

# Education in Juvenile Detention Centers

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## I. Introduction

The number of youths incarcerated in juvenile correctional facilities has been growing. In 1985, approximately 72,000 minors were incarcerated.<sup>1</sup> By 2004, 100,000 youths were incarcerated yearly in the United States.<sup>2</sup> However, educational services in detention centers are often inadequate, despite the fact that providing education has been linked to decreases in rates of recidivism and better educational experiences and reintegration upon leaving detention.<sup>3</sup> Section II of this paper will discuss the history of the juvenile justice system, in order to understand how education fits with the goals of the juvenile courts. Section III discusses the status and problems currently facing education in juvenile detention. Section IV will examine the unique needs of special education students in detention, especially in light of the over-representation of students with disabilities. Section V investigates the importance of providing education to youths while they are incarcerated. Section VI provides research on alternate ways to reduce delinquency through education, specifically by providing early interventions and pre-school programs to youths.

## II. History and Mission of the Juvenile Justice System

An understanding of role of education in juvenile detention centers requires an understanding of the history and goals of juvenile courts. Prior to the nineteenth century, there

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<sup>1</sup> Robert B. Rutherford, Jr., C. Michael Nelson & Bruce I. Wolford, *Special Education in the Most Restrictive Environment: Correctional/Special Education*, 19 J. Spec. Educ. 59, 59 (1985).

<sup>2</sup> Michael Bullis, Paul Yovanoff & Emily Havel, *The Importance of Getting Started Right: Further Examination of the Facility-to-Community Transition of Formerly Incarcerated Youth*, 38 J. Spec. Ed. 80, 80 (2004).

<sup>3</sup> Katherine Twomey, *The Right to Education in Juvenile Detention Under State Constitutions*, 94 VA. L. REV. 765, 767 (2008).

was little effort in the United States to differentiate between children and adults who committed crimes.<sup>4</sup> The laws, trial procedure and penalties applied to children were the same as those applied to adults.<sup>5</sup> Children were even incarcerated in the same prisons as adults, and were subject to the death penalty for certain crimes.<sup>6</sup>

During the nineteenth century, child advocates began work to reform the legal system to treat children differently than adults.<sup>7</sup> Advocates of reform felt that separate prisons were required for juvenile offenders, which would be more like reform schools than places for punishment, where youths would receive proper discipline, education, physical exercise and supervision.<sup>8</sup> This advocacy resulted in the creation of the Illinois Juvenile Court Act in 1899 (the “Act”).<sup>9</sup> This Act created the first juvenile court in Cook County, Illinois.<sup>10</sup> The Juvenile Court Act was based on the idea of *parens patriae*, which asserts that the state has a duty to provide care for those who cannot care for themselves.<sup>11</sup> Pursuant to the theory of *parens patriae*, the Act was based on the ideas of prevention and rehabilitation of juvenile delinquents, rather than the penal approach used with adult criminals.<sup>12</sup> The Juvenile Court was further based on the theory that the judge’s role was not only to decide on the guilt or innocence of a child, but also to examine each child’s life as a whole in order to both protect public safety and guide the child to be a good citizen as an adult.<sup>13</sup>

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<sup>4</sup> Janet Gilbert, Richard Grimm & John Parnham, *Applying Therapeutic Principles to a Family-Focused Juvenile Justice Model (Delinquency)*, 52 ALA. L. REV. 1153, 1156 (2001).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Jeffrey M.Y. Hammer, Curtis Heaston & Diane N. Walsh, *Denying Child Welfare Services to Delinquent Teens: A Call to Return to the Roots of Illinois’ Juvenile Court*, 36 LOY. U. CHI. L.J. 925, 928 (2005).

<sup>8</sup> Gilbert, Grimm, & Parnham, *supra* note 4, at 1157.

<sup>9</sup> *Id.* at 1159.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Hammer, Heaton & Walsh, *supra* note 7, at 929.

