

Stopping Juvenile Detention:

The Casey and Kellogg Foundations Sponsor Policies That Will Increase Criminal Behavior

By Joseph Lawler

Summary: The Annie E. Casey and W.K. Kellogg foundations fund programs that endanger the public by keeping dangerous young offenders on the streets. Their reckless theory holds that detaining youths before trial turns them into criminals.

Consider the plight of Davonte Lightfoot. Davonte was a troubled youth growing up in a tough part of Portland, Ore., a city that's part of a county that has adopted juvenile justice policies that minimize the use of pre-trial detention. In 2005, 13 year-old Davonte got into trouble with the law for gang-related activities. Over the course of the next year, he constantly violated the terms of his parole, and was caught several times with handguns. Despite clear signs that he was on the road to becoming a violent career criminal, Multnomah County Juvenile Services did little more than assign a therapist to his case. After Davonte was convicted of another weapons charge in 2006, Juvenile Services merely recommended house arrest pending disposition of his case and ignored his mother's pleas that he be locked away for his own safety. In January 2007 14 year-old Davonte was shot dead at a bus stop by a 16 year-old who was on probation.

Throughout America instances of juvenile delinquency that once involved 16-, 17- and 18 year-olds increasingly involve 12-, 13- and 14-year olds, and more and more acts of juvenile delinquency are escalating into

acts of violence. The number of delinquency cases that lead to pre-trial juvenile detention increased 48% between 1985 and 2005, according to the U.S. Justice Department's Office of Juvenile Justice and Delinquency Prevention. Perhaps the most alarming statistics pertain to race: Between 1985 and 1995, the number of detained minority youth grew 76%. By contrast, the number of detained white youth grew only 21% – and these trends continue to the present day.

Many experts in juvenile justice argue that the United States is detaining too many youths. An estimated 26,000 young people

are in detention on any given night and an estimated 400,000 are in detention every year. The experts note that the greatest racial disparities in detention are found



JDAI pushes to put troubled youth back on the streets. Shown at a JDAI conference in Indianapolis in 2008 are (left to right): Gail D. Mumford of the Casey Foundation; Bart Lubow, director of programs for high-risk youth at the Casey Foundation; Birch Evans Bayh II, former Democratic U.S. senator from Indiana; and Gael Deppert, JDAI coordinator for Indianapolis.

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CONTENTS

Stopping Juvenile Detention

Page 1

Philanthropy Notes

Page 6

in less serious offense categories such as disorderly conduct and property and drug crimes. White kids are apt to be sent home with a warning for offenses that get black kids tossed in the slammer. In addition these experts note that juvenile detention is highly correlated with future legal trouble—from which they draw the unwarranted conclusion that detention *causes* later criminal behavior. Taken together, the experts conclude that the criminal justice system is badly overusing juvenile detention, and that the racial disparities are themselves proof of racial discrimination against minority young people.

But who are these “experts” and why do they reach this conclusion? While the debate over juvenile detention practices appears to be conducted using statistics and case studies, the truth is that the argument is tainted by ideology. As we’ll see, a careful examination of the evidence shows that detention remains one of the best options for troubled youth and for their would-be victims. But the movement to end juvenile detention is engineered by radical activists and it is funded by a handful of powerful liberal grantmaking foundations.

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The “Reform” Movement to End Juvenile Detention

The most important of these foundations are the Annie E. Casey Foundation and the W.K. Kellogg Foundation. Each has used the leverage of its grants to empower a small group of activists to effect nationwide changes in juvenile justice policies. The Casey Foundation’s Juvenile Detention Alternatives Initiative (JDAI) is determined to change the detention practices of the United States. Casey and Kellogg-funded prison “reformers” with radical leanings and ideological commitments have advertised JDAI and similar programs as non-ideological cost-saving measures that have proven their effectiveness. In reality, the movement for juvenile justice reform is trying to manipulate the U.S. legal system to get its way.

