



# DETENTION OF JUVENILES IN ILLINOIS

*Recommendations to Right-Size  
Detention through Reforms and  
Fiscal Incentives to Develop  
Community-Based Alternatives.*



May 4, 2018

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# Executive Summary

Juvenile Detention is jail for kids. Research consistently reveals that even short stays in a juvenile detention facility has negative outcomes, including behavioral health impacts and education disruptions. The studies also consistently reveal that detention actually increases repeat offending.

Yet, state dollars support and encourage the use of detention, by subsidizing detention staff. There is no state plan or fiscal investment to encourage the use of alternatives to detention, despite better outcomes for fewer dollars. Despite the lack of state encouragement, several of the larger counties incorporated policies and practices to reduce reliance on costly out-of-home detention. The results are highly encouraging – lower costs with better outcome and more public safety. It is time for Illinois to encourage all counties with a detention center to make similar shifts by encouraging the development of fiscal incentives for alternatives to detention, thereby reducing the reliance on juvenile detention and making it a last resort.

This report examines the current use of juvenile detention across Illinois, reviews research on the impact from detention of juveniles, and reports on the current state fiscal, oversight and administrative involvement in juvenile detention. The report examines best practices in Illinois and across the nation. Finally, this report includes a series of recommendations to “right-size” juvenile detention in Illinois.

We want to express our gratitude to the Illinois Juvenile Justice Commission, which reports annually on the use of juvenile detention in Illinois. We are particularly grateful to Susan Witkin, who has so capably and generously managed the juvenile detention database (JMIS) over the past two decades.

We also want to acknowledge the debt we all owe to Dr. Linda Teplin and her team at Northwestern University, for her ground-breaking longitudinal research documenting the negative outcomes from juvenile detention. In addition, no report would be complete without gratitude to both the Annie E Casey Foundation for their Juvenile Detention Alternatives Initiative, and to the MacArthur Foundation for their demonstration projects under Models for Change and their Pathways to Desistance Research. We are deeply grateful to the visionary juvenile probation leaders and judiciary who piloted so many successful alternatives to detention across the state. Finally, we are grateful to the National Juvenile Defender Center for their extensive training materials and leadership to ensure that lawyers representing juveniles have the tools and resources necessary to advocate for alternatives to detention and to ensure that detention is used only as a last resort and for as short a time as possible.

# Summary of Recommendations

**RECOMMENDATION #1: Require that juvenile judges and law enforcement exhaust all less restrictive alternatives** before using juvenile detention (as currently required by statute prior to commitment to IDJJ) and insist on annually evaluated, consistent and vetted screening tools to support the discretionary decisions.

**RECOMMENDATION # 2 : Reduce disparities across the state** by creating a data focused plan to addressing all disparities including economic, educational, racial, and geographic, in order to ensure that similarly situated youth are treated equally.

**RECOMMENDATION # 3- Raise the minimum age of detention to 13 across the state** in order to end detention of elementary and middle school age children.

**RECOMMENDATION #4 – Reduce reliance on detention & ensure proportionality by doing the following:**

- Ensure compliance with existing state law prohibiting detention for status offenses.
- Prohibit detention for non-violent offenses including property and drug offenses.
- End the use of detention for violations of probation by utilizing intermediate community based sanctions.

**RECOMMENDATION # 5 – Require 24/7 review of the decision to detain a child.** Ensure there is a panel of trained and resourced lawyers who are available on the weekend across state to be present in person with youth to represent them in detention review hearings.

**RECOMMENDATION # 6 – Ensure public and independent oversight of juvenile detention** through timely and public reporting of the use of detention, through annual policy analysis of the data with recommendations for improvement, and through routine civil monitoring.

**RECOMMENDATION #7 – Revise standards of detention to ensure compliance with national and international best practice and human dignity.**

## Introduction

Illinois, home of the world's first juvenile court, has long been a leader in Juvenile Justice. Illinois has been at the forefront with reforms like Redeploy Illinois to reduce juvenile incarceration by shifting fiscal incentives to community alternatives to juvenile prison. Unfortunately, Redeploy only applies at the back end of a juvenile case at sentencing, not at the beginning when youth are first arrested and detained. When juveniles are first arrested, they are placed in jails that are called juvenile detention centers. These county-run facilities are dependent on state dollars that encourage detention – there is no Redeploy parallel to shift fiscal incentives to encourage local communities to reduce detention utilization.

The State Legislature and local counties have struggled to align juvenile detention with best practice and policies. Legislative proposals range from raising the lower age of detention to addressing the timeliness of detention review. Yet, the lack of a consistent state policy coupled with the handcuff of state funding that subsidizes detention staff, continue to actively encourage the use of juvenile detention.

This policy paper is the result of a series of discussions and research by the Juvenile Justice Initiative. The **Juvenile Justice Initiative** is a statewide, nonprofit policy advocacy organization, dedicated to ensuring that all children in conflict with the law receive fair treatment, with detention as a last result and for as short a time as possible.

This paper examines research to explain why pre-trial detention of juveniles is so harmful, identifies the fiscal incentives that actually encourage detention rather than helping counties build up continuums of community alternatives, reviews counties that successfully reduced reliance on detention by following and implementing nationally acclaimed policies and practices, and ends with a series of recommendations to better align juvenile detention in Illinois with best practice and the most effective policies.

We urge legislators to consider the information and recommendations in this report to create statewide fiscal incentives to encourage best practices to reduce the reliance on juvenile detention.

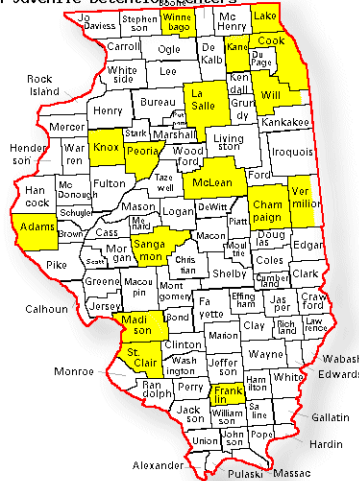
# What is Juvenile Detention? *Answer - Jail for Juveniles*

***Detention for juveniles is the equivalent of jail for adults.***

Juvenile detention facilities are county operated, short-term, locked facilities for the detention of juveniles. Juvenile detention facilities are the equivalent of jails. The facilities have heavy iron doors and juveniles are placed in uniforms, transported in shackles and locked in individual cells. They are subject to discipline including solitary confinement. Programming in detention centers is inconsistent and state standards are minimal.

