

Juvenile Detention in South Carolina

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Table of Contents

Introduction.....	2
Overview of Juvenile Detention.....	2
National Detention Trends.....	4
Detention in South Carolina.....	5
The Detention Process.....	8
Steps Toward Detention Reform.....	10
Appendix A: Juveniles Detained by County/Jurisdiction.....	15
Appendix B: Number of Secure Detentions by Gender/Race.....	16
Appendix C: Detentions by Gender.....	17
Appendix D: Secure Detentions by Severity of Offense.....	18
Appendix E: Weighting of Offenses.....	19
Appendix F: DMC-RRI Data, July 2004-June 2005, SCDPS.....	20
Appendix G: Sample Risk Assessment Instruments.....	21
Works Cited.....	22

Introduction

There has been a steady decline in juveniles committing crimes since the early 1990's. However, an alarming number of children are being securely detained and most of these children are non-violent offenders. In too many instances, secure detention has become the most easily accessed alternative at the time of arrest. Due to a lack of appropriate alternatives in South Carolina, secure detention is used too often. The purpose of this report is to provide an overview of national and state trends in juvenile detention and outline a continuum of alternatives to secure detention.

Overview of Juvenile Detention

Placement of juveniles into secure detention increased nationally by 74% between 1985-1995, but less than two-thirds of these youth in secure custody were charged with person, property or drug offenses. ⁽¹⁾ Alternatives to secure detention must be used to allow minor to moderate juvenile offenders to attend school, spend time with their families, receive counseling and services, and remain connected to their communities. Research shows that secure detention does not deter future offending, but actually increases the likelihood that juveniles will be placed out of their homes in the future. Non-violent offenders placed in secure detention with more serious offenders often become more serious offenders later in their lives. The Juvenile Justice and Delinquency Prevention Act of 2002, as amended, states that youth who are "charged with or who have committed offenses that would not be criminal if committed by an adult or such non-offenders as dependent or neglected children, shall not be placed in secure

detention.”⁽²⁾ Secure detention should only be used to hold a juvenile upon arrest to ensure the juvenile appears for all court hearings and to protect the public from future offending.⁽³⁾

Despite a continual decline in crime rates over the past decade, the population of youth confined in pre-trial secure detention has steadily grown. The largest increase in use of secure detention has been for minority youth. The Federal Office of Juvenile Justice and Delinquency Prevention reports that while minority youth represent only 34% of the juvenile population in the United States, they represent 62% of the nation’s youth in secure detention.⁽⁴⁾ Nothing short of a lock-up boom exists in the United States, despite substantial evidence that locking up youth before a hearing is often unnecessary and is often detrimental to their future health and well-being.⁽⁵⁾

The secure detention of a non-violent juvenile has both monetary consequences for the public and emotional consequences for the juvenile detained. The emotional and personal circumstances of a non-violent juvenile may be worsened by the experience of being placed in secure detention. Placing a juvenile in secure detention increases the odds that the juvenile will re-offend in the future and increases the statistical likelihood that the juvenile will ultimately be committed to DJJ. A juvenile in secure detention is placed at a greater risk for suicide or other self-destructive behavior. A non-violent juvenile in secure detention also has the opportunity to associate with other youth charged with delinquent offenses and to learn new lessons on how to commit new crimes.

There are multiple concerns with juveniles being placed in secure detention facilities. Overcrowding presents inherent physical dangers to staff and juveniles. Juveniles associate with other juveniles who are more violent and streetwise. Gang recruitment occurs in detention facilities and juveniles may join a gang for self-protection. Detention facilities have inadequate educational components, a lack of activities, and minimal mental health services. Juveniles face boredom, anger, depression, loneliness, and the fear of danger from other juveniles. A juvenile in detention has a 50% likelihood of having been previously abused and over a 50% likelihood of having mental health problems. A juvenile who is in secure detention is isolated from whatever safety net they may have through family, church, school, work, and positive relationships with friends, teachers, or relatives.

