

STATUS OFFENDERS IN GEORGIA'S JUVENILE JUSTICE SYSTEM
Recommendations for the Future

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REVISED January 2012

The opinions, findings, and conclusions or recommendations expressed in this publication are those of the authors and do not necessarily reflect the views of the Department of Justice. This project was supported by Award Number 2009-JF-FX-0037 awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs.

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The following report was produced under a contract with the Georgia Governor's Office for Children and Families. Points of view or opinions expressed in the document are those of the authors and do not necessarily represent the official position or policies of the Governor's Office for Children and Families.

Thorough explanations of how status offenders are handled in Georgia and the discrepancies between Georgia and federal law have been presented by a number of organizations, including the Barton Child Law and Policy Clinic at the Emory University School of Law¹, Applied Research Services², and JUSTGeorgia³. The purpose of this paper is not to duplicate their efforts and readers who seek a more detailed account of the legal and policy issues involved are encouraged to consult their works. Rather, the focus of this paper will be a summary of the main legal, social, budgetary and administrative issues related to the handling of status offenders, along with recommendations for solutions to the problems for policymakers in the different branches of government in Georgia.

THE PROBLEM

A Distinction Too Frequently Ignored – Status Offenders vs. Juvenile Delinquents

A significant concern in Georgia is that too often all troubled youth are treated as if their actions were of the same nature, imbued with the same degree of moral culpability and requiring the same systemic response. The simple reality is that they are not.

Young people who commit deviant acts that would be considered crimes if committed by adults are categorized as juvenile delinquents. A second, very different, category of youth referred to as status offenders engage in actions that would not be considered crimes if they were perpetrated by adults. Their offenses, such as running away, truancy, curfew violations, failure to obey parents, and smoking or drinking, represent no threat of harm to others. Frequently, there is a need for juvenile delinquents to be held in secure detention, since their actions may represent a threat to the safety of others. On the other hand, the only person typically jeopardized by status offenses is the offender him or herself. Thus, these youth, who are also often victims of maltreatment, may live in dysfunctional family situations, and/or suffer from mental health problems are better served in a less restrictive

¹ *Secure Detention of Status Offenders: A research-based policy response to the Georgia General Assembly*, The Barton Child Law and Policy Clinic, Emory University School of Law (2007).

² *Research Brief: Implementation of a Children in Need of Services Framework in Georgia*, Applied Research Associates (2011).

³ *Summary of the Child Protection and Public Safety Act, Senate Bill 127 & House Bill 641*, JUSTGeorgia (2011).

setting through appropriate individual, family and community level intervention programs and services.⁴

It is difficult to know exactly how many status offenders come to the attention of the juvenile courts in Georgia on an annual basis because there is no centralized data collection system in the state. The Council of Juvenile Court Judges maintains a database (JCATS) that collects information from 30 counties, accounting for approximately half of the juvenile court cases in the state; other counties, including some of the larger ones such as Chatham and Fulton, also use the JCATS system but have separate contracts directly with the vendor; and still others are connected into databases with their county court systems or operate systems of their own.⁵ Further, many cases that do come to the attention of the court are dismissed, diverted to other services outside the court, or handled informally by court service workers, who are either employed by the courts or provided by the court services system operated by the Department of Juvenile Justice. The Governor's Office for Children and Families has recently instituted a first attempt to aggregate data on juvenile offenders from multiple sources, with the launch of a new website, "The Georgia Juvenile Justice Data Clearinghouse," which is a positive move forward.⁶ According to their data for 2009, formal petitions are filed with only about half the cases processed by the juvenile court for both status and delinquent offenses (29,284 petitions out of 57,776 cases referred to juvenile court).⁷ These data are consistent with federal level data from the Office of Juvenile Justice and Delinquency Prevention for 2007, which show that with 127 of Georgia's 159 counties represented, 10,316 status offense cases were brought to the state's juvenile courts, with formal petitions being filed in 5,074 of them.⁸ When cases do come before the court, judges may choose from an array of dispositions, including community based treatment programs, probation, alternative residential placements, and secure detention.

Although not the preferred disposition for status offenders, and prohibited by federal law (The Juvenile Justice and Delinquency Prevention Act – JJDP A)⁹, secure detention is allowed under Georgia law under certain conditions.¹⁰ According to data provided by the Georgia Department of Juvenile Justice (DJJ)¹¹, 1,391 status offenders were placed in a Regional Youth Detention Center (RYDC) in 2011, pending a court disposition. These youth comprised 8.7 percent of all detentions that year. The average cost per child care day in an

⁴ A New Approach to Runaway, Truant, Substance Abusing and Beyond Control Children, 41 Juvenile and Family Court Journal 9, 13 (1990).

⁵ Telephone conversation with Eric John, Council of Juvenile Court Judges (June 24, 2011) and Al McMullen, Council of Juvenile Court Judges (August 24, 2011).

⁶ Schill, Ryan, *New Juvenile Justice Database in Georgia Puts Pieces of Puzzle in One Place*. Juvenile Justice Information Exchange (October 5, 2011). Online, available: <http://jjie.org/juvenile-justice-data-clearinghouse>.

⁷ Table, "Juvenile Justice Decision Points for All Counties in Georgia for 2009," Governor's Office for Children and Families. Online, available <http://georgiajuveniledata.ga.gov>.

⁸ Livsey, S. Hockenberry, S., Smith, J., and Kang, W. "Easy Access to State and County Juvenile Court Case Counts, 2007," (2010). Online, available: <http://www.ojjdp.gov/ojstatbb/ezaco/>.

⁹ 42 U.S.C. 5601

¹⁰ O.C.G.A. 15-11-39, O.C.G.A. 15-11-46, O.C.G.A. 15-11-47, O.C.G.A. 15-11-48, O.C.G.A. 15-11-65.

¹¹ Email from Joshua Cargile, Georgia Department of Juvenile Justice (August 24, 2011).