**Illinois has 16 county operated juvenile detention facilities** (Adams, Champaign, Cook, Franklin, Kane, Knox, Lake, LaSalle, Madison, McLean, Peoria, Sangamon, St. Clair, Vermilion, Will and Winnebago). The State subsidizes detention center staff (\$35.9 million in detention staff reimbursement in SFY16), and the county funds the rest. Some county detention centers further subsidize the detention center operations by charging surrounding counties to detain their juveniles.

Counties with Juvenile Detention Centers



Source: dynmap.net (c)

Juvenile detention centers are intended to temporarily house youth who pose a high risk of re-offending before their trial. In Illinois, that means they pose an “immediate and urgent” risk (705 Ill. Comp. Stat. § 405/5-140). The Illinois Juvenile Justice Commission tracks the use of juvenile detention. In 2016, there were 10,042 juvenile detention admissions. This was down 15% from 2012, and down 54% from 1998. (IJJC 2000 Detention report and 2016 detention comparison report)<sup>1</sup>

<sup>1</sup> *The Status of Juvenile Detention in Illinois, Annual Report, 1998*, National Juvenile Detention Association; [http://ijjc.illinois.gov/sites/ijjc.illinois.gov/files/assets/IJJC\\_2015-2016%20Detention%20Data%20Comparison%20Summary.pdf](http://ijjc.illinois.gov/sites/ijjc.illinois.gov/files/assets/IJJC_2015-2016%20Detention%20Data%20Comparison%20Summary.pdf)

## Research - detention of juveniles is harmful

The National Institute of Justice released a report in October 2016, *The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model* calling for the closure of all juvenile jails and prisons, noting: ***America's longstanding youth prison model, which emphasizes confinement and control, exacerbates youth trauma and inhibits positive growth while failing to address public safety.***

***Negative Consequences from juvenile detention.*** The impact of detention of children under the age of 18 has been studied extensively. A survey of the studies reveals that even short periods of time in detention have a profoundly negative impact on young people's life outcomes, ranging from mental health disturbances to economic disadvantages. The Justice Policy Institute reviewed the studies in a report *The Dangers of Detention*, and noted that ***Economists have shown that the process of incarcerating youth will reduce their future earnings and their ability to remain in the workforce.....(and) there is credible and significant research that suggests that the experience of detention may make it more likely that youth will continue to engage in delinquent behavior, and that the detention experience may increase the odds that youth will recidivate. Prior Incarceration was a greater predictor of recidivism than carrying a weapon, gang membership, or poor parental relationship.***<sup>2</sup>

A more recent article summarized the results of a study examining 35,000 juvenile offenders over a ten-year period in Chicago.<sup>3</sup> The researchers examined the outcomes from similarly situated youth assigned randomly to judges with different sentencing tendencies. Some judges were more likely to use detention, while others were less likely to detain. The researchers found that the periods of detention interrupted school, making it less likely that youth returned to school – especially if they were around age 16. *The kids who go to juvenile detention are very unlikely to go back to school at all*, said one of the researchers, Joseph Doyle, an economist at MIT Sloan School of Management. In fact, **the study found that juvenile detention lowers high school graduation rates by 13%, and increases adult incarceration by 23 percentage points.**

A similar longitudinal study tracked youth detained in the juvenile detention center in Cook County, and found they often struggled with a range of issues years after

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<sup>2</sup> Justice Policy Institute, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, Barry Holman and Jason Ziedenberg.

<sup>3</sup> <http://news.mit.edu/2015/juvenile-incarceration-less-schooling-more-crime-0610>

release from detention.<sup>4</sup> Dr. Linda Teplin led a team of researchers at Northwestern University who tracked more than 1,800 youth admitted to the Cook County Juvenile Detention Center from 1995 to 1998. The average age of the youth was 15 years, and they were interviewed five and twelve years after detention. The research found:

- **More psychiatric disorders** - A longitudinal study of 1,895 children between ages 10 and 18 who were detained in the Cook County Detention Center between 1995 and 1998 found that five years after the first interview, *more than 45% of male juveniles and 30% of female juveniles had one or more psychiatric disorders.*<sup>5</sup>
- **Higher mortality rates** - The same longitudinal study found that the mortality (death) rate for youth detained in Cook County was more than four times the rate for youth in the general population.<sup>6</sup>

Similar studies note:

- **Higher Repeat Offending Rates** among children who have been detained. Detention actually increases the likelihood a child will recidivate, especially with youth who are confined based on low level offending.<sup>7</sup>
- **Not cost-effective** - **The Justice Policy Institute also found that juvenile detention is not a cost-effective way to promote public safety or meet the needs of young people.**

### ***States Reduce Detention Amid Concerns about Poor Outcomes.***

According to Annie E. Casey's **Juvenile Detention Alternatives Initiative [JDAI]**, in 2016 there were 164 jurisdictions in the U.S. participating in developing alternatives to detention, and the sites documented reductions in detention of 43%.<sup>8</sup> These findings held true for both urban and non-urban communities, and across 32 states.

These JDAI sites also reported **significant reductions in juvenile crime along with the reduction in detention use** – again, consistent with the research that detention increases criminal offending, while detention alternatives support reductions in juvenile crime.

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<sup>4</sup> <https://acestoohigh.com/2017/01/16/years-after-juvenile-detention-adults-struggle-study-finds/>

<sup>5</sup> OJJDP Bulletin, Sept. 2015 – *Psychiatric Disorders in Youth After Detention*, Dr. Linda Teplin.

<sup>6</sup> OJJDP Bulletin, Sept. 2015 – *Violent Death in Delinquent Youth After Detention*, Dr. Linda Teplin.

