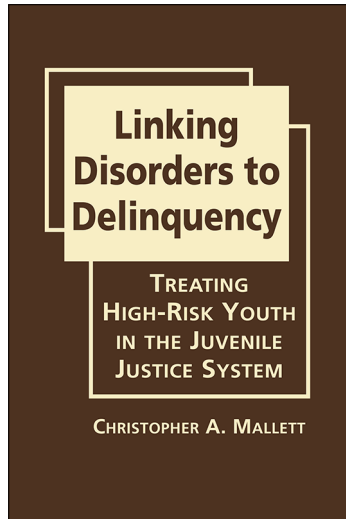


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Linking Disorders  
to Delinquency:  
Treating High-Risk Youth  
in the Juvenile Justice System

Christopher A. Mallett

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# 1

## Children and Youth at Risk

The sheer number of youth who become formally involved with the juvenile courts—over one million each year across the United States—is a sober reminder of the significant social problems posed by juvenile delinquency. Equally concerning, this involvement with the juvenile courts all too frequently forecasts a precipitous pathway to even further difficulties.

Preventing delinquency and ongoing offending behaviors is important so that youth can avoid the harmful effects of detention and incarceration, and the potential involvement with the adult criminal justice system. It is likely that early preventative and interventive efforts with these children and youth will effectively divert many harmful outcomes, alternatively allowing successful young adulthood development. This is possible because the risk factors for delinquency are well known and children and youth with these factors can be identified; once identified, there are many effective diversion pathways. While most children and youth at risk for delinquency never become involved with the juvenile courts because of various protections from these risks and individual resiliency to their effects, the concern here is for those who are not so fortunate.

This book focuses on children and youth who have certain delinquency risk factors, including a number of disabilities and trauma experiences that increase their chances for involvement with the juvenile courts. The issues of concern include mental health disorders, substance use and abuse, certain special education disabilities (primarily learning disabilities and emotional disturbances), and maltreatment victimizations. Such early problems do not inevitably portend delinquency, and the majority of similarly affected youth do not break the law or become involved with the juvenile courts. Nonetheless, youth involved with the juvenile courts have much higher incidences of these disabilities and trauma experiences when compared with youth not

involved in the juvenile court system. In other words, strong correlations exist between these incidences and delinquency. A link that becomes stronger the further a youth penetrates the juvenile justice system. It bears reinforcing that this link is strongest for serious, chronic, and violent youthful offenders. A group that is also most likely to be held in detention centers and juvenile incarceration facilities, and to be involved with the adult criminal justice system. Within these facilities a majority of youthful offenders have multiple disabilities and trauma experiences.

Child and youth disabilities and trauma experiences are often interrelated and comorbid, which complicates prevention and/or recovery efforts and interventions for youth-caring system personnel, policy makers, and other stakeholders. Thus, complex and intransigent vulnerabilities, combined with comorbid difficulties and risks, comprise the backgrounds of many children and youth who slip toward some low level offending and, disconcertingly, serious juvenile offending.

This book investigates how these disability and trauma risks impact children and youth, how these risks often come together throughout childhood and adolescent developmental stages, and how ultimately the comorbidity of these difficulties has a strong impact on delinquent behaviors. Vital to solving the multi-faceted social problem of serious youthful offending is early intervention with risk identification and preventative measures for youthful victims of maltreatment and for youngsters suffering from mental health disorders and school difficulties (often learning disabilities), along with coordination of such efforts across the at-risk child and youth-caring systems.

Some of the key, and, at times, overlooked barriers to decreasing serious youthful offending are: failing to identify these risks during childhood or early adolescence, failing to intervene in timely or appropriate ways, and causing discord and disruption because of separate child and youth service delivery systems. This book ultimately advocates for the coordination of preventative and treatment efforts across child welfare, mental health, substance abuse, school, and juvenile court systems. A recommendation that has been voiced previously by various national stakeholder groups, but, for a variety of reasons, has rarely been actualized.

The case for these recommendations is argued through seven sequential chapters. This first chapter provides an overview of the child and youth risk factors for delinquency and explains why some children are at greater risk than others. This is followed by a review of the disproportionate number of youth with these disabilities and trauma experiences who are formally involved with the juvenile courts, making the subsequent link to detention and incarceration. In Chapter Two the

epidemiology of these child and youth disorders and trauma experiences is reviewed, as an explanation of how each of these problems (maltreatment, mental health disorders, substance abuse, and learning disabilities) is linked to juvenile delinquency. In Chapter Three the onset and occurrence of each disability type is reviewed for primary school-aged children; preventative and treatment options are also thoroughly discussed. Similarly, in Chapter Four the onset and occurrence of each disability type is reviewed, though for secondary school-aged youth, including a similarly formatted discussion of treatment and programming options. This is followed by a highlight of what the juvenile justice system and other stakeholders may find as solutions to working more productively with low-level juvenile offenders with these disabilities and trauma experiences (Chapter Five) and serious youthful offenders (Chapter Six). Chapter Seven completes this review by presenting the challenges inherent in moving from a punitive juvenile justice system to one focused on treatment, by discussing the barriers in coordinating between child and youth disability systems, and by highlighting a number of successful system efforts. However, significant change is necessary to turn around the current juvenile justice system, with its deleterious outcomes for some of society's most vulnerable children and youth, to one that provides opportunities for young adulthood success.

