

RED
PRACTICE
MANUAL

Chapter 4: Reducing Racial and Ethnic Disparities at Detention

CENTER FOR
Children's
Law and Policy

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Reducing Racial and Ethnic Disparities at Detention

I. Introduction

Studies of self-reported behavior indicate that 80% to 90% of American teenagers have committed an illegal act that would qualify them for time behind bars.¹ Most young people avoid contact with the juvenile justice system for these behaviors, and most youth grow out of delinquent behavior as they get older.² Yet while youth of color comprise approximately one-third of the adolescents in the United States, they represent 60% of the youth detained in juvenile detention facilities.³

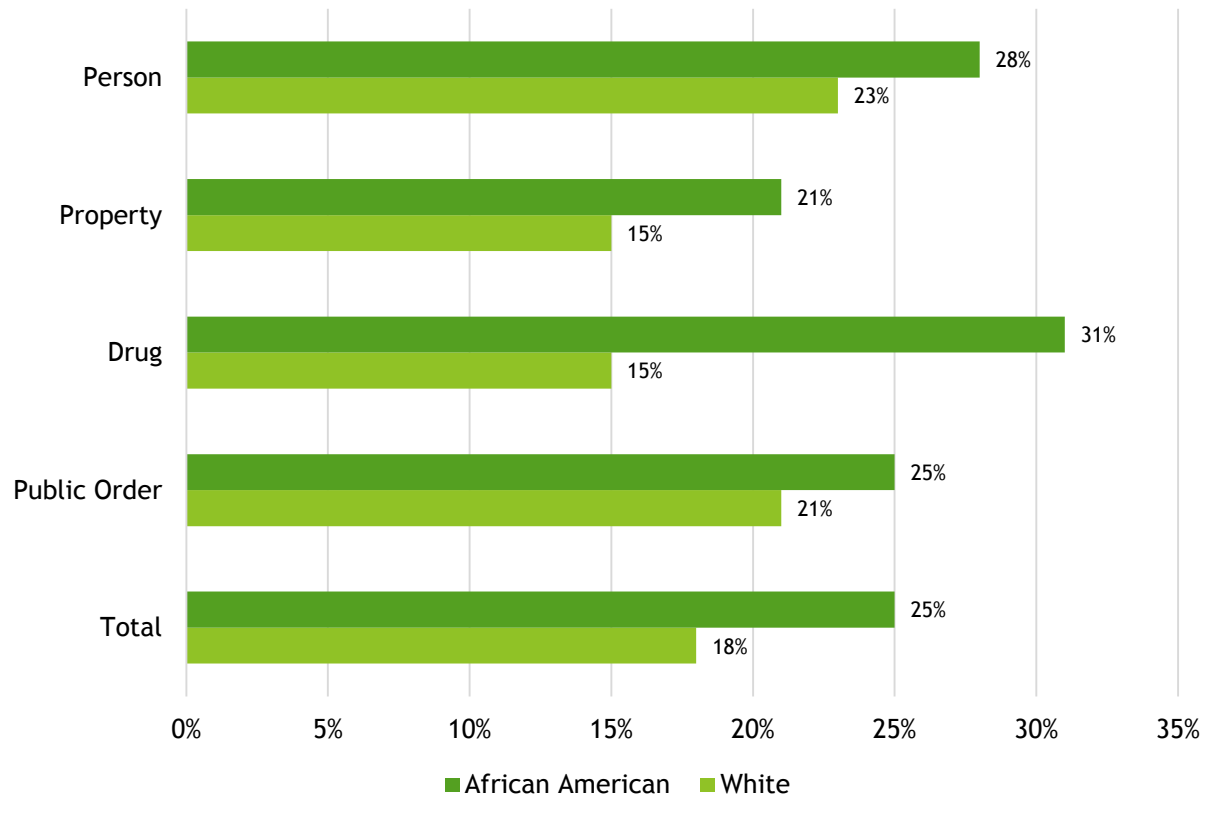
This Chapter outlines the reasons why youth of color are overrepresented and subject to disparate treatment at the detention decision point. It also outlines the analyses that officials should undertake to determine the cause of racial and ethnic disparities in their jurisdictions, as well as interventions that can lead to measureable improvements for youth of color.

II. The Problems

Youth of color are more likely than white youth to be detained for engaging in similar behavior.⁴ A leading study found that African American youth were more likely to be detained than white youth across all categories of offenses, as illustrated in the chart on the following page.⁵ For example, African American youth were more than twice as likely as white youth to be detained for drug offenses.⁶

Broad discretion when determining which youth should be detained allows for bias to enter into that determination. Additionally, a lack of accessible and culturally responsive alternatives to detention deprives youth of color of the chance to be supervised safely in their own communities.

Percent of Delinquency Cases Involving Detention by Race, 2003



The Annie E. Casey Foundation's [Juvenile Detention Alternatives Initiative \(JDAI\)](#) has served as the leading national effort focused on reducing the unnecessary and inappropriate use of detention throughout the country for more than twenty years. It now operates in more than 250 jurisdictions in 39 states. JDAI has eight core strategies for successful detention reform, one of which is [reducing racial and ethnic disparities](#) at the point of detention. Many of the tools and resources developed as part of JDAI can be helpful in work to reduce racial and ethnic disparities, as described below.

