

April 18, 2023

**Juvenile Law Center's Testimony for the House Children and Youth Committee Hearing on
Overcrowding in Detention Facilities**

Dear Children and Youth Committee Members,

Thank you for holding this hearing on the important topic of overcrowding within detention facilities in Pennsylvania. My name is Malik Pickett, and I am a staff attorney at Juvenile Law Center where I advocate for policies and legislation that would protect youth in the child welfare and justice systems in Pennsylvania. I actively followed Pennsylvania's bi-partisan Juvenile Justice Task Force and analyzed the comprehensive study of Pennsylvania's juvenile justice system they released in 2021.

Juvenile Law Center fights for rights, dignity, equity, and opportunity for youth. We work to reduce the harm of the child welfare and justice systems, limit their reach, and ultimately abolish them so all young people can thrive. Founded in 1975, Juvenile Law Center was the first nonprofit, public interest law firm for children in the country. We strive to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are consistent with children's unique developmental characteristics and human dignity.

In Pennsylvania, youth can be detained to "to protect the person or property of others or of the child or because the child may abscond."¹ Pennsylvania law allows children age 10 and older to be detained prior to adjudication (the determination of whether a youth committed an offense) for any type of behavior.² Some juvenile probation officers (JPOs) and juvenile court judges use the Pennsylvania Detention Risk Assessment Instrument (PaDRAI) to evaluate whether a youth should be detained pre-adjudication. However, courts can and do override the PaDRAI based on their evaluation of the circumstances. Detention facilities in Pennsylvania are overcrowded, with too many youth detained who could be served through community-based, non-residential diversion programs. My testimony will cover three main areas: (1) why detention and residential placement facilities are harmful; (2) what is currently happening in detention facilities because of overcrowding; and (3) solutions to alleviate the problem.

Detention and Residential Placement Facilities Harm Youth

Wordsworth Academy, Glen Mills, Devereux, Pittston Detention Center, Shuman Detention Center, VisionQuest, and the Lima Detention Center in Delaware County ...we know what does not work. These are all residential facilities marked by rampant abuse and maltreatment of the children in their care. Wordsworth Academy, a residential treatment

¹ 42 Pa. C.S. § 6325.

² *Id.*, 42 Pa. C.S. §6302.

program was shut down in 2016 after staff restrained 17-year-old David Hess until he died.³ VisionQuest in Philadelphia closed in 2017 after inspectors documented physical abuse and insulting behavior from staff.⁴ Glen Mills, a residential placement facility, was closed in 2019 after widespread child abuse was uncovered.⁵ In 2020, the Philadelphia Department of Human Services removed all its young people from Devereux facilities after a Philadelphia Inquirer investigation uncovered disturbing claims of sexual abuse.⁶ The Pittston Detention Center, one of the facilities to which judges were sending youth for kickbacks in the Kids For Cash scandal, was closed in 2020.⁷ The Shuman Detention Center in Allegheny County was closed in 2021 following investigations into claims that youth were not receiving prescribed medication, and a youth faced near death after a heroin overdose in the facility.⁸ The Lima Detention Center in Delaware County was also closed in 2021 after allegations of physical and sexual abuse including claims of staff “slamming a teen’s head into a window so hard it cracked the glass” and “forcing a child to drink from a toilet.”⁹

In December of 2022, a Grand Jury investigating the Delaware County Juvenile Detention Center (DCJDC) released a report finding that: “DCJDC frequently failed to respect its mission, and the rights of the children placed in its care were all-too frequently disregarded.”¹⁰ Specifically, the report recounted detention officers slamming a teen into a table and punching him after the teen grabbed a pencil from the detention officer’s hand, and another incident where a detention officer fought a youth after the youth “talked back” which resulted in the youth having cuts on his face.¹¹ These instances are emblematic of the experiences of children and youth in detention centers and carceral settings in general. A comprehensive national review in 2015 revealed that there was clear evidence of systemic or recurring maltreatment or abuse in the state-funded youth correctional facilities of 29 states and the District of Columbia since 2000.¹² In a survey to all state juvenile systems, the Bureau of Justice statistics found that there were 657 instances of staff on teens sexual victimization in juvenile justice facilities from 2013-2018.¹³

³ https://www.inquirer.com/philly/news/20161025_State_shuts_down_W__Philly_program_after_teen_s_death_in_fight_with_staff.html#:~:text=StaffPermissionsReprints,State%20shuts%20down%20Philly%20program%20after%20teen's%20death%20in%20fight,in%20a%20fight%20with%20staff.