<sup>7</sup>

[http://www.pathwaysstudy.pitt.edu/documents/OJJDP%20Fact%20Sheet\\_Pathways.pdf](http://www.pathwaysstudy.pitt.edu/documents/OJJDP%20Fact%20Sheet_Pathways.pdf)

<sup>8</sup> <http://www.aecf.org/m/resourcedoc/aecf-jdaiat25-2017.pdf#page=5>



**JDAI encourages states to examine the reasons youth are being sent to detention, and create alternatives to address underlying issues.** In Ohio, The JDAI Initiative found many children were being sent to detention based on domestic violence cases. Ohio's JDAI Administrator Lurie explained that counties were able to create alternatives to address the underlying family conflict issues, and thus avoid sending kids to detention.<sup>9</sup>

As will be examined later in this report, **Illinois counties that invested in juvenile detention alternatives experienced dramatic reductions in detention usage along with lower costs and better outcomes.** Counties that chose instead to build/expand detention beds are struggling today with higher operational and staffing costs in their detention facilities.

### **Illinois State Dollars Encourage Detention**

Currently there are significant state fiscal incentives encouraging Illinois counties to detain youth – but no incentives to divert youth away from detention to alternatives.

***State dollars reimburse counties for detention staff – Juvenile detention centers are funded by their local county, but by law, counties are to be reimbursed with state dollars for a portion of the salaries for the detention center personnel - see the Illinois Probation and Probation Officers Act:***

730 ILCS 110/15(4) (c):

*The [Probation and Court Services] Division shall reimburse the county or counties for probation services as follows:*

...

*(c) 100% of the salary for all secure detention personnel ....*

The greater the number of youth held in a detention center, the greater the number of staff and thus the greater the county reimbursement. ***Thus, the state fiscal incentives encourage juvenile detention – rather than encouraging alternatives.***

***The state reimbursement is substantial.*** The detention reimbursement total, as detailed in correspondence with state legislators, was \$35,976,809 in SFY16. The Court website states that in 2017 the counties received about 85% of eligible funding reimbursement.<sup>10</sup> **The Cook County budget proposal for 2018, noted that salaries for the personnel in the Cook County Juvenile Temporary Detention Center made up 80% of the overall cost of the detention center.**<sup>11</sup> If, as in Cook County, about 80% of the juvenile detention center budget consists of personnel costs, and if the state subsidizes about 85% of the personnel costs, then **the state is subsidizing over two-thirds of the county juvenile detention center costs.**

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<sup>9</sup> <http://www.publicnewsservice.org/2017-11-02/juvenile-justice/alternatives-to-youth-detention-success-highlighted-in-ohio/a60113-1>

<sup>10</sup> <http://www.illinoiscourts.gov/General/Funding.asp>

<sup>11</sup> <https://www.cookcountyil.gov/Budget>

**Counties in Illinois made critical decisions regarding detention in the 1990's.**

In the '90's there was an increase in the use of juvenile detention – from 15,985 total admissions in 1990 to 18,541 admissions in 1998.<sup>12</sup> The increase convinced some counties to build/expand juvenile detention facilities. Illinois joined what was a national prison construction boom, and grew the number of county juvenile detention centers from six to 17 in the years between 1990 and 2003.<sup>13</sup>

The chart on the following page demonstrates how dramatically counties overbuilt. **In just one decade in the 1990's, twelve counties built new or expanded existing detention centers. By 2016, all twelve counties had average daily populations below the number of beds built in the '90's.**

By contrast, other counties concentrated on reducing the number of juveniles placed in detention. One county (DuPage) was even able to close their detention facility. Today the number of juveniles placed in detention by these counties remains small.

**Some counties are paying off bonds that were used to build/expand detention centers.** Most of the Illinois juvenile detention centers were built or expanded in the late 1990's/early 2000. This was part of a national trend:

*...at the heart of the Violent Crime Control and Law Enforcement Act of 1994 was a program that provided billions in federal funds for states to build or renovate prisons. With this funding, more than half of the states built, expanded, or renovated youth prisons and detention facilities, and contracted for additional detention and correctional beds.*<sup>14</sup>

Many of the counties intentionally expanded their detention capacity with the thought that detention usage would expand and that surrounding counties would pay to use their facility. Instead, detention usage decreased and counties were left with costly bond payments. One example is Vermilion County, which is required to make \$300,000 bond payments annually on its juvenile detention facility thru 2019, according to its 2015-16 budget.<sup>15</sup>

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<sup>12</sup> *The Status of Juvenile Detention in Illinois, Annual Report, 1998*, National Juvenile Detention Association

<sup>13</sup> Scott, Robert and Saucedo, Miguel (2013) "Mass Incarceration, the School-to-Prison Pipeline, and the Struggle Over "Secure Communities" in Illinois," *Journal of Educational Controversy*: Vol. 7 : No. 1 , Article 7.  
Available at: <https://cedar.wwu.edu/jec/vol7/iss1/7>

<sup>14</sup> National Institute of Justice – *The Future of Youth Justice*, Oct., 2016,  
[http://www.aecf.org/m/resourcedoc/NIJ-The\\_Future\\_of\\_Youth\\_Justice-10.21.16.pdf](http://www.aecf.org/m/resourcedoc/NIJ-The_Future_of_Youth_Justice-10.21.16.pdf)

<sup>15</sup> [http://www.co.vermilion.il.us/ctybrd/2015\\_2016\\_Budget.pdf](http://www.co.vermilion.il.us/ctybrd/2015_2016_Budget.pdf)

### ***IL County Juvenile Detention Facilities<sup>16</sup>***

County Juv. Detention Center	Original Bed Capacity & year built	Expansion & year expanded	ADP (Average Daily Population) 1999	ADP in 2016	% Change in ADP
1. Adams	20 beds 1963	30 beds 2001	16.1	9.8	39% Decrease
2. Champaign	10 beds 1954	40 beds 2000	10.4	19.3	46% Increase
3. Cook	498 beds 1973	none	555.6	296.9	46% Decrease
4. Franklin	38 beds 2003	none		15.4	
5. Kane	80 beds 1998	none	63.3	39.7	37% Decrease
6. Knox	12 beds 1917	39 beds '69 & '91	48.1	20.0	58% Decrease
7. Lake	48 beds 1996	24 bed increase postponed	38.8	31.7	18% Decrease
8. LaSalle	14 beds 1982	none	15.3	10.4	32% Decrease
9. Madison	21 beds 1969	39 beds 1995	38.9	13.9	64% Decrease
10. McLean	26 beds 1993	none	22	21.4	3% Decrease
11. Peoria	16 beds 1976	63 beds 1999	26.7	36.5	36% Increase
12. Sangamon	10 beds 1979	48 beds 2000	10.7	21.2	50% Increase
13. St Clair	36 beds 1980	53 beds 1999	51	13.3	74% Decrease
14. Vermilion	26 beds 2000	none		20.2	
15. Will	102 beds 1999	none	43.2	33.5	22% Decrease
16. Winnebago	32 beds 1992	48 beds 1996	56.8	47.4	17% Decrease
<b>State Total</b>			1,096.3	650.7	41% Decrease

<sup>16</sup> SOURCE: *The Status of Juvenile Detention in Illinois: annual report*, National Juvenile Detention Association, June 2001; *IL Juvenile Detention Data Report*, Illinois Juvenile Justice Commission, 2016.