RYDC in FY2011 was \$257.90, and the average length of stay for status offenders in an RYDC was 13 days. Thus the estimated cost for detaining status offenders in FY11 was \$4,663,605.70. In comparison, the average daily costs of alternative non-residential services in FY11 were as follows¹²:

Case Management	\$14.28
Electronic Monitoring (NSC)	\$10.17
Multi-Systemic Therapy (NSC)	\$77.21
Behavioral Aides (NSD)	\$.28
Electronic Monitoring (NSD)	\$ 6.27
Tracking Services (NSD)	\$44.57

Even if a status offender were receiving the most expensive alternative treatment, Multi-Systemic Therapy, the average daily cost would be \$180.69 less, and he/she could be served for approximately 43 ½ days for the same amount as the average 13 day stay in an RYDC. Clearly secure detention is a costly choice for generally low-risk offenders.

The detention of status offenders who have violated a prior court order is allowable under JJDP¹³ under certain conditions. DJJ data show that in 2011 another 3,517 youth (22 percent of admissions) were placed in an RYDC for violations of previous court orders, although these are not broken out by status offenders and delinquents. If the average length of stay for these youth is about the same as for status offenders (13 days), which is likely to be conservative since some of these are delinquent youth, the cost is estimated to be \$11, 791,445.00. It is reasonable to believe that many of these youth could be served more effectively, less expensively, and for a longer time in an alternative, non-residential program with little increased risk of harm to others.

While the valid court order provision under the JJDP¹⁴ was intended to be an exception to the rule, the claim is that in many cases it has resulted in what is referred to as “bootstrapping,” or taking a status offense that is protected from secure detention and converting it into a delinquent act not entitled to the same protection.¹⁴ In some instances, a youth may be brought into court for a combination of charges, including but not limited to a status offense. For example, of the 3,117 status offenses adjudicated in Georgia in 2011, approximately 32.5 percent (1,012) were identified as “pure” status offenses, with the others having additional charges, which may include violation of a prior court order and/or a delinquent offense.

As discussed at length in the report from the Barton Child Law and Policy Clinic, however, federal law and Georgia law are not aligned on the issue of detention of status offenders, resulting in what many believe are unnecessary and possibly unlawful detentions of these youth. Although currently Georgia remains in compliance with the JJDP¹⁴ mandate on deinstitutionalization, there is a move at the federal level to remove the valid court order

¹² Email correspondence from Joshua Cargile, Georgia Department of Juvenile Justice (November 22, 2011).

¹³ 42 U.S.C. 5633(a)(23), 24 C.F.R. 31.303(f)(3).

¹⁴ *Deinstitutionalization of Status Offenders (DSO): Facts and resources*, Coalition for Juvenile Justice (May 2011).

exception for detention of status offenders with the next reauthorization of the Act, which would place Georgia out of compliance and in jeopardy of losing a significant amount of federal money unless state law is amended to support the change.¹⁵ Some states (ex: Alabama, Connecticut, New York) have already revised their laws to prohibit the secure confinement of status offenders in all circumstances, including for violations of a valid court order, and other states are moving in that direction by placing more restrictive conditions on detention (ex: Kentucky, Washington).¹⁶

Certainly society has an interest in helping status offenders change their ways. However, this societal interest is not advanced by placing status offenders in secure facilities with juvenile delinquents. As identified by the recent report from the Annie E. Casey Foundation, *No Place for Kids*, the consequences of assigning status offenders to secure detention are considerable.¹⁷

- More frequently than not, the fact that juveniles engage in status offenses is a manifestation of significant problems in their lives. Placing status offenders in secure confinement does nothing to address the problems that prompted the behavior in the first place, it does not impact public safety, nor does it reduce future offending. One juvenile court judge interviewed for this paper characterized status offenses not as an individual failure on the part of a specific juvenile, but rather as indicative of a family crisis.¹⁸ When they are released from confinement, unless additional therapeutic interventions are provided, it is highly likely that these status offenders will return to their families with their unaddressed problems and continue to engage in the unacceptable course of action that initially brought them to the attention of the authorities. According to the Casey Foundation report, approximately 75 percent of youth released from correctional facilities are rearrested within three years of release. Further, the Foundation report cites data from studies conducted in Ohio and Florida that show incarceration is especially ineffective for low-risk offenders, finding their re-offending rates to be higher than comparable youth who remained in the community.
- Placement in a secure facility can have long-term negative outcomes for youth. The *No Place for Kids* report provides evidence that incarceration reduces educational and vocational success for youth. One study cited in the report found that correctional confinement before or at age 16 resulted in a 26 percent reduction in the likelihood of high school graduation by age 19, and other studies indicate that spending time in a secure facility as an adolescent has a long-term negative impact on future employment. In addition, detention may negatively impact the juvenile's

¹⁵ Telephone conversation with Melissa Sickmund, National Center for Juvenile Justice (September 16, 2011).

¹⁶ Arthur, Pat, Senior Attorney, National Center for Youth Law, *Status Offenses & The Juvenile Justice and Delinquency Prevention Act: The Exception that Swallowed the Rule*, from the First National Conference on Homeless Youth and the Law (June 18, 2008).

¹⁷ *No Place for Kids: Case for Reducing Juvenile Incarceration*, The Annie E. Casey Foundation (2011).

¹⁸ Telephone conversation with Judge Sherri Roberts, Newton County Juvenile Court (September 16, 2011).

mental and/or physical well-being, resulting in such outcomes as depression, suicide and other forms of self-harm.¹⁹