It’s important to understand that the juvenile justice system has a tough dual mandate: It seeks to protect potential victims of crime at the same time that it tries to steer young aggressors away from a life of crime and put them on a better path. There are many reasons to believe that present detention practices are falling short on the second count. However, juvenile detention remains a necessary tool for protecting those who could become crime victims. It’s unfortunate that ideologues have been successful in distorting the results of juvenile detention. Their success endangers the innocent, making them more likely to become crime victims. And it also harms many thousands of young people who are destined to become criminals because they have not been subject to corrective detention for their actions.

JDAI is the most influential program that seeks to reduce the use of detention. It was begun in 1993 following a lawsuit that alleged juvenile center overcrowding in Broward County, Florida. Broward County officials responded to the suit with a series of measures that would later form the core JDAI guidelines. They devised a test to screen arrested

youths, determining which young people needed to stay in detention awaiting trial for violent offenses or because they posed a flight risk, and which could be channeled into alternatives such as home monitoring. The program was considered so successful that the Casey Foundation replicated the JDAI process in five additional county sites: Cook (Chicago), Sacramento, Multnomah (Portland), Milwaukee, and New York City. The Casey Foundation made each site eligible for up to \$2.25 million over three years.

Today, JDAI claims to operate in 110 local jurisdictions in 27 states and the District of Columbia, which are collectively home to 17% of the nation’s young people. It claims that states that have signed on to partnering with it and replicating JDAI programs have another 18% of U.S. youth in residence. JDAI is a mammoth philanthropic endeavor. In 2007, the most recent year for which information is available, the Casey Foundation dedicated \$5.4 million to juvenile justice programs, almost all of which supported the replication of the JDAI system in counties across America.

By advising counties that their systems of juvenile detention are overcrowded, too costly, inefficient and racially discriminatory, the Casey Foundation’s JDAI weakens government’s ability to fight crime and increases the chance that juvenile offenders will eventually become adult criminals and prisoners.

That is why the example of Davonte Lightfoot is so apt: he committed a series of offenses of escalating seriousness, and at each point in the process he was rerouted away from detention despite the danger he posed to others and the danger he himself was facing. According to the metrics devised by JDAI, Portland’s treatment of Lightfoot was a success—up until he was killed. Two JDAI measures of success—lowering detention rates and reducing the disparity in minority detention rates—were served by releasing Lightfoot from detention.

They improved the score of the Multnomah County juvenile justice system. Regrettably, they also cost Davonte Lightfoot his life.

Does Reducing Detention Reduce Crime?

JDAI considers its success in reducing detention rates as its greatest achievement. In a recent report, JDAI reports that in 78 localities, the total juvenile detention population in 2009 was 35% smaller than the average juvenile detention population had been prior to the implementation of the JDAI system.

Casey Foundation officials, JDAI staff and municipal and county juvenile justice systems advertise these numbers. They warn that there is a statistical correlation between detention and incarceration. From a recent JDAI publication:

“[D]etention itself has a significant negative impact on delinquency cases. Research has shown that detained youth are more likely to be formally charged, found delinquent, and committed to youth corrections facilities than similarly situated youngsters... [y]outh detained pending court were three times as likely to be committed to a corrections facility as youth with identical offending histories who were not detained. Detention, therefore, might be thought of as the slippery slope into juvenile justice’s deep end.”

Of course, this is a correlation, and correlation does not imply causation. In fact, it is more likely that the youths most likely to be admitted into detention are those most likely to be found guilty of crime and to commit later crime. The most straightforward explanation is that bad behavior leads to detention and incarceration and to more crime, not that detentions generate crime.

In its research and publications JDAI argues for its view that relying on detention turns young people into criminals. It says not only do detention rates fall wherever JDAI policies are implemented but so does juvenile

crime. Once again, JDAI fails to distinguish between correlation and causality. It’s true that in some (but not all) JDAI jurisdictions crime rates have fallen. But that doesn’t mean there are fewer crimes because of JDAI detention policies. For instance, in

bringing up racism before in the justice system but Casey Foundation found it to be true, whether intentional or not, validating what we knew all along,” Carter said. “Blacks are treated harshly all along the way of the justice system. Now data supports it with no



Edgar S. Cahn manages the Racial Justice Initiative.

Multnomah County, a JDAI test site, there has been less juvenile crime since JDAI was implemented. But there also is less juvenile crime in other Oregon jurisdictions that have not adopted JDAI proposals.