National Detention Trends

Studies show that the majority of detained youth are not the older, violent offenders that the public assumes are under lock and key. Many detained youth are quite young. More than half (56%) are 15 years old and younger, while a third (32%) are 14 years old or younger. ⁽⁶⁾ The majority of juveniles are not being detained for violent crimes. ⁽⁷⁾ For example:

- Youth detained for property crimes account for 26%.
- 24% of youth in detention are held for violations of probation, parole or court orders.
- Youth held for drug offenses make up 9%. The number of youth held for drug offenses increased 62% from 1990 through 1999. ⁽⁸⁾

- The Urban Institute reports that one-half of the nation's large jurisdictions take 90 days to dispose of cases - the maximum time suggested by professional standards. The percentage of youth who are:
 - Detained at least 7 days: 70%
 - Detained at least 15 days: 50%
 - Detained at least 30 days: 28%
 - Detained at least 60 days: 14%
 - Detained at least 90 days: 10%

(Source: Census of Juveniles in Residential Placement, 1997, cited in 1999 Juvenile Offenders and Victims.)

Detention in South Carolina

Before 1980, South Carolina lagged behind other states in conforming to Federal mandates to remove juveniles from adult jails and lockups. As a result, most juvenile detentions occurred in adult jails where attempts to maintain sight and sound separation of juveniles from adult inmates were not always successful. In July 1993, the new detention law became effective, and the Department of Juvenile Justice (DJJ) opened a 30-bed detention facility for statewide use within its existing physical plant in Columbia. Overcrowding began shortly thereafter. In May 2001, a newly constructed 72-bed facility was ready for occupancy. The DJJ Detention Center serves the entire state, except Richland and Charleston counties operate their own secure juvenile detention facilities. Greenville County will open a juvenile detention facility in 2007. In terms of monetary

consequences, it costs the state of South Carolina \$150.00 per day for one juvenile in detention, \$50.00 of which the county reimburses DJJ.

From 2000 to 2005, thirty-one (31) South Carolina counties showed an increase in the number of juveniles placed in secure detention. A total of 5,330 juveniles were detained during fiscal year 2004-2005, which is a 19% increase from fiscal year 2000-2001. Over the five year period, the secure detention of males increased by 11% and the secure detention of females increased by 16%. There has been no decline in the detention rates for any group (See Appendices A-E). For fiscal year 2004-2005, twenty-two (22) South Carolina counties detained more than 50 juveniles, and twelve counties detained more than 100 juveniles. The average length of stay in secure detention for a juvenile is 14 days.

Disproportionate Minority Contact (DMC) exists when the percentage of the minority youth in the juvenile justice system exceeds their percentage of the state's general population. Minority females showed a 19% increase over the fiscal years 2000-2005, and they account for the greatest rate increase of juveniles in secure detention for that period. While minority youth comprise only 35% of the total youth population, they consistently account for over 60% of all secure detentions. The Relative Rate Index (RRI) compares the rate of minority juveniles being involved at a certain point of the system with the rate of non-minority juveniles being involved at the same point. The RRI should be viewed as a set of "vital signs" for system monitoring and used to guide analysis of potential problems. Scores greater than 1.0 demonstrate an overrepresentation of minority youth. For FY 2004-2005, the RRI for minority youth placed in secure detention

was 1.15 (See Appendix F). ⁽⁹⁾ The South Carolina Governor's Juvenile Justice Advisory Committee has funded a project to promote a greater awareness and understanding of our DMC issues. Through the dissemination of accurate information and the identification of proven initiatives, assistance is now available to aid communities in addressing DMC issues. The greatest numbers of minority youth are status and property offenders, and in participating communities, an analysis of verified data and technical assistance will be offered to assist in the consideration of meaningful alternatives to secure detention for these non-violent cases.

South Carolina is seeking technical assistance from the Annie E. Casey Foundation to improve its juvenile detention policies, practices, and conditions, and to ensure that all process improvements are framed through a racially neutral lens. The South Carolina Department of Juvenile Justice (DJJ) and the Children's Law Office (CLO) have partnered with the Governor's Juvenile Justice Advisory Council, the South Carolina Department of Public Safety, and Court Administration to pursue detention reform. CLO staff and DJJ staff have analyzed data for five targeted counties with high detention rates and have selected two pilot counties to focus on by identifying needs and developing procedures for identifying systemic barriers and implementing detention reform. CLO staff and the DJJ liaison meet regularly and work collaboratively on conducting county assessments of detention data, analyzing and compiling detention data, and developing and implementing action plans for reform initiatives.