- When status offenders are placed in secure confinement, they are in constant contact with more serious offenders and the facilities are often violent and abusive environments. This exposure carries significant negative consequences. Such an action places status offenders at risk of being victimized by more dangerous and predatory juvenile delinquents. According to the *No Place for Kids* report, “In the past four decades, recurring violence, abuse, and maltreatment have been documented in the publicly funded youth corrections facilities in at least 39 states plus the District of Columbia and Puerto Rico...In 22 of those states (and the District of Columbia) maltreatment has been documented since 2000.”²⁰ Additionally, the state is putting status offenders in a position to learn from the more criminally sophisticated juvenile delinquents and thus to become delinquents themselves. As noted by the National Institutes of Health, “when young people with delinquent proclivities are brought together, the more sophisticated can instruct the more naïve in precisely the behaviors that the intervener wishes to prevent.”²¹
- As documented in a report on the dangers of detention from the Justice Policy Institute, since there is no justifiable reason for status offenders to be placed in secure confinement in most instances, thus placing them in these facilities represents a waste of taxpayer dollars. That is true especially since prior detention has been shown to be a significant predictor of repeat offending, further contributing to costs.²² Secure confinement is the most expensive option available to the state; thus to choose this option when there is no compelling need to do so is fiscally irresponsible. This situation would be problematic under ideal economic conditions, but in the current economic climate, where Georgia faces unprecedented budgetary problems, such an action is increasingly difficult to support. A cost-benefit study of effective, evidence-based, alternative treatment programs for juvenile offenders by the Washington State Institute for Public Policy found a number of programs that resulted in substantial cost savings.²³ Taking into account the reduction in crime, the resulting cost benefit to victims and taxpayers, and the cost of the program, the total cost benefit of six of the programs was greater than \$10,000 per participant. For example, the cost benefit of Functional Family Therapy per participant was \$31,821, and the cost benefit of an adolescent diversion project for low risk offenders was \$40,623. Implementation of

¹⁹ Holman, B. and Ziedenberg, J., *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, Justice Policy Institute (November 28, 2006).

²⁰ *No Place for Kids*, Annie E. Casey Foundation (2011).

²¹ *State of the Science Conference Statement: Preventing Violence and Related Health-Risking Social Behaviors in Adolescents*, National Institutes of Health (2004).

²² Holman, B. and Zeidenberg, J., *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, Justice Policy Institute (November 28, 2006).

²³ Aos, Steve, “Evidence-Based Public Policy Options to Reduce Criminal Justice Costs and Crime Rates,” in *Cost-Effective Approaches in Juvenile and Adult Corrections: What Works? What Doesn't?*, First Edition, Karen Bogenschneider and Heidi Normandin, Eds., Wisconsin Family Impact Seminars, University of Wisconsin-Extension and University of Wisconsin-Madison School of Human Ecology (October, 2007).

a family-focused treatment program (Redirection Program) for low risk offenders in Florida saved the state \$41.6 million from 2004 – 2008.²⁴

The Inconsistency of Georgia Law and Federal Law

In 1974, Congress recognized the problems associated with treating status offenders in the same manner as juvenile delinquents. In the Juvenile Justice and Delinquency Prevention Act (JJDP),²⁵ Congress called for, among other things, a prohibition of status offenders to be held in secure institutional settings more appropriate for juvenile delinquents. Although Congress ultimately created an exception for status offenders who acted in contradiction of a valid court order (VCO), this provision was intended to be the exception rather than the rule it has become. To Georgia's credit, there has been an overall decrease in the number of juveniles held in secure detention in the state over the past five years, including status offenders and youth in violation of a valid court order. According to data from DJJ, the number of status offenders placed in the state's Regional Youth Detention Centers fell 29.3 percent, from 1,967 in 2007 to 1,391 in 2011. Similarly, the number of all juvenile offenders detained for violation of a valid court order decreased 16.8 percent, from 4,225 to 3,517.²⁶ Although Georgia is making progress in decreasing the number of status offenders placed in secure detention, the number remains unacceptably high.

The Georgia Criminal Code allows for status offenders to receive the same treatment as juvenile delinquents. In their previously cited report, *Secure Detention of Status Offenders: A Research-Based Policy Response to the Georgia General Assembly*, the Emory University School of Law's Barton Child Law and Policy Clinic identifies the problematic aspects of Georgia law. Their conclusions include:

- Georgia law allows the secure detention of many status offenders before they appear in front of a judge. The law provides that a child who is a runaway may be detained in a secure facility. In addition, any child who has committed a prior status offense is subject to secure detention in advance of adjudication. The decision to detain is not required to be based upon any sort of risk assessment or a demonstrated need to institutionalize a child, but rather is granted by legislative fiat.
- Not only does Georgia allow for the pre-adjudication detention of status offenders, the amount of time that a juvenile may be detained far exceeds that mandated by federal law. The JJDP Act allows for status offenders to be held for an initial period of 24 hours, but Georgia law allows for ten days to elapse between the filing of an unruliness petition and an adjudicatory hearing. Even more troubling is the 30-day period that is allowed between adjudication and a dispositional hearing. It is entirely possible that children guilty of nothing more than a status offense could spend over 40 days in secure detention prior to beginning their actual sentence.

²⁴ *No Place for Kids*, Annie E. Casey Foundation (2011).

²⁵ 42 U.S.C. 5601.

²⁶ Email from Joshua Cargile, Georgia Department of Juvenile Justice (August 24, 2011).

- Even though federal law requires that status offenders receive treatment rather than punishment, Georgia law specifically authorizes any disposition for a status offender that would be authorized for a delinquent child. This places secure detention squarely within the options available to a judge in sanctioning a status offender. The law allows the commitment of a status offender to the Department of Juvenile Justice if a judge determines that the child is not amenable to treatment or rehabilitation.

While Congress has no power to force states to follow the Juvenile Justice and Delinquency Prevention Act, it utilizes the power of the purse as a means of compelling the states to follow the law. If states choose not to follow the JJDPA, they may lose federal money. At this point, Georgia is close to being found in violation of federal law and is placing the approximate \$2 million dollars it receives annually from the federal government at risk.

The Judges' Perspective

While it may be tempting to view the institutionalization of status offenders as the product of governmental bad faith, that is not the case, and the reality is much more complex. Frequently judges see their actions as justified, primarily because of a dearth of viable alternatives.

