

**SHERIFF'S OFFICE**

Kirk M. Taylor Sheriff
J.R. Hall Undersheriff

Charlene Graham
Bureau Chief
Law Enforcement

Mark A Mears
Bureau Chief
Emergency Services

Darlene Alcalá
Bureau Chief
Detention

April 9, 2009

Ms. Kim Kam
132 West "B" Street
Pueblo, CO 81003

Dear Ms. Kam,

Per your request, I would like to take this opportunity to outline a few of the issues the Pueblo County Sheriff's Office currently experience in the housing of juvenile inmates. To preface this, however it is necessary to outline the functions of the Pueblo County Jail and the current admittance policy. The Pueblo County Jail was built in 1980 and originally built to house 189 adult inmates. In 2006, an expansion project of the current jail was completed in an on sight dormitory facility consisting of four direct supervision dorms to house adult offenders. The maximum population of the new dormitory is 320 adult inmates. The Pueblo County Jail is a felony facility and we do not accept misdemeanor offenders other than some contracted municipal offenders.

In the original design of the Pueblo County Jail, there were no plans to house juvenile offenders on a long term basis however, because of current criminal acts allegedly committed by juveniles in our community, we have been tasked with managing them. We currently house five male juveniles and have had up to nine juvenile offenders in the facility at once. Accommodations had to be made for sight and sound barriers for the juveniles from the adult offenders and we currently house them in what is known as the female special hold area. The cell block is roughly 50 feet long by 25 feet wide. It contains a common area with television, a shower and three 7' X 12' lockdown cells. This area was intended for females that had medical conditions or required lockdown.

While the Sheriff's Office is cognizant of the sight and sound barriers required in order to house juveniles, the possibility structurally remains that a juvenile could make eye contact with an adult offender while being transported to recreation or during movement for court proceedings. This is also possible during juvenile visitations. Other problems faced while managing juvenile offenders would be

April 9, 2009

medical conditions one of them might have. We have three medical cells in our facility and while we haven't had to "cross the bridge" with a juvenile inmate experiencing medical issues, this would create even more of a hardship in trying to managing medical needs given sight and sound restrictions.

Another concern to bring forward is the management of a female juvenile(s) in the facility. Again we have been very fortunate in this area however this too is a problem we will have to face eventually. I would propose an off sight facility or perhaps a partnership with Pueblo Youth Center to house and manage the juveniles. While the Sheriff's Office strives to meet requirements and consistently do, the mere fact that this facility was not indented or designed to accommodate juvenile offenders presents daily issues.

Thank you for your time and please feel free to contact me if you have any questions or require any other clarification.

Sincerely,

A handwritten signature in black ink that reads "David J. Lucero". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

David J. Lucero
Operations Captain



JOHN W. HICKENLOOPER
MAYOR

CITY AND COUNTY OF DENVER

DEPARTMENT OF SAFETY

DENVER SHERIFF DEPARTMENT
DENVER COUNTY JAIL
P.O. BOX 1108
DENVER, COLORADO 80201

April 8, 2009

Re: Juveniles housed in County Jails due to "Direct Filing"

To Whom It May Concern,

Please be advised that the Denver Sheriff Department is certainly in favor of allowing juveniles who are direct filed on to be housed in juvenile detention centers during the pre-trial stage of their cases and not held in County Jails as is currently mandated. We absolutely agree that there are cases where some juveniles need to be housed with us and not in juvenile facilities but the decision regarding their housing should be left to the judge and the court familiar with their individual case.

I begin by giving you a snapshot of the twelve juveniles housed with us today. We have one 14 year old and the others are evenly divided, either 16 or 17 years old. The 14 year old is charged with possession of a weapon by a previous offender and has a \$25,000 bond. We have four with \$100,000 bonds, three charged with aggravated robbery and the other with arson. Five have bonds of \$250,000 or more and have charges such as aggravated robbery, multiple sex assaults and crimes to at-risk adults and one murder. One also has a hold for Parole. Two have no bonds; one charged with sex assault to a child and the other with murder (he also has a hold for Division of Youth Services).

Now that you have a better picture of who we are talking about, you can see that at least one could be helped by the change you propose. Let me also say that our juvenile population changes. A few months ago, we housed seven juveniles, three of whom were charged with vehicular homicide. In each of those circumstances, alcohol was involved and the passenger killed was their very dear friend. Imagine the psychological problems involved for these teens!

We are tasked to house the juveniles "out of sight and sound" of adult inmates. They are housed in two-man cells and due to their cases or problems with each other, have been separated into two groups. The Denver County Jail was never designed to house juveniles at all, so we've made do by securing the corridor in order to take the juveniles to the gym, one group at a time, four days per week. It seems a small problem, but that time takes away from adult groups who could be going to the gym and takes twice the staff time. We believe that it is absolutely critical that they receive as much exercise as possible, both for their health and for better management.

They are required to attend GED but again, must be divided into two groups. This results in the instructor having to do double work, an officer having to be provided twice and takes away from time for adult groups. We also are beginning a "group meeting" for them next week. This will be conducted by a psychologist who specializes in juvenile issues. Because there are two groups, the library has to be shut down so that there is no

contact with adult inmates and of course, that takes away from adult library sessions. We must have an officer stand by to ensure behavior and the safety of the instructor and of library property.

They are provided with access to educational television and with appropriate reading material.

Another important issue to consider is that currently, these youngsters are required to be housed with us for the duration of their trial. The more serious or complicated charges result in them being here for a year or more. That time is a year taken away from the time they should be interacting with many other people their own age instead of just the few in their "group" here. Our fourteen year old for example, is in the position of learning very bad things from others in his "group" who may very well be housed appropriately with us. From dealing with their court situation and their housing and peers to dealing with the results of their crime, these kids experience things that they are not equipped to handle psychologically. It also follows that many had psychological issues that got them into trouble in the first place – or, was it youthful mischief that went terribly awry?

Logistically, properly housing and transporting these youngsters is difficult and time consuming. They have to be separated and guarded during visits, activities and when they are transported to court. At court, they require the same attention.

As the Sheriff Department, we are tasked to carry out the orders of the court. All we ask is that the judges have the authority to decide on a case by case basis where these youngsters are most appropriately housed.

If you need further information, please contact me.

Sincerely,

Major Victoria Connors
Denver County Jail - Operations
720.913.3714 office
303.435.1114 cell

Cc: D/C E. Diggins
Director W. Lovingier

OVERVIEW

— (Washington Post, August 10, 2007).

Every day in America, an average of 7,500 youth are incarcerated in adult jails.¹ The annual number of youth who are placed in adult jails is even higher – ten or twenty times the daily average according to some researchers – to account for the "turnover rate" of youth entering and exiting adult jails.² Despite the life-altering consequences of incarceration in an adult jail, relatively little attention has been given to these youth. This report presents the latest research about the risks youth face in jail, the number and characteristics of youth incarcerated in jails across the country, the lack of state and federal laws protecting youth in jails, and concludes with recommendations for federal, state, and county policymakers.

It is extremely difficult to keep youth safe in adult jails. When youth are placed with adults in jails, youth are at great risk of physical and sexual assault. For example, according to U.S. Department of Justice Bureau of Justice Statistics (BJS) in 2005 and 2006, 21% and 13% respectively, of the victims of inmate-on-inmate sexual violence in jails were youth under the age of 18³ – a surprisingly high percentage of victims considering that only 1% of all jail inmates are juveniles.⁴

Recognizing the risks to youth in jails, some jailers separate youth from adult inmates. However, this is not an adequate solution either. Separating youth from adults in jail can reduce the physical or emotional harm that may result from contact with adult offenders, but unfortunately these youth are then often placed in isolation, a dangerous setting for youth. Youth in isolation are frequently locked down 23 hours a day in small cells with no natural light. Even limited exposure to such an environment can cause anxiety, paranoia, exacerbate existing mental disorders, and increase risk of suicide. In fact, youth have the highest suicide rates of all inmates in jails.⁵ Youth are 19 times more likely to commit suicide in jail than youth in the general population⁶ and 36 times more likely to commit suicide in an adult jail than in a juvenile detention facility.⁷ Jail staff are simply not equipped to protect youth from the dangers of adult jails.

Jails do not have the capacity to provide the necessary education and other programs crucial for the healthy development of adolescents. Even though legally required to, few jails provide appropriate education to youth. A BJS survey found that 40% of jails provided no educational services at all, only 11% of jails provided special education services, and only 7% provided vocational training.⁸ As many as one-half of all youth transferred to the adult system do not receive adult convictions, and are returned to the juvenile justice system or are not convicted at all.⁹ Many of these youth will have spent *at least one month* in an adult jail¹⁰ and one in five of these youth will have spent *over six months* in an adult jail.¹¹ Without adequate education and other services, jails take youth off course.

