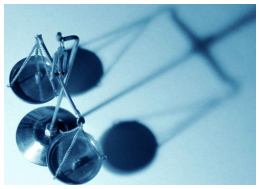

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Kids Doing Time for What's Not a Crime: The Over-Incarceration of Status Offenders

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Key Points

- Status offenses are actions that would not be illegal if committed by an adult, such as running away.
- By charging youth with violations of a valid court order (VCO), they can be confined for these actions.
- Handling status offenders in school, in the community, or at home increases the likelihood of the child keeping pace with their studies and not associating with a deviant peer group.

Introduction

Purpose and Objectives of the Report

This report was developed in order to produce an up-to-date understanding of the nation's progress in reducing confinement of status offenders, utilizing newly available data on youth confined in the U.S., in combination with previously available data on juvenile court statistics. Under current federal law, states are subject to the loss of federal juvenile justice funding if status offenders—those offenders whose acts would not be considered criminal if committed by adult—are kept in a secure institution unless the exception for violating a court order applies.[1] This stemmed from the overuse of incarceration to handle nonviolent, minor offenses like running away and truancy. Such punishments have proven to be costlier than alternatives, are largely ineffective (and, in some cases, counterproductive) at enhancing public safety, and are detrimental to the youth's development.[2] In the report, we address the causes of status offenders' behavior and the impact of court-ordered confinement on their futures while examining the extent to which the nation's juvenile courts are relying on alternatives to confinement for these youth.

Data made available recently by the federal government on youth confinement permit an analysis through the year 2011. In this report, the post-2000 period was selected for the analysis given that overall youth confinement levels peaked in the year 2000 after rising steeply since the mid-1980s. The hope is that this will contribute to the understanding of how far the juvenile justice system has come, and how much additional work can be done to reduce the system's reliance on incarceration and other types of confinement for status offenders.

In this report, confinement refers to the act of being placed by a juvenile court in a residential facility, outside of the home, as a result of committing and being adjudicated for a status offense or for violation of a valid court order (vco) in connection with a status offense. A status offense is behavior—such as running away or truancy—that is unlawful due to the age of the perpetrator. Residential facilities, as defined by the U.S. Office of Juvenile Justice and Delinquency Prevention (OJJDP), include a wide range of secure and non-secure facilities.* In all instances, adjudicated status offenders are taken out of their homes as a result of a juvenile court decision rather than required to participate in a community based treatment program while still residing at home with family members.

Scope and Landscape of the Report

After this introductory section, the report provides a lens through which to view status offenses and the youth who commit them. The offenders and vehicles for addressing their behavior are examined along with confinement and its likely outcomes. A brief overview of the process of moving a status offender through juvenile justice systems is provided to set the stage for the data analysis in subsequent sections of the report.

* Residential placement facilities on OJJDP's *Census of Juveniles in Residential Placement* website include: detention centers, shelters, reception/diagnostic centers, long-term secure facilities, ranch and wilderness camps, group homes, boot camps, and other facilities, such as alternative schools. For further discussion, see the *Census of Juveniles in Residential Placement's* glossary and methods.

To place the 2001-2011 period in historical perspective, the report then traces the history of policy measures associated with confinement of status offenders with a focus on federal legislation and the responses of the states from the mid-1970s through the mid-1990s. Data for that period are examined to illustrate the beginnings of a nationwide push to reduce confinement of status offenders.

The report then produces a status-offense assessment for the nation. Data on the court-processing and confinement of youth *as status offenders* are examined and trends are analyzed for the 2001-2011 period to capture the nation's recent progress in decriminalizing status offenses.

The findings are compiled and placed in the context of public policy in the final section of the report. In addition, a set of public policy reform options and recommendations are offered to accelerate the reduction of confinement as a response to status offending.

The Uniqueness of Status Offenses

This report uses the latest available federal government data to document the fate of the nation's status offenders. These are youth who have committed acts that would not be considered crimes if committed by an adult. The offenses that have resulted in their confinement include non-violent offenses such as truancy, running away from home, incorrigibility, curfew violations, and consumption of tobacco or alcohol.*

Status offenses, as a legal category, came about close to the turn of the past century. The founding of the nation's earliest juvenile courts brought with it the matter of establishing their jurisdiction and differentiating the boundaries from that of the traditional criminal court. Having arisen out of the progressive movement, early juvenile courts sought to implement formal social control in order to "marry the means of educational objectives and juvenile detention."

