

# South Dakota Juvenile Justice- Where are we? Where are we going?

By Annie Brokenleg

# What We Know

## Adolescent Development

Adolescents are:

- Biologically wired to take risks
- Predisposed to exercise poor impulse control and judgment.
- These characteristics are made worse by exposure to trauma and violence.

The adolescent brain does not fully develop until the mid to late twenties.



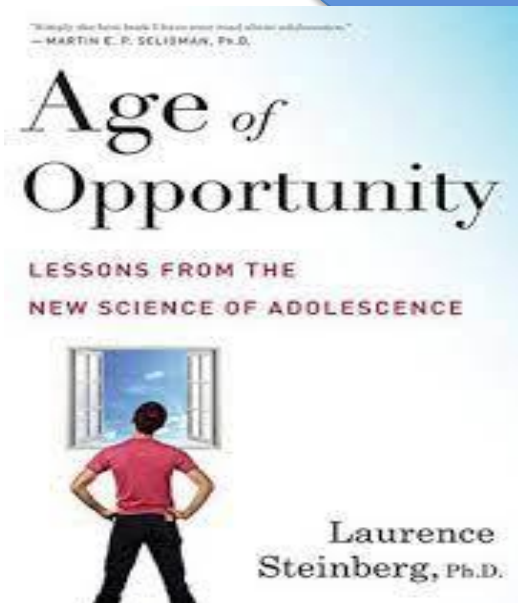
# ***Laurence Steinberg's Age of Opportunity: Lessons From the New Science in Adolescence***

Adolescence is becoming a longer developmental phase- puberty hits sooner, youth taking longer to become "adults"

Why does crime increase during adolescence?  
The Paradox of adolescent health: despite being healthier, stronger, and smarter than children- mortality increases by 200—300 percent in adolescence.

How useful is preventive education?  
Adolescents know what is risky, they just place more value on potential rewards than to risks.

Groups function best when people feel free to share opinions.  
When group members feel they are being judged, research has shown conformity has actually led to worse decision making. Think about adolescents...  
The Folly of Crowds



# Things to Consider: Age of Opportunity

- Social and emotional learning, learning how to self-regulate, is crucial in early adolescence.
  - Incorporating these skills into work with youth is important. Good news- the brain is more malleable in adolescence, meaning learning self-regulation during this time will help through the life span!
- Limit classroom based preventive education- research continues to show it isn't AS effective
  - Research shows that incorporating education on self regulation is much more effective
- Promote authoritative parenting, warm, support, set high expectations
- Limit unstructured and unsupervised time among adolescents- look at expanding after school programs.
- Treat youth who commit crimes as juveniles, not adults. Juvenile sentencing that promotes rehabilitation rather than punishment. Transferring youth to adult systems increases their chance at recidivism.

## Why Diversion?

- Diversion attempts to minimize the effects of labeling youth offenders AND limit opportunities for youth to associate with antisocial peers by reducing their contact with the juvenile justice system
- Research has emerged that indicates the farther youth are processed into the juvenile justice system the chances of re-offending increase
- Court resources should be dedicated to the most high risk youth
- Diversion is a developmentally appropriate response for dealing with most youth misbehavior – while still holding youth accountable



## Diversion across South Dakota

### *Accomplishments-*

**From FY2016 to FY2021- successful diversions have increased by 92%**

	FY2016	FY2021	% change
Successful Diversions	970	1872	92% increase
Unsuccessful Diversions	445	244	35% decrease

### Implementation of a State Diversion Coordinator

- Monthly Peer Conference Calls
- State technical assistance to ensure Diversion programs are grounded in Positive Youth Development approach
- Liaison to help get programs Court Approved
- Annual Diversion and Juvenile Justice Conference events

## **SB 73- Diversion Incentive Fund**

The Department of Corrections shall develop a fiscal incentive program to incentivize county use of diversion opportunities. Beginning on September 1, 2016, any application for funding from the fiscal incentive program shall be submitted to the Department of Corrections before September first each year by a county. The fiscal incentive program includes the following requirements:

- Application that include data on the # of youth referred to diversion annually – as well as the # of youth that successfully completed. Name and location of diversion provider must be included.
- Allotment of funds to counties will be based on # of youth referred to diversion that successfully completed. The Diversion Incentive Fund increased from \$250,000 to \$400,000 in 2019 after recommendation from the JJRI Oversight Committee. In FY2020, counties received \$221.81 per successful diversion, up from \$154.90 in FY2019.
- Payments to counties are transferred around November first each year.

## Diversion in South Dakota cont.

- 40 Court Approved Diversion Programs Across the state
- 30 South Dakota Counties participated in the Fiscal Diversion Incentive Program in FY2021 – 36 counties did not submit reimbursements
- JDAI Sites have had success in increasing diversion and decreasing the amount of youth held in detention – (Brookings, Brown, Codington, Davison, and Yankton)  
**Hughes being added this in 2022**
- Partnered with Council for Juvenile Services to submit Alternative to Detention grants to support Diversion and JDAI Coordinator position
  - Each site has implemented a Court Approved Case Management Diversion program. Average 82% success rate with these programs- including long term offenders.
  - These sites have implemented Conditional Release options and utilized community resources to decrease # of youth held in detention. Counties seeing huge cost savings benefits!





# JDAI- WHAT IS IT?

## ○ JDAI Objectives

- Serving the right youth in the right place at the right time
- Serving youth in the least restrictive setting
- Protecting public safety
- **Reducing racial and ethnic disparities at all decision points**
- Establishing programs that are effective and efficient
- Using data to guide decision making



# The Harms of Juvenile Detention

In detention, youth are pulled out of school and lose access to key educational services, while experiencing worsening mental health conditions. Once released, detained youth are more likely to be found guilty, drop out of school, and become involved with the criminal justice system in the future.

