

Illinois child welfare agency wrongfully imprisoning youth

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Last week National Public Radio affiliate WBEZ in Chicago reported on the ongoing detention of youth wards of the state being held in youth prisons for no reason other than that the Illinois Department of Children and Family Services (DCFS) claims it has no place to put them.

Andrea Lubelfeld, the new chief of the Cook County Public Defender Juvenile Justice Division spoke to WBEZ on the crisis facing the young people who have served a sentence or are awaiting trial and are free to leave.

“The judge has not ordered them held. The judge has ordered them released,” she said. “So every day that they sit in the detention center not being released it’s just not right. These are children. They’ve been taken away from their families and suffered trauma. They’ve been placed with a new guardian, the state, and the state is not picking them up from the detention center.”

According to Cook County data, 84 people in the care of DCFS were left in the juvenile detention center after a judge had ordered their release, sometimes for months.

Workers interviewed by WBEZ noted that the psychological and emotional toll on youth who have come through very difficult circumstances make the agency’s negligence and inaction unspeakably cruel.

WBEZ reports that the young people attend weekly hearings with a judge and DCFS and hear the official reasons why no one is coming for them. Charles Golbert, a Cook County legal guardian, said the situation, “sends a really powerful message to these kids, that they’re not valued in society and that they don’t matter ... that they’re throw-away children. It’s just horrible.”

DCFS spokesman Bill McCaffrey replied to WBEZ’s

request for information to say the agency was adding beds to its facilities. He wrote a “variety of factors can influence” the outcome of a juvenile ward’s release, such as placement requirements of the judge and a residential facility “willing to accept the youth.” The outlet reported that in 2015 the average wait time a youth spent imprisoned beyond their release day was 70 days and that time had been roughly halved in subsequent months—to one month spent in jail. But the time spent waiting has been rising ever since.

Golbert told WBEZ the reason for this situation is the state’s decision starting in 2015 to cut almost 500 residential beds in group homes and institutions, and instead have services provided to children in foster homes.

“The problem is that this theory is premised on the existence of robust community-based services for these children. And we do not have community-based services for these children. So DCFS abolished the 500 residential group home beds before they had created any of the therapeutic foster home beds,” he explained.

WBEZ reported in 2015 that between 2011-2014, there were 350 instances when kids waited a week or more in jail for DCFS to pick them up; some were held more than once. The longest recorded wait was 190 days.

After the publication of the violation of the children’s rights in 2015, DCFS implemented improvements, which lasted until about 2018 with the average length of time children wait now exceeding 53 days.

DCFS Chief Marc Smith has been held in contempt of court 11 times as of May 2022 related to multiple instances of neglect and abuse of children in the system which have resulted in serious harm to the children and to foster family members. Last month, an audit of the agency also uncovered that it fails to properly track

cases referred by “mandated reporters,” including teachers, child care providers and health care professionals, who must report suspected abuse or neglect.

David Jackson, investigative reporter with the Better Government Association, a non-profit watchdog group, told ABC7 Chicago his agency had found “hundreds of Illinois foster children being held improperly for weeks or months in detention centers, in shelters, in psychiatric hospitals long after doctors have cleared them for release.”

Democratic Governor JB Pritzker came to Smith’s defense, blaming the previous administration under Bruce Rauner for the loss of 500 residential beds. Under the administration of Republican Governor Rauner, the state stopped paying treatment facility operators for residential placements amid a two-year-long state budget impasse from 2016-17 that was used to snuff out social services even as the 2008 crash and subsequent recession expanded social need for everything from shelter, food and utilities assistance, child and elder care assistance and mental health services to residential care.

The budget for the DCFS has been slashed by both Democratic and Republican administrations in Illinois going back decades. The agency was placed under a federal consent decree in 1991 mandating that it maintain a certain level of staff which are virtually impossible to maintain under the relentless pressure of budget cuts and decay of infrastructure.

In 2009, major cuts to the DCFS budget were blocked by a lawsuit brought by the American Civil Liberties Union (ACLU), which argued the cuts would prevent the agency from meeting the terms of the federal consent decree. In 2011 the agency underwent a \$30.2 million reduction in lump sum grants due to a “Reestimate of Institution & Group Home demand.”

According to a 2012 report in the *Springfield Journal Register*, the agency was more than 120 investigators short of the consent decree mandate. That same year, under the administration of Democratic Governor Pat Quinn, the agency was budgeted \$86 million less than it received the year before. An agency spokesperson stated that meant about 375 positions would be cut.

In 2014 and 2015, the ACLU again went to court to force the agency to address the large numbers of children in the agency awaiting care.



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