Research conducted nationally by the MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice, and other organizations, has also found that placing youth in the adult criminal justice system increases their likelihood of re-offending. Physicians and criminologists agree that children who are prosecuted in adult court are more likely to be re-arrested more often and more quickly for serious

offenses. The Centers for Disease Control and Prevention Task Force on Community Preventive Services released findings that show that transferring youth to the adult criminal system increases violence and concluded that policies that send youth to the adult criminal justice system, including placement of youth in adult jails, are "counterproductive for the purpose of reducing violence and enhancing public safety."¹²

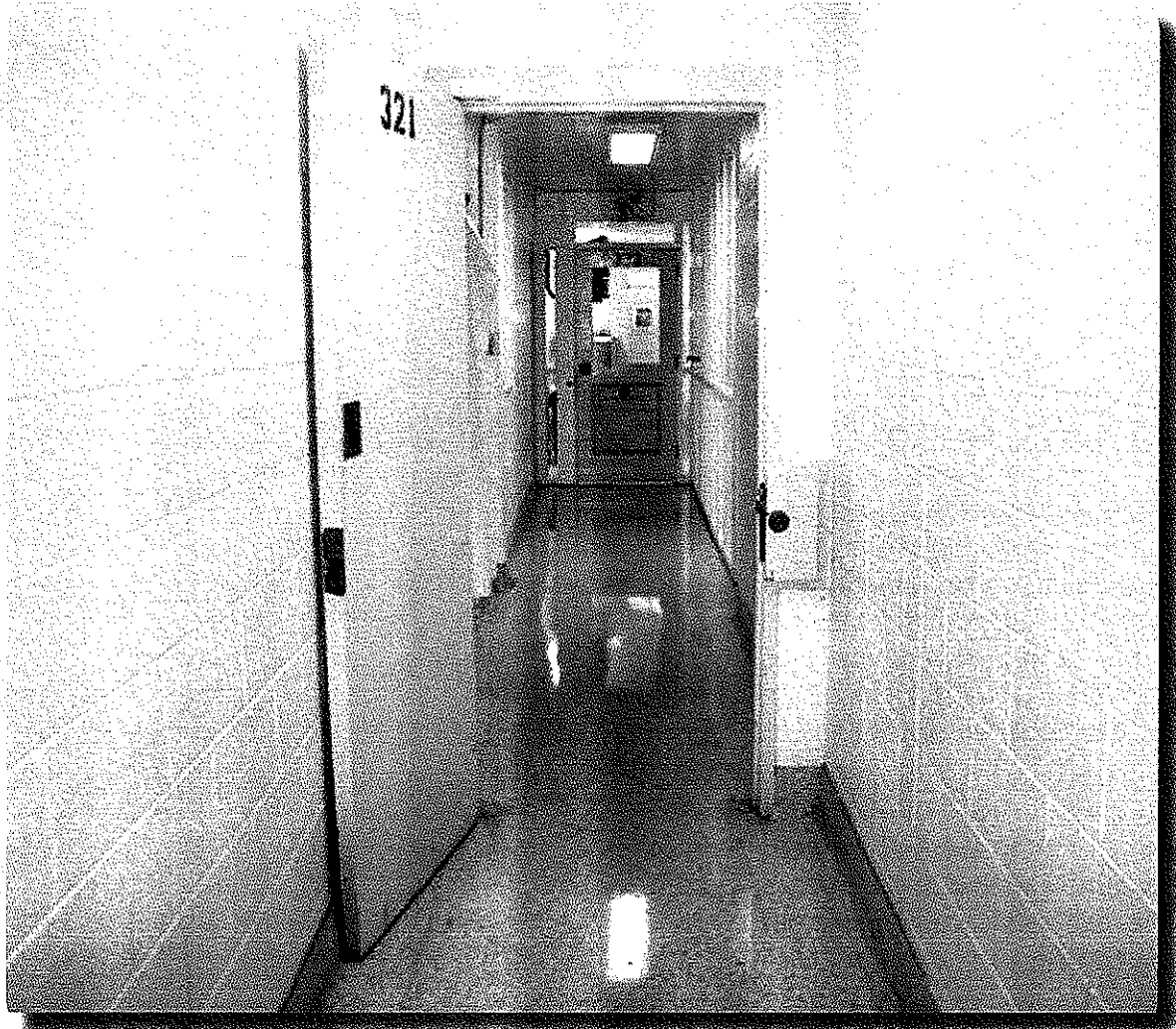
Finally, the federal Juvenile Justice & Delinquency Prevention Act (JJDP A) enacted over three decades ago was designed to keep youth out of jails. However, there is a loophole – the law does not protect youth prosecuted in the adult criminal system even though the original intent of the federal law was to remove youth from adult jails altogether. Congress should fix this problem by amending the JJDP A to protect all youth, no matter what court (juvenile or criminal) they are in, from being placed in an adult jail. Similarly, states and counties should update their state statutes and policies to prohibit the placement of youth in adult jails.

It is extremely difficult
to keep youth safe in
adult jails.

Notes

- ¹ Calculations by the primary author using a ten-year average (1997 to 2006) of one-day counts taken on June 30th of each year as reported by the Bureau of Justice Statistics (BJS) in annual editions of the BJS publication, *Prison and Jail Inmates at Midyear*, available from <http://www.ojp.usdoj.gov/bjs/jails.htm>. Youth in jails can be held as "juveniles" or "adults." Youth under the jurisdiction of juvenile court are protected by the federal Juvenile Justice and Delinquency Prevention Act (JJDP A) and can be held in adult jails in limited circumstances, most commonly because the jurisdiction lacks a juvenile detention facility. Of the 7,594 youth held in jails as "adults," 81% are youth prosecuted in the adult criminal system and are not protected by the JJDP A.
- ² Juskiewicz, J. (2007, October). *To Punish A Few: Too Many Youth Caught in the Net of Adult Prosecution*. Washington, D.C.: Forthcoming study from the Campaign For Youth Justice.
- ³ Beck, A.J., Harrison, P.M., Adams, D.B. (2007, August). *Sexual Violence Reported by Correctional Authorities, 2006*. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.
- Beck, A.J., Harrison, P.M. (2006, July). *Sexual Violence Reported by Correctional Authorities, 2005*. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.
- ⁴ Snyder, H.N., Sickmund, M. (2006). *Juvenile Offenders and Victims: 2006 National Report*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.
- ⁵ Mumola, C.J. (2005, August). *Suicide and Homicide in State Prisons and Local Jails*. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.
- ⁶ Calculations by the primary author comparing suicide rates published by the Bureau of Justice Statistics and the Centers for Disease Control. Mumola, C.J. (2005, August). *Suicide and Homicide in State Prisons and Local Jails*. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.
- Office of Statistics and Programming, National Center for Injury Prevention and Control, CDC Web-based Injury Statistics Query and Reporting System (2007, July). *2000 – 2002, United States Suicide Injury Deaths and Rates per 100,000 All Races, Both Sexes, Ages 14 to 17*. Atlanta, GA: US Department of Health and Human Services, CDC. Available at: <http://www.cdc.gov/ncipc/wisqars/default.htm>.
- ⁷ Calculations by the primary author. McGowan, A., Hahn, R., Liberman, A., Crosby, A., Fullilove, M., Johnson R., Moscicki, E., Price, L., Snyder, S., Tuma, F., Lowy, J., Briss, P., Cary, S., Stone, G., Task Force on Community Preventive Services (2007). *Effects on Violence of Laws and Policies Facilitating the Transfer of Juveniles from the Juvenile Justice System to the Adult Justice System: A Systematic Review*. *American Journal of Preventative Medicine*, 32(4S), S7-S28. Estimates of suicide rates in the report were attributed to Memory, J. (1989). Juvenile suicides in secure detention facilities: correction of published rates. *Death Stud* 13:455-63. The specific rates included in the report are: 26.41 per 100,000 for youth held in adult detention facilities; 57 per 100,000 for youth held in juvenile detention centers; and 12.4 per 100,000 for all those aged 12 to 24 in the U.S. population.
- ⁸ Harlow, C.W. (2003, January). *Education and Correctional Populations*. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.
- ⁹ Juskiewicz, J. (2007, October). *To Punish A Few: Too Many Youth Caught in the Net of Adult Prosecution*. Washington, D.C.: Forthcoming study from the Campaign For Youth Justice.
- ¹⁰ *Ibid.* Overall, 52.9% of all juvenile defendants prosecuted in criminal courts were detained. The statistics here are for detained youth.
- ¹¹ *Ibid.*
- ¹² McGowan, A., Hahn, R., Liberman, A., Crosby, A., Fullilove, M., Johnson R., Moscicki, E., Price, L., Snyder, S., Tuma, F., Lowy, J., Briss, P., Cary, S., Stone, G., Task Force on Community Preventive Services (2007). *Effects on Violence of Laws and Policies Facilitating the Transfer of Juveniles from the Juvenile Justice System to the Adult Justice System: A Systematic Review*. *American Journal of Preventative Medicine*, 32(4S), S7-S28.