- Eric John, the Director of the Council of Juvenile Court Judges, points out that there are times when the youth commits an act of juvenile delinquency in addition to a status offense.²⁷ For example, data provided by DJJ²⁸ show that in 2011 there were 3,117 status offense adjudications in Georgia, comprising 23 percent of all offenses adjudicated (13,547). Of those, however, only 1,012 (7.5 percent of all adjudicated offenses and 32.5 percent of adjudicated status offenses) were identified as "pure" status offenses, belonging to youth with no current or prior adjudications except status offenses. The remainder belonged to youth with additional charges such as violation of a prior court order and/or a delinquent offense. In addition, in 2011 there were 431 status offenders committed to state custody, comprising 17.7 percent of all commitments (2,430). Of those, only 44 (1.8 percent of all commitments and 10.2 percent of status offenders committed) were considered "pure" status offenders, with the remainder having other charges. In other cases that come to the attention of the court, the juvenile may have committed status offenses before, been provided with treatment, and proven nonresponsive to such efforts. To continue to search for alternatives to institutionalization in a case of this sort can be seen as an exercise in futility.
- Sometimes the institutionalization of a status offender is honestly viewed by the judge as being in the best interest of the child. For example, Judge Connie Blaylock of the Whitfield County Juvenile Court stated that she does not want to detain status offenders, but often sees few, if any, alternatives.²⁹ This is especially true in the case of a runaway whose immediate needs are secure shelter and protection from predatory individuals, typically adults. Nonexistent alternatives to institutionalization, particularly in the more rural areas of the state, offer little hope for a juvenile in such a dangerous situation, and

²⁷ Telephone conversation with Eric John, Director, Council of Juvenile Court Judges (June 24, 2011).

²⁸ Email from Joshua Cargile, Georgia Department of Juvenile Justice (August 24, 2011).

²⁹ Telephone conversation with Judge Connie Blaylock, Whitfield County Juvenile Court (August 17, 2011).

this situation has been exacerbated by the continuing reduction in state funding for alternative placements. Although not a supporter of detention for status offenders, Judge Sherri Roberts of the Newton County Juvenile Court agreed that the state does not have many alternatives for families in crisis and no good ways to link services.³⁰ The sad truth is that in Georgia, in some cases, young offenders may have more opportunities for treatment if they are pushed further into the system.

- Department of Juvenile Justice Deputy Commissioner Carl Brown acknowledges that there is a serious lack of services for status offenders because this is a difficult population to serve.³¹ With the Department of Juvenile Justice (DJJ) providing specialized services for high-risk juveniles and the Division of Family and Children Services (DFCS) focusing on the truly deprived children, status offenders tend to fall between the cracks in Georgia. With few resources, programs or agencies focusing on the interests of status offenders, it is not difficult to see why judges so frequently see institutionalization as their only option when dealing with these juveniles. Mr. Brown agrees with the reality that, unfortunately, under the system as it currently exists, there are more resources available for children who are charged as delinquents than for those who are seen as mere status offenders. Again, this situation has been exacerbated by the recent economic downturn that has resulted in serious budget cuts to public agencies and loss of funding from other sources to private providers as well.
- A resolution adopted by the Georgia Council of Juvenile Court Judges stated that “alternatives to detention, such as safe houses and therapeutic in-home placements, would have been more appropriate” for many status offenders, but recognized that “those resources are virtually non-existent in the State of Georgia, especially in areas outside the largest metropolitan areas of the state.” The resolution continued by stating that “it has been the experience of the membership of the Council of Juvenile Court Judges that neither the State of Georgia nor the federal government has a creditable history of providing new services or dispositional alternatives.”³² With no real alternatives to institutionalization and no faith in any level of government to provide those alternatives, the juvenile court judges of Georgia have little choice but to keep their options open.

However, even well-intentioned violations of the law are still violations. Even though there are compelling reasons for the failure to comply with the deinstitutionalization command of the Juvenile Justice and Delinquency Prevention Act, the fact remains that Georgia is often putting status offenders in secure facilities in a manner that is inconsistent with the JJDP. While the judges may be justified in their frustration about the lack of availability of alternative treatment programs, it is no longer acceptable to simply conclude that placing status offenders in institutions is the only available option. And, to their credit, some judges have chosen to pursue alternative approaches on their own. Following are only a couple of examples, but there are many others who are implementing innovative approaches to handling status offenders.

³⁰ Telephone conversation with Judge Sherri Roberts, Newton County Juvenile Court (September 16, 2011).

³¹ Telephone conversation with Carl Brown, Deputy Commissioner, Georgia Department of Juvenile Justice (September 13, 2011).

³² *Resolution of the Georgia Council of Juvenile Council of Juvenile Court Judges* (2010).

- In the Clayton County Juvenile Court, Judge Steven Teske has become not only a state leader but a recognized leader at the national level in developing innovative alternatives to detention for juvenile offenders. Judge Teske advocates for the implementation of the Annie E. Casey Foundation’s Juvenile Detention Alternative Initiative model, which promotes collaboration among all stakeholders involved in a juvenile’s case.³³ As an example, Judge Teske used this model to address the increasing number of referrals to juvenile court from the schools for a variety of disruptive behaviors. He convened a group comprised of school officials, police officers, community advocates, social and mental health services workers, parents and students, and together they formulated a protocol for better handling these cases. The group came together in 2003, and came to agreement on a protocol nine months later. Since that time, school referrals to the juvenile court have decreased 78 percent, graduation from high school has increased 21 percent, serious weapons on campus incidents have decreased 70 percent, and youth of color referrals to the juvenile court have fallen 60 percent.³⁴ While this example is not specific to status offenders, it is an example of what can be done through judicial leadership, and only one of many alternatives to detention put into place in the Clayton County Juvenile Court. Some other programs and services that court has employed as alternatives to detention include but are not limited to the implementation of a Detention Assessment Instrument to measure risk of re-offending and to guide in decision-making, electronic monitoring, an after-school Evening Reporting Center, intensive surveillance, and graduated sanctions for technical violators.³⁵
- Newton County Juvenile Court Judge Sherri Roberts believes it is important to focus on diversion programs and that it is critical to develop partnerships with other community agencies to develop effective interventions.³⁶ She operates on a combined service provision model that brings together the authority of the court with the other community agencies that need to be involved to effectively intervene in a particular situation. One example is the truancy court in Newton County, established on an accountability model that includes conditions placed on the parents and the child, while at the same time providing needed services to the family. She has also recently developed a program for girls and their parents in response to what she described as one of her biggest problems, girls running away with older males and virtually no services specifically for girls. She obtained a grant from the Department of Human Resources and created a program for girls and their parents. Her court contracted with community providers who use the “Girls Moving On” curriculum to educate girls on life skills and lessons. Judge Roberts also established a partnership with an African-American sorority to provide mentoring and other services to the at-risk girls who might otherwise find their way into her courtroom. Her program also links families with other services, such as Medicaid and mental health agencies, to help them address their multiple needs. She also advocates the

³³ <http://www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativeInitiative.aspx>.

