Youthful offender incarceration: Forget the fiction, focus on the facts
Chris Mallett, Ph.D., Esq., LISW
Associate Professor
School of Social Work
Cleveland State University
c.a.mallett@csuohio.edu
216-523-7514

James’ Story

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James is a 14-year-old Caucasian male. He entered mental health treatment 4 months ago when he and his mom were in the battered woman's shelter.

Mom was with her boyfriend Don for 6 years. Don nearly killed mom on 4 occasions through strangulation. He threatened to kill James and his mom with a gun from his extensive gun collection. Don physically abused James for 3 of these 6 years.

James visits his dad who is living with an alcoholic woman. They have been living together for 3 years.

He has nightmares, is afraid to sleep alone, constantly calls his parents when he is away from them, he worries someone will kill mom or dad.

James has recently been suspended from school for stabbing a student with a pen and fighting with his peers.

Incarceration

The incarceration of youthful offenders presents serious challenges for the juvenile justice and other adolescent-caring systems.

More than 60,000 adolescents are confined each day in the United States by order of a juvenile court.
Incarceration

- The most common placement - between 35 and 40 percent - for these committed adolescents is a locked, long-term state or privately contracted facility.

- These facilities typically hold hundreds of youthful offenders at one time, in prison-like environments with locked cell blocks, and often provide minimal rehabilitative services.

Ohio Department of Youth Services - 2013

<table>
<thead>
<tr>
<th>Facility</th>
<th>Average Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Circleville</td>
<td>157</td>
</tr>
<tr>
<td>Cuyahoga Hills</td>
<td>110</td>
</tr>
<tr>
<td>Indian River</td>
<td>145</td>
</tr>
<tr>
<td>Scioto (male)</td>
<td>53</td>
</tr>
<tr>
<td>Scioto (female)</td>
<td>15</td>
</tr>
<tr>
<td>Other facilities (treatment)</td>
<td>55</td>
</tr>
<tr>
<td><strong>Average Length of Stay</strong></td>
<td>12.2 months</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>535</td>
</tr>
<tr>
<td><strong>In 2006, Total</strong></td>
<td>1,730</td>
</tr>
</tbody>
</table>
Transfers to Adult Facilities

- These incarcerations in juvenile justice facilities do not include youthful offenders transferred to the adult criminal courts.
- These transfers are a controversial procedure that bifurcates the youthful offender population often without sufficient safeguards for the adolescent.
- While estimates vary, 2,500 to 10,000 adolescents are held in adult jails and prisons each day, in addition to the 60,000 in juvenile facilities.

Incarceration Reform

- The pace of incarceration reform remains geographically disparate.
- While numerous jurisdictions and states have made significant reductions in their incarceration rates - California, Texas, Ohio, Alabama, and Connecticut - many others have not.
- In fact, while the number of youthful offender incarcerations has been declining over the past decade, the rate of incarceration placement per arrest is higher over this same time period.

Serious Youthful Offenders

- One segment of the youthful offender population - often referred to as “serious/violent offenders” - is the most difficult to rehabilitate and almost always spends time incarcerated.
- However, most adolescents who are incarcerated did not commit serious offenses, they are “low-level” or “status offenders.”
Incarcerated Youthful Offender Population

- Nationwide:
  - Older: majority are 16- and 17-year olds
  - Minority: 68%
    - Of those 60% are African-American and 33% Hispanic.
  - Male: 87%
- ODYS Facilities:
  - 16- and 17-year olds: 66%
  - African-American: 55%
  - Male: 95%

Not “Run DMC”, just DMC

- This overrepresentation of minorities within incarceration facilities, known as disproportionate minority confinement (DMC), is found in nearly all states with a greater impact on minority males than females.

- Ohio Department of Youth Services – 2013:
  - 55% African-American
  - 34% Caucasian
  - 10% other
Serious Difficulties and Traumas

- One of the more difficult set of challenges for detained and incarcerated youthful offenders:
  - Most suffer disproportionately from:
    - educational deficits and related learning problems
    - mental health/substance abuse disorders, and/or
    - maltreatment victimizations/trauma experiences.