### **Delinquency and Disability Risk Factors**

Children and youth typically experience increased risk for involvement with the juvenile courts as a result of a combination of risk factors, rather than any single experience, leading to offending behaviors and delinquency. These risks often include poverty, family dysfunction, violence, trauma, academic and learning problems, mental health difficulties, and unstable and disorganized neighborhoods, among others. Yet, for a variety of reasons, many children and youth are resilient to the effects of these risk factors. Though many individual, family, and community issues are quite common and affect delinquency, the focus here is on four distinct, though often interrelated problems: (1) maltreatment victimization, (2) mental health disorders, (3) substance use and abuse, and (4) special education disabilities, primarily learning disabilities. Not only are these problems disproportionately apparent in juvenile court populations, but also once youth who are afflicted with such issues become involved with the juvenile courts, the likelihood and risk are high for detention, incarceration, and involvement with the adult

criminal justice system, at great personal, fiscal, and social cost for the youth, juvenile courts, and communities.

Risk factors are internal or external conditions that make the disability or difficulty more likely an outcome for children and youth when compared to those who do not experience these conditions. The outcomes of interest here include maltreatment victimization, emotional problems (including mental health disorders), substance abuse, learning disabilities, and delinquency. Though separate and distinct at-risk child and youth service delivery systems are designed to address different risks and problem areas, children and youth who become involved with any one of the systems often share many common risk factors.

Many child and youth disabilities, and related difficulties such as academic problems and mental health disorders, come to the attention of systems designed to identify the problem, intervene, and provide treatment. These at-risk child and youth service delivery systems are primarily focused on four discrete areas: (1) special education, (2) mental health and substance abuse, (3) child welfare, and (4) juvenile justice. The special education system identifies and addresses physical, learning, and developmental disabilities through local public and private school districts. The mental health and substance abuse system includes both public and private agency providers offering treatment services for children, youth, and their families. The public child welfare system is responsible for protecting children and youth from abuse and neglect through investigations and child and family supervision. The juvenile justice system aims to ensure community safety, as well as youth rehabilitation and accountability for those who commit status offenses (for example, truancy, breaking curfews, alcohol possession) and crimes. However, the juvenile justice system also often becomes the system of last resort for many youth affected by the problems on which this tract is focused.

A significant number of risk and predictive models for these child and youth disability and maltreatment outcomes have been developed, including separation into demographic/historical factors (Heilbrun, 1997), criminology and clinical frameworks (Monahan et al., 2001), a psychosocial paradigm (Kashani, Jones, Bumby, and Thomas, 1999), and an ecological model (United States Department of Health and Human Services, 2001). The ecological model is of most use here because of its focus on the etiology and interrelations of the risk factors. This model typology separates these risks as they relate to the individual, family, and community. An organization schema utilized here (DeMatteo and Marczyk, 2005; Hawkins et al., 2000).

Many of these child and youth difficulties are intertwined yet with other problems. In other words, researchers are still working to determine which children and youth are more at risk for which difficulty or disability, and from there are trying to understand how these disabilities affect or cause deleterious societal outcomes, including offending behaviors and delinquency. What follows is a review of what is known to date.

### *Individual Risk Factors*

Factors that increase the likelihood that an individual child or youth will develop a special education disability, in particular learning disabilities, include living in poverty, family dysfunction, being adopted, male gender, and low household educational attainment (Altarac & Saroha, 2007). Special education disabilities, in turn, are a risk factor for delinquent behaviors and juvenile detention (Mallett, 2008; Mears and Aron, 2003). Many mental health problems, including a history of early aggression (ages six to thirteen), hyperactivity, and substance abuse or dependence, are also risk factors for youthful offending behaviors (Chassin, 2008; Grisso, 2008; Hawkins et al., 2000; Loeber and Hay, 1996).

Maltreatment victimization (neglect, physical abuse, and sexual abuse) has a wide range of harmful outcomes and increases risk for further difficulties. Harmful outcomes may include poor cognitive development (Guterman, 2001; Wiggins, Fenichel, and Mann, 2007), mental health problems (Mallett, 2012), and drug use or abuse (Kelley, Thornberry, and Smith, 1997; Wiebush, Freitag, and Baird, 2001). In particular, maltreatment has a profound educational impact on many children and youth, including lower academic performance and grades, falling behind in grade levels, lower standardized testing and proficiency scores, and significantly higher risk for learning disabilities and emotional disturbances (Courtney, Roderick, Smithgall, Gladden, and Nagaoka, 2004; Courtney, Terao, and Bost, 2004; Smithgall et al., 2004). Of particular concern are maltreated children who are placed into foster care. These youngsters are much more likely to be identified with special education disabilities and much less likely than non-disabled peers to complete high school (Children's Law Center, 2003; Smithgall, et al., 2004).

