

# **A TALE OF TWO JURISDICTIONS: Youth Crime and Detention Rates in Maryland & the District of Columbia**

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## **A TALE OF TWO JURISDICTIONS: Youth Crime and Detention Rates in Maryland & the District of Columbia<sup>1</sup>**

The *Building Blocks for Youth* initiative has five major components:

(1) Research on the disparate impact of the justice system on minority youth, on the effects of new adult-court transfer legislation in the states, and on the privatization of juvenile justice facilities by for-profit corporations;

(2) Analyses of decisionmaking at critical points in the justice system, including arrest, detention, adjudication, and disposition;

(3) Direct advocacy on behalf of youth in the justice system, particularly on issues that disproportionately affect youth of color such as conditions of confinement in jails, prisons, and juvenile facilities; access to counsel and adequacy of representation in juvenile court; and "zero tolerance" and other issues relating to school suspensions and expulsions;

(4) Constituency-building among African-American, Latino, and Native-American and other minority organizations, as well as organizations in the medical, mental health, legal, law enforcement, child welfare, civil rights, human rights, religious, victim's rights, and domestic violence areas, at the national, state, and local levels;

(5) Development of communications strategies to provide timely, accurate, and relevant information to these constituencies, public officials, policymakers, the media, and the public.

The partners in the initiative are the Youth Law Center, American Bar Association Juvenile Justice Center, Center on Juvenile and Criminal Justice, Juvenile Law Center, Minorities in Law Enforcement, National Council on Crime and Delinquency and Pretrial Services Resource Center.

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Points of view or opinions in this document are those of the authors and do not necessarily represent the official position or policies of the supporting foundations.

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## I. Introduction

Several hundred thousand youth churn through our nation's detention facilities each year – youth who have been arrested, but not convicted, of any charges. The use of detention has increased substantially over the past decade, as detention populations grew by 38 percent between 1987 and 1996.<sup>2</sup> Overcrowding in juvenile detention facilities is common. Over 70 percent of the detention facilities in America are over their capacity.<sup>3</sup> Additionally, youth of color are significantly overrepresented in detention. According to a 1999 report from the Office of Juvenile Justice and Delinquency Prevention, in 1996, African American youth were nearly twice as likely to be detained as white youth, even when controlling for offense behavior.<sup>4</sup>

Swimming against the tide of increasing detention populations, the Annie E. Casey Foundation launched its Juvenile Detention Alternatives Initiative (JDAI) in 1993. The goals of the JDAI were “to reduce the number of children unnecessarily or inappropriately detained; to minimize the number of youth who fail to appear in court or reoffend pending adjudication; to redirect public funds toward successful reform strategies; and to improve conditions of confinement.”<sup>5</sup> With Casey support and through a combination of approaches including expediting case processing, developing alternatives to detention and creating objective detention screening instruments, officials in Multnomah County (Portland), Oregon and Cook County (Chicago), Illinois were able to substantially reduce the number of youth who they detained without jeopardizing public safety. For

example, from 1993 to 2000, the number of youth detained on an average day in Cook County declined by 30 percent. Similarly, between 1994 and 2000, the number of youth referred to detention in Multnomah County declined by more than half.<sup>6</sup> From 1993 to 1999 (the latest year available), violent youth arrests in Cook County fell by 54 percent.<sup>7</sup> From 1994 to 2000, overall felony arrests for youth in Multnomah County declined by 45 percent.<sup>8</sup>

With the growing use of detention nationally as a “first line” response to allegations of juvenile delinquency and the growing number of minority youth who are being detained, it is reasonable to ask about the effectiveness of increasing the use of detention as a crime control policy versus other policy alternatives.

*Building Blocks for Youth*, a national initiative to promote a fair and effective youth justice system, commissioned this report to determine whether it is possible to reduce the number of youth in secure detention and place young people who have gotten in trouble with the law in community programs, without incurring an increase in juvenile crime. Our analysis concentrated on two neighboring jurisdictions – Washington, D.C. and Maryland – which have struggled to manage their juvenile detention populations during the 1990's. *Building Blocks* also focused on these jurisdictions because of their high rates of disproportionate minority confinement. For example, while African Americans make up 32 percent of Maryland's youth, African Americans are 64 percent of detained youth<sup>9</sup> and 72 percent of youth who are committed to state facilities after adjudication.<sup>10</sup> In D.C., the problem is

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even worse. On most days, every young person at the Oak Hill Youth Center, the District’s juvenile detention and commitment facility, is a youth of color.<sup>11</sup>

The District of Columbia and Maryland provide an interesting basis for comparison because the two jurisdictions employ similar statutes regarding delinquency jurisdiction, and similar processes for waiving a juvenile to the adult system.<sup>12</sup> Both jurisdictions also operate detention systems that confine minority youth in numbers that are greatly disproportionate to their representation in the general population. However, during the 1990’s, these two jurisdictions took dramatically different approaches to juvenile detention. While the state of Maryland was increasing its use of detention, detention rates in the District of Columbia declined substantially. Furthermore, the District’s two facility closures were caused largely, if not completely, by exogenous factors (a lawsuit and an act of Congress), thereby allowing us to consider a sharp decline in the use of detention that cannot be said to be the *result* of a decline in crime rates. After a decade of heading in two decidedly different directions, it is worthwhile to examine the difference in outcomes. Specifically, this report will seek to determine if the District of Columbia’s substantial decline in the use of detention came at the expense of public safety or, conversely, if Maryland’s increased use of detention was associated with improved public safety.

## II. Methodology

### A. Detention Data

To carry out our analysis, we compared the available data on juvenile arrest rates and detention rates in Washington, D.C. and the state of Maryland. Concurrently, we interviewed various experts who have worked with either jurisdiction (or in some cases both) about the issues facing policymakers regarding juvenile justice and to provide an historical context for the changes in policies and practices.<sup>13</sup> We also reviewed numerous newspaper articles and reports commissioned by, and submitted to, government agencies concerning secure detention, and in particular, the issues facing the Cheltenham Youth Facility in Maryland, and the Oak Hill Youth Detention Center, the Cedar Knoll Youth Center, and the D.C. Receiving Home for Children (“Receiving Home”) in the District of Columbia.

Data provided by the District of Columbia for detained youth were highly inadequate, rendering analysis extremely difficult. The absence of adequate data demonstrate that the District of Columbia is in particularly serious need of upgrading its data collection techniques if it is to properly plan for the welfare of youth in its system and the public safety of its citizens. Nevertheless, the issues raised by the analysis offer some insights into the relationship between detention and arrest rates.