CAGING CHILDREN IN CRISIS



**A Report from the
Colorado Juvenile Defender Coalition**

An Adult Jail is No Place for a Child

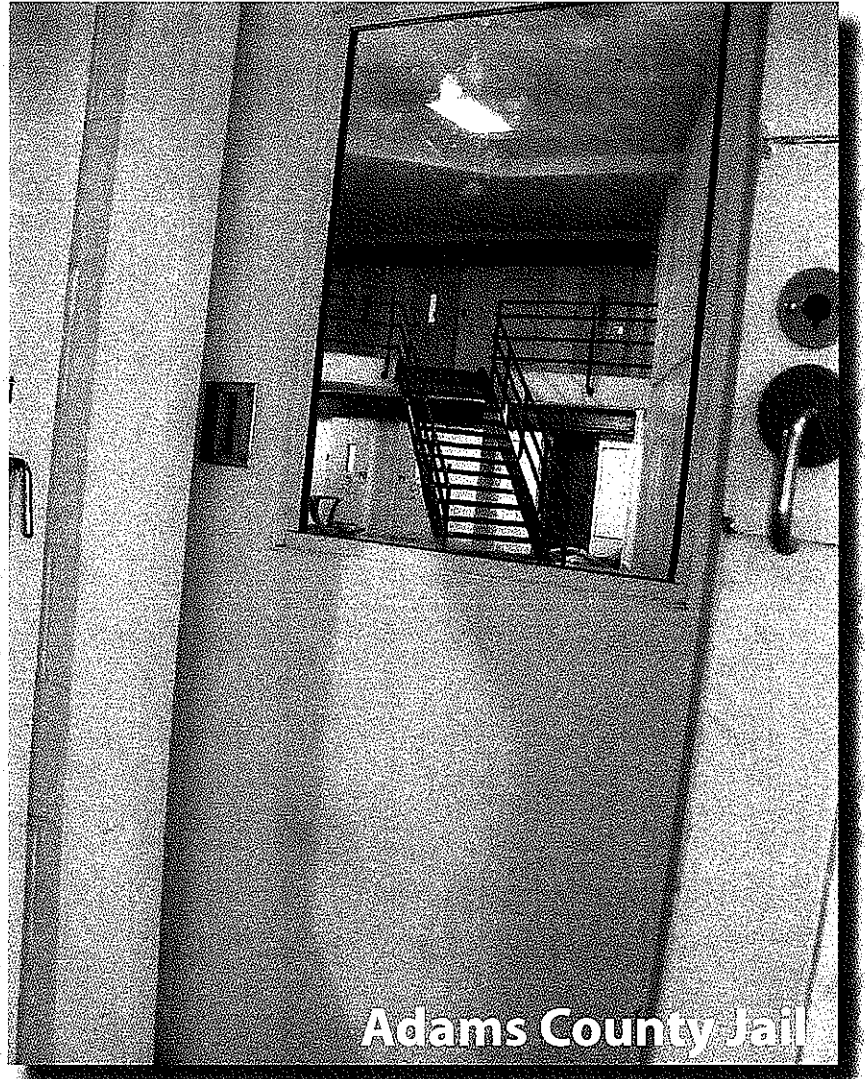
Under Colorado law, when a child is charged with a crime in adult court, they are immediately removed from the local juvenile detention facility and locked in an adult jail. There is no risk assessment or hearing conducted to determine whether restricted confinement in the adult jail is appropriate. Currently our law gives judges no discretion to keep a direct filed youth in juvenile detention if the prosecutor will not agree. There are no standards governing the prosecutor's decision to move the youth to the adult jail.

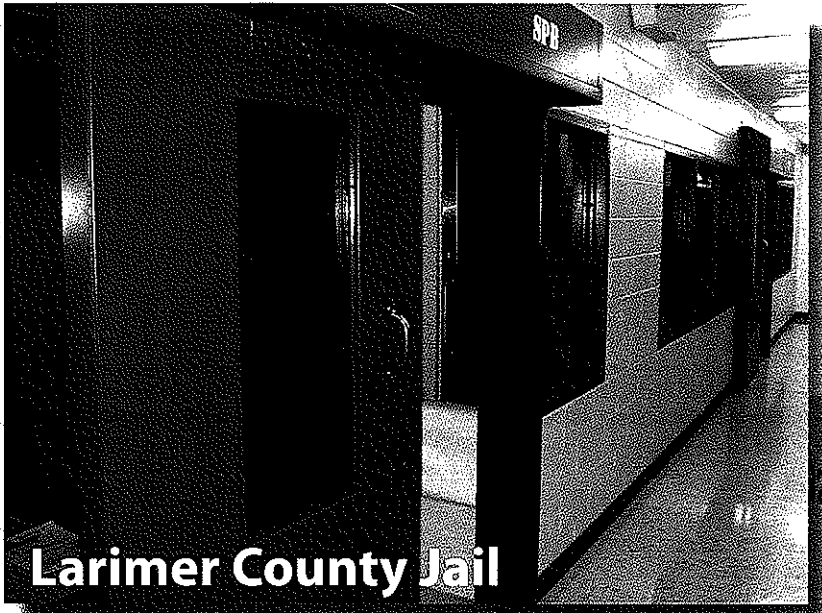
Adult jails are designed to control and contain adult inmates; they are not designed to provide high school education, pro-social behavior models, or intervention services. These children are presumed innocent, in crisis, and are often greatly in need of services.

Adult jails were not intended to house a separate juvenile population. While jail staff and administration do their best to accommodate these children, the physical limitations of these facilities and the need to ensure kids safety necessarily results in isolation and unwarranted restrictions.

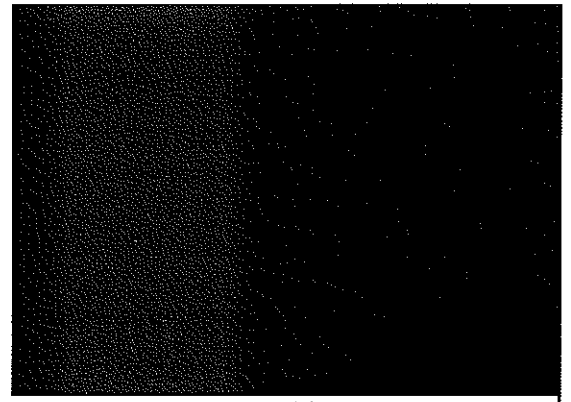
Deputies and staff who work at the jails have limited to no training in adolescent development and the management of juvenile populations.

Children locked in jails experience worse conditions than the larger adult population, which has greater access to programs and recreation.

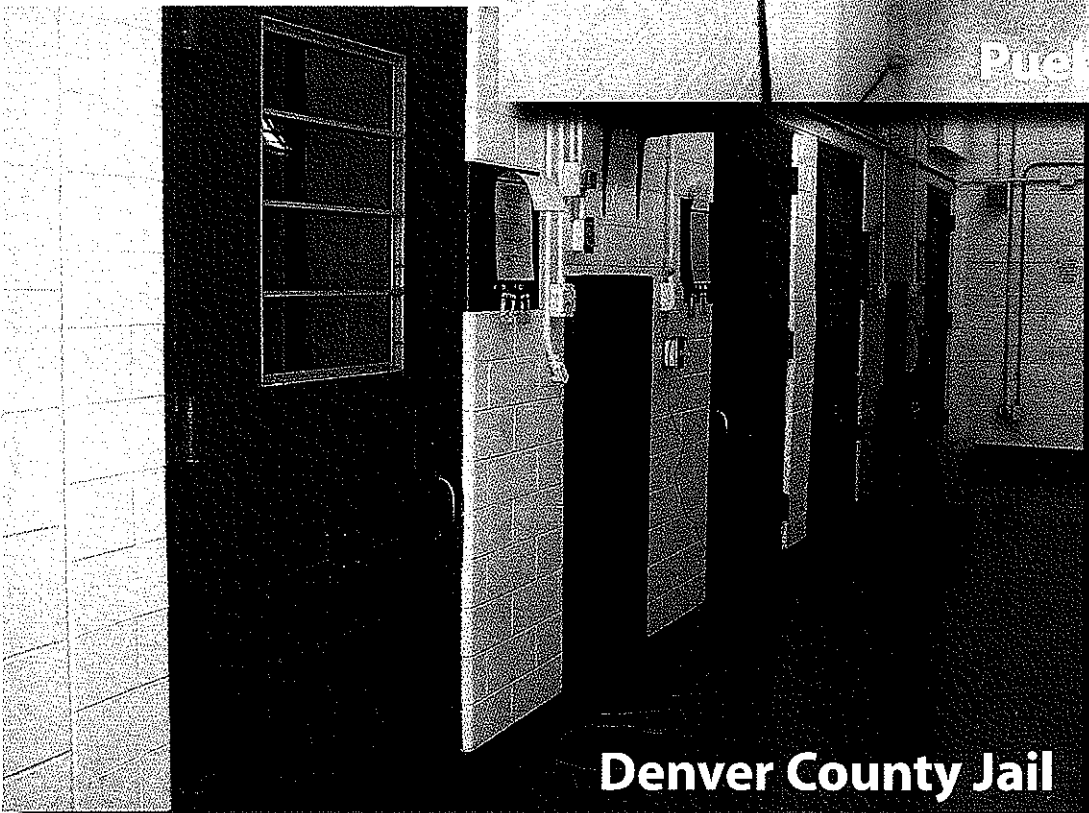




Larimer County Jail



Pueblo County Jail



Denver County Jail

An Adult Jail is No Place for a Child

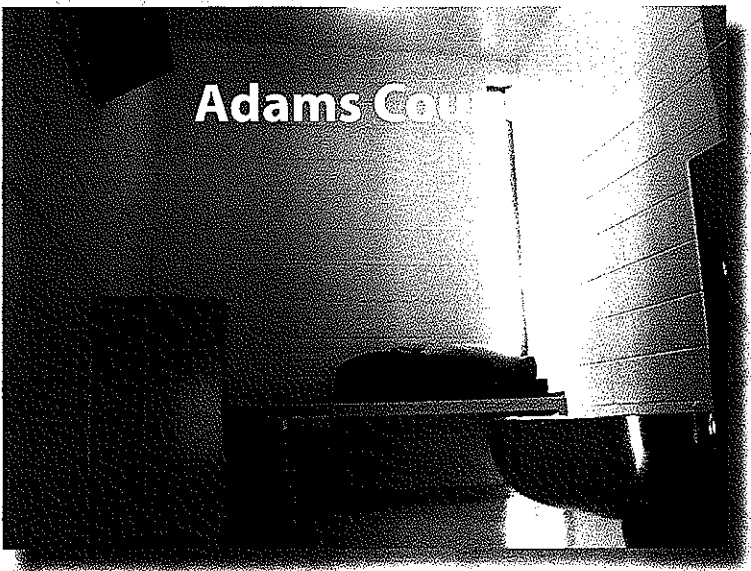
An Adult Jail is No Place for a Child

At juvenile detention facilities kids are busy all day long. They wake up, eat breakfast in the cafeteria, go to school, eat lunch in the cafeteria, go back to school, return to their pod for guided feedback sessions with staff, engage in organized recreation outside or in a gym, eat dinner in the cafeteria, participate in AA, NA or other community group activities, shower and go to bed. Certified teachers provide regular and special high school education. Kids are grouped by age and risk, and there are strict rules regarding behavior, allowing for increased privileges or consequences. There is always adult staff present in the pod.