Many of these maltreatment outcomes are also correlated with youthful offending behavior and delinquency. Children and youth who have been maltreated are more likely to engage in offending and delinquent behaviors compared to those without maltreatment histories

(Maxfield, Weiler, and Widom, 2000). The stronger maltreatment links to delinquency are for youth who have been victims of physical abuse and neglect, though researchers are still trying to determine the etiology and differential impact these types of specific maltreatment typologies have on delinquent activities and offending behaviors (Mallett, Stoddard-Dare, and Seck, 2009; Yun, Ball, and Lim, 2011). Repeat maltreatment victimization predicts the earlier initiation and often greater severity of delinquent acts (Stewart, Livingston, and Dennison, 2008). In fact, when other risks are accounted for this link appears to be strongest in predicting serious or chronic youthful offending (Ireland, Smith, and Thornberry, 2002; Lemmon, 2006; Smith, Ireland, and Thornberry, 2005).

### *Family Risk Factors*

One of the family risk factors present across disability and maltreatment outcomes is living in poverty and experiencing the multitude of challenges and difficulties this upbringing imposes. Children who grow up in low-income families are more likely to be retained or held back a grade level in school (Bradley and Corwyn, 2002; Mears and Aron, 2003), to not graduate from high school (Brooks-Gunn and Duncan, 1997; Wald and Martinez, 2003), to have both internalizing (i.e., depression and anxiety) and externalizing (i.e., conduct disorder) behavior problems (Koball, Dion, Gorchro, Bardo, Dworsky, Lansing, et al., 2011; Moore and Redd, 2002), to develop learning disabilities (Mallett, 2011b), and to engage in delinquent activities (Hawkins et al., 2000; Loeber and Farrington, 1998).

Unstable upbringings within families have a significant impact on children. Family dysfunction, when measured in terms of witnessing violent treatment of family members, is a risk for later youth delinquency (Dembo et al., 2000; Felitti et al., 2008). In addition, criminal activity, particularly by parents (Dong et al., 2004), early parental loss (Farrington, 1997), parent/child separation (DeMatteo and Marczyk, 2005; Henry et al., 1996), and residential instability (Felitti et al., 2008; Hawkins et al., 1998) are risk factors for delinquent activities, emotional problems, substance use and abuse, poor academic outcomes, and maltreatment victimization. As can be seen, risk factors for some areas are outcomes for other problems, and vice versa; providing further evidence of the complex interplay of causation and the difficulties in both studying and effectively intervening in these comorbid issues.



### ***Community Risk Factors***

The less well organized and cohesive the community the greater the risk is for poor child and youth outcomes. Crime, including drug-selling, and low-income housing in the community are linked to delinquent youth behaviors (Maguin et al., 1995), as is the exposure to violence within the community. Witnessing violence has been associated with aggressive behavior, poor school performance, and increased mental health difficulties, including depression, anxiety, and trauma (Gorman-Smith and Tolan, 1998; Margolin and Gordis, 2000; Miller et al., 1999; Schwartz and Gorman, 2003). These more violent communities are often disproportionately composed of minority populations and poor (Kracke and Hahn, 2008). The inter-relationship of risks across the individual, family, and community is often confounding.

### **Resilient or Vulnerable Children and Youth**

Children and youth will react to these individual, family, and community risk factors in varying ways. Some children and youth are highly resilient to such experiences while others are greatly affected and troubled. The term “resilient” has been operationalized in a number of ways, though considerable debate remains on how best to study this concept (Luthar, 2003; Masten, 2001; Rutter, 2006). Resiliency has, for instance, been defined as the capacity for children and youth to thrive in the face of these risks and difficulties, avoiding many of the deleterious effects. A second definition states that resiliency is the process of, or capacity for, a successful adaption despite the circumstances (Masten, Best, and Garmezy, 1990). However the term is defined, many children and youth are simply able to withstand the challenge of numerous problems and risk factors without sustaining harmful long-term consequences (Fergus and Zimmerman, 2004).

The degree of resilience that an individual has depends on a complex interaction of risks factors, balanced with protective factors (Buffington, Dierkhising, and Marsh, 2010). Protective factors are often considered and measured as the absence of risk factors (Hawkins et al., 2000). However, specific protective factors have been identified that may minimize certain childhood and youth risks. For example, a strong relationship with a positive parent or parental figure may be protection enough for a child to overcome maltreatment experiences and subsequent school and academic difficulties; or, the school that the child attends may provide enough of a support system that the dysfunctional family system does not greatly impact development; or the family

environment may provide a stable enough home that even a very low-income and violent neighborhood won't significantly impede the child's development (Fraser, 2004; Richters and Martinez, 1993).