W. K. Kellogg Foundation and “Disproportionate Minority Contact” (DMC)

One fervent belief underlies most juvenile justice policy proposals. It is the certainty that the American justice system is profoundly racist. Consider a January 2009 Twin Cities Daily Planet article by JDAI steering committee member Melvin Carter, Jr. Carter had this to say about the Casey Foundation’s policy reforms:

“Suddenly, those of us who hollered racism were validated. Nobody wanted to

argument and all arguments to the contrary are off the table.”

The “data” that Carter is referring to are numbers that show “Disproportionate Minority Contact” in the justice system. The numbers are accurate: African-American youth are 1.4 times more likely to be detained than their white peers, and one of every three young black males is in prison, on probation, or on parole. However, it is not obvious that DMC indicates racism. Still, for the Casey Foundation, the JDAI, and for organizations working with JDAI, the belief in a racist juvenile justice system is fundamental: white cops and juvenile officers versus black youth.

In 1974 Congress passed the Juvenile Justice and Delinquency Prevention Act. One

provision of the act requires the states to work to reduce the disproportionate representation of minority juveniles in secured facilities. But the 1974 act lacked teeth, and justice reform activists now propose a more coercive legal strategy making use of federal court orders to fight the racism they say pervades the juvenile justice system.

In 2008 the W.K. Kellogg Foundation announced that it would fund such a legal strategy as part of a \$5 million initiative to increase racial equality. According to a July 2009 Youth Today article, Bart Lubow, the director of JDAI, would manage the effort.

The W.K. Kellogg Foundation is the legacy of the founder of the Kellogg Company, the breakfast cereal producer. It was established in 1930 as the W.K. Kellogg Child Welfare Foundation. In 2007 the Kellogg Foundation had assets at year-end of \$506.1 million and made over \$186 million in grants that year. (The Kellogg Foundation was profiled in the April 2007 *Foundation Watch*.)

Jim Casey, one of the founders of United Parcel Service (UPS), founded the Annie E. Casey Foundation in 1948, naming it for his mother. At the end of 2007 it had assets of \$3.3 billion and in that year made \$168 million in grants. The budget of the foundation's Juvenile Detention Alternatives Initiative is \$5.4 million.

Proving That Juvenile Detention Is Unconstitutional

The Kellogg Foundation's legal strategy hinges on a doctrine called "deliberate indifference." Lawyers for the Racial Justice Initiative, a program sponsored by a community service group called TimeBanks USA, claim to have discovered the doctrine imbedded in a 1989 Supreme Court case, *City of Canton v. Harris*. They say it stipulates that when policymakers implement rules known to be injurious to a certain group when non-injurious alternatives are available, they

are acting with "deliberate indifference" to that group's constitutional rights. Accordingly, the evidence for DMC in detention demonstrates that juvenile justice officers are showing deliberate indifference to the rights of minority youth. That would make most juvenile detention unconstitutional.

If those advocating the doctrine of deliberate indifference can get a federal court to accept it, then perhaps the courts will mandate softer alternatives to juvenile detention.

Is that a really bad idea or is it the next step forward in the evolution of American jurisprudence?

The W.K. Kellogg Foundation and JDAI's Bart Lubow have adopted a strategy to test the doctrine at federal courts around the country. Eventually they hope some court somewhere will accept it. Then the legal advocates will tout JDAI's recommended alternatives to juvenile detention and try to persuade a federal court to mandate them.

TimeBanks USA (formal name: Time Dollar Institute, Inc.) is a foundation created by Dr. Edgar S. Cahn to help maintain 1970s-level welfare spending. The "timebank" idea substitutes hours of service for money and it promotes social service through an exchange. Cahn manages the Racial Justice Initiative with Cynthia Robbins, a civil rights attorney. The Initiative partners with another group called the National Council on Crime and Delinquency (NCCD). Cahn also co-founded the leftist Antioch School of Law with his late wife in 1972.