³⁴ Teske, S., *The Importance of Judicial Leadership in Juvenile Justice* (October 3, 2011). Online, available: <http://jjie.org/importance-of-judicial-leadership-juvenile-justice/41786>.

³⁵ Teske, S., *It’s Time to Get Real about Kids and Detention, Anecdotes, Evidence, Blasphemy and the Truth* (October 10, 2011). Online, available: <http://jjie.org/its-time-get-real-about-kids-detention-evidence-blasphemy-truth/44921>.

³⁶ Telephone conversation with Judge Sherri Roberts, Newton County Juvenile Court (September 16, 2011).

use of assessment instruments at the front end of a case to help pinpoint the problems of the family and child that need the most and/or most immediate attention.

RECOMMENDATIONS

As indicated in the previous sections, the social, legal and fiscal issues associated with the processing of status offenders through the juvenile court make this a complex issue with no one easy solution. However, based on research findings and promising approaches being tried in other states, the following recommendations are offered as suggestions for changes that can be made in Georgia to improve outcomes for status offenders and their families, possibly alleviate the need to process these juveniles through court, keep Georgia in compliance with the JJDP, and ultimately save taxpayer money by shifting intervention programs and services to less restrictive, community-based environments.

The General Assembly should consider changing the law relating to status offenders to bring Georgia in line with practices in other states. One of the first avenues of legal change must be through the legislature.

- Currently a lack of clarity in Georgia law allows for status offenders to be placed in institutional settings. Whether it takes the form of allowing truant children to be taken into custody or requiring that minors in possession of alcohol be regarded as lawbreakers, there are multiple provisions in the Georgia Code that contribute to the problem by identifying the actions of children as deserving of secure detention. These statutes should be reviewed and modified. Georgia law must be revised so as to stop allowing status offenders to be treated as young criminals. The Coalition for Juvenile Justice also highlights legislative changes made in Connecticut and New York as examples of model laws and policies designed to divert status offenders from detention and formal processing by the juvenile court.³⁷ In Connecticut, the state code was changed to prohibit the locked detention of status offenders, and later changed again to require diversion for status offenders. As an alternative, the youth are referred to Family Support Centers, which provide an array of family and community based services, including non-secure respite care for youth. Youth can only be referred to court if they have not been successfully treated through one of the Centers. During the first six months after the Family Support Centers were established, status offense referrals to the court decreased by 41 percent, and more than a year later, no status offender had been securely detained. Similarly, in New York, one year following changes in the code to require diversion, discourage formal court petitions, and restrict the conditions under which status offenders could be detained, court petitions decreased by almost 41 percent, secure detention of status offenders fell by 39 percent, and out-of-home placements decreased by 28 percent. These states have demonstrated that alternative approaches to handling status

³⁷ *Deinstitutionalization of Status Offenders (DSO): Facts and Resources*, Coalition for Juvenile Justice (May 2011).

offenders can be effective, but that it may require legislative mandate to make the change.

- The Georgia General Assembly should consider enacting the proposed Child Protection and Public Safety Act (HB 641). This legislation, introduced by Senator Bill Hamrick and Representative Wendell Willard during the 2011 session, will go far in terms of making the changes that are necessary to address the problems associated with the current handling of status offenders. The proposed law creates a new category of juveniles, Children in Need of Services (CHINS), which includes children who engage in activities such as skipping school, running away from home, violating curfew, refusing to obey their parents, and placing themselves in dangerous situations with their behavior. No longer would these children be considered with the same degree of severity as juvenile delinquents; rather, the state would utilize a more holistic, service-oriented approach to youth designated as CHINS.

Under the Child Protection and Public Safety Act, a wide range of parties can file a petition urging that a child is in need of services, including parents, DFCS, schools, law enforcement officials, guardians ad litem, and prosecuting attorneys. Once the complaint is filed stating that the child is in need of services, a court intake officer convenes a multidisciplinary conference that collaborates on the creation of a family services plan agreement and a DFCS caseworker is assigned to ensure compliance with the plan. The child in need of services is entitled to an attorney at every stage of the process, a right that cannot be waived. The law also specifies that a child in need of services is to receive those services in the least restrictive environment possible, preferably at home with the parents or in the worst case, in the care of DFCS.

The approach involved in this legislation has been utilized in a number of states: Alabama, Arkansas, Connecticut, District of Columbia, Florida, Kansas, Louisiana, Maryland, Montana, New Hampshire, New Mexico, New York, North Dakota, South Dakota, Virginia, Wisconsin and Wyoming. If there is anything more notable about this list than the sheer number of states involved, it is the variety of states that have adopted this approach. From southern states such as Alabama, Arkansas, Florida, Louisiana, and Virginia to western states such as Kansas, Montana, New Mexico, North and South Dakota, and Wyoming, as well as northeastern states such as Connecticut, New Hampshire, and New York, the “children in need of services” approach has been adopted by an extraordinary collection of states ranging from the most liberal to the most conservative.

Although all of these states boast success stories, one of the most significant comes from Georgia’s neighbor to the south. “Florida’s Children and Families in Needs of Services (CINS/FINS) intervention is credited with saving the state \$45 million over two fiscal years by diverting at-risk youth away from costly court intervention toward more cost effective community prevention and crisis intervention

services.”³⁸ As indicated earlier in the paper, secure detention in Georgia is by far the costliest intervention option available to the court, with an average cost per day of \$257.90 versus alternatives ranging in cost from \$0.28 to \$77.21 per day. The proverbial ball is now in Georgia’s court as to whether it will join these other states in achieving both savings and effectiveness in dealing with status offenders.

