Can the Drop in Juvenile Incarcerations Offer Lessons for Adult Policy?

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After a few years of modest decreases in the adult prison populations, states added 6,858 people to prisons, according to the most recent numbers. This uptick (around a 2 percent increase in state prison populations) has occurred despite modest changes to sentencing structures and the implementation of reinvestment strategies.

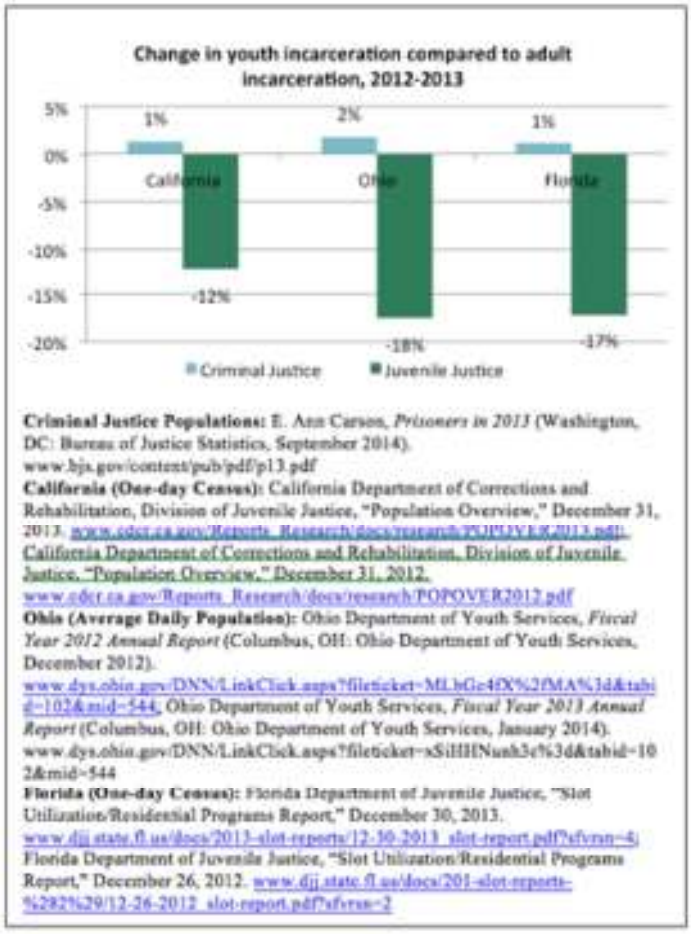
By contrast, states have dramatically reduced the number of young people confined in juvenile justice facilities across the country – a 41 percent decrease between 2001 and 2011.

So what's going on here? Why are we seeing such a profound divergence in trends?

This question needs to be an area of serious discussion. Some researchers in the juvenile justice field have suggested that a drop in juvenile crime could be driving the falling populations. Others have said policy, practice and programmatic reforms have played a significant role.

Analysts at the John Jay College of Criminal Justice Research and the Annie E. Casey Foundation engaged in a thoughtful dialogue about what's driving the youth deincarceration trend—and the role of factors unrelated to reform.

The picture from *three states* – California, Ohio and Florida – shows the scale of the divergence between adult and juvenile confinement trends.



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- **California:** On the adult side, California added 1,770 people to the state's prisons, a 1.3 percent increase, between 2012 and 2013, and saw a 12 percent decline in the number of youth in state secure institutions over the same time frame (from 752 youth incarcerated, to 659 youth incarcerated in the state system). Over a longer time frame, the number of youth in secure placements fell from 4,400 in December 2003 to 659 in December 2013.
- **Ohio** added 853 adults to the state's prisons, a 1.7 percent increase, between 2012 and 2013, and saw an 18 percent decline in youth incarcerated in state juvenile institutions over the same time period (from 649 youth incarcerated, to 535 youth incarcerated in the state system). Over a longer timeframe, the average daily juvenile institutional population was 535 in 2013 compared to 1,811 in 2003.
- **Florida** added 1,098 people to prison between 2012 and 2013, a 1.1 percent increase, and saw a 17 percent decline in the number of youth in residential placements. The number of youth in a residential placement in Florida fell from 2,312 youth, to 1,918 youth in residential placements. Over a longer timeframe, Florida reduced the number of youth in residential placements by 54 percent between 2009 and 2013.

We believe the divergence between adult and youth incarceration rates is actually a result of multiple factors, including the crime drop and the different policy choices being made to drive the juvenile system versus the adult system.

One factor contributing to this divergence is related to long sentences on the adult side. The research shows that when we extend a person's length of stay in prison beyond what any research tells us would change behavior, we are spending money and destroying lives, with virtually no impact on public safety.

Laws like mandatory minimums sentences tie the courts' hands around sentence length; opportunities for earlier release for good behavior have been limited; and the abolition of parole in many states *all* contribute to longer prison terms.

To be sure, there are mandatory minimums that influence the length of time a young person spends confined in a juvenile justice facility; but there are fewer of them, and there are more opportunities to reduce young people's length of stay either by a decision of the courts, or a decision of a juvenile corrections department based on the young person's behavior, their needs, and their potential threat to public safety.