CLOSED: DuPage - a 30 bed facility built in 1971, expanded to 96 beds in 1999, closed in 2012 and ADP in 2015 was 12.5.

### ***Juvenile Detention – a Costly Enterprise for Counties***

The newest detention center, in Franklin County, has struggled to find funds for operation from the beginning. A news report from May of 2003 reported that the new **\$4.3 million Franklin County Juvenile Detention Center** was at risk of having no funds to open, due to state budget cutbacks. “*At stake in the number crunching is \$860,000 in funding to operate*” the detention center by reimbursing the county for detention center staff.<sup>17</sup> The article goes on to note that Franklin County borrowed \$3 million to help build the center, resulting in an annual payment of \$250,000. The county expected the detention center to generate revenue to help pay off the debt, but the revenue did not materialize and the county is left with the debt on the facility.

**Research shows youth who are detained are more likely to repeat offend – and repeat offending is costly for counties.** The costs include those related to those harmed (the victims) as well as the community (i.e. tax dollars). Recidivism rates across the US are between 60-75% within 3 years of confinement and according to the Justice Policy Institute the victim and taxpayer costs from recidivism due to youth incarceration can reach \$7.034 billion in 2011 dollars.<sup>18</sup>

### ***No State Fiscal Incentive to Use/Develop Alternatives -***

While the State is required to reimburse counties for detention personnel costs, there is no State funding to encourage the development of alternatives to detention. The State has a successful model – Redeploy Illinois – but the fiscal incentives in Redeploy are used to divert juveniles at the deep end of the system, who have been found guilty and are at risk of being sent to juvenile prison. The State needs to develop a similar funding incentive to encourage counties to develop and utilize community alternatives to juvenile detention. Fiscal incentives to avoid the use of detention would reduce the number of children who are later at risk of being sent to juvenile prison, and would promote public safety by reducing repeat offending.

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<sup>17</sup> [http://thesouthern.com/news/local/franklin-juvenile-detention-center-s-fate-uncertain-but-construction-continues/article\\_3bcde73c-9949-57b3-99a2-38a5fda7e37a.html](http://thesouthern.com/news/local/franklin-juvenile-detention-center-s-fate-uncertain-but-construction-continues/article_3bcde73c-9949-57b3-99a2-38a5fda7e37a.html)

<sup>18</sup>

[http://www.justicepolicy.org/uploads/justicepolicy/documents/sticker\\_shock\\_final\\_v2.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/sticker_shock_final_v2.pdf)

# Illinois Use of Detention – Random and Disparate

## ***Decision to Detain a Child is Completely Discretionary***

There is some encouragement from the courts to use screening tools to make decisions whether to detain or not detain a child, but these tools vary greatly and there is no state oversight of the use of detention. Thus, while the majority of Illinois counties rarely detain juveniles, a handful of counties use detention at alarming rates.

## ***Police have wide discretion to “adjust” cases and avoid detention.***

The police make the initial call for detention – and under 705 ILCS 405/5-405(3) police have **wide discretion** in deciding when and who to detain:

*405/5-405 (3) The juvenile police officer **MAY** take one of the following actions:*

- A. station adjustment and release of the minor;*
- B. release the minor to his or her parents and refer the case to Juvenile Court;*
- C. if the juvenile police officer reasonably believes that there is an urgent and immediate necessity to keep the minor in custody, the juvenile police officer shall deliver the minor without unnecessary delay to the court or to the place designated by rule or by order of court for the reception of minors.*

***Police Diversion (Station-adjustments) are widely used.*** Police “station-adjustments” can include an innumerable range of informal dispositions – anything from cleaning up the graffiti to agreeing to counseling, restitution, etc. This process is the most common form of community policing where police work with the family and victim to informally resolve disputes.

The Illinois Mental Health Opportunities for Youth Diversion Task Force Report emphasizes the need for diversions to mental and behavioral health treatment:

***“Youth with mental health conditions get worse in jail, not better. When youth are not a danger to themselves or others, they should be diverted to community based mental health treatment.”<sup>19</sup>***

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## ***No Uniform Statewide Practice***

Despite the evidence of the high cost and the profoundly negative outcomes, studies in Illinois reveal a widely disparate use of juvenile detention. Some counties have successfully limited detention, while others use detention frequently. As the Illinois Juvenile Justice Commission states in its 2016 report on CY14 Detention:

***Detention usage varies considerably by jurisdiction. It is unclear why admission rates are disparate from county to county, but these data should be examined by policymakers.<sup>20</sup>***

As an example, in 2014, the county of Winnebago held an average of 40.2 children in detention daily. In the same year, DuPage County had 3 times the population of Winnebago, but held only 16.4 children daily. Despite a population three times larger than Winnebago, DuPage officials emphasized alternatives to detention and detained fewer than half the number of juveniles that Winnebago County detained.

**The majority of counties in the state rarely use detention** - almost half of the counties in Illinois (44/102) detained 10 or fewer youth in 2016.<sup>21</sup>

### **Build it and they will come....**

Generally, counties that maintain a juvenile detention center tend to have higher numbers of children in detention. In 2016, only 5 counties detained an average number of more than 20 juveniles per day and all 5 counties maintained a detention facility:

Cook – 296.9  
Winnebago – 46.5  
Peoria – 23.9  
Will – 24.2  
Lake – 31.8

Yet, in the same year, two counties with populations similar to or greater than these counties (DuPage and McHenry) detained significantly fewer children AND did not have a detention facility. DuPage had an average detention of 12.3 children per day and McHenry (with a larger population than Winnebago, Madison and St Clair) held only 5 per day.