Under the tenets of *parens patriae*, these courts were empowered to place children under the care of the state if their parents were unwilling or unable to do so. This outgrowth of interventionism led to the establishment of laws seeking to expand the court's jurisdiction over noncriminal behavior in order to better the youth.[3]

Nationally, the most common status offenses are incorrigibility, running away, truancy, underage drinking, and curfew violations. Truancy can be considered the first codified status offense, whereby the early juvenile court sought a mechanism through which to sanction behavior detrimental to the child.[4] In Texas, the accumulation of truancies can lead to a student being directly incarcerated for failure to attend school.[5] When a child is reported of having run away (or leaving his or her home without permission for an extended period of time) authorities might charge the youth with a misdemeanor when he or she is apprehended. Curfew violations are commonly charged when a youth is arrested for being outdoors later than a statutorily-defined threshold. "Incorrigibility," or defying one's parents, is more amorphous. Commonly codified as "being disobedient of parental authority," incorrigibility is triggered when the youth's parents (or legal custodian, such as a teacher) notify law enforcement of the youth's deviant behavior.[6]

It is important to note that status offenses may be committed in conjunction with activity that does constitute a crime if committed by an adult. For example, a youth who is incorrigible may also have engaged in conduct that constitutes sweeping offenses, such as those in Texas for criminal mischief, breaching the peace, and disrupting school classes. Similarly, a youth who is a runway could be charged under common ordinances criminalizing loitering. Measures that reduce incarceration of those charged with status offenses still leave open the possibility that the youth may be detained, in some cases for significant periods, for related conduct that constitutes criminal activity regardless of age. This dichotomy is appropriate given that the activities that are criminal regardless of age often implicate public safety in a way that status offenses in the absence of such activity does not. However, the data this report relies on concerning the number of status offenders who are confined includes only those cases where the status offense was the most serious offense that youth was charged with.

Many status offenders are adolescents from broken homes or from homes with deeply conflicted family relationships; they have had traumatic childhoods; or they have mental health and special education needs.[7] Further, these youth are prone to impulsive, sensation-seeking behavior; they are vulnerable to negative peer pressure; they have an unrealistic perception

* For nationwide and state data on status offenses, *see* Sickmund, M., Sladky, T.J., Kang, W., and Puzzanchera, C., "Easy Access to the Census of Juveniles in Residential Placement" (2013).

of risk; and they give more weight to short-term, rather than future consequences of their decisions.[8] Their school environments may not be conducive to monitoring their behavior or motivating them as students. And, as individuals, they may suffer from low self-esteem, lack of personal ambition, or substance abuse.[9]

In view of these characteristics, status offenses are often best dealt with through interventions undertaken in the community, where families, schools, churches, and non-profit organizations can act as sources of support. This type of intervention often leads to more sustainable results, rather than placement in residential facilities where pro-social ties are frayed.[10,11]

In addition to the youth missing out on important developmental milestones, overuse of juvenile incarceration is expensive. For example, in 2012 Texas spent $366.88 per day per youth in state facilities.[12]

While the families of status offenders may not provide sufficient supervision, it is important to emphasize that state child welfare laws have, throughout the history of the United States, only recognized the appropriateness of removing a child from the home in cases of abuse and neglect.[13] Many in-home interventions, which cost a fraction of confinement, such as multisystemic therapy (MST) and functional family therapy (FFT), have been proven to strengthen a family's capacity to care for and discipline their child, including, for example, helping them set appropriate rules, boundaries, and consequences.[14*]

As we documented in our recent report, *The Comeback States: Reducing Youth Incarceration in the United States*, a wave of reduced reliance on juvenile confinement has been building in the U.S. since the beginning of the 21st century.[15] Among the reasons cited for that turn-around, in addition to the decline in youth arrests, were the very high cost and the high recidivism rates associated with incarceration compared to the alternatives as well as the widespread recognition that teenagers' brains have not fully developed in areas that control decision-making.[16] Though youths must still be held personally accountable for their actions, community-based interventions that provide appropriate treatment and support, in addition to penalizing the offending youth, can help these young adults grow out of the pattern of behavior that led to their status offenses.