In the adult jail there is nothing to do but sit around and wait. There might be GED classes for an hour a few times a week, but there is no high school or special education. There is no adult staff inside the pod to supervise or redirect the kids. There may be a chaplain visit but there are no community programs.

For boys and girls in adult jails, there is little recreation and no organized gym. In the Denver County Jail, kids never go to the outside yard. In the Adams County Jail, kids may get an hour in a cement enclosed area covered by a chain-link fencing, if weather permits and staff is available. There is no indoor gym.

Although jails have juveniles physically segregated from adults, at most jails kids can hear and see adult inmates throughout the day and night. For instance, in the Adams County Jail, kids reported hearing an adult inmate in the next pod screaming throughout the night. They also said they slept with a light on, or would be woken every 30 minutes throughout the night when the guard shined a flashlight in their cell.



Solitary Confinement

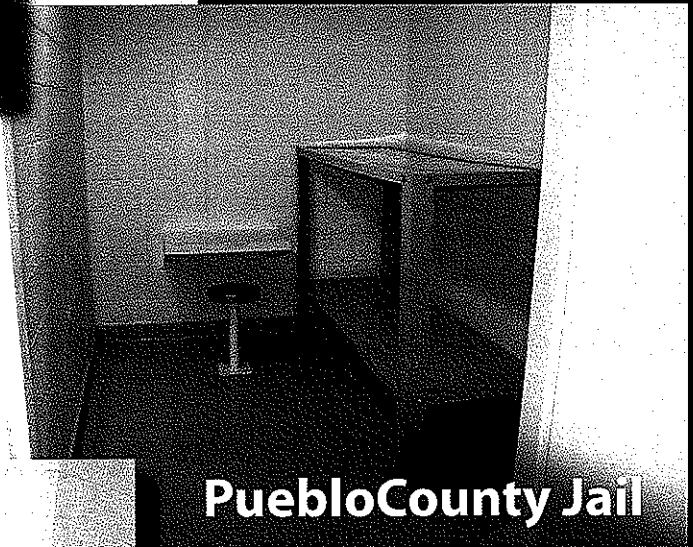
In the Denver County Jail, kids are locked down in their cell 22 hours a day. Every meal is served through a slot in the door. It was in this jail that a 17 year-old boy named James Stewart was locked in the cell by himself, despite his pleas for company. Within an hour, he committed suicide by suffocating himself.

Most adult jails have teenage boys in their juvenile pods. If a girl must be held in an adult jail, she faces additional isolation due to the need to keep her segregated from the adults and from the boys.

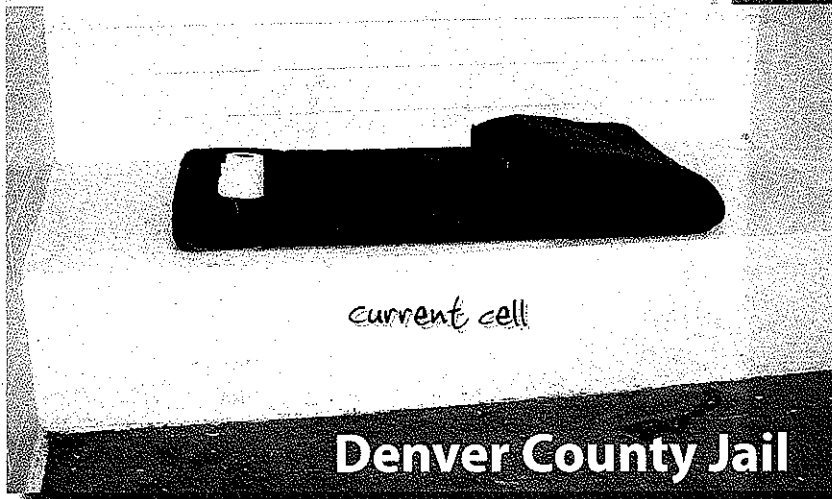
While jails are ill-equipped to hold juveniles in general, they are particularly ill-equipped to hold girls.



Denver County Jail



Pueblo County Jail

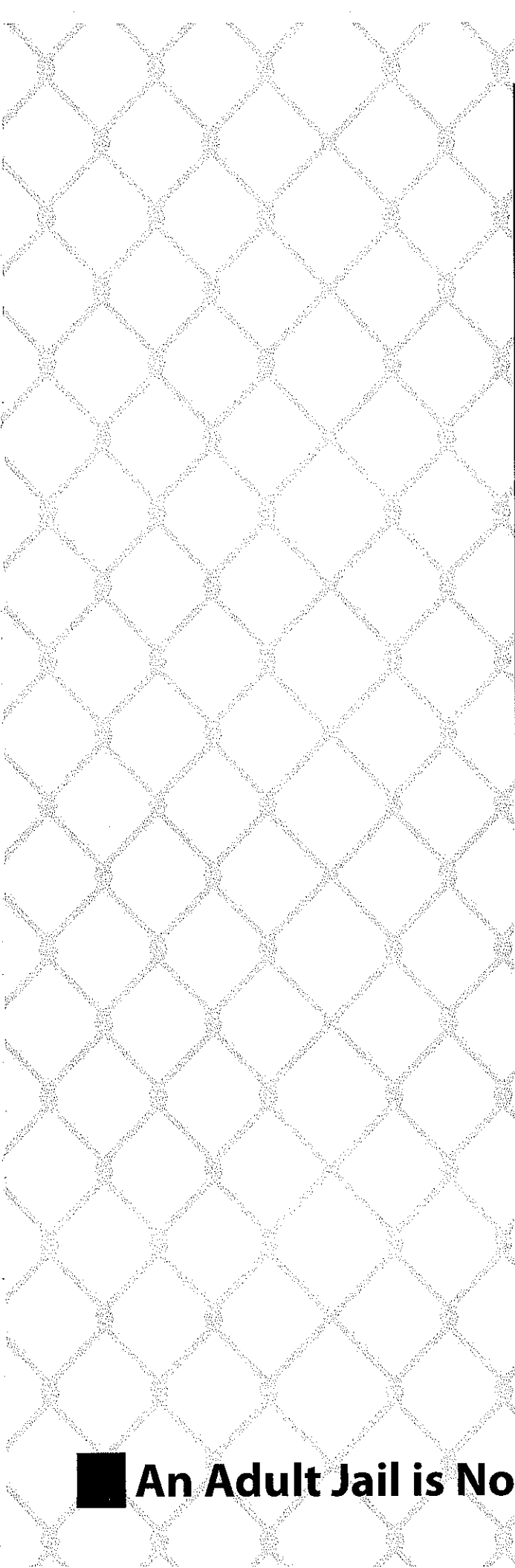


Denver County Jail



Juvenile facilities have rooms available for contact visits, where a child can have a parent or a loved one and hold their hand during a visit. Kids who behave well are even allowed to have contact visits with chaperoned friends. The youth describe these visits as critically important to them.

Kids in adult jails have no physical contact with visiting family members, when visits are permitted. Visitation occurs through a glass wall or while sitting at a video screen and talking over a telephone. For the duration of their child's stay at the jail — be it weeks, months, or more than a year — families have no ability to touch, hold, or comfort their child in crisis.



The Colorado Juvenile Defender Coalition was created in 2008 to improve the quality of juvenile representation and the treatment of youth in Colorado's Juvenile Justice System.