⁴ <https://www.inquirer.com/philly/news/visionquest-immigrant-children-philadelphia-shelter-abuse-20181026.html>

⁵ <https://www.inquirer.com/crime/a/glen-mills-schools-pa-abuse-juvenile-investigation-20190220.html>

⁶ <https://why.org/articles/philly-removes-children-from-devereux-facilities-after-sex-abuse-revelations/>
<https://www.inquirer.com/news/inq/devereux-advanced-behavioral-health-abuse-children-pennsylvania-20200811.html>

⁷ <https://triblive.com/news/pennsylvania/officials-pittston-detention-facility-at-center-of-scandal-is-closed/>.

⁸ <https://imprintnews.org/news-briefs/pittsburgh-detention-center-ordered-to-close/58273>

⁹ https://www.inquirer.com/news/delaware-county-juvenile-justice-center-abuse-allegations-closed-20210313.html?utm_source=email&utm_campaign=edit_social_share_email_traffic&utm_medium=email&utm_content=&utm_term=&int_promo=#loaded.

¹⁰ DCJDC Grand Jury Report, Page 3.

¹¹ Id., Page 60.

¹² Mendel, R.A. (2015). Maltreatment of Youth in US Juvenile Corrections Facilities. Annie E. Casey Foundation.

¹³ Buehler, Emily D, PhD, Bureau of Justice Statistics, Substantiated Incidents of Sexual Victimization Reported By Juvenile Justice Authorities, 2013–2018 | MARCH 2023

These facilities that we entrust every day to protect children have instead viciously attacked and abused them. Instead of experiencing the care and services they need to thrive at the most pivotal times in their lives, children experience abuse and a multitude of other harms.

Detention separates children from their homes, communities, and primary supportive services. Studies show that teens in detention have higher rates of depression, anxiety, and other mental health conditions such as post-traumatic stress disorder and suicidal thoughts.¹⁴ Many teens who enter the juvenile justice system have experienced some form of trauma which contributed to their behavior, and incarceration can exacerbate that trauma.¹⁵ Research shows that the human brain continues to develop until age 25, and many outgrow delinquency with normal psychosocial maturity.¹⁶ Incarceration impedes a child and teen's ability to mature psychologically and desist from delinquent behavior.¹⁷ Teens in detention also lose access to quality educational opportunities and are more likely to disengage from school and become system-involved in the future.¹⁸ They are also particularly unlikely to earn academic credit for all schoolwork completed while in detention.¹⁹ Nationally, only about one-third of teens returning from residential facilities re-enroll in school.²⁰ Further, detention has immediate, and long-term negative consequences on a teens employment and economic outcomes.²¹

Incarceration also does not increase public safety. A 2011 study found that the states that made the largest reductions in youth incarceration from 1997 to 2007 saw a greater decline in youth arrest rates overall than states that made smaller reductions or increased youth incarceration.²² Further, studies have found that pretrial juvenile detention stays, regardless of the length, increase a youth's likelihood of felony recidivism by 33% and misdemeanor recidivism by 11%.²³ They also discovered that when a young person spends additional days in detention for pretrial reasons, their risk of recidivism jumps by 1% a day.²⁴

¹⁴ Justice Policy Institute, *The Dangers Of Detention* 6 (2006), http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf.

¹⁵ <https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence/>

¹⁶ Arain M, Haque M, Johal L, Mathur P, Nel W, Rais A, Sandhu R, Sharma S. (2013). Maturation of the adolescent brain. *Neuropsychiatric Disease and Treatment*, vol. 9, p.449-61; Puzzanchera, C. & Hockenberry, S. (2022). *Patterns of Juvenile Court Referrals of Youth Born in 2000*. Juvenile Justice Statistics: National Report Series Bulletin.

¹⁷ Schaefer, S. & Erickson, G. (2019) Context matters: juvenile correctional confinement and psychosocial development. *Journal of Criminal Psychology*, Vol. 9 Issue: 1, pp. 44-59; Dmitrieva, J., Monahan, K.C., Cauffman, E. & Steinberg, L. (2012). Arrested development: The effects of incarceration on the development of psychosocial maturity. *Development and Psychopathology* 24(3), 1073–1090.

¹⁸ *Id.* at 9; Kareem L. Jordan, U.S. Dep't of Justice, Office of Juvenile Justice and Delinquency Program, *Preventive Detention and Out-of-Home Placement: A Propensity Score Matching and Multilevel Modeling Approach* (Fall 2012).

¹⁹ Mozaffar, Nadia, et al., *Juvenile Law Center, Credit Overdue: How States Can Mitigate Academic Transfer Issues for Youth in the Juvenile Justice System* (2019), <https://jlc.org/resources/credit-overdue>.

²⁰ *Education for Youth Under Formal Supervision of the Juvenile Justice System* (2019). U.S. Office of Juvenile Justice and Delinquency Prevention.

²¹ *Id.* at 14.