When measuring and identifying childhood resiliency factors that protect from dysfunction, poverty, and related difficulties, there is a significant interplay among heritable factors, individual characteristics, and experiences over time (Collishaw, Pickles, Messer, Rutter, Shearer, and Maughan, 2007). These may include individual cognitive factors such as self-regulation abilities and intelligence, biological factors such as stress and reactivity, inter-personal factors such as peer affiliations, and family-related factors including parenting abilities (Caspi et al., 2002; Masten et al., 1999; Werner and Smith, 2001).

In a number of reviews of children who have experienced trauma or maltreatment some specific protective factors were identified: above-average cognitive abilities and learning styles, an internal locus of control, the presence of spirituality, external attributions of blame from traumatic events, and emotional support (Cicchetti et al., 1993; Heller et al., 1999; McGee, Wolfe, and Olson, 2001). The presence of these protections, or other factors yet to be identified, may be behind the growing evidence that the mental health of a substantial minority of maltreated children is relatively unaffected by their adversity (McGloin and Widom, 2001). Also, children and youth who are not maltreated but who are exposed to other risk factors are still at risk for the development of mental health difficulties, substance abuse problems, learning/academic problems, and possible subsequent delinquency. Nonetheless, many of these children are also resilient and adapt and develop well into adolescence without significant trouble (Luther, 2003; Mears and Aron, 2003; National Center for Children in Poverty, 2000). Thus, in the end, it is still difficult to predict how an individual child or youth will respond to these risk factors and harmful experiences.

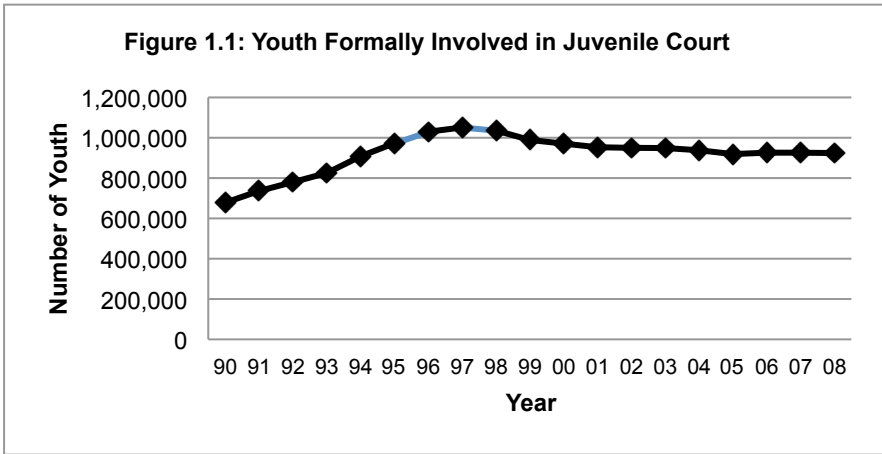
### **From Delinquency and Disability Risks to the Juvenile Courts**

While a significant number of children and youth are resilient to the impacts of maltreatment, mental health difficulties, and learning problems, too often these risk factors impact their development and lead to offending, aggressive, and delinquent activities (Mallett, 2011b). The connection with these difficulties and disabilities has been identified by many researchers and stakeholders and termed the pathway from maltreatment to delinquency, the school-to-prison pipeline, and from poverty to prison, among others (Children's Defense Fund, 2009; Mulvey, 2011). Before explicating these "pathways" for youth who

become involved with the juvenile courts, it is important to understand the costs of the juvenile justice system. Expenses that rise exponentially the deeper youth are involved with the juvenile justice system.

The number of youth referred annually and nationally to the juvenile courts is substantial. Over 2.0 million arrests of youth under age eighteen (Puzzanchera, 2009), over 900,000 youth formally processed and involved (Knoll and Sickmund, 2010), more than 350,000 youth held in detention centers (Holman and Ziedenberg, 2006; Sickmund, 2009) and more than 90,000 youth held in correctional facilities. That is, incarcerations for more serious and chronic youthful offenders (Davis et al., 2008; Hockenberry, Sickmund, and Sladky, 2010). Calculated as a daily census, over 60,000 youth are being held each day in a detention, incarceration, or residential facility by order of a juvenile court (Sickmund, 2009). Of these youth who are formally involved and adjudicated delinquent (an official court order providing legal control over the youth), over 70 percent are male (though the female proportion has increased over the past two decades), over 64 percent are Caucasian (though a disproportionate number are minority), approximately 50 percent are younger than age 16, and the offenses committed include property (36 percent), public order (28 percent), person-related (25 percent), and drug-related violations (11 percent) (Knoll and Sickmund, 2010).