Incarcerating or otherwise removing these youth from their homes increases the likelihood that they will be converted from today's status offenders to tomorrow's serious offenders, instead of being shepherded toward productive lives as young adults.[†] Among other things, research shows that status offenders, as a result of being exposed to seriously delinquent youth in close quarters, are in jeopardy of developing the more deviant attitudes and behaviors of higher-risk youth, such as anti-social perspectives and gang affiliation.[17‡] While many of the causes underlying a status offenders' behavior and the effects of incarceration has on their futures are also common to more serious offenders, the stakes are obviously higher for status offenders who have not committed property or person offenses and may be less likely to have previously been associated with seriously delinquent peers. In addition, the confinement of status offenders is expected to increase barriers to reentry into community, home, and school settings, and increase the likelihood that they will be rearrested, re-adjudicated, and re-incarcerated.[§]

In short, there are very compelling reasons to avoid confinement of status offenders. The punishment fails to fit the "crime" since status offenses are simply behaviors that would be legal if committed by adult; alternative approaches are more effective and far less costly; and, as described in the previous paragraph, the futures of these youth would not be jeopardized by the negative impacts of exposure to serious offenders during placement.[18] Accordingly, confinement

* For an overview of multiple studies of MST, *see* the *Blueprints for Healthy Youth Development* website. For the results of a meta-analysis of the impacts of MST and FFT, *see*: Drake, E., Aos, S., and Miller, M. (2009). "Evidence-Based Public Policy Options to Reduce Crime and Criminal Justice Costs: Implications in Washington State," *Victims and Offenders* 4: 170-196.

† OJJDP/State Training and Technical Assistance Center, "Why Is DSO [Deinstitutionalization of Status Offenses] Needed?" for a brief summary of some of the relevant literature.

‡ Federal Advisory Committee on Juvenile Justice, "2008 Annual Report to the President and Congress" (Nov. 2008).

§ "Blueprint for Kentucky's Children" (Nov. 2010) and OJJDP/State Training and Technical Assistance Center.

of status offenders for violating a VCO should be limited to those instances where the youth arrested for a status offense has a prior violent offense or both a prior non-status offense and an assessment indicates they pose a high-risk of violence that cannot be addressed through any other available alternative. We recognize that some confined status offenders are placed residentially in part because they are deemed to not have a suitable home environment. However, the placement of such youths should occur through the child welfare system with community programs, rather than through the juvenile justice system with confinement; existing federal law recognizes a 24-hour grace period in which status offenders may be held in juvenile detention without a court order, which is designed to provide ample time to identify an appropriate child-welfare placement for a youth who is not a danger to public safety but has an unsafe home environment.*

The Push to Decriminalize Status Offenses

The Federal Juvenile Justice and Delinquency Prevention Act and Its Early Impact

Although there was growing recognition of the unreasonableness of incarcerating status offenders during the mid-20th century, the nationwide effort to decriminalize status offenses accelerated in the 1970s. In 1974, the first version of the Juvenile Justice and Delinquency Prevention (JJDP) Act was enacted by Congress. The 1974 law required that "within two years … juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult shall not be placed in juvenile detention or correctional facilities. …"[19]

In 1976, a substantial compliance standard was added that required states to reduce their number of incarcerated status offenders by 75 percent within a two-year period. Amendments in 1977 added another three years to the timeline for compliance with the status offender mandate. Individual states, such as Delaware, Louisiana, New Mexico, and New York, also took independent action during the 1970s to reduce their reliance on the incarceration of status offenders, which dovetailed with the federal mandate. In 1992, Congress, in an effort to speed up the intended reform, required that a failure to comply with the Act's mandate would result in the loss of 25 percent of a state's juvenile justice federal grant allotment and that the remainder of the state's allotment must be used to help meet the status offender mandate.[20] In addition, to qualify for those grants, states were allowed to place accused status offenders in secure detention for up to 24 hours only during weekdays prior to an initial court appearance and for an additional 24 hours after the court appearance.[21]

Since 1975, the number of confined status offenders has been recorded in various juvenile censuses. However, a precise picture of the progress in reducing in the number of confined status offenders between 1975 and 1997 cannot be derived due to the changing criteria the OJJDP used to measure the number of status offenders in juvenile residential facilities in its *Census of Juveniles in Residential Placement* (hereafter, "*Census*").† Nonetheless, in 1997, the first year that a juvenile residential facility was counted even if it housed only one youth offender, 5,628 youth were still being detained or committed in secure or non-secure juvenile facilities on the day of the *Census* took place.[22] While that's considerably less than in previous decades, that's still far too many confined status offenders given that most of them would have been better served by programs within the community instead of being incarcerated.‡

The Valid Court Order Exception

The treatment of status offenders was complicated by a 1980 congressional amendment to the JJDP Act regarding valid court orders imposed on status offenders. The 1980 amendment enabled judges to confine status offenders in secure detention facilities for limited periods of time and to adjudicate a status offender as a delinquent if the status offender was found to violate a VCO. The amendment was originally intended to address concerns that the USDOJ's *Deinstitutionalization of Status Offenders* mandate was depriving judges of a tool they needed to handle status offenders.[23] The bottom

* According to the 2011 Census, 22% of detained status offenders were held for one day or less. (Sickmund, M., Sladky, T.J., Kang, W., and Puzzanchera, C. (2013).