- The General Assembly should consider revisiting the Valid Court Order exception. If Georgia does not follow the lead of so many other states and completely eliminate the VCO exception, consideration of a strict limitation on the number of hours a status offender may be held in secure confinement is encouraged. As Judges Steven Teske and Brian Huff note in the *Juvenile and Family Court Journal*, “detention should never be the default option. Rather, secure detention should only be used if a youth poses a serious threat to public safety, or there is a strong documented reason to believe that the youth will not return to court for required hearing dates.”³⁹ However, given the fact that the Georgia Council of Juvenile Court Judges concedes that the VCO exception is utilized hundreds of times a year, it seems that detention can become the default option in Georgia.
- The legislature, through budgetary authority, can change the funding allocations, such that there are financial incentives to provide programs and services at the community level rather than further into the system. As recommended by the Annie E. Casey Foundation’s report, *No Place for Kids*, top priority should be given to intervention programs that have been proven effective, such as Multisystemic Therapy and Functional Family Therapy. Further, the report advocates funding for career preparation and vocational training programs, intensive youth advocate and mentoring programs, and promising models for specialized mental health and substance abuse treatment. The report cites California, Illinois, Ohio, Pennsylvania, and Wisconsin as examples of states that have made adjustments in funding to shift programs and services to the community level.⁴⁰

Georgia should consider the creation of an Office of Status Offense Prevention and Treatment. As discussed by several officials in the juvenile justice system and demonstrated through numerous studies, status offenders generally fall through the cracks in the system, being categorized as neither deprived children nor delinquents, yet definitely being children in need of services. Perhaps they could best be served by a governmental agency whose sole reason for existence would be to focus on status offenders, from identifying how to treat them in order to bring an end to their self-destructive behavior to the creation of programs that would address the problems that gave rise to the status offenses in the first place. Removing status offenders from the jurisdiction of the juvenile court would also serve to decriminalize their behavior, which would be more likely to ensure better outcomes. For the purposes of this document, we will label it the Office of Status Offense Prevention and Treatment (OSOPT). The OSOPT could be

³⁸ *Research Brief: Implementation of a Children In Need of Services Framework in Georgia*, Applied Research Services (2011), p. 17.

³⁹ Teske, S. C. and Huff, J. B., *The Dichotomy of Judicial Leadership: Working with the Community to Improve Outcomes for Status Youth*, *Juvenile and Family Court Journal* (2010), p. 56.

⁴⁰ *No Place for Kids: The Case for Reducing Juvenile Incarceration*, The Annie E. Casey Foundation (2011).

attached to either the Division of Family and Children Services or the Department of Juvenile Justice as an office whose goals would directly support those of either agency. The Office of Status Offense Prevention and Treatment would perform a number of essential tasks:

- The OSOPT would engage in extensive fundraising to obtain resources needed to address the problems associated with status offenders. At a point at which budgets are shrinking and the portion of the budgets devoted to status offenders are even smaller, it is obvious that legislative appropriations will not provide the resources needed to address this problem. One of the primary objectives of this agency would be to identify governmental and nongovernmental sources of funding and to procure funding to deal solely with status offenders. There are a number of governmental sources of grants at the federal level, as well as organizations such as the MacArthur Foundation and the Haywood Burns Institute that provide funding to worthy endeavors in this area. In addition, the state should redirect funds from more costly back-end programs and services to more front-end high quality treatment and prevention services that could be coordinated through such an office.
- The OSOPT would provide a much-needed avenue of information collection and assessment. One of the few things almost all parties agree on is the lack of precision in identifying the number of status offenders and lack of a centralized data collection mechanism to capture the activities of the state's juvenile courts. Since there are many cases that are handled on an informal basis, traditional methods of case reporting fail to provide the full picture. This agency would be notified of all cases involving status offenders, whether processed formally or informally. In addition, sophisticated methods of assessment would be utilized to evaluate the success of alternatives to institutionalization for status offenders.
- The OSOPT would engage in the coordination of programs that would be helpful in addressing the problem of status offenders. Currently there are programs that attempt to deal with status offenders, but their efforts are frequently duplicative, misdirected, or poorly executed. This agency would redirect resources to where they are most urgently needed and would assist groups in complimenting, rather than competing with, each other. A coordinated network of resources would be a valuable resource, and this agency would be responsible for ensuring such a focused effort.
- The OSOPT would provide a clearinghouse of information regarding the most effective strategies to deal with status offenders. There is a significant amount of misinformation, misperception and misunderstanding in our state about status offenders, from the general public to service providers, up to even some juvenile court judges. This agency would serve as a source of information for those who don't know the difference between status offenses and juvenile delinquency, as well as those who do understand the difference but would like a greater amount of expertise to assist them in making decisions.
- The OSOPT would maintain vital information on public and private individuals and agencies that would be able to collaborate to address the problems of status offenders. One of the most frequently cited ways of working effectively with status offenders is the

use of multidisciplinary teams. However, this raises questions of who the team members will be, where they can be found and how quickly they can be brought together. This agency would handle the logistics of assembling these multidisciplinary teams to assist in the treatment of status offenders.

By housing this entity within an existing state agency, any expansion costs can be contained resulting in more efficient management of public funds. However, the assistance this new office will provide local jurisdictions in implementing more effective and less expensive community-based interventions for low-level status offenders pales in lieu of costly secure confinement will represent a true savings to taxpayers. As has been discussed in earlier sections of this paper, many treatment programs result in significant cost savings and many states have documented millions of dollars of savings after implementing changes to their laws and policies diverting youth from court processing and secure confinement.

Administrative agencies should play an enhanced leadership role in addressing the problem of status offenders. Whether it is the Administrative Office of the Courts, the Department of Juvenile Justice, or the Governor's Office of Children and Families, there are a number of administrative players that can take an active part in dealing with the problems associated with status offenses. Among the actions that should be taken by members of the executive branch:

- Workers in the court system must be more effectively educated about the proper treatment of status offenders. One of the most commonly heard criticisms about the Georgia judicial system is the lack of understanding among its employees about status offenders and how they differ from juvenile delinquents.
- Better assessments are needed when a juvenile first comes into contact with the court so that problems and needs can be accurately identified and prioritized. In addition, better data systems need to be put in place so that interventions can be monitored and evaluated to determine effectiveness in producing positive outcomes.
- Alternative courts and tribunals should be established and supported as a way of keeping status offenders out of more formal juvenile proceedings. Truancy courts are an example of this sort of alternative tribunal, bringing together juveniles and their parents with community resources and services, with the intention of addressing the problems that prompted the absence from school. This approach is not limited to truancy, however, and the model would have applicability to many, if not all, of the status offenses.
- One of the most important actions that can be taken in this area is committing Georgia to the Juvenile Detention Alternative Initiative (JDAI), a project of the Annie E. Casey Foundation. JDAI is a program that is designed to rethink what we do with status offenders by taking juveniles who would have been placed in secure facilities and instead getting them the help they need to change their behavior. In doing so, JDAI brings about a redirection of resources from detention facilities to community services. Ultimately, JDAI saves taxpayers money. Instead of spending hundreds of millions of dollars on

detention facilities, a fraction of that amount is spent on community supervision and programming.

