

DRAWBACKS OF JUVENILE JUSTICE ACT, 2000

By Nishant Talwar⁴⁸⁵ & Arpit Pathak⁴⁸⁶

ABSTRACT

Juvenile refers to the Minor, like in India under Section 2(l) of the JJ Act defines a juvenile as any child who has not yet completed eighteen years of age. So Juvenile Justice means the justice been provided to a minor person. In India any crime been committed by a juvenile is been governed under Juvenile Justice (Care and Protection of Children) Act, 2000, and according to the Section 15(1)(g) Juvenile Justice Act further states that a juvenile convicted of any offence can be sentenced to be sent to a special home for a period of three years, maximum and thereafter be released on probation. But now a days it had emerged as a threat to the society, now a days it is been used as an excuse to prevent a person from punishment against the crime which he had committed. The major drawback of the Juvenile Justice was experienced recently in the Nirbhaya Rape Case, where one of the accused who brutalized the young girl, was a minor of 17 years. Reports have shown that it was the minor who first lured the unsuspecting victims into the bus and that he was the most aggressive in the repeated rape of the victim, so the major problem which the court faced in the following case was the fact that the main accuse happens to be a juvenile and according to Section 15(1)(g) the maximum time that he shall serve is three years or 1095 days in a special rehabilitation home.

Another major problem which needs to be rectified is detention of a child which in spite of protecting a child from the committing a crime, influences and inspires a child for committing further crimes and this has emerged as a threat to the society on much greater extent.

So through the following article we will try to bring out the major problems been faced by the JJ Act or the major areas which needs improvement within the Act and what are the steps which need to be taken in order to rectify such problems, so that Juvenile Justice is not been used as an excuse but should contribute as a merit to the society.

Section 15 &16 of JJ Act

15. Order that may be passed regarding juvenile.-

⁴⁸⁵ 4th Year BA LLB Student, University of Petroleum and Energy Studies Dehradun

⁴⁸⁶ 4th Year BA LLB Student, University of Petroleum and Energy Studies Dehradun

(1) Where a Board is satisfied on inquiry that a juvenile has committed an offence, then, notwithstanding anything 7 to the contrary contained in any other law for the time being in force, the Board may, if it thinks so fit, -

(a) allow the juvenile to go home after advice or admonition following appropriate inquiry against and counselling to the parent or the guardian and the juvenile;

(b) direct the juvenile to participate in group counselling and similar activities;

(c) order the juvenile to perform community service;

(d) order the parent of the juvenile or the juvenile himself to pay a fine, if he is over fourteen years of age and earns money;

(e) direct the juvenile to be released on probation of good conduct and placed under the care of any parent, guardian or other fit person, on such parent, guardian or other fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and well-being of the juvenile for any period not exceeding three years;

(f) direct the juvenile to be released on probation of good conduct and placed under the care of any fit institution for the good behaviour and well-being of the juvenile for any period not exceeding three years;

(g) make an order directing the juvenile to be sent to a special home for a period of three years;

Provided that the Board may, if it is satisfied that having regard to the nature of the offence and the circumstances of the case, it is expedient so to do, for reasons to be recorded, reduce the period of stay to such period as it thinks fit.

(2) The Board shall obtain the social investigation report on juvenile either through a probation officer or a recognized voluntary organization or otherwise, and shall take into consideration the findings of such report before passing an order.

(3) Where an order under clause (d), clause (e) or clause (f) of sub-section (1) is made, the Board may, if it is of opinion that in the interest of the juvenile and of the public, it is expedient so to do, in addition make an order that the juvenile in conflict with law shall remain under the supervision of a probation officer named in the order during such period, not exceeding three years as may be specified therein, and may in such supervision order impose such conditions as it deems necessary for the due supervision of the juvenile in conflict with law.