### ***Best practices in prevention and diversion can reduce the need for detention centers.***

Many alternatives are available including Comprehensive Community-Based Youth Services (CCBYS), mental health juvenile justice initiative alternatives to detention, and facilities like Champaign County's Youth Assessment Center. CCBYS is a

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<sup>20</sup> Illinois Juvenile Justice Commission, *Illinois Juvenile Detention Data Report on CY2014 Detention*, Jan., 2016, Forward to report.

<sup>21</sup> *Ibid.*

statewide 24/7 crisis intervention system is mandated to serve youth in crisis (runaways, lock-outs, beyond control and in physical danger) and also serves youth in high-risk situations, and their families when appropriate, according to their needs and in keeping with the goal of family preservation, reunification and/or family stabilization, or independence, dependent upon the youth's needs. But, these vary across the state based on access and capacity to provide the appropriate supports. St. Clair county and others have made changes to include restorative practices, mental health services and trauma focused systems of care to divert and support youth and families in contact with the justice system.

***No Uniform Practice to decide when to detain a child.***

***“Urgent and immediate necessity” is ill-defined. The Illinois Legislature requires that a police officer “reasonably” believe there is “urgent and immediate necessity to detain or to keep the minor in custody” is vague and limitless. Courts have not yet established what defines “urgent and immediate necessity” and thus police have wide latitude on detaining.***

***Wide discretion occurs even at screening stage. Once a police officer decides to detain a child, a call is made to probation/detention who then use a screening tool to review the detention decision. These screening tools vary widely across the state – there is no uniform screening tool in Illinois, and each locality can change their screening tool anytime and in any manner.***

***Development of Screening Tools – but no uniformity. The vagueness of the statutory definition of urgent and immediate necessity, combined with concerns that detention was overused and unfair, led the Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative (JDAI) to launch a national campaign to develop screening tools that could inject some procedural fairness into the otherwise unfettered discretion of law enforcement to detain children. Cook County was one of the pilot sites for JDAI, and eventually nearly every county in Illinois developed some form of a screening instrument. But, screening tools are complex. For example, inclusion of factors such as prior arrests have been shown to have racially disparate impacts, since studies reveal a disproportionate rate of arrests with black and brown youth. The Justice Center of the Council of State Governments notes that “tools can contribute to racial disparity if not validated or used properly.”<sup>22</sup>***

**RECOMMENDATION #1: Require that juvenile judges and law enforcement exhaust all less restrictive alternatives before using juvenile detention (similar to statutory requirements regarding commitment to IDJJ) and insist on annually reviewed, consistent and vetted screening tools to support the discretionary decisions.**

<sup>22</sup> <https://csgjusticecenter.org/reentry/posts/risk-and-needs-assessment-and-race-in-the-criminal-justice-system/>

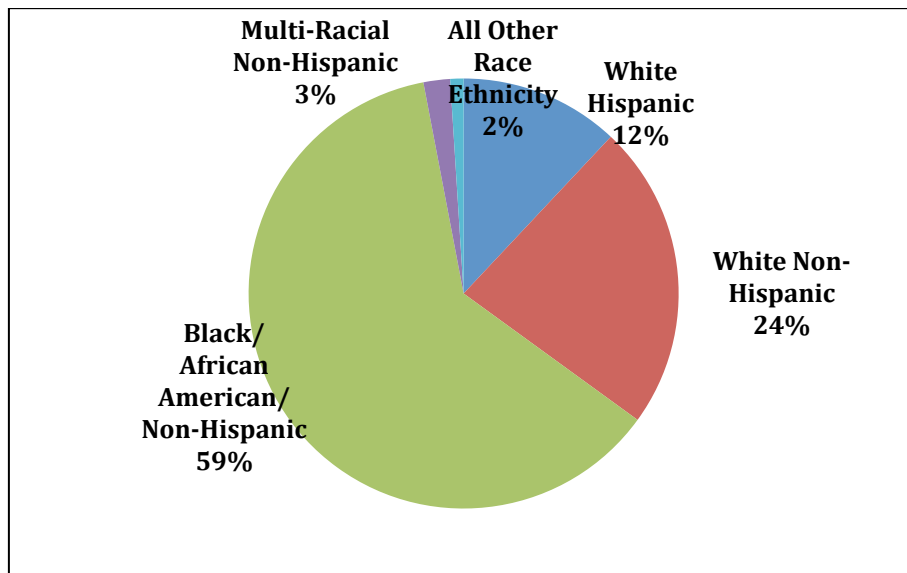
**Profound Racial Disparities:**

***“Racial and ethnic disparities....are quite pronounced”.***<sup>23</sup>

“Quite pronounced” is an understatement.

Across the nation and in Illinois, black and brown youth are at a significantly higher risk of being detained than white youth. According to the US Census, as of July 2015, 14.7% of Illinois residents identified as Black and 16.9% identified as Latino or Hispanic – a total of 31.6%. However, Black and Hispanic youth were 71% of all detention admissions in 2015 in Illinois. Statewide in 2015, Black, Hispanic and multi-racial children made up 76% of the detention admissions:

**IL Detention Center Admissions by Race/Ethnicity % 2015**



Most young people are allowed leeway for normal adolescent behaviors without getting entangled in the justice system. However, youth of color nationwide are more likely to be arrested, prosecuted, sentenced, and incarcerated for these behaviors than are their white peers. “In 2013, black youth were more than four times as likely as white youth to be incarcerated, Native American youth were more than three times as likely, and Latino youth were almost twice as likely” (Burns

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<sup>23</sup> Illinois Juvenile Justice Commission, *Illinois Juvenile Detention Data Report on CY2015 Detention*, 2016.



Institute, 2015). These profound racial disparities are cited as one of the reasons for a new national emphasis on ending juvenile detention.<sup>24</sup>

Champaign County's Racial Justice Task Force recently released a report and recommendations focused on reducing the racial disparities in the county's justice system including the juvenile detention center. One recommendation is to reduce the overall reliance on detention by reducing the detention population.