III. Understanding the Pathways to Detention for Youth of Color

To address racial and ethnic disparities, stakeholders must have a clear understanding of the ways youth of color arrive at the door of detention. Jurisdictions use detention for many reasons in addition to those prescribed in state statutes. When asked why youth are placed in secure detention, stakeholders often cite reasons such as “teaching the youth a lesson,” holding the youth because the parent or guardian is unwilling or unable to take the youth home, providing access to medical or mental health services for the youth, making the youth accessible to law enforcement agencies while they conduct an investigation, holding the youth until a program or service is available, using the detention center because “there is nowhere else” to put the youth, and punishing the youth for violating a probation order or other order of the court.

Reasons Jurisdictions Use Detention

- Teaching youth a lesson
- Parent(s) unable or unwilling to pick a child up
- Access to medical or mental health services
- Holding youth until a program or service is available
- Punishing youth for violating probation orders or other court orders

Many of these reasons are incompatible with the language of the governing statutes describing the purposes of the juvenile justice system. They also depart from the intent expressed in many statutes to serve youth in the “least restrictive setting” and use incarceration only “as a last resort.”

Some of these reasons may reflect explicit or implicit biases against youth of color and their families. For example, officials may assume that a parent’s inability to pick up his or her child signals a desire to have a child locked up or an admission that the parent cannot adequately supervise his or her child. In reality, there are a host of reasons why a parent may not be able to pick up a child, including a lack of transportation or lack of childcare for other children in the home.

One strategy for understanding the pathways of youth of color into detention is to discuss the purpose of detention in that community. Stakeholders in most jurisdictions have not had this type of group discussion. To reach consensus, judges, law enforcement agencies, prosecutors, juvenile defenders, probation officials, and school administrators should be involved, as those officials often control one or more

of the different pathways into detention. As part of the DMC Action Network, [CCLP helped prepare a summary of stakeholder engagement strategies that may be helpful when initiating conversations with these officials](#) about the use of detention.

Youth, family members, and community members must also be at the table. Including the insights and perspectives of those who have had direct experience with detention helps develop a more complete picture of how detention is actually used. It can also help dispel myths and misconceptions and generate new ideas about potential alternatives to detention.

One strategy for reaching consensus is to start with an anonymous survey of stakeholders. The survey asks stakeholders about how often detention is actually used in the jurisdiction, listing the different reasons that it might be used. The survey also asks how that individual thinks detention *should* be used in the jurisdiction. [A sample survey that can be edited for use in a particular jurisdiction is available by following this link](#). Surveys of stakeholders often reveal significant differences between how participants estimate detention is actually used in the jurisdiction and how they feel detention should be used. The survey results, when coupled with the quantitative data discussed below, can help focus a committee's work on what can be done to reduce overrepresentation and disparate treatment of youth of color at detention.

Another way of learning more about the pathways of youth of color into detention is to conduct a [Detention Utilization Study \(DUS\)](#), which is discussed in detail below. The DUS provides aggregate data on overall detention utilization. It also provides information on the characteristics of youth who are referred to detention. By disaggregating data by race and ethnicity, the DUS can help identify areas of focus for work to reduce racial and ethnic disparities.

IV. Using Data to Reduce Racial and Ethnic Disparities at Detention

Regular data collection and analysis is a necessary component of successful efforts to address racial and ethnic disparities. At the point of detention, data are necessary to (1) understand how detention is used, (2) identify and implement improvement strategies, and (3) track the outcomes of policy and practice changes.

Stakeholders may have a general sense that there are racial and ethnic disparities at the detention decision point. However, many jurisdictions do not have the capacity to collect, analyze and report on key data elements. In some jurisdictions, officials may capture information on detention admissions using a different data system than the

database used to capture information on youth at other points in the system. This can make it difficult to follow youth as they move through the system. Additionally, if detention officials are capturing race and ethnicity differently than probation intake staff - for example, by not tracking ethnicity separate from race - it may create to additional problems comparing data sets.

[Chapter 2 of the Practice Manual](#) contains tools and information on ensuring accurate and reliable data collection across the juvenile justice system. The sections below outline the key indicators to review for youth of color at the point of detention.

A. Key Indicators of Detention Utilization

There are three key indicators of detention utilization: admissions, average daily population (ADP), and average length of stay (ALOS). These indicators have two great strengths in work to reduce racial and ethnic disparities.

First, when disaggregated by race, ethnicity, and gender, and grouped by type of offense (felony and misdemeanor person, property, drug, public order), the data produce a useful picture of detention utilization for youth of color.

Second, the data are relatively easy to collect. All detention facilities keep track of the number of youth admitted. Average length of stay (i.e., the statistical mean) takes more effort to calculate, but is very manageable. It is also worthwhile to calculate the *median* length of stay - i.e., the middle number when all individual lengths of stay are listed numerically. The median is less affected than the mean by unusually long lengths of stay, such as those of youth transferred to the adult system who may remain in detention for months awaiting trial.