The Detention Process

When a child is taken into custody by law enforcement, the officer who took the child into custody decides whether to release the child to the parent or a responsible adult, or to detain the child pending a court hearing. If the officer determines it is necessary to place the child outside the home until the court hearing, the authorized DJJ representative must make a diligent effort to place the child in an approved home, program, or facility, other than a secure juvenile detention facility, when appropriate and available. S.C. Code Ann. § 20-7-7210(A) (Supp. 2005).

Children are eligible for secure detention only if they meet certain criteria define by law. For example, the law allows for detention of a child who has been charged with a statutory violent crime; had possession of a deadly weapon; or has no suitable alternative placement, and it is determined that detention is in the child's best interest or is necessary to protect the child, the public, or both. S.C. Code Ann. §20-7-7210(B) (Supp. 2005). A child must be at least eleven to be detained in a detention facility, and children eleven or twelve years of age may only be detained by order of the family court. S.C. Code Ann. §20-7-7210(F) (Supp. 2005).

A child who is taken into custody because of a status offense should not be detained more than 24 hours in a juvenile detention facility, unless a previously issued court order notified the child that further violation of the court's order may result in the secure detention of that child in a juvenile detention facility. If a child is ordered detained for violating a valid court order, the child may be held in

secure confinement in a juvenile detention facility for not more than 72 hours, excluding weekends and holidays. S.C. Code Ann. §20-7-7210(E) (Supp. 2005).

If the officer who took the child into custody has not released the child to a parent or responsible adult, the family court must hold a detention hearing within 48 hours from the time the child was taken into custody, excluding weekends and holidays. A child must be represented by an attorney at this hearing and may only waive this right if he has consulted at least once with an attorney. The court will appoint an attorney if the child does not have one. S.C. Code Ann. §20-7-7215(A) (Supp. 2005). The detention hearing may be held without the child's parents or guardian if they cannot be located after a "reasonable effort," and the court will appoint a guardian ad litem for the child. Rule 32, SCRFC.

At the detention hearing, any evidence relevant to the necessity for detaining the child is admissible. The DJJ representative will report to the court on the facts surrounding the case and make a recommendation as to the child's continued detention pending the adjudicatory hearing. At the conclusion of the detention hearing, the judge will determine: (1) whether probable cause exists to justify the detention of the child; and (2) whether it is appropriate and necessary to detain the child further. S.C. Code Ann. §20-7-7215(A) (Supp. 2005).

A child who has been ordered detained must be screened by a social worker or a psychologist within 24 hours to determine if the child is in need of any services. A child who is ordered detained is entitled to another hearing: (1) within 10 days following the initial hearing; (2) within 30 days following the 10-day hearing; and (3) at any other time with a showing of good cause. S.C. Code Ann.

§20-7-7215(B) (Supp. 2005). A child must not be detained in a detention facility for more than 90 days, absent exceptional circumstances as determined by the court. S.C. Code Ann. §20-7-7215(A) (Supp. 2005).⁽¹⁰⁾

Steps Toward Detention Reform

Risk Assessment Instrument

The use of a risk assessment instrument (RAI) has proven to be an effective tool in reducing unnecessary secure detention in many states and jurisdictions across the country. A RAI is a questionnaire which addresses the facts of each case at various decision points to determine whether the juvenile is a danger to the community or unlikely to appear for a court hearing. The RAI may be administered by law enforcement or DJJ intake staff. South Carolina does not currently use a RAI.

The most common criteria used in a RAI to assess risk are:

- How serious is the current charge against the juvenile?
- What prior adjudications does the juvenile have?
- Is the juvenile currently on probation or parole?
- Does the juvenile have another case pending?
- Has the juvenile had a prior escape, runaway, or failure to appear for court?

Based on the RAI score, a determination is made as to whether a juvenile presents a high, moderate, or low risk of flight or danger to the community. The RAI should allow for some level of discretion through the use of overrides. Staff

must be able to override the indicated custody level based on other factors not addressed by the RAI. (Appendix G)

Community Based Alternatives

A juvenile who is not placed in secure detention may remain in school, benefit from community support, and have access to local resources and services resulting in better outcomes for the juvenile and family. Status and minor offenders who remain in the community are not exposed to more serious offenders. The use of alternatives reduces the overcrowding of detention centers and makes detention centers a safer environment for juveniles and staff. The use of community alternatives dramatically reduces the overall cost of detention.

