

The Risks Juveniles Face When They Are Incarcerated With Adults

Introduction

Close to a century ago, the juvenile justice system was developed because children were subjected to unspeakable atrocities in adult jails, and were returned to society as hardened criminals. As the system developed, it became clear that housing young offenders and adult prisoners together was self-destructive and self-defeating.

Despite the lessons of history, Congress stands poised to reunite adults and juveniles in the same prison system. The new juvenile justice legislation calls for the jailing juveniles with adult criminals, and would force states to transfer large numbers of young offenders to adult prisons in order to be eligible for federal funds. Child advocates, law enforcement officials, and criminologists have urged Congress to consider the destructive effects of placing youth in adult jails and prisons a substantial body of research shows that placing youth in adult institutions accentuates criminal behavior after release.¹

In a recent full page advertisement, sheriffs, district attorneys and legal professionals explained why they think the proposed legislation will make their jobs more difficult: "lock up a 13-year old with murderers, rapists and robbers, and guess what he'll want to be when he grows up?"² Even John DiIulio, head of the conservative Council on Crime in America - a group that has provided much of the statistical and (flawed) analytical support for the juvenile crime bill - doesn't think locking children up with adults is a good idea. DiIulio wrote in The New York Times that "(m)ost kids who get into serious trouble with the law need adult guidance. And they won't find suitable role models in prison. Jailing youth with adult felons under Spartan conditions will merely produce more street gladiators."³

The most disturbing aspect of the new bill is the well-founded fear that the thousands of young people slated to be placed in adult prisons and jails are more likely to be raped, assaulted, and commit suicide. Surveys have documented the higher risk juveniles face when placed in adult institutions, and people who work with youth know the all-too-familiar stories: In Ohio, a 15-year-old girl is sexually assaulted by a deputy jailer after she is placed in an adult jail for a minor infraction; In Kentucky, 30 minutes after a 15-year-old is put in a jail cell following an argument with his mother, the youth hangs himself.⁴ In one year, four children being held in Kentucky jails "for offenses ranging from disorderly conduct, to non-offenses, like running away from home" committed suicide.

While groups as diverse as the American Jail Association to American Civil Liberties Association have lobbied to keep kids out of the reach of adult prisoners, the bills before Congress will result in substantially more youths being imprisoned with adults. It is timely and important to revisit the few statistics on how juveniles fare in adult institutions as Congress considers these dramatic justice system changes.

Background: Why there are so few statistics?

There is a dearth of data on rape, suicide and assault rates among the 4,000 juveniles that are sentenced to adult prisons, or the 65,000 children who pass through the jail system every year.⁵ Some states lump suicide deaths under the category of "unspecified cause"; in reports, making the problem invisible. Other states and jurisdictions list rape in with "inmate assaults;" effectively masking the problem. Academics who study this field warn that any statistics on rape are "very conservative at best, since discovery and documentation of this behavior are compromised by the nature of prison conditions, inmate codes and subculture and staff attitudes."⁶ There are also obvious incentives for prison officials to under-report incidents of rape and suicide

because they are administratively embarrassing to the prison system, and could be used as evidence for law suits.⁷

Even on the less politically charged measure of the number of "inmate-on-inmate" assaults, it is hard to come up with conclusive answer to whether inmates are more likely to be attacked in a juvenile institution or an adult prison. The Corrections Yearbook, an annual survey of the state of America's prisons compiled by the Criminal Justice Institute (CJI), suggests that assault rates vary wildly from state to state.

The Yearbook's statistics show: Inmates are seven times more likely to be referred for medical attention due to an inmate assault in an adult prison in Connecticut than in one of the state's juvenile institutions.⁸ In Oklahoma, inmates are ten times more likely to be referred, and in Kansas, eleven times more likely to see a medical professional due to an attack by another inmate.⁹ In other states, the stark difference seen here between reported assaults requiring medical attention in juvenile institutions and adult prisons are reversed.¹⁰

There are a number of academic surveys which more clearly document what happens to youth when they are placed in adult institutions.

Suicide

The most recent American study on juvenile suicide in adult institutions and youth facilities was done in 1980. Funded by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Michael G. Flaherty, a researcher with the Community Research Forum at the University of Illinois surveyed the number of suicides in a thousand jails and juvenile detention centers.¹¹ The study found that the suicide rate of juveniles in adult jails is 7.7 times higher than that of juvenile detention centers. In stark contrast, the survey also found that the juvenile institution suicide rate was lower than that of the general population.¹²

A more recent report on prison suicides completed by the British Prison Reform Trust supports the findings of the Flaherty study. Analyzing data collected by Her Majesty's Prison Service, the Trust found that while people aged 15 to 21 made up only 13 percent of the prison population, they comprised 22 percent of all suicide deaths.¹³

These studies confirm what law enforcement officials have been telling Congress: that children are abused more regularly and driven to desperation in prison facilities more quickly. Adult prisons and jails are not equipped to protect young offenders from these risks as well, they are more likely to fall through the cracks.