As reported in the May 2009 *Organization Trends*, the NCCD was founded in 1907 to keep children out of the criminal justice system. It later became a broad-based proponent of anti-incarceration reforms. Under President Barry Krisberg NCCD has exploited the fiscal crisis to urge prison budget cuts and reduced incarceration as an economy

measure. Krisberg and NCCD have worked closely with Bart Lubow, the director of JDAI. In December, Krisberg stepped down as president and was replaced by Christopher Baird, a longtime NCCD employee.

TimeBanks USA had assets of \$854,203 at the end of 2008 and spent more than \$882,000 on programs that year. However, in tax year 2007 the larger NCCD had revenue of over \$8.7 million (with \$4.3 million coming from government grants) and spent \$6.5 million on programs that year.

Bart Lubow

Bart Lubow directs JDAI as the head of the Casey Foundation's programs for high-risk youth. He also is intimately involved with the "deliberate indifference" legal strategy promoted by the Kellogg Foundation and the Racial Justice Initiative. Lubow has the resume of a veteran left-wing activist.

In 1975 three members of the Black Liberation Army on trial for the murder of two New York City policemen somehow managed while in custody to obtain explosives and weapons hidden in legal envelopes. Lubow was held for questioning regarding his knowledge of how the weapons were obtained. He avoided questioning on procedural grounds. The New York Times reported that in 1972, while he was providing legal counsel to minority American sailors in the Philippines, Lubow was deported for attempting to distribute communist and anti-government literature. At the time, the Philippines was under the martial law of the dictator Ferdinand Marcos.

In 1984, Lubow became New York State's director of the Alternatives to Incarceration Division, and he was later director of Probation and Corrections Alternatives. In 1992 he joined the Casey Foundation and in 1994 became director of JDAI. He was a major voice against the tough-on-crime measures advocated by New York City mayor Rudolph Giuliani.

The Results of Reducing Juvenile Detention

Lubow and other Casey Foundation staff continually cite the success of the JDAI program. One recent JDAI report boasts, “The most powerful evidence of JDAI’s positive impact on public safety can be seen in the outcomes of JDAI model sites in Bernalillo, Cook, Multnomah, and Santa Cruz counties: All have seen youth crime rates plummet since launching their JDAI programs.”

Detailed statistics and anecdotal information are unavailable for the other test sites, but the group Crime Victims United of Oregon (CVU) has prepared a very useful report on Multnomah County. Its findings are very different from what JDAI describes. The 2008 report assembles survey data from 250 police officers as well as county detention workers. Of the 250 police officers, 92% characterized county Juvenile Services as “poor” and 81% of the detention workers rated the JDAI program as somewhat or very negative. None rated it as very favorable.

These opinions, from professionals who work daily with troubled youth, are at odds with JDAI’s headline claim that youth crime rates in test areas have “plummeted.” The CVU report acknowledges that JDAI’s reports say crime rates have indeed dropped steeply. But Oregon county crime rates fell at similar rates statewide. In fact, CVU presents data showing that Multnomah County’s share of statewide juvenile homicides and robberies has increased steadily in recent years.

CVU published a report in 2008 on its findings titled “The State of the Multnomah County Juvenile Justice System: A Report to the Policymakers and Citizens of Multnomah County.” When the group presented the report to Stephanie Vetter, a Casey Foundation representative, it reported that she “denied that the intent of the Casey Foundation was to show a correlation between detention reduction and a reduction in crime or to imply a cause and effect relationship.” In other words,

while JDAI has reduced county juvenile *detentions*, its officials when pressed are unwilling to claim to have reduced juvenile *crime* and the cost of fighting youth crime.

JDAI’s wavering attitude is worrying. CVU says the county screening process for detention is very stringent, and most youth offenders do not see detention until they are already hardened criminals. CVU relates several cases of serious crimes committed by juveniles that are scored by the county so that they walk free. One juvenile was accused of sexually abusing half a dozen young children, another stole a car while armed with a stolen handgun, and a third beat a school chaperone at a dance. The most upsetting story was that of Davonte Lightfoot, whose own mother’s entreaties were not enough to put him into detention and out of harm’s way.

Small but serious crimes that ordinarily would be red flags for youths at risk to themselves and their communities go unpunished. For example, Multnomah County now has the fewest alcohol or minor drug possession citations per year of any major Oregon county, a statistic that JDAI trumpets as a sign of enlightenment. Police officers now realize that it is futile to arrest young people for infractions that in effect legalize youth alcohol and drug use.

