

Calling Out the Harms of Incarceration: Using Research to Fight Confinement of Youth

Youth Law Center & East Bay Community Law Center (September 2022)

Defenders must consistently sound the alarm about the harms of youth incarceration. Without this advocacy, judges, probation officials, prosecutors, and even defense attorneys can become complacent about the crisis of having a child locked in a cell. To support this advocacy, defenders can point to the large and growing body of research that shows the many insidious consequences that flow from locking a young person in secure confinement. It is up to defenders to lift up this research at every point that incarceration is being contemplated by the court.

Below is a sampling of the research about the harms of incarceration, arranged by topic areas. Almost all of the reports are available online for free and links are included in the resource list at the end. Links come and go, so if they don't work, google the title, check the PJDC Resource Bank, or contact YLC (mdesautels@ylc.org).

IMMEDIATE HARMS OF INCARCERATION:

➤ **Harms to youth mental health**

- Incarceration can lead to depression.
 - Research found that “for one-third of incarcerated youth diagnosed with depression, the onset of the depression occurred after they began their incarceration.” Abram et al., p. 2,
- Incarceration can lead to self-harm and suicide.
 - Studies have found that incarcerated youth suffer from two to four times the suicide rate of youth in the community. Justice Policy Institute, p. 9.
 - Research suggests that the conditions of confinement, “such as separation from loved ones, crowding, sleeping in locked rooms, and solitary confinement may also increase the risk for suicide among detained youth.” Abram et al., p. 2 (internal citations omitted).

➤ **Harms to education**

- Incarcerated youth often fail to return to school.
 - “A Department of Education study showed that 43 percent of incarcerated youth receiving remedial education services in detention did not return to school after release, and another 16 percent enrolled in school but dropped out after only five months.” Justice Policy Institute, p. 9.

- Incarcerated youth suffer losses in reading and math.
 - Assessments of youth upon entry to and exit from juvenile court schools showed that over 29% of students suffered a loss in reading skills and 27.7% had a loss of math skills while incarcerated. Youth Law Center, p. 14-15.
- Schools serving incarcerated youth have higher than average suspension rates.
 - During the 2013-2014 school year, court schools serving youth in county juvenile facilities had an aggregate suspension rate of 10.2%, more than 2.5 times the state suspension rate of 4.4%. Youth Law Center, p. 7.
- Incarcerated youth have high drop-out rates following release.
 - In 2013-2014, 37.7% of youth exiting a court school did not reenroll in another school, compared to a statewide dropout rate of 11.6%. Youth Law Center, p. 12.

➤ **Trauma inflicted by incarceration**

- The experiences of confinement can exacerbate prior traumas.
 - Aspects of incarceration, including “seclusion, staff insensitivity, or loss of privacy” can trigger traumatic effects. Incarcerated youth are also “frequently exposed to verbal and physical aggression,” which can lead to increased symptoms of traumatic stress. Justice Policy Institute, Healing Invisible Wounds, p. 6.
- Family separation inflicts trauma.
 - Separation of children from their families leads to a stress response and the production of inflammatory hormones. When these hormones remain elevated for a prolonged period, they lead to changes in the brain, potentially causing serious learning, developmental and health problems. Goydarzi.
 - Separation also leads to depressive symptoms, including regression on milestones, disruption of sleeping patterns, and self-mutilative behavior. Goydarzi.
- Youth experience violence and victimization in facilities.
 - A survey of youth in residential placement found that 56% had been the victim of a crime (theft, robbery, assault, sexual assault), and 17% had one or more violence experiences. Sedlak et al., p. 4.
 - Of youth who suffered violence, almost half received medical care for their injuries. Sedlak et al., p. 4.
- See also:
 - National Juvenile Defender Center, A Right to Liberty: Resources for Challenging the Detention of Children (August 2019), available at: <https://njdc.info/wp-content/uploads/2019/A-Right-to-Liberty-Resources-for-Challenging-the-Detention-of-Children-1.pdf>.
 - American Bar Association, Children’s Right’s Litigation, “Trauma Caused by Separation of Children from Parents: Talking Points for Juvenile Defenders in Juvenile Justice Cases,” (Jan. 2020), <https://www.americanbar.org/groups/litigation/committees/childrens-rights/trauma-caused-by-separation-of-children-from-parents/>,