²² Mendel, R.A. (2011). *No Place for Kids: The Case for Reducing Juvenile Incarceration*. Annie E. Casey Foundation.

²³ Sarah Cusworth Walker and Jerald R. Herting, *The Impact of Pretrial Juvenile Detention on 12-Month Recidivism: A Matched Comparison Study*, *Crime & Delinquency* 2020, Vol. 66(13-14) 1865–1887.

²⁴ *Id.*

In Pennsylvania, the justice system is filled with racial disparities; Black and Brown youth are more likely to enter the system and face much worse outcomes once there.²⁵ In 2021, Black youth comprised 14.4% of the youth population, 37.3% of delinquency allegations, 60.8% of secure detention admissions for youth, and 40% of placement dispositions.²⁶ White youth comprise 68.8% of the youth population, but only 44.8% of delinquency allegations, 22.4% of secure detention admissions, and 41% of placement dispositions.²⁷

Detention is also a poor use of public funds. Detention is the most expensive means of confronting youth behavior with an annual cost of \$220,000 per child in 2019; costs that are easily avoided by allowing youth to remain in their homes and communities.²⁸

These Harms Are Exacerbated in Overcrowded Facilities

In October of last year, we learned of overcrowding at the Philadelphia Juvenile Justice Services Center (PJJSC). PJJSC is the local detention center for the Philadelphia area and has a capacity of 184 but has housed upwards of 220 youth at times.²⁹ As the population of youth has risen, the facility has also experienced a staffing shortage.³⁰ This has resulted in abhorrent conditions where children experience violence, don't have enough food, and don't have beds to sleep in (at times youth sleep on mattresses in administrative offices).³¹ Children also receive minimal, and at times no, educational services because of a lack of teachers.³² Advocates report that students with Individualized Education Programs (IEPs) are not receiving their required services. While we do not have all the data for the youth at the PJJSC, there are youth charged with low-level offenses, held on technical violations, or awaiting other placements who do not need to be in the facility.

Many young people at PJJSC have already been adjudicated delinquent and are awaiting transfer to a treatment facility.³³ Some have been awaiting transfer for months, and the time spent at the PJJSC detention facility typically does not count toward the court-ordered length of treatment.³⁴ For example, if a youth is adjudicated delinquent and ordered to spend three months

²⁵<https://www.jcjc.pa.gov/ResearchStatistics/Disposition%20Reports/2021%20Juvenile%20Court%20Annual%20Report.pdf>, Pages 32 and 35.

²⁶ *Id.*

²⁷ *Id.*

²⁸ <https://www.pacourts.us/Storage/media/pdfs/20210508/154427-file-9928.pdf>.

²⁹ <https://whyy.org/articles/philadelphia-sues-state-reduce-youth-justice-overcrowding/>

³⁰ *Id.*

³¹ <https://www.inquirer.com/politics/philadelphia/philadelphia-considers-suing-wolf-over-juvenile-detention-center-20221020.html>

³² https://www.phillytrib.com/news/local_news/city-council-pushes-lawsuit-over-juvenile-justice-center/article_1fcc22c1-58d8-58e5-bf61-1fcb723edcc8.html

³³ <https://www.inquirer.com/politics/philadelphia/philadelphia-considers-suing-wolf-over-juvenile-detention-center-20221020.html>

³⁴ *Id.*

at a placement facility but spends two months at the PJJSC awaiting transfer to the placement facility, the youth still has to complete three months at the placement facility upon transfer.³⁵

These experiences are not unique to the PJJSC, as youth in other detention facilities around the state are experiencing similar conditions.

Pennsylvania Should Remove Youth from Detention Facilities

This is not the time to reopen facilities that have been closed for abuse or to build new facilities to create additional bed space. We cannot ignore the reasons these facilities were closed, and we must prioritize the safety of our youth. In Philadelphia, the County has proposed sending youth to a residential facility in Texas, which is confronting its own problems of abuse and maltreatment of youth.³⁶ Pennsylvania tried a reactive, tough on crime approach in response to the super-predator myth in the 90's. It did not contribute to public safety, but rather devastated families and communities. Instead of repeating these mistakes, we need to invest in more effective solutions.

A common-sense solution to the overcrowding of detention facilities is to remove youth from these facilities and prioritize community-based diversion programs. The bi-partisan, inter-agency Pennsylvania Juvenile Justice Task Force was convened in 2019 out of recognition that Pennsylvania's juvenile justice system was harming youth and needed to be reformed. After studying Pennsylvania's juvenile justice system for a year and a half, the Task Force found that: too many youth enter into the system for minor offenses, diversion is severely underutilized despite being extremely effective, and the system is filled with racial disparities with Black and Brown youth facing much worse outcomes than white youth. In an extensive final report, the Task Force published 35 recommendations for system reform, and highlighted the need to reduce spending on out-of-home placement and invest the cost-savings into non-residential alternatives.