Since 1990, the number of youth formally involved with the juvenile courts has increased over 30 percent, with only a slight downward trend recently (see Figure 1.1). This most recent decrease is primarily attributable to two factors. First, some jurisdictions and states gave rethought the punishment model within the juvenile courts, with a corresponding move toward rehabilitation, diversion, and treatment when appropriate. Second, the 2008-2009 economic recession has greatly affected state and local budgets, forcing significant expenditure decreases. At the state level this means less funding for state correctional facilities, where youth with more serious offenses are sentenced to serve incarceration time; at the local level, juvenile court and detention center operations have been reduced, because a large majority of these funds are from county budgets.



*Sickmund, M., Sladky, A., and Kang, W. (2010) Easy access to juvenile court statistics: 1985-2008. National Center for Juvenile Justice, Pittsburgh, PA.*

**Juvenile Detention**

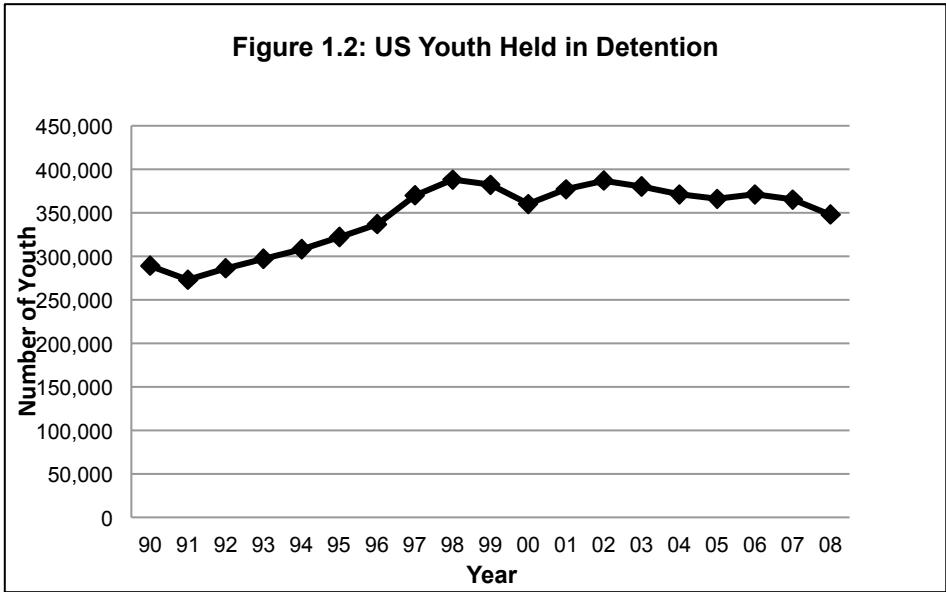
Detention center placement is ideally utilized to protect the youth and/or the community, and occurs for either pre-trial holding (adjudication determination) and/or post-trial sentencing purposes for both low-level and more serious offenses. In many jurisdictions, detention centers also serve as the point of intake and initial detention after youth are arrested by law enforcement. While still serving these purposes, detention centers have also shifted over the past decade to holding many more non-violent offenders (Knoll and Sickmund, 2010). Lengths of stay can vary from less than a day for minor offenses to months for complicated and serious offenses. These placements have increased over time and, not surprisingly, mirror the trends of the increased formally juvenile court-involved youth (see Figure 1.2).

Two areas of concern related to race and gender are of significance for youth entering the juvenile courts over the past decade. The first issue, though not fully understood, is that race is a significant predictor of detention placement (and incarceration) outcomes. An African-American youth is six times more likely to be detained, and a Hispanic youth three times more likely, than a Caucasian youth, even when accounting for many of the important legal factors that influence these detention decisions such as number of offenses and offense type (Bishop, 2006; Kempf-Leonard, 2007; Puzanchera, Adams, and

Snyder, 2008). This phenomenon has led to what is called a “disproportionate minority confinement” (DMC) problem; and is a major focus of attention for national, state, and local stakeholders who are trying to understand and address this vexing problem (Mauer and King, 2007; National Council on Crime and Delinquency, 2007; Piquero, 2008).