➤ **Negative impact on healthy adolescent development**

- Incarceration interrupts the three crucial environmental conditions necessary for healthy development.
 - Research has identified three factors that promote healthy psychological development for young people: 1) the presence of a parent or parent-like adult who is involved with and concerned about the young person’s development; 2) “inclusion in a peer group that values and models prosocial behavior and academic success;” and 3) opportunities to exercise “autonomous decision making and critical thinking” through activities and other pro-social settings. National Research Council, p. 91-92.
 - Institutional environments do not allow for the opportunities to develop the skills that are crucial for the transition to adulthood, and the longer that a young person is removed from a normal, developmental pattern, the more difficult it becomes to catch up. National Research Council, p. 179-180.
 - Research has shown that “well-designed community-based programs are more likely than institutional confinement to facilitate healthy development and reduce recidivism for most young offenders.” As compared to incarceration, community-based programs are more likely to involve parents, limit contact with antisocial peers, and provide the social context necessary for healthy development. National Research Council, p. 126.
- Incarceration increases exposure to negative peer influence.
 - Treatment in group settings may result in “peer deviancy training,” leading to poor outcomes.
 - One study found treatment in group settings resulted in poorer outcomes than treatment outside of group settings, as youth grouped for treatment can develop “negative changes in attitudes toward antisocial behavior, affiliation with antisocial peers, and identification with deviancy.” Justice Policy Institute, p. 5.

LONG-TERM HARMS OF INCARCERATION:

➤ **Future Justice Involvement**

- Incarceration leads to increased adult incarceration
 - Juvenile incarceration is estimated to increase the likelihood of adult incarceration by 23 percentage points. Aizer and Doyle.
- Incarceration is associated with higher rates of rearrest.
 - Studies in Wisconsin and Arkansas found that detention was associated with increased rates of rearrest. Justice Policy Institute, p. 4.
- Confinement in residential facilities is no more effective than community-based alternatives, and may increase rates of reoffending.
 - A longitudinal study found that residential placement was no better at preventing future offending than community-based alternatives, and was actually associated with a slight increase in re-offense rates (though not statistically significant). Loughran et al., p. 15.

- Institutional placements lead to higher rates of adult arrest than less restrictive interventions.
 - A longitudinal study found that placement in an institution was associated with the highest rates of later adult justice system involvement, as compared to less restrictive alternatives. Gatti and Trambly.
- See also, Mendel, pp. 9-12.

➤ **Poor long-term educational outcomes**

- Incarceration decreases likelihood of high school graduation.
 - Juvenile incarceration is estimated to decrease the likelihood of high school graduation by 13 percentage points. Aizer and Doyle.
 - “[W]e find that once incarcerated, a juvenile is unlikely to ever return to school, suggesting that even relatively short periods of incarceration can be very disruptive and have severe long-term consequences for this population. Moreover, for those who do return to school, they are more likely to be classified as having a disability due to a social or behavioral disorder, likely reducing the probability of graduation even among those who do return to school and possibly increasing the probability of future criminal behavior.” Aizer and Doyle.
- Incarceration decreases the likelihood of both high school and college completion.
 - One study found that youth who were incarcerated were four times more likely to drop out of high school, leading to a 96% reduction in the likelihood of college completion among formerly incarcerated youth. Schaefer and Erickson, p. 15-16.

➤ **Poor employment outcomes**

- Incarceration results in decreased time employed as an adult.
 - Jailing young people results in a 25-30% reduction in work time over the following decade. Justice Policy Institute, p. 10; Mendel, p. 12.
- Incarceration reduces wages and total number of weeks worked.
 - By age 40, youth who are incarcerated in correctional institutions have significantly reduced wages and total number of weeks worked per year. Jung.

➤ **Poor health outcomes**

- Juvenile incarceration is associated with poor adult health outcomes.
 - “[J]uvenile incarceration is associated with poor adult health outcomes, including substance use, early mortality, and worse social functioning. Recent studies suggest strong causal associations between youth incarceration and adult health outcomes, including worse general health and higher rates of functional limitations.” Barnert, Perry, and Morris, p. 99.
- Even short periods of incarceration (less than a month) are associated with worse adult health and mental outcomes.
 - “[I]ncarceration during adolescence and early adulthood is independently associated with worse physical and mental health outcomes during adulthood.

