Answers from Juvenile Detention Surveys Set Up Some Great Questions


The Annie E. Casey Foundation's survey work on the use of juvenile detention during coronavirus has moved us beyond the shrugging-emoji level of understanding what's happened since mid-March. The surveys also tip at bigger questions that could actually provide some lasting lessons for the field beyond the pandemic.

Let's dive first into what Casey's surveys – which covered jurisdictions that are home to about a third of America's youth – actually found, and then turn to the excellent questions posed by that data.

Casey put out a first survey in late April showing that in the first month of nationwide lockdowns, from March to the beginning of April, the use of detention dropped as a byproduct of two things: fewer admissions and more releases than usual. New admissions dropped by 29 percent, and releases ticked up 11 percent compared with February.

The former was logical enough, since most states had ordered everyone indoors. The latter suggested that at least some systems were making the decisions hoped for by juvenile justice advocates – to release as many kids as possible before detention centers became COVID-19 petri dishes.

Last week, the foundation released an updated survey, with even more respondents, charting the changes at detention centers through the end of April. The decline in admissions was 52 percent, which, Casey notes, is roughly the amount of decline achieved nationwide in detention admissions since 2007.

But in a period where new entries were basically halved, the average daily population dipped by about a third, 32 percent. Why? Because the number of releases from detention went in the other direction. In February, an average of 56 percent of young people who were in detention during the month were released by the end of the month. That average rose to 61 percent in March, but fell to 54 percent in April.
So on the heels of a month where detention centers may have proactively released more kids than usual, they were now releasing a slightly below average number when compared to February.

Nate Balis, who leads Casey’s juvenile justice work, said that divergence on admission and release runs against what the foundation has seen in its long-standing effort to curb the use of juvenile detention.

“The drop in admission has always been just a little bit greater than the drop in average daily population,” Balis said, meaning that the decline in admission rates and population “go closely, pretty much hand in hand.”

But now, with a swing toward lower release rates, the admissions change dramatically outpaced the change in average daily population.

Another noteworthy finding comes in the arena of racial disparities, which for most juvenile justice systems seems to persist even as stakeholders work to force new and more restrictive use of pretrial detention. While they might lower the number of non-white youth entering detention, more often than not, the disproportionate rate of entries in that group continues.

Not so during coronavirus. Among the jurisdictions that can disaggregate their data by race and ethnicity, the number of new admissions for African American and Latino youths was well below that of white youth. The decline of non-white youth in detention overall only marginally outpaced that of whites, but that’s because more white youth were released from detention centers during this period.

This, in Youth Services Insider's humble opinion, sets up at least three important questions about what has happened at the front door of juvenile incarceration during this pandemic.

**What Happened with Arrests?**

The instinctive move is to point to a massive drop in the use of detention and say, ‘See, you never really needed to use these so much anyway.’ But even if that sentiment is right in some or all places, this drop is only indicative of a larger lesson *if* the decline in admissions outpaced any decline in juvenile arrests. Because the number of youth who are arrested sets the universe of detainable people as far as juvenile detention centers go.

In fact, if the drop in juvenile arrests during the first two months of coronavirus is significantly larger than this decline in detention admissions, you could make the argument that systems relied *more* on detention during this period. This could especially be true in places where the alternatives to detention, such as evening reporting centers, were shut down during the pandemic.
Casey in their survey work was not privy to juvenile arrest data, so the answer on this will come only if local systems care enough to find out.

**What Was the Holdup on Releases?**

The two-month trend on releases runs directly against what has been the biggest youth-related advocacy push of the pandemic – getting young people out of locked facilities where they and staff are vulnerable to virus spread. The issue has been taken to the courts in several states, including California and Pennsylvania.

As mentioned, the Casey survey suggests an early trend in this direction in March, followed by a significant correction in April. So what happened?

There are several plausible reasons why systems became hesitant to release youth. One is that after releasing less risky youth in March, they were left with a group of youth in detention who they believed were a threat to the public if they were let out. Another is that there were some families who might have been hesitant to bring a child back home if there were people living there that were elderly or immunocompromised. The lesson there might be, we need testing capability for all youth set for release to make sure parents and other caregivers are confident in a safe return.

The third reason is probably the most informative to learning about juvenile justice response to the pandemic – court slowdowns. Many state and local courts shut down the majority of proceedings with the exception of emergency actions. This, Balis mused, can create a situation where hearings are held to decide if detention is necessary, but hearings on releases or moves to other residential settings are put off indefinitely.

“I wonder about kids already in detention if the court is not meeting, or [what happens] if a kid had a disposition to out-of-home placement and they aren’t taking in kids right now,” he said.

**Is This a Clear Sign of Schools Driving Detention Disparity?**

We might not get a clear picture of arrest trends soon, but one thing is certain: almost no youth were arrested at school, because school was out.

“Lots and lots of kids get arrested at school,” Balis said. “That’s off the table now for kids in public or private schools, for black or white students.”

Judge Alex Kim, who presides over the juvenile court in Tarrant County, Texas – the Fort Worth area – told the *Star-Telegram* that most of the youth who come before him are arrested either right before, during or after school hours.

“This is why juvenile arrests go down in the summer, and actually the juvenile referrals have dropped a lot in the last couple of weeks, and a large part of that is more supervision at home, and there's no conflict at school,” Kim said.

So if we know that “no school arrests” is the constant in Casey's surveyed area, and we know that improvements on disparity often do not follow reductions in detention use – is it safe to say that these findings isolate schools as a driver of disparity? Probably not, but it should prompt a system to see what the demographics are of youth who end up in detention by way of school arrest.

Lucas County, Ohio (Toledo) in recent years reduced its juvenile detention population to about 30 from a range of 70 to 100. Upon analysis, former head juvenile judge Denise Cubbon told us in 2018, one of the big drivers of high detention rates was the use of detention for youth who violated the state’s Safe School Act through fights or disorderly conduct.

Most of the students sent to her court were “African American boys,” Cubbon said. “We changed our risk assessment tool, and also had an honest conversation with schools and law enforcement.” The county had recently established an assessment center, and started routing most school referrals to diversion from there.

Balis said that in Jefferson Parish, Louisiana, where the foundation works on reducing post-adjudication incarceration, two-thirds of the kids are white but two-thirds of public school students are black.