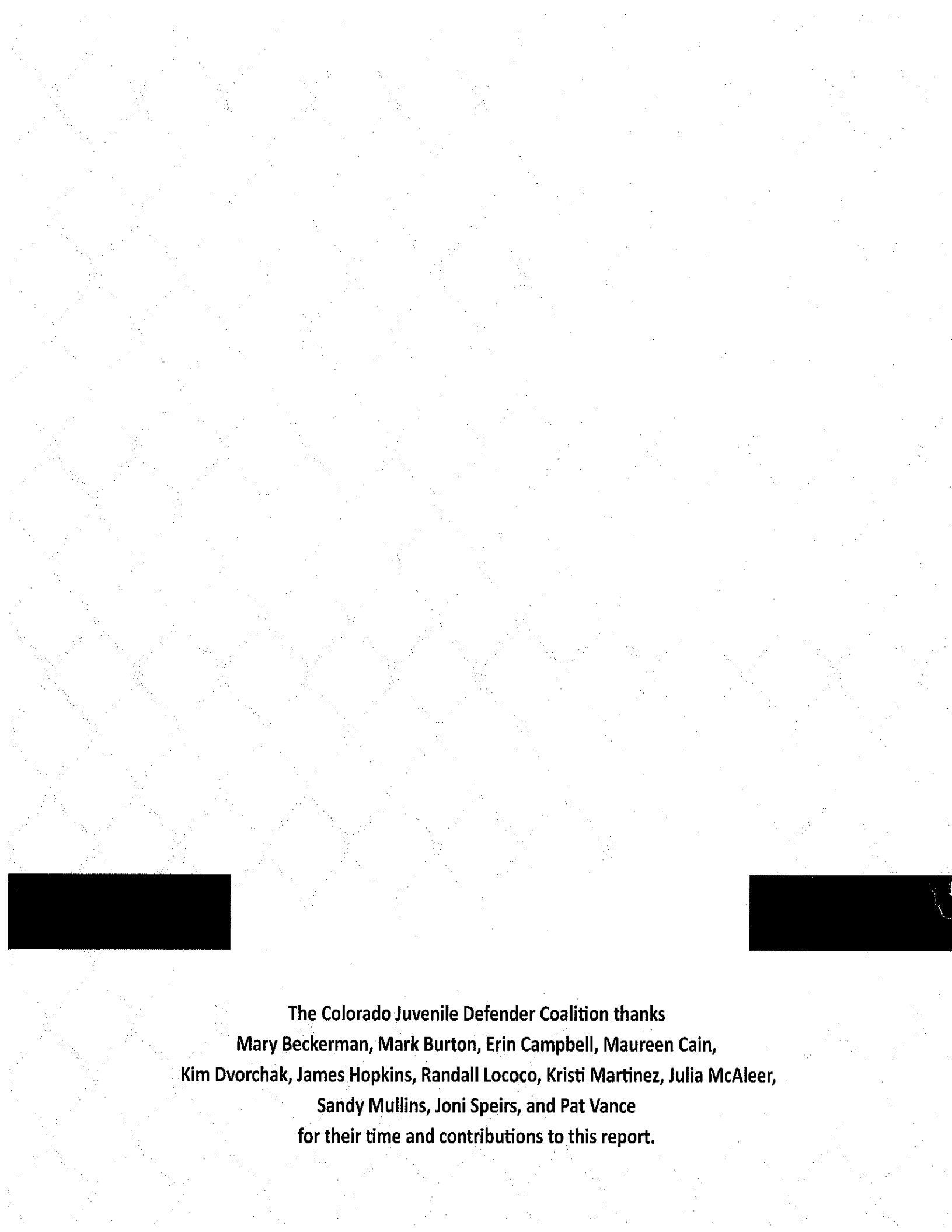
The Coalition works in partnership with the Colorado Criminal Defense Bar, juvenile advocates, and organizations that serve at-risk youth.

The Coalition created a direct file committee to examine the legal issues and conditions experienced by youth who are charged in adult court.

In support of House Bill 09-1321, direct file committee members toured adult jails in Denver, Adams, Larimer, Mesa, and Pueblo counties.

Staff at every facility expressed frustration at their limited ability to provide services for direct filed youth and the challenges their presence impose on day-to-day jail operations.

An Adult Jail is No Place for a Child



**The Colorado Juvenile Defender Coalition thanks
Mary Beckerman, Mark Burton, Erin Campbell, Maureen Cain,
Kim Dvorchak, James Hopkins, Randall Lococo, Kristi Martinez, Julia McAleer,
Sandy Mullins, Joni Speirs, and Pat Vance
for their time and contributions to this report.**

LOCAL ORGANIZATIONS ENDORSING H.B.09-1321:

ARC of Adams County
ARC of Aurora
ARC of Colorado
ARC of Denver
ARC of Mesa County
ARC of Pikes Peak Region
ARC of Pueblo
ARC of Weld County
Association for Community Living in Boulder County
Bell Policy Center
Center for Safe Schools
Colorado American Civil Liberties Union
Colorado Criminal Defense Bar
Colorado Criminal Justice and Reform Coalition
Colorado Juvenile Defender Coalition
Colorado League of Women Voters
Colorado Psychiatric Society
Denver University Law School Children's Legal Advocacy Group
National Association of Counsel for Children
The Pendulum Foundation

National Organizations Opposing the Detainment of Juveniles in Adult Jails:

American Bar Association
American Correctional Association
American Jail Association
American Psychiatric Association
American Public Health Association
Campaign for Youth Justice
Coalition for Juvenile Justice
Parent Teacher Association
National Association for the Advancement of Colored People
National Association of Counties
National Juvenile Detention Association



For Information Contact:

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For Immediate Release:

Feb. 27, 2009
Release No. 09-12

Incarcerated Juveniles Belong in Juvenile Facilities

ARLINGTON, Va. (Feb. 27, 2009) – Two high-profile murder cases involving young children have caught the public's attention this week. One involves an Arizona boy who was 8 when he allegedly shot his father and his father's roommate to death and the other one involves an 11-year-old boy accused of shooting his father's pregnant girlfriend while she slept. Both children were initially held in adult detention centers with tentative plans to try them as adults. Headlines about the cases indicate that the first boy, now 9, entered a negotiated plea in order to avoid prosecution in adult criminal court. The 11-year-old is described as being dressed in adult prison garb and in tears much of the time. Because the law requires that incarcerated children and adults be separated while pending trial, he has apparently been held in isolation because there are no juvenile detention facilities in the area.

Nada L. Stotland, M.D., M.P.H., president of the American Psychiatric Association, strongly advises that young children accused of crimes should not be held in isolation or in adult facilities, nor should they be tried in the adult criminal system, which is not equipped to deal with them. Those who are ultimately incarcerated in adult jails are often the victims of violent assault and suicide, and are 34 percent more likely to be re-arrested than those retained in the juvenile system. Once juveniles have been arrested and accused of serious crimes, certain factors need to be considered:

- Juveniles age 15 and younger are significantly more likely than older adolescents and young adults to be impaired in ways that compromise their ability to serve as competent defendants in a criminal proceeding.
- Young children should not be questioned by police or courts unless a parent or guardian is present. They should never be allowed to waive their right to an attorney.
- Children accused of serious crimes should undergo full medical, including psychiatric, evaluation.
- Children who commit serious crimes are often the victims of neglect and abuse. In each case, there should be an inquiry into the child's history and circumstances to determine whether signs of abuse, neglect, and/or psychiatric problems were overlooked until the alleged crime occurred.
- Children should not be subjected to isolation, which is a form of punishment that is likely to produce lasting psychiatric symptoms.

It should be taken into further consideration that research demonstrates that many juveniles are not likely to understand the consequences of their actions (whether in committing a crime or in entering a plea), nor are they likely to understand their legal rights and the lasting impact of criminal conviction on their lives. Children who commit crimes are often victims, and treating them as adults, especially processing them through the adult criminal system, makes it harder for them to rebuild their lives.

The American Psychiatric Association

The American Psychiatric Association is a national medical specialty society whose more than 38,000 physician members specialize in the diagnosis, treatment, prevention and research of mental illnesses including substance use disorders. Visit the APA at www.psych.org and www.HealthyMinds.org.

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Who has cases filed in court?

Table 4.1: Juvenile filings (misdemeanor, felony, and direct file), FY00 - FY04

Colorado: Statewide					
	FY00	FY01	FY02	FY03	FY04
Misdemeanor juvenile filings*	8,125	7,127	7,200	6,938	6,709
Misd filing – deferred	610	567	544	592	739
Misd filing – dismissed	2,851	2,678	2,697	2,618	2,658
Misd filing – adjudicated	4,664	3,882	3,959	3,728	3,312
Felony juvenile filings	10,667	10,812	11,459	11,212	10,467
Felony filing – deferred	813	967	1,054	1,180	1,036
Felony filing – dismissed	4,502	4,432	4,636	4,479	4,461
Felony filing – adjudicated	5,352	5,413	5,769	5,553	4,970
Direct file to adult court**	280	198	217	231	202
Direct file dismissed	68	47	58	75	83
Direct file convicted***	204	146	156	152	118
Direct file convicted – Y.O.S.	37	63	66	69	54
Direct file convicted – D.O.C.	73	41	37	31	22
Direct file convicted – Probation	52	34	51	47	27

Notes: *Only filings in district courts are included. **Filings in criminal court of individuals under 18 at time of filing or identified as a direct filing based on case review. ***Balance of cases resulted in a deferral.

Source: Data was extracted from the Judicial Department's Integrated Colorado Online Network (ICON) information management system and analyzed by DCJ's Office of Research and Statistics.

- Misdemeanor filings have been declining since FY00.
- In FY04, almost half (49 percent) of the juveniles who received misdemeanor filings were adjudicated.
- According to 19-2-517 Colorado Revised Statutes, juveniles may be filed upon in adult district court. If convicted they will be sentenced as adults.
- Juvenile felony filings have fluctuated over the past five years. During FY02, the number of juveniles receiving felony filings has continued to decrease. Of the 10,467 felony filings in FY04, 4461 of the felony filings have been dismissed and another 4970 were adjudicated.

- In FY04, 118 juveniles in Colorado were convicted as adults, and almost half of these offenders went to the Youthful Offender System (YOS). YOS is an alternative to prison. The offender receives a sentence to DOC that will be suspended on the condition that the offender will complete a sentence to YOS that includes a period of community supervision.
- A 2004 study of the Youthful Offender System by DCJ researchers found that juveniles who completed their secondary education while in YOS were over three times more likely to remain arrest-free upon release from the Department of Corrections.

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303 350-1550
Fax: 303 350-1555

April 4, 2009

JAIL REPORT FOR DIRECT FILE COMMITTEE

On February 17, 2009, I visited the area of the Adams County Jail where juveniles that are in custody on direct file cases are incarcerated. I visited the jail area and talked with Lieutenant Mark Mitchell, Court Services Supervisor, Susan Argo, and Technical Services Manager, Melanie Gregory.

At the time of my visit, the Adams County Jail was holding four juveniles that had been charged as adults. Three of the Juveniles were charged in Adams County and one was being held as a courtesy for Douglass County. Since this initial visit, several other juveniles have been jailed at the Adams County Jail.