† Comparing counts for years prior to 1997 would have resulted in an apples-and-oranges comparison. Correspondence with Melissa Sickmund, National Center for Juvenile Justice (Dec. 2013).

‡ For example, it was reported that, in 1977, 12,354 status offenders were detained or committed in residential facilities on the date of the Census. Klein, Sue, Barbara Allen-Hagen and Doug Thomas, "Children in Custody: 1975-1985" (1989).

line of the exception, however, is that it created a mechanism for judges to criminalize status offenses. As of 2011, the year of the most-recent nationwide data on youth confinement, more than 60 percent of the states (33) permitted their juvenile courts to use the VCO exception for all status offenses, down from 36 states in 2001.[24]*

The annual numbers of status offenders who have been placed in facilities for violating a VCO are buried within *Census* data on offenses known as "technical violations." However, some nationwide data on the number of status offenders who are placed in secure detention due to violation of a VCO has been available from OJJDP, which collects the data from the states. For 2007, OJJDP reported that there were as many as 12,000 juveniles in secure detention for violating a court order pursuant to a status offense.[25]† Unpublished OJJDP data, used by OJJDP for its FY 2013 funding decisions, was made available. The data was drawn from reports to OJJDP by the states during the 2009-2011 period and indicates that the annual number of youth placed in secure detention had declined to 8,227, or by nearly one-third since 2007.[26] Despite the sharp decline between 2007 and 2010, the number of status offenders detained for this technical violation remained at a substantial level.

Status Offenses Assessment for the Nation

This section of the report builds on the brief analysis, given in a previous section, of the status-offender residential placement data for the mid-1970s to the mid-1990s period. In addition to analyzing the data on youth *confined* for their status offending during the 2001-2011 period, using newly available federal data, this section examines recent trends in *court-processing* youth for status offenses. Nationwide data on the residential placement of youth for status offending could understate the number of confined status offenders since those data do not capture the number of status offenders confined for VCO-related technical violations. In the final analysis, the report examines this data to assess how well is the nation doing in moving toward reducing the confinement of status offenders.

Confinement of Status Offenders, 2001-2011: Nationwide Levels and Trends

1) Census Data Account for Only a Portion of Confined Status Offenders

Table 3 and **Table 4** report the numbers of youth in confinement for status offenses for the years 2001 and for 2011, the last year for which residential placement *Census* data are available from OJJDP. According to the *Census*, more than 2,200 youth were in confinement nationwide for status offenses, as their most-serious offense, in October 2011.

The data on youth residential placement from the *Census,* however, represent a one-day count of youth in confinement facilities at the end of October of 2011, rather than the number of youth who have been confined *at some time* during that calendar year. That's because most youth in confinement stay for much less than a year. According to the 2011 *Census*, for example, 60 percent of status offenders in confinement had been in juvenile residential facilities for three months or less.

The *Census* count, therefore, represents just a fraction of the number of status-offending youth who have been in confinement at some point during the year. While comparisons of the one-day *Census* counts from one year to the next will provide accurate estimates of the trends in the confinement of status offenders, they do not account for the full magnitude of the reliance on confinement for status offenses in any given year.

Since data on the total number of youth who have been in confinement in juvenile residential facilities in the U.S. are not gathered by federal authorities, the total has to be estimated from available data. The number of youth experiencing confinement for status offenses throughout a given year can be estimated by adding the inflow of youth placements by the courts throughout the given year to the carry-over of youth in confinement from the year prior to the given year.

* The map in the document indicates that 16 states in which secure detention of status offenders were prohibited included: Connecticut, Delaware, Iowa, Maryland, Massachusetts, Minnesota, Montana, New Hampshire, New Jersey, New Mexico, New York, Pennsylvania, Rhode Island, Utah, Vermont, and West Virginia. Wisconsin allows secure detention only for habitual truants who violate court orders.

† This figure reflects a 2007 estimate, as this is most recent published data. Additionally, one-third of states report the data by federal fiscal year, one-third by state fiscal year, and one-third by calendar year, which can lead to slight variations, although in all instances the figures reflect a 12 month period.

For the year 2011, for example, the total number of committed status offenders confined at some point during that year is equal to the sum of the number of status offenders committed to confinement by juvenile courts in 2011 plus the number of status offenders committed by the courts in 2010, who remain confined in 2011. The October 2010 *Census* provides a working estimate of the number of youth who were committed in 2010 and continued to be confined to a residential facility in 2011. Unfortunately, data on the number of youth committed by the courts in 2011 had not been published at the time this report was produced.