Types of community alternatives include:

Home or Community Detention

- Generally, the target population is juveniles who can safely remain in their own homes or with relatives.
- Staff provides frequent, random, unannounced face-to-face community supervision and makes frequent phone calls.
- May include electronic monitoring.
- The average cost per juvenile is \$10 per day.
- Over 90%of juveniles in home detention make their court appearances and remain arrest free.

Residential Alternatives

- A residential facility provides time limited housing.
- Juveniles are supervised 24 hours per day, 7 days per week.

- A facility may provide age specific services including education, recreation, life skills training, counseling, transportation to court and other required appointments, and parent outreach.
- The length of stay generally does not exceed 30 days.
- Some juveniles may be in a temporary housing program awaiting placement in a treatment alternative.
- The cost per juvenile is approximately \$90-\$130 per day.

Foster Care

- Foster care is usually used for younger juveniles and those not suitable for a group care facility.
- Foster parents are given special training about juveniles referred by the juvenile justice system and have access to staff resources for help.

Day and Evening Reporting Centers

- Reporting Centers are non-secure, community programs where juveniles report after school or during the day or evening for supervision, educational programs, and structured activities.
- Centers may be used in conjunction with family placement, house arrest, or foster care.
- The length of stay at a reporting center is approximately 30 days.
- The average cost of a day reporting program for a juvenile is \$35 per day.

Group Home and Other Residential Programs

- A residential facility or group home can provide housing when the family cannot provide adequate supervision.

- Juveniles receive structured activities and supervision 24 hours per day, 7 days a week.
- Programs may include education, recreation, life skills training, counseling, transportation to court and other required appointments, and parent outreach.
- Juveniles may be temporarily placed in a group home while awaiting placement in a treatment program.
- The average length of stay is 30 days.
- The cost of group home placement ranges from \$90 to \$130 per day.

Expediting the Processing of Juveniles in Detention

- The average length of stay in secure detention is approximately 14 days; however, some juveniles remain detained much longer. Juveniles awaiting prosecution remain in detention for months, take up space, and contribute to overcrowding. Long-term detention is problematic to the detention center and detrimental to the juvenile. The lack of services in secure detention contributes to emotional and behavioral problems among detained juveniles.
- A “case expeditor” can review detention placements, collaborate with agency and court staff, and speed up the process to get the juvenile released from detention.
- Expediting cases helps reduce overcrowding and accelerates access to treatment for juveniles with special needs.

Comparison of Alternative Programs to Secure Detention

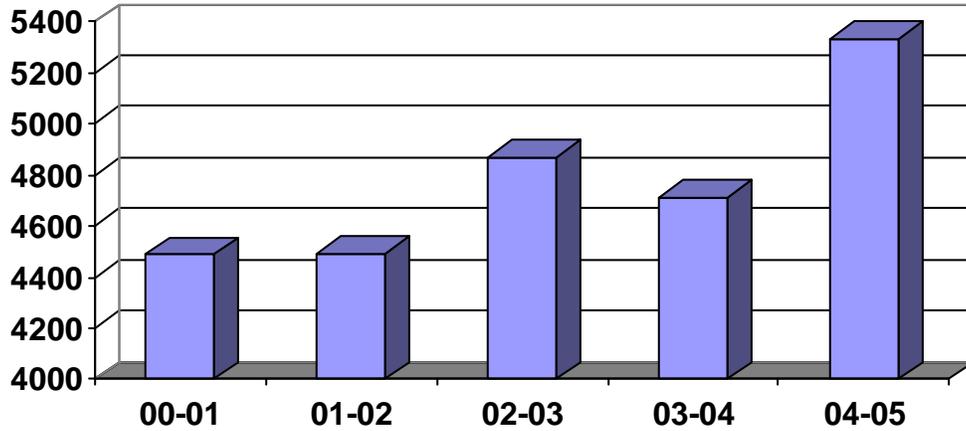
- The costs of alternatives to secure detention for one juvenile range from \$10 to \$130 per day.
- The cost of secure detention for one juvenile averages \$150 per day. (This does not include law enforcement's costs and time to transport juveniles back and forth to court hearings.)