Youth have better outcomes when they are served within their communities through diversion programs than when they are incarcerated.³⁷ The Task Force found that diversion programs, which allow youth to bypass formal system involvement, have an 80% success rate but are only used in one third of cases.³⁸ Pennsylvania has numerous diversion programs that offer effective services for youth without inflicting the irreparable harms of incarceration. For instance, the Pennsylvania based Youth Advocate Program (YAP) uses advocates from the same communities as the youth in the program to provide intensive, in-home wraparound support to youth.³⁹ YAP reports that 87% of youth who complete the program are living safely within their community, 96% are not convicted of a new felony, and 88% either graduated or are attending

³⁵ *Id.*

³⁶ <https://6abc.com/philadelphia-lawsuit-overcrowded-detention-center-pa-department-of-human-services-west-philly/12440423/>; <https://www.texastribune.org/2022/08/02/texas-juvenile-prisons-inspections/>

³⁷ Criminal Justice and Behavior, 40, 497-518; Petrosino A., Turpin-Petrosino C., & Guckenburg, S. (2010); Effects on delinquency. Campbell Systematic Reviews, 1; Gatti, U., Tremblay, R. E., & Vitaro, F. (2009)

³⁸

https://www.pacourts.us/Storage/media/pdfs/20210622/152647pajuvenilejusticetaskforcereportandrecommendations_final.pdf, Pages 15

³⁹ <https://www.yapinc.org/What-We-Do/Direct-Services>.

school regularly.⁴⁰ Another effective alternative is the Healing Futures restorative justice program run by the Youth Art & Self-empowerment Project.⁴¹ During the program, youth meet face-to-face with the person harmed, their support systems, and other impacted community members.⁴² The participants develop a plan to repair the harms, and once the plan is completed, no charges are filed and the case is closed.⁴³

A clear path forward for the legislature is to enact the recommendations of the Juvenile Justice Task Force. We highlight a few priority recommendations here that would allow for the state to make progress on these issues. Recommendation 14 of the Task Force's final report called for reducing the number of youth in detention by introducing strict criteria that would prohibit detaining certain youth. One of the main drivers of the overuse of detention is the extraordinarily broad discretion given to the courts to decide who is detained. Recommendation 14 provides clear standards that prohibit detention for youth: under the age of 14; charged with a misdemeanor or nonviolent felony; charged with a status offense, probation violation, or non-payment of fines, fees, or restitution; or are pregnant or the parent of children born in the past year.

Recommendation 13 of the Task Force's final report proposed requiring diversion for youth charged with misdemeanors and non-violent felonies. Mandating diversion for these youth will reduce the number of young people in the system, and prevent overcrowding of facilities. Last session, Senators Bartolotta and Williams introduced legislation (SB1241) encompassing these two recommendations, but the legislation was not brought up for a vote in the Senate Judiciary Committee. They recirculated a co-sponsorship memorandum for that legislation this session.

Recommendation 25 suggested that Pennsylvania create a permanent Office of the Child Advocate which would function as an independent office to investigate claims of abuse and maltreatment of youth within the system. A statewide advocate will help children and families learn and assert their rights while in the facilities, protecting our youth and holding facilities accountable. This session, Representative Sappey introduced legislation (HB813) to create such an office and is pending in your Committee, and Senators Brooks, Schwank, Collett, and Kane circulated a co-sponsorship memorandum to do the same.

We are at a crossroads. We can either continue to repeat the harms of the past by reopening or building new facilities, or we can consider a new approach that studies show will provide better outcomes for our youth. As the Grand Jury Report for the DCJDC emphasized, the harms our youth face should serve as a "cautionary tale." We need to prioritize the care and safety of our youth "ensure that the treatment... residents receive reflects a society that is

⁴⁰ 2022 YAP Annual Report, https://www.yapinc.org/Portals/0/Docs/2022_AR.pdf.

⁴¹ <https://www.yasproject.com/programs/healing-futures>

⁴² *Id.*

⁴³ *Id.* States, such as New Jersey, Connecticut, and Indiana, are increasingly using restorative justice programs as alternatives to incarceration; https://assets.aecf.org/m/resourcedoc/Restorative-Justice_f01.pdf.

humane and hopeful in the ability of adolescents – especially those who come from troubled backgrounds and are, in turn, troubled in their own right – to turn their lives around.”⁴⁴

Juvenile Law Center appreciates the opportunity to participate today and calls on members of this Committee to work with your colleagues to pass legislation to implement the Task Force recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read 'Malik Pickett', with a stylized flourish at the end.

Malik Pickett, Esq.
Staff Attorney

⁴⁴ DCJDC Grand Jury Report, Page 2.