Given that data limitation, we gathered available *Census* and *Juvenile Court Statistics* data from 2010 to create a multiplier that could be applied to 2011 *Census* data. The most-recent year for which data were available for both the number of youth in residence for status offenses on census day and the number of youth committed by the courts for status offenses was 2010 *(see Table 1 for details)*.

Table 1. Number of Status Offenders: *Census and Court Commitments*, Selected Years

	2007	2009	2010	2011
Census Count of Committed Youth	2,486	NA	2,281	1,687
Juvenile Court Commitments	9,700	6,500	6,100	NA
Estimated Total No. of Committed Youth in Confinement			8,404	6,215

According to the 2010 *Census*, 2,281 committed youth were confined in residential facilities in October 2010 for status offenses. During the entire year 2010, however, juvenile courts committed far more youth to confinement for status offenses —6,100 to be precise—than were accounted for by the 2010 *Census*.

That's not all. As indicated above, in addition to status offenders who were committed and confined in 2010, other youth who were committed and confined in 2009 by the courts, and who remained confined in 2010, should be included in the 2010 estimate of the number of status offenders who were in residential facilities sometime during 2010. Ideally, we would use an October 2009 *Census* as a proxy for the number of the status offenders who were confined for some periods during both 2009 and 2010. Unfortunately, however, a census was not conducted in 2009.

In the absence of 2009 census data, we examined data from the 2007 and 2010 *Censuses* and the 2007, 2009, and 2010 editions of *Juvenile Court Statistics* to determine the relationship between annual Census counts and the number of youth committed by the courts. That relationship would enable us to generate a working estimate of the likely number of status offenders confined in 2009 who remained in confinement in early 2010.

In 2007, 2,486 committed status offenders were counted in the 2007 *Census* while 9,700 status offenders were committed by the courts. In 2010, 2,281 committed status offenders were counted in the 2010 *Census* and 6,100 status offenders were committed to confinement by juvenile and family court judges. In other words, a decline of 3,600 status offenders committed by the courts between 2007 and 2010 is associated with a decline of 18 status offenders reported by the *Census*. That means that every reduction of 17.6 committed status offenders was associated with a reduction of one status offender in the *Census*. Between 2009 and 2010, the number of status offenders committed by the courts declined from 6,500 to 6,100, or by 400 youth. If we apply the 17.6-to-1 ratio for the 2007-2010 period to the 2009-2010 data, we project that in 2009, had a *Census* been conducted, it would have found 23 fewer status offenders than in 2010, or a total of 2,304 (400 divided by 17.6 is equal to 23).

Adding 2,304 to 6,100 results in an estimated total of 8,404 committed youth who were confined at some point in 2010 for status offenses. That total is equal to 3.68 times the number of confined status offenders (i.e., 2,281) counted by the *Census*.

We assume that the 3.68 multiplier derived for 2010, in the absence of 2010 juvenile court statistics, provides a working estimate of the relationship between the *Census* count and the total number of committed status offenders in confinement for 2011. In October 2011, according to the *Census*, 1,687 committed status offenders were in residential facilities. Multiplying 3.68 by 1,687 yields an estimated total of 6,215 committed youth who experienced confinement sometime in 2011 for status offenses. Based on this estimate, the 2011 *Census* accounted for only about 27 percent of the total number of committed youth who spent time in residential facilities during 2011 for status offenses.

2. Confinement Trends over Time

Most of the trends that can be extracted from **Tables 2 and 3** and **Figures 1 and 2** (*next page*) are fairly encouraging and indicate an acceleration of the trend in reducing reliance on incarceration for status offenses that occurred in the late-20th century. The key favorable findings include the following:

- Between 2001 and 2011, the number of status offenders in confinement declined by 52 percent, compared to a 37 percent decline between 1985 and 1997, when juvenile courts relied more heavily on punitive measures for all offenses.

- The annual rate of decline between 2001 and 2011 (5.2%) was faster than the 4.3 percent annual rate of decline between 1997 and 2011, indicating that the pace of the decrease accelerated after the year 2000.

- Between 2001 and 2011, the reductions in confinement for individual status offenses were relatively consistent across those offenses, varying from 42 percent for curfew violation to 57 percent for incorrigibility.