The second issue is the increase in adolescent females’ involvement with the juvenile courts over the past two decades (Zahn et al., 2010), which has led to the increased supervision and detention of female offenders (Tracy, Kempf-Leonard, and Abramoske-James, 2009). Though studies demonstrate that adolescent females today are not more violent than adolescent females in prior decades, this increased involvement with the juvenile courts may reflect differential treatment, mandatory arrest policies for domestic violence (Zahn et al., 2008), other changes in law enforcement policies (e.g., releasing status offenders from detention centers), or a decrease in public tolerance for juvenile crime (Chesney-Lind, 1995; Feld, 2009; Pasko and Chesney-Lind, 2010). Though the reasons for increased female adolescent involvement with the juvenile courts and detention centers is not clear, females still make up only 15 to 20 percent of annual juvenile arrests (Feld, 2009). However, female adolescents’ arrest rates have risen slightly over the past twenty years for all four crime categories: violent, property, person, and drug (Puzzanchera and Kang, 2008). Of significant concern, though, is that post-arrest, female youthful offenders are more likely to be detained than male youthful offenders (Chesney-Lind and Irwin, 2008). Consequently, one in five female youthful offenders is placed into a locked detention center, totaling over 70,000 annually (Knoll and Sickmund, 2010; Sickmund, 2008).

A growing consensus has begun to conclude that, notwithstanding continuing concern about reoffending all the youth in question, detention stays do not meet the main functions of the juvenile courts - youth and community safety maintenance - and that the experience of detention itself may be part of the problem (Mallett and Stoddard-Dare, 2010). Indeed, detention placement has increasingly been found to have a causal impact on increased youth re-offending and recidivism (Justice Policy Institute, 2009; Soler, Shoenberg, and Schindler, 2009). In other words, the experience of detention makes it more likely that detained youth, particularly non-violent and status offenders, will continue to engage in delinquent behavior, and it may increase the odds of recidivism (Holman and Ziedenberg, 2006). While the reasons behind this are still being investigated, it is known that detained youth are more likely than non-detained youth to further penetrate the juvenile justice



*Sickmund, M., Sladky, A., and Kang, W. (2010) Easy access to juvenile court statistics: 1985-2008. National Center for Juvenile Justice, Pittsburgh, PA.*

system, with prior commitment being the most significant predictor of recidivism (Fendrich and Archer, 1998; Sheldon, 1999). Additionally, and of concern, detention placement has been found to cause a much greater chance of youth being incarcerated later in a state facility (Office of State Courts Administrator, 2003).

**Incarceration: Juvenile Facilities**

Juvenile correctional facility placement represents the most restrictive option for the juvenile courts - typically years-long incarceration of youth. Such placements are less frequent for less serious youthful offenders but are used for more serious matters and entail longer sentences than detention (Holman and Ziedenberg, 2006; Mallett, Williams, and Marsh, 2012). For these more serious offenders, incarceration outcomes are not encouraging. Placement into these facilities has either no correlation with youth re-arrest or recidivism rates (Loughran et al., 2009; Winokur et al., 2008) or it is associated with increased risk for youth re-arrest or recidivism (Myner et al., 1998).

As evidenced in many reviews, a large percentage of incarcerated youth reoffended within eighteen to thirty months of their release from these facilities (Petrosino, Turpin-Petrosino, and Guckenburg, 2010). While incarcerated, many of these youth do not receive services that may assist in mitigating the prior offending behavior; in other words, they are not provided with rehabilitative services that may be warranted (Annie E. Casey Foundation, 2009).

### **Incarceration: Transfers of Youth to the Criminal Courts**

The incarceration of youthful offenders is not limited to juvenile detention and state jail facilities; it also includes the adult criminal justice system. This was not always the case. Juvenile courts, and subsequently detention facilities, were established in all states by 1945, with the intention of keeping incarcerated youth separate so that so that youth could be rehabilitated and returned to their communities (Coalition for Juvenile Justice, 1998; Krisberg, 2005). In 1966, though, the United States Supreme Court (in *Kent v. U.S.*) determined that transferring juvenile offenders to adult criminal courts was permissible, although certain procedures and reviews of circumstances were necessary, including the seriousness and type of offense, prosecutorial merit of the complaint, youth maturity, home environment, and previous court history (Mallett, 2007). During the 1970s and 1980s as the movement to be “tough on crime” shifted the juvenile and adult courts away from rehabilitation, state legislatures made automatic (and prosecutorial) youth transfers more common (Feld, 1987; Griffin, 2003; Griffin et al., 2011).

Little is different today in the handling of serious youthful offenders. In 2011, all fifty states had transfer laws that allowed or required the criminal prosecution of some youthful offenders, often mandating the transfer of these youth from the juvenile courts to the adult criminal courts (Griffin et al., 2011). Most states place the responsibility on the prosecution to show that the youthful offender should be transferred and tried in adult criminal court, with many taking into account the nature of the alleged crime and the individual youth’s history, age, maturity, and other rehabilitative concerns (Neelum, 2011). In twenty-nine states, however, transfers to criminal court are automatic if the youth commits a certain type of offense and is a certain minimum age (e.g., in New York, a fourteen-year-old may be transferred automatically for certain weapon-possession crimes, while murder is the offense most common for automatic transfer in these twenty-nine states). It is difficult to know how many youth are ultimately transferred

to the criminal courts because states do not consistently report this information. Reports from a number of states have found that nine of every 1,000 delinquency cases are transferred automatically, without any judicial or prosecutorial review; this could extrapolate to over 175,000 youth annually across the country, though this cannot be confirmed (Griffin, et al., 2011). It was reported, however, in a 2009 survey of adult jails nationwide, that over 7,000 of the inmates (less than 1 percent) were under the age of eighteen (Minton, 2010).