Provided that if at any time afterwards it appears to the Board on receiving a report from the probation officer or otherwise, that the juvenile in conflict with law has not been of good behaviour during the period of supervision or that the fit institution under whose care the juvenile was placed is no longer able or willing to ensure the good behaviour and well-being of the juvenile it may, after making such inquiry as it deems fit, order the juvenile in conflict with law to be sent to a special home.

(4) The Board shall while making a supervision order under sub-section (3), explain to the juvenile and the parent, guardian or other fit person or fit institution, as the case may be, under whose care the juvenile has been placed, the terms and conditions of the order and shall forthwith furnish one copy to the supervision order to the juvenile, the parent, guardian or other fit person or fit institution, as the case may be, the sureties, if any, and the probation officer

16. Order that may not be passed against juvenile.-

(1) Notwithstanding anything to the contrary contained in any other law for the time being in force, no juvenile in conflict with law shall be sentenced to death or imprisonment for any term which may extend to imprisonment for life, or committed to prison in default of payment of fine or in default of furnishing security;

Provided that where a juvenile who has attained the age of sixteen years has committed an offence and the Board is satisfied that the offence committed is of so serious in nature or that his conduct and behaviour have been such that it would not be in his interest or in the interest of other juvenile in a special home to sent him to such special home and that none of the other measures provided under this Act is suitable or sufficient, the Board may 8 order the juvenile in conflict with law to be kept in such place of safety and in such manner as it thinks fit and shall report the case for the order of the State Government.

(2) On receipt of a report from a Board under sub-section (1), the State Government may make such arrangement in respect of the juvenile as it deems proper and may order such juvenile to be kept under protective custody at such place and on such conditions as it thinks fit;

Provided that the period of detention so ordered shall not exceed in any case the maximum period provided under section 15 of this Act.

The logical problems with the Juvenile Justice Act in India

The brutal Delhi gangrape case has brought forth a new aspect of criminality that India's justice system needs to address urgently. One of the accused, as per police record and, according to reports, the most aggressive of the lot who brutalised the young girl, is a minor of 17 years. Reports have shown that it was the minor who first lured the unsuspecting victims into the bus and that he was the most aggressive in the repeated rape of the victim.⁴⁸⁷

In India the sentencing and trial of juvenile offenders is mandated and governed by the Juvenile Justice Act 2000. Section 1(4) mandates that all cases involving detention, prosecution, penalty and sentence of imprisonment involving juveniles shall be governed by the Juvenile Justice Act. Section 2(l) defines a juvenile as any child who has not yet completed eighteen years of age. Section 15(1)(g) of the JJ Act further mandates that a juvenile convicted of any offence can be sentenced to be sent to a special home for a period of three years, maximum and thereafter be released on probation.

What this boils down to is the fact that in case the accused happens to be a juvenile the maximum time that he shall serve is three years or 1095 days in a special rehabilitation home.

Before venturing into the merits and demerits of the Indian Juvenile Justice system it would be prudent to see how the Western world deals with juveniles accused of horrendous crimes.

A somewhat similar, yet if possible more horrific situation, arose in England in the now infamous James Bulger Case in 1993.⁴⁸⁸ The two accused and convicted of torturing and murdering a two year old child were both 10 years old at the time of the offence. They were tried as adults and convicted for life with a minimum sentence of eight years.⁴⁸⁹

Police personnel look on as a vehicle, which is believed to be carrying the accused in a gangrape and murder case, arrives at an entrance to Saket District Court in New Delhi. AFP

In England, the age of criminal responsibility, is set at 10 years. This means that any individual above the age of 10 is considered fully aware of the difference between right and wrong. In case of a juvenile offender, he/she can either be tried as a juvenile or as an adult, depending again on the heinousness of the crime. In case the offender is tried as an adult the Crown Court (the UK version of a criminal court) has in its discretion to award the maximum amount of punishment as would be awarded to an adult.