Incarcerated Youthful Offender Population | Adolescent Population
------------------------------------------|---------------------
Maltreatment victimization: 34-60% | 1%
Special education disabilities: 28-45% (30% at ODYS) | 4-9%
Mental health disorders: 35-80% (55% at ODYS) | 9-18%
Substance abuse: 30-70% | 4-5%

Trauma & Maltreatment

- Maltreatment victimization and related trauma experiences are not only harmful to adolescents, but for many lead to other serious offending behavior risks – including school difficulties, mental health disorders, and substance abuse problems.

- Highest incarceration risk is for:
  - Adolescents with maltreatment histories who do not complete high school,
  - Those in foster care who are truant or change schools often, and
  - Those aging out of the child welfare system.
Mental Health Difficulties
- Mental health and substance abuse problems are not only significantly more prevalent in the incarcerated youthful offender population,
- but the disorder types are more severe:
  - Mood disorders,
  - Psychotic disorders
  - Post-Traumatic Stress Disorder

Of particular concern is a subset of these troubled adolescents (between 5-10% of those with a mental health diagnosis) who develop serious emotional disturbances that substantially impact functioning at home, school, and in the community.
- Those in this group have long histories of multiple mental health disorders and related problems (often substance abuse and trauma) that continue into young adulthood, and
- constitute 20% of incarcerated youthful offenders in most states.

Trauma & Suicide
- Of particular concern are the incarcerated youthful offenders who are unstable and at risk of suicide.
- Perversely, the incarceration experience itself increases this risk for suicide during and after release.
- In a comprehensive review of youthful offenders in custody, 22% reported that they tried to kill themselves during their lifetime, a staggering higher risk than non-offending adolescents.
Adolescents typically experience increased risk for involvement with the juvenile courts as a result of a combination of risk factors, rather than any single experience, leading to delinquency and, for some, incarceration.

These risks include, but are not limited to:
Incarceration Risk Factors
- poverty
- unstable and disorganized neighborhood
- violence (victim, witnessing, domestic, et al.)
- trauma (including maltreatment)
- mental health and substance abuse difficulties
- school failure
- learning problems (including learning disabilities)
- negative or delinquent peers
- dysfunctional families

Pathways to Incarceration – Legal Factors
- While incarceration rates vary widely from state to state (as much as a ten-fold difference), a majority of youthful offenders in the facilities are not “serious/violent” offenders.
- Only 25% of youthful offenders are incarcerated because of a violent index offense (murder, sexual assault, robbery, or aggravated assault).
- This increases to only 38% for long-term secure institutional placements.
- ODYS has not reported this data since their 2010 Annual Report

Pathways to Incarceration
- Of those incarcerated youthful offenders:
  - Most (46%) committed property, drug, public order, or status offenses.
  - Status offenses being significantly greater for females than males
  - While only 37% committed person offenses.
  - Of particular concern:
    - 1.6% (though this varies widely by state, ranging from zero to 38%) of youthful offenders were incarcerated for technical violations, often simply not following court orders or probation expectations
    - for example, an order to attend school regularly.
School Pathways to Juvenile Justice

- An additional pathway from often minor, or non-serious, offending behaviors to the juvenile courts is the “school-to-prison pipeline” or “school pathways to juvenile justice.”

- This trajectory from schools to courts results from two primary forces:
  - the influence of the most recent “tough on crime” approach to youthful offenders and the
  - school districts’ increased utilization of zero tolerance policies.

- Zero tolerance policies prioritize disciplinary measures for disruptive adolescent behaviors in schools, including:
  - suspensions and expulsions
  - school-based arrests - for mostly misdemeanor offenses
  - disciplinary alternative schools, and
  - referrals to the juvenile courts.

- Even though evidence increasingly indicates that these zero tolerance policy measures do not make schools safer or improve short-term or long-term student behaviors.

- This pathway away from the protective influence of education disproportionately impacts:
  - students of color
  - those with disabilities and
  - LGBTQ adolescents.