Transfers of youth to the adult criminal justice system are controversial because they divide the youthful offender population into two categories; those worthy of rehabilitation and those subject to retributive punishment (Fagan, 2008; Singer, 1996). The concern about bifurcating this population is that the latter's rights to due process might be violated, that significant mitigating circumstances around youth development and disabilities may not be reviewed prior to transfer, and that public policy goals of increased public safety and youth accountability are not met (Green, 2005; Mallett, 2007; Marrus and Rosenberg, 2005; Tanenhaus and Drizin, 2002). There is little evidence that these state transfer laws have reduced arrest or crime rates (Fagan, 1995; Stolzenberg and D'Alessio, 1997) or recidivism (Bishop, 2000; Howell, 1996; Redding, 2010). In fact, transferred youth appear more likely to reoffend (Lanza-Kaduce et al., 2005; Winner et al., 1997). In addition, many youth sentenced to adult criminal facilities serve no longer than the maximum time they would have served within the juvenile justice system (Bishop, 2000). These detention and incarceration policies absorb a significant portion of local and state juvenile justice dollars, often leaving fewer resources available for diversion, treatment, or other efforts for low-level youthful offenders.

### **The Costs of Confinement**

Policy makers are increasingly concluding that, excepting the smaller number of youth who pose a serious community risk, detaining and incarcerating large numbers of youthful offenders, whether in juvenile or adult facilities, is not sound fiscal public policy. The costs of these placements are substantial, with over \$5.0 billion spent annually incarcerating youth in juvenile institutions; youth placement in adult correctional facilities is above and beyond even that figure (Council of Juvenile Correctional Administrators, 2009; Justice Policy Institute, 2009). In comparison, the costs of all other juvenile court administrative, programming, and supervision efforts are estimated to be half as much as these facility placement and incarceration costs (Florida Department



of Juvenile Justice, 2010; Maryland Budget and Tax Policy Center and Advocates for Youth, 2008).

The costs of post-adjudication settings, such as detention, incarceration, and other related residential facilities, cost is more than \$240 per day on average (over \$88,000 annually) for each youth; excluding costs for youth in adult correctional facilities (American Correctional Association, 2008). Notably, over 38 percent of youth confined to juvenile correctional institutions were convicted of a non-person and non-violent offense, primarily court order violations, status offenses (truancy, curfew violations, and others), public order offenses, and/or drug-related offenses. Over 25 percent of youth in detention centers are being held because they did not follow their probation and supervision plans; hence, they violated court orders and were remanded or sentenced to the facility (Sickmund, Sladky, and Kang, 2010). Presumably youth who have committed such low-level and non-violent offenses are unlikely to pose a serious safety threat to either their communities or themselves.

Tallies of costs incurred over time for youthful offenders do not provide encouraging news. In one review of 500 offenders, total lifetime estimated cost was over \$1.1 million dollars per youth (DeLisi & Gatling, 2003). A second review of 500 youthful offenders found that those who became involved with the juvenile courts at an early age averaged over thirty-four total offenses over time and incurred approximately \$220,000 in costs by age seventeen. However, the smaller group of more serious and chronic offenders within this population, comprising only 10 percent of the juvenile court population, averaged over 142 offenses per youth over time and incurred approximately \$800,000 in costs by age seventeen (Welsh et al., 2008). Most recently, in a review of over 27,000 youthful offenders, it was estimated that by diverting just one serious or chronic youth away from ongoing delinquent activities, between \$2 million and \$5 million could be saved over the youth's lifetime (Cohen and Piquero, 2009). These reviews reinforce the need for, or at least for the fiscal benefit, of identifying early which individuals are most at risk for serious or chronic youthful offending.

### **From Serious Youthful Offending to Adult Incarceration: The Ultimate Dead-end**

Most youth in the general population have no contact with the juvenile justice system. In fact, even when youth do have contact (e.g., truancy pick up or arrest for traffic violation) - a majority, 54 percent of males

and 70 percent of females - never have a second contact (Puzzanchera, 2009). The concern, though, is for youth who do have additional interactions with the system, thus increasing their formal involvement with the juvenile courts. Within the youth population who are formally involved with the juvenile courts, often adjudicated delinquent, there is an even smaller subset of repeat and continual offenders. For this subset there is significant risk that their offending behaviors may continue into young adulthood and criminal court involvement. In addition, as noted, a large number of youth under the age of eighteen are already involved with the criminal courts through automatic or prosecutorial transfers to the adult system. This subset of the juvenile delinquent population, often referred to as serious, chronic, or violent youthful offenders, is the group most at risk to continue these offending patterns into adulthood and to be incarcerated as adults (Degue and Widom, 2009; Howell, 2003; Snyder, 1998).