When a jurisdiction collects admissions and length of stay data, it can calculate ADP. To calculate ADP, divide the total number of days all youth spent in detention in a specified period and divide by the number of days in that period. Because the number of youth admitted to detention and their length of stay drive average daily population, reducing either admissions or length of stay of youth of color will reduce the number of youth of color in detention on a given day.

B. Detention Utilization Study

As mentioned above, a Detention Utilization Study, or DUS, provides detailed data on youth of color in detention. This information can help highlight opportunities to reduce racial and ethnic disparities at detention.

JDAI sites conduct a DUS at the beginning of their involvement with the initiative. The DUS includes three different types of data collection: aggregate trend data, a one-day snapshot of youth in detention, and a detailed case-level review of a sample of detention admissions.

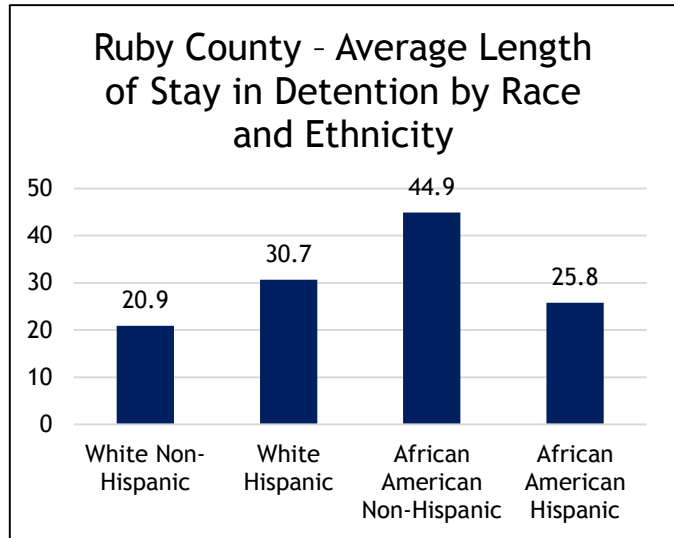
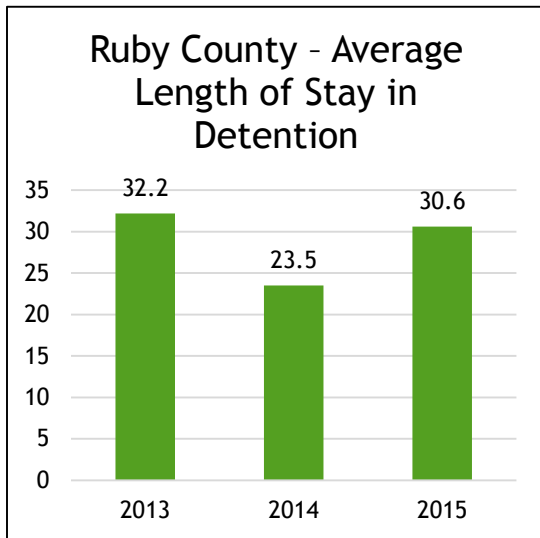
The case-level review is likely to be most helpful to a committee's work to reduce racial and ethnic disparities. The case-level reviews draws upon a sample of 250 detention admissions during the previous year. The data collected for each admission includes, among other things, youth demographics (age, gender, race, ethnicity), reason for the current detention, length of stay, placement after release from detention, nature and number of prior offenses, and whether the youth is currently under supervision by the juvenile court or child welfare system.

The detailed data generated by the DUS's case-level review can present a more complete picture of the pathways of youth of color into detention and the areas where youth of color appear to be overrepresented or treated more harshly than white youth. For example, in 2012, the Maryland Department of Juvenile Services prepared a report entitled "[The Doors to Detention](#)," which used the DUS framework to better understand detention utilization in Baltimore City. Although nearly all of the youth in the study were African American, the analysis helped reveal opportunities to prevent unnecessary incarceration of youth of color entering detention through specific pathways.

JDAI provides extensive guidance on how DUS data should be collected, analyzed, and presented.⁷ Conducting a DUS from the lens of race and ethnicity can provide officials with a solid understanding of current trends in their detention facility.

C. Detention Utilization in Practice

Jurisdictions should always disaggregate key indicators - admissions, ALOS, and ADP - by race and ethnicity. In the examples below, Ruby County has tracked average length of stay in detention.



The chart on the left shows that the average length of stay in detention for all youth in 2015 was 30.6 days. The table on the right shows the same data disaggregated by race and ethnicity. Ruby County officials then see that African-American non-Hispanic youth stay an average of 44.9 days, or 24 days longer than white non-Hispanic youth.

In this instance, stakeholders need more information to determine why lengths of stay are significantly longer for African-American non-Hispanic youth. Some of the questions might include:

- What efforts, if any, were made to step youth of color down to an alternative to detention?
- Are youth of color in detention longer because of a lack of success in an alternative to detention?
- Are youth detained for fixed time periods (e.g., two weeks between reviews)? If so, is there a way to expedite reviews of cases?
- Where do youth of color go after their release from detention? Are delays related to waitlists for services?
- Are long lengths of stay related to the time it takes to complete evaluations or assessments? Are there ways of expediting these for youth in custody?
- Are continuances driving lengths of stay? If so, what are the reasons for those continuances?

