

Detention & Youth Jails

Key Takeaways

Most children who are “detained” in Maryland spend the night in concrete cells, sleeping on metal beds, and many brush their teeth in steel sinks attached the toilets they use to relieve themselves.

Maryland’s seven juvenile jail facilities house an inordinate amount of low-risk youth, provide very little in way of programming, and virtually no services outside of school. Yet it costs between **\$575-\$1,000 per day** to house children in these unimpressive facilities. ¹

Maryland’s current approach to youth incarceration is costly, ineffective, and seriously harms the young people it purports to serve. Research continues to demonstrate that incarceration can have significant, lasting negative impact on young people’s mental health, school success, and recidivism.² The use of detention for low and moderate risk youth is largely driven not by data, but by DJS policy and court practices that are rooted in historic injustice.

Luckily, there are community-based alternatives that have been proven effective and that protect public safety. States and cities across the United States have found that providing a meaningful continuum of community-based programs for the vast majority of youth and, for the youth who require secure confinement, smaller homelike facilities that prioritize age-appropriate rehabilitation is both more cost effective and gets better results. This year alone, New Jersey and San Francisco



Fig. 1 Cell at Baltimore City Juvenile Justice Center
Source: Juvenile Justice Monitoring Unit, Pictorial Report, 2011.

have announced plans to close juvenile jail facilities.³

What We Have

Maryland operates 7 detention centers - one in every region of the state and two in the Metro region. Maryland securely detains hundreds of youth pending trial and pending placement per year throughout the state in large hardware secure juvenile jail facilities that resemble adult jails in structure, design, and operation. For 42% of the youth securely detained pending trial and 54.7% of youth detained pending placement after trial, the child's charge for which they were detained was a misdemeanor.⁴

In FY19, 50 children under the age of 13 were held in secure detention in Maryland – a nearly 50% **increase** from FY18 – despite a change in the law that was intended to restrict the use of secure detention for pre-adolescent children.⁵

The harms of placing young people in jail are well-documented. Not only does secure detention not promote the rehabilitation of youth, it has been proven to increase recidivism and decrease public safety.⁶ Secure detention places youths' safety at risk, causes psychological harm, interrupts education, physically and emotionally separates youth from their families and communities, negatively impacts future employment outcomes, and increases recidivism⁷

Maryland has a significant racial and ethnic disparity problem when it comes to secure detention. Black youth make up 35% of the population of 10-17 year olds in Maryland,⁸ account for 62% of the complaints received by DJS,⁹ but are 77.4% of the population in detention.¹⁰ That is a relative rate index (RRI) of 2.39.¹¹

DJS' hardware secure detention facilities face a number of challenges including: deteriorating facilities, understaffing, lack of staff training, lack of quality mental health services, continued use of outdated physical and mechanical restraints, continued use of solitary confinement, lack of programming for youth (including poor education continuity), and lack of family engagement efforts.¹²

Physical Plants

The Attorney General's Juvenile Justice Monitoring Union (JJMU) has outlined a number of issues with the physical facilities that constitute Maryland's hardware secure youth detention facilities. For example, at the Charles H. Hickey, Jr. School [Hickey], youth reported cold showers, "frigid" temperatures inside cells, and a sewer leak that required an entire unit to be shut down.¹³ At the Thomas J.S. Waxter Children's Center [Waxter], the facility suffers from fluctuating temperatures, leaks, mold, and dampness.¹⁴

Staffing Inadequacies

Staff at Maryland hardware secure detention facilities are not adequately trained on a rolling basis in de-escalation, restorative justice, cognitive behavior therapy techniques, and general positive youth development. Because of lack of training, staff escalate conflicts with youth, employ outdated restraints, and continue to use solitary confinement.¹⁵

Abusive, Outdated Methods of Controlling Conduct

Solitary confinement and physical restraints are abusive responses to youths in crisis that continue to be actively used by DJS. These methods of control are outdated and unnecessary with the proper training and proper number of staff. Solitary confinement is referred to as “seclusion” in Maryland. Solitary confinement has a number of long-lasting harmful effects, including interrupting neurological development, increasing anxiety, heightening emotional reactions, and exacerbating mental health conditions.¹⁶ Maryland is behind the times when it comes to banning solitary confinement for youth. Bipartisan legislation has banned its use for youth in federal custody, as have a growing number of states.¹⁷

Lack of Youth Programming

Per DJS policy, youth are guaranteed 1 hour of recreation per day.¹⁸ The number and type of service providers are limited and vary from facility to facility. For example, in the Baltimore City Juvenile Justice Center, all programming other than Baltimore Youth Arts (BYA) and faith based programming have been eliminated. BYA has a limited capacity in terms of the number of youths they are able to serve at one time. Because of this, youth attend educational programming, but then a lack of structured programming outside of the limited “school” hours.