Elsewhere, statistics are not trending JDAI’s way. For example, since 2001 San Francisco has received JDAI funding for detention reduction programs. But a February 2008 San Francisco Chronicle article reports record numbers of youth lockups. It quotes NCCD’s Krisberg (“The process in San Francisco has been going slowly and fitfully, with not nearly the kinds of dramatic successes we’ve seen [elsewhere]”) and Lubow (“The Casey Foundation has given San Francisco \$587,500, but the money hasn’t proved a good investment, according to Bart Lubow...”).

The Real Problem is Youth Crime, Not Youth Detention

Bart Lubow may be director of programs for high risk youth, but his programs are putting youth at high risk as we’ve seen in the case of Davonte Lightfoot. The anti-incarceration movement wants to keep young people out of detention even when they should not be left out on the streets. Davonte Lightfoot may have been a child, but he was also a high risk to public safety. Unfortunately, the Casey Foundation, the Kellogg Foundation and the anti-detention activists they fund are increasing the risk to the public and to young offenders.

Joseph Lawler is assistant managing editor of the American Spectator.

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Terrence Scanlon
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PhilanthropyNotes

Harvard University, which as of June had a \$26 billion endowment, is one of 40 institutions of higher learning that will be audited by the **Internal Revenue Service** this year as part of the tax agency's review of nonprofit organizations' tax-exempt status, Bloomberg reports. The IRS is considering whether colleges' tax exemptions should apply to income from activities not directly tied to their educational mission.

Department heads at the **Marijuana Policy Project** unanimously demanded the resignation of executive director **Robert Kampia** after what they described as his inappropriate behavior after an office happy hour. But Kampia's head will not roll because one of the group's primary funders, left-wing philanthropist **Peter B. Lewis**, said he would cut off funding without Kampia at the helm, the Washington Examiner reports. (Lewis is the chairman of **Progressive Insurance**.) Kampia will enter sex rehab therapy and the group has adopted a formal sexual harassment policy.

Ingrid Newkirk, president of **People for the Ethical Treatment of Animals**, said her group will pull its "Fur-Free and Fabulous" advertising campaign that features First Lady **Michelle Obama** among various celebrities who do not wear fur. Mrs. Obama does not wear fur but the White House told PETA it did not have permission to use her image in the messages.

The Obama administration announced it awarded \$2.3 billion of green tax credits on January 8 to 183 clean energy projects. Among the recipients was **General Electric**, with over \$88 million in tax credits for six different projects. **Al Gore's** London-based **Generation Investment Management**, which funds the **Generation Foundation**, has a sizable investment in GE, according to Stockpickr.com.

The **Bill & Melinda Gates Foundation** said it will give \$38 million to help micro-lenders extend banking services to the poor in 12 Third World countries, Reuters reports. The grants are expected to help make savings accounts available to 11 million people over the coming five years.

Six scurvy dogs from the eco-terrorist group, the **Sea Shepherd Conservation Society**, were safely rescued after their boat ran into a Japanese whaling ship in Antarctic waters. The group uses high speed boats to harass and intimidate Japanese whaling vessels and has been known to use stink bombs and other methods against their targets. The French government learned years ago that the best way to deal with such piracy was to blow up the offenders' boats, as it did with the **Greenpeace** vessel Rainbow Warrior years ago. Yo ho ho and a bottle of rum.

Goldman Sachs WATCH

Goldman Sachs is thinking about beefing up its requirement for senior executives and managers to donate a portion of their earnings to charity, the New York Times reports. The company, which is expected to post record profits for 2009, is considering how to use philanthropy to offset the adverse publicity generated by its payouts of massive bonuses to its employees. Goldman has already increased the size of its charitable foundation by 100% and unveiled a \$500-million plan to assist small businesses.

The veil of secrecy shrouding Goldman and other beneficiaries of the AIG bailout is under threat, the Washington Examiner reports. That's because Rep. Edolphus Towns (D-N.Y.), chairman of the House Oversight and Government Reform Committee, has issued subpoenas against those involved in the bailout.