The support for this recommendation is found in the report:

*"In Champaign County, the numbers are similar to the national numbers with youth of color being two-to-three times more likely to be admitted to detention than their white/non-Hispanic counterparts based on the statewide Detention Report completed by the Illinois Juvenile Justice Commission (2016). According to the 2015 Detention Report, Champaign County has the fifth highest detention rate, per capita, of all the counties in the state [Appendix F]. Of Champaign County's 398 charges leading to detention in 2015, fewer than 50% were for violent offenses. In 2015, Champaign County had the fourth highest detention admission rate in Illinois, per capita, for African-American youth compared to all other counties in the state....It is imperative that Champaign County reduce the use of juvenile detention with a focus on the racial disparity issue by reducing the number of youth brought to the Juvenile Detention Center pre-trial and the number sentenced to the Juvenile Detention Center."*

**RECOMMENDATION # 2 : Reduce disparities across the state** by creating a data focused plan to addressing all disparities including economic, educational, racial, and geographic, to ensure that similarly situated youth are treated equally.

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<sup>24</sup> *The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model* by Patrick McCarthy, Vincent Schiraldi, and Miriam Shark, October 2016

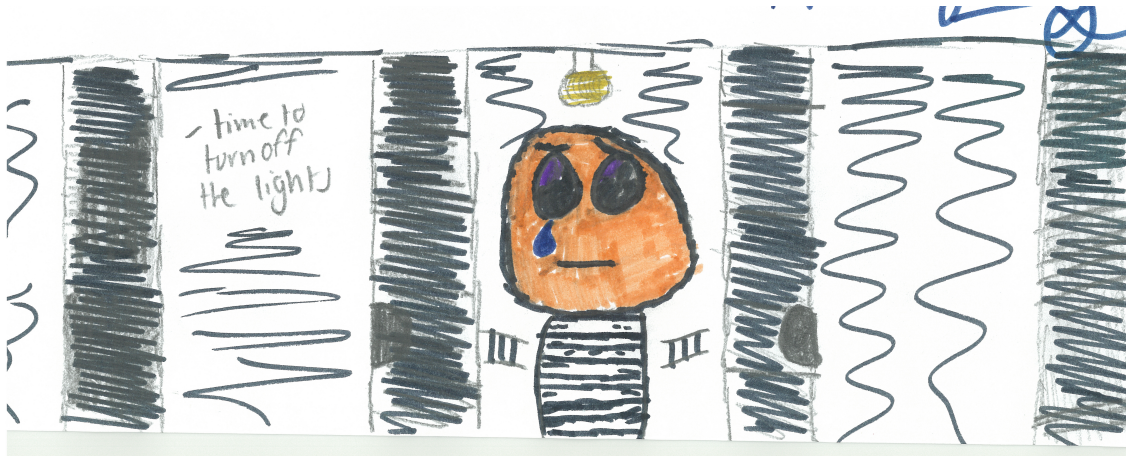
## ***End Detention of Young (Elementary School) Age Children***

Another particularly troubling issue is the continued use of detention in Illinois for children under the age of 13.

Illinois statutes allow children as young as 10 to be detained in Illinois. According to the Illinois Juvenile Justice Commission, in 2016, **there were 127 children under the age of 13 admitted to detention:**

While the number of young children in detention is relatively small, the impact on each individual child is profound. **Separation, even if only overnight, is profoundly traumatic for a ten, eleven or twelve year old child, who may be spending the night away from home for the first time.** The interruption to school, and the isolation from family are both extremely harmful. The number of children under the age of 13 held in detention in most counties is minimal and has dropped over the years – it is now time to end detention for this young age group.

### **WHAT DETENTION FEELS LIKE TO A CHILD:**



TIME TO TURN OUT THE LIGHTS, by Jaeu, Azuela School, Chicago

*"My problems all started with being locked up at age 12. I felt like that was what my life was supposed to be. I do not want any more children to have to feel defined by being locked up at such a young age."*

Justin, now 35 yrs. old and employed

## LEGISLATIVE RESPONSE TO DISCOURAGE DETENTION OF YOUNG CHILDREN

In January of 2016, Public Act 99-0254 took effect, and required counties to search for alternatives to detention for children under the age of 13:

*A minor under 13 years of age shall not be admitted, kept, or detained in a detention facility unless a local youth service provider, including a provider through the Comprehensive Community Based Youth Services network, has been contacted and has not been able to accept the minor.*

Preliminary data from the Probation Department in Cook County reveals this legislative change has been successful in nearly eliminating the detention of children under the age of 13, and in dramatically reducing the number of 13 and 14 year old children in detention.

**Reforms such as House Bill HB 4543 to raise the lower age of detention from 10 to 13** are essential to create policy that will ensure community-based alternatives are the only option for young children in contact with the law.

**RECOMMENDATION # 3- Raise the minimum age of detention to 13 across the state** in order to end detention of elementary and middle school age children.

### ***Overuse of Detention for non-violent conduct.***

There are a number of categories of conduct that do not require, and should not result in detention.

***Data from JMIS reveals that in 2016, 75% of the youth detentions were for non-violent offenses including property, drug and probation violations. Twenty-two (22%) of the detention admissions in 2016 were for property and drug offenses. Probation violations accounted for 5.8% of the detention admissions. And the catch-all category of “warrants” accounted for 26% of all admissions.***

Data from JMIS also reveals that there are still detentions for status offenses – 43 detentions for status offenses in 2016. Note that the **detention of status offenders is expressly prohibited** under the Juvenile Court Act in 705 ILCS 405/5-401(3):

(3) Except for minors accused of violation of an order of the court, any minor accused of any act under federal or State law, or a municipal or county ordinance that would not be illegal if committed by an adult, cannot be placed in a jail, municipal lockup, detention center, or secure correctional facility. Juveniles accused with underage consumption and underage

possession of alcohol cannot be placed in a jail, municipal lockup, detention center, or correctional facility.

Probation violation admissions to detention are problematic and need fuller review and explanation. There were 600 detention admissions of violations of probation in 2016. It is unclear whether these were technical violations, or violations caused by an arrest for a new offense. Generally, a serious violent new offense would be separately charged, rather than handled as a violation of probation. There is little data on juvenile probation violations, sanctions and outcomes, but lately the legislature has expressed concern that some juvenile probation sentences are too long (mandatory 5 year probation for forcible felony offenses), and policy makers are beginning to question whether probation violations represent a failure of probation, rather than a failure of the young person. The large number of detention admissions for probation violations highlights the need for greater data and transparency on this issue.

Warrants represent another uncharted territory in detention admissions. In 2016, warrants represented 26.4% of the overall detention admissions. "Warrants may be issued by the court when it determines the youth may endanger him- or herself, or others." This, of course, is discretionary.