Data from the District of Columbia’s Youth Services Administration (YSA) are an estimate of average daily population, obtained in the following fashion. During

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the 1990's, the Youth Services Administration detained youth in three separate locked facilities – Cedar Knoll (closed 1994); Receiving Home (closed 1995); and Oak Hill (still in operation). For the Oak Hill population, at our request YSA staff pulled random population counts for each month during the entire decade, and averaged those to come up with an average daily population estimate.<sup>14</sup>

YSA was unable to generate detention population data for either the Receiving Home or Cedar Knoll facilities for any of the years the facilities were in operation.

The Receiving Home was regularly over its 38-bed capacity prior to its closure in 1995. We used the conservative figure of 50 youth detained on an average day based on interviews conducted over the course of the past year and a review of numerous newspaper articles concerning the facility.<sup>15</sup> We factored those 50 youth into the District's average daily population count up until 1995.

Cedar Knoll was a 225-bed facility operated in Laurel, Maryland and used primarily for pre-adjudicated youth. Again, according to numbers provided during interviews, it was estimated that 75 percent of Cedar Knoll's average daily population were detained youth, or roughly 169 youth on an average day. This figure was factored in to the District's average daily population estimate until 1994 when Cedar Knoll was closed.

This allowed us to create estimates of the average daily population of youth in detention in D.C. Maryland detention data was available from the Maryland Department of Juvenile Justice. We then

compared detention rates in D.C. and Maryland, both of which we express as rates per 1,000 youth age 10-17 in the respective jurisdictions.

In order to check on the detention population estimates for the District of Columbia, JPI researchers contacted Nate Williams, Assistant Deputy Superintendent, Youth Services Administration, Randy Moore, Chief Court Liaison Officer for Youth Services Administration, JoAnn Rohan, Youth Treatment Coordinator, Youth Services Administration, and David Reiser, *Jerry M.* plaintiff's counsel during most of the 1990's.<sup>16</sup> All of those interviewed agreed that the number of youth detained in the District of Columbia declined substantially with the closure of Cedar Knoll and the Receiving Home and the placement of a population cap on Oak Hill. They were comfortable with the estimates included in this analysis, and could come up with no better method of obtaining detention population numbers for D.C. throughout the 1990's.

## **B. Arrest data**

Crime trends in D.C. and Maryland are compared using juvenile arrest figures for violent crime and property crime (the only available measures of juvenile crime) divided by the respective jurisdictions' population for each year. Juvenile arrests are available for D.C. and for Maryland from 1990 to 1999. Population figures for the District of Columbia and Maryland are available from the 1990 and 2000 Census. Populations for intervening years are estimated by interpolation. The 1999 or 2000 figures, as applicable, are compared to two periods during the 1990's: the average for 1990-92 and the average for

1993-95. The three-year averages for these two earlier periods are used to avoid fluctuations that would have been caused by using any single year's data as the basis for comparison.

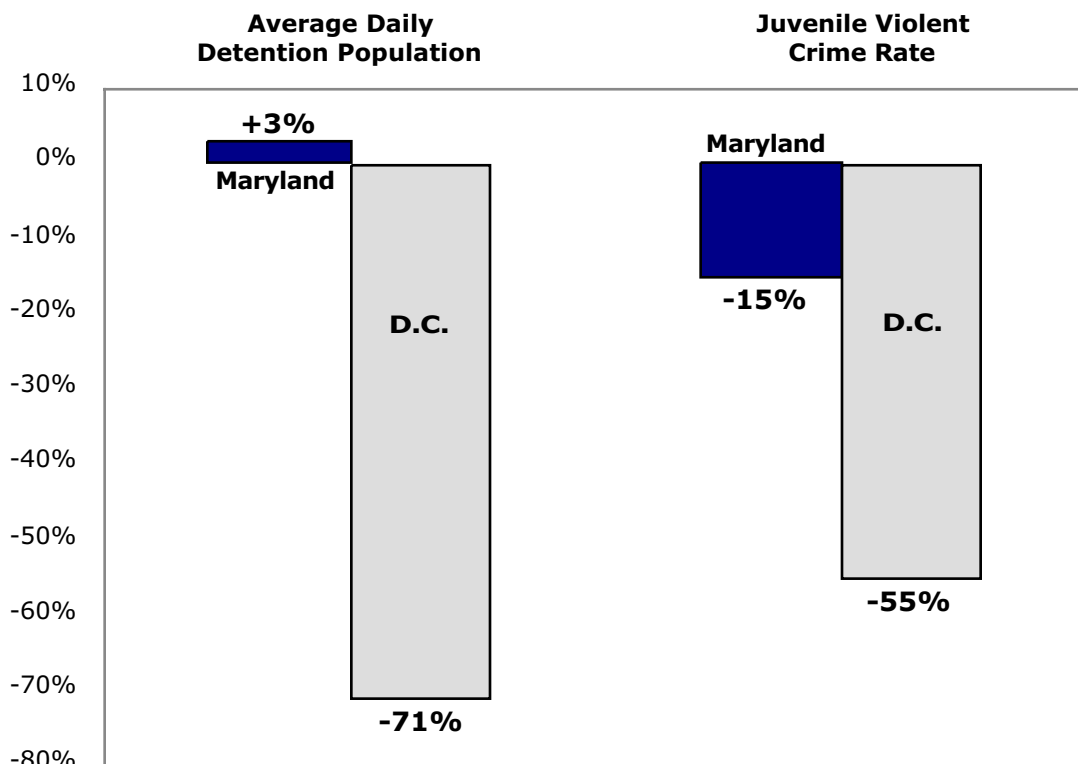
### III. Findings

#### A. Youth Crime and Detention Rates in Maryland and the District of Columbia

Overall, while the District of Columbia sharply reduced its use of detention during the 1990's, its rates of juvenile crime declined more markedly for violent offenses and in similar fashion for property crime than the declines witnessed in Maryland.

During the 1990's, Maryland's average daily population (ADP) held in juvenile detention facilities rose slightly (up 3 percent), expressed as a rate per 1,000 juveniles in its state population by year (Figure 1). Meanwhile, the District of Columbia sharply reduced its juvenile detention rate (down 71 percent). During that same period, D.C.'s violent juvenile crime rate declined by 55 percent, more than three times the decline in Maryland's violent juvenile crime rate (15 percent). Juvenile property crime declined at about the same rate in D.C. as in Maryland (both down about 30 percent), although D.C. showed a larger overall decline from the early 1990s.

**Figure I: Percent Change in Juvenile Detention and Arrest Rates in Maryland and Washington, DC, 1990-92 to 1999**



Source: Metropolitan Police Department (DC); Maryland State Police; Maryland Department of Juvenile Justice; Youth Services Administration (DC); *The Washington Post*; Interviews.