⁴⁸⁷ <http://timesofindia.indiatimes.com/city/delhi/Juvenile-deserves-death-sentence-Nirbhaya-mother/articleshow/18001023.cms>

⁴⁸⁸ http://en.wikipedia.org/wiki/Murder_of_James_Bulger

⁴⁸⁹ <http://www.telegraph.co.uk/news/uknews/crime/7357185/James-Bulger-murder-timeline.html>

Similarly in the United States the case of *Kent v The United Case* in 1966,⁴⁹⁰ saw a juvenile, who was convicted of house breaking robbery and rape, tried as a major. He was sentenced to thirty to ninety years behind bars.

In fact, the United States has drawn a clear distinction between juveniles as victims of an unresponsive society and those who are fully aware of the heinousness of their crimes. The legislation of the country allows in certain cases, keeping in mind the heinousness of the crime committed, to try juvenile offenders as adults. The justification offered behind this waiver is to recognise the inherent and all important principle of *Mens Rea* or guilty conscience.

This waiver of jurisdiction by the Juvenile Board is brought about by a clear understanding that in certain cases the board may not be adequately equipped to handle the offender, particularly one who committed the crime knowing fully well the consequences of his/her actions.

Another justification offered is the prime responsibility of the State to protect society from such offenders. By waiving its jurisdiction the juvenile court recognizes that the offender is beyond the scope of juvenile rehabilitation and legitimizes the waiver of jurisdiction as a means of protecting society at large from the offender.

Australia too follows a system similar to the United Kingdom. The age for criminal responsibility in Australia is also 10 years, which means a child is not supposed to know the difference between right and wrong if he/she is below 10 years. From 10 years to 14 years an accused comes under what is called 'rebuttable presumption', this means that by default the child is supposed to be unaware of the consequences and inherent illegality of the act committed, however the prosecution is free to rebut this understanding. Any individual over 14 years of age is held accountable of any crime committed by him and whether the individual is to be tried as a minor or an adult depends again on the heinousness of the crime.

Coming back to India and the Juvenile Justice Act 2000, it is easy to notice that rather than have a flexible procedure for sentencing we have opted for a rigid and sweeping one. This is a system in which the maximum amount of sentence served by a delinquent who say partakes in armed robbery in order to feed himself is the same as the one given out to a serial rapist or murderer; just so long both are under eighteen years of age.

⁴⁹⁰ Kent v The United Case in 1966 :
http://www.law.cornell.edu/supct/html/historics/USSC_CR_0383_0541_ZO.html

The biggest reason for our current system is the supposed rehabilitation of the offenders. A glimpse of this may be found in the rechristening of the word offender to 'Juvenile in conflict with the law'. While the swanky name change is an earnest and somewhat romantic gesture at our societies' endeavor in recognizing and unleashing the 'good' within each child, there is an inherent problem with the term of the sentence. There is no logical or scientific reason which shows that total and complete rehabilitation can be achieved by a delinquent/ offender/ child in conflict with the law within a maximum period of three years.

In the case of the Delhi rapist, even if one were to say that the boy needs to be rehabilitated and that perhaps the reason for his barbaric and animalistic act was a deep-rooted psychological problem, there is no assurance that the issue can be dealt with in three years.

Of course, the absolute lack of implementation of the provisions of the JJ Act after a juvenile completes his sentence is another concern. India's massive population makes it impossible to track and ensure that a juvenile once released continues with his therapy or even reports regularly to his parole officer.

With this basic and undeniable truth it is a matter of simple calculation that in all probability the Delhi rapist shall be on the streets within the next three years that's 1095 days with nothing more than a stint in a special home in the name of absolute and complete Rehabilitation.⁴⁹¹

Congregating delinquent youth together negatively affects their behavior and increases their chance of re-offending

Behavioral scientists are finding that bringing youth together for treatment or services may make it more likely that they will become engaged in delinquent behavior. Nowhere are deviant youth brought together in greater numbers and density than in detention centers, training schools, and other confined congregate "care" institutions.