**RECOMMENDATION #4 – Reduce reliance on detention by doing the following:**

- Ensure compliance with existing state law prohibiting detention for status offenses.
- Prohibit detention for non-violent offenses including property and drug offenses.
- End the use of detention for violations of probation by utilizing intermediate community based sanctions.

## **Lack of Adequate Review & Protections**

### ***No Weekend or Holiday Review of Decision to Detain***

**Adults get review 24/7.** A person arrested as an adult in Illinois has a right to review of the decision to hold in jail before a judge “without unnecessary delay”. 725 ILCS 5/109-1.

**Juvenile review is 40 hours excluding weekends/holidays.** However, a person arrested as a juvenile does not have the same right to a review of the decision to detain. By Illinois law, juveniles have a right to a detention review – but that review is only within 40 hours excluding weekends and holidays. 705 ILCS 405/5-415. [Prior to 1999, the detention review had to be held within 36 hours]. This means that juveniles have to wait longer for a review of the decision to detain them, than a similarly situated adult.

**Best practice is 24/7.** Because detention can be traumatic and disruptive to a child’s life, best practice requires a review of the decision to detain within a very short timeframe. Nationally, the Annie E. Casey Foundation recommends limiting the time to 24 hours including weekends and holidays. <sup>25</sup>

**Weekend Review successful in Cook County.** The Circuit Court of Cook County issued an order on October 7, 2016 that *Detention hearings in the juvenile court of the circuit court for Cook County shall be held every day of the year, including weekends and holidays.* In November of 2016, the Cook County Juvenile Court began holding daily detention hearings, including weekends and holidays. The judges reported at a Juvenile Leadership Event in the fall of 2017 that the weekend review was successful, resulting in an average of 40% release, most on electronic monitoring.

New Jersey is a good example of a state with a model statute. The New Jersey statute requires a detention hearing within 24 hours including weekends and holidays, and New Jersey Court Rule clarifies the hearing shall be no later than the morning following placement in custody. N.J. Stat. Ann. § 2A:4A-38(e) Weekend review has occurred in New York City since 2008. In Palm Beach, Florida, juveniles held in detention get a detention review the next day. Miami, Florida holds daily detention hearings. Similarly, in Pima County, Arizona, detention hearings are held daily. <sup>26</sup>

**RECOMMENDATION # 5 – Require 24/7 review of the decision to detain a child.** Ensure there is a panel of trained and resourced lawyers who are available on the weekend across state to represent youth in person during detention review.

<sup>25</sup> <http://www.aecf.org/m/resourcedoc/aecf-embeddingdetentionreform-2014.pdf>

<sup>26</sup> Burrell, Sue; *The 48-Hour Rule and Overdetention in California Juvenile Proceedings*, 07 JJLP Winter 2016.

## ***LACK OF TRANSPARENCY AND OVERSIGHT***

Currently, there is little public reporting of detention practices and no public oversight of detention in Illinois.

### ***Reporting of Detention Practices***

The John Howard Association of Illinois released a report on the Depke Juvenile Complex in Lake County. In the introduction to the report, JHA noted:

*It is now well established that collecting juvenile justice data and making such data readily available to the public are essential to ensuring the juvenile programs and detention facilities function safely and effectively, and make the best use of limited taxpayer dollars.*

Illinois has a statewide data collection tool- Judicial Management Information System (JMIS)- and an annual report created by the Illinois Juvenile Justice Commission to gather overarching data, but the reports contain “just the facts” without any policy analysis or recommendations.

Additionally, there is no formal requirement in Illinois to ensure that local county juvenile detention and residential facilities are subject to independent public oversight through routine civil monitoring.<sup>27</sup> A public oversight body or ombudsperson is a valuable resource to ensure transparency and best practices. The Illinois Department of Juvenile Justice implemented an ombudsperson, starting in August of 2015. The ombudsperson visits facilities, meets with youth, family members and staff to address inquiries, discuss issues and complaints and have dialogue through talking circles. Recommendations are then passed on to the Department of Juvenile Justice. A similar oversight capacity is essential to ensure humane conditions for youth in detention.

**RECOMMENDATION # 6 – Ensure public and independent oversight of juvenile detention** through timely and public reporting of the use of detention, through annual policy analysis of the data with recommendations for improvement, and through routine civil monitoring.

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<sup>27</sup> John Howard Association of Illinois, *Promoting Transparency and Accountability in Juvenile Detention Facilities: A report on the JHA’s visit to the Depke Juvenile Complex, Lake County, IL*, [www.thejha.org](http://www.thejha.org)

### ***Minimal Standards for Juvenile Detention***

Despite decades of litigation and attention to detention conditions by national movements such as the Juvenile Detention Alternatives Initiative, Illinois has not updated its state standards for juvenile detention in decades. As a result, the standards represent a bare minimum in requirements – focused on basic physical structural issues such as adequate ventilation – but lacking the more rigorous detail addressed in more recent inspection tools such as the JDAI detention inspection guidelines.

With **no meaningful oversight**, and the bare **minimum of state standards**, detention conditions are effectively hidden from the general public. Lack of adequate programming, education, family access, and staff training are just a few of the potential issues that are unmonitored.

*The recent NIJ report notes that “Justice-involved youth often have histories of abuse and failure by adults around them that add to the complexities of normal adolescent development. The trauma many of these young people have experienced makes them especially sensitive to environmental triggers, and yet, many are kept in institutional environments that seem designed to trigger trauma and rage: long periods of isolation; harsh, sterile surroundings; bright lights; a constant din; and a near-constant threat of violence.”<sup>28</sup>*

The lack of oversight and attention to the detention of young people is particularly striking given the increasing attention by the public to improving conditions of confinement for animals. Lessons could be learned from the movement for humane treatment of animals, which increasingly require poultry farms to be “certified humane”. To the extent that children are detained, the facilities should be “certified humane” for children.

**RECOMMENDATION #7** – Revise standards of detention to **ensure compliance with national and international best practice and human dignity.**

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<sup>28</sup> NIJ, *The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model*, Oct. 2016.

## Conclusion

Overreliance on juvenile detention in Illinois is a failed practice. Juvenile detention is harmful, costly, and increases the likelihood of repeat offending. Currently detention is overused for non-violent offenses, warrants and probation violations leading to further harm to youth, families and communities. This can be attributed to many reasons including the lack of standards, oversight, resources for community based alternatives and wide-spread discretionary practices that can be adjusted with proper policy in place.