The placement of a juvenile in secure detention is a powerful tool and should only be used when necessary to protect the public or to ensure that the juvenile will be present for the next court hearing. Ideally, juveniles who are taken into custody will be objectively screened; community-based alternatives to secure detention will be used for juveniles whose risk assessments are not high; and cases involving juveniles placed in secure detention will be expedited and promptly tried in court.

Appendix A

Juveniles Detained (Pre and Post Adjudication) by County/Jurisdiction

Statewide Detention Total Over Five Years

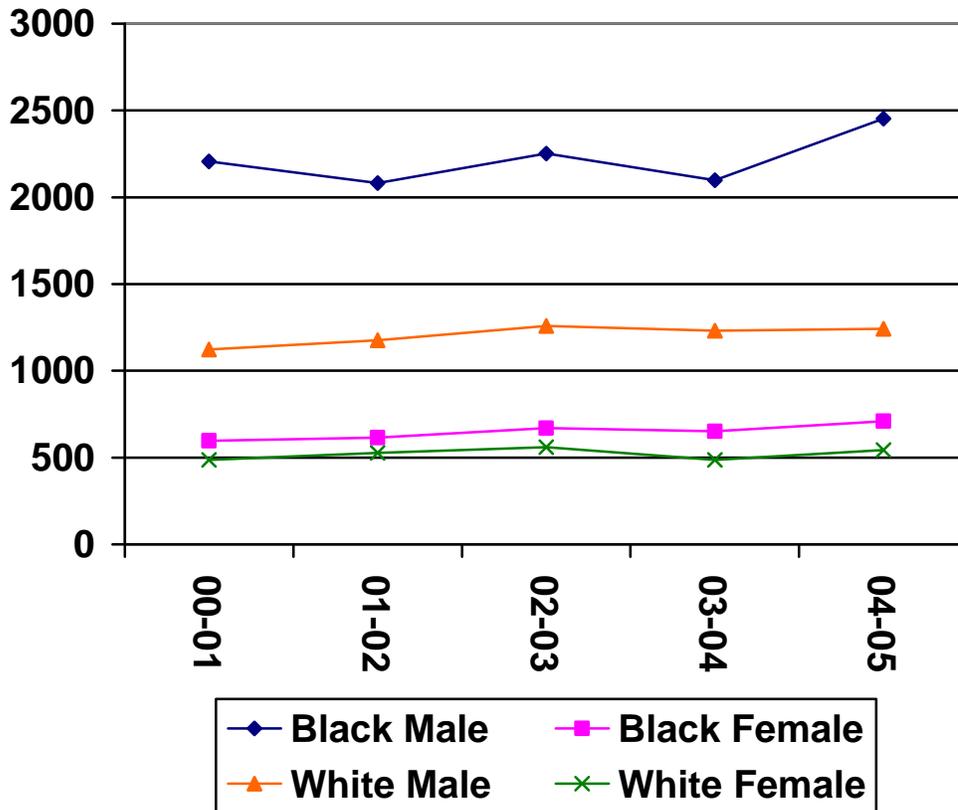


DJJ operates a secure juvenile detention facility for all counties with the exception of Charleston County and Richland County. These two counties are included in the count.

- For the fiscal years 00-05, 31 of South Carolina's 46 counties had an increase in the number of juveniles securely detained.
- In the FY 04-05, 22 counties detained more than 50 juveniles while 12 other counties detained more than 100 juveniles for the same time period.