The idea and theory behind the Cook County Juvenile Court quickly spread across the country.<sup>14</sup> By 1925, all but two states had established their own juvenile courts with the goal of rehabilitating delinquent children.<sup>15</sup> Juvenile courts differed from adult criminal courts because the proceedings were designated as civil rather than criminal, with the court determining the needs of the child and society, rather than adjudicating criminal conduct.<sup>16</sup> Providing education to juveniles in detention, therefore, fits within the rehabilitative goals of juvenile courts.

### **III. Current State of Education for Detained Youth**

In addition to the goals of the early juvenile courts, the right of juveniles in detention to receive an education is also governed by both state and federal laws. In 1840, Rhode Island became the first state to pass a compulsory education law.<sup>17</sup> By 1918, every state had enacted its own compulsory education statute.<sup>18</sup> These compulsory education laws, found in state constitutions, require state legislatures to provide free education for all children residing within the state, which would include delinquent youth.<sup>19</sup> In addition to state laws, the federal No Child Left Behind Act (“NCLBA”) explicitly mandates that states receiving federal education funding must monitor and improve correctional education services.<sup>20</sup> The “Adequate Yearly Progress” mandated by the NCLBA applies to all schools, including those in juvenile detention centers.<sup>21</sup>

Despite these state and federal requirements, there are many problems with the educational systems in juvenile detention centers. Many institutions do not provide basic education services, and in others, children only receive a fraction of the state-mandated

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<sup>14</sup> Gilbert, Grimm, & Parnham, *supra* note 4, at 1161.

<sup>15</sup> *Id.*

<sup>16</sup> *Kent v. United States*, 383 U.S. 541, 554 (1966).

<sup>17</sup> Mitchell L. Yell, David Rogers & Elisabeth Lodge Rogers, *The Legal History of Special Education: What a Long, Strange Trip It's Been*, 19 Remedial and Special Education 219, 219 (1998).

<sup>18</sup> *Id.*

<sup>19</sup> Twomey, *supra* note 3 at 788

<sup>20</sup> *Id.* at 774.

<sup>21</sup> *Id.*

instructional time, and classes are not based on a coherent curriculum.<sup>22</sup> Some facilities do not have designated classrooms, libraries, or even books, and the teachers are often poorly trained, and are not trained in how to deal with the special needs of children in detention.<sup>23</sup> Despite these shortcomings, there have been very few consequences to states for violating the requirements of the NCLBA,<sup>24</sup> and therefore states do not have much incentive to improve standards to achieve compliance.

These problems are compounded by the lack of coordination between public schools and schools in correctional institutes. This lack of communication results in problems transitioning the students from public schools to correctional education and can have long-term effects on the child's education.<sup>25</sup> Correctional Educational programs are often isolated from the public education system.<sup>26</sup> As a result, the programs are often incompatible.<sup>27</sup> These incompatibilities, coupled with the limited exchange of information between the schools and correctional facilities makes transitioning from one to another all the more difficult.<sup>28</sup> As a result, few juveniles re-enroll in public school upon release.<sup>29</sup> One study found that, of 759 formerly incarcerated youth, only 12% completed a high school degree or GED after being released from detention.<sup>30</sup>

Additionally, the population in detention is disproportionately male, minority, poor and disabled.<sup>31</sup> This population is exceedingly in need of special education services, which detention center teachers are often not trained to provide.<sup>32</sup>

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<sup>22</sup> *Id.* at 766.

<sup>23</sup> *Id.* at 767.

<sup>24</sup> *Id.* at 779.

<sup>25</sup> *Id.* at 773.

<sup>26</sup> *Id.* at 67.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> Bullis, *supra* note 2 at 80.

<sup>30</sup> *Id.*

<sup>31</sup> Twomey, *supra* note 3 at 770.