- State Senator Tavares has introduced legislation disallowing zero tolerance policies in Ohio schools (introduced to one of the Education Committees).
Okay, no Day Dreaming out there ☺☺ ☺☺

Impact of Incarceration

- Incarceration does not decrease future adolescent crime and the experience of incarceration itself is part of the problem.
- Placement in locked incarceration facilities and longer lengths of stay increase the risk for reoffending upon release for most youthful offenders.
- This increased risk is particularly acute for low-level offenders who make up a majority of incarcerated youthful offenders in many states.
Impact of Incarceration

- While incarcerated, many of these adolescents do not receive services or rehabilitative programming (for mental health, education, or trauma) that may be warranted.
- Most incarceration facilities are not equipped to meet even the minimal rehabilitative needs of the adolescents placed within the institution . . .
- Let alone youthful offenders with serious comorbid mental health problems, trauma-related disabilities, and education deficits.

Impact of Incarceration

- Incarceration also lessens an adolescent’s abilities to function independently because of the rigid expectations of the justice facility, and social and coping skills are diminished for similar reasons.
- Many education systems within state incarceration facilities receive failing grades and do not provide appropriate services for those with learning disabilities.
- Many incarceration facilities separate the adolescents from their families and are often dangerous and violent environments.

What can Stakeholders do?

Nope, not visit Graceland – as tempting as that is!
Eliminate Status Offenders

- One of the barriers is the Juvenile Justice and Delinquency Prevention Act (JJDPA), which permits a valid court order (VCO) exception to its rule that forbids the placement of status offenders.
- This exception allows many youthful offenders who are obstinate, uncooperative, or indifferent to their probation plans and court orders, to be detained or incarcerated.
- Disobeying such orders, such as not running away from home or discontinuing truant acts, become grounds for judicial officers to use the VCO exception.

Minimize Delinquency Risks

- Offer effective delinquency and diversion programs to low-level offenders.
- If low-level youthful offenders can be diverted from ongoing delinquent acts, their chances of potential incarceration are reduced.

Effective Delinquency Diversion Programs

- Teen court
- Adolescent Diversion Project
- Restorative Justice
- Drug court
- Family-based therapy programs
- Effective Community-based Interventions for Youthful Offenders
- Functional Family Therapy (FFT)
Identify Trauma and Related Problems

- The juvenile justice system cannot continue to be the default outcome for adolescents with such varied troubles and difficulties.
- Today’s incarceration facilities were yesterday’s state psychiatric facilities!
- With such a large number of youthful offenders troubled by mental health, substance use, and trauma difficulties, it is important for juvenile courts to incorporate the use of appropriate screening tools and effective interventions.

Screening and Assessment Tools

- Massachusetts Youth Screening Instrument (MAYSI-2): assessment for reoffending risk, mental health, and related problems
- Youth-Assessment of Risk and Protective Factors (YARPF): assessment for reoffending risk, mental health, and related problems
- Diagnostic Interview Schedule for Children Version 4 (DISC-IV): assessment for mental health disorders
- Behavioral and Emotional Screen System (BESS): screening for behavioral and emotional problems
- Social Skills Rating System (SSRS): screening for social skills
- Adolescent Substance Abuse Scale-Screening Instrument (ASSI-2): screening for substance abuse
- Global Appraisal of Individual Needs—Short Screen (GAIN-SS): screening for substance abuse
- Traumatic Events Screening Inventory (TESI): screening for trauma history
- Child Welfare Trauma Screening Tool (CWST): screening for trauma history
- Trauma Symptom Checklist for Children (TSCC): screening for behavioral and mental health problems due to trauma

Effective Trauma Interventions and Programs

- Cognitive Behavioral Intervention for Trauma in Schools (CBITS)
- Trauma Affect Regulation: A Guide for Education and Therapy (TARGET)
- Seeking Safety
- Trauma-Focused Cognitive Behavioral Therapy (TF-CBT)
- Skills Training in Affective and Interpersonal Regulation (STAIR)
- Trauma Recovery and Empowerment Model (TREM): particularly effective for girls
Dismantle the School to Prison Pipeline

- This requires reducing school (and juvenile justice personnel) disciplinary actions and increasing preventative and non-exclusionary intervention strategies.
  - Effective preventative interventions include:
    - Positive behavioral support,
    - Peer mediation, and
    - Conflict resolution programs,
    - Restorative justice models.