These key indicators of detention utilization also provide a baseline from which to measure progress after reforms are implemented.

D. Complementing Quantitative Data with Qualitative Information

In addition to gathering quantitative data about detention use, it is also helpful to understand the perspectives and experiences of a wide range of individuals involved in the system. As part of JDAI, officials use a System Assessment to conduct structured interviews about the use of detention in a community. A portion of the interview focuses on leaders' perceptions of racial and ethnic disparities in their system.⁸ Gathering this qualitative information can help generate a more complete understanding of needed reforms.

V. Making Objective Detention Decisions

A. Detention Risk Assessment Instruments (DRAIs)

Disparity Drivers in Detention Risk Assessment Instruments (DRAIs)

- Mandatory detention criteria
- Aggravating and mitigating factors
- Override reasons
- Inconsistent application of the DRAI

Most state statutes that guide detention decisions afford decisionmakers broad discretion. Typically, statutes do not define what behavior constitutes risk to public safety or risk of flight. Under these vague criteria, officials can justify placing almost any child in secure detention. In addition, some statutes permit detention to “protect” youth, broadening this authority even more. Wide discretion creates an opportunity for explicit and implicit biases to enter into the decisionmaking process, which can lead to the overrepresentation of youth of color in detention.

One key component of reducing racial and ethnic disparities at detention depends on the use of an objective, standardized instrument to determine which youth should be detained. These tools, known as detention risk assessment instruments (DRAIs),⁹ assign point values to factors related to a youth's likelihood of committing a new

offense prior to adjudication or their likelihood of failing to appear in court. Many DRAs also add points for aggravating factors and deduct points for mitigating factors. A low score on the DRA means that the youth may be released to a parent or guardian, a middle-range score means the youth can be released under some type of supervision (such as home detention), and a high score means the youth should be detained.

Making initial detention decisions guided by a DRA is increasingly widespread. DRAs increase objectivity, which in turn can improve fairness and equity in detention decisions. Yet while the implementation of a DRA often results in an overall reduction in detention admissions, it is not a given that the tool will reduce racial and ethnic disparities. Overrides, for example, are sometimes used in disparate ways. This is especially true where override criteria have not been clearly defined, allowing for subjectivity to enter into what should be an objective tool. In addition, some items in the instrument itself may disproportionately impact youth of color. The next section of this Chapter identifies the common drivers of disparities in DRAs and strategies to correct them.

B. Drivers of Disparities in Objective Screening Tools

Eliminating racial and ethnic bias in standardized tools requires an intentional initial effort and ongoing, data-driven monitoring. Whether a jurisdiction is using a long-standing DRA or developing a new one, officials should evaluate the tool for unintended negative impacts on youth of color.¹⁰ Three areas warrant particular attention: the use of mandatory detention criteria, the use of aggravating and mitigating factors, and the use of overrides.

1. Mandatory Detention Criteria

Most jurisdictions mandate detention of some youth. Mandatory detention means that, regardless of a youth's score on the instrument, the youth must be detained as a matter of state law or local policy. Common mandatory detention reasons found on DRAs include circumstances where (1) a court already ordered detention for a youth, (2) the court issued an arrest warrant for the youth, (3), a youth failed to complete a detention alternative, (4) another jurisdiction has asked the facility to hold the youth, or (5) the youth's charges are of a type that requires detention for public safety.¹¹

Mandatory detention criteria may unfairly impact certain populations of children, especially children of color. In order to minimize the impact of mandatory detention criteria on disparities, jurisdictions should ensure that the criteria are well-defined, and limit the criteria to those directly related to either public safety risk, risk of flight, or requirements in state law.

Questions about Mandatory Detention Criteria

- Are mandatory detention criteria directly related to public safety risk or to risk of flight?
- Are the mandatory detention criteria non-discretionary?
- Do mandatory detention criteria have some basis in state law?

2. Aggravating and Mitigating Factors

Many DRAs contain aggravating factors that can raise a youth's risk score or mitigating factors that can lower a youth's risk score.¹²

There is debate as to whether including aggregating and mitigating factors on a DRA is helpful. There are two main arguments against using them from the perspective of racial and ethnic fairness. First, their predictive value may not be established. Second, many of these criteria are highly discretionary.

For example, including "Parent unable to provide appropriate supervision" as an aggravating factor leaves significant opportunity subjectivity to enter into the decisionmaking process. How do staff determine that a parent is unable to provide adequate supervision? Without guidelines, the decision is vulnerable to influence by implicit or explicit biases. Similar concerns arise with items such as "Offense more serious than indicated by charge," "Suspected gang affiliation" (without any type of verification or confirmation), and "Disrespectful during arrest/intake."

Additionally, some instruments list the same factor as both aggravating and mitigating. This creates the potential for factors to be used differently for different groups of youth. For example “Identified mental health need” may often be used as a mitigating factor for white youth, but an aggravating factor for youth of color.