#### IV. Special Education Needs Amongst Incarcerated and Detained Youth

A large percentage of the population in juvenile detention meets the diagnostic criteria for at least one psychiatric disorder that would qualify them for special education services. Studies have found this percentage to be anywhere between 12% and 70% of incarcerated youth.<sup>33</sup> In Cook County, that number is around 65% among males in juvenile detention.<sup>34</sup> These high rates of mental disorders are estimated to be between two and four times that of the general population.<sup>35</sup> Another study found that between 30% and 50% of juvenile offenders had a documented disability, compared with only 13% among the general population.<sup>36</sup>

Despite the incredible need for special education services among detained youth, educational programs in correctional facilities often do not meet the juveniles' special education needs. Although correctional education programs are included in the Individuals with Disabilities Education Act's ("IDEA") mandate for a free and appropriate education for children with disabilities, many facilities are not in compliance.<sup>37</sup>

The initial issue confronting correctional special education programs is their inability to quickly access a juvenile's school records and conduct proper screenings. Research suggests that many youths do not enter the special education system until either shortly before or after being incarcerated.<sup>38</sup> Many youths were not attending school at the time of arrest and may have been

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<sup>32</sup> *Id.* at 766.

<sup>33</sup> *Id.*

<sup>34</sup> Michael P. Krezmien, Candace A. Mulcahy & Peter E. Leone, *Detained and Committed Youth: Examining Differences in Achievement, Mental Health Needs, and Special Education Status*, 31 *Educ. and Treatment of Children* 445, 446 (2008).

<sup>35</sup> Melissa Jonson-Reid, James Herbert Williams & Daniel Webster, *Severe Emotional Disturbance and Violent Offending Among Incarcerated Adolescents*, 25 *Social Work Research* 213, 213 (2001).

<sup>36</sup> Kevin W. Alltucker, Michael Bullis, Daniel Close & Paul Yovanoff, *Different Pathways to Juvenile Delinquency: Characteristics of Early and Late Starters in a Sample of Previously Incarcerated Youth*, 15 *J. of Child and Family Studies* 479, 481 (2006).

<sup>37</sup> Rutherford, *supra* note 1 at 60.

<sup>38</sup> Melissa Jonson-Reid, James Herbert Williams & Daniel Webster, *Severe Emotional Disturbance and Violent Offending Among Incarcerated Adolescents*, 25 *Social Work Research* 213, 218-19 (2001).

out of school long before incarceration.<sup>39</sup> Further, accurate school records are seldom forwarded from the offender's home district.<sup>40</sup> Without these school records, individuals with special education needs cannot always be easily identified. Access to school records does not always solve the problem, however, because many juveniles who meet the criteria for special education have never been identified as having a disability.<sup>41</sup>

The challenge of identifying those youths entering the juvenile justice system who are in need of services is further exacerbated by the varying and often short lengths of stay in detention facilities, which often does not provide enough time for the needs of youth to be identified and addressed.<sup>42</sup> Youths entering the juvenile justice system who either have their existing IEP interrupted upon entering a detention facility, or who were never properly evaluated for services can lose valuable time and information awaiting screening and proper services in detention. One possible solution to this problem is to perform intake screenings to identify those students eligible for special education services.<sup>43</sup> This screening would help determine any disorders and past special education services provided, as well as identify those youths who have never received special education services, but who may require services.<sup>44</sup> These screenings would hopefully identify special education students before a lapse in services can occur and identify those students in need of services so that they can be put in place as soon as possible.<sup>45</sup>

In addition, many teachers in correctional education facilities are not special education certified. Despite the fact that a large percentage of juveniles in correctional facilities either have

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<sup>39</sup> *Id.*

<sup>40</sup> Rutherford, *supra* note 1 at 65.