Restorative Justice Models

- Restorative justice models have improved outcomes for youthful offenders with comorbid difficulties in numerous school jurisdictions, and, in particular, when cross-system stakeholders:
  - Schools
  - Juvenile courts
  - Law enforcement
  - Social service agencies (children’s services)

- These systems can coordinate efforts to reduce school arrests, thus minimizing juvenile court involvement.

Safety Risk to the Community

- A small number of youthful offenders may pose such a significant community risk that incarceration is the only available disposition.

- When incarceration is the only alternative, these placements should be:
  - Short-term,
  - Rehabilitative-focused, and
  - Include a re-entry plan for reintegration with the adolescents’ community.
Improve Incarceration Facilities

- Serious youthful offending can be minimized and incarceration recidivism decreased through these efforts, though only if the facilities are safe and focus on rehabilitation and not punishment and control.
- ODYS has a history and current struggles with managing violence and assaults (physical and sexual).
- See the “Sexual Victimization in Juvenile Facilities reported by Youth, 2012” at:  http://www.bjs.gov/content/pub/pdf/svjfry12.pdf

Once facility safety is established, rehabilitative alternatives and programs can be utilized.

Programs that are effective in rehabilitating incarcerated youthful offenders have a number of common components:
- supportive social contexts including authoritative adults,
- a focus on changing problem behaviors, and
- interventions that improve the adolescents’ psychosocial maturity.

Incarceration – Effective Rehabilitative Efforts

- Aggression Replacement Training (ART) and related skill building programs
- Cognitive-Behavioral Therapy
- Education
- Counseling and psychotherapy (including group)
- Behavior modification programs
Safer Communities and Fewer Tax Dollars

- If for no other reasons, the incarceration of youthful offenders should be curtailed because it wastes taxpayers' dollars and makes our communities less safe.

- Nationally, states spend between $5.0 billion and $5.7 billion annually incarcerating youthful offenders, with an average per day cost of $242, equaling $88,300 a year (ODYT cost = this average).

- By comparison, effective community-based alternatives to incarceration that are appropriate and effective for most serious youthful offenders are much less costly (between $6,000 and $19,000 per adolescent annually).

Safer Communities and Fewer Tax Dollars

- These alternatives also have a significant return on investment because of lower recidivism rates:
  - Functional Family Therapy saves $3 for every $1 invested
  - Aggression Replacement Therapy saves $6 for every $1 dollar invested, and
  - More strikingly, formal juvenile court supervision with the provision of effective diversion services saves more than $9 for every $1 invested.

Safer Communities and Fewer Tax Dollars

- In other words, not incarcerating most youthful offenders makes our neighborhoods safer and costs significantly less to rehabilitate these adolescents within our communities.

- In fact, while youthful offender incarceration decreased 41% nationwide from 1997 to 2007, overall juvenile crime rates also fell, including a 27% reduction in arrests for violent index crimes.

- States that reduced their incarceration rates by more than 40% had the most significant reduction in arrests for violent index crimes.
Ohio Reclaim & Targeted Reclaim

A number of states have recognized the exorbitant and unnecessary costs of youthful offender incarceration and have taken steps to readjust fiscal allotments.

Ohio created a system over 20 years ago that incentivizes the counties to use community-based rehabilitative and diversion efforts rather than state incarceration for many youthful offenders:

- by capping the state allocation and in the process has saved between $11 and $45 in commitment costs for every $1 spent on the Reclaim Ohio program.

Ohio Juvenile Justice Reform HB66 & 153 (2011)

- Promotion of research-informed and evidence-based practices (Reclaim dollars).
- Extension of juvenile court authority to allow for judicial release throughout a youthful offender’s ODHS commitment.
- Revision of the existing mandatory sentencing specifications involving a gun to allow for judicial discretion.
- Adoption of a uniform juvenile competency standard for all delinquency proceedings.
- Creation of a narrow reverse waiver provision for adolescents automatically transferred to adult court.
- Creation of the Mental Health Juvenile Justice Task Force to focus on those with serious mental and emotional disorders.
Discussion

The End

References

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