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As such, while D.C.'s juvenile arrest rate for Part I (felony) violent and property offenses was 7 percent higher than Maryland's rate in the early 1990's, by 1999, D.C.'s juvenile Part I arrest rates were 19 percent *lower* than Maryland's. While the two jurisdictions have sharply differing rates and trends in juvenile detentions and arrests for violent crime, it does not appear that D.C.'s sharp decrease in juvenile detentions over the decade were accompanied by increases in juvenile offending. In fact, the offenses that cause the most public concern, violent crime, declined more impressively in D.C. than they did in Maryland.

#### **IV. Discussion**

Ironically, during the last 15 years, *both* the District of Columbia and the state of Maryland have closed large locked youth institutions, without causing an increase in youth crime. A brief look at the changes in both systems, the forces that prompted those changes, and the positive outcomes that resulted from facility closures, provide some hopeful lessons for the future of detention reform in both jurisdictions.

##### **A. The Maryland Story**

In 1988, the state of Maryland closed down the Montrose Juvenile Training School. Although Montrose housed youth who had already been adjudicated (as opposed to youth detained pre-adjudication, or pretrial), analogies can be drawn between Maryland's experience closing Montrose and the challenges it now faces with its juvenile detention population.

***While D.C. sharply reduced its use of detention during the 1990's and Maryland increased detention, D.C.'s rates of violent juvenile crime declined more markedly than Maryland's.***

Many factors dating back to the late 1960's led to the closure of Montrose, including a 1967 report by the U.S. Department of Health, Education, and Welfare (now Health and Human Services) which found "the overuse of institutionalization"<sup>17</sup> and a 1973 report by the NAACP Legal Defense and Education Fund examining the State's training schools, which found that there were too many youth in juvenile institutions who did not belong there.<sup>18</sup> In 1986, the State estimated that 44 percent of the Montrose population had been incarcerated for a violation of probation, and most of these violations were for status offenses such as truancy.<sup>19</sup>

In response to the mounting pressures, in early 1986 the State conducted an analysis of its own on the necessity of closing the Montrose School. The Department of Health and Mental Hygiene, the parent agency of the Juvenile Services Administration at that time, reported, "at least half of the youth do not need to be there. Many youth in the remaining half may also be more appropriately served in non-institutional settings."<sup>20</sup>

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As the media learned about the conditions at Montrose, and news of youth mistreatment and suicides appeared publicly, the political pressure on policymakers to take action increased. Concurrently, the state was also facing legal and fiscal pressures. Frustrated with the state's failure to improve the conditions at Montrose, Susan Leviton, from the University of Maryland School of Law, filed a class action suit against the facility. The lawsuit alleged that Montrose subjected youth to cruel and unusual punishment and denied them due process protections and adequate treatment.<sup>21</sup> Soon after, the Sierra Club informed the state of its intention to file a lawsuit regarding the wastewater treatment system at Montrose.

In 1987, the state began the process of closing Montrose, which housed over 200 post-adjudicated youth, after concluding, "even with constant improvements, continued operation of the Montrose School could no longer be considered good public policy."<sup>22</sup> An evaluation conducted by the Center for the Study of Youth Policy at the University of Michigan reported that less than 30 percent of Montrose youth had been charged with any act of violence. They were largely status offenders (runaways and truants), misdemeanants, and property offenders.<sup>23</sup>

***A year after its closure, fewer than 15 percent of youths released from Montrose had been reincarcerated.***

On March 11, 1988, with the help of the National Center on Institutions and Alternatives, the last Montrose youth left the campus for an alternative placement and the facility was officially closed. Nearly half of the youth were released with community services and supervision into their own homes. Most others were placed successfully into smaller, non-secure residential programs. Ira Schwartz, former administrator of the Federal Office of Juvenile Justice and Delinquency Prevention and now Provost of Temple University, identified the greatest lesson learned from the closure of Montrose, "There is clearly strong evidence that community programs work and they do not compromise public safety and they reduce recidivism. The number of kids that need to be under lock and key is very, very small."<sup>24</sup> A year after its closure, fewer than 15 percent of youths released from Montrose had been reincarcerated.<sup>25</sup>

Ironically, despite their success in closing the Montrose Training School, and despite many of the same factors being in evidence for their detained population (i.e. substandard conditions, youth charged with minor offenses, unnecessary detention), Maryland officials consistently *increased* the use of locked detention for preadjudicated youth throughout the following decade of the 1990's. This resulted in overcrowding and substandard conditions for youth in detention in Maryland.

During the mid-1990's, attention was focused specifically on the Cheltenham Youth Facility, Maryland's largest and oldest detention facility. The Cheltenham Youth Facility was built in 1872 as the House of Reformation for Colored Boys. Although some structural repairs have



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been made in an attempt to bring the building up to date, the facility has been criticized for its “restrictive prison-like atmosphere for children.”<sup>26</sup>

Bart Lubow, a Senior Associate at the Annie E. Casey Foundation in Baltimore toured the facility in 1995. He described the facility as “a pretty horrific place” where he found imminent risks for children and staff, including exposed metal grating, urine soaked mattresses, violent graffiti on the walls, peeling paint, overpopulation of youth, a lack of educational and medical staff, and security windows that were scratched over preventing staff from seeing into rooms to check on kids.<sup>27</sup> Similarly, a 1995 report on the conditions in Cheltenham by the Youth Law Center described the facility as suffering from “chronic overcrowding, gross inadequacy of basic services and programs, enormous difficulties in management and operations in the cottages, and insufficient numbers of staff for the population.”<sup>28</sup>

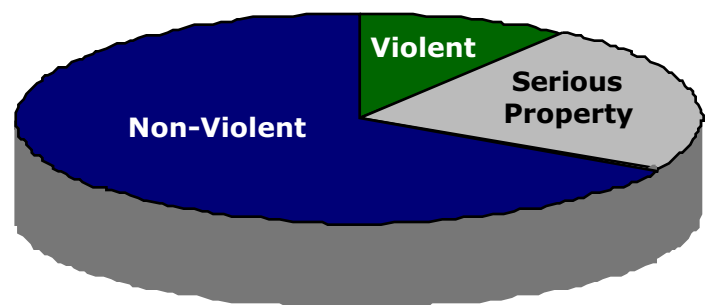
Mr. Lubow and others, including Susan Leviton from the Clinical Law Office at the University of Maryland Law School in Baltimore and Mark Martin from the Public Justice Center, began meeting with the Maryland Department of Juvenile Justice (DJJ) to urge the agency to make improvements. Although some of the immediate safety problems were addressed, the population management problem was not solved and the facility still lacked basic services and adequate supervision.