Table 2. Number of Youth in Confinement for Status Offenses, by Type of Offense, U.S., 2001

	Total in Residential Placement	Committed Youth	Detained Youth
Running away	1,011	679	251
Truancy	763	629	116
Incorrigibility	1,826	1,444	299
Curfew violation	106	74	20
Underage drinking	461	357	98
Other status offenses	531	290	234
All status offenses	**4,698**	**3,473**	**1,018**

Table 3. Number of Youth Confined for Status Offenses, by Type of Offense, U.S., 2011

	Total in Residential Placement	Committed Youth	Detained Youth
Running away	486	314	148
Truancy	389	317	65
Incorrigibility	788	632	140
Curfew violation	61	45	14
Underage drinking	259	212	47
Other status offenses	256	167	85
All status offenses	**2,239**	**1,687**	**499**

Not all of the findings are as encouraging however. For example, in 2011, status offenses still accounted for 4 percent of all offenses of youth in residential placement, the same as in 2001. Unlike the 1985-1997 period, when the number of youth in residential placement for status offenses decreased and bucked the trend of strong *increases* in residential placement for other offenses, the more-recent trend for status offenses is more or less following the trend for other offenses. In other words, status offenses may not have been given a unique non-incarceration "status" among juvenile offenses during the 2001-2011 period.*

Table 4 sheds additional light on this question. Key findings from the table include:

Table 4. Number of Youth in Confinement for Status Offenses, by Type of Offense, U.S., 2010

	Total in Residential Placement	Committed Youth	Detained Youth
Running away	535	327	136
Truancy	643	511	82
Incorrigibility	1,080	863	151
Curfew violation	65	56	5
Underage drinking	402	345	51
Other status offense	291	179	74
All status offenses	**3,016**	**2,281**	**499**

- Between 2001 and 2010, as indicated by Tables 3 and 5, the percentage decline in youth confined for status offenses (36%) was about the same as the percentage decline in youth confined for all offenses (32%). In other words, although there was more than a 3 percent decline in status offenders in confinement per year, status offenses were not targeted for greater-than-average declines even though those youth committed no criminal offenses.

- It was not until 2011 that a surge in reduction of confinement for status offenders occurred. Between 2010 and 2011, the percentage decline in status offenders in confinement (26%) was double the pace of decline in confinement for all offenses (13%).

- However, the entire decline in the number of youth in confinement as status offenders between 2010 and 2011

* For example, the number of youth committed to residential placement for status offenses between 2001 and 2011 declined by 52% while the number of youth committed for all delinquency offenses declined by 45% during the same period.

Figure 1. Trend in Confinement of Committed Status Offenders, 2001-2011

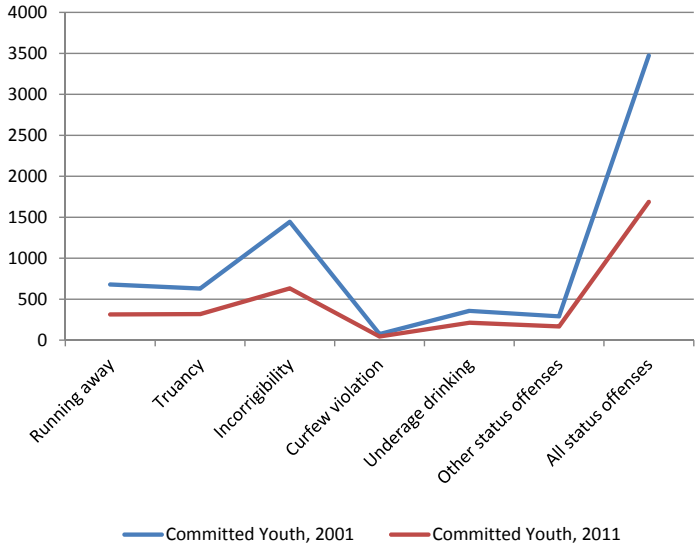
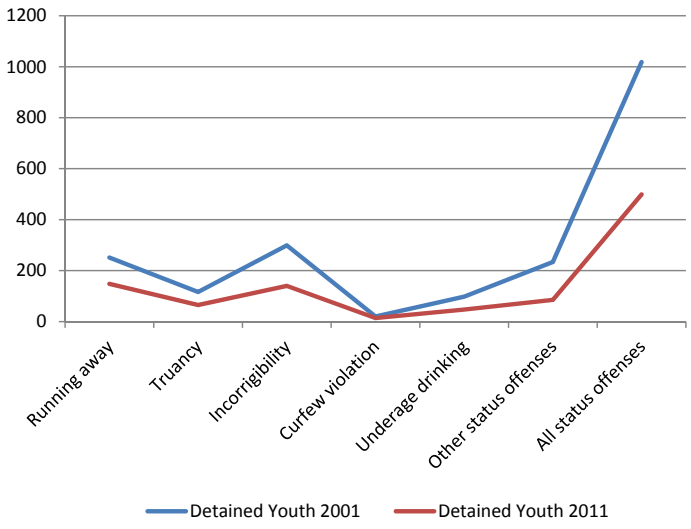


Figure 2. Trend in Confinement of Detained Status Offenders, 2001-2011



was for youth *committed* by the courts after being found guilty. There was no decline in the number of youth detained for status offenses prior to adjudication.