No part of the Adams County Jail was designed to hold juveniles. The Jail simply constructed a wall to make two units out of one adult pod. Normally one adult pod holds up to 16 inmates (32 with double bunking) with each inmate having a small cell. The juvenile pod has eight cells. One of the cells has been made into a shower. The remaining seven cells hold juveniles. The jail states they have capacity for 14 juveniles, two for each small cell.

There is a small common area in the half pod that has been constructed for the juveniles. In the common area is one table where the juveniles can sit. Other than Bible Study for less than an hour two or three days a week, there is nothing that is supervised by the Jail Staff that goes on in the juvenile pods. There are never any programs for juveniles that are held in the pod. The juvenile half pod is nothing more than a series of holding cells, a shower and a small common area with one community table made of steel.

The juvenile pod is overseen by a deputy who sits in the control room where she oversees the activities of the adults in one other adult pod, the half adult pod separated from the juveniles by the wall and the juveniles in their half pod. The other half of the pod houses adults. The adults and juveniles are separated only by the walls. The wall between the two adult pods is constructed of cinderblocks. However, the wall that divides one pod into the juvenile half pod and the adult half pod is constructed of wood. The juveniles can't see the adults through this wooden wall. The walls were not constructed to be a sound barrier between the adults and the juveniles. The deputy in the control room normally cannot see the juveniles unless she leaves her post. She can see the juveniles through a monitor in the control area.

The juveniles are housed in the middle of a very crowded adult jail. In order for the juveniles to move from their half pod area, the entire jail has to be shut down. According to the jail staff, this happens approximately ten times a day. It happens whenever a juvenile has to go to court, to GED classes or leave the pod for medical reasons. Each shut down of the jail lasts between five and ten minutes. The jail is shut down to allow juveniles to travel within the adult jail between one and two hours every day. This is considered an inconvenience by the jail staff.

The juveniles are treated exactly like adults and the jail has no programs designed for juveniles. They eat in their pod and are moved from their confined area only to go to Court, medical or to participate in GED classes. The GED classes are the same classes as the adults attend, although not at the same time. The only other programs that juveniles can access are Cognitive skills for 45 minutes per week and Juvenile Library for less than three hours one day of the week. The GED classes are offered three times a week for an hour and a half or less. See attached Weekly Programs Schedule. The Juveniles report that there have been whole weeks where the GED classes have been cancelled.

The jail makes no consideration based on the age of the juveniles. They eat the same food and have access to no programs designed for juveniles. There is no education for the juveniles apart from GED classes that they are allowed to attend. All of the juveniles go to GED classes, however at the maximum for only approximately four hours each week. Since there is no education at all for the juveniles, there obviously is no special education for those juveniles that are in need of that. The jail was not aware of any of the educational needs of the juveniles and didn't know if any of the juveniles jailed in their jail had IEPs. There was no therapy of any kind, including therapy for alcohol or drug problems.

In addition to no education, the juveniles are getting no programs with any educational or rehabilitative value. There are no classes for drugs. There is no work being done for those juveniles that are associated with gangs. There is no recreation and no planned exercise. The juveniles are more confined than the adults as the need to keep them separate requires that they be confined in one small section of the adult jail.

There were no juvenile females in the jail when I visited. When a female juvenile is jailed in the Adams Jail, there is no place to keep her since she has to be segregated from all the adults and all the male juveniles. When they do have a female juvenile, she is kept in isolation, normally with no contact with any other inmate. It also results in even more shutdowns of the rest of the jail, and allowing the female juvenile to go anywhere in the jail is an inconvenience to the jail staff. If the female juvenile has no visitation she is virtually isolated. There are no programs in her isolated cell.

The deputies that work with the juveniles have no special training. There, in fact, is nothing the jail does differently with the juveniles than adults except they are more isolated because of the attempt to keep them segregated from the adult population. \

On April 3, 2009, I visited the Adams County Jail again. This time I visited with some of the juveniles that were jailed there with the permission of their lawyers. The information that I received from each of the juveniles was consistent with each other, what we learned from the jail staff and my observations.

I met one of the juveniles in the contact visiting area of A-pod. He was introduced to me by his attorney, Dan Bowen. The three of us, including the juvenile, could look below us into the Adult Pod that was visible from the contact area. There was one adult inmate that was in the pod that was in view. You could see cell 5 of the Adult pod from where we were standing.

To visit with their attorneys in the contact room or other visiting areas, the juvenile had to walk past the adult pod and climb the stairs where attorneys or other professionals are waiting. The juveniles also pass by this adult pod anytime they leave their half pod area to go to court, GED classes or medical. During the very few times they are allowed to go outside to the yard, they also pass through the adult pod.

When Dan Bowen was visiting his client on April 3, 2009, he saw his client within 7 feet of an adult who was meeting with his attorney, Lauren Cutuly. The adult inmate is charged in Adams in case number 07CR3129 with burglary with a weapon and aggravated robbery. The adult was a big man well over 200 pounds in weight. Dan Bowen's client also had contact with two other adults at the time of his meeting on April 3, 2009. One was an adult inmate meeting with his attorney, Fran Simonet, in the adult visiting area of A-pod. Dan Bowen reported to me that the other adult was working in the common area at the bottom of the stairs his client had to climb to reach the contact room to consult with his attorney. Finally, Dan Bowen reported to me that his young client told him that he frequently walked by the glass door in the adult pod that houses adult males inmates dressed in red. He was aware that the reason they were dressed in red and placed in this particular pod was for fighting and other disruptive behavior.

During my second visit to the Adams jail, I was interested mostly in finding out the sounds and sights of the jail from the juvenile's perspective, and the difference in an average day for a juvenile jailed in the Adams Adult Jail from one housed in a Juvenile Facility.

The first thing you notice is that the juveniles are not separated by sight and sound from the adults. I could see an adult from the contact room where I met Mr. Bowen's client. The sounds of the adults are 24/7 for the juveniles. There is what the juveniles describe as a "Crazy Old Dude" that screams much of the night. There are lawyers who have heard these screams while visiting with their clients. The juveniles can hear the adults yelling and arguing on both sides of their small pod, through the wooden makeshift wall and the normal concrete walls.

There are now seven juveniles at the Adams jail. The juveniles presently in the Adams Jail reflect the minority over-representation that statistically is found around the

country with four of the juveniles being African-American, one Hispanic and one an American Indian. Another Juvenile, who was Asian, was released the day before my visit.

The jail gets the juveniles up every day at 4:30 am. The wake-up call usually follows a night with little sleep. Each of the juveniles is locked in the cell for the night. Since there are only seven juveniles in the jail now, each of the juveniles has his own cell. I didn't have an opportunity to measure the cell, but the juveniles estimated that each cell was about 7 by 8 feet. If there are more than seven juveniles in the pod, the juveniles have to double up in a cell. They sleep on a mattress that is thrown over a steel bunk. There is also a toilet and a sink in each cell.

The juveniles report trouble sleeping at night for several reasons. One is that it is very hot in the cells and they often wake up sweating. One juvenile described it as "burning hot". Another reason is the noise from the adult pods such as the yelling of the "Crazy Old Dude". Also, they either have to leave the light in their room on, or every half hour a jailer will come by and shine a flashlight on them.

When 4:30 am comes, their cells are opened to the small half-pod area. In addition to the metal table, there are five stools secured to the concrete floor, a couple of other chairs, one TV and a table where there are a few books of no interest to the juveniles, and some board games, such as monopoly.

There are two jail staff members that are in the A-pod area, but the staff doesn't come into the juvenile half-pod very often; usually only for a purpose such as to bring breakfast. Breakfast comes shortly after 4:30 am. Breakfast is described by the juveniles as watery oatmeal and what was described as something like a dog-biscuit. They also get milk. One of the juveniles told me he didn't eat breakfast because it was so bad. Nobody cares if you eat breakfast or not. When there are seven juveniles in the pod, there is not enough room for each of them to put their tray on the one table.

At 5:40 am the juveniles are locked back in their cells again. There is little to do during lockdown and usually the juveniles are locked in their cells by themselves. They can hear the adults from their cells. They have no TV. They have their choice to read the Bible or they can take one book with them from the small collection of books in the cell. Most of the juveniles simply do nothing during lockdown. They stay on lock down until 8:00 am. In addition to the yelling and arguing, the juveniles at times hear adults banging on their cell walls.

Between 8:00 pm and 11:00 pm there is nothing that goes on. They can look at TV. What they watch is up to them. There is no adult supervision. They are mostly surrounded by concrete and steel. There is nothing of any comfort in the cell. There is graffiti, much of it gang-related scratched onto the walls and doors.

They eat lunch at 11:00 am. This is described as the best meal of the day. They are locked down again at noon and stay in lock-down until 3:00 pm. At 4:00 pm they

have a sack lunch. They go back into lockdown at 5:40 and stay locked down until 7:20. They spend the rest of the evening in their half-pod until lock-down for the night.

The only education the juveniles receive is they are taken to another part of the jail for GED classes. The rest of the jail must be on lock down while the juveniles are moved. The juveniles say they all have to go, but they don't have to participate. The juveniles explain they all have to go for the convenience of the jail. There is one teacher who gives the 16 and 17 year olds GED material to work on and the 14 and 15 year olds are given a packet of things to do. The juveniles describe little teaching that goes on. Also, the juveniles say that the teacher often does not come during the scheduled GED classes.

The juveniles never have contact visits with their parents and siblings. They visit their parents from their pod through a video screen. When they go to Court, they are not allowed to talk to their parents, or even look at them. If they do, they are put back into a holding cell. Incidentally, in many jurisdictions across the state, the juveniles are chained together when they are taken to Court.