In addition, as with Montrose, many of the youth in Cheltenham were confined for non-violent offenses. In 1996, when Cheltenham was operating at 155 percent

of capacity, the Annie E. Casey Foundation commissioned the National Council on Crime and Delinquency to do a profile of youth housed at the facility. The majority of youth were detained for non-violent offenses such as drug involvement and theft. Over 30 percent had no prior adjudications and another 30 percent had just one prior adjudication.<sup>29</sup> Only 12 percent of the youth were housed for violent felonies. A substantial majority of these youth were African American (81 percent) and half were residents of Baltimore City.<sup>30</sup>

Five years later, the majority of Maryland’s detained youth were still confined for non-violent offenses. An analysis released by the Maryland House of Delegates on March 5, 2001, found that only 10 percent of the youth in detention are detained for violent offenses, and another 23 percent are detained for serious property crimes (See Figure II).<sup>31</sup> This recent data confirms that predominately low-risk youth are being housed in Maryland’s secure detention facilities. A report by the Maryland Juvenile Justice Coalition found

**Figure II: Youth in Detention in Maryland by Type of Offense, 2000**



Source: Maryland Department of Juvenile Justice, 3/5/01

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that “with a recidivism rate nearing 80 percent, detention facilities and large residential placements in Maryland are failing the youth they house, their families, and the public.”<sup>32</sup>

Based on reports of debilitating conditions at Cheltenham and data questioning the necessity of the growing use of detention, youth advocates from the Maryland Juvenile Justice Coalition stepped up efforts to close the facility. On March 1, 2000, shortly after Bishop Robinson was appointed Secretary of the Department of Juvenile Justice, he stated that he felt that Cheltenham “needs to be demolished.”<sup>33</sup> During the 2001 legislative session, advocates and religious leaders in Maryland undertook a concerted effort to close the Cheltenham Youth Facility.<sup>34</sup> On February 28, 2001, Secretary Robinson told the Maryland House Judiciary Committee that, “by March of next year, we won’t have any more than about 48 beds at Cheltenham.” He further commented “We are well on our way to closing it.”<sup>35</sup> A week later, the House of Delegates Appropriations Committee expressed their concerns over Cheltenham and voted to tear it down and rebuild the facility as well.<sup>36</sup> Since the March hearings, the number of youth detained statewide in Maryland has declined by 7 percent (32 youths).<sup>37</sup>

However, Maryland has not made an unequivocal commitment to reduce the number of locked beds and unnecessary detention. Notwithstanding the decision to downsize Cheltenham, over the next two years Maryland is preparing to open a 144-bed detention facility in Baltimore City, as well as 24-bed facilities in both eastern and western Maryland.

Following the successful closure of the Montrose Training School, Maryland officials embarked upon a substantial *increase* in their state’s detention population. A decade later, the state found itself with overcrowded and debilitating detention facilities, increasingly negative media attention and a well-organized advocacy community urging the closure of the decrepit Cheltenham facility and the establishment of a model detention system. While the state has moved to close Cheltenham and has reduced its detention population, the future of detention reform is still very much an open question in Maryland.

## **B. The District of Columbia Story**

At the beginning of the 1990’s, the District of Columbia relied more heavily on locked detention than most jurisdictions. According to research conducted by the Annie E. Casey Foundation, in 1992, the District of Columbia had the nation’s highest juvenile detention rate.<sup>38</sup> Few detention alternatives existed, and the District operated three locked institutions for its youth, two of which were large (containing more than 200 youth); located a significant distance from the families of the youths they housed; and containing mixed populations of pre- and post-adjudicated youths.

***“We have proven that having a system that is less reliant on confinement can work.”***

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Through a 15-year-long lawsuit, an act of Congress, and the work of a courageous judge, two of D.C.'s youth facilities were closed, some new detention alternatives were created, and a population cap was placed on the one remaining facility. In conjunction with the work of local advocates and the University of the District of Columbia Law School, these facility closures have helped to substantially reduce the use of locked detention in D.C. while youth crime in the District has declined significantly.

Change was a long time coming. Since the early 1980's, children's rights groups, juvenile justice system personnel, criminologists, and child advocates had tried to convince the District to change the way its juvenile justice system did business. Experts were brought in to evaluate the system and to advise on best practices; a lawsuit was filed, resulting in a consent decree and numerous remedial orders; and various statistical reports highlighting the District's overuse of locked detention were produced.

In 1985, the D.C. Public Defender Service (PDS) filed a lawsuit against the District government resulting in a 1986 consent decree mandating that the government improve the conditions of all of its juvenile detention facilities.<sup>39</sup> This decree also called for the closure of Cedar Knoll, one of the District's three secure facilities that housed both detained and committed youth. PDS negotiated with the District for the *next seven years* about implementing community-based programs as alternatives to secure detention to reduce overcrowding at Cedar Knoll. However, along with these negotiations and a court order imposing fines for overcrowding entered in the late 1980's, it would

eventually be the U.S. Congress that succeeded in closing Cedar Knoll.<sup>40</sup>

In the late 1980's, Congress took Cedar Knoll out of the D.C. Appropriations bill as a budget item in an attempt to bring about its closure. But rather than closing down the facility, the District funded the facility out of the budget of D.C.'s other juvenile institution, Oak Hill, with a budget line-item entitled the "Oak Hill Annex." Cedar Knoll continued to be funded this way until 1992.<sup>41</sup>

In the winter of 1992, the National Council on Crime and Delinquency described Cedar Knoll as "overcrowded, unsafe, inhumane, abusive, unresponsive to youth's needs, and tantamount to neglectful warehousing."<sup>42</sup> There was also a lack of medical, educational, vocational, recreational, and mental health-related services available to children in detention.<sup>43</sup> The facility was so short-staffed and overcrowded that there were more than fifteen escapes from Cedar Knoll in February 1992 alone.<sup>44</sup>

When word spread that Cedar Knoll was slated for closure in the consent decree, developers began to buy up the land around the facility. Development, however, was contingent upon the detention center's closure. Over the next year-and-a-half, developers lobbied Congress to close the facility. Concurrently, there was a rash of escapes by youth, resulting in significant public pressure on Steny Hoyer, Maryland's Congressional Representative and longtime critic of the District's youth detention center, to move the District's detention facility out of Maryland.<sup>45</sup>

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Meanwhile, the PDS obtained a court order to fine the District for violating the provision requiring one youth per room that was stipulated in the Consent Decree, resulting in the District paying large fines.<sup>46</sup> In May 1993, after accumulating more than \$2 million in fines at \$1,000/ per day for each juvenile over capacity, the District finally closed Cedar Knoll.<sup>47</sup> D.C. Superior Court Judge Ricardo Urbina and the plaintiffs agreed to let the District use the money from the fines to develop community-based alternatives for its youth offenders. Of closing Cedar Knoll without engendering an increase in youth crime, David Reiser, former *Jerry M.* plaintiffs' counsel noted, "We have proven that having a system that is less reliant on confinement can work."