Limited and Inadequate Mental Health Services

Mental health professionals are integral to providing youth a safe environment, especially given the pre-existing mental health needs of youth who have contact with the juvenile justice system, and the mental health needs attendant to secure detention itself.¹⁹ Currently mental health staff are only contracted to deal with “crisis” situations and not treatment needs. The JJMU reports note the lack of reliable mental health staff on site 24/7 at all of the detention facilities throughout Maryland, and the gaps that occur because of this absence.²⁰

Lack of Family Engagement

DJS policy grants youth only two 10-minute phone calls to their family per week. Visitation is limited to specific days and hours. The amount and type of family engagement activities vary and are inconsistent from facility to facility. Parents have complained that facilities do not include them in vital decision-making about their own children, such as changing their psychotropic medication regimens.

Inadequate and Expensive Alternatives to Detention

Alternatives to detention are efforts to ensure that youth are not held in secure detention, but are rather placed under alternative forms of supervision that are less harmful, yet nonetheless invasive. Maryland relies heavily on methods such as house arrest and electronic monitoring to surveil youth pending trial or placement. When these methods are used for youth who would have otherwise been detained, this may benefit youth. However, these methods can also result in the increased surveillance of youth who would otherwise be trusted to return to court on their own absent this option.

Gaps in the Law

Youth have the same due process rights as adults under the United States Constitution. Under *Riverside v. McLaughlin*, 500 U.S. 44 (1991), arrestees have a right to a probable cause determination after a warrantless arrest within 48 hours under the Fourth Amendment. However, youth in Maryland are routinely held in secure detention upon arrest and held beyond 48 hours waiting to see a judge because the statute only guarantees they see a judge “the next court day.” Maryland’s juvenile code and rules create ambiguities that may result in a youth spending more time in secure detention than was originally intended by the legislature.

Recommendations

1. Change requirement so that probable cause hearings must take place within 48 hours of detention instead of “the next court day” to bring in line with requirements of *Gerstein v. Pugh*.
2. Require DJS to provide a quality, evidence-based programming for detained youth, at least 3 hours on school-days and 6 hours on non-school days. This should include a requirement for structured activities be planned for every weekend, including activities that engage family members every other weekend.
3. Bar detention for misdemeanor offenses and violations of probation.
4. Clarify language to specify detention cannot be indefinitely extended in 30 day increments.
5. Require detention reviews every 14 days.
6. If a child is detained, require DJS to develop a community-release plan for the young person within 10 days.

7. Restrict use of manual restraints and ban solitary confinement.
8. Limit broad language regarding a “self-harm” and “public safety” that does not reflect evidence that detention increases risk of self-harm and decreases public safety.
9. Clarify language related to a child’s ability to “leave the jurisdiction of the court.” A child should not be found to have “failed to appear” if a parent/guardian fails to ensure their appearance in court.
10. Create definition and limitations on “community detention.” Require DJS to develop forms of community detention that do not include total house arrest. Require DJS to maintain a robust continuum of community-based alternatives to detention in every jurisdiction.
11. Mandate DJS abide by recommendation of an independently validated risk assessment instrument.
12. Specify the court is to give weight to the findings of validated risk assessments.
13. Specify requirements that “immediate review” of detention take place the same or next court day.
14. Limit the use of electronic surveillance and community detention for children on probation.
15. Specify limits on secure detention and community detention post-disposition, including limiting the time a child can be detained pending placement.
16. Require DJS to provide access to mental health services for all young people, not only acute/crisis intervention. Mandate detention facilities have mental health professionals on site 24/7.
17. Mandate DJS increase the number of shelter beds available, especially for young women.
18. Establish minimum standards for detention center staff training and require functioning security camera systems in all areas of DJS facilities.