The juveniles are getting almost no exercise. There is a yard, but each of the juveniles I interviewed remembered being allowed to go to the yard only once or twice for about a half hour in a three to four week time period.

One of the juveniles I talked to was a 14 year old. He had been in the Adams Jail almost three weeks. He had previously been kept at the Marvin Foote Juvenile Facility in Arapahoe County. The differences between the two facilities was stark.

At Marvin Foote the day also starts early. However, it begins with hygiene where it is mandatory for the juveniles do such tasks as brush their teeth. At the Adult Jail, there is nobody to care about these types of things. There is then a good, healthy breakfast. The pod is comfortable. Instead of being surrounded by the sights of concrete, steel and graffiti and the sounds of arguments, yelling and banging, the pod is carpeted, quiet and clean. Also, there is at least one adult in the juvenile pod at all time. There is no gang graffiti.

The staff at Marvin Foote are all professionals. The kids refer to them as staff. Unlike some of the experiences the juveniles reported at the Adams Jail, the staff at Marvin Foote never say anything inappropriate or anything to bait them. Two of the Juveniles at the Adult Jail reported a disrespectful statement they heard from a jailer at Adams County about President Obama that they thought was racist. I was told by one juvenile this would never happen at Foote.

Visits with their parents are contact visits. They are taken to visitation rooms where they can visit with their parents, grandparents and siblings. They can touch and hug their mothers, fathers, brothers and sisters. All the juveniles reported that being able to see their family in this way was the most important part of their day.

After breakfast, the kids have group, which is led by staff. For much of the day they go to school where they study math, English, history and science. They also have an art and a computer class. They have two teachers in each class. I don't know about Foote, but at the juvenile facility in Weld County (Platte Valley), most of the teachers have been crossed-trained in special education.

Besides good education, the juveniles have other programming that is geared to help them become law-abiding, informed and better equipped to live better lives. Between 4:00 and 5:00 pm they listen to music in their pod. Staff chooses the music they will listen to, which varies from day to day. At 5:30 pm they go to the dining room for dinner, where they eat another balanced meal. After that they return to their pod where they set up News Group. They then listen to local, national and world news, always under the supervision of staff.

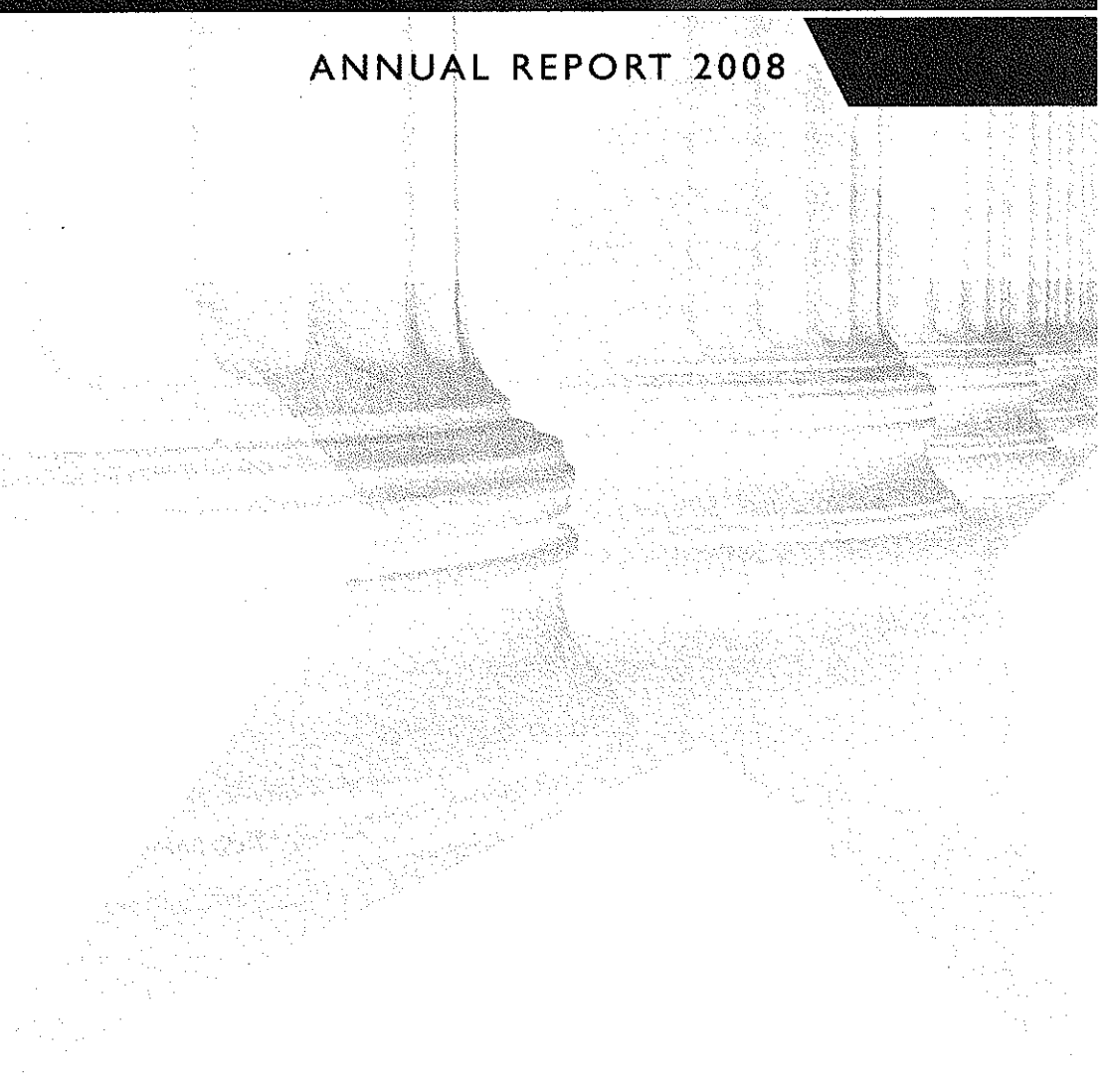
At Foote, all the juveniles are required to exercise daily. Each day every juvenile is taken outside for planned exercise. If the weather is bad, they go to the gym. At Foote, the juveniles earn privileges by their behavior, their progress and their attitude. Each juvenile can work toward reaching a higher level which earns them new levels of trust, responsibility and privileges. You can't buy commissary at Foote. Instead you have to earn it. You buy commissary with the points you earn. At the jail, you can't earn anything. If someone puts money on your books, you can buy commissary. You also can't make phone calls to your family if you don't have money on your books – if not, you can't. At Foote, the opposite is true. The two experiences could not be more different. The Foote experience is clearly designed to socialize these children toward success by better education, habits and attitudes. The experience in the County Jail is the exact opposite.

Patrick G. Vance



Federal Advisory Committee on Juvenile Justice

ANNUAL REPORT 2008



efficiently to address the behaviors of status offenders and nonoffenders.

The policy considerations that led to the DSO core protection are as valid today as they were when the JJDP Act was enacted. Reauthorization of the JJDP Act and reinforcement of the core protection that prohibits States and territories from securely detaining status offenders are essential for the safety of both status offenders and the public. Based on these concerns, FACJJ makes the following recommendations:

1. **FACJJ recommends that the President and Congress support statutes and programs that promote use of youth-serving social service agencies outside of the juvenile justice system to provide appropriate responses to status offenses and nonoffense behaviors.**
2. **FACJJ recommends that the President and Congress increase funding to youth-serving agencies to develop and expand nonsecure community-based alternatives for status offenders and nonoffenders.**
3. **FACJJ reaffirms its recommendation in the 2007 Annual Report that the President and Congress amend the JJDP Act to strongly encourage courts to use alternatives to secure detention when sanctioning a status offender for a violation of a valid court order.**
4. **FACJJ recommends that Congress fund further research and publications regarding the effects of securely detaining status offenders and nonoffenders and promote alternatives to secure detention that effectively address status offenses and other troubling noncriminal behavior. Such research will inform practitioners and policymakers about how detention impacts public safety and the impact that detention has on these youth.**
5. **FACJJ recommends that the President and Congress restore the following language to Section 261(e) of the JJDP Act regarding special needs and problems of juvenile justice in certain areas: "Not less than 5 percent of funds available for grants and contracts under this Section shall be available for grants and contracts designed to address the special needs and problems of juvenile delinquency in the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands."**

Jail Removal and Sight and Sound Separation

The second original mandate of the JJDP Act requires States and territories to eliminate the practice of detaining or confining juveniles—whether nonoffenders, status offenders, or delinquents—in jails, lockups, or other institutions in which they might have sight or sound contact with detained or incarcerated adults. When the Act was reauthorized in 1980, Congress added jail removal as a mandate, requiring that juveniles cannot be securely detained or held in adult jails and lockups.

Although States and territories are generally in compliance with the jail removal and sight and sound separation core protections, housing juveniles in adult facilities within sight and sound of adults is still a problem in some lockups and in smaller, more rural holding facilities. A critical policy issue that is not addressed by the current JJDP Act is the number of youth being tried as adults and held pretrial in, or subsequently sentenced to, adult facilities. Many States have passed laws making it easier to try certain juveniles as adults.

Studies show that many juvenile offenders held in adult facilities do not receive the education or other services they need to become productive citizens. Research studies also are finding that transferring juveniles to adult facilities does not prevent violence or recidivism and, in fact, increases rather than decreases rates

of violence among transferred youth. The issue of sentencing juveniles as adults is further complicated by the Office of Juvenile Justice and Delinquency Prevention's (OJJDP's) position requiring that juveniles sentenced as adults but sent to juvenile facilities must be removed from the juvenile facility 6 months after they reach a State or territory's age of majority.