An answer to the question of whether the 2010-2011 period represents an aberration or will become the beginning of a new accelerated trend in the reduction of confinement for status offenses will have to wait until 2012 confinement data become available from OJJDP.

The Flow of Status Offenders into the Juvenile Court Pipeline

The journey from a youth's misbehavior to his or her commitment to a juvenile residential facility by a juvenile court judge for a status offense comprises multiple decision points. Along the way, there are numerous opportunities to address the behavior using an approach other than confinement.*

Once a youth has been taken into custody by law enforcement for an alleged status offense, a decision has to made about whether to place the youth under the jurisdiction of the local juvenile court or divert the youth back to the custody of the parents with an agreement about what the parents will do to keep the youth out of the juvenile justice system. In some cases, that understanding includes referral to a human services agency to assist the youth in reducing the risk of repeating the offending behavior. The extent to which community services are viewed as the first option, rather than referral to the court system, varies from state to state. Some states have adopted procedures that mandate that the status offender's diversion to youth community services take priority over court referral.

If the youth is referred to juvenile court and if the court's intake staff, after assessing the circumstances of the alleged status offense, decides that the youth should be brought before a judge, a court petition is filed requesting an adjudicatory hearing. Once the case comes before the court, a judge has the option to dismiss the case or find the youth guilty (i.e., adjudication) of the alleged offense. Adjudicated cases can lead to one or more of the following dispositions: diversion (i.e., referral of the youth to services in the community); orders of restitution or community service; placement of the youth on probation; or commitment of the youth to a juvenile residential facility.

In 2010, in 76,200 (or 56%) of the 137,000 petitioned status offense cases in the U.S. (down from 60% in 2000), youth were adjudicated as status offenders. In those adjudicated cases, 6,100 youth (or 8% down from 12% in 2000) were placed in a residential facility, 40,400 (53%) were placed on probation, and 29,700 (39%) were given other sanctions, such as community service or restitution.

* *See* Kendall (2007) for a description of the process of moving status offenders through the juvenile justice system.

Similar breakdowns for five types of status offenses are provided in **Tables 5 and 6** for the years 2000 and 2010, the last year for which data are available.

Some key conclusions drawn from the 2000 and 2010 data:

- Although the number of petitioned (i.e., court processed) status offenses cases in 2010 (137,000) was 31 percent lower than the number in the year 2000, there were still a significant number of youth being channeled into the juvenile justice system for status offenses beyond what would be expected based on a policy of using incarceration as an exception in a narrow set of cases. This is occurring despite the fact that the number of petitioned status offense cases peaked in 2002, after a steep increase throughout the late-1990s, and has been declining ever since.

- On the other hand, for status offenses as a group, juvenile courts diverted a higher percentage of cases away from confinement in 2010 than they did in the year 2000. The percentage of adjudicated youth who were committed by courts to confinement dropped significantly between 2000 and 2010.

Conclusion and Recommendations

The findings in this report suggest that, as a nation, while we have made significant progress in reducing confinement of status offenders, there remains a great deal of work to be done to shift away from confinement as the means of responding to these behaviors. Although the numbers of status offenders detained or committed to confinement have declined substantially since the year 2001, we estimated that nearly ten thousand youth each year are still being confined in the U.S. for offenses that would not be considered crimes if committed by an adult. Given the non-serious nature of those offenses and the fact that community based alternatives are much less-expensive, more-effective, and avoid the damage incarceration and other types of residential placement does to status offenders, the continued confinement of thousands of youth for status offending represents one of the major shortcomings of the nation's juvenile justice systems.