Appendix B

Number of Secure Detentions by Gender/Race

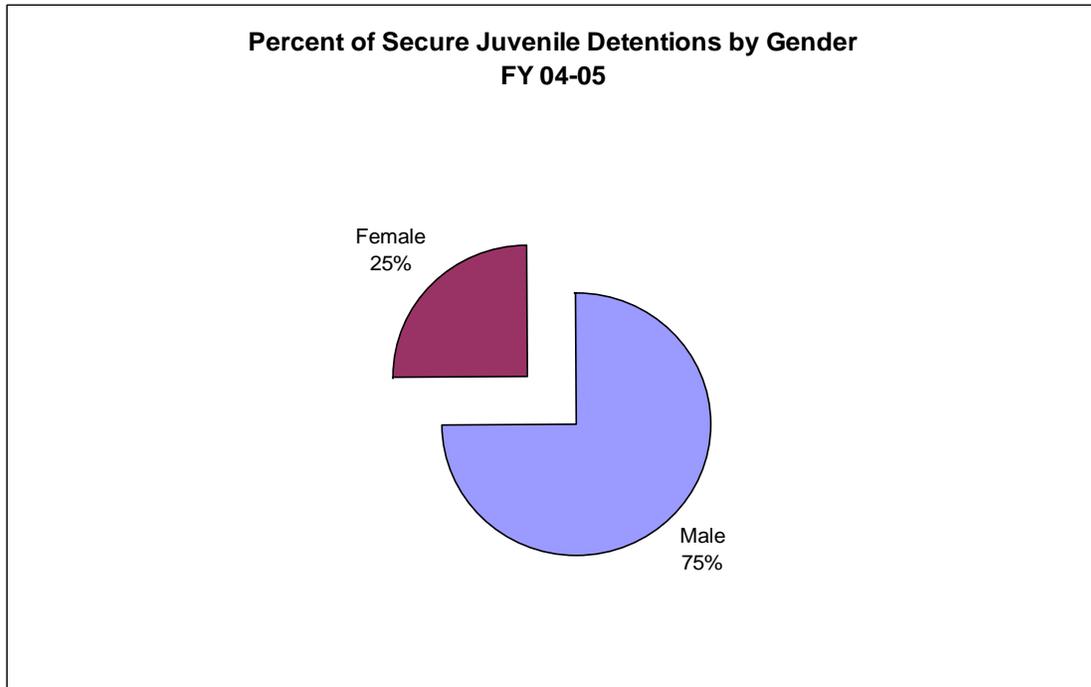
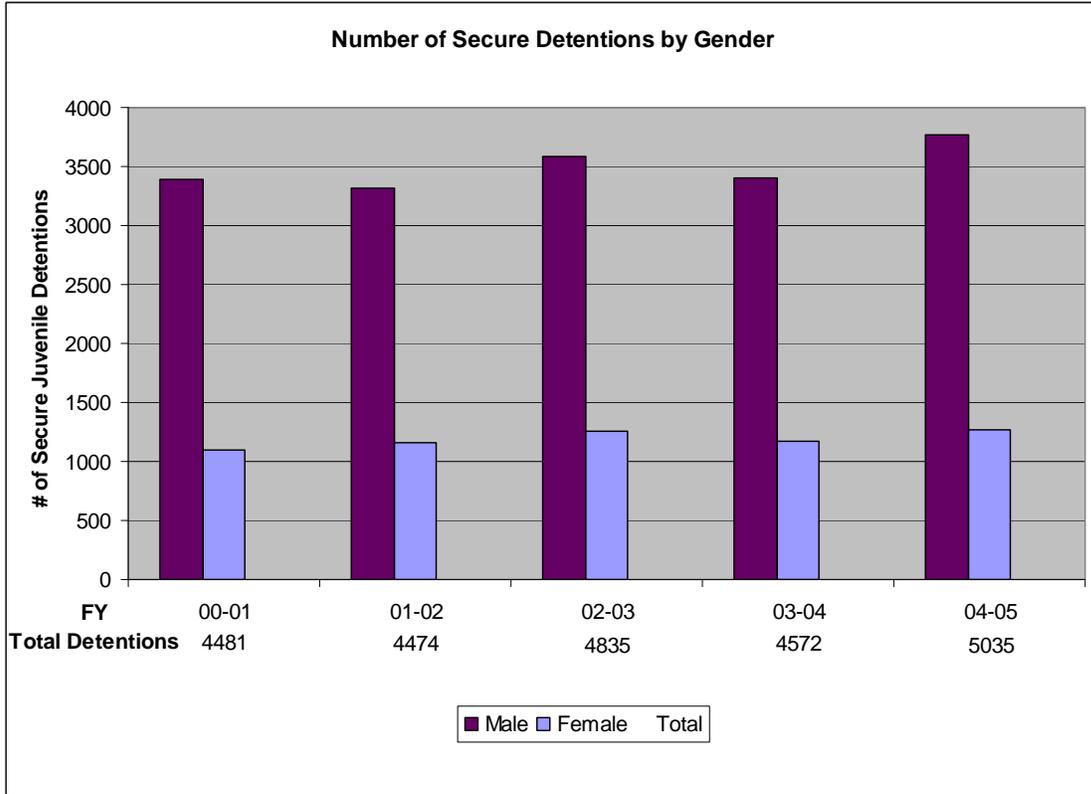


In FY 04-05, 3766 males and 1269 females were securely detained.