As long ago as 1973, the National Advisory Commission on Criminal Justice Standards and Goals concluded: *The prison, the reformatory, and the jail have achieved only a shocking record of failure. There is overwhelming evidence that these institutions create crime rather than prevent it.*” And the Commission went on to make the following recommendation:

*No new institutions for adults should be built and **existing institutions for juveniles should be closed.*** Nat’l Advisory Cmsn, 1973.

The evidence in Illinois continues to support the 1973 conclusion that juvenile detention is a failure. We realize that closing all detention centers without the capacity to respond to the needs of communities would not be helpful, yet, it is vital that we continue to reduce the number of youth who ever come in contact with the juvenile detention center by developing fiscal incentives to divert youth to appropriate options through policy and oversight.



## RECOMMENDATIONS

*Reformers come and reformers go. State institutions carry on. Nothing in their history suggests they can sustain reform, no matter what money, what staff, and what programs are pumped into them. The same crises that have plagued them for 150 years intrude today. Though the cast may change, the players go on producing failure.*

- Jerome Miller, former Mass. Secretary of the Dept. of Youth Services.

**RECOMMENDATION #1: Require that juvenile judges and law enforcement exhaust all less restrictive alternatives** before using juvenile detention (as currently required by statute prior to commitment to IDJJ) and insist on annually evaluated, consistent and vetted screening tools to support the discretionary decisions.

**RECOMMENDATION # 2 : Reduce disparities across the state** by creating a data focused plan to addressing all disparities including economic, educational, racial, and geographic, in order to ensure that similarly situated youth are treated equally.

**RECOMMENDATION # 3- Raise the minimum age of detention to 13 across the state** in order to end detention of elementary and middle school age children.

**RECOMMENDATION #4 – Reduce reliance on detention & ensure proportionality by doing the following:**

- Ensure compliance with existing state law prohibiting detention for status offenses.
- Prohibit detention for non-violent offenses including property and drug offenses.
- End the use of detention for violations of probation by utilizing intermediate community based sanctions.

**RECOMMENDATION # 5 – Require 24/7 review of the decision to detain a child.**

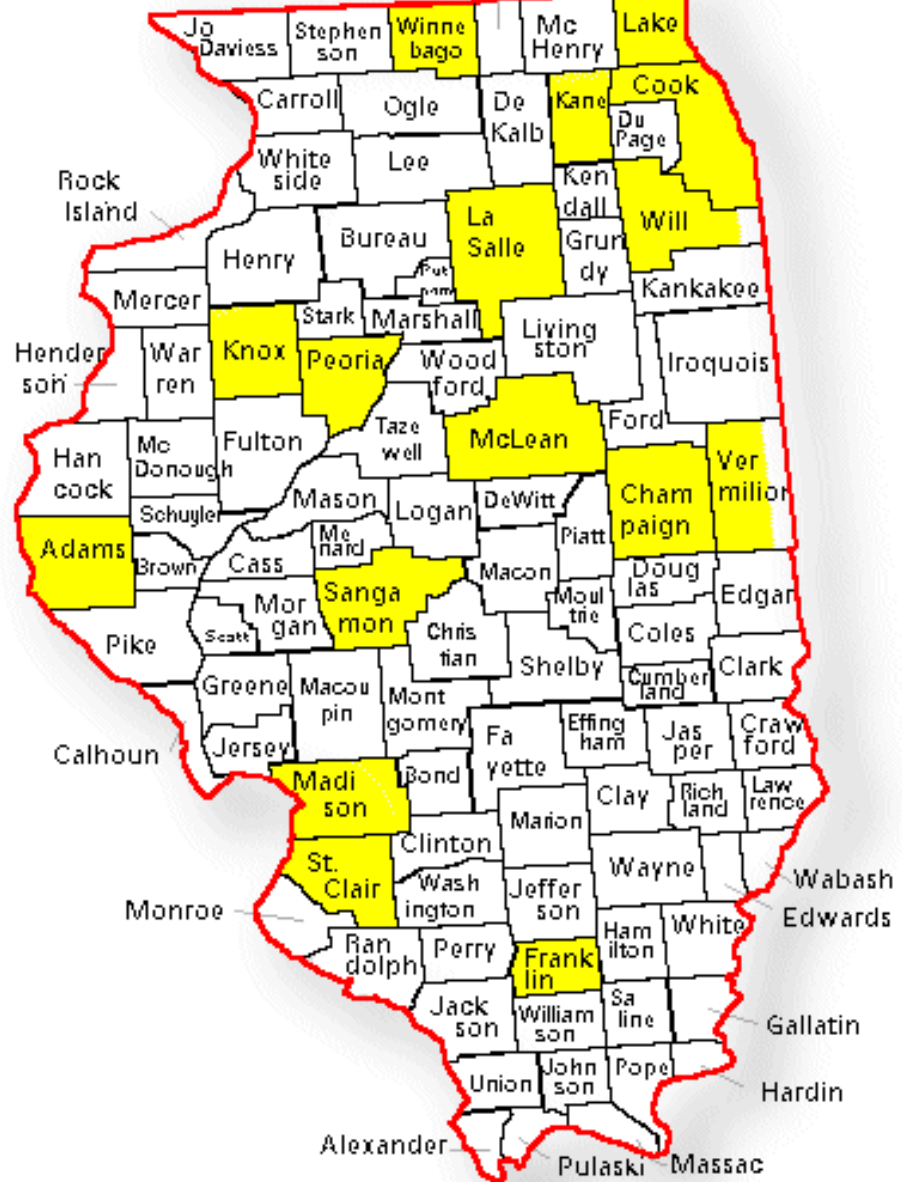
Ensure there is a panel of trained and resourced lawyers who are available on the weekend across state to be present in person with youth to represent them in detention review hearings.

**RECOMMENDATION # 6 – Ensure public and independent oversight of juvenile detention** through timely and public reporting of the use of detention, through annual policy analysis of the data with recommendations for improvement, and through routine civil monitoring.

**RECOMMENDATION #7 – Revise standards of detention to ensure compliance with national and international best practice and human dignity.**

# APPENDIX A

## Counties with Juvenile Detention Centers



Source: diymaps.net (c)