<sup>41</sup> Krezmien, *supra* note 34 at 448.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

a special education designation, or meet the criteria for special education services, only 28% of teachers on average have a special education certification.<sup>46</sup>

## V. Importance of Education for Juvenile Delinquents

In addition to special education, general educational problems have also been linked to delinquency. In one study, problems such as low achievement, vocabulary and verbal reasoning increased delinquency predictions by 27%.<sup>47</sup> Further, the median age of juveniles in correction facilities is fifteen and a half years old, yet the average reading level is fourth-grade.<sup>48</sup> School experiences can also impact delinquency. Positive school experiences have been shown to increase resilience to risk factors for delinquency.<sup>49</sup> Children who have either natural academic abilities, such as IQ, or caring and capable teachers, are usually able to achieve initial success, which can then be developed into additional successes.<sup>50</sup> Schools can also provide protection from other risk factors, such as family disruption, and can improve academic and social outcomes.<sup>51</sup> Some school experiences however can have a negative impact on delinquency. Frequent transitions in and out of school have been associated with delinquency.<sup>52</sup> In addition, factors such as early behavioral problems in school, ineffective monitoring by teachers, and special education placement are all potential indicators of future delinquent behavior.<sup>53</sup>

Despite the educational problems that can lead to delinquency in the first place, providing education in detention centers has been consistently linked with reducing recidivism.<sup>54</sup> In

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<sup>46</sup> *Id.* at 69.

<sup>47</sup> Emily A. Mann & Arthur J. Reynolds, *Early Intervention and Juvenile Delinquency Prevention: Evidence from the Chicago Longitudinal Study*, 30 *Social Work Research* 153, 155 (2006).

<sup>48</sup> Twomey, *supra* note 3 at 772.

<sup>49</sup> Mann, *supra* note 47 at 156.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at 164.

<sup>53</sup> *Id.* at 156.

<sup>54</sup> Twomey, *supra* note 3 at 773.

addition, children who receive education in detention are more likely to return to school upon release.<sup>55</sup> Education in detention centers can have societal benefits as well. The Coalition of Juvenile Justice estimates that society saves around two million dollars for each juvenile who is successfully rehabilitated in detention and therefore does not go on to lead a life of crime.<sup>56</sup> Programs that have been shown to be most effective for youth in detention are intensive programs with low student-to-teacher ratios that emphasize reading and literacy.<sup>57</sup>

## **VI. Early Intervention Programs**

Although continued education while a juvenile is in detention is important, research has shown that early interventions can help reduce delinquency in the first place. Research into the social and emotional competence of very young children has been shown to indicate future behavior. One study found that 12% to 16% of one and two year olds demonstrate significant delays in social-emotional competence.<sup>58</sup> Of those children, 37% continue to have problems into their preschool years.<sup>59</sup> Further, roughly 25% of two and three year olds show severe and chronic behavior problems.<sup>60</sup> More than 50% of these children continue to display these problems one to two years later.<sup>61</sup> As these children grow, they continue to exhibit antisocial behaviors.<sup>62</sup> By third grade, all the children still using these behaviors will likely show some level of antisocial behavior throughout their lives.<sup>63</sup>

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<sup>55</sup> *Id.*

<sup>56</sup> *Id.* at 774.

<sup>57</sup> *Id.* at 772.

<sup>58</sup> John W. Maag & Antonis Katsiyannis, *Early Intervention Programs for Children With Behavior Problems and At Risk for Developing Antisocial Behaviors: Evidence- and Research-Based Practices*, 31 Remedial and Special Education 464, 464 (2010).