After Cedar Knoll was closed, D.C.'s two remaining secure facilities, Oak Hill, which housed both detained and committed youth, and the D.C. Receiving Home for Children, which housed only detained youth, initially became overcrowded. With just a few community alternatives in place for youth, judges became increasingly frustrated with the Youth Services Administration and were reluctant to release youth from custody. In turn, each day the facilities exceeded capacity, the District was again fined \$1,000 per child they were over the cap.

In 1994 and 1995, YSA entered into emergency contracts with Abraxas, the Center on Juvenile and Criminal Justice (CJJC),<sup>48</sup> and the Consortium for Youth Services to provide community-based detention alternatives to youth. An evaluation conducted by the American Correctional Association in 1996 of the Consortium for Youth Services and CJJC programs found that the intervention

programs were able to reduce the re-arrest rate for program participants and increase the rate at which youth appeared for court hearings.<sup>49</sup> According to the ACA researchers:

*Clearly, both programs not only achieved a high degree of success, but they both accomplished more than expected by successfully keeping clients beyond the designed length of their respective programs. Such an accomplishment has a direct consequence: namely, reducing the cost of caring for problem youth. By maintaining their clients in the community, the intended outcome of reducing the number of juveniles in secure confinement has been accomplished.<sup>50</sup>*

In June 1995, the University of the District of Columbia School of Law's Juvenile Law Clinic (UDC) held an influential symposium, entitled "The Unnecessary Detention of Children in the District of Columbia," during which numerous presentations were made dissecting the overuse of detention in the District. In support of the Symposium, from February to March, 1995, the Robert F. Kennedy Memorial sponsored a month-long court monitoring project of D.C. detention hearings conducted by D.C. Action for Children which documented the overuse of detention, the minor charges for which youths were detained, and the need for better detention advocacy.<sup>51</sup>

One analysis presented at the Symposium found that thousands of youth per year were detained in the Receiving Home by probation staff in violation of provisions of D.C.'s juvenile statutes governing detention of minors. Youths were detained by police and probation as "dangerous" or "flight risks" one night, only to be evaluated by the same probation

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department as non-dangerous and unlikely to flee – and recommended for release – the next.<sup>52</sup>

In August 1995, D.C. Juvenile Court Presiding Judge George W. Mitchell criticized the D.C. Receiving Home for Children as “unacceptable for a civilized country.”<sup>53</sup> Buoyed by the information presented at the Symposium and shocked by conditions at the Receiving Home, Judge Mitchell ordered the facility to be closed due to conditions he deemed unfit for habitation by youth. The facility was so overcrowded that children in each of the four units of the facility had to sleep dormitory-style on cots in recreation rooms. Children did not even receive sufficient food—some ate little other than bologna sandwiches during their stay.

According to the conference proceedings from the Symposium:

*Within two months of attending and participating in this Symposium, the Honorable George W. Mitchell, prompted by the outrageous conditions at the Receiving Home, ordered it closed. This judicial act was both courageous and visionary...the overwhelming majority of children detained overnight prior to initial hearings were being held in contravention of the governing standards.<sup>54</sup>*

After the Receiving Home’s closure, the population of D.C.’s remaining facility, the Oak Hill Youth Detention Center, initially surged beyond the court-ordered capacity and the District was once again fined. But the system expanded some contracts for detention alternatives and otherwise learned to live within limits, again with no detrimental impact on public safety.

***As locked detention in D.C. decreased sharply, not only did youth crime not increase, it decreased significantly.***

Overall, from 1990 to 1999, the District of Columbia closed two locked facilities for youth and the average daily population of detained youths dropped from 411 to 124, a 70 percent decline. As locked detention in D.C. decreased sharply, not only did youth crime not *increase*, it *decreased* significantly. During that same decade, youth violent arrest rates declined by 55 percent, and youth property arrest rates declined by 34 percent. According to David Brown, a former employee of both the District of Columbia’s YSA and Maryland’s DJJ, “When the options were limited in terms of secure beds, D.C. figured out a way to handle it.”

The District of Columbia is preparing to close Oak Hill and replace it with a facility or facilities of as-yet undetermined size. Recently, the District’s Blue Ribbon Commission on Youth Safety and Juvenile Justice Reform voted to recommend that Oak Hill be closed and replaced by separate facilities which are small, homelike and as close to the youths’ homes as is feasible. The Youth Services Administration has recommended that a 100-bed commitment facility be constructed on the grounds of Oak Hill in Maryland and that an 80-bed detention facility be constructed on the grounds of the former Receiving Home in D.C. Like Maryland, the future use of locked detention in D.C. is very much up in the air.

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***“Detention is the gateway drug in America’s addiction to incarceration.”***

**IV. Conclusions and Recommendations**

A 2001 report by the National Research Council found that nationally, “more and more juveniles are being detained and incarcerated, even though there is evidence that most juveniles can be treated equally or more effectively in the community than in secure confinement, without jeopardizing community safety.”<sup>55</sup> Notably, the Council’s first recommendation calls for an increase in funding for community-based programs for juveniles.

Although Maryland experienced declines in violent youth crime during the 1990’s, these declines were significantly less than the drop in violent youth crime in D.C., which sharply curtailed its use of detention during the 1990’s. Contrary to popular belief (but consistent with previous studies), the Maryland/D.C. comparisons suggest that more detention for low-level offenses is not associated with greater public safety and may occupy system resources that would be better focused on the relatively few youths and adults who commit serious, violent offenses.

As they struggle to decide the appropriate mix of locked facilities, staff secure programs and community-based detention alternatives, both Maryland and the District of Columbia can take heart in the fact that they have limited the use of locked custody in the past without jeopardizing public safety.

However, far more information should be gathered and evaluated in both jurisdictions prior to making the leap into costly facility construction. Such a process has begun in Maryland. With the help of funding and technical assistance from the Annie E. Casey Foundation, the Department of Juvenile Justice is working with the National Center on Institutions and Alternatives to evaluate its pending placement population and make recommendations on system efficiencies and detention alternatives that can impact its locked bed needs. Unfortunately, the Maryland Department of Juvenile Justice is planning and building facilities *before* collecting and analyzing that important data.

The District of Columbia, which has come so far in reducing its detention population over the past decade, lags far behind in its use of data for planning purposes. Very little is known from a statistical standpoint about the needs of, and risks presented by, D.C.’s detention population, making it virtually impossible to correctly evaluate bed space needs. It is heartening that the Blue Ribbon Commission cited Missouri as a model to be emulated, since Missouri is increasingly relying on small facilities and an extensive array of community-based programs for delinquent youth. Pursuant to an agreement in the *Jerry M.* litigation, an assessment will be conducted to obtain necessary data and determine the number of locked beds and community-based programming slots needed for D.C.’s committed youth.<sup>56</sup> The District should do the same regarding detained youth prior to constructing any new detention facilities.