More than 1 in 5 children awaiting adjudication spend time in pre-trial detention.<sup>1</sup>



Involvement with the justice system

Lack of access to education

Poor mental health outcomes



8.5% more likely to be adjudicated guilty<sup>2</sup>

2x more likely to reoffend than non-detained youth<sup>3</sup>



60% do not return to school or dropout within five months<sup>4</sup>

Less & Fewer special education services hours of instruction<sup>5</sup>



Among detained youth diagnosed with depression, 1 in 3 youth developed depression after they entered detention<sup>6</sup>



Parents are often charged with detention fees, which can total over \$600 in some states<sup>7</sup>

DAYS  
22

Average length of stay in pre-trial detention<sup>8</sup>

1.5x

Youth of color are detained 1.5 times more than white youth<sup>9</sup>

- 8.5% more like to be adjudicated
- 2x more likely to reoffend
- 60% do not return to school or dropout within 5 months
- Less access to special education services
- Fewer hours of Instruction

# NJDC

NATIONAL JUVENILE DEFENDER CENTER



# Cost of Detention

## Financial Costs

- Law enforcement officers time to transport youth, taking them away from the community
- Housing a youth at a detention facility
- Cost of transportation to and from detention facility

# Cost Comparison

## Detention

- \$1,400-1,992 Facility Costs
- \$1,200 Round Trip Mileage
- \$300 Law enforcement salary
- **\$2,900-\$3,222** *Total Cost for 7 days of secure detention*

## Alternatives to Detention

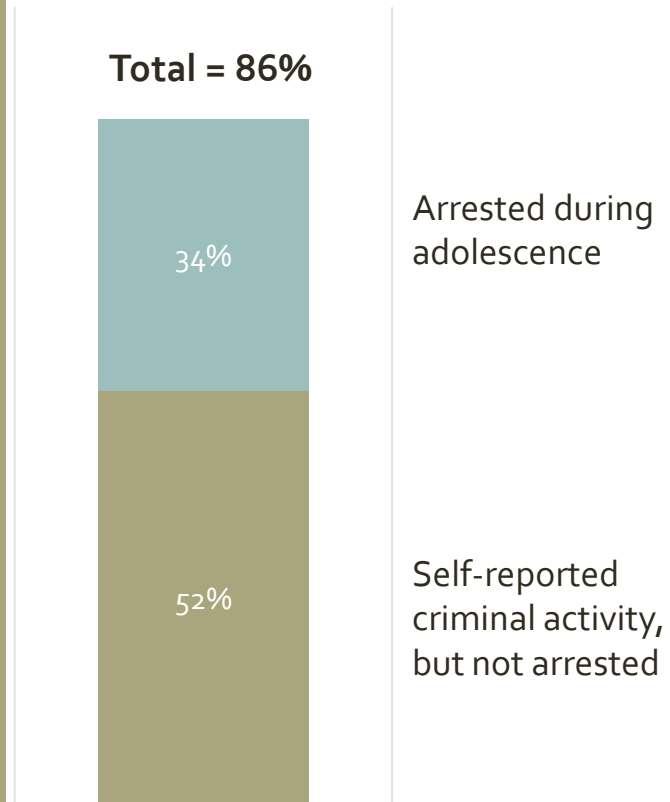
- \$225 Tracker Services
- \$140 Electronic Monitoring
- \$1,260 Shelter Care
- **\$1,625** *Total for all three ATD's for 7 days*

## What are the Costs?

- Youth fall behind with their education
- Youth lose connections with positive peers in exchange for connections with potentially negative peers
- Youth lose connection with family
- Financial costs to families, communities, counties and the state

# Aging Out

## YOUTH SELF REPORTING CRIMINAL ACTIVITY



YOUTH SELF REPORTS

Most youth  
age out of  
criminal  
behavior on  
their own

- ▶ Longitudinal studies begun in the 1950s show **most juvenile offenders age out** of criminal behavior
- ▶ Researchers believe this is because the **transition to young adulthood 'cements' bonds to society** and deters most from continued criminality

# Possibilities

## Alternatives

Possibility

Possibility

Possibility

Possibility

Possibility





The primary purpose of alternatives to detention  
is:

To provide non-secure community-based  
options for youth who would otherwise be  
detained.



## **Next Day Hearing**

- Example of a practice change resulting in fewer youth in custody. Youth can be placed on the next-day court calendar instead of being detained.

## **Evening Reporting Centers**

- Partnership with a school / community provider to provide youth an option for afterschool supervision and life skills.

## **Assessment / Reception Centers**

- utilizes already existing county space with an on call staff member if needed.

- **Emergency Foster Care**

- In Nebraska, South Dakota working on “Court Resource Homes”

## **Katie Buschbach- Davison County Juvenile Diversion and JDAI Coordinator**

- When did your county start tackling juvenile justice reform? What made Davison County want to take on this issue?
- What benefits is your county seeing from juvenile justice reform?
- How have you expanded your diversion efforts and how has this led to improved outcomes for youth in your community?
- What are the challenges to reform efforts?
- What tips do you have for other counties that want to improve juvenile justice systems?



## Juvenile Justice State Updates

- Court Resource Homes as a detention alternative
  - Pilot sites are Brown, Codrington, and Davison
- Tribal Diversion programs
- Legislative summer study to examine gaps in the juvenile justice system across the state
- Dual Status Youth project

# Questions

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