census of youth in residential custody found that one of every seven confined youth (14%) in the United States is being held for a technical violation.<sup>137</sup> In a 2020 research brief, The Annie E. Casey Foundation found that confining youth for rule violations conflicts with adolescent development research, exacerbates racial and ethnic disparities, and does not enhance public safety.<sup>138</sup>

### Sharply limit the justice system’s use of confinement for youth.

- Reform detention practices. The Juvenile Detention Alternatives Initiative, which was initially launched in a handful of sites as a pilot project in the early 1990s, has proven highly effective in helping participating jurisdictions reduce detention facility populations. The model, which includes eight core strategies, was ultimately adopted by more than 300 counties that are home to nearly one-third of the nation’s young people.<sup>139</sup> Participating jurisdictions reduced detention populations by an average of more than 40% from pre-participation baselines, and they also saw a more than 50% reduction in commitments to state custody.<sup>140</sup> A 2012 evaluation study found that counties involved in the program reduced their detention populations by over five times as much as non-participating counties in their states, with no negative impact on public safety.<sup>141</sup>
- Employ fiscal incentives that encourage courts and corrections agencies to work with youth at home in the community, rather than in youth prisons or other residential facilities. In a 2014 report, the National Council on Crime and Delinquency (now Evident Change) described the use of incentives as a “good news story” in recent efforts to reduce youth incarceration, noting that incentives had proven effective in at least nine states.<sup>142</sup>
- Prohibit incarceration as a response to lower-level offenses. In a 2013 report, the National Juvenile Justice Network and Texas Public Policy

Foundation identified disallowing incarceration as one of the key strategies employed by several of the nine “comeback states” that had made the most progress since 2001 in reducing overreliance on youth incarceration.<sup>143</sup>

### Examples of Progress.

By combining these kinds of process reforms with expanded community programs, several states and localities have dramatically reduced the numbers of incarcerated youth with no harm to public safety.

- Ohio: By providing millions of dollars in funding for community programming each year to counties that reduce their commitments to state youth correctional facilities, plus funding for research-informed and home-based alternatives to confinement, Ohio has been able to close eight of its 11 youth prisons since 1993, reducing the number of youth in state custody from 3,000 to 1,000.<sup>144</sup> In addition, Ohio has launched an ambitious effort to revamp county probation programs to focus on personal development and long-term success rather than short-term rule compliance.<sup>145</sup>
- Connecticut: Connecticut closed the last of its youth prisons in 2018 thanks to a comprehensive series of reforms implemented over the prior decade and the allocation of tens of millions of dollars in state spending each year on community programs for court-involved youth.<sup>146</sup> The state was able to shutter its youth prisons despite raising the age of juvenile court jurisdiction from 15 to 17.<sup>147</sup> In addition, Connecticut reduced admissions of youth to adult prisons from nearly 1,500 per year in the 2007-08 fiscal year to 105 a decade later.<sup>148</sup>
- California and Texas: Both states enacted rules prohibiting commitments to state youth correctional facilities for misdemeanor offenses, and both saw a dramatic decline in state facility populations. In Texas, the population in state youth correctional facilities fell from nearly 5,000 in 2006<sup>149</sup> to less than 700 in April 2022.<sup>150</sup> In California, state facility populations declined from

nearly 10,000 in the mid-1990s<sup>151</sup> to 700 in 2021,<sup>152</sup> when the state approved a complete shutdown of its state youth correctional facilities.<sup>153</sup>

- District of Columbia: In 2005, Washington, DC, closed the Oak Hill Youth Center, a long-troubled and overcrowded 200-bed youth prison that was plagued by violence and abuse.<sup>154</sup> The District replaced it with a 60-bed facility that offers model education and youth development programming<sup>155</sup> and an array of new community programs. More recently, the District's Department of Youth Rehabilitation Services has further ramped up its community programs while embracing the Credible Messengers model described above. In 2020, the population in the District's juvenile correction facility averaged just 32 youth per day.<sup>156</sup>
- Georgia, Hawaii, Kansas, Kentucky, South Dakota, Utah, and West Virginia: Since 2012, each of these states has worked with the Pew Charitable Trusts to enact comprehensive juvenile justice reform laws designed to reduce overreliance on juvenile incarceration.<sup>157</sup> While details of the laws vary from state to state, most have prioritized reducing or prohibiting confinement for misdemeanor

offenses, increasing funds for evidence-based treatment and other community alternatives to incarceration, and limiting confinement for probation violations.<sup>158</sup> Since enacting the reforms, all of these states have seen sharp reductions in youth incarceration.<sup>159</sup>

- Los Angeles County. In November 2020, the LA County Board of Supervisors unanimously approved a groundbreaking plan to shift responsibility for juvenile probation programming, as well as the county's youth corrections and detention facilities, away from the county probation department and into a new Department of Youth Development.<sup>160</sup> Based on a plan developed by a community-led Youth Justice Work Group, the county's new youth justice system will prioritize diversion from the justice system and favor community-centered youth development services rather than correctional custody and surveillance-oriented probation supervision. It will also focus heavily on racial and ethnic equity.<sup>161</sup> Though results of this new approach are not yet available, LA County's bold plan aligns closely with research and offers a promising model for reform in other jurisdictions.<sup>162</sup>



## RECOMMENDATIONS

Based on the evidence, states and local youth justice systems should take immediate action to reduce their reliance on incarceration. Specifically, they will find greatest success if they follow the following recommendations.