This relationship holds even when accounting for baseline health and key social determinants of health.” Barnert et al., p. 7.

- Formerly incarcerated youth are significantly more likely to experience early mortality.
 - “In this study, previously incarcerated youths were significantly more likely to experience early death compared with Medicaid-enrolled youths in the general population.” Ruch et al.
- The trauma of prolonged family separation can increase the risk of long-term health impacts.
 - The prolonged stress response resulting from family separation “increase[s] the risk of lasting, destructive complications like heart disease, diabetes, and even some forms of cancer.” Eck.

SYSTEMIC ISSUES RELATED TO YOUTH INCARCERATION:

➤ **Incarceration disproportionately impacts youth of color.**

- Youth of color are more likely to be incarcerated in California than white youth.
 - According to the Sentencing Project, in 2019 Black youth were 9 times as likely as white youth to be incarcerated in California. Latinx youth were 2.4 times as likely to be incarcerated, and tribal youth were 4.4 times as likely. The Sentencing Project.
- Youth of color are more likely to be ordered to any institutional placement in California than white youth.
 - In California, African-American youth are 7.5 times more likely than white youth to be ordered to institutional placement, while Latinx youth are 2.5 times more likely. Wong and Ridolfi, p. 4.
 - See also, Mendel, p. 23.

➤ **Pre-trial detention leads to more severe case outcomes.**

- Detention increases the likelihood of a sentence of confinement and the likelihood of a longer sentence.
 - Research has shown that people who are detained pre-trial are more likely to be incarcerated at sentencing, and the period of incarceration is significantly longer. Arnold Ventures, p. 5 (research on adult defendants).
- Detention increases plea rates, jail sentences, and length of jail sentences.
 - “[D]etained defendants are 25% more likely than similarly situated releasees to plead guilty, are 43% more likely to be sentenced to jail, and receive jail sentences that are more than twice as long on average.” Heaton et al., p. 711 (research on adult defendants).

➤ **Incarceration is the most expensive option.**

- Incarceration in juvenile facilities is expensive.
 - In 2018, the average annual cost to incarcerate a child in a county juvenile hall in California was \$285,700. Tucker & Palomino.

- County-specific costs per facility per day are available from the BSCC.
 - For example, in FY 2017-18, the cost of confinement of a youth in juvenile hall per day was \$1,343 in Alameda County, \$612 in Contra Costa County, \$983 in Los Angeles County, \$1,033 in San Bernardino County, \$923 in Sonoma County, and \$1,456 in Santa Clara County.
 - For county-specific costs of incarceration per day, see Board of State and Community Corrections, “Average Daily Cost to House Youth in Detention Facilities” (2019), http://www.bscc.ca.gov/wp-content/uploads/FINAL_BSCC-Youth-Cost-Report-FY17_18.pdf.

NON-INCARCERATION ALTERNATIVES:

- **Judicial leadership in promoting alternatives to incarceration is growing.**
 - The National Council of Juvenile and Family Court Judges issued a publication in 2022, “Judicial Leadership for Community-Based Alternatives to Juvenile Secure Confinement.”
 - This publication offers helpful justification, from the perspective of the bench, on why and how to prioritize community-based alternatives to incarceration.
- **Community-based alternatives are more cost-effective than incarceration.**
 - Community-based services for youth are much less expensive than incarceration.
 - “Community-based programs providing individualized and wraparound services based on the unique needs of each youth can cost as little as \$75 per day.” Justice Policy Institute, *Sticker Shock*, p. 6.
 - Community-based mental health services can be supported through federal Medicaid dollars.
 - When youth covered by Medi-Cal receive treatment outside of detention, half of the cost of health care services qualify for federal Medicaid reimbursement. Young Minds Advocacy, p. 5.
 - California is currently undertaking a massive investment in improving mental health care for justice-involved youth.
 - California’s new CalAIM program (California Advancing and Innovating Medi-Cal) seeks to enhance connection of justice-involved youth to Medi-Cal funded, community-based mental health supports. Cal. Dept. of Health Care Services.
- **A developmentally appropriate approach to probation supervision relies on positive incentives, not institutional confinement.**
 - Research on adolescent development supports the use of positive incentives and graduated sanctions to promote behavior change.
 - To be developmentally appropriate, probation supervision should incorporate “short-term, positive outcomes for probation compliant behaviors,” and employ sanctions in a graduated approach that allows youth “to learn from their mistakes and modify their behaviors in the future.” Goldstein et al., p. 819.