Jurisdictions using a DRAI that includes aggravating and mitigating factors should evaluate the effects of these factors on racial and ethnic disparities. Jurisdictions should determine whether aggravating factors are used disproportionately on youth of color, and whether that is contributing to higher rates of detention. If so, jurisdictions should use the data to revise the tool, either by removing or changing the items that are contribute to racial and ethnic disparities.

For example, in Multnomah County (Portland), Oregon, the DRAI originally included “no known community ties” as an aggravating factor. This single item earned a youth 7 points in an instrument where 12 points made a youth eligible for detention. County juvenile justice personnel realized that factor had a disproportionately negative effect on Latino youth who were reluctant to disclose information about undocumented family members. Multnomah County ultimately retained this aggravating factor but lowered it to 3 points and continued to monitor its effect on racial and ethnic disparities.¹³

The following strategies can help jurisdictions address racial and ethnic disparities in the use of aggravating and mitigating factors.

- **Ensure that the criteria are objective, not subjective.** For example, if an aggravating or mitigating factor requires a decisionmaker to use broad

Aggravating and Mitigating Risk Factors That May Inject Bias into DRAIs

Aggravating Factors

- Parent unable to provide appropriate supervision
- Offense is more serious than indicated by charge
- Suspected gang involvement
- Disrespectful during arrest/intake
- Other aggravating factor

Mitigating Factors

- Offense is less serious than indicated by charge
- Youth marginally involved in the offense
- Youth has substance abuse/mental health needs
- Youth has strong family/community supports

discretion in its application, consider removing the item from the list or rewording it to clearly define the aspects of the aggravation or mitigation a decisionmaker must consider.

- ***Ensure that the same factor is not listed as both an aggravating factor and a mitigating factor.*** Jurisdictions should eliminate such duplication and more clearly define when a situation would fall into the aggravation or mitigation category.
- ***As a general rule, ensure that the total possible number of points earned for mitigation is equal to the total possible points earned for aggravation.*** DRAs often include a long list of aggravating factors and only a few mitigating factors. The number of aggravating factors should roughly equal the number of mitigating factors. In addition, the tools should allow for the same total possible points for aggravating and mitigating factors. For example, if a tool includes five mitigating factors, each worth one point, the maximum total aggravating score is five. The mitigating factors' maximum total score should also equal five. Many instruments fail to adequately incorporate the strengths of a youth and his or her family, and the other supports that could be part of a plan to safely supervise the youth in the community.

3. Overrides

An override occurs when the actual detention decision does not align with the recommendation of the DRAI. For example, an override to detain occurs when the intake officer decides to detain a youth despite a score on the DRAI that qualifies the child for release. An override to release occurs when the intake officer decides to release a youth, either outright or to a detention alternative, despite a score that qualifies the child for detention.¹⁴

A high override-to-detain rate (generally 15% or higher) means that the tool is not guiding initial detention decisions as originally intended. When many jurisdictions examine their override rates, youth of color are subject to higher rates of overrides up into detention than white youth, and they experience lower rates of overrides down to a detention alternative or home.

For example, one common set of override reasons into detention stem from a decisionmaker's perception that there is a lack of supervision in the home, that a parent is unavailable to take the child home, or that the parent is unwilling to take the child home.

As mentioned above, these reasons can inject bias into the use of a DRAI. Officials may be making assumptions about a caregiver's ability or willingness to supervise their child when a parent may be unavailable because they are working a second job or need to supervise younger children in the home.

Tracking the specific reasons for overrides into detention overall and for youth of color specifically is a crucial part of ongoing monitoring of the use of detention. Closely tracking override reasons and rates for youth of color also provides jurisdictions with information that can help develop the continuum of detention alternatives. For example, if youth of color have a high override rate because a family member is unavailable to pick up a child who is eligible for release, then implementation of a program to provide transportation might reduce detention admissions of youth of color.

In 2005, Baltimore officials identified parent unavailability and unwillingness to take custody of their child as one of the primary drivers of low- and medium-risk youth of color into detention. In response, officials developed the [Parent and Youth Empowerment Program](#), operated by the East Baltimore Community Corporation, in partnership with the Maryland Department of Juvenile Services and the Family League of Baltimore.¹⁵ The program is designed to provide support for parents so that they can take custody of their children. For example, the program will provide transportation for family members if there are barriers to picking up their child. PYEP staff also connect parents with services and supports in the community, using a strengths-based model, to empower parents who feel that they cannot supervise their child at home.

The PYEP is an example of a successful program that targeted unnecessary detention of youth of color. In Fiscal Year 2013, the program received 212 referrals. Of those youth referred, 69% were released to a parent or guardian, 26% were placed in a

Questions to Consider to Eliminate Racial and Ethnic Bias in the Use of Overrides

- Are we collecting override data by race and ethnicity to determine whether children are being overridden in a disparate manner?
- What are the override criteria? Why are they necessary from a public safety or flight risk perspective?
- What are the reasons given for overrides? Do they vary by race and ethnicity?

shelter, and just 5% were placed in detention.¹⁶ Almost all youth served by the PYEP are youth of color.