A number of factors predict involvement with the adult criminal courts, mostly related to the onset and persistence of juvenile offending behaviors. The youngsters most at risk are those whose offending behaviors start early and continue through late adolescence; who commit more offenses, primarily person and violent offenses, and are more frequently adjudicated delinquent; and who have an escalation of offenses over time (Loeber and Farrington, 1998; Tolan and Gorman-Smith, 1998; Tracy and Kempf-Leonard, 1996). In some juvenile court settings, youth who were incarcerated in juvenile facilities, compared to those who received lighter sentences and were not incarcerated, were three times more likely to be incarcerated eventually in adult facilities (De Li, 1999).

If these more serious or chronic youthful offenders do not desist these negative patterns, but continue their involvement with the criminal courts as adults, their prospects are bleak. Imprisonment of youth with adult offenders attempts to address a number of public policy goals, including community safety, personal retribution, and discouragement of reoffending. Unfortunately, this last goal is most often not met (Pew Center on the States, 2011b; Spelman, 2000; Trulson et al., 2011). Recidivism, typically measured as a return to a jail or prison facility, and presumably important in assessing the impact of incarceration, is discouragingly high. A recent report on over 80 percent of the states, representing almost 90 percent of all released state inmates, found that 44 percent of those inmates were returned to prison within three years (Pew Center on the States, 2011b). Such high recidivism rates to adult incarceration facilities have remained fairly stable over the past two decades, with the most common offenses that lead to reincarceration

being robberies, burglaries, larceny, stolen property, and weapons charges (Beck and Shipley, 1989; Langan and Levin, 2002).

Ex-prisoners face significant and substantial barriers to reintegration and successful re-entry to their communities upon release from adult incarceration facilities (Pager, 2003; Western, Kling, and Weiman 2001). Incarceration may perpetuate criminal activities because of socioeconomic harm caused by the imprisonment on offenders, their families, and communities (Hirshfield and Piquero, 2010). Employment is a primary link for the ex-prisoners successful reentry into the community (Bellair and Kowalski, 2011), yet there is often a mismatch within the communities to which the offenders return between employment opportunities and the ex-prisoners' vocational skill set. Often there are not enough low-level jobs in the communities where the ex-prisoners return, leaving few if any alternatives to crime (Ihlanfeldt and Sjoquist, 1998; Soloman, Visher, LaVigne, and Osborne, 2006). Beyond work and employment difficulties, other well-established risks impact ex-prisoners' likelihood of reoffending and recidivism. Risk factors for reoffending include: being a younger adult offender, male, and single; having low educational attainment; having an increased number of convictions; and having an earlier age of onset for offending behaviors (Baumer, 1997; Gendreau, Little, and Goggin, 1996; Uggen, 2000). The failure to complete high school is commonly identified within the juvenile courts as a risk factor for chronic offending (Mears and Aron, 2003); this association has also been made within the adult prison population (Sampson and Laub, 1993).

There are problems also within the adult incarceration facilities. Over the past few decades as the punitive and "tough on crime" approach expanded the number of adult jails and prisons, this same philosophy simultaneously decreased many of the education or rehabilitative programs available to those incarcerated (Gordon and Weldon, 2003; Lynch and Sabol, 2001; Petteruti and Walsh, 2008; Pew Center on the States, 2011a; Vacca, 2004). Jails and prisons are violent and traumatizing places for many inmates, with high levels of physical assaults (Stephan and Karberg, 2003; Wolff et al., 2007). Difficulties encountered while incarcerated may impose new learned behaviors on prisoners, increasing antisocial activities because of the experience (Dodge and Pettit, 2003). In addition, the disproportionate minority confinement problem found within juvenile detention and incarceration facilities is a problem in adult incarceration facilities as well. Minorities are significantly overrepresented in jails and prisons, up to three times more frequently than might be expected from their community populations (Glaze, 2010; Minton, 2011).

If these serious offending and incarceration outcomes are to be improved, it is vital to prioritize efforts in decreasing the number of youth who commit violent and chronic offenses. Knowing that a majority of this youthful offender population struggles with the effects of maltreatment victimization, mental health problems, substance abuse issues, and/or learning and academic difficulties, it is important to identify these problems and appropriately intervene with treatment and rehabilitative efforts.

### **Summary**

Most children and youth never become involved with the juvenile or criminal justice systems. However, those who do often share common delinquency risk factors and background experiences. While these risks and experiences do not necessarily portend later delinquency, because many youth are resilient to the impacts, it is important to minimize the harmful influences for those most vulnerable. For some youth, involvement with the juvenile courts may lead to detention, incarceration, and possibly the adult criminal justice system - all harmful outcomes.