- Detention of black females increased by 19% over the five year period.
- While they comprise on 35% of the youth population, 49% of all detentions in FY 04-05 were black males.
- Over the five year period, detention of all males increased by 11% and all females by 16%.
- There has been no decline in detention rates for any group.

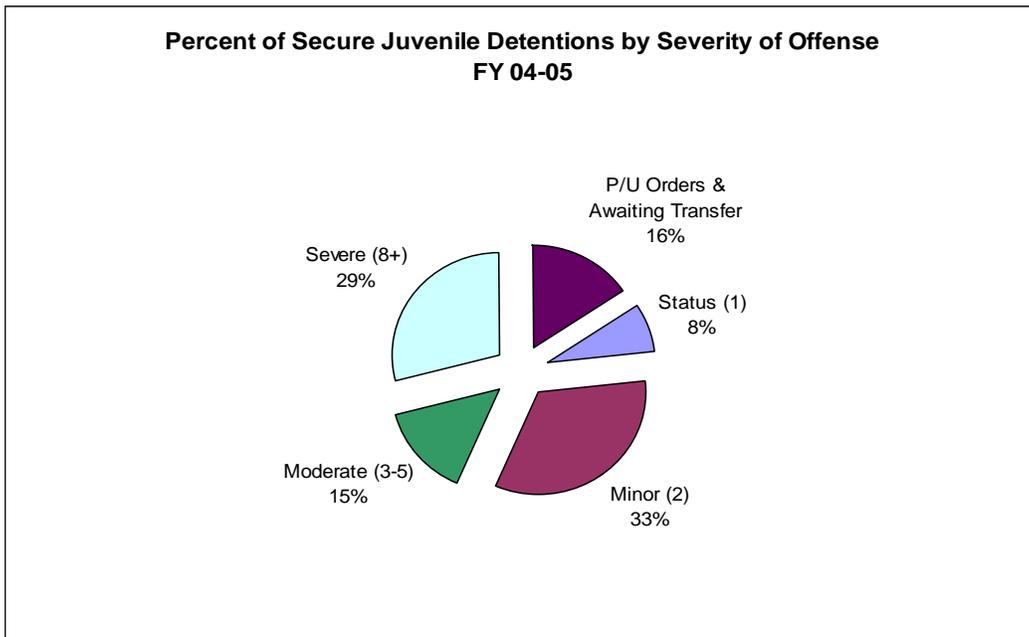
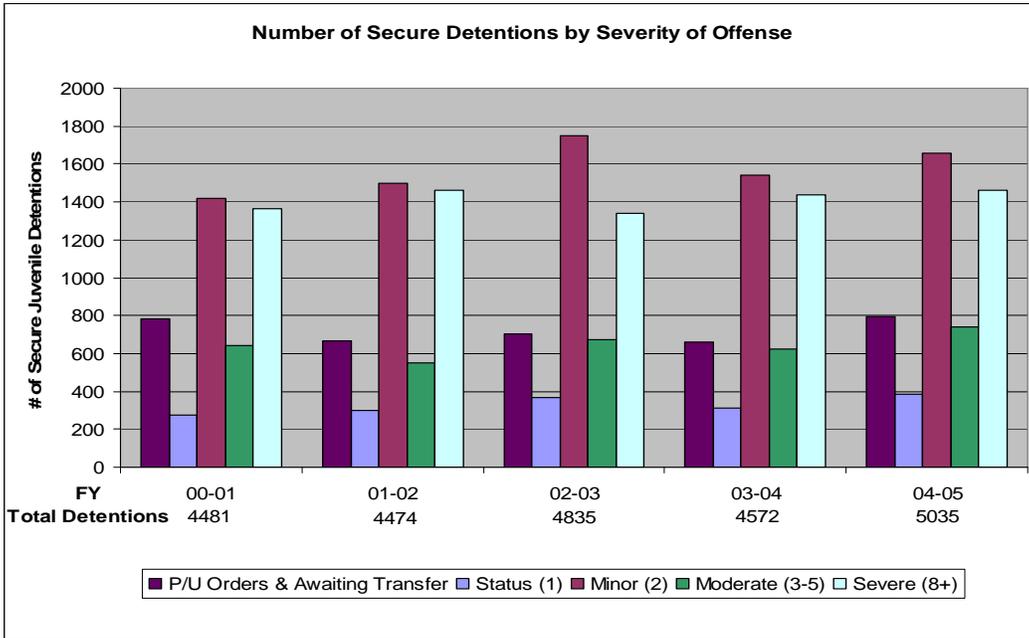
South Carolina Department of Juvenile Justice Office of Policy and Planning,
Research and Statistics Section, 2005.