C. Ensuring Consistency and Equity in the Application of the DRAI

Aggregated and Disaggregated DRAI Data

- Numbers and percentages of youth detained, released to alternatives, and released home
- Frequency and type of overrides
- Use of aggravating and mitigating factors
- Use of mandatory detention holds

A DRAI is a living document. Ongoing data collection and analysis is critical to ensure that the tool guides detention decisions using objective criteria.

Selecting the right staff to complete the tool is as important as tracking outcomes. In order to reduce potential barriers to returning a child home, jurisdictions should assign intake staff who speak and understand the language spoken by the children and families they serve. Staff should be well trained in, and committed to, the philosophy behind use of a DRAI: saving detention for only those youth for whom detention is necessary to avoid reoffending and ensure appearance in court pending adjudication.

VI. Reducing Racial and Ethnic Disparities through Detention Alternatives

Adopting a DRAI is one important strategy to prevent the unnecessary detention of youth of color at the front door. Developing culturally responsive alternatives to detention for youth who can be supervised safely in the community is another.

A. Understanding the Purpose of Detention Alternatives

Detention alternatives provide a continuum of supervision in the community to ensure that youth appear in court and remain crime-free pending the disposition of their cases. A continuum of detention alternatives includes three basic program models: (1)

home or community detention, which permit youth to live at home but require periodic contact with case managers, electronically or in person; (2) day or evening reporting centers, where youth report for several hours each day but return home at night; and (3) shelter or foster care, which are non-secure residential programs. Within each model there can be a range of levels of supervision.¹⁷ The chart on the following pages outlines the common types of detention alternatives.

If data reveal that youth of color are entering detention when they could be safely supervised in the community with additional services or supports, the creation or enhancement of detention alternatives can reduce racial and ethnic disparities. Moreover, even though many jurisdictions employ at least one alternative to detention, few agencies have analyzed whether youth of color have equal access to these programs. Fewer still have assessed whether these programs are as effective for youth of color as they are for white youth. The next sections of this Chapter describe how to expand alternatives to detention from the lens of racial and ethnic fairness.

The first step in designing or enhancing detention alternatives for youth of color is identifying a target population that currently enters detention but that could be supervised safely in the community. Using the data described above, the stakeholders can identify which youth could be released to an alternative if the right ones existed. Once implemented, detention alternatives must be monitored to ensure that they are achieving positive outcomes for youth of color.

Alternative to Detention Programs

Placement Coordination

- Typically occurs prior to detention hearings to identify youth who can safely be released with an appropriate detention alternative
- Staffing includes placement coordinator or expeditor, defender, prosecutor, and others who can help develop a release plan

Home or Community Detention

- A form of community-based supervision that can involve monitoring by telephone or in person
- Can serve as a lower level alternative in a continuum

Reception Centers

- Usually operate 24 hours a day, 7 days a week to screen youth who do not meet the criteria for detention
- Law enforcement can release arrested youth to the reception center staff who typically are trained social workers and whose main role is to work to reunify youth with a parent or guardian, connect families with community services, and offer counseling, if appropriate

Day and Evening Reporting Centers

- Provide youth with supervision and programming during the day, evening, or both
- Usually community-based and operated by a local service provider

Short-Term Respite or Crisis Beds

- Reserved for those youth who do not need to be securely detained but who cannot return home at that time

Electronic Monitoring/GPS

- Electronic monitoring is often used for surveillance of house arrest and curfew conditions, as well as keeping youth away from victims and co-defendants

B. Using Data to Develop or Enhance Alternatives to Detention

1. Using Detention Alternative Programming to Reduce Racial and Ethnic Disparities in Detention: The Berks County Story

Berks County, Pennsylvania used a data-driven process to develop and expand community-based alternatives to secure detention as a way of reducing the overrepresentation of youth of color in detention.¹⁸ After reviewing detention utilization data, officials identified a group of youth who would not have to be detained if a suitable alternative existed: youth who were struggling to meet the terms of probation and youth whose charges were serious enough to warrant enhanced supervision, particularly during the evening hours when youth arrest rates were at their highest.

After researching various types of detention alternative programs and visiting programs in other jurisdictions as part of Models for Change, the stakeholders chose to implement an evening reporting center (ERC). By working closely with a well-respected community service provider, the Children's Home of Reading, the probation department established an ERC in a neighborhood in which many detained youth lived. Berks County officials have taken special care to ensure that the ERC employs staff who reflect the population of youth being served, who are almost entirely youth of color.¹⁹ You can view a video that describes the ERC by [following this link](#).

Berks County officials have tracked outcomes from the ERC. In the four years following its opening in December 2008, all youth who participated in the program had attended every scheduled court appearance, and over 96% avoided committing a new offense while in the program.²⁰ The ERC, coupled with other reforms in Berks County, helped reduce the county's annual detention population by more than 60% without compromising public safety. In 2012, on any given day there were an average of 16 fewer Latino youth and 5 fewer African American youth in secure detention than in 2007.²¹

Detention population reductions initially led the County to permanently remove 24 beds from its secure detention program, altering the space to expand non-secure programming. As the population continued to fall, the County Board of Commissioners decided to close the detention center, opting to contract with a local provider in a neighboring county for a limited number of secure beds. The implementation of the ERC, along with other strategies, also helped the county reduce its reliance on costly out-of-home placements by 67% between 2007 and 2012. This saved the county about \$2 million per year.²²

2. Detention Alternative Program Utilization and Outcomes

Collecting and analyzing data on the use of detention alternatives and their outcomes, disaggregated by race and ethnicity, is necessary to ensure that youth of color have access to those programs to the same degree as white youth. For example, does a lack of bilingual staff at a shelter mean that Latino youth with limited English proficiency are not eligible for that alternative?

