

Key Findings

- **41%:** Proportion of juveniles in detention that are awaiting trial.
- **42 %:** Juveniles accused of any crime that remain in pretrial detention.
- **63%:** Juveniles accused of grave crimes that remain in pretrial detention.
- **37%:** Juveniles accused of robbery offenses that receive pretrial release.
- **7%:** Non-robbery offenses that receive pretrial release.
- **25 Days:** the average number of days juveniles wait in detention before being granted pretrial release.
- **79 Days:** the average number of days juveniles are in pretrial detention awaiting trial.
- **10%:** Juveniles that remain in pretrial detention because they cannot afford bail.
- **2%:** Juveniles in release that fail to fulfill release conditions.

Research Methodology

- 51 juvenile interviews, 20 in pretrial release and 31 in pretrial detention.
- 13 interviews with justice sector experts, judges, prosecutors, defense attorneys and NGOs.
- Data from the Sub-Secretary for the Penitentiary System and the Superior Court of Justice.

Children in Prison

Excessive Juvenile Pretrial Detention in Mexico City

Juvenile Pretrial Detention

International law is designed to limit the use and scope of pretrial detention for juveniles. Pretrial detention should only be used as a last resort when all other options have been exhausted. It is only justified as a means to protect the legal process from flight and obstruction of justice by the accused, and even then for the shortest time possible.

Because juveniles in detention are uniquely vulnerable and maintaining family and community ties is critical to adolescent development, minimizing pretrial detention is particularly important.

International Protections for Juveniles in Detention

The United Nations Convention on the Rights of the Child, the American Convention on Human Rights and the Inter-American Commission and Court of Human Rights have established a set of standards for juveniles in pretrial detention.

1. Best Interest of the Child
2. Procedural Necessity of Pretrial Detention
3. Exceptionality of the Use and Duration of Pretrial Detention
4. Proportionality of Pretrial Conditions

Excessive Pretrial Detention in Mexico City

Pretrial detention is the norm and not the exception in Mexico City. Pretrial release is virtually inaccessible to any juvenile who is accused of non-robbery offenses, who does not have parents, who does not live in Mexico City or who cannot afford to pay a financial deposit and restitution.

Obtaining pretrial release is so difficult and takes so long that even juveniles that are granted release have already spent an average of 25 days in pretrial detention before being released. Mexico City's use of pretrial detention ensures that the most vulnerable children are the ones deprived of liberty for the longest.

The excessive use and duration of pretrial detention makes a mockery of the presumption of innocence for children accused of crimes in Mexico City.

Read the complete report at:

<http://internationaljusticeconsulting.org/mexico-city-report.html>

Constitutional Reforms

Now is a critical time for Mexico City to embrace reforms that reduce juvenile pretrial detention. By 2016, Mexico City will transition to an accusatorial criminal justice model for juveniles and adults, replacing the existing inquisitorial system. One of the main goals of these reforms is to reduce human rights abuses and divert defendants into non-custodial alternatives to detention. This research thoroughly examines Mexico City's four-year experiment with pretrial release for juveniles and provides concrete recommendations for developing a Pretrial Services Unit.

Summary of Recommendations:

- Establish a Pretrial Services Unit based on the UMECA model. Based on established methodology, the Unit would investigate and evaluate the risk each juvenile poses to not attend court hearings. The Unit would supervise juveniles on pretrial release to ensure compliance and report back to the court.
- Automatic review of pretrial detention and pretrial release within 24-36 hours of arrest.
- Prosecutors would have the burden of proof to show that pretrial release under supervision would not be sufficient.
- Eliminate the practice of automatic pretrial detention without the possibility of release for certain "high impact" crimes.
- Shorten the maximum duration of pretrial detention from 6 months to 30-45 days.
- Reform of the economic deposit system to ensure that poverty is not being criminalized.

Open Society Justice Initiative

Since 2004 the Open Society Justice Initiative has been working on excessive pretrial detention in Mexico. The Justice Initiative has produced ground-breaking research on the economic and societal costs of pretrial detention, the links between torture and pretrial detention, and the myths surrounding pretrial detention in Mexico. In addition, the Justice Initiative has been instrumental in bringing about Latin America's first pretrial services units in Mexico, designed to make pretrial recommendations to the court and supervise pretrial release of defendants.

Fundación Reintegra

Fundación Reintegra is a civil society organization. Its mission is to prevent crime and promote the social reintegration for those in conflict with the law, strengthening the capacity of individuals, families and communities. Reintegra has worked supervising criminals in release programs in the Federal District since 1993. Reintegra also works in other regions of the country through the Telmex-Reintegra Bail Program (Fianzas Sociales), as well its work as a trainer and consultant to government institutions and civil society. Since 1997, Reintegra has worked with at-risk communities in downtown Mexico City to prevent crime, addiction and violence. In 2004 this gave rise to the development of Community Prevention Centers IAP.

About the Author

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