<sup>59</sup> *Id.*

<sup>60</sup> *Id.* at 465.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

Model preschool intervention programs have been found to have long-term effects on both scholastic and behavioral outcomes, such as decreasing aggression and anti-social behaviors and increasing pro-social behaviors amongst children at risk for conduct problems.<sup>64</sup> Although the main focus of these programs is school readiness, they also often promote higher levels of social functioning such as problem solving and communication skills, which lead children to motivate their own success and avoid negative outcomes such as drug use and delinquency.<sup>65</sup> Different programs have used different intervention strategies; however, the programs that provide the most positive results usually focus on social and emotional aspects of life, in addition to academics.<sup>66</sup> Further, programs which include family components often lengthen the period of time before children are arrested.<sup>67</sup>

One renowned early intervention program is the Perry Preschool Study. The Perry study has been examining the effects of a high-quality preschool program on low income youths over the course of forty years.<sup>68</sup> The preschool consists of a two year program for three and four year olds taught by teachers with bachelor's degrees and certifications in education.<sup>69</sup> The classes have between five and six students and meet daily for two and a half hours, and the teachers visit the families weekly.<sup>70</sup> The classrooms and daily schedules are arranged to support children's self-initiated learning activities, provide both large and small group activities, and help children engage in key experiences in childhood development.<sup>71</sup> The early results showed that 67% of

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<sup>64</sup> Mann, *supra* note 47 at 154.

<sup>65</sup> *Id.* at 155

<sup>66</sup> Karen Waldie & Otfried Spreen, *The Relationship Between Learning Disabilities and Persisting Delinquency*, 26 J. Learning Disabilities 417, 422 (1993).

<sup>67</sup> Maag, *supra* note 58 at 472.

<sup>68</sup> Lawrence J. Schweinhart, *The High/Scope Perry Preschool Study Through Age 40: Summary, Conclusions, and Frequently Asked Questions*, High/Scope Educational Research Foundation 1, 1 (2005).

<sup>69</sup> *Id.* at 5-6.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

program participants had an IQ of 90 or above at age five, compared with only 28% of the non-program group.<sup>72</sup>

The findings of the study extend through midlife, confirming the life-time effects of this preschool model.<sup>73</sup> Students who participated in the preschool program had higher levels of school success, economic performance and reduced commission of crimes in adulthood.<sup>74</sup> For example, by age 40, only 36% of program participants had been arrested more than five times compared with 55% of non-program controls.<sup>75</sup> Further, 65% of participants graduated regular high school, but only 45% of the control group achieved that same goal.<sup>76</sup>

Congress has recognized the importance of early intervention programs, and in 1986 passed the Education of the Handicapped Act Amendments.<sup>77</sup> In addition to requiring that states provide early intervention services for preschool-age children with disabilities, these amendments also include financial incentives for states to develop statewide early intervention programs for toddlers and infants.<sup>78</sup> The most recent amendments to the IDEA in 2004 also demonstrate the focus on early intervention services by allowing school districts to use up to 15% of IDEA funds to develop and implement early intervention services.<sup>79</sup> However, the IDEA still needs work in relation to early intervention. For example, the criterion requires children to have a long-standing problem and substantial deficits in academic achievement, which excludes most preschool children.<sup>80</sup>

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<sup>72</sup> *Id.*

<sup>73</sup> *Id.* at 5

<sup>74</sup> *Id.* at 2

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> Maag, *supra* note 58 at 464.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

## **VII. Conclusion**

Due to the demonstrated importance of education in reducing delinquency as well as recidivism, it is important that detention centers focus on the education of juveniles in detention, especially given the mandate to improve correctional education under the NCLBA. There needs to be an increase in funding so that youths can get the needed resources such as classrooms and books, as well as qualified teachers. States should also focus on funding for special education services to incarcerated youths to help with the disproportionate level of children in need of special education within detention centers. Although state's may face financial difficulties and be reluctant to increase funding to juvenile detention centers, the resulting savings in the form of lower rates of recidivism and lower costs of incarceration in the future would likely more than make up for the expense.

In addition, given the success of early intervention and preschool programs, states should also invest in these types of programs, expanding them to all populations, not just children who qualify for special education. Currently, low-income children, who are the most at risk for future delinquency and therefore most in need of early intervention, are the least likely to go to preschool and receive services from a young age. Delinquency, and therefore the need for expansion of education in juvenile detention centers, could be reduced by funding early interventions for all children.