Researchers at the Oregon Social Learning Center found that congregating youth together for treatment in a group setting causes them to have a higher recidivism rate and poorer outcomes than youth who are not grouped together for treatment. The researchers call this process "peer deviancy training," and reported statistically significant higher levels of substance abuse, school difficulties, delinquency, violence, and adjustment difficulties in adulthood for those youth treated in a peer group setting. The researchers found that "unintended consequences of grouping children at-risk for externalizing disorders may include negative changes in attitudes

⁴⁹¹ <http://www.firstpost.com/india/the-logical-problems-with-juvenile-justice-in-india-586874.html>

toward antisocial behavior, affiliation with antisocial peers, and identification with deviancy.”⁴⁹²

Parents have always warned teenagers against falling in with the wrong crowd, those kids they consider bad influences. Now a new study of juvenile detention in Montreal adds to the evidence that Mom and Dad may have a point.

Researchers found that rather than rehabilitating young delinquents, juvenile detention — which lumps troubled kids in with other troubled kids — appeared to worsen their behavior problems. Compared with other kids with a similar history of bad behavior, those who entered the juvenile-justice system were nearly seven times more likely to be arrested for crimes as adults. Further, those who ended up being sentenced to juvenile prison were 37 times more likely to be arrested again as adults, compared with similarly misbehaved kids who were either not caught or not put into the system

"It's much worse than we would have expected," says Richard Tremblay, a psychology professor at the University of Montreal and a co-author of the study, which was published in the *Journal of Child Psychology and Psychiatry*. "By having them live together, they form relationships. It's more likely to increase the problem."

The 20-year study followed 779 low-income youth in Montreal with annual interviews from age 10 to age 17, then tracked their arrest records in adulthood. Researchers also interviewed the teenagers' parents, schoolmates and teachers. The study accounted for variables such as family income, single-parent-home status and earlier behavior problems (such as hyperactivity) that are known to affect delinquency risk.

Kids who entered the juvenile-justice system even briefly — for example, being sentenced to community service or other penance, with limited exposure to other troubled kids — were twice as likely to be arrested as adults, compared with kids with the same behavior problems who remained outside the system. Being put on probation, which involves more contact with misbehaving peers, in counseling groups or even in waiting rooms at probation offices, raised teens' odds of adult arrest by a factor of 14.

The rehabilitation of troubled teens has long been a contentious issue, pitting the individual needs of problem children and families against a system that does not typically give social

⁴⁹² Dishion, T. J., McCord, J., and Poulin, F. (1999), "When Interventions Harm: Peer Groups and Problem Behavior." *American Psychologist* Vol. 54, No. 9 755-764.

workers adequate tools or resources to help. Often, the treatment of difficult or drug-using teens occurs en masse — in residential homes, for example — but instead of scaring kids straight, the group experience tends to glamorize delinquency and drug use.

Past research has also shown that peer exposure can worsen behavior. In a 1995 study conducted by Dishion involving 158 high-risk families in Oregon, researchers compared the impact on teens' behavior of four interventions: parenting groups focused on effective discipline, social-skills-training groups for teens, both the parent- and teen-focused group interventions, or no group treatment at all. Overall, the parent-focused group was most effective, leading to reductions in teen smoking and misbehavior at school. The teen-focused group, by contrast, significantly increased participants' rate of aggressive behavior and smoking; in the combination group, kids showed no improvement, presumably because the exposure to other teens canceled out the positive effect of the parents.

The new study supports these findings, suggesting that family therapy or one-on-one counseling — or any intervention that doesn't aggregate troubled teens — is safer and more likely to be effective than group activities. But if groups must be used, experts say that high supervision and low child-to-staff ratios are essential to minimize the risk of behavior contagion.⁴⁹³

Detention pulls youth deeper into the juvenile and criminal justice system

Similar to the comment by the San Jose police chief, studies have shown that once young people are detained, even when controlling for their prior offenses, they are more likely than non-detained youth to end up going “deeper” into the system; these studies show that detained youth are more likely to be referred to court, see their case progress through the system to adjudication and disposition, have a formal disposition filed against them, and receive a more serious disposition.