19. Establish minimum standards for family engagement at all DJS run facilities including requirements for daily contact with family.
20. Require and define standards for defense counsel to access young people at every juvenile jail.
21. Clarify statute that bars detention for children found not competent to proceed.
22. Adopt a cognitive behavioral therapy curriculum and restorative justice training for staff at detention centers.

Literature Review



NJDC, *Confined without Cause: The Constitutional Right to Prompt Probable Cause Determinations For Youth* (2018) [\[PDF\]](#)

Barry Holman & Jason Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, Justice Policy Institute (2006.) [\[PDF\]](#)

David Steinhart, Annie E. Casey Foundation, *Juvenile Detention Risk Assessment: A Practice Guide to Juvenile Detention Reform* (2006.) [\[PDF\]](#)

John D. & Catherine T. MacArthur Found., *Models for Change: Systems Reform in Juvenile Justice, Knowledge Brief: Can Risk Assessment Improve Juvenile Justice Practices?* (2011.) [\[PDF\]](#)

Robert Barnoski, *Washington State Juvenile Assessment Manual Version 2.1* (2004.) [\[PDF\]](#)

Jennifer Fratello et al., Vera Inst. of Justice, Ctr. on Youth Justice, *Juvenile Detention Reform in New York City: Measuring Risk Through Research* (April 2011.) [\[PDF\]](#)

Elizabeth Calvin, Nat'l Juv. Defender Ctr., *Legal Strategies to Reduce the Unnecessary Detention of Children* (2004), [\[PDF\]](#)

Justice Policy Institute, *Sticker Shock: Calculating the Full Price Tag for Youth Incarceration 21-23* (2014) (citing 2 studies finding that incarcerating a youth raises the chance the youth will recidivate by 20-26%). [\[PDF\]](#)

A., Aizer & J. Doyle, *Juvenile Incarceration, Human Capital and Future Crime: Evidence from Randomly-Assigned Judges*, National Bureau of Economics Research Working Paper No. 19102, 2013. [\[PDF\]](#)

Richard A. Mendel, Annie E. Casey Found., *No Place for Kids: The Case for Reducing Juvenile Incarceration* (2011). [\[PDF\]](#)

¹ Dept. of Juv. Services, Data Resource Guide FY18,
https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2018_full_book.pdf.

Appendix E

STATE-OPERATED FACILITY PER DIEMS AND AVERAGE ANNUAL COSTS, FY18

	Per Diem Cost	Avg. Annual Cost
Baltimore City	\$575	\$210,048
Carter	\$1,057	\$385,719
Cheltenham	\$995	\$363,019
Green Ridge¹	\$458	\$166,989
Hickey	\$753	\$274,898
L. Eastern Shore¹	\$872	\$318,273
Noyes	\$736	\$268,667
Statewide Youth Centers^{1*}	\$958	\$359,146
Victor Cullen	\$1,048	\$382,361
Waxter	\$1,137	\$414,929
Western Maryland	\$734	\$268,003

¹Per Diem Cost for LESC & Green Ridge and Avg. Annual Cost for LESC & Statewide Youth Centers were misreported in the FY17 DRG. Correct figures have been updated online.

*Only includes Backbone Mountain, Meadow Mountain, and Savage Mountain (closed Sept. 2017 through the end of the FY.)

² The research on the harms of juvenile detention is extensive and demonstrates that detention increases recidivism and hurts public safety, detention affects dropping out and educational attainment, detention may exacerbate or cause mental illness and trauma, detention exposes youth to increased abuse, and interferes with what is required for healthy adolescent development. Anna Aizer and Joseph J. Doyle, Jr., *Juvenile Incarceration, Human Capital and Future Crime: Evidence from Randomly-Assigned Judges*, National Bureau of Economic Research, NBER Working Paper No. 19102 (2013), at pp. 3-6, 9, 25, http://www.mit.edu/~jjdoyle/aizer_doyle_judges_06242013.pdf; Justice Policy Institute, Barry Holman and Jason Zidenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities* (2006), p. 8, http://www.justicepolicy.org/images/upload/06-11_REP_DangersOfDetention_JJ.pdf; Justice Policy Institute, *Sticker Shock: Calculating the Full Price Tag for Youth Incarceration* (2014), pp. 28-32, <http://www.justicepolicy.org/research/8477>; Richard A. Mendel, *No Place for Kids: The Case for Reducing Juvenile Incarceration* (2011), The Annie E. Casey Foundation, p. 12, <http://www.aecf.org/resources/no-place-for-kids-full-report>. National Academies of Science, *Reforming Juvenile Justice: A Developmental Approach* (2013), <http://www.nap.edu/catalog/14685/reforming-juvenile-justice-a-developmental-approach>; Richard A. Mendel, *Maltreatment of Youth in U.S. Juvenile Corrections Facilities: An Update*, The Annie E. Casey Foundation (2015), pp. 6-29, <http://www.aecf.org/resources/maltreatment-of-youth-in-us-juvenile-corrections-facilities/>; Thomas J. Dishion and Jessica M. Tipsord, *Peer Contagion in Child and Adolescent Social and Emotional Development*, 62 *Annual Review of Psychology* 189 (2011), www.ncbi.nlm.nih.gov/pmc/articles/PMC3523739/. Karen Abram, et al., *Suicidal Thoughts and Behaviors Among Detained Youth*, *OJJDP Juvenile Justice Bulletin* (July