California, Ohio and Florida all have mandatory minimum laws on the books affecting adults (and sometimes, affecting young people tried as adults), but have more flexibility in their juvenile justice systems to tailor a sentence to a young person's needs, and see more young people served at home, or return home faster.

Another driver of the divergence is the sustained effort to increase the funds states allocate to local governments to provide courts more options than simply responding to behavior with prison. On the juvenile side, California, Ohio and Florida have all experimented with creating funding streams to build more options for young people at the local level.

These fiscal incentives mean that courts have more options than just committing a young person to a juvenile facility, and there are more ways to serve youth close to home. California has some limited experience with these

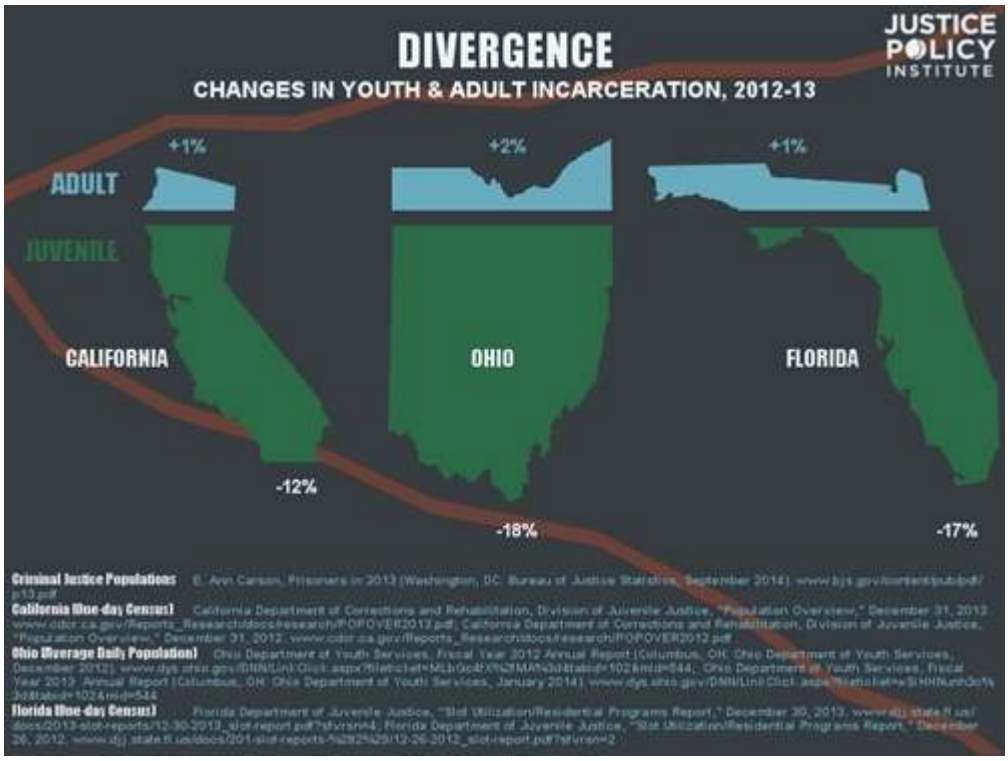
kinds of fiscal incentives on the adult side, but could go much, much further by growing non-incarcerative options on the adult side.

Finally, a significant difference between the design of adult and juvenile justice systems relates to the number of effective diversion options. When we fail to divert people whose primary reason for ending up in the justice system is a drug, alcohol or mental health challenge, or expose people who do not need to be in prison to some of the poor conditions that exist in correctional facilities, we will see them re-cycling through these systems, at great cost.

On the adult side, we should be looking for ways to divert people from the criminal system at every opportunity and as early in the process as possible.

On the juvenile side, in places like Florida and Ohio, young people are diverted at earlier stages of the juvenile justice process and either receive the treatment they need or are held accountable for their behavior without formal system involvement.

To be clear, there is not a "juvenile justice utopia" out there.



There are still far too many young people who have been removed from their communities and families, too many young people locked up when another course of action could have been taken. California, Ohio, Florida, New York and North Carolina are working through the challenges of too many young people being tried as adults and ending up in adult jails and prisons (places that increase the likelihood that a young person will reoffend, and places where they are more likely to come into harm's way).

The fiscal incentives being used to bring down youth incarceration rates on the adult side do not provide enough money to sustain the services that all young people need when they are in the community, including access to strong school, work and treatment opportunities.

Another sign that we haven't arrived at a "youth justice utopia:" not all young people have benefitted. In particular, as the number of youth locked up had gone down, the dramatic racial disparities that exist in our juvenile justice systems have actually been exacerbated, with youth of color representing a larger proportion of those locked up than before.

Put simply, while we have reduced the number of youth incarcerated overall, of those still locked up, a larger proportion are youth of color.

But the divergent trends between adult and juvenile confinement point to some clear encouraging policy choices we have made to respond to young people who come into contact with the justice system, and a failure to be as imaginative on the adult side.

Just as we would want for any of our own family members, we must make incarceration of youth and adults alike the last choice. Every other option has to be the first choice.

Marc Schindler is the Executive Director of the Justice Policy Institute, and previously served as General Counsel and Interim Director at the D.C. Department of Youth Rehabilitation Services, and Partner with Venture Philanthropy Partners. He welcomes comments from readers.

This piece originally appeared on The Crime Report.

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