A study done in Florida in the late 1980s found that, when controlling for other key variables such as age, race, gender, and offense severity, detained youth faced a greater probability of having a petition filed at intake (6.2 percent), a greater probability for having a petition filed by the State Attorney (9 percent), and a greater probability of receiving formal judicial interventions (8.5 percent) than youth not detained. Another study in Florida by the Office of State Court Administrators found that when controlling for other factors—including severity

⁴⁹³ Why Juvenile Detention Makes Teens Worse :
<http://content.time.com/time/health/article/0,8599,1914837,00.html>

of offense—youth who are detained are three times more likely to end up being committed to a juvenile facility than similar youth who are not detained.⁴⁹⁴

Detention makes mentally ill youth worse

Another reason for the rise in the prevalence of mental illness in detention is that the kind of environment generated in the nation's detention centers, and the conditions of that confinement, conspire to create an unhealthy environment. Researchers have found that at least a third of detention centers are overcrowded,⁴⁹⁵ breeding an environment of violence and chaos for young people. Far from receiving effective treatment, young people with behavioral health problems simply get worse in detention, not better. Research published in *Psychiatry Resources* showed that for one-third of incarcerated youth diagnosed with depression, the onset of the depression occurred after they began their incarceration.⁴⁹⁶ “The transition into incarceration itself,” wrote one researcher in the medical journal, *Pediatrics*, “may be responsible for some of the observed [increased mental illness in detention] effect.”⁴⁹⁷

An analysis published in the *Journal of Juvenile Justice and Detention Services* suggests that poor mental health and the conditions of detention conspire together to generate higher rates of depression and suicide idealization.⁴⁹⁸ 24 percent of detained Oregon youth were found to have had suicidal ideations over a seven-day period, with 34 percent of the youth suffering from “a current significant clinical level of depression.”

An indicator of the shift was spelled out by a 2004 Special Investigations Division Report of the U.S. House of Representatives, which found that two-thirds of juvenile detention facilities

⁴⁹⁴ Frazier, C.E. and Cochran, J.C. (1986), “Detention of Juveniles: Its Effects on Subsequent Juvenile Court Processing Decisions,” *Youth and Society* Vol. 17 No. 3 286-305. Office of State Courts Administrator, Florida Juvenile Delinquency Court Assessment. (2003) Tallahassee, FL: Office of Court Improvements. This study shows that the odds of a previously detained youth receiving commitment are 3.22 times greater than that of a youth who has never been detained.

⁴⁹⁵ Using research from the mid-1980s, the Coalition for Juvenile Justice, two-thirds of the detention centers in the country were crowded. Using research from this data—and after a massive expansion of the detention system—the Office of Juvenile Justice and Delinquency Prevention reports that 32 percent of detention centers are crowded, measured by being at or over standard bed capacity. *Unlocking the Future: Detention Reform in the Juvenile Justice System*. (2003) Washington, DC: Coalition for Juvenile Justice. Synder, Howard N., and Sickmund, Melissa. (2006), *Juvenile Offenders and Victims 2006 National Report*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

⁴⁹⁶ Kashani, J.H., Manning, G.W., McKnew D.H., Cytryn, L., Simonds, J.F. and Wooderson, P.C. (1980), “Depression Among Incarcerated Delinquents,” *Psychiatry Resources* Volume 3 185-191.

⁴⁹⁷ Forrest, C.B., Tambor, E., Riley, A.W., Ensminger, M.E. and Starfield, B. (2000), “The Health Profile of Incarcerated Male Youths,” *Pediatrics* Vol. 105, No. 1 286-291.