The unnecessary placement of a young person in detention can have serious

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consequences for a youth, and significant resource consequences for a jurisdiction. According to Lubow and Tulman, “unnecessary detention has deplorable consequences... Detention increases the likelihood of post-adjudicatory incarceration”<sup>57</sup> as well as exposing youths to “negative peer culture and violence” and engendering substantial avoidable costs. As Bart Lubow has stated, “Detention is the gateway drug in America’s addiction to incarceration.”

The findings of this analysis are mixed. First and foremost, it is clear that, during the 1990’s, the District of Columbia was able to reduce its use of locked detention without a negative impact on public safety. In fact, youth arrests fell in all categories more sharply than they did in neighboring Maryland, which slightly increased its use of locked detention during the 1990’s.

Second, both Maryland and D.C. have successfully closed locked institutions in the past. In doing so, both reduced what several studies found to be the unnecessary incarceration of their young people.

Third, it took tremendous pressure – from lawsuits, community and civil rights organizations, academics and the media – to convince these jurisdictions to do what experts and the data had shown early on to be sound public policy choices. Instead of waiting for dramatic events like lawsuits and embarrassing news reports, the *Building Blocks for Youth* Initiative offers the following recommendations toward a more rational use of detention space for both jurisdictions:

**1. Both jurisdictions should conduct thorough utilization reviews and population profile analyses before undertaking additional construction.**

Data – about the risks and needs of young people currently and recently in the system, population trends, youths’ offense histories and current charges, and youth crime trends – should drive not only decisions about the size of locked facilities, but also the number of spaces needed in staff secure, non-secure, and in-home detention alternatives. Without proper information, the construction of expensive facilities, which will be in use for decades to come, is extremely ill advised.

**2. The District of Columbia and the state of Maryland should expand the use of community-based programming to create a continuum of detention alternatives.**

States around the country are developing effective alternatives to locked detention. Several Casey Foundation-funded JDAI sites successfully established home confinement, detention foster care, day programming, evening reporting centers and small, staff-secure shelters as alternatives to locked detention.<sup>58</sup>

The state of Maryland has taken some steps toward this end, allocating \$6 million during this fiscal year, and another \$12 million next year, for the creation of community-based alternatives. Despite its early use of programming in the mid-1990’s with funds from court-ordered fines, the District of Columbia has yet to develop a full continuum of detention alternatives. However, the District will now be able to access approximately \$5 million

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in federal funds from the Office of Juvenile Justice and Delinquency Prevention. It had not received funds for the past several years because of the District's inability to produce reliable data to meet reporting requirements under the Federal Juvenile Justice and Delinquency Prevention Act. Ironically, that reporting failure, and the windfall of federal dollars now available to the District, can be used to the benefit of D.C. youth, funding data collection and community programming to reduce the unnecessary use of detention.<sup>59</sup>

**3. Both jurisdictions should conduct a thorough analysis of disproportionate minority confinement to ascertain whether there is racial disproportionality in their jurisdictions and develop approaches to redress any inequities uncovered.**

Minority youth in Maryland and the District of Columbia are confined far in excess of their representation in the general public. By using a data-driven approach, Multnomah County, Oregon and Santa Cruz County, California have been able to reduce disproportionate minority confinement without jeopardizing public safety. D.C. and Maryland should immediately conduct assessments of disproportionality in their systems and take steps to address them, modeled after the promising approaches used in Multnomah and Santa Cruz Counties. These include the development of culturally-sensitive detention alternatives, the creation of risk assessment instruments, enhanced defense services, and expedited case processing, among others.<sup>60</sup>

**4. Both systems should look to standards promulgated by professional organizations before planning and constructing secure youth facilities.**

According to the standards promulgated by the Institute of Judicial Administration and the American Bar Association (IJA/ABA), secure detention facilities should be 12 to 20 beds and commitment facilities should be no larger than 20 beds. Both should be as close to the youths' home communities as is feasible. With respect to proximity to the youth's home community, the IJA/ABA offers the following:

*Location of secure detention facilities should take the following factors into account:*

- A. *facilitation of the maintenance of ties between residents and their community, family and friends;*
- B. *accessibility to mass transit and highways to facilitate visits by family and friends;*
- C. *accessibility of courts to avoid excessive time spent in transit to and from the court and waiting in court;*
- D. *proximity to concentrations of law offices to facilitate attorney-client meetings; and*
- E. *use of community settings.*<sup>61</sup>

Likewise, the National Advisory Commission on Criminal Justice Standards and Goals provides that the total population of detention facilities should not exceed 30 and that separate "living areas" within the facility should not exceed 10 to 12.<sup>62</sup>

In addition to the ABA and National Advisory Commission standards, the dangers of large locked institutions for the care and custody of young people have



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been documented. For example, a seminal survey conducted by Abt Associates for the Justice Department found such institutions to be plagued by a litany of problems, including overcrowding, high rates of youth and staff injuries, suicides and suicide attempts, inadequate health care, and inadequate educational services, among others. The authors noted:

*Juvenile and staff injury rates were higher in crowded facilities, and juvenile-on-juvenile injury rates increased as the percentage of juveniles housed in large dormitories increased... Suicidal behavior is a serious problem in juvenile confinement facilities... One-third of the juveniles in detention centers have health screenings done by staff who have not been trained by medical personnel to perform health screening.*<sup>63</sup>

In constructing a 144-bed facility in Baltimore, Maryland has created a locked institution much larger than called for by standards. In the District of Columbia, the Youth Services Administration is proposing two facilities larger than national standards call for. One of them, the proposed facility in Laurel, MD, is a great distance from D.C. communities and is inaccessible by public transportation. In the absence of basic data on youth in the system and future trends, this is a recipe for fiscal waste and harmful public policy.

While both D.C. and Maryland have had success with facility closures in the past, both are now poised precariously with respect to their detention systems. Both jurisdictions have plans to close old, decrepit detention facilities. Officials in Maryland and D.C. must now decide whether to recreate those large institutions with which they are now both

having serious problems, or to create a system with a blend of small locked and staff-secure facilities, coupled with a continuum of community-based programs for their troubled youth.