2014), pp. 1-8, www.ojjdp.gov/pubs/243891.pdf; Sue Burrell, Trauma and the Environment of Care in Juvenile Institutions, National Child Traumatic Stress Network (2013), pp. 2-5,

www.nctsn.org/sites/default/files/assets/pdfs/jj_trauma_brief_environofcare_burrell_final.pdf; Edward Cohen and Jane Pfeifer, Costs of Incarcerating Youth with Mental Illness, for the Chief Probation Officers of California and California Mental Health Directors Association (2007), www.cdcr.ca.gov/COMIO/docs/Costs_of_Incarcerating_Youth_with_Mental_Illness.pdf.

³ Barry Carter, Newark social justice group hails decision to close juvenile facility, NJ.com Jan. 30, 2019, www.nj.com/essex/2018/01/newark_social_justice_group_hails_decision_to_clos.html; Sarah Ruiz-Grossman, San Francisco Will Close Its Juvenile Hall by 2021, HuffPost June 5, 2019, https://www.huffpost.com/entry/san-francisco-close-juvenile-hall-youth-detention_n_5cf6fabae4b0dc70f44e7cdc; see also, Racial Justice at the Core: Profiles of the New Jersey and Virginia campaigns to abolish youth prisons through a racial justice lens, No Kids in Prison, Nov. 2019, <https://backend.nokidsinprison.org/wp-content/uploads/2019/11/NKIP-Racial-Justice-Report-FINAL-Digital.pdf>.

⁴ Department of Juvenile Services, Data Resource Guide FY19, January 2020, Pg. 109.

⁵ *Id.* at 112. This increase is especially distressing as the law changed in FY19 to limit the detention of children under the age of 12. See, 2019 Maryland Laws Ch. 560 (H.B. 659.)

⁶ *Supra* Note 2, Dangers of Detention at 2.

⁷ Dangers of Detention, 2.

⁸ OJJDP, Easy Access to Juvenile Populations, <https://www.ojjdp.gov/ojstatbb/ezapop/>.

⁹ DJS Resource Guide FY18 at 22.

¹⁰ *Id.*

¹¹ *Id.*

¹² See generally, Maryland Attorney General, Juvenile Justice Monitoring Unit Annual Report 2018, April 2019.

www.marylandattorneygeneral.gov/JJM%20Documents/JJMU_2018_Annual_Report.pdf.

¹³ *Id.* at 14

¹⁴ *Id.* at 18-20.

¹⁵ *Id.*

¹⁶ Juvenile Law Center, Unlocking Youth, 2017, 10-13. <https://jlc.org/news/unlocking-youth-new-report-ending-youth-solitary>.

¹⁷ Stop Solitary for Kids, Not in isolation, June 2019, www.stopsolitaryforkids.org/wp-content/uploads/2019/06/Not-In-Isolation-Final.pdf.

¹⁸ *Supra*, note 4, DRG at 106.

¹⁹ Edward Cohen and Jane Pfeifer, Costs of Incarcerating Youth with Mental Illness, for the Chief Probation Officers of California and California Mental Health Directors Association (2007), www.cdcr.ca.gov/COMIO/docs/Costs_of_Incarcerating_Youth_with_Mental_Illness.pdf.

²⁰ *Supra*, note 12.