Based on these concerns, FACJJ makes the following recommendations:

6. **FACJJ recommends that when reauthorizing the JJDP Act, the President and Congress expand the core protection dealing with jail removal and separation to apply to all youth until they reach the age of 18 regardless of which court—juvenile or adult—handles their cases. Congress should also provide appropriate funding to help States and territories comply with this protection.**
7. **FACJJ recommends that the President and Congress modify the JJDP Act to allow those juveniles convicted as adults and housed in juvenile facilities to remain in those facilities after they reach age 18 as allowed by the law of the State or territory.**
8. **FACJJ recommends that the President and Congress direct OJJDP to reexamine the process for enforcing compliance with the four core protections of the JJDP Act and ensure that the regulatory scheme complies with due process and with the Administrative Procedures Act.**
9. **FACJJ recommends that the President and Congress require OJJDP to establish a system of data collection about juveniles in the adult criminal justice system. The data should include information about age, race, ethnicity, gender, offense, pretrial detention, transfer mechanism, sentencing outcome, and pre- and post-trial placement in jails, prisons, or juvenile facilities. Congress should appropriate additional funding to assist both OJJDP and States in collecting this data.**

10. **FACJJ recommends that the President and Congress require OJJDP to conduct research on the impact on juveniles tried and/or sentenced as adults who are confined in adult facilities, the status of facility conditions in which youth are placed, and the availability of developmentally appropriate services and programs for youth in adult jails and prisons.**

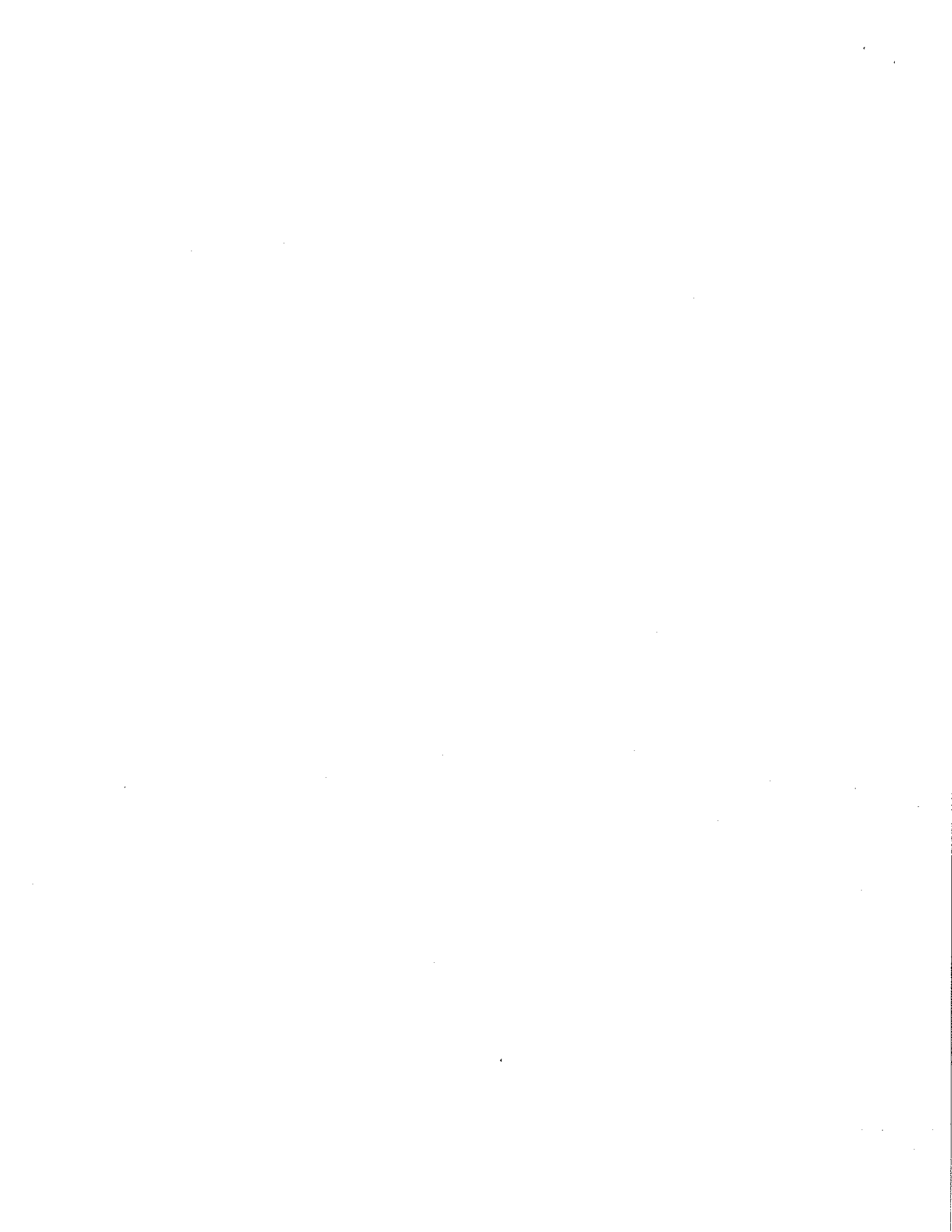
Disproportionate Minority Contact

Congress amended the JJDP Act in 1988, requiring States and territories to make efforts to reduce the disproportionate number of minority youth confined in secure facilities. In 1992, Congress elevated the issue to a core requirement of the Act, and it went a step further in the 2002 reauthorization by broadening the concept from minority "confinement" to encompass minority youth who come into "contact" with the juvenile justice system at designated points. Unlike the other core protections, however, Congress did not require States and territories to show measurable progress toward reducing disproportionate minority contact (DMC) in the juvenile justice system.

Of all the core protections of the JJDP Act, DMC is the most complicated and the one with which the States have made the least progress. Most States and territories are in compliance with the DMC requirement for reporting data, but many have not moved beyond data collection.

DMC appears to stem from complicated social, economic, political, and even behavioral determinants. In the justice arena, some of the key challenges include a lack of urgency to address this issue, difficulty in collecting data (and integrating data systems), bias, lack of research about best practices, and failure to involve education systems.

It may be impractical to expect the juvenile justice system alone to address the DMC problem. Many



111TH CONGRESS
1ST SESSION

S. 678

To reauthorize and improve the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 24, 2009

Mr. LEAHY (for himself, Mr. SPECTER, Mr. KOHL, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To reauthorize and improve the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Juvenile Justice and
5 Delinquency Prevention Reauthorization Act of 2009”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—FINDINGS AND DECLARATION OF PURPOSE

Sec. 101. Findings.



1 (J) by striking paragraph (22);

2 (K) by redesignating paragraphs (23)
3 through (28) as paragraphs (24) through (29),
4 respectively;

5 (L) by redesignating paragraphs (14)
6 through (21) as paragraphs (16) through (23),
7 respectively;

8 (M) by inserting after paragraph (13) the
9 following:

10 “(14) require that—

11 “(A) not later than 3 years after the date
12 of enactment of the Juvenile Justice and Delin-
13 quency Prevention Reauthorization Act of 2009,
14 unless a court finds, after a hearing and in
15 writing, that it is in the interest of justice, juve-
16 niles awaiting trial or other legal process who
17 are treated as adults for purposes of prosecu-
18 tion in criminal court and housed in a secure
19 facility—

20 “(i) shall not have sight and sound
21 contact with adult inmates; and

22 “(ii) except as provided in paragraph
23 (13), may not be held in any jail or lockup
24 for adults;

1 “(B) in determining under subparagraph
2 (A) whether it is in the interest of justice to
3 permit a juvenile to be held in any jail or lock-
4 up for adults, or have sight and sound contact
5 with adult inmates, a court shall consider—

6 “(i) the age of the juvenile;

7 “(ii) the physical and mental maturity
8 of the juvenile;

9 “(iii) the present mental state of the
10 juvenile, including whether the juvenile
11 presents an imminent risk of harm to the
12 juvenile;

13 “(iv) the nature and circumstances of
14 the alleged offense;

15 “(v) the juvenile’s history of prior de-
16 linquent acts;

17 “(vi) the relative ability of the avail-
18 able adult and juvenile detention facilities
19 to meet the specific needs of the juvenile
20 and to protect the public;

21 “(vii) whether placement in a juvenile
22 facility will better serve the long-term in-
23 terests of the juvenile and be more likely to
24 prevent recidivism;

1 “(viii) the availability of programs de-
2 signed to treat the juvenile’s behavioral
3 problems; and

4 “(ix) any other relevant factor; and

5 “(C) if a court determines under subpara-
6 graph (A) that it is in the interest of justice to
7 permit a juvenile to be held in any jail or lock-
8 up for adults, or have sight and sound contact
9 with adult inmates—

10 “(i) the court shall hold a hearing not
11 less frequently than once every 30 days to
12 review whether it is still in the interest of
13 justice to permit the juvenile to be so held
14 or have such sight and sound contact; and

15 “(ii) the juvenile shall not be held in
16 any jail or lockup for adults, or permitted
17 to have sight and sound contact with adult
18 inmates, for more than 180 days, unless
19 the court, in writing, determines there is
20 good cause for an extension or the juvenile
21 expressly waives this limitation;

22 “(15) implement policy, practice, and system
23 improvement strategies at the State, territorial,
24 local, and tribal levels, as applicable, to identify and
25 reduce racial and ethnic disparities among youth