Of equal importance is the capacity to track program outcomes by race and ethnicity. Officials must know if detention alternatives are as effective for youth of color as they are for white youth. That is to say, do the detention alternatives succeed at ensuring that youth appear in court and avoid committing a new offense prior to adjudication? If outcomes are worse for youth of color, officials must determine why. Officials should also assess whether youth of color are ejected from alternatives at higher rates than white youth. Again, understanding the reasons why is the first step to crafting an appropriate intervention.

The data elements at the right can help officials understand more about the use and effectiveness of detention alternatives for youth of color in their communities.

Outcome Measures, Disaggregated by Race and Ethnicity

- Program referrals (number of youth and percentage of eligible youth)
- Successful program completions
- Unsuccessful program completions:
 - Failures to appear
 - Re-arrests
 - Terminations/Ejections

The Baltimore City Pre-Adjudication Coordination and Transition Center

The [Pre-Adjudication Coordination and Transition Center](#) (PACT Center) opened in 2007 in Baltimore as a community-based alternative to detention. The program, run by the Mayor's Office of Employment Development with funding from the Maryland State Advisory Group and assistance from the Family League of Baltimore, focused on those youth who would otherwise be detained because of a lack of success in less intensive alternatives to detention.

Located in West Baltimore, the program provides support services to youth to ensure that they attend scheduled court hearings, avoid re-arrest, and appear in court with an individualized plan that is designed to identify community resources that will help the youth avoid future offending.

An independent evaluation of the program's effectiveness showed that this strategy for reducing racial and ethnic disparities in detention made sense from a public safety perspective. Specifically, the evaluation found that, of the more than 400 youth served by the program, 98% appeared for their scheduled court hearings and 92% did not reoffend while participating in the program. Almost all (99%) of the youth that served at the PACT Center were African American. You can read more about the PACT Center and its outcomes by [clicking here](#).

C. Drivers of Disparities in Alternatives to Detention

Alternatives to detention can help prevent the unnecessary incarceration of youth of color. However, certain aspects of their use may actually increase the overrepresentation or disparate treatment of youth of color. The three primary concerns are net widening, excessive amounts of time in alternative to detention programs, and a lack of cultural responsiveness of these programs.

1. Net Widening

Detention alternatives should be reserved for youth who would otherwise be detained. Many jurisdictions have trouble implementing this principle. Some officials send youth to alternatives because they think they might benefit from treatment and programming, even if it is not determined to be needed by the DRAI. Without clear eligibility criteria and control of who gets referred to alternatives, youth of color may end up inappropriately placed in restrictive programs. There, they may violate program rules, which can mean that a youth who was never eligible for secure detention in the first place ultimately lands in detention.²³

Net widening squanders scarce public resources and can lead to unintended negative consequences for youth of color. Officials must set clear eligibility criteria for alternatives, ensure that those criteria are followed, and monitor data to ensure that net widening does not occur.

2. Excessive Amounts of Time in Alternative to Detention Programs

The longer a child stays in one alternative, the higher the likelihood of violation. This is particularly true of highly restrictive alternatives, such as GPS and electronic monitoring.

Many jurisdictions have not undertaken an analysis of lengths of stay in alternative to detention programs to assess whether racial and ethnic disparities exist. However, as with net widening, a lack of criteria about how long youth should remain in alternative to detention programs can open decisions up to subjectivity and bias. This can lead to longer stays for youth of color and, as a result, higher rates of violations.

Generally, the length of stay on any one alternative should not exceed 30 days. Decision-makers should set clear limits on the amount of time a youth should remain in each alternative. This is especially true for electronic monitoring, due to the highly intrusive nature of this type of supervision and the stigma it creates because of the public display of the youth's involvement in the justice system. Limiting length of stay in alternatives may mean having to look at case processing times more generally. Quicker timelines for handling cases mean that youth spend less time awaiting adjudication, thereby requiring less time in an alternative to detention.