⁴⁹⁸ Mace, D., Rohde, P., and Gnau, V. (1997), “Psychological Patterns of Depression and Suicidal Behavior of Adolescents in a Juvenile Detention Facility,” *Journal of Juvenile Justice and Detention Services* Vol. 12 No. 1 18-23.

were holding youth who were waiting for community mental health treatment, and that on any given night, 7 percent of all the youth held in detention were waiting for community mental health services. As one detention administrator told Congress, “we are receiving juveniles that 5 years ago would have been in an inpatient mental health facility. . . [W]e have had a number of juveniles who should no more be in our institution than I should be able to fly.”⁴⁹⁹

Detention puts youth at greater risk of self-harm

While some researchers have found that the rate of suicide in juvenile institutions is about the same as the community at large,⁵⁰⁰ others have found that incarcerated youth experience from double to four times the suicide rate of youth in community.⁵⁰¹ The Office of Juvenile Justice and Delinquency Prevention reports that 11,000 youth engage in more than 17,000 acts of suicidal behavior in the juvenile justice system annually.⁵⁰² Another monograph published by OJJDP found that juvenile correctional facilities often incorporate responses to suicidal threats and behavior in ways that endanger the youth further, such as placing the youth in isolation.⁵⁰³

The Impact of Detention on the Education of Detained Youth

Juvenile detention interrupts young people’s education, and once incarcerated, some youth have a hard time returning to school. A Department of Education study showed that 43 percent of incarcerated youth receiving remedial education services in detention did not return to school

⁴⁹⁹ Committee on Government Reform, Special Investigations Division, Minority Staff (2004) Incarceration of Youth who are waiting for Community Mental Health Services in the United States, Prepared for Sen. Susan Collins, and Rep. Henry A. Waxman.

⁵⁰⁰ There is a debate within the juvenile justice research community surrounding the true suicide rate in juvenile institutions, and how that compares to youth in the community at large. One researcher posits that the suicide rate is no higher in juvenile institutions than what is the rate in the community at large, while another has recently found that it is at least double what is about the same as the rate in the community at large. The reason for the difference reflects a debate among researchers as to how you calculate rates in a correctional population that “turns over” 18 frequently. Others question whether the number of suicides being accounted in more recent studies accurately reflects the true number of suicides in juvenile institutions (Hayes, Personal Communications; 2006). It beyond the scope of this paper to answer which method yields a more accurate reflection of true youth risk of “successful” suicidal behavior—something resulting in a young person’s death, rather than the kind of selfharm behaviors young people engage in when in custody. As the researcher who finds no difference in “free-world” and juvenile custody suicide rates notes, “any suicide in custody is unacceptable. Its circumstances should be investigated and practice adjusted when possible.” Synder, Howard (2005), “Is Suicide More Common Inside Or Outside of Juvenile Facilities,” *Corrections Today*; Gallagher, Catherine A. and Dobrin, Adam. “The Comparative Risk of Suicide in Juvenile Facilities and the General Population: The Problem of Rate Calculations in High Turnover Institutions.” (forthcoming). *Criminal Justice and Behavior*.

⁵⁰¹ Parent, D.G., Leiter, V., Kennedy, S., Livens, L., Wentworth, D. and Wilcox, S. (1994), *Conditions of Confinement: Juvenile Detention and Corrections Facilities*, Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

⁵⁰² Parent, D.G., Leiter, V., Kennedy, S., Livens, L., Wentworth, D. and Wilcox, S. (1994), *Conditions of Confinement: Juvenile Detention and Corrections Facilities*. Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

⁵⁰³ Hayes, L.M. (1999), *Suicide Prevention in Juvenile Correction and Detention Facilities*. Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

after release, and another 16 percent enrolled in school but dropped out after only five months.⁵⁰⁴ Another researcher found that most incarcerated 9th graders return to school after incarceration but within a year of re-enrolling two-thirds to three-fourths withdraw or drop out of school: After four years, less than 15 percent of these incarcerated 9th graders had completed their secondary education.⁵⁰⁵

Young people who leave detention and who do not reattach to schools face collateral risks: High school dropouts face higher unemployment, poorer health (and a shorter life), and earn substantially less than youth who do successfully return and complete school.⁵⁰⁶ The failure of detained youth to return to school also affects public safety. The U.S. Department of Education reports that dropouts are 3.5 times more likely than high school graduates to be arrested.⁵⁰⁷ The National Longitudinal Transition Study reveals that approximately 20 percent of all adolescents with disabilities had been arrested after being out of school for two years.⁵⁰⁸