## Endnotes

- <sup>1</sup> Authored by Lisa Feldman, Michael Males, and Vincent Schiraldi.
- <sup>2</sup> Rust, Bill (1999). *Juvenile Jailhouse Rocked*. AdvoCasey. Baltimore, MD, Annie E. Casey Foundation.
- <sup>3</sup> Snyder, Howard M. & Sickmund, Melissa (1999). *Juvenile Offenders and Victims*, 1999 Report. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention.
- <sup>4</sup> Ibid.
- <sup>5</sup> A fuller discussion of the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative can be obtained by visiting their web site at [www.aecf.org](http://www.aecf.org).
- <sup>6</sup> In 1982, a federal lawsuit was filed by the Portland Juvenile Rights Project that eventually resulted in a population cap on the juvenile detention facility in Multnomah County. In 1994 the county opened a new detention facility.
- <sup>7</sup> Illinois Criminal Justice Information Authority, September 2001.
- <sup>8</sup> Law Enforcement Data System Division, Oregon State Police, September 2001.
- <sup>9</sup> Throughout this report, "detained" youth will mean youth in locked facilities whose cases have not yet been adjudicated as well as youth who are adjudicated and are awaiting placement in another facility or program.

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<sup>10</sup> Department of Juvenile Justice (1995). *1995 Report on the Overrepresentation of Minority Youth in the Juvenile Justice System*; Washington, D.C. U.S. Department of Justice.

<sup>11</sup> See, for example, Annie E. Casey Foundation (1992). *Framework Paper on Juvenile Detention, Appendix 1: Key Juvenile Detention Attributes by State*.

<sup>12</sup> Oldest age for original juvenile court jurisdiction: 17; oldest age for juvenile court jurisdiction for dispositional purposes: 20. Both jurisdictions employ a waiver age of 15 for felony offenses; both jurisdictions have direct file provisions, allowing prosecutors discretion to bring charges directly in adult court.

<sup>13</sup> Persons interviewed over the course of this report include: David Brown, executive director of the National Youth Employment Coalition and a former employee of both the District of Columbia's Youth Services Administration and the Maryland Department of Juvenile Services; Susan Leviton, Law Professor, University of Maryland Law School; Bart Lubow, Senior Associate, Annie E. Casey Foundation; Louis Marmo, Program Manager, D.C. Superior Court Court Social Services; Randy Moore, Chief Court Liaison Officer, Youth Services Administration; David Reiser, former Public Defender, District of Columbia, former plaintiff's counsel, *Jerry M. et al. vs. the District of Columbia, et al.*; Joann Rohan, Youth Treatment Coordinator, Youth Services Administration; Ira Schwartz, Temple University Provost and former Director, Office of Juvenile Justice and Delinquency Prevention; Mark Soler, President of the Youth Law Center; David Tracey, former Director,

Montrose Depopulation Project, National Center on Institutions and Alternatives; John Tuell, former Deputy Director of the State and Tribal Assistance Division of OJJDP; and Nate Williams, Assistant Deputy Superintendent Youth Services Administration.

<sup>14</sup> This estimate includes all years except for 1993, for which YSA was unable to provide any data. As a result, researchers averaged 1992 and 1994 data to provide population data for 1993.

<sup>15</sup> In interviews with Nate Williams, Assistant Deputy Superintendent at YSA and David Reiser, former Public Defender, there was general agreement that 50 was a conservative estimate of the Receiving Home's average daily population during the early 1990's leading up to its closure. A series of articles about the facility in the *Washington Post* corroborate this as a conservative estimate. "D.C. Empties Detention Center," 6/2/93, lists the Receiving Home's population at 40 percent above its capacity of 38, or housing about 58 kids; "Judge Schedules Ruling on Juvenile Detention Fines," 4/13/94, lists the Receiving Home's population at 57; and "D.C. to Close Children's Receiving Home," 8/13/94 states that the Receiving Home "has a capacity of 38 children but has in recent months housed nearly twice that number."

<sup>16</sup> *Jerry M. et al. vs. the District of Columbia, et al.* is a federal civil rights lawsuit over the conditions and services for youth in detention facilities in the District of Columbia.

<sup>17</sup> U.S. Department of Health, Education, and Welfare (1967). *A Study and Assessment of Maryland's Program and*

- Facilities for the Treatment and Control of Juvenile Delinquency.* Washington, D.C.: H.E.W.
- <sup>18</sup> NAACP (1973). *A Call for Reform of Maryland's Training Schools, A Report by the Task Force on Juvenile Justice.* New York, NY: NAACP Legal Defense and Educational Fund, Inc.
- <sup>19</sup> Butts, Jeffrey A. & Streit, Samuel (1988). *Youth Corrections in Maryland: The Dawning of a New Era.* Center for the Study of Youth Policy, p.7.
- <sup>20</sup> Ibid.
- <sup>21</sup> Ibid.
- <sup>22</sup> Ibid.
- <sup>23</sup> Ibid.
- <sup>24</sup> Interview with Dr. Ira Schwartz, Provost of Temple University, February 28, 2001.
- <sup>25</sup> Butts & Streit, p.2.
- <sup>26</sup> Interview with Susan Leviton, February 19, 2001.
- <sup>27</sup> Interview with Bart Lubow, February 20, 2001.
- <sup>28</sup> Youth Law Center (1995). "Cheltenham Youth Facility Conditions Assessment," Washington, D.C., p.4.
- <sup>29</sup> National Council on Crime and Delinquency (1996). *Maryland Department of Juvenile Justice Cheltenham Youth Facility: Youth Profiles and Population Projections.* Baltimore, MD: Annie E. Casey Foundation.
- <sup>30</sup> Ibid.
- <sup>31</sup> Legislative budget analysis of the Maryland Department of Juvenile Justice, March 5, 2001.
- <sup>32</sup> MJJC (2001). *Principles of a Model Juvenile Justice System,* Baltimore, MD: Maryland Juvenile Justice Coalition.
- <sup>33</sup> Todd Richissin & Michael Dresser (2000). "Supervision of juveniles excoriated in report; Replace Cheltenham Robinson urges," *The Baltimore Sun*, March 1, 2000.
- <sup>34</sup> Maureen O'Hagan (2001). "Groups Urge Closing of Md. Youth Facility," *The Washington Post*, February 23, 2001.
- <sup>35</sup> Sarah Koenig (2001). "State Moves to Shut Facility: Juvenile offenders to be relocated from Cheltenham: Population to fall to 48." *The Baltimore Sun*, March 1, 2001.
- <sup>36</sup> Stephen Manning (2001). "Cuts for Cheltenham approved by House Committee." *The Associated Press*, March 7, 2001.
- <sup>37</sup> According to data from Maryland Department of Juvenile Justice, there were 434 youth locked in detention statewide on February 28, 2001 and 402 youth in locked detention on October 1, 2001, a 7 percent decline in about seven months.
- <sup>38</sup> Annie E. Casey Foundation (1992).
- <sup>39</sup> A *consent decree* is a judicial decree that sanctions a voluntary agreement between parties in dispute. A *remedial order* is a court order intended to remedy a specific unfair or inhumane condition.
- <sup>40</sup> This lawsuit resulted in the appointment of Michael L. Lewis as Court Monitor to oversee the improvements of the system in its entirety.
- <sup>41</sup> Interview with David Brown, former staff, Youth Services Administration, February 16, 2001.
- <sup>42</sup> Robert F. Kennedy Memorial and the National Council on Crime and Delinquency (NCCD) (1993). *At the Crossroads: Juvenile Corrections in the District of Columbia—Profiles of Committed Youth in Secure Care.* Washington, D.C.: NCCD.
- <sup>43</sup> Interview with David Reiser, former Class Council, *Jerry M. et al. vs. the*