Rape

A 1989 study by a team of researchers compared how youth reported being treated at a number of juvenile training schools, with those serving time in adult prisons.¹⁴ Five times as many youth held in adult prisons answered yes to the question "has anyone attempted to sexually attack or rape you" than those held in juvenile institutions. Close to ten percent of the youth interviewed reported a sexual attack, or rape attempt had been levied against them in the adult prisons, while closer to one -percent reported the same in the juvenile institution.¹⁵

Another set of studies suggests which system is more likely to result in an inmate being raped. A group of researchers in 1983 found that among the residents of six juvenile institutions, 9.1 percent of youth inmates reported being a "victim" of a sexual attack.¹⁶ But a 1996 study of adult prisoners in Kansas found that 15 percent of inmates reported to being "forced to have sex against their will."¹⁷

Surveys in other countries have found similarly higher rape rates for young offenders in adult institutions. An Australian survey shows that of 183 inmates aged 18 to 25 surveyed in a New South Wales prison, one quarter reported being raped or sexually assaulted, and more than half said they lived in fear of it.¹⁸ A recent Canadian survey showed that among 117 inmates surveyed in a federal prison, 65 incidents involving sexual assault were reported. Among those, the odds of victimization were eight times higher for a twenty year old

prisoner than the oldest inmates in the system.¹⁹ "Compared to non victims," the study reports, "victims tended to be younger, housed in higher security settings, and in the early part of their prison term."²⁰

These statistics seem to fit with what some criminologists call the "prototype" prison rape victim: someone young, if not the youngest inmate within a given institutional system. Professor Jeffrey Fagan of Columbia University's School of Public Health points out that "because they are physically diminutive, they [juveniles] are subject to attack.... They will become somebody's 'girlfriend' very, very fast."²¹ In an expose on prisons published in *The New Republic*, a corrections officer is quoted saying that a young inmate's chance of avoiding rape were "almost zero.... He'll get raped within the first twenty-four to forty-eight hours. That's almost standard."²² As the juveniles sent to adult prison system will be the youngest inmates on the block, they will likely face the greatest risk of being sexually attacked.

Assaults and the effects of victimization

The same 1989 study which found such alarming statistics on youth rape in prisons also found that children placed with adults were twice as likely to report being "beaten up" by staff: close to one in ten juveniles report being assaulted by staff.²³ The juveniles in adult prison were also 50 percent more likely to report being attacked with a weapon.²⁴

Whatever kind of threat you choose, be it rape, assault by institution staff, or suicide, prison is a more dangerous place for young offenders. But the frightening character of these statistics raise a larger issue in terms of how effective the new bill will be from a crime control perspective. As the authors of the rape study note, victimization by violence has well-established consequences for subsequent violence and crime. Victims of rape or sexual assault are more likely to exhibit aggression towards women and children. "Although [juvenile] transfer decreases community risk through lengthy incapacitation of violent youngsters," the authors write, "...the social costs of imprisoning young offenders in adult facilities may be paid in later crime and violence upon their release."²⁵

Conclusion

All of these areas of research represent crucial information currently being ignored by Congress. The present research bodes poorly for the large numbers of juveniles who will be transferred to adult prisons, or the children who will be jailed alongside adults under proposed legislation.

All 50 states have laws on the books allowing juveniles to be tried as adults. Over the past 2 years, 42 states have toughened those laws. Clearly, this is not an area which requires urgent Federal intervention to spur the states into action.

The Justice Policy Institute recommends that Congress put much needed resources into a two year state-by-state evaluation of the changes in America's juvenile justice system. We further recommend that Congress hold off on sweeping and ill-advised legislation at this time. During that period, it is our recommendation that funds be specifically allocated to research:

- The different reoffense rates of similar groups of youth offenders held in juvenile and adult institutions.
- The different rates of sexual and physical victimizations and suicides of juveniles in adult institutions, as compared to the rate in juvenile centers.
- A comparison of the different rates of juvenile crime in states with a large number of youth offenders in adult jails, as compared to the rates of states with few or no juveniles in adult institutions.

No legislation that would reverse a century of juvenile justice reform and put thousands of young people into the adult prison system should be undertaken until this kind of research is done.

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Endnotes

1 For example, the scholarly journal *Law and Policy*, Volume 18, No. 1, published in Spring, 1996, lists a half-dozen articles which show that rates of recidivism are higher for juveniles who are sent to serve their whole or parts of their sentences in the adult system

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5 Richey, Warren. (June 2, 1997)"Teen Crime Trend Puts Them Behind Adult Bars," The Christian Science Monitor, June 2, 1997.

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7 Donaldson, Stephen. (July, 1995) "Rape of Incarcerated Americans: A Preliminary Statistical Look." 7th Ed, Stop Prison Rape, New York, New York.

8 The Corrections Yearbook: Juvenile Corrections, 1995, p. 27; The Corrections Yearbook: Adult Corrections, 1995, p. 26.

9 Ibid.

10 Ibid.

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12 Ibid.

13 *The Rising Toll of Prison Suicide* (April, 1997), The Prison Reform Trust, London, England.

14 Fagan, Jeffrey, Martin Forst and T. Scott Vivona. "Youth In Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy." Juvenile and Family Court, No. 2, 1989., p. 10

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22 Lerner, S. (October 15, 1984) "The Rule of the Cruel." *The New Republic*

23 Fagan, et al.

24 Ibid.

25 Ibid.

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