Judges should seize the opportunity to make a difference. Even if legislative changes are not made, even if agencies are not created nor programs followed, there are things that judges can do that may address, in some way, the problems identified in this paper.

- Judges may simply elect on their own not to bring status offense cases into their courtroom. One Georgia judge states that she rarely has hearings on status offender cases anymore. Instead, intake officers are instructed to hold onto these cases and try to get help for the juveniles informally through community service providers.⁴¹
- Judges can find juveniles responsible for the commission of status offenses only as a last resort. For example, in a situation in which parents file a petition against their child for incorrigibility, the judge may require the parents and child to participate in counseling sessions before making a final determination on whether the child should be categorized as a status offender.
- Judges may choose not to confine status offenders to an institutional setting. Instead, intensive probation methods such as home confinement, electronic monitoring and close supervision by probation officers may be utilized in conjunction with counseling to bring structure and help to the world of the juvenile, while sparing the youth from the adverse consequences of an institutional setting. Although this kind of probation is more expensive than traditional probation, it is much less expensive than incarceration. For example, the average cost per day in an RYDC is \$257.90, whereas the average cost per day for regular case management is \$14.28, and for close supervision, or tracking services, the daily cost is \$42.57. So, although close supervision is \$28.29 more per day than regular case management, it is still \$215.33 less per day than secure detention. A status offender who is detained is kept an average of 13 days, so the average cost of detention is \$3,352.70. For that same amount, a youth could receive close supervision for almost 79 days. Electronic monitoring provides even longer coverage for the same amount of money. For example, the average cost per day for electronic monitoring is \$10.17. For the same amount as it would cost to keep a status offender in an RYDC for the average 13 day length of stay, he/she could receive almost 330 days, or close to a year, of electronic monitoring. As budgets become increasingly tighter, alternative interventions provide preferable options if for no other reason than cost.
- Judges may actively seek out partnerships with community agencies to offer an alternative to the institutionalization of status offenders. Examples of judicial leadership from Clayton and Newton Counties were provided in an earlier section, and while there are many more instances of this type of leadership from the courts in Georgia, still more are needed. The Coalition for Juvenile Justice highlights efforts being made at the local level in places such as Jefferson County, Alabama; Jefferson County, Kentucky; and

⁴¹ Telephone conversation with Judge Sherri Roberts, Newton County Juvenile Court (September 16, 2011).

Clark County, Washington, especially in regard to handling truancy.⁴² A paper presented at the Wisconsin Family Impact Seminars in 2007 described six cost-effective community based prevention and rehabilitation programs that have been proven to be effective: Multidimensional Treatment Foster Care (versus group care), Adolescent Diversion (for low risk offenders), Family Integrated Transitions, Functional Family Therapy for youth on probation, Multisystemic Therapy, and Nurse Family Partnership.⁴³ Other examples of promising programs are highlighted in a study by the RAND Corporation, such as specialized after-school programs and dropout and teen intervention programs.⁴⁴ Judges can lead efforts in advocating for and implementing these and similar programs in their communities to provide effective intervention alternatives for status offenders and delinquent youth as well. In an article on judicial leadership, Judge Teske urges Juvenile Court Judges to take an active leadership role in convening relevant stakeholders in the community to create more effective interventions for youth referred to juvenile court, and particularly in diverting youth from secure detention. He states, “It’s not enough to be passive/aggressive on this issue – aggressive in speech but passive in leadership. It is a waste of our unique role to influence stakeholders to do what is right for our kids, families, victims and community.”⁴⁵

Judges such as Sherri Roberts and Steve Teske should not be seen as extraordinary individuals who have done what no one else could possibly do; rather, they and others like them should be seen as examples of what can be done now to provide viable alternatives in the way status offenders are handled by the state of Georgia. Working at the local level, judges who are making a difference recognize a problem, explore possible options, identify a source of funds, connect with experts and volunteers who share their goals, and implement a plan of action. There is an inclination to perceive the situation of status offenders as beyond our capacity to resolve, with the rationale that we don’t have the money, time, or expertise. Examples provided in this paper provide proof that these problems, while substantial, are not insurmountable. What is required to effect positive change is a desire to make a difference, a willingness to expend the effort to make something happen, a willingness to collaborate, and a refusal to accept the status quo as inevitable. We have seen what individuals and groups in Georgia and what other states are doing to make a difference in the way status offenders are handled by the juvenile justice system, including in some cases, preventing them from entering the system in the first place. The question is whether we, as a state, have the collective will to follow suit.

⁴² *Deinstitutionalization of Status Offenders (DSO): Facts and Resources*, The Coalition for Juvenile Justice (May 2011).

⁴³ Anderson, C. and Bogenschneider, K., “A Policymaker’s Guide to Effective Juvenile Justice Programs: How Important are Family Approaches?” in *Cost-Effective Approaches in Juvenile and Adult Corrections: What Works? What Doesn’t?*, First Edition, Karen Bogenschneider and Heidi Normandin, Eds., Wisconsin Family Impact Seminars, University of Wisconsin-Extension and University of Wisconsin-Madison School of Human Ecology (October, 2007).

⁴⁴ Beckett, M. K., *Current-Generation Youth Programs: What Works, What Doesn’t, and at What Cost?*, RAND Corporation (2008).

⁴⁵ Teske, S., *The Importance of Judicial Leadership in Juvenile Justice* (October 3, 2011). Online, available: <http://jjie.org/importance-of-judicial-leadership-juvenile-justice/41786>.