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- District of Columbia, et al.* and D.C. Public Defender, 1988-1999. These conditions were also described in a report by Sheryl Brissett-Chapman, Jerry M. panelist, February 15, 1996, entitled *Waiting... Youth in Trouble in the District of Columbia: A Case Study for the Jerry M. Panel*.
- <sup>44</sup> Editorial (1992). "More trouble at Cedar Knoll," *The Washington Post*, April 1, 1992.
- <sup>45</sup> Joe Donnelly (1994). "Tension over detention: Juveniles housed at closed D.C. institution," *The Washington Post*, April 22, 1994.
- <sup>46</sup> The single room regulation stipulates that there is to be no more than one child per room, per facility.
- <sup>47</sup> Nancy Lewis (1994). "Judge's costly ruling: Juveniles housed at closed D.C. institution," *The Washington Post*, September 15, 1994.
- <sup>48</sup> The Justice Policy Institute, the policy arm of the Center on Juvenile and Criminal Justice, authored this report.
- <sup>49</sup> American Correctional Association (1996). *Intervention Programs Evaluation Final Report*. Washington, D.C.: Robert F. Kennedy Memorial Juvenile Justice Project, p.41.
- <sup>50</sup> Ibid.
- <sup>51</sup> Seigel, Elizabeth (1995). "A Summary of Data Collected by the RFK Memorial/ D.C. Act Detention Study." In Symposium: The Unnecessary Detention of Children in the District of Columbia, *The District of Columbia Law Review*, Volume 3, Fall 1995, Number 2.
- <sup>52</sup> Escoto, Henry A. (1995). "Pre-Initial Hearing Detention: Are Police Department and Social Service Intake Following the Law?" In Symposium: the Unnecessary Detention of Children in the District of Columbia, *The District of Columbia Law Review*, Volume 3, Fall 1995, Number 2.
- <sup>53</sup> Nancy Lewis (1995). "D.C. Judge orders shutdown of Children's Receiving Home; Facility called 'Unacceptable for a civilized country.'" *The Washington Post*, August 18, 1995.
- <sup>54</sup> Lubow, Bart & Tulman, Joseph (1995). *The Unnecessary Detention of Children in the District of Columbia*. Introduction to: Symposium: the Unnecessary Detention of Children in the District of Columbia, *The District of Columbia Law Review*, Volume 3, Fall 1995, Number 2.
- <sup>55</sup> The National Academy of Sciences (2001). "Juvenile Justice, Juvenile Crime," The Panel on Crime, Prevention, Treatment, and Control, Washington, D.C.: The National Academy of Sciences.
- <sup>56</sup> Jerry M. v District of Columbia, Civil Action No. 1519-85 (IFP), Stipulation Regarding Order B (Sept. 12, 2001).
- <sup>57</sup> Lubow and Tulman, 1995.
- <sup>58</sup> DeMuro, Paul (1999). *Consider the Alternatives: Planning and Implementing Detention Alternatives*. Pathways #4, Annie E. Casey Foundation.
- <sup>59</sup> Interview, with John Tuell former Deputy Director of the State and Tribal Assistance Division of OJJDP, a division responsible for administering six federally-funded grant programs, including the Formula Grants and Juvenile Accountability Incentive Block Grant programs, September, 2001.
- <sup>60</sup> See, for example, Feyerherm, William H., "Detention Reform and Overrepresentation: A Successful Synergy," *Corrections Management Quarterly*, 2000, and Cox, Judith A., "Addressing Disproportionate Representation Within the Juvenile

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Justice System,” Santa Cruz California, Santa Cruz County Probation Department, September 2000. The successful efforts to reduce disproportionate minority confinement in Multnomah and Santa Cruz Counties will be described in a *Pathways* monograph from the Annie E. Casey Foundation scheduled for publication in Winter, 2002.

<sup>61</sup> Allen M. Greenberg, Reporter (1996). “Standards Relating to Architecture of Facilities,” Institute of Judicial Administration and American Bar Association Juvenile Justice Standards Annotated.

<sup>62</sup> Ibid.

<sup>63</sup> Abt Associates, Conditions of Confinement: Juvenile Detention and Corrections Facilities: Research Summary, Office of Juvenile Justice and Delinquency Prevention, February 1994.

## Appendix: Changes in youth arrests and detentions in Maryland and the District of Columbia during the 1990's

<b>MARYLAND: Juvenile detentions and arrest rates</b>					<b>Change, 1999 rate:</b>		
<b>Avg annual:</b>	<b>1990 -92</b>	<b>1993 -95</b>	<b>1996 -98</b>	<b>1999</b>	<b>v 90-92</b>	<b>v 93-95</b>	<b>v 96-98</b>
Detention ADP*	349	390	446	440			
Detention rate**	0.71	0.74	0.78	0.74	3%	0%	-6%
Violent crime arrests*	2,977	3,561	3,629	3,085			
Violent crime rate**	6.1	6.7	6.4	5.2	-15%	-23%	-19%
Property crime arrests*	15,290	15,174	14,834	12,389			
Property crime rate**	31.2	28.6	26.0	20.7	-34%	-28%	-20%

<b>DC: Juvenile detentions and arrest rates</b>					<b>Change, 1999 rate:</b>		
<b>Avg annual:</b>	<b>1990 -92</b>	<b>1993 -95</b>	<b>1996 -98</b>	<b>1999</b>	<b>v 90-92</b>	<b>v 93-95</b>	<b>v 96-98</b>
Detention ADP*	411	284	161	124			
Detention rate**	9.04	6.17	3.47	2.64	-71%	-57%	-24%
Violent crime arrests*	664	717	522	305			
Violent crime rate**	14.6	15.6	11.2	6.5	-55%	-58%	-42%
Property crime arrests*	1,148	855	816	682			
Property crime rate**	25.2	18.6	17.5	14.5	-42%	-22%	-17%

\*Average Daily Population and average annual arrests over 3-year period.

\*\*Detention ADP and arrest rates per 1,000 youth age 10-17 by year.

Source: Metropolitan Police Department (DC); Maryland State Police; Maryland Department of Juvenile Justice; Youth Services Administration (DC); *The Washington Post*; Interviews.

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