3. Lack of Cultural Responsiveness

Cultural responsiveness in detention alternatives means that programs (1) value diversity, (2) have the capacity for cultural self-assessment, (3) acquire and institutionalize cultural knowledge, and (4) continuously adapt to the diversity and the cultural contexts present in the communities they serve.²⁴

Considerations for Developing Culturally Responsive and Linguistically Competent Alternative to Detention Programs

- Hire program staff who have the skills and values that reflect youth's cultural and linguistic backgrounds
- Ensure that materials used in the program are translated into the native languages of youth and family members served by the program
- Situate programs in the neighborhoods where youth and families reside, both for ease of participation and to build the capacity within communities
- Partner with community-based organizations and draw upon youth's natural neighborhood and family supports

Linguistic competency in detention alternatives requires providers to communicate effectively with youth and families, including those with limited English proficiency.²⁵ The importance of linguistic competency cannot be overstated. In Santa Cruz, California, a Probation Department assessment revealed that the lack of Spanish-speaking intake staff and case managers made it difficult to release youth to family members, even if it was appropriate to do so. Staff were unable to speak with parents, and parents were unable to ask questions. In response, the Probation Department made it a goal to have Spanish-speaking staff at every stage in the juvenile justice process, at a minimum in proportion to the percentage of Latino youth in the detention center. The Probation Department made staff assignments and hired new staff accordingly.²⁶

Additionally, alternative to detention programs should draw upon a youth's existing community and family supports. When asked, families generally report feeling excluded and disrespected.²⁷ Jurisdictions that are intentionally focused on including families as partners take advantage of a valuable resource to increase youth's chance of success.

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- ¹ Scott, E. & Steinberg, L. (2008). Adolescent development and the regulation of youth crime. *Future of Children: Juvenile Justice*. 18, 15-35 [hereinafter, Adolescent development]; Mulvey, E.P. (2006, December). *Growing up and growing straight: Understanding why many adolescent offenders age out of crime*. (Report # 89). Pittsburgh, PA: University of Pittsburgh, Office of Child Development [hereinafter, *Growing up and growing straight*]; and Bernstein, N. (2014). *Burning down the house: The end of juvenile incarceration*. New York, NY: The New Press [hereinafter, *Burning down the house*].
- ² Adolescent development; *Growing up and growing straight*; and *Burning down the house*.
- ³ Office of Juvenile Justice and Delinquency Prevention, Survey of Youth in Residential Placement, available at https://syrp.org/online_analysis.html.
- ⁴ National Council on Crime and Delinquency. (2007). *And justice for some: Differential treatment of youth of color in the juvenile justice system*. Oakland, CA: National Council on Crime and Delinquency [hereinafter, *And justice for some*].
- ⁵ Id.
- ⁶ Id.
- ⁷ National Council on Crime and Delinquency. (2003). *Planning for juvenile detention reform: Data collection handbook*. Baltimore, MD: The Annie E. Casey Foundation.
- ⁸ Id.
- ⁹ The term Detention Risk Assessment Instrument (DRAI) is most commonly used throughout the literature, and therefore is the term used in the Practice Manual. Note that a tool designed to guide initial detention decisions is operationally used more as a screen than a deep assessment of risks and needs typically associated with the term “assessment.”
- ¹⁰ JDAI Helpdesk. (n.d.). *Reducing racial and ethnic disparities*.
- ¹¹ Steinhart, D. (2006). *Juvenile detention risk assessment: A practice guide to juvenile detention reform*. (pp. 43). Baltimore, MD: Annie E. Casey Foundation [hereinafter, *Juvenile detention risk assessment*].
- ¹² Id. at 37.
- ¹³ Id. at 48.
- ¹⁴ Id. at 44.
- ¹⁵ The PYEP originally began in 2005 as the Community and Family Resource Center (CFRC). When funding for the CFRC dried up because of the 2009 budget crisis, the center closed. Immediately thereafter, the juvenile detention population spiked. Officials worked to identify other funding streams to reconstitute the parent outreach elements of the CFRC as a new program, which became the Parent and Youth Empowerment Project.
- ¹⁶ East Baltimore Community Corporation, Parent and Youth Empowerment Program, <http://ebconline.org/programs/parent-empowerment-program/> (last visited Dec. 9, 2015).
- ¹⁷ Id. at 15.
- ¹⁸ Szanyi, J. (2010, March). *Leading the way: How Berks County, PA is pioneering an alternative to detention as a model for statewide reform*. *DMC Action Network News*, 10.
- ¹⁹ Dana Shoenberg, *Reducing the Incarceration of Youth of Color in Berks County through Structured Decision-Making and Community-Based Alternatives* (2012), available at <http://www.modelsforchange.net/publications/686>.
- ²⁰ Id.
- ²¹ Id.
- ²² Dana Shoenberg, *Models for Change Innovation Brief: Reducing Racial and Ethnic Disparities in Pennsylvania*, available at http://cclp.org/documents/DMC/Innovation_Brief_Reducing_Racial_and_Ethnic_Disparities_in_Pennsylvania.pdf.
- ²³ *Consider the alternatives* at 13.
- ²⁴ National Council of La Raza (2007). *A fair juvenile justice system: The importance of linguistic and cultural competency* [hereinafter, *A fair juvenile justice system*].
- ²⁵ Id.

²⁶ Hoytt, E.H., Schiraldi, V., Smith, B.V., & Ziedenberg, J. (2002). *Reducing racial and ethnic disparities in juvenile detention*. (pp. 47). (Pathways # 8). Baltimore, MD: Annie E. Casey Foundation; *A fair juvenile justice system*.

²⁷ *Justice for Families: Families Unlocking Futures*. (n.d.). *Our work*. (n.d.).