STATUS OFFENDERS IN GEORGIA'S JUVENILE JUSTICE SYSTEM
Recommendations for the Future

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TALKING POINTS

The following talking points were produced under a contract with the Georgia Governor's Office for Children and Families. Points of view or opinions expressed in the document are those of the authors and do not necessarily represent the official position or policies of the Governor's Office for Children and Families.

The Problem

Currently there is not a clear distinction made in Georgia law, in court handling, in intervention options, and in public perception between status offenders, whose behaviors would not be considered criminal if engaged in by adults, and delinquents, whose behaviors would be.

There is no centralized database in Georgia to accurately account for the handling of status offenders by the state's juvenile courts.

Status offenders, who are often victims themselves, may live in dysfunctional family situations, and/or suffer from mental health problems are better served in less restrictive environments through appropriate individual, family and community level intervention programs; they are not a public safety risk and thus do not require secure detention.

The consequences of assigning status offenders to secure detention are considerable.

- Placing status offenders in secure confinement does nothing to address the problems that prompted the behavior in the first place, it does not impact public safety, nor does it reduce future offending.
- Placement in a secure facility can have long-term negative outcomes for youth in terms of educational and vocational opportunities and their physical and/or mental health.
- When status offenders are placed in secure confinement, they are exposed constantly to juvenile delinquents. This exposure carries significant negative consequences, including risk of harm.
- Placing status offenders in secure detention facilities represents a waste of millions of taxpayer dollars, as secure confinement is the most expensive option available.

In 1974, Congress recognized the problems associated with treating status offenders in the same manner as juvenile delinquents and passed the Juvenile Justice and Delinquency Prevention Act (JJDP), requiring, among other things, that status offenders not be held in the secure institutional settings more appropriate for juvenile delinquents. The JJDP was later amended to allow a detention exception for status offenders who acted violated a valid court order (VCO), but that provision was intended to be the exception rather than the rule.

The Georgia Criminal Code is inconsistent with federal law and creates a situation in which status offenders are very likely to receive the same treatment as juvenile delinquents.

If states choose not to follow the JJDP, they may lose federal money. At this point, Georgia is close to being found in violation of federal law and is placing the approximate \$2 million dollars it receives annually from the federal government at risk.

The issue of appropriate interventions for status offenders is complicated by the fact there are few alternatives available to the juvenile court, a situation that has worsened with the continuing budget cuts, and the fact that many status offenders also have other charges and/or are repeat offenders who have not made progress with less restrictive interventions.

Some juvenile court judges in Georgia are taking the initiative to pursue alternative approaches to handling status offenders through collaborative efforts with other stakeholders in the community, resulting in an array of less costly community-based interventions for the youth and their families.

Recommendations

The General Assembly should consider changing the law relating to status offenders to bring Georgia in line with practices in other states.

- Georgia law should be reviewed so as to stop allowing status offenders to be treated as young criminals. Following the lead of many other states, the Georgia statutes should be modified at the least, repealed at best.
- The General Assembly should consider enacting the proposed Child Protection and Public Safety Act (HB 641). The law creates a new category of juveniles, Children in Need of Services (CHINS), which includes children who engage in activities that are labeled as status offenses. The state would utilize a more holistic, service-oriented approach to CHINS. That approach has been taken by a number of states representing all areas of the country and the District of Columbia and all political persuasions, including AL, AK, CT, D.C., FL, KS, LA, MD, MT, NH, NM, NY, ND, SD, VA, WI, and WY.
- The General Assembly should consider revisiting the issue of the Valid Court Order exception and either eliminate it completely or consider a strict limitation on the number of hours a status offender may be held in secure confinement.
- The General Assembly, through budgetary authority, can change funding allocations such that there are financial incentives to provide programs and services at the community level rather than further into the system.

Georgia should consider the creation of an Office of Status Offense Prevention and Treatment.

A governmental agency should be created whose sole reason for existence is to focus on status offenders.

- The OSOPT would engage in extensive fundraising to address the problems associated with status offenders.
- The OSOPT would provide a much-needed, centralized avenue of information collection and assessment. This agency would be notified of all cases involving status offenders, whether processed formally or informally. Formal assessments would be utilized to evaluate the success of alternative interventions with status offenders and their families.
- The OSOPT would also engage in the coordination of programs that would be helpful in addressing the problem of status offenses.
- The OSOPT would provide a clearinghouse of information regarding the most effective strategies to deal with status offenders.
- The OSOPT would assist communities in assembling multidisciplinary teams to collaborate in the treatment of status offenders.

Administrative agencies should play an enhanced role in addressing this problem.

- Workers in the court system must be more effectively educated about the proper treatment of status offenders.
- Better assessments are needed when a juvenile first comes into contact with the court to accurately identify and prioritize problems.
- Alternative tribunals, such as truancy courts, should be established and supported as a way of keeping status offenders out of more formal juvenile proceedings.
- One of the most important actions that can be taken in this area is committing Georgia to the Juvenile Detention Alternative Initiative, a project of the Annie E. Casey Foundation.

Judges should seize the opportunity to make a difference.

- Judges may simply elect on their own not to bring status offense cases into their courtroom, allowing them to be resolved through community services.
- Judges can find juveniles responsible for the commission of status offenses only as a last resort, after exhausting non-judicial remedies.
- Judges may choose not to confine status offenders to an institutional setting, relying instead on an array of alternative community-based programs and services.

- Judges may serve as leaders in actively seeking out partnerships with community agencies to offer alternatives to the institutionalization of status offenders. Alternative interventions will better serve the youth as well save millions of dollars a year. For example, the average cost per day in an RYDC in FY11 was \$257.90, and the average length of stay for a status offender was 13 days. Judges sent 1,391 status offenders to an RYDC, for a total annual cost of approximately \$4,663,605. In contrast, a variety of community-based, non-residential alternatives are available for significantly less. For example, electronic monitoring is approximately \$10.17 per day, Multi-Systemic Therapy is about \$77.21 per day, and close supervision, or tracking services, is about 42.57 per day. For the cost of 13 days in an RYDC (\$3,352.70), a youth could receive about 330 days of electronic monitoring, about 43 ½ days of Multi-systemic Therapy, and about 79 days of tracking services.