**1. Expand the use of diversion.** Diversion from formal court processing lowers re-arrest rates and improves youth success and wellbeing. Yet diversion, where young people's alleged offenses are addressed outside the formal court system, is used far too seldom, especially for youth of color. Expanding the use of diversion will help youth avoid lengthy offense histories and thereby reduce the likelihood of subsequent incarceration.

**2. Invest in alternatives to incarceration.** States and local governments should invest in evidence-based and other promising alternatives to incarceration. These alternatives should include programs to supervise youth at home in the pre-trial period as well as home-based dispositions (akin to sentences in the adult justice system) for youth who have been adjudicated delinquent in court and might otherwise be placed in residential custody.

**3. Measure results.** Youth justice systems should track and report the results of alternatives to incarceration in terms of public safety (re-arrest, new adjudications or convictions, and subsequent incarceration) and youth success (education and well-being). System staff should examine these results to ascertain any differences by race, ethnicity, and gender, and they should compare the results of alternative programs to those of residential facilities, adjusting for young people's offending histories and their risk-to-reoffend as measured by objective and validated risk instruments.

**4. Limit the use of pre-trial detention.** Reducing detention benefits youth in the short term by allowing them to remain at home and in school, and it substantially lowers the odds of residential placement following adjudication. Therefore, if they have not

already, state and local justice systems should adopt the core strategies of the Juvenile Detention Alternatives Initiative to reduce the number of young people confined in juvenile detention facilities. These strategies include detention screening instruments to ensure rational and objective criteria are used to make detention decisions, expanded alternatives to detention programming, and expedited case processing.

**5. Prohibit incarceration for low-level offenses.** States should enact rules prohibiting – or at least creating a strong presumption against – incarceration in cases where youth are adjudicated delinquent for less serious offenses, including all status offenses (like running away from home, underage drinking, or curfew violations that would not be crimes if committed by adults), probation rule violations, and misdemeanors, as well as many non-violent felonies.

**6. Create financial incentives to discourage overuse of incarceration.** Too often, states foster overreliance on incarceration by paying the full cost of state correctional confinement while offering little or no support for local alternatives to residential custody. As Ohio and other states have shown, states can reduce the use of incarceration by employing funding formulas that encourage the use of community- and home-based alternatives.

**7. Use objective decision-making guidelines to limit the use of confinement.** State and local justice systems should develop and follow response grids that guide decisions and limit confinement in response to probation rule violations, as well as dispositional guidelines that recommend residential custody only for youth adjudicated for serious offenses who pose a high risk for re-arrest according to objective risk assessment instruments.

**8. Limit lengths of stay.** The preponderance of research shows that lengthy stays in correctional custody do not improve recidivism results. Yet long stays carry an

enormous financial cost for taxpayers, and they disrupt young people's opportunities to experience important rites of passage on the path to healthy and productive adulthood.

**9. Focus explicitly on racial equity.** Long experience shows that efforts to reduce confinement often exacerbate disparities; reforms benefit Black youths and other youths of color less frequently than their white peers. However, a recent 12-site initiative led by The Annie E. Casey Foundation showed that by placing a clear and determined focus on race and ethnicity, justice systems can substantially lower the number of youths placed in residential custody, and can do so in a way that benefits youth of color at least as much as white youth. "Our systems cannot sit back and expect that so-called race-neutral reforms will erase the troubling inequity that has become the signature characteristic — the shame — of our nation's juvenile justice systems," concluded one of the project's architects. "To make a significant dent in racial and ethnic disparities, we need to employ strategies that focus explicitly on race."<sup>163</sup>

# CONCLUSION

The evidence leaves no doubt: incarceration is a failed strategy for rehabilitating youth and protecting the public. The continued heavy use of incarceration ignores the lessons of emerging adolescent development research. It also damages young people's health and harms their future progress in education and employment, and it does all this at enormous expense while offering no benefit for young people or their communities. Many programmatic and policy alternatives are available that cost less and achieve much more both in terms of reducing delinquent conduct and boosting youth success.

While declines in the number of incarcerated youth over the past 20 years are welcome, they are nowhere near sufficient. Indeed, the drop in facility populations to date is primarily the product of fewer youth entering the justice system. There remain vast opportunities to further reduce youth incarceration by following the evidence and doing what works.

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Explanatory Note: The original text of this report miscategorized Colorado as a state where recidivism results have worsened in recent years. However, the two-year rate was roughly equal to 2011, and the 3-year rate was worse than in 2011. Therefore, Colorado has been recharacterized as a state where recidivism has seen no consistent change.



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The Sentencing Project  
1705 DeSales Street NW  
8th Floor  
Washington, D.C. 20036  
(202) 628-0871

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