Appendix C



South Carolina Department of Juvenile Justice Office of Policy and Planning,
Research and Statistics Section, 2005.

Appendix D



- The severity of detention offenses has remained basically unchanged for the past five years.

South Carolina Department of Juvenile Justice Office of Policy and Planning,
Research and Statistics Section, 2005.

Appendix E

Weighting of Offenses

- 0** Pick up Orders
- 1** Awaiting Transfer
- 1** Status Offenses: Truancy, Incurrigibility, Running Away
- 2** Contempt of Court
Receiving Stolen Goods <\$1,000
Simple Assault and Battery
Petty Larceny
- 3** Burglary, 3rd degree, 1st offense
Failure to Stop for a Blue Light
Obstruction of Justice
Resisting Officer Serving Process
Domestic Violence 3rd, subsequent
- 5** Burglary, 2nd degree non-violent
Larceny, Purse Snatching
Grand Larceny (>\$1,000<\$5,000)
Malicious Injury (>\$1,000, <\$5,000)
- 8** Assault and Battery, High and Aggravated Nature
Larceny>\$5,000
Weapon on School Grounds
Burglary, 2nd degree, violent
Criminal Sexual Conduct 3rd degree
Domestic Violence, High and Aggravated
- 15** Assault and Battery with Intent to Kill
Carjack, without Great Bodily Harm
Trafficking ice/crank/crack
Lynching, 2nd degree
Criminal Sexual Conduct, 2nd degree
- 21** Carjack With Great Bodily Harm
Criminal Sexual Conduct, 1st degree
Burglary, 1st degree
Trafficking Cocaine, 400 gms.
- 25** Murder
Homicide by Child Abuse

Appendix F

DMC RRI for the period July 2004-June 2005

**1. AREA REPORTED- South Carolina
County: Statewide**

2. MINORITY GROUP: Black or African-American

Data Items	Rate of Occurrence - White Youth	Rate of Occurrence - Minority Youth	Relative Rate Index
1. Population at risk (age 10 through 16)			
2. Juvenile Arrests	32.21	80.02	2.48
3. Refer to Juvenile Court	128.89	130.86	1.02
4. Cases Diverted	59.61	56.77	0.95
5. Cases Involving Secure Detention	18.63	21.50	1.15
6. Cases Petitioned (Charge Filed)	38.77	39.31	1.01
7. Cases Resulting in Delinquent Findings	84.39	79.70	0.94
8. Cases resulting in Probation Placement	71.74	72.20	1.01
9. Cases Resulting in Confinement in Secure Juvenile Correctional Facilities	19.67	24.19	1.23
10. Cases Transferred to Adult Court	0.05	0.05	**

release 10/30/05

Key:

Statistically significant results:

Bold font

Results that are not statistically significant
Group is less than 1% of the youth
population

Regular font

*

Insufficient number of cases for analysis

**

Missing data for some element of
calculation

Definitions of rates:

Recommended Base

Base Used

2. Juveniles Arrested - rate per 1000 population

per 1000 youth

3. Referrals to Juvenile Court - rate per 100 arrests

per 100 arrests

4. Juveniles Diverted before adjudication - rate per 100 referrals

5. Juveniles Detained - rate per 100 referrals

per 100 referrals

6. Juveniles Petitioned - rate per 100 referrals

per 100 referrals

7. Juveniles found to be delinquent - rate per 100 youth petitioned (charged)

8. Juveniles placed on probation - rate per 100 youth found delinquent

9. Juveniles placed in secure correctional facilities - rate per 100 youth found delinquent

South Carolina Department of Public Safety

Appendix G

Sample Risk Assessment Instruments

Georgia Department of Juvenile Justice – Detention Risk Assessment

Tennessee Department of Children’s Services –Community Risk Assessment Instrument

Virginia Department of Juvenile Justice – Detention Assessment Instrument

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