This mixed bag of progress and stagnation is compounded by two separate limitations of the federal *Census* data: 1) since the one-day *Census* count is not designed to capture the net annual flow of youth through residential facilities, it captures only about one-fourth of the committed status offenders in

Table 5. Court Dispositions for Various Types of Status Offense Cases in the U.S., 2000

Court Action	Curfew	Runaway	Truant	Ungovernable	Liquor Law Violation
% petitioned who were adjudicated	60	44	60	54	62
% petitioned who were committed to residential placement	3	9	6	11	7
% adjudicated who were committed to residential placement	5	20	10	20	12

Table 6. Court Actions for Various Types of Status Offenders in the U.S., 2010

Court Action	Curfew	Runaway	Truant	Ungovernable	Liquor Law Violation
% petitioned who were adjudicated	64	38	54	58	60
% petitioned who were committed to residential placement	2	7	4	8	4
% adjudicated who were committed to residential placement	2	18	8	14	7

confinement sometime during the calendar year; and 2) the status offender *Census* count does not distinguish detainees confined on the 2011 Census day as a result of the VCO exception from detainees confined for other technical violations.*

Based on these findings, significant progress has been made in reducing the number of incarcerated status offenders since the turn of the new century. However, far too many youth are still sent through the juvenile justice system and ultimately placed in a residential facility for status offenses.

Although they are ostensibly brought to court because their families, their teachers and school principals, and other community authority figures cannot manage their behavior, the rationales for confinement typically do not apply to status offenders. Unlike more-serious offenses, status offenses taken alone do not jeopardize public safety, inflict harm on persons, or result in loss of property. In some instances, status offenders are confined because relevant treatments available in residential facilities are not available in the community. Be that as it may, that remains an unacceptable condition for confinement of status offenders. States and local communities lacking sufficient community based programs have the responsibility of reversing that situation promptly given the potential negative consequences, discussed elsewhere in this report, of placing youth who have not exhibited criminal behavior in confinement with serious offenders.

In the case of violations of VCOs, the same general principles apply. Only in VCO cases in which status offenders have a prior violent non-status offense or another type of non-status offense and can be shown, through a validated risk assessment, to pose a high-risk of delinquent behavior and, therefore, are a threat to public safety, should they be considered appropriate for placement in secure detention. Risk assessment instruments are widely available, "structured tool[s] that combine information about youth to classify them as being low, moderate or high risk for reoffending or continued delinquent activity, as well as identifying factors that might reduce that risk on an individual basis." These tools can be used by detention facilities to which youth are moved after being arrested, and by law enforcement officers in the field or by phone.[27] Although risk assessment tools alone do not tell an evaluator whether or not to detain youth, they provide the information about risks necessary to make that decision.[28]†

In view of these conclusions and the detailed findings of this report, we offer the following four policy recommendations for states, which, if adopted, would go a long way toward improving the nation's juvenile justice system:

- The family should be the first line of defense for dealing with status offenses when possible. Educational, mental health, child welfare and other systems are best suited to complement and strengthen the family's capacity to adjust these behaviors. They should be the first choice for local officials in dealing with status offenders when possible, rather than moving them through the juvenile justice system, including instances in which, detention is being considered for youth who are without a home or home environment which has been determined to be abusive and/or a contributor to their delinquency.

- States that allow the secure detention of status offenders for VCOs should restrict this judicial authority beyond a 24- to 72-hour grace period to instances where the youth has a prior violent non-status offense ***or*** another prior non-status offense and a validated assessment indicates they pose a high-risk of violence that cannot be addressed through any other available alternative.

- States and counties should redirect some of the savings from reducing reliance on confinement of status offenders, after such savings have been accrued and verified, to support proven approaches for dealing with such youth, including JDAI, functional family therapy, multi-systemic therapy, day and evening reporting centers, mental health and substance abuse treatment, problem-solving courts, and electronic monitoring. By redirecting some of the savings from avoided confinement costs, policymakers can ensure improved outcomes for these youths, the public, and taxpayers.

* Hundreds of additional detainees on the day of the *Census* likely mean more than a thousand additional detainees throughout the calendar year.

† There is an extensive literature on the use of risk assessments in determining the best approaches to addressing youth offenders, including the decision whether offending youth should be detained, diverted to non-detention community based programs or released to their families. For examples of those studies, see the review in: Lipsey, Mark et al. "Improving the Effectiveness of Juvenile Justice Programs: A New Perspective on Evidence-based Practice." Center for Juvenile Justice Reform: Georgetown University (Dec. 2010).

- Finally, states should reexamine the scope of status offenses to ensure that they are not criminalizing conduct that does not warrant criminal sanction or can better be handled through other means. For example, in 2011 Texas lawmakers adopted SB 1489, which among other things exempted from the truancy statute those at or above the compulsory high school age of 18 who voluntarily choose to return to high school but subsequently decide to leave.[29] Some of these young adults may initially re-enroll but then find a job, which having become an adult is their choice to make for better or worse, not that of the government. It is also important to ensure that status offenses such as truancy and daytime curfew laws are not overbroad, sweeping in those who are legitimately engaged in home-schooling or blended learning programs. ★

Endnotes

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