The Impact of Detention on Employment

If detention disrupts educational attainment, it logically follows that detention will also impact the employment opportunities for youth as they spiral down a different direction from their In one study, 43 percent of incarcerated youth receiving remedial education services did not return to school after release. Another 16 percent enrolled in school but dropped out after only 5 months. Incarcerated youth who received education while incarcerated re-enrolled in school, but dropped out 5 months later 16% Incarcerated youth who received education while incarcerated but did not re-enroll in school 43% Detention May Affect Youth's Ability to Re-enroll in School Other 41% 9 non-detained peers. A growing number of studies show that incarcerating young people has significant immediate and long-term negative employment and economic outcomes.

⁵⁰⁴2 LeBlanc (1991), *Unlocking Learning*; Chapter 1 in *Correctional Facilities*, Washington, DC: US Department of Education.

⁵⁰⁵ Balfanz, R., Spiridakis, K., Neild, R. and Legters, N. (2003), "Neighborhood Schools and the Juvenile Justice System: How Neither Helps the Other and How that Could Change." Presented at the School to Jail Pipeline Conference, Harvard University.

⁵⁰⁶ See finding from the National Dropout Prevention Center, http://www.dropoutprevention.org/stats/quick_facts/econ_impact.htm

⁵⁰⁷ U.S. Department of Education (1994), *Mini-digest of Education Statistics*. Washington, DC: National Center for Education Statistics

⁵⁰⁸ Wagner, M., D'Amico, R., Marder, C., Newman, L., & Blackorby, J. (1992), "What Happens Next? Trends in Postschool Outcomes of Youth with Disabilities," *The Second Comprehensive Report from the National Longitudinal Transition Study of Special Education Students*. Menlo Park, CA, SRT International.

A study done by academics with the National Bureau of Economic Research found that jailing youth (age 16-25) reduced work time over the next decade by 25-30 percent.⁵⁰⁹ Looking at youth age 14 to 24, Princeton University researchers found that youth who spent some time incarcerated in a youth facility experienced three weeks less work a year (for African-American youth, five weeks less work a year) as compared to youth who had no history of incarceration.⁵¹⁰

Due to the disruptions in their education, and the natural life processes that allow young people to “age-out” of crime, one researcher posits, “the process of incarceration could actually change an individual into a less stable employee.”⁵¹¹

A monograph published by the National Bureau of Economic Research has shown that incarcerating large numbers of young people seems to have a negative effect on the economic well-being of their communities. Places that rely most heavily on incarceration reduce the employment opportunities in their communities compared to places that deal with crime by means other than incarceration. “Areas with the most rapidly rising rates of incarceration are areas in which youths, particularly African-American youths, have had the worst earnings and employment experience.”⁵¹²

The loss of potentially stable employees and workers—and of course, county, state, and federal taxpayers—is one of numerous invisible costs that the overuse of detention imposes on the country and on individual communities.

⁵⁰⁹ Freeman, R.B. (1991), *Crime and the Employment Disadvantage of Youth*, Cambridge, MA: National Bureau of Economic Research

⁵¹⁰ Western, Bruce and Beckett, Katherine (1999), “How Unregulated Is the U.S. Labor Market?: The Penal System as a Labor Market Institution,” *The American Journal of Sociology*, 104: 1030-1060

⁵¹¹ Bushway, S.D. (1998), “The Impact of an Arrest on the Job Stability of Young White American Men,” *Journal of Research in Crime and Delinquency* Vol. 34 No. 4 454-479

⁵¹² Freeman, R.B. and Rodgers, W.M. (1999), *Area Economic Conditions and the Labor Market Outcomes of Young Men in the 1990s Expansion*. Cambridge, MA: National Bureau of Economic Research.