- Punishing probation violations can be counterproductive to the goal of improving behavior.
 - “[A]lthough applying punishment often results in a reduction or suppression of certain conduct, this technique only inhibits undesired behaviors; it does not replace them with desired ones. Punishment also tends to lose its effectiveness over time, as youths become accustomed to the negative experiences. In some situations (e.g., when it is overly punitive), the use of punishment can even unintentionally create new negative behaviors. Further, when people repeatedly have negative experiences in situations over which they have no perceived control, they often come to believe the negative consequences are unavoidable and, subsequently, fail to respond appropriately to similar events in the future—an effect known as learned helplessness.” Goldstein et al., p. 820-21 (internal citations omitted).
- The Annie E. Casey Foundation has called for an end to the use of incarceration in response to probation violations.
 - In a research-based approach to probation supervision, confinement in response to a probation violation is “never an appropriate sanction.” Annie E. Casey Foundation, pp. 15-16, 34.
- National judicial leadership has called for a developmentally appropriate approach to probation supervision that does not rely on incarceration to enforce compliance.
 - The National Council of Juvenile and Family Court Judges (NCJFCJ) adopted in 2017 a “Resolution Regarding Juvenile Probation and Adolescent Development.”
 - This resolution includes a recommendation for jurisdictions “to develop alternatives to formal probation revocations for technical violations, to ensure that detention or incarceration is never used as a sanction for youth who fail to meet their expectations or goals.” NCJFCF Resolution, p. 2.
 - In 2021, NCJFCJ published a powerful toolkit for the bench to lead in transforming probation practices, “The Role of the Judge in Transforming Juvenile Probation: A Toolkit for Leadership.”

➤ **There is a lack of research to support delivering mental health treatment in institutional facilities.**

- There is a lack of evidence supporting treatment in out-of-home or residential settings.
 - “In the past, admission to an RTC [residential treatment center] was justified on the basis of community protection, child protection and benefits of residential treatment. However, none of these justifications have stood up to research scrutiny. In particular, youth who display seriously violent and aggressive behavior do not appear to improve in such settings, according to limited evidence.” U.S. Surgeon General Report, p. 170.
- Behavioral health improvements attained in a residential facility may not be maintained once the youth is released back to their home community.

- Some research suggests that improvements made in an institutional placement are not maintained after release, potentially leading to a cycle of readmission. Mercer, p. 16.
 - Research has found that residential treatment outcomes are not superior to family and community-based care.
 - “In the current study, MDFT [Multidimensional Family Therapy] produced outcomes that were equal to or better than RT [residential treatment] in both the short- and long-term, suggesting that Multidimensional Family Therapy is a viable, less-costly alternative to RT for youth with serious co-occurring substance use and mental health disorders.” Liddle et al., p. 54.
- **Numerous studies support the effectiveness of behavioral health treatments delivered to youth in their homes and communities.**
- Functional family therapy, multisystemic therapy, and multidimensional treatment foster care are supported by extensive research as effective interventions for justice-involved youth.
 - Skowrya and Cocozza, p. 38-39.
 - Liddle et al., p. 5-6.
 - A key factor in these effective, evidence-based programs is the delivery of intervention techniques in the youth’s home and community.
 - “Effective programs are rehabilitative in nature and use behavioral intervention techniques within the youth’s natural environment.” Liddle et al., p. 7.
 - Experts in youth mental health call for youth to be treated in the least-restrictive environment.
 - “A child or adolescent with mental illness should be treated in the safest and least restrictive environment and needed services should be ‘wrapped-around’ to provide more intensive home or community-based services.” American Academy of Child & Adolescent Psychiatry, p. 1.

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